



GUILFORD COUNTY
PLANNING AND DEVELOPMENT

**BOARD OF ADJUSTMENT AGENDA
(REVISED)**

Old Guilford County Courthouse
Carolyn Q. Coleman Conference
Room
301 W. Market Street, First Floor
Greensboro, NC 27401

Regular Meeting **January 2, 2024** **6:00 PM**

A. Roll Call

B. Agenda Amendments

C. Approval of Minutes and Transcript: October 3, 2023,

D. Rules and Procedures

E. Old Business

Pursuant to N.C.G.S. 160D-406(j), approve Order Affirming Notice of Violation in the matter of Cardinal Metals, LLC's appeal from a December 20, 2022 Notice of Violation, heard by the Board of Adjustment on October 3, 2023

F. New Business

Evidentiary Hearing Item(s)

None

G. Other Business

Election of Chair and Vice-Chair.

H. Adjournment

(This page intentionally left blank.)

(Insert Color Paper)

**GUILFORD COUNTY
PLANNING AND
DEVELOPMENT**

**BOARD OF ADJUSTMENT MEETING MINUTES
NC Cooperative Extension,
Agricultural Center 3309 Burlington
Road
Greensboro, NC 27405**

October 3, 2023**Regular Meeting****6:00 PM**

The Guilford County Board of Adjustment met in regular session on October 03, 2023, in the NC Cooperative Extension, AG Center, 3309 Burlington Road, Greensboro, NC 27405, commencing at 6:00 p.m.

Chair Ditra Miller called the meeting to order.

A. Roll Call

The following Board members were in attendance in person for this meeting:

Ditra Miller, Chair; Willie Johnson, Vice Chair; Franklin Havens, and

Larry Standley The following Board members were not in attendance at this meeting:

Carey Campbell and Cory Randolph

The following staff members were in attendance in-person for this meeting:

J. Leslie Bell, Planning & Development Director, Kaye Graybeal, Deputy Director Planning & Development, Oliver Bass, Senior Planner, and Aaron Calloway, Planner I; Andrea Leslie- Fite, Guilford County Attorney; Matthew Mason, Deputy County Attorney

B. Agenda Amendments

Aaron Calloway stated that there were no amendments to the Agenda this evening.

c. Approval of Minutes: February 7, 2023

Mr. Johnson moved approval of the February 7, 2023, and July 11, 2023, meeting minutes, as submitted, seconded by Mr. Standley. The Board voted 4-0 in favor of the motion. (Ayes: Miller, Johnson, Havens, and Standley. Nays: None.)

D. Rules and Procedures

Chair Miller explained the Rules of Procedure followed by the Guilford County Board of Adjustment.

[SEE ATTACHED TRANSCRIPT]

E. Old Business

None

F. New Business**Evidentiary Hearing Item(s)**

Swearing in of staff and those speaking on the case.

**Case #23-01-BOA-00003 5149 Randleman Road,
Greensboro, NC 27406** Alexander Elkan, Attorney, on behalf of Cardinal Metals, LLC, is appealing the Notice of Violation sent on December 20, 2022, in association with violation case 22-02-GVPU-00082. The property is located at 5149 Randleman Road, Greensboro, NC, 27406 on Guilford County Tax Parcel #144107 in Sumner Township. The violation cited operating a Recycling Facility, Outdoor (metal recycling business) in the Agricultural (AG) zoning district. A Recycling Facility, Outdoor is only permitted in Light Industrial (LI) and Heavy Industrial (HI) zoning districts per the Unified Development Ordinance (UDO) Section 4.3.1.

10.03.A.1. Failure to Comply with Ordinance, Term, or Condition of Approval

Any failure to comply with a requirement, prohibition, or limitation imposed by the provisions of this Ordinance, or the terms and conditions of any permit or other authorization granted pursuant to this Ordinance, shall constitute a violation of this Ordinance; and

10.03.B. Specific Violations

It shall be a violation of this Ordinance to undertake any activity contrary to the provisions of this Ordinance, including but not limited to, 1) Occupy, develop, or use any land or structure without first obtaining all appropriate permits or development approvals and complying with such terms and conditions.

[SEE ATTACHED TRANSCRIPT]

G. Other Business**Approval of 2024 Proposed Meeting Calendar**

Mr. Johnson moved to approve the proposed 2024 Board of Adjustment meeting calendar as submitted, seconded by Mr. Standley. The Board voted 4-0 in favor of the motion. (Ayes: Miller, Johnson, Havens, and Standley. Nays: None.)

H. Adjournment

There being no further business before the Board, the meeting adjourned at 9:55 p.m.

The next meeting of the Board of Adjustment is scheduled for November 7, 2023

STATE OF NORTH CAROLINA

GUILFORD COUNTY

In the Matter of:

)
)
)
)
)
)
)
)
)
)

ORIGINAL

Verbatim Minutes of the
Regular Meeting of the
Guilford County Board of
Adjustment

**REGULAR MEETING OF THE
GUILFORD COUNTY BOARD OF ADJUSTMENT
HELD AT THE NC COOPERATIVE EXTENSION, AG CENTER
3309 BURLINGTON ROAD**

GREENSBORO, NORTH CAROLINA

OCTOBER 3, 2023

Court Reporter: Judi Decker

TABLE OF CONTENTS

| | PAGE |
|-------------------------|------|
| CERTIFICATE OF REPORTER | 133 |

BOARD OF ADJUSTMENT MEMBERS:

Ditra Miller, Chair
Willie Johnson,
Commissioner Franklin
Havens, Commissioner Larry
Standley, Commissioner

STAFF PRESENT:

Leslie Bell, Planning Department Director
Oliver Bass, Planning Department, Senior
Planner Aaron Calloway, Planning
Department, Planner I
Kaye Graybeal, Deputy Director - Planning &
Development Matthew Mason, Esq., Guilford County
Attorney's Office

OTHERS PRESENT

Brooks Pierce Law Firm, by Alexander Elkan,
Esq. Taniya Reaves, Esq., Guilford County
Attorney's Office

SPEAKERS IN FAVOR

Taylor Callicutt
Joseph Craig
Marcus
Martinsville
Jonathan
Nichols Albert
Glasgow Brian
Meeks

SPEAKERS OPPOSED

Thomas Ziegler
Tony Welborn
Annie Welborn
Tameron
Seagraves
Susan Warren

EXHIBITS:

1. Posting Photos
2. Referenced Site Photos
3. Aerial Photo
4. Zoning Map
5. Appeal with Applicant's Exhibit 1
6. NC Secretary of State Business Registration
7. Guilford Metro 911 Communications
8. Case # 104-70 (Rezoning Approval Letter dated March 19, 1970)
9. UDO Section 4.3 (Use Matrix)
10. Deed of Ownership
11. May 18, 2023 Conditional Rezoning Sketch Plan
12. May 26, 2023 Conditional Rezoning Sketch Plan Mark-up

1 **THEREUPON**, the following proceedings were held:

2 MS. MILLER: Good evening, ladies and gentlemen,
my

3 name is Ditra Miller. I am the Chair of the Guilford County
Board of

4 Adjustment. It is now 6:00 p.m. Usually, we start on time,
but we do have

5 one (1) more Board member that we're waiting for, so if you
could just

6 indulge us for five (5) more minutes, and then we'll get
started. Thank you.

7 (Thereupon, Mr. Campbell did not arrive for the
meeting and

8 the Chair proceeded with the meeting agenda)

9 MS. MILLER: Good evening, ladies and
gentlemen. Thank

10 you very much for attending the Guilford County Board of
Adjustment

11 meeting tonight, October 3, 2023. Will you please call the
role for us?

12 (Thereupon, Mr. Calloway called the role and those in
attendance

13 were: Ms. Miller, Mr. Johnson, Mr. Havens and Mr.
Standley)

14 MS. MILLER: Thank you very much. Are there any
Agenda

15 amendments tonight?

16 MR. BELL: No, Ma'am.

17 MS. MILLER: Thank you very much. All right. We
will

18 move on to the approval of the Board of Adjustment minutes
for February

19 7th, and July 11th, 2023. Has everyone had a chance to
review?

20 ALL BOARD: (Affirmatively)

21 MS. MILLER: Do we have a motion to approve?

22 MR. JOHNSON: I make a motion to approve the
minutes of

23 February 7th, 2023 and the minutes of July 11th, 2023.

24 MR. STANDLEY: Second.

25 (Thereupon, Mr. Calloway conducted roll-call vote and
all were in

1 agreement: Ms. Miller, Mr. Johnson, Mr. Havens and
2 Mr. Standley)

3 MS. MILLER: The minutes have been approved.
4 Thank you

5 very much.

6 Again, welcome to the regular monthly meeting of the
7 Guilford

8 County Board of Adjustment. I'm Ditra Miller, the Chair of
9 the Board at

10 this meeting. This meeting is now called to order.

11 The Guilford County Board of Adjustment is appointed
12 by the

13 Guilford County Commissioners and operates under the
14 North Carolina

15 General Statute. It is a quasi-judicial Board, meaning that all
16 testimony

will be under Oath and the Board's decision will be based on
the Findings

of Fact, and the final action of the Board is similar to a Court
decision.

Appeals to the Board's decision are made to the Superior
Court, not the

14 Guilford County Commissioners. All cases will be heard as
they appear on

15 the Agenda. As each case is called, we will ask for any
persons wishing to

16 speak on the case, to come up to this microphone here
(indicating), to be

17 sworn in or affirmed.

18 The Board Secretary will give a brief description of the
case and

19 then the applicant and anyone wishing to speak in favor of
the request will

20 be heard. Any opponents to the request will then be given
an opportunity

21 to be heard. Both sides will be given the opportunity to
speak in rebuttal.

22 Any Board member may ask questions at any time. After
testimony, the

23 Board will discuss the request and make a decision to
approve or deny, so

24 you will know the results tonight. All Board members are
required to vote

1 unless they have a conflict of interest. It takes four (4)
affirmative votes to

2 grant a variance and a simple majority for other cases.

3 As you can see at the moment, we only have four (4)
Board

4 members, so I would like to ask if the applicant would like to
move

5 forward with just the four (4) Board members here tonight?

6 (Thereupon, a speaker approached the Speaker's
Table)

7 MS. MILLER: And if you would, please state your
name.

8 MR. ELKAN: Yes, Ma'am, Alex Elkan, with Brooks
Pierce

9 Law Firm on behalf of Cardinal Metals, Inc. Do you need my
address?

10 MS. MILLER: Yes, Sir.

11 MR. ELKAN: 230 N. Elm Street, Greensboro,
North

12 Carolina. We request a Continuance, to frankly ---

13 (Thereupon, several people in the audience stated that
they could not

14 hear Mr. Elkan speaking)

15 MR. ELKAN: Is that better?

16 (Audience responses – yes – (Affirmatively))

17 MR. ELKAN: We request a continuance. Ma'am,
we would

18 request a Continuance, frankly, to the December 5th
scheduled Board of
19 Adjustment Hearing in order to allow for Cardinal Metals to
move forward
20 with its Rezoning Application, which we anticipate will be
heard by the
21 Planning Board on November 8th.
22 Madam Chair, if you and the Board would like to hear,
I'd be happy
23 to provide additional basis for the request for Continuance. I
did that very
24 succinctly, because I thought you were considering how to
move forward
25 in light of the attendance, and so, I'm happy to give a more,
full

1 explanation of why we want to request the Continuance. If
you would like
2 to hear that at this time.

3 MS. MILLER: We will have you elaborate further,
however,

4 I need to go ahead and continue the Rules and Procedures
for tonight's
5 meeting, and then after which, we'll move forward and let
you elaborate.

6 So, thank you very much, ladies and gentlemen in the
audience. I

7 will continue sharing with you the Rules of the proceeding
tonight. So,

8 Board of Adjustment Appeal procedures. Appeals are the
decisions of the

9 Planning and Development Director, and they shall be heard
by the Board

10 of Adjustment unless there is a judicial challenge. Such an
Appeal shall be

11 made within thirty (30) days of the receipt of such aggrieved
party. The

12 written Notice of Decision from the Planning and
Development Director,

13 or in the case of an Office, Department or Board of the
County, within

14 thirty (30) days of filing the Written Notice. The filing of an
Appeal shall

15 stay all proceedings in furtherance of the contested action,
unless the

16 Planning and Development Director certifies that in his or
her opinion, by
17 reason of facts stated in the certification, such a stay would
cause imminent
18 peril to the life and property. Such relevant information as
may be
19 reasonably allowed, the Board of Adjustment will understand
the basis for
20 the applicant's Appeal. The Planning and Development
Director shall
21 similarly prepare a report detailing the regulations and
interpretation
22 behind the matter being appealed, and the reason for their
decision. Upon
23 receiving the application, the Board of Adjustment shall
conduct an
24 Evidentiary Hearing on the Appeal. The official who made
the decision, or
25 his or her successor, must appear as a witness. In addition,
any party may

- 1 appear in person or be represented by an authorized Agent
at the Hearing.
- 2 After conducting the Evidentiary Hearing, the Board of
Adjustment shall
- 3 adopt an Order reversing or affirming, wholly or in part, or
modifying the
- 4 Order requirements, decision or determination in question. It
shall take a
- 5 majority vote of the Board of Adjustment to reverse or
modify a contested
- 6 action. The Board of Adjustment, in making its ruling, shall
have all the
- 7 powers of the Administrator from whom the Appeal is taken,
and may
- 8 issue or direct the issuance of a permit. The decision of the
Board of
- 9 Adjustment must be in writing and permanently filed in the
minutes of the
- 10 reviewing body as a public record. All Findings of Fact and
conclusions of
- 11 the Law must be separately stated in final decisions or
Orders of the Board
- 12 of Adjustment and must be delivered to parties of interest
by Certified
- 13 Mail.
- 14 All right. Now, we have received a request for a
Continuance so at
- 15 this time, everyone agrees that we should hear the
extenuating

16 circumstances, if you will. Please continue.

17 MR. ELKAN: Yes, thank you, Ma'am. Like I said, I
18 represent Cardinal Metals, without going into the substance
of the violation
19 or the Appeal, which obviously is a disagreement between
my client and
20 the County, but I would like to lay out what we have been
doing to address
21 the violation and what we intend to do to address the
alleged violation ---
22 excuse me ---and so the alleged violation was issued
December 20, 2022. It
23 was timely appealed January 19th, 2023. Per the NOV in the
Ordinance the
24 Board of Adjustment shall hear the Appeal within a
reasonable time, and
25 per the NOV that was issued, the landowner had the
opportunity to remedy

1 the alleged violation with a request to rezone the property.
And we worked
2 with staff and Counsel for the County to stay the hearing on
this while we
3 worked towards submitting a rezoning application. And I
want to make
4 sure folks understand that, as alleged by the staff, the issue
is operation that
5 is outside the boundaries of the HI zoned portion of a five
(5) acre
6 property. The HI portion of a five (5) acre property. The HI
portion of the
7 property is a one (1) acre portion, so regardless --- I just
want to make sure
8 folks understand --- regardless of the outcome of this
Hearing, regardless
9 of the outcome of the rezoning Hearing, my clients have
every right to
10 operate where they --- the land that they're operating on,
and certainly
11 even, according to staff we then go to the HI zoned portion
of the property.
12 So, what we've been doing in that time, we spoke with
Counsel and with
13 staff and agreed to put off hearing on the Notice of Violation
while we
14 pursue the rezoning that would essentially move the
violation. There would
15 be no reason to move forward and that's still where we are

right now. We

- 16 provided --- we immediately, in January, Mr. Baden Mason,
excuse
- 17 me -- hired Westcott & Morris Association, we worked with
them to try to
- 18 determine a configuration for the rezoning that would satisfy
the
- 19 Ordinances, satisfy staff, and also not resolve in undue
hardship on Mr.
- 20 Baisden in reconfiguring his operations, because he had
been led to believe
- 21 and had invested that this operation was allowed on the
property and has
- 22 invested significant sums in operating as he has been, on
the property. A
- 23 sketch plan was submitted to County staff on May 18th, on
May 26th staff
- 24 provided us the written comments and a mark-up of the
sketch, we
- 25 scheduled a meeting that was held on June 8th, it was
determined at that

1 meeting that the proposed plan did not meet staff
requirements and that in
2 order to meet staff requirements a survey was required. So,
we employed
3 Zack survey and immediately in June, there was difficulty in
getting the
4 survey fully completed, based on the availability of the
surveyors, et
5 cetera. The survey was completed around August 9th, by
September 20th,
6 we were able to submit a revised sketch plan to staff and we
met on
7 September 26th, we provided additional changes on
September 29th and
8 earlier today, Mr. Bass, I think, responded with what I think
are some
9 technical changes that he would like to see to the
application. That is
10 timely to the submitted it will be timely submitted to be
heard
11 November 8th Planning Board meeting. We will have a
meeting with the
12 neighbor, some of whom are here, I believe. Prior to that,
the intent is to ---
13 as it was on the application, if appropriate, we will add
conditions ----- the
14 attempt is to have a Conditional Zoning that, frankly, will be
relatively
15 satisfactory to all parties involved, including the County, the

neighbors and

- 16 the owner. And so, that rezoning attempt is intended to be a
practical
- 17 approach to the circumstances where we have a difference
of view between
- 18 Mr. Baisden of Cardinal Metals and the County staff. I think
that what we
- 19 have is acceptable to staff, I think the compliance with the
Ordinance and it
- 20 will be up to the Planning Board to determine whether that is
appropriate
- 21 pursuant to our application. And so, what we would like is
additional time
- 22 to move forward with that. If the Zoning Board approves of
the
- 23 rezoning --- excuse me if the Planning Board approves of
the rezoning
- 24 application, there will be no need to hear this matter. If they
deny it, I think
- 25 that the matter will be coming back here, at least that
seems a reasonable

1 approach. We would suggest that at that point, we under
160.d-405, we
2 would look for an alternative resolution to try to come up
with a different
3 plan, but what we've been trying to do this, very practically,
and the
4 owners have been trying not to spend their time and effort
and money on
5 lawyer's fees, fighting the violation, but rather, trying to
bend over
6 backwards to satisfy staff and pursue rezoning, which I think
what the
7 County would like for us to do, and it would also --- but that
is a solution
8 that would be relatively clean and clear and allow everybody
to move
9 forward, whereas, if we continue to contest violations and
argue on pre-
10 existing non-conforming uses, et cetera, et cetera, it ---
there's a lot of
11 money spent on proceedings and adversarial arguments,
rather than try to
12 solve the problem. And so, that's what we've been trying to
do and we
13 would like just a little bit more time to finish out that
process, and
14 hopefully, that will render a Violation Hearing unnecessary.

15 MS. MILLER: Thank you. Okay, what I would like
to do

16 before the Board members vote on the Continuance --- or
make a motion, I

17 should say, on the Continuance, I'm going to backtrack a
little bit and have

18 staff actually read the case, if you don't mind.

19 MR. ELKAN: Sure.

20 MS. MILLER: Thank you.

21 MS. REAVES: And Madam Chair, if I may, after
the case

22 summary given to the Board, I'd like an opportunity to be
heard on that

23 motion.

24 MS. MILLER: Certainly.

25 MR. CALLOWAY: Can everybody hear me okay?

1 (Audience responses - Affirmatively)
2 MR. CALLOWAY: Test – Test – Test. Good
evening,
3 everybody, Madam Chair and members of the Board. My
name is Aaron
4 Calloway. I’m the Planner with the Guilford County Planning
Department
5 and I’m going to be presenting this Appeal Case #23-01-
BOA-00003. I’ll
6 help the Counsel’s attorney on behalf of Cardinal Metals,
LLC., whose
7 principal office is located at 5149 Randleman Road, and
whose managing
8 member is Randal L. Baisden, husband of property owner
Heather Baisden
9 who is appealing the Notice of Violation (NOV) sent on
December 20,
10 2022, in association with violation case 22-02-GCPL-
00082. The
11 property is located at 5149 Randleman Road, Greensboro,
NC, 27406 on
12 Guilford County tax parcel number 144107 in Sumner
Township.
13 The subject property was initially approved for a partial
rezoning of
14 the Heavy Industrial (HI) in March of 1970 via reference cast
104-70. The
15 area of the subject parcel included in the rezoning was
delineated by metes

16 and bounds, as found in Exhibits 8 and 4, respectively. The
Guilford

17 County Planning Department received no notification or
complain that the

18 previous owners of the property, John, Nada and Garland
Medley, were in

19 violation of operating industrial activities outside of the HI-
zoned portion

20 of the subject property during their tenure of ownership.

21 The current property owners, as noted above, acquired
the parcel in

22 January of 2022. The Guilford County Planning Department
received

23 complaints and subsequently sent an initial notification that
our office had

24 received a complaint on March 4, 2022, (see Exhibit 7 for a
Guilford

25 Metro 911 Communications Complaint Log). This was
followed by the

1 first NOV April 4, 2022, which provided a deadline of May 4,
2022, for
2 remediation. However, there were perceived issues in
communication
3 between parties.

4 In August of 2022, the Planning Department decided to
re-evaluate
5 the case, and assigned the administration of the case
materials moving
6 forward to Aaron Calloway, Planner I. A preliminary site visit
was
7 conducted, and photographs were taken on August 24, 2022
(see Exhibit
8 2).

9 On October 11th, 2022, Aaron Calloway and Kaye
Graybeal (Deputy
10 Director of the Planning Department) coordinated a site visit
with Mr.
11 Baisden and used a GPS unit (Trimble, TDC 150 Module) to
verify the
12 approximate boundaries of the HI zoning via coordinates
retrieved from
13 the conversion of the metes and bounds included in the
reference case 140-
14 70. Site photographs were also taken during this visit (see
Exhibit 2).

15 THE NOV subject to this appeal was sent by certified
mail (tracking

16 number 7020 3160 0000 5486 1256) on December 30,
2022.

17 The NOV cited violations of the following Guilford
County

18 Unified Development Ordinance (UDO) Sections.

19 4.3.1 Permitted Use Schedule (see Exhibit 9), this is
the Use-Matrix

20 which delineates the incongruity of heavy industrial uses in
an AG-zoned

21 district and, 10.03.A.1 Failure to Comply with Ordinance,
Term, or

22 Condition of Approval will state. any failure to comply with a
requirement,

23 prohibition, or limitation imposed by the provisions of this
Ordinance, or

24 the terms and conditions of any permit or other
authorization granted

25 pursuant to this Ordinance, shall constitute a violation of this
Ordinance,

1 and 10.03.B. Specific Violations. It shall be a violation of this
Ordinance
2 to undertake any activity contrary to the provisions of this
Ordinance,
3 including but not limited to any of the following: 1. Occupy,
develop, or
4 use any land or structure without first obtaining all
appropriate permits or
5 development approvals and complying with such terms and
conditions.
6 The NOV noted that possible remedies of the violations are
to confine the
7 operation to only that portion currently Zoned HI, request to
rezone the
8 entire property HI, or cease operations. The appeal was
received January
9 19, 2023 (see Exhibit 5). Staff had originally intended for
the appeal case
10 to be heard by the BOA during the regular meeting for March
2023. The
11 issue was raised by the attorney representing the property
owner,
12 Mr. Alexander Elkan, that the enforcement of the violation
case, and
13 therefore the Appeal, be stayed until the resolution of a
rezoning
14 application.

15 On May 18th, 2023, staff reached out to the attorney,
Mr. Elkan, on

16 the status of the proposed rezoning application. That day,
staff received a

17 conceptual sketch plan for the possible conditional rezoning
(see Exhibit

18 #12). May 26, 2023, Oliver Bass, the Senior Planner
assigned to handle the

19 potential conditional rezoning, sent Mr. Elkan a mark-up of
the sketch plan

20 (see Exhibit #13). On June 5, 2023, staff coordinated a
virtual meeting

21 with Mr. Elkan and other members of their team on the
specifics for

22 revising the sketch plan and other requirements for the
potential

23 conditional rezoning application scheduled for June 8, 2023,
at 4:30 p.m.

24 Guilford County Attorney, Andrea Leslie-Fite, and Aaron
Calloway,

25 myself, also attended the virtual meeting. On July 12, 2023,
staff requested

- 1 an update on the sketch plan revision and application. Mr.
Elkan replied on
- 2 July 19, 2023, stating that their team was still working on
the revisions. On
- 3 August 28, 2023, staff reached out again for a status
update, to which Mr.
- 4 Elkan responded on September 5, 2023, that they had
completed the survey
- 5 work and were preparing the revision for staff review. And
as Mr. Elkan
- 6 has updated, they have submitted an application and Mr.
Bass has been
- 7 handling that project.
- 8 (Thereupon, a Zoning Map was displayed for everyone's
review)
- 9 MR. CALLOWAY: B. District Descriptions,
Agricultural
- 10 (AG). This AG district is intended to provide locations for
agricultural
- 11 operations, farm residences, and far tenant housing on large
tracts of land.
- 12 This district is further intended to reduce conflicts between
residential and
- 13 agricultural uses and preserve the viability of agricultural
operations. The
- 14 purple portion of the property in the lower, left-hand corner
that is HI and
- 15 this district description states, "A farm".

16 Heavy Industrial (HI), This HI district is intended to
accommodate a
17 broad range of heavy industrial uses including
manufacturing, wholesaling,
18 fabrication, resource extraction and specialized industrial
operations that
19 may create adverse impacts on incompatible uses including
residential or
20 sensitive habitats. So, this is an aerial view of the subject
property and
21 surrounding areas and as we can see, the subject parcel has
few uses. On
22 the upper, left-hand area, you can see people who appear to
be gardening.
23 The rest of the parcel is used for this metal recycling facility.
The
24 remainder of this surrounding area on the north, east, south
is Single-
25 family Residential. Across the street in between Old
Randleman and

1 Randleman Road has a gas station and to the south-west we
2 have a
3 restaurant.

3 D. Environmental Impacts: First, this area is outside
4 the limits of
5 any municipality's public water supply system. Therefore,
6 any type of
7 release in these areas can pose a threat to potable sources
8 of groundwater
9 utilized for residential consumption. This goes for any
10 industrial/commercial facility operating in the County.

8 The second area of potential environmental impact is
9 land usage and
10 proximity to water of the State of North Carolina, surficial
11 spills and
12 releases can quickly be transported to nearby surface waters
13 impacting
14 water quality. There is a mapped stream on the eastern side
15 of the property
16 that could be impacted by activity on site depending on
17 compliance with
18 all regulations. In addition, this stream is protected by the
19 State Water
20 Supply Watershed setback requirements and local stream
21 buffer
22 regulations, these regulations would require a 30 -foot
23 protected area on
24 either side of the stream for low density projects, or 100

feet of protected

- 17 area on either side of the stream for high density projects,
proper review
- 18 process would determine the required width of the buffer
area.
- 19 In addition, depending on the location of the surface
water and the
- 20 type and quantity of contaminant spilled, there can be a
downstream
- 21 impact to municipal water supplied (i.e. reservoirs), this
property is located
- 22 in the Polecat Creek W-S-III Water supply Watershed. Only
about 20% of
- 23 North Carolina's land is classified as being in a Water Supply
Watershed,
- 24 and the W-S-III classification is reserved for water sources
that are used a
- 25 water supply for drinking, culinary, or food processing
purposes in low to

1 moderately developed watersheds. Therefore, spills to
pervious surfaces,
2 (i.e., gravel, soil, grass) can be transported and absorbed to
underlying
3 soils which can act as a secondary source, leaching
contaminants to
4 groundwater over long periods of time.

5 Staff received this appeal on January 19th, 2023, we
posted signs on

6 September 14th, 2023, we sent out notices on September
19th, 2023 and we

7 published our ad on-line on September 22nd, 2023. And that
will conclude

8 our report.

9 MR. MASON: Madam Chair, if I might, I'd like to
caution

10 the Board that at this point, Mr. Calloway, I don't believe has
been sworn

11 yet, so what he shared with the Board is proper for
consideration on the

12 motion to Continue that's in front of you, but if the Board
chooses to go

13 forward with the Hearing on the merits, not for that
purpose, at least at this

14 time.

15 MS. MILLER: Thank you. Thank you very much,
Mr.

16 Calloway. We appreciate that. All right, do we have a motion

to Continue?

17 MS. REAVES: Ma'am, I would ask, Madam Chair,
that the

18 Board-----

19 MS. MILLER: I apologize, you did ask earlier.
Please, go

20 ahead.

21 MS. REAVES: Would you like for me to go over
here

22 (indicating), Madam Chair?

23 MS. MILLER: Yes, please, and use this
microphone, if you

24 like.

25 MS. REAVES: I can use this one.

1 MS. MILLER: Okay, okay. And if you will test to
make

2 sure everyone can hear you.

3 MS. REAVES: Can everyone hear me?

4 MS. MILLER: You may need to take it out of the
holder.

5 MS. REAVES: What about now? (Louder)

6 MS. MILLER: Very good.

7 MS. REAVES: Okay, I'll try not to yell into this
thing.

8 Madam Chair, distinguished Board members, thanks so
much for

9 allowing me to respond to the motion to Continue that was
proposed by

10 opposing Counsel, Mr. Alexander Elkan on behalf of Cardinal
Metals. Let

11 me start off by saying that this Board just heard a time-line.
That time-line

12 is public information, since we are aware that Mr. Calloway
was not sworn

13 in, but that time-line is public information. And I want the
Board to really

14 think about that for a second. The NOV was issued on
12/20/2022, but the

15 first complaint coming in, in January of 2022. In between
that time, the

16 County was sending out Notices and working with Cardinal
Metals, of

17 course, to no avail as far as cleaning up the site. I will say
that they did

18 cooperate in letting our folks come in and identify the
boundaries to

19 confirm that they were operating, in the County's opinion,
off of the HI

20 designated land barrier. So, the County doesn't issue NOVs
when persons

21 or businesses are operating within the confines of those
designated areas,

22 and that designated land use. They are issued when we
confirm that the

23 operation has crossed over those lines. So, Mr. Elkan
indicated that there

24 was some oral representations prior to the purchase of the
property. Well,

25 oral representations, at this point, are hearsay and they
don't trump the

1 written Law, which is our County Ordinances, and they can't
be a basis for
2 a Continuance. Even though the Appeal does stay
enforcement of that
3 Notice of Violation (NOV), it does not stop that use, that
violation, from
4 continuing over these impervious areas, like Mr. Calloway
said, and to the
5 soil and to the gravel and into that water supply, that
drinking water, that
6 culinary water, in low to moderate development areas.
7 As far as the Conditional Use, I want to circle back,
again, to the
8 oral representation, prior to the purchase of this property.
There is a duty
9 on all land buyers, when they buy land, to confirm their
boundaries. Most
10 of the time, when you purchase a property, you've got to
get a surveyor out
11 there and survey those property lines. That would have been
the time to
12 confirm the HI boundaries, to make sure that they are
operating. They also
13 have a duty to operate within those confines. That is not the
County's
14 responsibility, that is the purchaser's responsibility, and it
cannot be
15 shifted by some random oral representation, by hearsay. So,
at this time,

16 we're going to ask that the Board move forward with the
Notice of
17 Violation Hearing, and in the event that the Board does not
grant it --- I
18 mean, does grant the Continuance, we would ask that it be
a short
19 continuance, and not go past the December 5th date.

20 COURT REPORTER: Would you state your name
for the
21 record, please?

22 MS. REAVES: Yes, Ma'am, Taniya Reaves, Deputy
County

23 Attorney working with the Guilford County Attorney's Office,
24 representing the Guilford County Planning Department.
Thank you.

1 COURT REPORTER: Thank you. Can you please
give your
2 address for the record.

3 MS. MILLER: Oh, yes, I sure can. The County
Attorney's
4 Office is located at 301 West Market Street in Greensboro,
North Carolina,
5 27401.

6 MR. ELKAN: Madam Chair, may I have an
opportunity to
7 respond?

8 MS. MILLER: Of course.

9 MR. ELKAN: Just very briefly, and I think we
might be
10 getting into the substance of the alleged violation a little bit,
and I --- it was
11 not my intent --- and I'm sorry. I'm trying to avoid getting
into the
12 substance of the alleged violation, but I will say that while I
appreciate the
13 concerns regarding environmental and things, there has
been no evidence
14 of environmental impacts, nor, I would submit to you, will
there be.
15 However, all we're asking for what has gone on, has
occurred, what
16 we're asking for at this point is less than two (2) additional
months of a

17 stay of the Violation proceeding to give us an opportunity to
go get the
18 rezoning, which should be slated for the November 8th
Hearing before the
19 Planning Board. Through that rezoning, I my view is that
the County
20 gets more than they would get if what is required for
compliance of the
21 alleged violation, is for the owners to reconfigure their
property. There are
22 certain portions of the property that I would assert that are
certainly
23 existing on Conforming Uses, that would be allowed to
continue, however,
24 pursuant to the rezoning, what we will be doing is complying
with all
25 existing requirements that are applicable to the property. To
my view, that

1 is a benefit to the County, as well as to the landowner. And
that's the only
2 way that that can be accomplished. That's why we're trying
to head in that
3 direction so that Mr. Baisden and his company and his
employees, et
4 cetera, et cetera, can peacefully move forward and operate
on the property
5 in compliance with all current requirements. That's why
we're headed in
6 that direction and we're just asking for two (2) months to let
us try to get
7 there.

8 MS. MILLER: Thank you.

9 MR. BELL: Madam Chair, may I
10 say something?

11 MS. MILLER: Yes.

12 MR. BELL: There's a potential ---
and it

13 is a potential, that this --- if this
Continuance is

14 granted by the Board, that this could
turn into

15 longer than a two (2)-month period. If
the

16 Board --- if the Planning Board happens
to deny

17 the request, or it's only a simple

majority, then
18 it's subject to the Board of
Commissioners and
19 then scheduling it on their schedule.
And they
20 have the authority and discretion of
scheduling
21 that, as appropriate for their office. So,
I just
22 wanted you-all to know that. That it
may be two
23 (1) months or it could be longer.
24 MS. MILLER: Thank you for that.
25 MR. STANDLEY: I mean, it's
contingent

1 on our time. We only have four (4)
members

2 present tonight.

3 MR. JOHNSON: It's up to the
Planning

4 Board and it's up to the County
Commissioners.

5 We're not at a decision-making point,
but, you

6 know, it's kind of out of control for us.

7 MR. STANDLEY: At this rate, we'll
be

8 here next year at this time. It could go
on forever.

9 (Thereupon, there was a quiet discussion among the
Board

10 members out of hearing of the microphone)

11 MS. MILLER: Okay, we have been
12 requested to continue this case, so I
would ask

13 the Board, is there a motion to continue
or deny?

14 MR. STANDLEY: I make a motion
to

15 deny.

16 MR. JOHNSON: Second.

17 MS. MILLER: Okay, a motion has
been

18 put on the floor to deny the continuance
and it

19 has been seconded.

20 (Thereupon, Mr. Calloway took a roll-call vote and all
members

21 voted unanimously in favor of denying the request to
continue)

22 MS. MILLER: The Continuance has been denied.
We will

23 continue with the case this evening.

24 MR. ELKAN: Madam Chair, if I
could

1 just have a clarification. At the opening
of the
2 meeting, you indicated that with four
(4) Board
3 members present, you asked if the
Appellant had
4 objections to proceeding on that basis.

5 MS. MILLER: I received
clarification that
6 because this was not a Variance, but an
Appeal,
7 that that particular procedure was not
applicable.
8 I apologize.

9 MR. ELKAN: Thank you for that
10 clarification.

11 MS. MILLER: And now that we are
12 moving forward, I would like to swear in
staff.

13 MR. BELL: Can we backtrack on
Aaron?

14 MS. MILLER: Yes, okay, first we
will

15 backtrack on Aaron, who is so kind to
read staff

16 notes for us tonight.

17 MR. EKLAN: Madam Chair, if I
might?

18

MS. MILLER: Yes. It will be part of
the

19

record.

20

MR. JOHNSON: Yeah.

21

MS. MILLER: Let's swear you in.

22

(Thereupon, Mr. Calloway was sworn in)

23

MS. MILLER: Do you swear or
affirm to

24

tell the truth, the whole truth and
nothing but the

25

truth, and that which you previously
stated was

1 the truth, the whole truth and nothing
but the
2 truth?

3 MR. CALLOWAY: Yes, Madam
4 Chairman.

5 MS. MILLER: Thank you very
much.

6 MR. ELKAN: Madam Chair, if I
may, I

7 would object to the Board considering
the report

8 from staff as it lacks foundation and
should not

9 be considered without appropriate
testimony.

10 And I would make any additional
objections at

11 the appropriate time. Would you like for
me to

12 remain here at the table in front of the
Board? Or

13 how would you like me to proceed in
that regard?

14 MS. MILLER: You may, and we will
15 proceed and I will ask you, Sir, do you
swear or

16 affirm to tell the truth, the whole truth
and

17

nothing but the truth?

18

MR. ELKAN: Yes, Ma'am.

19

MS. MILLER: Thank you. You may

20

proceed.

21

MR. ELKAN: If I might, the Board,
given

22

the procedural posture of the County
first.

23

MS. REAVES: Madam Chair, at this
time

24

the County would like to call Aaron
Calloway,

25

we can have him affirmed to his
testimony.

1 MS. MILLER: Okay, I think since
you are
2 speaking, as well, we need to go ahead
and swear
3 you in.

4 MS. REAVES: Madam Chairman,
5 generally the attorneys are not
witnesses ---

6 MR. JOHNSON: Procedure.

7 MS. REAVES: -- and sworn in for
their
8 testimony. The attorneys represent and
kind of
9 assist during the proceedings.

10 MS. MILLER: Ladies and gentlemen of the gallery,
this case
11 is very much different from the ones that we generally have
and we usually
12 don't have all these smiling faces in the gallery, so please
forgive me for
13 mis-stepping a few times tonight, but we will get through
this. Thank you.

14 MS. REAVES: Thank you, you're
fine,
15 Madam Chair. Madam Chair, if we could
have
16 Aaron Calloway affirmed.

17 MS. MILLER: Do you swear or

affirm

18 that the testimony you give will be the
truth, the

19 whole truth and nothing but the truth.

20 MR. CALLOWAY: Yes, Ma'am.

21 MS. REAVES: Madam Chair, as

22 a matter of housekeeping, for our
proposed

23 Exhibits, may I approach the Board?

24 MS. MILLER: Yes.

25 (Thereupon, Ms. Reaves approached the Board and
presented

1 several Exhibits for their review)

2 MS. REAVES: Mr. Mason, do
3 you have a copy of these Exhibits and
4 would you
5 like a copy?

6 MR. MASON: I have them, thank
7 you.

8 MS. REAVES: Mr. Bell, would you
9 like
10 a copy?

11 MR. BELL: I have them.

12 MS. REAVES: Ms. Graybeal, do
13 you
14 have a copy or do you need a copy?

15 MS. GRAYBEAL: I have them.

16
17
18
19
20 **DIRECT EXAMINATION**

21 MS. REAVES: Mr. Calloway, could you please
22 state your
23 name for the record?

24 MR. CALLOWAY: My names is Aaron Tre' Calloway.

25 MS. REAVES: And can you tell the Board where
26 you work

27 and what your position is there?

28 MR. CALLOWAY: I am a Planner I with the
29 Guilford

30 County Planning Department.

21 MS. REAVES: And how long have you been with
the County

22 in that position?

23 MR. CALLOWAY: Since March 2022.

24 MS. REAVES: And are you familiar with the
Appellant in

25 this matter, Cardinal Metals, LLC.?

1 MR. CALLOWAY: Yes, Ma'am.

2 MS. REAVES: And you're also familiar with the
property

3 that is also under Appeal located at 5149 Randleman Road?

4 MR. CALLOWAY: Yea, Ma'am.

5 MS. REAVES: And how do you know Appellant and
the

6 conditions of this property?

7 MR. CALLOWAY: I was assigned the Violation case
on

8 Cardinal Metals in the fall of 2022.

9 MS. REAVES: Okay. And when you were assigned
this case,

10 was that initiated from a report or complaint?

11 MR. CALLOWAY: Our office received initial
complaints in

12 the Spring, March 2022. At that time, the Zoning
Enforcement Officer was

13 Ms. Anita Hayes, and after she left our Department, this
case was assigned

14 to me.

15 MS. REAVES: Okay, when I say "you" --- let me
clarify, I

16 mean the Department. And so let me just lay this
foundation. Is the

17 information that you're giving this Board today, information
that was

18 collected in the normal course of business for the Planning
Department?

19 MR. CALLOWAY: Yes, Ma'am.

20 MS. REAVES: And did you either gather the
information

21 yourself, or review it in preparation for today's Hearing?

22 MR. CALLOWAY: Yes, Ma'am. I gathered it.

23 MS. REAVES: Okay, and the information that you
24 reviewed, that was part of the file, did you review that in
preparation for

25 today's Hearing?

1 MR. CALLOWAY: Yes, Ma'am.

2 MS. REAVES: And did you review and gather
information

3 regarding your investigation?

4 MR. CALLOWAY: Yes, Ma'am.

5 MS. REAVES: Thank you so much for that. So,
can you

6 please tell the Board the cause initiating the report?

7 MR. CALLOWAY: The initial reports to us were
that there

8 was operation of a Heavy Industrial use in the AG zoning
district, and our

9 investigation unfurled on that basis.

10 MS. REAVES: Okay, can you please share with the
Board

11 your investigative efforts in this matter prior to issuing a
Notice of

12 Violation?

13 MR. CALLOWAY: Yes, Ma'am. So, the current
zoning on

14 the property was established in 1970, and I was able to pull
the decision

15 letter for that case, which had the metes and bounds for
that zoning district,

16 because it was only a portion of the property and it is
standard practice

17 whenever re zoning only rezones a portion of the property to
delineate that

18 portion, via metes and bounds. When I retrieved the metes
and bounds, we
19 found the coordinates by use of an application called,
"Cogo", where you
20 feed it metes and bounds and you get usable coordinates.
Afterward, I was
21 supplied a GPS unit, myself and Ms. Graybeal coordinated
the visit on the
22 site and we used that GPS unit to find those coordinates,
based off of the
23 decision letter of metes and bounds of the initial zoning
case.

24 MS. REAVES: Okay. And
Oliver,

1 who is working the controls there, if you
could

2 turn to page 75, which is going to be
Exhibit 8 ---

3 I'm sorry, page 74, and that should be a
Bates

4 Page number everyone that is following
5 along in your Exhibit packages that you
were

6 provided, at the bottom of each page, is
a three

7 (3)-digit number, starting with "001",
that will go

8 all the way through "099". And it may
be a PDF

9 page, so if you go to the top of that
PDF, it

10 should let you type in page 75 it should
be

11 PDF page 75, but it will be because
there's a

12 cover sheet that's not numbered it
will be

13 Bates page number 74.

14 It should be a place to type in the
page

15 number, and type in "75", and hit
"Enter". There

16

you go.

17

MS. REAVES: Madam Chair and
Board,

18

this is the County's proposed Exhibit
#8, we're

19

kind of going out of turn based on the
testimony.

20

MS. REAVES: So, if you will scroll
down

21

to that letter.

22

MS. REAVES: Mr. Calloway, can
you

23

tell - you can stop there. Thank you so
much.

24

MS. REAVES: Mr. Calloway, can you tell the Board
what

25

this document is?

1 MR. CALLOWAY: Yes, Ma'am. This is the decision
letter
2 from that initial zoning case, which delineated the portion of
the subject
3 property that was rezoned HI, in 1970.

4 MS. REAVES: Okay, was this Exhibit collected in
the
5 normal ---- excuse me --- kept in the normal course of
business with the
6 Planning Department?

7 MR. CALLOWAY: Yes, Ma'am.

8 MS. REAVES: And did you review it in preparation
for
9 today's Hearing?

10 MR. CALLOWAY: Yes, Ma'am.

11 MS. REAVES: Board, if there are
no
12 objections, I ask that this County's
proposed
13 Exhibit 8, be admitted into evidence for
the
14 purpose of today's Hearing.

15 MR. ELKAN: Objection, lack of
16 foundation. And how is this being
recorded? And
17 can you hear my objections?

18 COURT REPORTER: Yes, Sir.

19
20
21
22
23
24
25

MR. ELKAN: Or do I need a
microphone?

COURT REPORTER: No, Sir.

MR. BELL: We have a recorder
there (indicating).

MR. MASON: This recorder,
right here (indicating).

1 MR. ELKAN: All right.

2 MS. REAVES: Board, we have laid the foundation,
it is a

3 business document. Mr. Calloway has testified that it is kept
in the normal

4 course of business in the Planning File and it is a 1970
document. So, he

5 reviewed it in preparation for today's Hearing. It is kept in
the normal

6 course of business and if he's going to object on that basis, I
ask that it be

7 admitted as an agent's document and as a public document.

8 MR. JOHNSON: I think I would
allow it.

9 MR. STANDLEY: Yes.

10 MS. MILLER: We would accept it
into

11 Evidence.

12 MS. REAVES: Thank you so much,
13 Madam Chair.

14 Mr. Calloway, this Exhibit #8, remind the Board what
this document

15 is and what information it contains.

16 MR. CALLOWAY: Yes, Ma'am. This document is a
17 decision letter. It is standard procedure for us, as Planners,
to send these

18 decision letters to the property owners of the property

subject to a

- 19 rezoning, after an Appeal period following the approval or
denial of the
- 20 rezoning. In this case, the rezoning of that portion of the
subject property
- 21 was approved and so this letter details that it was approved.
Also, it
- 22 delineates the boundaries of the HI zoned district.

23 MS. REAVES: And are these the boundaries that
you used to

24 establish the outline, the HI, when you went out?

25 MR. CALLOWAY: Yes, Ma'am.

1 MS. REAVES: Thank you for that.

2 MR. ELKAN: I object to Mr.

3 Calloway's testimony based on
4 what was

5 standard practice in 1970 and what the
6 document

7 shows in 1970.

8 MS. REAVES: And my response is
9 that

10 the document speaks for itself. It says it
11 was filed

12 at a Public Hearing and says that it was
13 for a

14 rezoning Ordinance, right here in the
15 bottom, and

16 it gives the metes and the bounds.

17 MR. STANDLEY: We hear the
18 objection.

MS. MILLER: The document will be
accepted.

MS. REAVES: Thank you, Madam
Chair.

MS. REAVES: So, you were going on your
investigative

efforts and you were establishing that you used the metes
and bounds in

this 1970 letter. Is there anything else that you would like to

tell the Board

19 about your investigative efforts?

20 MR. CALLOWAY: No.

21 MS. REAVES: Okay, can you tell the Board when
you issued

22 the Notice of Violation and the basis for that violation?

23 MR. CALLOWAY: The NOV was mailed December
20th,

24 2023 {SIC} and the basis of the violation had three (3)
components,

25 essentially. The primary component was citing the Use
Matrix, which is

1 Section 4.3.1 of the Unified Development Ordinance. That is
the portion of
2 the Ordinance which tells us, the Planners or the
Administrators of the
3 Development Ordinance, what uses are permitted in what
zoning district.

4 MS. REAVES: Is that the table that you
referenced earlier?

5 MR. CALLOWAY: Yes, we reference it in our report
to the

6 Board.

7 MS. REAVES: Okay, thank you for that.

8 MS. REAVES: Oliver, if you
9 could turn to Exhibit #9, that should be
on your

10 PDF page "77". Okay, and if you scroll
down

11 one (1).

12 MS. REAVES: Mr. Calloway, can you tell the Board
what

13 this Exhibit #9 is?

14 MR. CALLOWAY: Yes, so this front page, this is
15 essentially, the preface matter for the Zoning Use Matrix and
this is giving

16 us a lead-in to the Use Matrix, giving us some definitions of
some terms

17 and if Mr. Bass can scroll down, we also get introduced into
Use

18 Categories, which gets us some direction if there is any
interpretation

19 required. And this section that Mr. Bass is showing now, it's
.6 and is

20 highlighted and that is describing the process in which we
encounter

21 Unlisted Uses in the Use Matrix.

22 MS. REAVES: And is the Use Matrix at the
beginning of this

23 blue area at the bottom of the page?

24 MR. CALLOWAY: Yes, Ma'am.

25 MS. REAVES: And does that continue over to PDF
page

1 90? --- 91? Use PDF
page 91?

MS. REAVES: Go back up one (1).

2

3 MS. REAVES: Is this all a part of that Matrix
Table?

4 MR. CALLOWAY: Yes, this page, in particular, is
the

5 capsum to the Use Matrix, because this page is regarding
the Rock Creek

6 Consent Area. The regular Matrix ends on the page above
that.

7 MS. REAVES: Will you go up a
page

8 above that, Mr. Bass?

9 MS. REAVES: Is this the end of the Matrix Use
Tables?

10 MR. CALLOWAY: Yes, Ma'am.

11 MS. REAVES: And is this part of the Guilford
County

12 Ordinance?

13 MR. CALLOWAY: Yes, Ma'am.

14 MS. REAVES: At this time,
Honorable

15 Board, we ask that Exhibit #9 be
admitted into

16 Evidence under Judicial Notice, if there
are no

17 objections.

18
19
20
21
22
23
24

MR. JOHNSON: We accept it into
Evidence.

MS. MILLER: We will accept it into
Evidence.

MS. REAVES: Thank you so much,
Madam Chair.

1 MS. REAVES: So, you were telling the Board
about 4.3.1,
2 about the violations. Can you tell us what part of the Use
Matrix let you to
3 the violation identified?

4 MR. CALLOWAY: Yes, Ma'am. So, the particular
character
5 of the business was most similar to a Recycling Facility or a
Junk Salvage
6 Yard. And so, those uses, which this is most similar to fall
narrowly within
7 the Industrial zoning districts as indicated by the "Ps" in the
far --- that are
8 highlighted in the far-right column. The "P" means is a use
by right, and
9 anywhere we don't see a letter, indicates to us that it is not
allowed in the
10 zoning district, whatsoever.

11 MS. REAVES: So, according to the Use Matrix,
Recycling
12 Facilities, outdoors, are not permitted on Agricultural
designations, is that
13 correct?

14 MR. CALLOWAY: Yes, Ma'am.

15 MR. ELKAN: Objection.

16 MS. REAVES: Okay.

17 MS. REAVES: And Oliver will you
scroll

18 down to the bottom of the page above
that?

19 MS. REAVES: Under Waste Related Uses in that
Matrix, it's

20 not highlighted, but is there a section for Junk Salvage Yard?

21 MR. CALLOWAY: Yes, Ma'am,

22 MS. REAVES: And where is the only designation
you can

23 run a Junk or a Salvage Yard?

24 MR. CALLOWAY: Heavy Industrial zoning districts,

25 Ma'am.

1 MS. REAVES: Is there any such permitted use in
2 Agricultural zone?

3 MR. CALLOWAY: No, Ma'am.

4 MS. REAVES: Okay. So, was this part of the basis
for

5 issuing the Notice of Violation?

6 MR. CALLOWAY: Yes, Ma'am.

7 MS. REAVES: And under what other part of the
Ordinance

8 did you issue a Notice of Violation?

9 MR. CALLOWAY: Section 10.03.811 Failure to
Comply

10 with Ordinance, Term or Conditions of approval.

11 MS. REAVES: Oliver, if you could
12 please go to PDF page 17. That would
be it right

13 there (indicating).

14 MS. REAVES: Mr. Calloway, this was part of ---
well,

15 actually, we're going to have to go back.

16 MS. REAVES: If you could go to
PEF

17 page 14 ---- I apologize --- it'll be listed
as

18 Exhibit #5. Thank you so much. And if
you'll

19 just scroll down one (1) ---

20 MS. REAVES: Mr. Calloway, can you tell me what
this

21 proposed Exhibit #5 is?

22 MR. CALLOWAY: This is the letter that we
received to

23 Appeal the Notice of Violation.

24 MS. REAVES: And who did you receive it from?

25 MR. CALLOWAY: Mr. Elkan.

1 MS. REAVES: And who is Mr. Elkan?

2 MR. CALLOWAY: Mr. Elkan is the attorney of the
3 property

owne
r.

4 MS. REAVES: So, this is the Appeal submitted by
Counsel

5 on behalf of Cardinal Metal, is that correct?

6 MR. CALLOWAY: Yes, Ma'am.

7 MS. REAVES: And Oliver, if you
8 would, scroll down to page 17. You can
just
9 scroll down. Keep going. And one more.

10 MS. REAVES: And was your Notice of Violation
attached to
11 the Appellant's Appeal letter?

12 MR. CALLOWAY: Yes, Ma'am.

13 MS. REAVES: As Exhibit #1?

14 MR. CALLOWAY: Yes, Ma'am.

15 MS. REAVES: Is this a true and accurate copy of
your

16 Notice of Violation as attached.

17 MR. CALLOWAY: Yes, Ma'am.

18 MS. REAVES: Okay. And did you review it in
preparation

19 for today's Hearing?

20 MR. CALLOWAY: Yes, Ma'am.

22 objections, I ask that Exhibit #5 be
admitted into

23 evidence. Are there any objections?

24 MR. ELKAN: No objection.

25 MS. MILLER: Accepted.

1 MS. REAVES: Thank you, Madam
2 Chair. MR. JOHNSON: "Accepted"
3 is what she
4 sai

d.

4 MS. REAVES: Thank you so much,
5 Madam Chair.

6 MS. REAVES: Now, let's go to your Notice of
7 Violation,

7 Mr. Calloway. In your Notice of Violation, is that where you
8 are citing

8 Sections 10.03?

9 MR. CALLOWAY: Yes, Ma'am.

10 MS. REAVES: Okay, and so you gave us the
11 violations for

11 4.3.1 Tell us one (1) more time what the violations would
12 be --- official

12 violations are.

13 MR. CALLOWAY: Section 10.03.8.1, "Any failure
14 to

14 comply with a requirement or condition or limitation imposed
15 by the

15 provisions of this Ordinance, or terms and conditions
16 obtained from or

16 other Authorization granted pursuant to this Ordinance, shall
17 constitute a

17 violation of this Ordinance."

18 MS. REAVES: Okay, what was the additional

19 MR. CALLOWAY: Section 10.03.B.1, "Occupy and
develop

20 or use any land or structure without first obtaining all
appropriate permits

21 or development approvals in complying with such transient
conditions."

22 MS. REAVES: And at the time you issued this
Notice of

23 Violation, listed pursuant to 10.03.8.1, did the Appellant
have

24 authorization to exceed the limitations imposed by the
Ordinance.?

25 MR. CALLOWAY: No, Ma'am.

1 MS. REAVES: And at the time of the Notice of
Violation,

2 under Section 10.03.B.1, did the appellant occupy or use
any land or

3 structure without obtaining all the appropriate permits?

4 MR. CALLOWAY: Yes, Ma'am.

5 MS. REAVES: And how did they violate that?

6 MR. CALLOWAY: So, the first step is that in order
to

7 occupy the land to the extent to which they would have ---
they have

8 now --- the property would need to be zoned HI, at a
minimum, to allow it.

9 And then on top of that, because of the improvements on
the property they

10 would require a site plan approval and then building permits.

11 MS. REAVES: Okay, and you do not have those
applications

12 for permits or site plans of record?

13 MR. CALLOWAY: No, Ma'am.

14 MS. REAVES: At the time of the Notice of
Violation in your

15 file? Let me be clear --- clarify---.

16 MR. CALLOWAY: That is correct, Ma'am.

17 MS. REAVES: Okay. Is there --- if
we

18 could go back, Mr. Bass, to the first

19 page of
Exhibit #5, which is going to be your
PDF page
20 15. Go back two (2) more pages, two
(2) more
21 slides.
22 MS. REAVES: On this Notice of Appeal that was
provided
23 to the Department, did you read the three (3) grounds for
Appeal that were
24 presented in this letter by Appellant?
25 MR. CALLOWAY: Yes, Ma'am.

1 MS. REAVES: Can you just tell us what the first --
- the first

2 basis is there?

3 MR. CALLOWAY: Would you like me to read the
4 entire statement?

5 MS. REAVES: No, you can just read the main
caption, right

6 there, I think the rest speaks for itself and everybody --- the
Board has a

7 copy.

8 MR. CALLOWAY: Yes, Ma'am. "1) Floating Zoning:
9 Representations and reliance, thereon"

10 MS. REAVES: What was your understanding of
that defense,

11 that was presented --- or the basis for the Appeal, for that
#1?

12 MR. CALLOWAY: It is a foreign concept to me. I
am not

13 familiar with this term, "floating zoning".

14 MS. REAVES: But as part of that basis, what is
the

15 representation here, alleged, by Cardinal Metals?

16 MR. CALLOWAY: The alleged representation is
that

17 someone in staff had informed the property owner, prior to
purchasing the

18 property, that there was a "floating zoning" on the property,

to my

19 understanding.

20 MS. REAVES: Okay. Does it name who that
person is?

21 MR. CALLOWAY: It refers to "staff".

22 MS. REAVES: Does it give a particular name? That
was my

23 question. Does it give a staff name?

24 MR. CALLOWAY: I apologize. I'm not seeing one
at the

25 moment.

1 MS. REAVES: Okay. We'll take that answer. And
when did

2 you say this property was purchased.

3 MR. CALLOWAY: Early in 2022.

4 MS. REAVES: So, do you know of anything in
Guilford

5 County that allows "floating zoning"?

6 MR. CALLOWAY: I've --- before this Appeal, I
have never

7 heard of that concept. It is foreign to me.

8 MS. REAVES: Okay. Do you know whether or not
that's the

9 same as "Conditional Use"?

10 MR. CALLOWAY: Absolutely not.

11 MS. REAVES: All right. And what are the --- what
is the

12 basis for a "Conditional Use"?

13 MR. CALLOWAY: A Conditional Zoning?

14 MS. REAVES: Conditional Use, Conditional Zoning.

15 MR. CALLOWAY: A Conditional Zoning, so
Conditional

16 Use and Conditional Zoning are separate things. The
County's prior

17 Conditional Ordinance to Conditional Uses, since the update
in 2020, we

18 have renamed all Conditional Districts from Conditional Use
to

- 19 Conditional Zoning. A Conditional Zoning District would
indicate that the
- 20 property owner, whoever it was at that time, could apply for
the zoning and
- 21 place upon themselves, voluntarily, conditions --- agreed
upon conditions
- 22 limiting their private property rights in order to have that
zoning district,
- 23 which might limit their usage or development rights.
- 24 MS. REAVES: Okay. But that's done by
application, is that
- 25 correct?

1 MR. CALLOWAY: Yes, that is a voluntary
application.

2 MR. EKLAN: Objection to the form.

3 MS. REAVES: I'll rephrase the
question.

4 MS. REAVES: How do you obtain a Conditional
Use or

5 Conditional Zoning?

6 MR. CALLOWAY: The property owner must submit
an

7 application --- a completed application and then after staff
has prepared the

8 case, we present it in a Public Hearing, a Legislative
Hearing, to the

9 Planning Board and the Planning Board ,within Guilford
County, if

10 approved in the affirmative, with the super majority, 75% of
the Board,

11 they are the final decision makers, however, if they approve
without a

12 super majority, it is automatically put toward the Guilford
County

13 Commissioners and they would have the final decision. If it's
denied by

14 the Planning Board, it can be appealed to the Board of
County

15 Commissioners, and they would have final authority.

16 MS. REAVES: So, that is a written application and

not an

17 oral representation?

18 MR. CALLOWAY: Yes, Ma'am. We must receive a
19 completed application.

20 MS. REAVES: Thank you for that. The AG part of
the

21 property, you kind-of already touched on that, but let's just
clarify for the

22 Board. Is the AG part of the subject property suitable for
any HI activity

23 that is currently being conducted on that property?

24 MR. ELKAN: Objection.
Foundation.

1 MS. REAVES: I don't really
understand

2 the objection on that, as far as
foundation.

3 MR. ELKAN: It presupposes facts
that are

4 not in testimony that he has testified to.

5 MS. REAVES: He's testifying to the
use

6 of the property. It's the whole basis for
the

7 Hearing.

8 MR. ELKAN: I won't engage with
the

9 Counsel. I've noted my objection, for
the record.

10 I think it's improper to argue. That's
between

11 Counsels.

12 MS. REAVES: I can rephrase the
13 question.

14 MS. REAVES" Is any part of the Recycle business
being

15 operated on the AG portion of the property?

16 MR. ELKAN: Objection. Vagueness.
I

17 don't know what she's asking. That's
why I'm

18

objecting.

19

MS. REAVES: I don't think the
question

20

is vague, at all, I think its cut and dry---
-

21

MR. ELKAN: By the way---

22

MS. REAVES: --if you pull of the

23

HI----

1 MR. ELKAN: By way of
2 explanation, the
3 past use of the property was for
4 Maintenance and
5 for diesel trucks, et cetera----

6 MS. REAVES: Objection to him
7 testifying. Your Honor, you can't testify.

8 MR. ELKAN: It's so --- the issue ---
9 the
10 basis for my objection is---

11 MS. MILLER: Just a moment, let's
12 pause
13 for just a minute, please.

14 (Thereupon, the Board members were speaking among
15 themselves
16 off the record)

17 MS. MILLER: Thank you, you may
18 continue, Mr. Elkan.

19 MS. REAVES: You can go ahead and answer my
20 question, if
21 any of the HI activity or recycling junk yard --- metal
22 recycling of a junk
23 yard, spilling onto operating in the AG section of the
24 property?

25 MR. ELKAN: Objection.

26 MS. MILLER: I'm sorry, Ms.
27 Reaves,

19

whenever we paused, Mr. Elkan was objecting.

20

MR. ELKAN: Yes, Ma'am. I think she

21

can ask him what activities were occurring

22

on --- that he observed, were occurring on

23

different portions of the property. What I don't

24

think she can ask him, is what recycling activities

25

were occurring on the AG portion of the property

1 that requires him to determine what a
recycling
2 activity is, et cetera, et cetera, So, I
think he can,
3 you know, who, what, when, why,
where and
4 how, it's the leading aspect of the
question that is
5 objectionable and I'd like it to be
corrected.

6 MS. REAVES: It's the same thing.

7 MS. REAVES: Can you tell the Board what
activities were

8 unlawfully occurring on the AG portion of the property.

9 MR. ELKAN: Objection. Same
grounds.

10 MS. REAVES: I'll strike the
11 "unlawfully"-- Your Honor, there's no
other
12 way to ask this, except to say okay.

13 MS. REAVES: What actions were occurring on the
14 AG portion of the property?

15 MR. CALLOWAY: Yes, Ma'am. Mr. Bass, can you
please

16 go to page 8?

17 MR. EKLAN: I'd object as non-
18 responsive.

19 MR. CALLOWAY: I have a response and it is
illustrated

20 with this photo I'm going to show.

21 MS. REAVES: So, let me so then, let me lay the
22 foundation. If the Board and Mr. Bass could turn to Exhibit
#2, which is on

23 page PDF page 6, for the Board, that's your page 5, and it
says, "Exhibit

24 #2".

1 MS. REAVES: And if you could go
to the

2 next set of photos.

3 MS. REAVES: Mr. Calloway, can you tell the Board
what

4 this set of photos for Exhibit #2, constitutes?

5 MR. CALLOWAY: Yes. So, Mr. Bass can continue
for the

6 next few pages. These are the photos that we --- myself and
Ms. Graybeal

7 took when we were on the site during that noted trip, where
we had a GPS

8 and we were able to find the boundaries of the HI zoning
district. Mr. Bass,

9 will you go to the next page, please?

10 MS. REAVES: Can you tell the Board the date that
you took

11 these photos?

12 MR. CALLOWAY: October 11, 2022.

13 MS. REAVES: All of the photos were taken on
October 11th,

14 for the Exhibit?

15 MR. CALLOWAY: No, no. So, the first three (3)
photos

16 were taken from the right-of-way----

17 MS. REAVES: Just tell the date that they were
taken, please.

18 MR. CALLOWAY: August 24th, 2022.

19 MS. REAVES: And what about the next set of
photos?

20 MR. CALLOWAY: They were taken October 11th,
2022.

21 MS. REAVES: And did you gather these in the
normal

22 course of business?

23 MR. CALLOWAY: Yes.

24 MS. REAVES: And did you take them yourself?

1 MR. CALLOWAY: The August photos, I took
2
3 myself
4 them by MS. REAVES: Okay, and what about
5
6 the October 11th,
7 photo
8 s?

9 MR. CALLOWAY: I was accompanied by Ms.
10 Graybeal. MS. REAVES: Okay, did you take
11 these photos or see her
12 take the photos?

13 MR. CALLOWAY: Yes, Ma'am.

14 MS. REAVES: And so you have personal
15 knowledge of the
16 photos taken on October 11th?

17 MR. CALLOWAY: Yes, Ma'am

18 MS. REAVES: Okay. And did you review them in
preparation for today's Hearing?

MR. CALLOWAY: Yes, Ma'am.

MS. REAVES: If there are no
objections,

I ask that the proposed Exhibit #2, be
admitted

into evidence. If there are no
objections.

MR. ELKAN: No.

19

accept.

20

MS. REAVES: Thank you, Madam
Chair.

21

MS. REAVES: Okay. You were going to tell the
Board

22

what activities were occurring on the AG portion of the
subject property.

23

MR. CALLOWAY: Yes, Ma'am. With metes and
bounds

24

and the application of the Kogo software system, we were
able to get the

1 coordinates and were able to put those coordinates into a
very, very precise
2 GPS unit, and with that GPS unit I was able to find the exact
boundaries of
3 that HI zoning district. In our packets, we can see it in that
longer photo,
4 there is a----

5 MS. REAVES: What page is that on?

6 MR. CALLOWAY: ---- in our packet it is number 8-
--

7 MR. ELKAN: I will object on the
basis of
8 lack of foundation, as to his testimony
as to the
9 metes and bounds and placing that on
the ground.

10 MS. REAVES: Madam Chair, he
11 allowed the Exhibits to come in, He's
already
12 testified to the metes and bounds being
done
13 using their software out there. Again,
it's public
14 information that is in the record and is
based on
15 the 1970 letter that is already in the
record.

16 MR. ELKAN: I would state that the

17 location of the metes and bounds, as he
has
18 located it on the property and she's
attempting to
19 testify, lacks foundation. I want to
maintain that
20 objection.

21 MS. REAVES: I stay with what I
22 reported to the Board --- I mean, what I
just
23 stated to the Board. It's already in
Evidence.

24 MR. ELKAN: There is nothing in

1 Evidence regarding the metes and
bounds, that's
2 laid out on the property. You have
pictures that's
3 in Evidence. There was-

4 MS. REAVES: You have a letter
that's in
5 Evidence.

6 MR. MASON: The Chair has
already
7 ruled on this objection. The Chair has
already
8 ruled on this objection the objection to
placing
9 the metes and bounds on the schematic
of the
10 property.

11 MR. ELKAN: Well, I----

12 MR. MASON: The Chair ruled on
the
13 objection.

14 MR. ELKAN: I do not recall that.
Where
15 there was ---

16 MS. MILLER: I apologize. My voice
is
17 somewhat low. Overruled.

18 MR. CALLOWAY: So, that larger photo, if turned
right-side-

19 up, and I understand it would be difficult for you to see it
like that, but in

20 front of you, you have it. There is a block-like structure and
a pile of

21 debris. The northeastern corner --- the upper boundary of
the HI zoning

22 district, square in the middle of that debris pile. And so,
everything outside

23 of that, is in the AG zoning district. So, the majority of the
actual metal

24 crushing and storage of these --- the equipment and the
materials, was in

25 the AG zoning district.

1 MS. REAVES: What are we looking at in the
picture below

2 that? Just a different point of view?

3 MR. CALLOWAY: Yes, that's looking in towards the
4 property going to the east.

5 MS. REAVES: Okay, were there any other areas
identified in

6 your photos as to what activity is being conducted on the AG
section of the

7 property?

8 MR. CALLOWAY: In these photos from the site
visit, no.

9 However, north of the Heavy Industrial zoning portion of the
property,

10 there is single-family residential use. There is a house on the
property. At

11 least, one (1) house.

12 MS. REAVES: And how is that relevant to what
you're

13 testifying here today?

14 MR. CALLOWAY: I'm answer the question on what
are the

15 uses in an AG zoning district.

16 MS. REAVES: Okay. Thank you for clarifying that.
So, let's

17 go back to the Notice of Violation. That is on page 16
through 18. Sorry ---

18 That's not where I'm at --- I want to go to the Appeal. I
apologize, which is

19 on page 13. It starts on page 13.

20 You were going over the three (3) items that were
noted by Counsel

21 and you talked about the focus on Conditional Use. Can you
talk to the

22 Board about continuation --- excuse me --- STRIKE THAT -

23 About the second defense here?

24 MR. CALLOWAY: Yes, continuation of prior
conforming

25 use, AG one (1) family occupation or prior non-
nonconforming use.

- 1 MS. REAVES: And is that a crime in this matter,
to avoid a
- 2 Notice of Violation?
- 3 MR. CALLOWAY: No. So, there are two (2) types
of non-
- 4 conforming use, when it comes to uses. There are legal non-
conforming
- 5 use and illegal non-conforming use. In reference to a legal
non-conforming
- 6 use, which is known as "Grandfathered" use, that would be a
use that
- 7 might have existed before zoning was applied to a property,
and in the
- 8 instance of a legal non-conforming use, it is allowed to
continue unless it is
- 9 ceased for twelve (12) months, at which point, that non-
conforming use
- 10 cannot come back, but it could not get expanded. And then,
illegal non-
- 11 conforming use, if someone started doing something illegally
and it is in a
- 12 district in which it was not permitted, after the application of
a zoning
- 13 district, and so there is no basis for the continuation or
expansion of an
- 14 illegal non-conforming use.
- 15 MS. REAVES: And as to the third defense here,
for the

16 Appeal.

17 MR. CALLOWAY: Conforming Use, so can I read --
--

18 MS. REAVES: Sure.

19 MR. CALLOWAY: ---the next part? Because I think
it will

20 be easier for me to talk about it. Guilford County is estopped
from and may

21 not otherwise enforce the interview against Cardinal Metals,
because

22 among other things, Cardinal's operations on the property
are in accord

23 with respect that applicable HI and AG land use restrictions
and

24 requirements of the UDO, under the circumstances.

25 MS. REAVES: Is that correct?

1 MR. CALLOWAY: No.

2 MS. REAVES: Why not?

3 MR. CALLOWAY: As illustrated by peridium of the
Use

4 Matrix, the extension of Heavy Industrial use into an AG
zoning district is

5 not permitted. So, it would not be conforming to the UDO
restrictions or

6 requirements.

7 MS. REAVES: All right. Is there anything you
would like to

8 tell the Board --- anything else about the violations on the
property?

9 Anything you didn't elaborate on, already?

10 MR. CALLOWAY: No, Ma'am.

11 MS. REAVES: Mr. Bass, if you

12 could go to PDF page 21, for the
Counsel, that

13 would be your page 20.

14 MS. REAVES: Mr. Calloway, can you tell the Board
what

15 this proposed Exhibit #6 is?

16 MR. CALLOWAY: This is a business report from
the North

17 Carolina Secretary of State. What it details is ----

18 MS. REAVES: Did you collect this document in the
normal

19 course of business?

20 MR. CALLOWAY: Yes, Ma'am.

21 MS. REAVES: Why?

22 MR. CALLOWAY: Because central to this case is
the

23 operation of a commercial entity and whenever we are
getting these cases,

24 regarding commercial activities at entities, we collect this
document from

1 the Secretary of State to ensure that we are working with
registered or

2 managing members of the LLC.

3 MS. REAVES: Okay, and who was this report
pulled for?

4 MR. CALLOWAY: This is for Cardinal Metals.

5 MS. REAVES: And do you remember when you
pulled it?

6 MR. CALLOWAY: February 2nd, 2023.

7 MS. REAVES: And did you verify that that was the
business

8 being operated on the property?

9 MR. CALLOWAY: Yes, Ma'am.

10 MS. REAVES: And who is the managing member?

11 MR. CALLOWAY: The managing member is
Randall L.

12 Baisden.

13 MS. REAVES: And is he related to the owner of
the

14 property?

15 MR. CALLOWAY: Yes, Ma'am.

16 MS. REAVES: And who is the owner of the
property?

17 MR. CALLOWAY: Heather Baisden.

18 MS. REAVES: All right. Madam
Chair, if

19 there are no objections we ask that

Exhibit #6 be

20 admitted into Evidence, just to
determine the

21 name of the business.

22 MS. MILLER: Admitted.

23 MR. ELKAN: No objection.

24 MS. REAVES: Mr. Bass, would you
turn

1 to Exhibit #4, which is on your PDF
page 12, for
2 the Council, it is page 11, BATES page.
3 MS. REAVES: Mr. Caloway, can you tell the Board
what
4 this Exhibit #4 is?
5 MR. CALLOWAY: Yes, Ma'am, this is a map of ---
6 illustrating zoning at the subject property and the
surrounding area.
7 MS. REAVES: And where I such a property ---
what parcel
8 is illustrated on this map?
9 MR. CALLOWAY: It is parcel #144107, it is the
parcel that
10 is hatched.
11 MS. REAVES: And did you collect this in the
normal course
12 of business?
13 MR. CALLOWAY: Yes, Ma'am.
14 MS. REAVES: And when did you pull this zoning
map and
15 from where?
16 MR. CALLOWAY: We collected this prior to the ---
it was
17 given to us by GIS, during the preparation for this case in
the proceeding
18 months.

19 MS. REAVES: And you said the "proceeding
months", was

20 this prior to or after the Notice of Violation?

21 MR. CALLOWAY: This was after the Notice of
Violation.

22 We asked --- whenever we know that we have a case, we
inform GIS to

23 provide for us several maps, and so, we were given this map
as soon as we

24 knew that this Hearing would have been scheduled.

25 MS. REAVES: And is this public information?

1 MR. CALLOWAY: Yes, Ma'am.

2 MS. REAVES: And what do you intend to do show
on this?

3 MR. CALLOWAY: We are showing the boundaries
of the HI

4 zoning district, as well as the residential RS-40 district to the
south and the

5 AG zoning district to the north and the east, abutting this
property.

6 MS. REAVES: And is this the actual boundaries, or
just a

7 representation?

8 MR. CALLOWAY: This is --- this --- I'm not sure.
So, when

9 we get documents from GIS, there is an error that is
conveyed, inherently,

10 because the -- our project submissions are going off the best
information

11 that we have, and so, there --- it's never going to be as
precise as actually

12 having the metes and bounds and using GPS or surveyors to
go find

13 locations.

14 MS. REAVES: So, I'll renew my questions, is it a
15 representation?

16 MR. CALLOWAY: Yes, Ma'am. It's as accurate of a
17 representation as our GIS Department could deliver.

18 MS. REAVES: And is this a public document?

19 MR. CALLOWAY: Yes, Ma'am.

20 MS. REAVES: If there are no
21 objections, I ask that Exhibit #4, be
entered into
22 Evidence.

23 MR. ELKAN: I object ---

24 MS. REAVES: Not for the truth of

1 the shape of

the matter, just for representation of

2

the property. If there are no objections.

3

MR. ELKAN: I would, just to

4

clarify for the record, I object to the

admission of

5

the Exhibit to show --- to accurately

depict the

6

different zoned portions of the property,

which I

7

believe the testimony lacks foundation

to show

8

that. I do not object to the admission of

the

9

document to show that that is what the

Zoning

10

folks received from the GIS folks of the

County.

11

MS. REAVES: No objection to

12

that.

13

MS. MILLER: Admitted, as

14

stated.

15

MS. REAVES: Madam Chairman,

16

as to Exhibit #10, that's on page 91, if

there are

17

no objections, I'm not going to have my

client

18
admitted into

testify to this. I ask Exhibit #10, be

19
Register

Evidence, as a public document with the

20
property.

of Deeds, just to show ownership of the

21

If there are no objections.

22

MS. MILLER: Admitted.

23

MS. REAVES: Thank you.

1 MS. REAVES: Mr. Calloway, is there anything else
that you
2 would like to tell the Board about this violation --- the Notice
of Violation?

3 MR. CALLOWAY: No, Ma'am.

4 MS. REAVES: Those are my
questions of

5 Mr. Calloway. I render him for Cross, to
Mr.

6 Elkan.

7

8 **CROSS EXAMINATION**

9 MR. ELKAN: Madam Chair, are you
10 ready to proceed?

11 MS. MILLER: Can everyone still
hear

12 Mr. Elkan?

13 MR. ELKAN: Mr. Calloway, did you discuss a
"floating
14 zoning" issue with Mr. Bass, at all?

15 MR. CALLOWAY: Whenever --- received the
Appeal,

16 no document that comes in to us is cached to one (1)
person. We review

17 everything as staff, and so, whenever the Appeal came in,
we looked it

18 over at staff meetings and things and we discussed the
claim of "floating

19 zoning". So, after we received the letter, I did have
discussions with Mr.

20 Bass and the rest of the staff about that subject.

21 MR. ELKAN: Did Mr. Bass tell you that he had
discussions

22 with Mr. Baisden regarding the zoning on the property, prior
to

23 Mr. Baisden purchasing the property?

24 MR. CALLOWAY: Yes.

1 MR. ELKAN: And did he tell you that those
discussions

2 involved the term, "floating zoning"?

3 MR. CALLOWAY: No.

4 MR. ELKAN: Did he tell you that Mr. Baisden
inquired as

5 to whether his Auto Salvage and Recycling operation would
be allowed on

6 the property?

7 MR. CALLOWAY: I do not recall.

8 MR. ELKAN: Do you recall that Mr. Bass had
informed Mr.

9 Baisden that, in fact, his Auto Salvage and Recycling
operation that he had

10 planned, would be allowed in a portion of the property?

11 MR. CALLOWAY: No, Sir.

12 MR. ELKAN: You don't recall, is that correct?

13 MS. REAVES: Objection, asked and
14 answered.

15 MS. MILLER: Sustained.

16 MR. ELKAN: Are you aware that the use of
property for

17 many decades was as a Diesel Truck Repair, Salvage and
Recycling

18 operation?

19 MR. CALLOWAY: That is not correct. That is not
the right

- 20 way to state it. To the best of my knowledge, the use was
Diesel, Diesel
- 21 Repair, i.e., I'm not quite certain they would have the
extension of the Junk
- 22 Salvage Yard, if that's the lead-in, because I think that
would be --- that
- 23 would not be accurate.

1 MR. ELKAN: You are aware that, for decades, the
operation

2 on the property, including the AG portion of the property,
included Diesel

3 Truck Repair?

4 MR. CALLOWAY: No.

5 MR. ELKAN: You agree that there was Diesel
Truck Repair

6 operations on the five (5) acre property, is that correct?

7 MS. REAVES: Objection, asked and
8 answered.

9 MR. ELKAN: I'm trying to clarify.

10 MS. MILLER: Overruled.

11 MR. ELKAN: Did you hear my question, the way I
asked it?

12 MR. CALLOWAY: I am okay to answer it. We have
no

13 record of the prior owner of the property that had the diesel
operation ---

14 the Diesel Repair operation operating outside the HI zone
boundary.

15 MR. ELKAN: Are you aware that there are
buildings on the

16 property that can accommodate diesel truck repair, that are
located outside

17 the HI portion of the property, correct?

18 MS. REAVES: Objection,

speculation as

19 to what they can hold.

20 MS. MILLER: Sustained.

21 MR. ELKAN: You are aware that there are garage
buildings

22 on the property, that are located outside the HI portion of
the property?

23 MR. CALLOWAY: I am not aware of when they
were

24 constructed. I know they exist now.

1 MR. ELKAN: Did you investigate what the uses of
the

2 property were, prior to issuance of the NOV?

3 MR. CALLOWAY: Yes, and we found that the
previous

4 owners had a diesel repair operation on the property. We
have no

5 indication --- no record that that operation extended beyond
the HI zoned

6 district.

7 MR. ELKAN: The garage buildings that are located
outside

8 the HI zoning district are not an indication that the diesel
repair operations

9 occurred outside of the HI zoning?

10 MR. CALLOWAY: No.

11 MR. ELKAN: I'm just going to pass
out

12 what has been marked as Defendant's
Exhibit #1.

13 MR. ELKAN: Mr. Calloway, please take the time to
14 familiarize yourself with that Exhibit.

15 MR. ELKAN: May I approach?

16 (Thereupon, Mr. Elkan presented documents to the
Board

17 members for their review)

18 MR. ELKAN: Mr. Calloway, I have handed you

what has

- 19 been marked "Defendant's Exhibit #1. I will represent to the
Board and to
- 20 you that this packet of documents were requested by my
law firm, from
- 21 EDR Aerial Photos and were received from EDR and are, as
indicated by
- 22 EDR, depictions of aerial photos and if you turn to page 2, it
indicates the
- 23 aerial photo date and year and corresponding photo.

24 MS. REAVES: Madam Chair, I'm
going

1 document for

to object to the introduction of this

2 to testify.

the truth of the matter. EDR is not here

3 as to the

Lack of foundation. I would not object

4

shape of the property.

5 to

MR. ELKAN: That's fine. I'm going

6 testimony

move to admit it, on the basis of my

7 EDR

that this was ordered from EDR, that

8 indicating

provided the documents' information

9 depictions

that these photos are true and accurate

10 the dates

of aerial photography of the property on

11

indicated.

12 the

MS. REAVES: And I would object of

13 not a

basis of hearsay and that the attorney is

14 foundation, for

witness and he can't lay his own

15

EDR.

16

MS. MILLER: Sustained.

17
Board

MR. ELKAN: I would ask that the

18

take judicial notice of the Exhibit, in the

19

alternative.

20
notice

MS. REAVES: Under --- judicial

21

under what? Under what basis?

22

MR. ELKAN: They have the

23
take judicial

authority --- they have discretion to

24
record.

notice of the Facts that are of public

1 MS. REAVES: EDR is not a public
entity
2 and it is also not a source whose
accuracy
3 cannot reasonably be questioned.

4 MR. ELKAN: I'll make it easy for
you.

5 They go --- I'll try --- I mean, I will
make a

6 proffer that is regardless of your
Evidentiary

7 Rule, so --- I don't want to argue with
Counsel

8 for the Board, but ---

9 MR. MASON: I think she ruled.

10 MR. ELKAN: Did she?

11 MR. MASON: She did.

12 MS. MILLER: I apologize again. I
did say

13 that her objection was sustained.

14 MR. ELKAN: That's fine. Then, I
would

15 like the Board's permission to make a
proffer of

16 evidence and question the witness
regarding the

17 document.

18

MS. MILLER: Okay, go ahead.

19

MR. ELKAN: So, Mr. Calloway, I bring your
attention to the

20

aerial photos and if you flip through --- in reverse
chronological order, and

21

I believe you testified that the HI zoning was approved in
1970, is that

22

correct?

23

MR. CALLOWAY: Yes, Sir.

24

MR. ELKAN: So, if you would, please turn to the
page

25

indicating the aerial photo of 1970.

1
2
Evidence
3
objection was
4
I'm going
5
documents, at

MS. REAVES: Your Honor, the
document has not been admitted into
and because that has been --- that
sustained, my client can't testify to it.
to object to any reference to the
all.

6
7
I'm
8
Board?

MR. ELKAN: May I explain what
intending to do in the request to the

9
with
10
not

MS. MILLER: Does this have to do
the shape of the property, which she did
object to?

11
12
use of
13
of the use

MR. ELKAN: It has to do with the
the property as shown, and the extent
of the property as shown in the aerial
photographs and what I'm trying to do,

14
15
for the
16
despite the

record on Appeal, is proffer evidence

17
jury and you

objection, so when you don't have a

18
making

just have folks like yourselves, that are

19
you

determinations as if it was a bench trial,

20
the matter

make an offer of evidence to preserve

21
do.

for them. That is what I'm attempting to

22
establish

MR. JOHNSON: He's trying to

23
--- that

that it has a history of being something

24

does not ---

1 MS. MILLER: Do you want to enter
this
2 as evidence?
3 MR. JOHNSON: No.
4 MR. MASON: Madam Chair, may I
make
5 an inquiry of Counsel?
6 MS. MILLER: Of course.
7 MR. MASON: Are you just trying to
8 ensure that this Defense Exhibit #1 is
preserved
9 in the event of an Appeal, so that you
can show
10 what was excluded? Is that the intent?
11 MS. ELKAN: The intent is what his
12 testimony would have been, so that we
all don't
13 have to come back. It's the Board's
prerogative,
14 that is my intent, is to --- and I'm not
going to go
15 on and on, I'm going to be briefly ask
questions
16 of the witness about the --- that the
Exhibit is
17 preserved, I grant you that. The request
is to

18

question the witness.

19

MR. MASON: Madam Chair, what I

20

would advise the Board is this, he can

ask

21

questions of this witness. If they are

22

objectionable, Counsel for the Planning

23

Department can object and the Board

can rule at

24

that point. Not knowing what his

questions may

25

be, we can't pre-judge that.

1 MR. ELKAN: And again, I'm trying
to
2 make things reasonable in terms of
proceeding
3 here, and my last question would be
that all I'm
4 asking about is what the photographs
show and
5 the use of the property. So that's the
extent of
6 what I'm asking now.

7 MR. MASON: Madam Chair, I think
he'll
8 just need to ask his questions and if
they're
9 objectionable, there will be an
objection, and we
10 deal with them that way. That would be
my
11 suggestion to the Board.

12 MS. MLLER: This Counsel has
already
13 objected to this being entered, so how
can we
14 allow him to ask questions based on the
15 document that we haven't entered into
Evidence?
16 How do we do that?

17

MR. MASON: Given that we don't
know

18

what the questions are going to be yet,
I can't

19

say.

20

MS. MILLER: Okay. Please
proceed.

21

MR. ELKAN: Thank you, Madam
Chair.

22

Thank you, Counsel.

23

MR. ELKAN: So, I was asking you please, look
with me at

24

the photograph --- aerial photograph of 1970. Mr. Calloway,
do you see

25

that?

1 MR. CALLOWAY: Yes, Sir.

2 MR. ELKAN: And I would ask you to describe, in
your own

3 words, what that depiction's of?

4 MR. CALLOWAY: Undeveloped land.

5 MR. ELKAN: And if you turn to the 1977 aerial
photograph,

6 and that depicts several buildings on the property, does it
not?

7 MS. REAVES: Your Honor, I'm
going to

8 object to this as to the truth of the
matter

9 asserted. I think Mr. Calloway has
already

10 testified that he didn't know, because no
11 complaints came in. And I don't think
going

12 through page to page, to page of this is
going to

13 change that testimony. I think this is a
back way

14 in to get the evidence into the record
that's

15 already been denied, as to the record. If
Mr.

16 Elkan would like to preserve this as part
of the

17 record, as being excluded, I would just
ask that
18 the Board keep it as part of the record,
but not as
19 part of my client's testimony. He cannot
testify to
20 these photos.

21 MS. MILLER: Sustained.

22 MR. ELKAN: Mr. Calloway, did you inquire with
23 Mr. Baisden or anyone with Cardinal Metals, as to past use
of the
24 property?

25 MR. CALLOWAY: No.

1 MR. ELKAN: No further questions.
2 MS. MILLER: Does anyone on the
3 Board have any questions for Mr. Elkan?
4 MR. STANDLEY: I would like to
make a
5 statement to be accurate. One (1)
question,
6 quickly, one (1), when you're testifying,
7 please --- you use a lot of terms that
nobody in
8 the audience, probably, understands.
When you
9 say things like, "GIS", can you please
briefly
10 explain what they are, at some point?
11 MR. CALLOWAY: My apologies.
12 MR. STANDLEY: I'm sure if we
went
13 around the room, a lot of people did not
know
14 what the heck we're talking about.
15 MR. CALLOWAY: G.I.S. stands for
16 Geographic Information Systems. We
are able to
17 get maps and parcels drawn and the
daily
18 business of property owners completed,

because

19
these

20
all of us

21

22

23
people in the

24
quick

25
Exhibits,

we have people who are trained to map
parcels and items. It is a profession that
relied upon in order to do our daily jobs.

MR. STANDLEY: Thank you. The
Board, I think, knows that stuff, but
audience probably, do not. I've got a
question. On the photographs in your

1
appeared to be

2
because one

3
crushing

4
major

5
things,

6
machine

7

8

9
can point to

10

11

12
device is

13

14
you,

15
these

16
moving the

17

from your visit to the site, what

represented in the photos, did you ---

(1) of the photos represent the auto

operation, itself? Which I assume is the

nuisance noise on the site. I see piles of

but I don't know what a auto crushing

looks like.

MR. CALLOWAY: Yes. I'm probably
not the best to answer that question. I

large pieces of industrial equipment.

MR. STANDLEY: Okay, so we really
don't know what the auto crushing

here?

MR. CALLOWAY: Well, I can tell

when we were there, we were seeing

excavating-type pieces of equipment

pieces of cars and what-have-you to the

piles.

18 MR. STANDLEY: Okay, thank you.

19 MS. MILLER: Anything else,

20 Mr. Johnson or Mr. Standley?

21 MR. JOHNSON: I'm with you on

that

22 "floating zoning", there's no such thing.

I've

23 been in real estate for thirty (30) years

and

24 there's no "floating zoning", either it is

or it is

25 not, and I don't know where that term

came

1 from, but I agree with you on not being
able to
2 find a definition for that.
3 MS. MILLER: Thank you, Mr.
Calloway.
4 MS. REAVES: Madam Chair, at this
time
5 I'd like to call Oliver Bass and have him
6 affirmed.
7 MS. MILLER: Hi, Mr. Bass, how are
you
8 doing?
9 MR. BASS: I'm good.
10 MS. MILLER: Good. Trying to
break the
11 ice in here a little bit. Do you swear to
tell the
12 truth, the whole truth and nothing but
the truth?
13 MR. BASS: I do.
14 MS. MILLER: Thank you.
15 MS. REAVES: Thank you, Madam
Chair.
16 record?
17 20
18 21
19 the

**DIRECT
EXAMINATION**

MR. BASS: My name is Oliver Bass.

MS. REAVES: Mr. Bass, can you please

MS. REAVES: Can you tell the Board where you work and

22 what your position is there?

23 MR. BASS: I work with Guilford County Planning &

24 Development Department and my position is Senior Planner.

1 MS. REAVES: And how long have you been with
the County

2 in that position?

3 MR. BASS: Since June of 2015.

4 MS. REAVES: Are you familiar with the Appellant
and such

5 property, in this matter?

6 MR. BASS: Yes, I am.

7 MS. REAVES: And how do you know the Appellant
and

8 how are you familiar with the property?

9 MR. BASS: Well, I know the Appellant as the
owner and

10 operator of the facility that is on the site.

11 MR. ELKAN: What was your
question. I

12 missed it.

13 MS. REAVES: How do you know
the

14 Appellant and how are you familiar with
the

15 property?

16 MR. ELKAN: Oh, okay.

17 MR. BASS: And there were a series of inquiries on
the

18 property that I am familiar with and I am familiar with the
rezoning case.

19 MS. REAVES: Okay.

20 MR. BASS: I mean, the violation case.

21 MS. REAVES: Are you also --- well, strike that ---

22 Have you entered into any collaborative, corrective
plans, and if so,

23 can you tell the Board what those are, regarding the
property?

1 MR. BASS: Well, my primary role in this process
is the

2 zoning component of the property. I have limited
involvement in the

3 Violation case of the general discussions with other staff.

4 MS. REAVES: Has the Appellant submitted a
Rezoning

5 Application, to your Department?

6 MR. BASS: We have received a Rezoning
Application, yes,

7 Ma'am.

8 MS. REAVES: And can you tell the Board when
you

9 received that?

10 MR. BASS: I received it on Monday, October 2nd,
of 2023.

11 MS. REAVES: Was that the first submission?

12 MR. BASS: That was the first submittal of the
application.

13 MS. REAVES: Okay, and were there any other
items

14 submitted to your Department seeking rezoning?

15 MR. BASS: Well, prior to the Rezoning Application
we did

16 have an opportunity --- the applicant --- the Appellant did
present a

17 Rezoning Plan and I reviewed it for comments.

- 18 MS. REAVES: And did they submit it to you more
than
- 19 once?
- 20 MR. BASS: They submitted it to me a total of
three (3) times.
- 21 Two (2) revisions.
- 22 MS. REAVES: Okay, and can you give us the time
period
- 23 that those were submitted to you?
- 24 MR. BASS: Well, the initial site plan was
submitted, I
- 25 believe, May 18th. I replied within a couple of --- within two
(2) or three

1 (3) days, offering my mark-ups. And then I had a
subsequent meeting with
2 the Appellant attorney and their representative to discuss
some of the items
3 related to the sketch plan. And then we received another
submission with
4 the application.

5 MS. REAVES: Okay, and for each of those reviews
that you

6 did for those submissions, did they update each time you
requested that?

7 MR. BASS: Yes, they did.

8 MS. REAVES: Okay, and is that required prior to
the

9 submission of a Rezoning Application?

10 MR. BASS: It's not mandatory --- it's not
mandatory that

11 they submit the sketch plan, however, it was advised given
the nature of

12 the case that they do submit a sketch plan because it was a
partial rezoning

13 of a property and we wanted to make sure the boundaries of
the rezoning

14 was accurate.

15 MS. REAVES: Has a Hearing date already been
schedule

16 before the Planning Board regarding the rezoning?

17 MR. BASS: Well, given that we received the

application on

18 October 2nd, and pending any revisions that was requested
on technical

19 corrections to the applicant, it would be heard at the
November 8th meeting.

20 MS. REAVES: And can you tell the Board just
what that

21 process is --- now that that Rezoning Application has been
submitted, what

22 the process is?

23 MR. BASS: Well, once we receive a complete
application,

24 the process will be heard at the next available Planning
Board meeting,

25 which is November. Depending on what the Planning Board
decision is, it

1 can be decided --- the Rezoning Case can be decided on that
night, it could
2 be extended to another meeting, and depending on the vote
of the Planning
3 Board, it could be sent on Appeal or as a recommendation to
the Guilford
4 County Board of Commissioners.

5 MS. REAVES: And since the Appeal was filed, and
you've

6 been requesting site plans, has the Appellant been
cooperative with you?

7 MR. BASS: Yes, they've been cooperative.

8 MS. REAVES: Okay. Can you tell the Board what
kind of

9 revisions were made in between May and October 2nd?
Whether it was

10 major or minor?

11 MR. BASS: It was --- it wasn't ---it was minor to
the extent

12 that they didn't meet the technical requirements for
submitting a rezoning,

13 in terms of the proposed boundary of the rezoning request.
So, they was

14 asked to revise it, to ensure that it met the technical
requirements of filing

15 the application, based on the Ordinance.

16 MS. REAVES: And so, were there just
resubmissions of the

17 sketch plans or did you guys have any meetings?

18 MR. BASS: We did have meetings where we
discussed the

19 potential boundaries of the rezoning and potential submittal
of a

20 Conditional or a regular rezoning request.

21 MS. REAVES: Okay, so can you tell us what the
basis of the

22 application --- the Rezoning Application, is it Conditional Use
or is it a

23 rezoning?

24 MR. BASS: The application that was submitted
was a

25 Conditional Zone.

1 MS. REAVES: Okay, is there anything else that
you'd like to
2 tell the Board about the submission of that Rezoning
Application or any
3 communications after the Appeal?

4 MR. BASS: Not at this time, no, Ma'am.

5 UNKNOWN SPEAKER FROM THE
6 FLOOR: Tell them what "floating
rezoning" is.

7 MS. REAVES: To entertain the noise back there,
did you
8 want to talk to the Board about "floating zoning" or
Conditional Use or
9 Conditional Zoning?

10 MR. BASS: I am not familiar with the terminology
of
11 "floating zoning", in the context of the Guilford County
Unified
12 Development Ordinance. It is not a concept that is
represented in the
13 Ordinance. However, Conditional Zoning allows the applicant
to propose
14 limitations on what the restriction that is beyond the scope
of the Unified
15 Development Ordinance. In terms of the type of uses that
can go on the
16 site, and any type of development conditions they could
impose.

17 MS. REAVES: Did you, at any time, ever tell
anyone related
18 to Cardinal Metals that there was "floating zoning" attached
to this
19 property?

20 UNKNOWN SPEAKER FROM THE
21 FLOOR: And put your hand on the
Bible.

22 MS. MILLER: For everyone that's in
the
23 Gallery here tonight, we really
appreciate you
24 being here, and of course we appreciate
the
25 Appellant being here, as well. If you
could

1 please refrain from remarks, you will
have your

2 turn later in the proceedings.

3 MR. BASS: I do not recall ever using the term
"floating

4 zoning in the context of Guilford County Unified
Development Ordinance

5 in its regulations.

6 MS. REAVES: Did anybody ever ask you or tell
you that

7 they were going to buy a property based on your advice to
them?

8 MR. BASS: No.

9 MS. REAVES: Is there anything else you would
like to tell

10 the Board?

11 MR. BASS: I can't think of anything at this time.

12 MS. REAVES: Madam Chair, those
are

13 my questions for Mr. Bass. I render him
for

14 Cross to Attorney Elkan.

15

16 **CROSS EXAMINATION**

17

18 MR. ELKAN: Mr. Bass, how are you?

19 MR. BASS: Okay.

20 MR. ELKAN: I just have a couple of questions for
you. In
21 between the meeting that you testified to in May, the first
submittal for the
22 sketch for the rezoning---

23 MR. BASS: Yes.

24 MR. ELKAN: ---and the submittal in September,
isn't it
25 correct that the technical requirements that you informed us
of, require

1 surveying --- a survey of the property to provide the
information on the

2 sketch that you said you needed?

3 MR. BASS: Correct.

4 MR. ELKAN: Thank you. And did you --- do you
recall

5 discussions with Mr. Baisden in January of 2022, or prior to
his purchase

6 of the property?

7 MR. BASS: I don't recall --- I recall having
conversations

8 regarding that property, I do not recall the party that was
involved.

9 MR. ELKAN: Do you recall having conversations
with

10 Mr. Baisden's closing attorney, with respect to the zoning of
that property?

11 MR. BASS: I do recall having a conversation with
an

12 attorney regarding that property.

13 MR. ELKAN: Do you recall communicating that
regarding

14 the allowable use of that property?

15 MR. BASS: Yes, I do.

16 MR. ELKAN: And do you recall communicating to
them

17 that the allowable use of the property would include auto
salvage and

18 recycling?

19 MR. BASS: I don't recall the specific use that was
20 discussed, but that was a use discussed, to my memory.

21 MR. ELKAN: And you recall Mr. Baisden coming
away

22 from that conversation with the understanding that he could
use the

23 property for auto salvage and recycling?

24 MR. BASS: I am not clear that I know what his
25 understanding was. I believe I communicated to him what
the use

1 requirement, based on the zoning of the property was.

2 MR. ELKAN: And can you understand, coming out
of that

3 conversation, Mr. Baisden would believe that he was allowed
to

4 continue --- or to carry out auto salvage and recycling on
the property?

5 MS. REAVES: Objection as to
6 speculation and to what Mr. Baisden
thought.

7 MR. ELKAN: If you know.

8 MS. REAVES: Objection.

9 MS. MILLER: Sustained.

10 MR. ELKAN: Did you convey to Mr. Baisden or his
closing

11 attorney that there was --- quote – unquote “floating
zoning” on the

12 property?

13 MR. BASS: I do not believe I used the words,
“floating

14 zoning”.

15 MR. ELKAN: Did you convey to them that the HI
portion of

16 the property was fixed or was dependent upon the
operations that were

17 carried out on the property?

18 MR. BASS: I conveyed to him what the zoning of

the

19 property was, portion, partially HI, partially AG.

20 MR. ELKAN: And did you convey the same things
to Mr.

21 Baisden's closing attorney?

22 MR. BASS: Yes, I did.

23 MR. ELKAN: And is it possible that misunderstood
when

24 you communicated to them----

25 MS. REAVES: Objection as to

1 speculation what they understood.

2 MS. MILLER: Sustained.

3 MR. ELKAN: How is it that Mr. Baisden's closing
attorney

4 came away from their conversations with you, with the
understanding that

5 they could carry our auto salvage or recycling operations on
the property?

6 MS. REAVES: Objection as to what
the

7 Appellant's attorney --- closing attorney
8 thought --- or how he came away with
it.

9 MR. ELKAN: I asked him how is it?

10 MS. REAVES: It calls for
speculation. I

11 still object.

12 MS. MILLER: Sustained.

13 MR. ELKAN: No further questions.

14 MS. REAVES: Madam Chair, if I
may

15 have a short Redirect?

16 MS. MILLER: Yes.

17

18 **REDIRECT EXAMINATION**

19 21 writing?

20

22 GUILFORD COUNTY BOARD OF ADJUSTMENT MEETING HELD
10/3/23 PAGE 153
23 MS. REAVES: Mr. Bass, is the Permitted Use
24 Ordinance Matrix in
e?

25 MR. BASS: Yes.

MS. REAVES: Is it part of the Unified
Development

MR. BASS: Yes.

1 MS. REAVES: Is it publicly available?

2 MR. BASS: Yes.

3 MS. REAVES: No further
questions.

4 MS. MILLER: Any questions from
you

5 guys?

6

7

RECROSS EXAMINATION

8

9 MR. STANDLEY: Mr. Bass, prior to
10 this case, have you ever heard the
term, "floating

11 zoning"?

12 MR. BASS: I don't recall. Maybe
back

13 in Grad school, several years ago. But I
am not
14 familiar with that term.

15 MR. STANDLEY: We have many
years

16 experience and we haven't heard of it.

17 MR. ELKAN: Thank you, Sir.

18 MS. MILLER: Thank you, Mr. Bass/

19 MS. REAVES: Madam Chair, at this
time,

20 if I could call Kaye Graybeal and have

her

21

confirmed?

22

MS. MILLER: How are you?

23

MS. GRAYBEAL: I'm doing fine.

24

MS. MILLER: Do you swear or

affirm

1 to tell the truth, the whole truth and
nothing but

2 the truth?

3 MS. GRAYBEAL: I do.

4 MS. MILLER: Thank you. Please
5 proceed.

6

7

DIRECT EXAMINATION

8

9 MS. REAVES: Ms. Graybeal, would you please
state your

10 name for the record.

11 MS. GRAYBEAL: Kaye Graybeal.

12 MS. REAVES: And can you tell the Board where
you work

13 and what your position is there?

14 MS. GRAYBEAL: Guilford County Planning and
15 Development, Deputy Director of Planning and Development.

16 MS. REAVES: And how long have you been with
the County

17 in that position?

18 MS. GRAYBEAL: Since April 11, 2019.

19 MS. REAVES: Okay. I know you're familiar with the
20 Appellant in this matter or the subject property, at 5149
Randleman Road.

21 MS. GRAYBEAL: Yes.

- 22 MS. REAVES: And how are you familiar with this
case?
- 23 MS. GRAYBEAL: Staff was asked to investigate
potential
- 24 zoning violation on the site, so we made the site visit, along
with Aaron
- 25 Calloway on October 11th, 2022.

1 MS. REAVES: And can you tell the Board what you
found in

2 your investigation on October 11th, 2022?

3 MS. GRAYBEAL: Based on the GPS coordinates
and our

4 mapping and our site visit, did inspections and we
determined that --- we

5 found that there way salvage parts, metal pad, that was
beyond the zoning

6 boundaries, between HI and AG.

7 MS. REAVES: And can you tell the Board what the
purpose

8 of those boundaries are, and any buffer zones on the
property?

9 MS. GRAYBEAL: Well, the zoning boundaries, in
this case

10 on a split-zoned property, are to delineate where certain
types of uses may

11 of may not occur, based on our Zoning Ordinance Use
Matrix. When you

12 say, "buffers", there are --- our Ordinance does require
certain types of

13 buffers, landscape buffers, between certain kinds of uses.

14 MS. REAVES: Was the Appellant cited for buffer
15 violations?

16 MS. GRAYBEAL: No.

17 MS. REAVES: Okay. And can you just tell the
Board what

18 the Planning Department's concerns were with HI activity
spilling on over

19 to AG land?

20 MS. GRAYBEAL: HI activity is not permitted on AG
land.

21 So, basically, we were concerned about a non-permitted use
in the AG

22 zone.

23 MS. REAVES: Okay. Is there anything else you'd
like to tell

24 the Board about your investigation on October 11th, or any
other time that

25 you went out to that site?

1 MS. GRAYBEAL: We did see activity adjacent to
the
2 northern property line, where, as you can see in the
photographs in the
3 aerial, where that northern property line is and there is a
road that we were
4 told trucks use as a turn-around on the property, and that
road is adjacent to
5 the northern property line, as well as some metal shipping
container-type
6 items and another piece of equipment that is similar to the
equipment that
7 was moving salvage parts around. It's up adjacent to the
northern property
8 line of the AG zoned property. And that is shown in the
photographs and in
9 the aerial view.

10 MS. REAVES: Okay.

11 MS. GRAYBEAL: So, that is how we made our
12 determination that even if the GIS, the Geographic
Information System,
13 map may be off by a certain margin of error. We did see
activity that was
14 related to the HI activity adjacent to the northern property
line of the AG
15 zoned property.

16 MS. REAVES: Anything else?

17 MS. GRAYBEAL: No.

18

MS. REAVES: Okay, thank you so much for that.

19

MS. REAVES: Madam Chair,

20

those are my questions for Kaye
Graybeal. I

21

would render Cross to Mr. Elkan.

22

MR. ELKAN: I have no questions.

23

MS. MILLER: Ms. Graybeal, before
you

24

leave, do you guys have any questions?

25

MR. STANDLEY: No.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

MR. JOHNSON: No.

MS. MILLER: Okay. Thank you.

MS. REAVES: You Honor, there are no

further witnesses for the County at this time. Just

reserve to recall, if necessary.

MS. MILLER: Okay.

MR. ELKAN: I would like to call Timothy Callicutt, please.

MS. MILLER: Sir, if you will, state your name address for the record.

MR. CALLICUTT: Taylor Callicutt. My office address is 206 Telephone Avenue, Asheboro, NC 27205.

MS. MILLER: Thank you. Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?

MR. CALLICUTT: I do.

MS. MILLER: Thank you.

DIRECT EXAMINATON

MR. ELKAN: So, Mr. Callicutt, could you tell the

Board

- 23 what your occupation is and how do you know --- if it's all right with
- 24 Counsel --- how you know Mr. Baisden, Cardinal Metals and how you're
- 25 familiar with the property.

1 MR. CALLICUTT: Sure. I'm a real estate attorney.
I've been
2 practicing about ten (10) years in Randolph County at that
time I was
3 practicing on a full-time basis, I'm currently --- I retired last
summer, and I
4 still do it part-time, but I'm familiar with Randall Baisden
and Cardinal
5 Metals because I was asked to do the closing on the subject
property at that
6 time and did commence the title search, deed, paperwork
and so forth.

7 MR. ELKAN: And did you have an opportunity to
speak with
8 Mr. Baisden about the potential use of the property and
zoning on the
9 property?

10 MR. CALLICUTT: Yes, Sir, I did.

11 MR. ELKAN: Okay. And can you tell us a little bit
about
12 those discussions?

13 MR. CALLICUTT: Yes, Sir. I spoke with Randall, I
knew he
14 was relocating so I was familiar with him prior to the
purchase of this
15 property. I knew he was in the scrap yard operation and
vehicle salvage.

16 So, he told me he was looking to relocate, he had found a

piece of property

17 across the line, in Guilford County and asked that I help him
with the

18 paperwork to purchase the property, and I explained to him,
kind of, what

19 that process looked like. My understanding was, he was
relocating his

20 scrap yard from north Asheboro, across the line near

21 Bills --- I knew it was close to Bill's Pizza, at that time, in
Guilford

22 County.

23 MR. ELKAN: And did you come --- did you have
an

24 opportunity to discuss whether his planned operation would
be appropriate

25 on the property he was looking to purchase?

1 MR. CALLICUTT: I did, yes, Sir. Generally, as ---
I would
2 say this --- generally, as a closing attorney, I don't get into
a lot of the
3 zoning issues for clients. I generally assume that the realtor
or buyer is
4 likely looking into that, unless I'm asked to look into it. But
in this
5 particular case, Randall informed me that he had checked on
the zoning
6 and he had spoken, I think, to Mr. Bass and he discussed his
findings with
7 him and relayed that to me, at that time.

8 MR. ELKAN: And did he use the term, "floating
zoning"
9 when he was talking about that with you?

10 MR. CALLICUTT: Yes, Sir, he did.

11 MS. REAVES: Can you clarify who
"he"
12 is? I'm sorry.

13 MR. CALICUTT: (No response)

14 MR. ELKAN: Did Mr. Baisden --- when he was
discussing
15 this with you, and as you just testified of his discussion with
Mr. Bass, dd
16 he use the term, "floating zoning", when he discussed it with
him after he
17 discussed it with Mr. Bass?

18 MR. CALLICUTT: Yes, Sir, he did use that term.

19 MR. ELKAN: Okay, And did you later have a
discussion

20 with --- did you later have a discussion with Mr. Bass
regarding zoning on

21 the property?

22 MR. CALLICUTT: Yes, Sir, I did, prior to the
closing.

23 MR. ELKAN: And what was the --- can you relate
to the

24 Board, the substance of that discussion?

25 MR. CALLICUTT: I called and spoke with Mr. Bass,
prior to

1 closing and told him that --- exactly what I told you-all, I
generally don't
2 get into the zoning, but my client I know is going to be
running a scrap
3 yard here and he used a term that I've never heard of in
Randolph County.
4 And he asked what, and I told him "floating zoning", and I
said, "I've
5 never heard of such a thing before." I said, "I just want to
call and verify
6 exactly what we have and if there's going to be any issue. I
looked at the
7 GIS and I'm not sure that you can rely on that 100% of the
time, so I
8 wanted to get it from the horse's mouth", is basically what I
told him.

9 MR. ELKAN: And what did Mr. Bass tell you?

10 MR. CALLICUTT: From our conversation I --- I
mentioned
11 to him, I said, "I've never heard the term "floating zoning"
before. I don't
12 know if that's a Guilford County thing and I'm unaware of it,
but I said,
13 "does that, essentially, mean that the Heavy Industrial
portion of the
14 property is not defined?" and my understanding from that
was, "Yes", that
15 that is what it meant. And I said, "Well, Randall mentioned it
to me and I

16 was unclear on it and I wanted to call up, myself, and do
some due
17 diligence." And after speaking with Mr. Bass, I believed that
--- again, I'm
18 not sure exactly what "floating zoning" is, but my impression
of our
19 conversation was that the Heavy Industrial portion of the
property was not
20 fixed to any one (1) particular portion of the property. And I
assumed
21 that's what "floating" meant. .

22 MR. ELKAN: And did you relay that understanding
to Mr.

23 Baisden?

24 MR. CALLICUTT: I did. I told him, I said, "Well,
you were

25 right, Randall, I've never heard of it before, but apparently,
it's such a

1 thing other places." I said, "I've never heard of it in
Randolph County, but-
2 --" I said, "I spoke with Mr. Bass and it appears that there's
not a set
3 portion of the property that is Heavy Industrial." And he
proceeded to then
4 close on the property, thereafter.

5 MR. ELKAN: I have no further
6 questions.

7

8 **CROSS EXAMINATION**

9

10 MS. REAVES: Mr. Callicutt, how you
11 doing? MR. CALLICUTT: I'm okay, how
12 are you?

13 it's MS. REAVES: Good. Thanks for coming in tonight.
14 late. I know

15

16 MR. CALLICUTT: No problem.

17 MS. REAVES: Who did Mr. Bass identify himself
as, when

18 you spoke to him?

19 MR. CALLICUTT: He just said that he was Oliver
Bass ---

well, actually, I called and he answered the phone and said
he was Oliver

Bass with the Planning and Zoning Department.

21 into the zoning and land uses. Do you have experience in
that area?

22 MR. CALLICUTT: I do have experience in it. I own
about

23 two hundred seventy-five (275) rental properties and things,
myself, that I

24 deal with. That's kind of why I retired and manage, but
generally, for

25 clients, if they tell me the zoning works for them, I don't
check. But the

1 oddity in this case made me call.

2 MS. REAVES: Okay. And did you bother to check
the

3 Guilford County Unified Development Ordinance to look for
"floating

4 zoning" or "undefined" Heavy Industrial zoning?

5 MR. CALLICUTT: No, Ma'am. When I checked the
GIS, I

6 saw a portion of it was Heavy Industrial and based on my
conversation

7 with Mr. Bass and what was related to me by Mr. Baisden, I
thought,

8 "Well, that checks out. I guess it is as its been described to
me."

9 MS. REAVES: But you didn't check the UDO, is
that

10 correct?

11 MR. CALLICUTT: Yes, Ma'am, that's correct.

12 MS. REAVES: Okay. Thank you for answering my
13 questions.

14 MS. REAVES: Those are my
questions,

15 Madam Chair.

16 MR. STANDLEY: So, you being an
17 attorney, you're being advised on
"floating

18 zoning" by people, are they attorneys?

19

MR. CALLICUTT: I'm sorry, I
couldn't

20

hear you.

21

MR. STANDLEY: The people that
you

22

consulted, that you just told us about,
and you're

23

an attorney. Are these people
attorneys?

24

MR. CALLICUTT: No, Sir, not to my

25

knowledge.

1 MR. STANDLEY: Who is the expert
2 telling you that "floating zoning" exists
and is
3 real?

4 MR. CALICUTT: My conversation
with
5 Mr. Bass led me to believe that the
boundaries
6 were not defined. I assumed that
"floating
7 zoning" was a colloquialism to define
this
8 undefined portion of the property.

9 MR. STANDLEY: So, that's only an
10 assumption that you have made?

11 MR. CALLICUTT: Well, it was made
to
12 me by Planning and Zoning. I don't
know who
13 better to ask about that.

14 MR. STANDLEY: Did Mr. Bass tell
you
15 anything about "floating zoning"?

16 MR. CALLICUTT: I said --- I said I
17 turned to Mr. Bass that Randall had
defined it to
18 me as "floating zoning". And I said, "My

guess

19
this

would be that that means a portion of

20
defined,

property, that's Heavy Industrial, is not

21
that

and basically, that's what I assumed

22

"floating zoning" meant.

23

MR. STANDLEY: Okay, so it is your

24

assumption, then?

25

MR. CALLICUTT: Based on the

1 information, yes, Sir.
2 MR. STANDLEY: Okay, thank you.
3 MR. JOHNSON: I have a question.
4 Did
5 you-all have a survey done when you-all
6 made
7 the purchase?
8 MR. CALICUTT: No, Sir, not to my
9 knowledge.
10 MS. MILLER: Thank you.
11 MR. CALICUTT: Thank you,
12 Ma'am.
13 MS. MILLER: Do we have other
14 witnesses?
15 MR. MASON: Ma'am could we have
16 a
17 five (5) minute recess? Is that all right?
18 MS. MILLER: A five (5) minute
19 recess
20 has been requested and we will go
ahead and take
that now.
MR. BELL: To the Counsels, you do
need to make a statement about
Exparte
communications in this instance.
MR. MASON: I'm sorry, yes.

21

MS. MILLER: Do you need to make

a

22

statement about Exparte now?

23

MR. MASON: Yes, I'll caution the

Board

24

that only the evidence that's presented

in here,

25

from the witnesses or the documentary

evidence

1 that's been admitted, should form a
part of your
2 decision and you should wait to make
your
3 deliberations until after all of the
evidence has
4 been heard.

5 MR. ELKAN: Thank you, Mr.
Mason.

6
7 (Thereupon, a short recess was taken beginning at
8:35 p.m. and
8 ending at 8:50 o'clock p.m.)

9 MR. ELKAN: Madam Chair and
Board, I

10 have no further witnesses to put on for
this

11 Hearing tonight.

12 MS. MILLER: Thank you.

13 MS. REAVES: Madam Chair, as
stated

14 earlier, the County also has no further
witnesses,

15 just reserving time for a Closing.

16 MS. MILLER: Some clarification,
Mr.

17 Mason?.

18 (Thereupon, Mr. Mason spoke to the Chair and Board

members

19 away from the microphone)

20 MR. JOHNSON: Can we go into
Closed

21 Session? Can we? I don't know.

22 MS. MILLER: Is there anyone in
the

23 gallery tonight that wants to speak for
or against,

24 and when I say that, please understand
that this is

25 regarding personal knowledge of
evidence, not

1 just your personal feelings about the
matter, but
2 evidence that is going to help the Board
make a
3 decision tonight.
4 UNKNOWN SPEAKER: I'm going to
go.
5 MS. MILLER: All right, Sir. If you
will,
6 please, state your name and address for
the
7 record and then we'll swear you in.
8 MR. BECKUM: I am Joseph Craig
9 Beckum.
10 COURT REPORTER: Please speak
into
11 the microphone.
12 MR. BECKUM: Oh, I'm sorry. I
ain't
13 used to all that. I am Joseph Craig
Beckum. I am
14 a ----
15 MR. MASON: Sir, would you sign
in on
16 that paper, please.
17 MS. MILLER: And. Mr. Beckum, as
18 you're doing that, please state your

address for

19 the record, as well.

20 MR. BECKUM: My home address?

21 MS. MILLER: Whatever address
you're

22 comfortable with,

23 MR. BECKUM: Oh, 518 Worthfield Street,
Randleman,

24 North Carolina.

25 MS. MILLER: Thank you very
much.

1 And do you swear or affirm to tell
the

2 truth, the whole truth and nothing but
the truth?

3 MR. BECKUM: I do.

4 MS. MILLER: Thank you. Please
5 proceed.

6 MR. BECKUM: So, I do grading, underground
retentions,
7 underground utility pods. I have since – officially, since 2001
for the State
8 of North Carolina. Randall has hired me, we went in, we
made sure
9 nothing was leaving that property. We built retention
systems, added extra
10 seal vents, where there was no erosion, just to double
insulate it. And
11 we --- we --- I mean, he has spent a lot of money for
something and the
12 grade has not --- it don't reflect what it used to be. What he
has changed,
13 he's changed the whole elevation of the property, so
everything's draining
14 back --- you know, and even when he tears a car apart, it
don't matter
15 where it is, it's draining back to this system that's going in
there. Nothing
16 is leaving that property, at all. We've --- we've looked into it

real

17 seriously. There's --- and as far as equipment, the
excavators --- that a farm

18 equipment, you know what I mean? It's nothing it's
nothing out of the

19 ordinary for a farm to have. So, he's done everything he
can to assure this

20 thing. I promise you. Okay.

21 MS. MILLER: Okay. Thank you

22 very much. We appreciate it. If you
would you

23 please, state your name and address.

24 MR. ZIEGLER: Thomas K. Zeigler.
I live

25 at 107-A Mercy Road, and I'm a
stakeholder.

1 MS. MILLER: Okay, and if you
2 will, sign that piece of paper right there.
Staff s
3 pointing so we've got to make sure we
do that.
4 Okay, and just to confirm, you're
speaking for or

5 you're speaking against?

6 MR. ZIEGLER: Against.

7 S. MILLER: Okay, if you don't
8 mind pausing for a moment, I want
everyone
9 that's speaking for, to have an
opportunity to
10 speak, and then we'll switch to against.

So, let
11 me just make sure. Is there anyone else
that has
12 personal knowledge evidence-based,
that you
13 would like to present to the Board as
they make a
14 decision tonight?

15 MR. MARTINSVILLE: I'd like
16 to speak.

17 MS. MILLER: For?

18 MR. MARTINSVILLE: For.

19
come

S. MILLER: Okay, please

20
Sir.

up. I'll call you back in just a moment,

21
address for

Will you please state your name and

22

the record, please?

23

MR. MARTINSVILLE: My name

24

is Mark Martinsville. 232 Harper Drive,

25

Thomasville.

1 MS. MILLER: Okay, after you
2 finish signing, we'll swear you in. Do
you swear
3 or affirm to tell the truth, the whole
truth and
4 nothing but the truth?

5 MR. MARTINSVILLE: I do.

6 MS. MLLER: Okay.

7 MR. MARTINSVILLE: Like I said, my name is
Marcus

8 Martinsville. I'm the owner of Cash for Autos. I've known
Randall for
9 some time and I've been in the metal recycling, as a vendor,
bringing to
10 recycling places for about fifteen (15) years. There's a
limited places
11 where you can take these vehicles or metal, ne (1) that we
all know in this
12 community s DH Griffith. One of the only ones, really in the
area, unless
13 you want to go to Lexington or whatever. Randall's been
operating there
14 for about two (2) years, and as you can see by the crowd
here, his workers
15 and different vendors that are here tonight, it's very
detrimental that all of
16 us have also invested in what he felt was his knowledgeable
understanding

17 of this property. And we've invested our men, our
equipment, our time,
18 our marketing, all into this area to support him and helping
the community
19 in this recycling venture. He pays much more than DH
Griffith. DH
20 Griffith has got a pretty hold on the community here in the
scrap business.
21 I called today to DH Griffith and they stated that they pay
\$7.00 per 100
22 pounds for cars and metal. Randall, I called him today and
they're paying
23 \$9.00. And that's the difference and that's why there's a big
community
24 here. Now, I understand --- I'm sixty (60) years old and I
have enough
25 understanding to know that a community might have some
concerns. I

1 haven't heard anybody saying that they tested any kind of
gas or problems
2 that going on there. I've heard something about some
noises, but the main
3 point I want to make is, we don't make a whole lot money,
and that
4 difference in the competitive and trusting somebody in this
market, like we
5 do Randall, means a lot and he's --- and he's honored every
step of the
6 way. When he was getting closed down from Asheboro,
when he decided
7 to move to Guilford County and said, "Will you-all stick with
me while I
8 get everything?" And we stuck with him and we put our
hardship and labor
9 into it. I think, today, if this Board decides to close it down,
you're not
10 going --- it's going to hurt the community. There's incomes,
families,
11 children that's been here tonight that are being supported by
this
12 organization, by Cardinal Metals. I don't know what
advantage the
13 homeowners are going to have if they close it down. They
haven't stated
14 anything, as of yet, I've seen some of the evidence that's
been presented
15 here tonight, but there --- I mean, what's the big deal? I

mean, obviously

- 16 somebody --- and you've heard an attorney speak, you've
heard that
- 17 somebody has told them that it's okay to operate there. He
spent hundreds
- 18 of thousands of dollars --- do you think just to come in and
say that, "We
- 19 weren't approved."? I've gotten building permits and
different permits in
- 20 the past and Zoning has to approve it, so he's been there for
about two (2)
- 21 years, and we have depended on him for our income, and I
don't know the
- 22 amount of families, I don't know how many vendors he gets
a day, but
- 23 there's quite a few. There's some vendors that have even
been in there that
- 24 are from the very community, that are complaining, because
they're ---
- 25 they're going to come over there and sell their junk car for -
-- they're not

1 going to go to \$7.00 per 100 pounds, so people that are
here in the
2 community that are affected with their AG zoning, are
actually, bringing
3 vehicles there, as well, and different things. I just --- I just
wanted to
4 address you-all and let you know that it really is going to
devastate,
5 financially, a big chunk of the Guilford County and Davidson
and
6 Randleman community, as far as the monies that we're able
to keep
7 making.

8 MS. MILLER: Thank you. I don't
know
9 about everyone else on the Board, I just
want to
10 say that I heard everything you said
and I can
11 understand the things that you're
saying, but
12 what you're saying doesn't address
whether or
13 not there was a violation, but please
know that
14 we heard everything that you just said.

15 MR. STANDLEY: Quick
16 question, Sir. How many employees are

there?

17 MR. MARTINSVILLE: Excuse

18 me?

19 MR. STANDLEY: How many
20 employees are there?

21 MR. MARTINSVILLE: Are there
22 where? I don't work for them. I am a
vendor. I

23 go to the community and different
shops and car

24 lots who call me to get rid of their junk
vehicles.

25 Or a homeowner that's been fined for
having for

1 having a junk car in their yard, and has
to dispose
2 of it somewhere, and the difference
today would
3 be, that I can give them \$100.00 if I
take them to
4 DH Griffith and I can give them \$150.00
if I was
5 taking it to Randall. So it affects it that
way.

6 MR. STANDLEY: Thank you, Sir.

7 MR. MARTINSVILLE: Any more
8 questions?

9 MS. MILLER: Anything?

10 MR. JOHNSON: Huh-uh
(negatively)

11 I pass.

12 MS. MILLER: Thank you.

13 MR. NICHOLS: I'd like to say
14 something.

15 MS. MILLER: For or against?

16 MR. NICHOLS: For.

17 MS. MILLER: For? Okay. Is this
going

18 to be Evidentiary?

19 MR. NICHOLS: What now?

20 MS. MILLER: Is this going to be

21

Evidentiary to the property and the
decision we

22

have to make?

23

MR. NICHOLS: I mean, it's
definitely

24

just putting a word in to support them.

25

MS. MILLER: Okay.

1 MR. MASON: Madam Chair, we
need to

2 swear him in.

3 MS. MILLER: Okay. I need you to
do a

4 couple of things for me.

5 MR. NICHOLS: Yes, Ma'am.

6 MS. MILLER: State your name and
7 address.

8 MR. NICHOLS: My name is
Jonathan

9 Nichol.

10 MS. MILLER: Thank you, Jonathan.
And

11 do you swear or affirm to tell the truth,
the whole

12 truth and nothing but the truth.

13 MR. NICHOLS: Absolutely.

14 MS. MILLER: Okay, again please
keep it

15 concise and regarding the property and
the

16 violation.

17 MR. STANDLEY: Get the address.

18 MS. MILLER: We didn't get the
address?

19 MR. STANDLEY: No.

20

MR. MILLER: Jonathan, will you
state

21

your address, please?

22

MR. NCHOLS: 782 Jolly Road,

23

Lexington, North Carolina.

24

MR. NICHOL: So, my name is Jonathan Nichols
and I want

25

to thank you for allowing me to speak. I'm here to support
Cardinal

1 Metals. I've been in the recycling business for myself since I
was nineteen
2 (19) years old. I got my start in the business working with
my family. My
3 grandfather taught me all he knew about the scrap --- scrap
business. By
4 the time I could use a hammer and turn a screwdriver, my
Pops had me in
5 the back yard breaking down radiators. It was through this
experience that
6 recycling metal became my way of life, and not only for my
family these
7 past twenty plus (20+) years, but for Randall's family and
for many of our
8 vendors. Some of our vendors are regulars who make selling
metal as a
9 way of life for their families and then you have others you
will see
10 occasionally, who are out to make extra money to help cover
some
11 unexpected expenses. In recycling business you meet all
types of people.
12 You've got those who don't know where their next meal is
coming from,
13 to those who make enough from scrapping metal that they
are living a
14 comfortable, middle to upper class life, No matter what
financial
15 background a person lives in, each person is trying to get

the best price for

- 16 their efforts, which is why Cardinal Metals has succeeded in
building its
- 17 clientele and bringing revenue into Greensboro, mostly
through word-of-
- 18 mouth. I've known Randall Baisden, Cardinal Metals owner,
for twenty-
- 19 three (23) years. During our years together, we have gained
much
- 20 knowledge in the business and of all the things we learned,
the most
- 21 critical is to make sure that land is up to Code, so that we
can operate a
- 22 legal establishment. In the past, we've had to learn the
proper steps the
- 23 hard way. Our past mistakes have cost a great deal of time
and money.
- 24 These kinds of errors could cause you to have to close the
doors. That is
- 25 why it is imperative when it came to purchasing the property
at 5149

1 Randleman Road, in Greensboro, that it be done properly.
Since Cardinal
2 Metals purchased the property in January 2022, Randall has
not only put
3 all he had into purchasing the property, but he's
reconstructed the property
4 to meet all environmental protocols and taken the steps
necessary to follow
5 all rules regulated by the State of North Carolina. And if
allowed to
6 continue business, he will continue to make more
improvements and
7 resources to come in. In the event Cardinal Metals is forced
to shut down,
8 that will be the end of Cardinal Metals. You would not only
be closing a
9 business, you will be closing the doors on my family,
Brandon's family,
10 the families of the employees that it takes to run the yard;
the drivers that
11 haul our metal and the hurting families of Cardinal's
customers, who have
12 come to rely on Cardinal to pay them the best possible price
for their
13 effort. You know, it just --- my man would have never ---
Randall would
14 have never put forth the effort without getting the word ---
without being
15 told and going for it. And as far as the technicalities and the

paperwork and

16 all that, I get it, but the fact is, he was told, He would never
put everything

17 up --- like, the man put everything up --- he put everything
on the line and

18 that's what's real. And we are all one (1) family in here, you
know, and

19 when it comes time to make a decision, please take all that
into

20 consideration. He was led to believe --- and that's what it
comes down to. I

21 appreciate it.

22 MS. MILLER: Thank you, Jonathan.
We

23 appreciate your testimony.

24 Okay, we need to really make it quick,
and

25 please, please, please --- evidence.

1 Please state your name and address.

2 After the gentleman testifies for,
we will

3 hear those against, so that we can wrap
things up.

4 Please state your name and address.

5 MR. GLASGOW: Good evening,
6 my name is Albert Glasgow, 1427 Vine
Street,
7 Greensboro, North Carolina.

8 MS. MILLER: And do you swear
9 or affirm to tell the truth, the whole
truth and
10 nothing but the truth?

11 MR. GLASGOW: I do.

12 MR. GLASGOW: Well, ever since I've been
scrapping ---

13 I've been scrapping for about two (2) years now, I've
worked in

14 construction for twenty-two (22) years, I'm a retired brick
mason, so I do

15 this on the side, and ever since I've been going to Cardinal
Metals,

16 Randall's --- he's been closed a few times for violations, but
everything

17 they tell him to do, he does. They told him to build a pit,
concrete, he built

18 it. I was in construction in concrete and I know that cost him
quite a bit of
19 change. The pit that he was referring to, he did that,
somebody went and
20 sabotaged it and he fixed it back. That cost him money. So,
everything that
21 he's asked to do, he does. He looks like a big, redneck, but
he doesn't see
22 color. We're all one (1) big family and we go to him and he
treats
23 everybody the same. And I would love for him to stay open,
because he's
24 putting food on my table, feeds my kids and helps
everybody that he
25 knows. And that's all I have to say.

1 MS. MILLER: Thank you, Sir.
2 For those that want to speak against,
and Sir, I
3 believe Mr. Ziegler was going to speak
against
4 earlier, so I would like for him to come
up first.

5 MR. ZIEGLER: It's for. I'll stay
6 on the subject, don't worry. I
understand.

7 MS. MILLER: Okay, last person
8 speaking for tonight, no one else. We
can cut off
9 the mic for sure.

10 Sir, if you will, please state your
name
11 and address for the record.

12 MR. MEEKS: Brian Meeks, 1962
13 Whispering Pines Road, Danville,
Virginia

14 MS. MILLER: Perfect, and do
15 you swear or affirm to tell the truth, the
whole

16 truth and nothing but the truth?

17 MR. MEEKS: Yes.

18 MS. MILLER: Okay.

19 MR. MEEKS: I purchase from Randall, so this is

coming

- 20 from a few different perspectives, I travel --- what I do is, I
buy from scrap
- 21 yards. I've got an exporting business in Danville, Virginia
where we export
- 22 out. I travel from yards, to yards, to yards, scrap yards,
meaning not just
- 23 longs. I go to different scrap yards up and down the east
coast. I've been
- 24 doing business with Randall for five (5) years now, give or
take. I've been
- 25 to his yard several times, been to his other yard several
times. From my

1 experience in dealing with other yards, I've seen a lot of
yards, not do what
2 they're supposed to do. Dumping oil on the ground,
antifreeze, gas pouring
3 on the ground. This yard doesn't do that. He sells this stuff
so why would
4 he put it on the ground? It wouldn't make sense, financially
it wouldn't
5 make sense for laws and legalities, as well. This man does
make sure that,
6 as far as harmful liquids being put into the ground or for
harm for other
7 residents in the area, he makes sure that it's taken care of.
I've noticed it
8 myself. I've watched him change the whole property,
literally, from
9 something that was nothing, to something. He put gravel in,
put everything
10 into place just like he should. Spent like --- everybody can
vouch for, spent
11 a pile of money on this yard to make sure that he makes
everyone happy in
12 the area and makes sure that it doesn't cause red flags. Like
I said, his
13 place is definitely in the spectrum of other yards,
phenomenal. He takes a
14 lot of pride in what he does, he takes care of his place and
he makes sure
15 things are taken care of like he's supposed to. I understand

that the

- 16 property might not be zoned --- the back part of it, might be
zoned AG, is
- 17 that right? And the front's zoned Heavy Industrial, HI, but
that's not going
- 18 to stop him from doing business. These people can complain
and complain
- 19 and complain about loud noise or this, that and the other,
car crushing, but
- 20 the fact of the matter is, they're still zoning HI and he can
still do a
- 21 business and it might not be as big, it might be a little bit
smaller, but he
- 22 can still make the same noise, he can still do whatever he
wants to, it's not
- 23 against the law for him to conduct business on the front half
of that
- 24 property. Whether or not he does it or not, that's up to him,
but it's not
- 25 going to change anything for residents around him. He can
continue and he

1 can crank the loader up every day of the week, seven (7)
days a week as far
2 as that goes, it's not against the law. He can smash cars, he
can do
3 whatever he wants to on the front half. So, it's not going to
extinguish
4 anything that's going on, t could amplify it, if it needed to
be, but like I
5 said, the man does everything he needs to. I'll vouch for it,
I've watched it,
6 he's followed every single time that someone has come in
there. When he
7 moved the yards, I ask him, point blank, I said, "Did you
make sure that
8 you talked to them about the zoning?" He said, "Yes. the
man said,
9 verbatim, "floating zoning", period. Okay? That's all I've
got. Thank you.

10 MS. MILLER: Thank you very
much for
11 your testimony. We appreciate it. Okay,
now we
12 will allow for rebuttal. Mr. Zegler. Is
there
13 anyone else that wants to speak
against, one (1);
14 two (2); three (3); four (4); five (5),
against.
15 Okay. I want to reiterate, we're hearing

a lot
16 tonight about this property. We're
addressing
17 whether or not there's a violation going
past the
18 HI into the AG. That's it. We're not
questioning
19 anything else tonight. So, if you could
address
20 that part, that would be wonderful.
21 MR. ZIEGLER: Are you talking to
me?
22 MS. MILLER: Yes, Sir. And anyone
else
23 tonight that wants to speak against. So,
we have
24 to start, if you would, again, I'm so
sorry,
25 Mr. Ziegler, and you did this once, but
will you

1 please state your name and address?

2 MR. ZIEGLER: Thomas K.

3 Ziegler.

4 MS. MILLER: Thank you.

5 MR. ZIEGLER: 107-A Mercy Road,
it's

6 in Greensboro 27406.

7 MS. MILLER: Thank you. Yes, Sir.

8 MR. ZIEGLER: I'm a stakeholder.

9 MS. MILLER: And do you

10 swear or affirm to tell the truth, the
whole truth

11 and nothing but the truth.

12 MR. ZIEGLER: I do.

13 MS. MILLER: Thank you. Please
14 proceed.

15 MR. ZIEGLER: Okay, I know nobody's addressed
it, this is

16 the Unified Development Ordinances for Scrap Metal.

17 COURT REPORTER: Please

18 speak into the microphone.

19 MR. ZIEGLER: Sorry. I'm kind of
new at

20 this.

21 MR. ZIEGLER: And I'd like to give --- have you
ever seen

22 this?

23 MS. MILLER: Yes, we've seen it,
yes.

24 MR. ZEGLER: So, you don't have
to look

25 at it? Should I mention what he doesn't
have?

1 He doesn't have the planting yards. This
is a
2 requirement.

3 MS. MILLER: Mr. Ziegler, please
4 proceed with your rebuttal.

5 MR. ZEGLER: Should I talk about
that?

6 And he doesn't have the minimum of
7 five (5)
8 acres, which is the minimum. He only
has 4.91
9 acres and he's trying to rezone only part
of that
10 property. So, he's keeping the house,
the
11 minimum --- I assume, the minimum
size, so he
12 might only have four (4) acres. The
minimum
13 requirement here is five (5) acres. And
let's
14 see --- I had noise issues. There were
noise
15 issues --- I never called up about the
noise,
16 because I didn't think the Police, the
Sheriffs or
whoever they call, they never do

17 anything,
18 anyway. But I want to know is, can I
19 show
20 videos of my house and what it sounds
21 like.
22 MS. MILLER: No, Sir.
23 MR. ZIEGLER: I can't do that? For
24 the
25 noise?
MS. MILLER: No, Sir.
MR. JOHNSON: Not necessary.
MR. ZIEGLER: How about --- I said --- he's been
kicked out
of other places for zoning violations for his business. He's
been kicked

1 out of Ramsuer. DB
2 Scrap----

UNKNOWN SPEAKER: That's not
true. MR. ZIEGLER: --- Well, you
work there.

4 She --- and he did, too and it was
owned by
5 Cardinal Metals. I don't know if you
want to
6 look at this?

7 MS. MILLER: No, Sir.

8 MR. ZIEGLER: That's it?

9 MS. MILLER: Thank you very
10 much, Mr. Ziegler. Will the next person
that
11 wants to speak against, come up to the
12 microphone? Please state your name
and address.

13 MR. WELBORN: My name is
14 Tony Welborn. I live at 5139 Randleman
Road,
15 which is just across the yard from
where this
16 company is.

17 MS. MILLER: Do swear or affirm
18 to tell the truth, the whole truth and
nothing but

the truth?

19
20
21
22
23
24
25

MR. WELBORN: Yes, I do.

MS. MILLER: Please stick with
the evidence.

MR. WELBORN: I will.

MR. WELBORN: To stick with the evidence, I've
heard a lot

tonight about zoning and all of these types of things, the
numbers and how

1 much acreage he has, that type of thing, and that's
understandable, that's
2 important information, but I want to talk to you about living
next door to
3 this place. I hear it all day long, seven (7) days a week, in
some instances,
4 from 7:00 in the morning, 'til 7:00 at night. I live there.
Now, everybody's
5 talked about---

6 MS. MILLER: Sir. I'm sorry to cut
7 you off ----

8 (Thereupon, there was a speaker from the audience
that

9 was not speaking into a microphone (inaudible))

10 MR. BAISDEN: The hours are from
8:00

11 to 4:30, we work during the daytime---

12 MS. MILLER: If there is anyone
13 else that has a concern about the noise,
please

14 know that the Board has been given
Police

15 records in regard to that, so that does
not need to

16 be addressed tonight. But thank you.

17 MR. BAISDEN: Can I ask a
question?

18

MR. MASON: No.

19

MR. WELBORN: Well, I wasn't

20

addressing it, you said you wanted
people who

21

have knowledge of the problem. I'm
talking

22

about the problem.

23

MR. WELBORN: Just like everybody's been talking
about

24

the money he's invested and all that, has anyone considered
how much

25

money all of the property owners around there have
invested over the

1 years? I've been there for thirty (30) years. I've invested a
lot of money in
2 my home. Certainly, more than he's put in his property.
Okay. So, my thing
3 is, these are things that the Board should consider. I know
you have the
4 legal part about zoning and that type of thing, but we live
there. All these
5 people that have been coming up testifying from Virginia,
Lexington,
6 Ramseur, or wherever else they were from, they don't live
there, so they
7 can--- and you know, I'm not saying there's anything wrong
with the
8 man having a business, I've used DH Griffith before, but he's
not located
9 in the middle of people's neighborhood, and this guy decided
to----

10 (Thereupon, there was an unknown speaker from the
audience that
11 was not speaking into a microphone (inaudible) also
shouting)

12 MS. MILLER: Let's let the
gentleman
13 continue his testimony.

14 MR. WELBORN: Thank you. I
15 didn't say anything when they were
talking.

16 MR. WELBORN: As I said, the man decided to buy
a piece
17 of property and put a junk yard in the middle of a
neighborhood, where
18 people live. He cared nothing about our property values, he
cared nothing
19 about how much money we had invested, but they want us
to feel like we
20 should be concerned about how much money he's lost,
because he put a
21 business in the middle of a neighborhood. He makes noise. I
can hear this
22 noise in my house with the doors closed in the wintertime.
How can we
23 ever-- we can't do any entertaining in our yards or anything
like that,
24 because I can look through the trees right there and see all
these big
25 machines and it looks like a Transformer's movie over there
or something,

1 they're moving so much stuff around. They drop big pieces
of metal down
2 on the ground or whatever --- from whatever height, I don't
know what it
3 is, but I do know this, I haven't heard stuff like this since I
was in the war.
4 Some of this stuff is that loud. So, I think he needs to go. He
needs to
5 move his business. I don't care, I'm not saying put him out
of business, but
6 he needs to move it out of our neighborhood---

7 (Thereupon, there was an unknown speaker from the
audience that

8 was not speaking into a microphone (inaudible))

9 MR. WELBORN: ---because he put it in our
neighborhood,

10 and he had no consideration for us when he did that. Thank
you.

11 MS. MILLER: Thank you very
much.

12 MR. ELKAN: Madam Chair, if I
may,

13 just --- I want to be respectful to the
gentleman

14 testifying, but I would object to the
Board's

15 consideration of testimony--- Madam
Chair, I'm

16 sorry. I just wanted, for the record, to
object to
17 the Board's consideration of irrelevant
testimony.

18 MR. MASON: Madam Chair,
19 (Thereupon, there was an unknown speaker from the
audience that

20 was not speaking into a microphone (inaudible))

21 MS. MILLER: I'm sorry. Unless you
have

22 been sworn in, please refrain from
making

23 remarks. At this time, I would like to
call our

24 County Attorney up to remind everyone
why

25 they are here this evening.

1
paper.

MS. WELBORN: I have signed the

2
please.

MS. MILLER: Just a moment,

3
Chair.

MR. MASON: Thank you, Madam

4
earlier this

And to be clear, as she has stated

5
occasion, the

evening and on more than one (1)

6
address is the

only issue that this Board is able to

7
letting

zoning issue. And that is why she was

8
is

folks who have personal knowledge that

9
has to

relevant to that decision that this Board

10
whether they are

provide, they can come forward,

11
That's the

in support of or against this Appeal.

12
openly, and

issue, and I would advise this Board

13
whether

I think this Board is already there, that

14
this

you might like this business or not like

15

business being there, noise issues,

which aren't

16
is

16 tied to the zoning issue that this Board

17
not issues

17 considering, those are not --- those are

18
or worse.

18 that they can decide tonight, for better

19
20
address?

19 MS. MILLER: All right. If you
20 will, please state your name and

21
22
Road.

21 MS. WELBORN: My name is Annie
22 Welborn. I live at 5139 Randleman

23
swear
24
truth and

23 MS. MILLER: Thank you. Do you
24 or affirm to tell the truth, the whole

25

25 nothing but the truth?

1 MS. WELBORN: Yes.

2 MS. MILLER: And you've already
signed

3 the paper?

4 MS. WELBORN: Yes.

5 MS. MILLER: Okay, thank you. Go
right

6 ahead.

7 MS. WELBORN: I want to speak to this from a
different

8 perspectives. And all the smart comments are unnecessary.
Even I have

9 made unnecessary comments----

10 MS. MILLER: Ma'am, please
11 address the Board.

12 MS. WELBORN: This gentleman, who represents
this family

13 came to our door, on our property, and talked to us and told
us what they

14 was going to do. And we were --- okay, the man was trying
to start a

15 business, we respect that. No issue. But we thought they
would adhere to

16 what we were told when he --- when the person came on
our property and

17 talked to us. He told us he put his whole life savings into it.
That's all well

18 and good. I appreciate a hard-working man. We put our life
savings into
19 our home and in remodeling our home. The smell, I'm an
outdoors person,
20 I grow gardens, I grow raised beds, I grow vegetables on
my deck. I cannot
21 even enjoy that. Keep in mind I really have no issues with
the business, if
22 he would just give us a little bit of peace and quiet every
now and then.
23 The company that was there before, did not make noise
from sunrise and
24 past sunset, seven (7) days a week. A lot of people may
disagree with me,
25 but I really have no issue with a person trying to earn a
honest living. But

1 start it right. I grew up on a farm in Person County, North
Carolina, five
2 (5) brothers and a military Daddy and a Momma that didn't
play. I'm the
3 only girl. I have no problem with hard work, none,
whatsoever. But let's
4 do it legitimately. Let's get it zoned first, let's get it
surveyed, let's get it
5 taken care of, and show some concern about the people that
live there.
6 Nobody's trying to put anybody out of business or out of
work. I've
7 worked my entire life, probably the same way you-all have.
I've done
8 some hard work. I've done some soft work. I have nothing
against you as a
9 business and as a person. But I will not tolerate and will not
adhere to the
10 mess that's being told today, because it's not fair. All we
need to do is be
11 fair and go by the book. When I bought our property out
there, we had it
12 surveyed, okay. We knew what we could do and what we
couldn't do. I
13 want, please, just a little bit. I looked it up on line and it
said, "8:30 to
14 4:30", I go to work in the morning at 5:30 in the morning, I
come home, I
15 go outside, I work, I go to the church garden and work, I

work outside

- 16 again. I can smell stuff in the air, okay. I know what comes
with that
- 17 territory, I know what comes with that kind of work. But we
have to be fair
- 18 all around. I could not go buy my house without having a
land survey, I
- 19 can't go --- I had a Generac installed. Do you know how
many inspections
- 20 we had to go through for that? By the book. By the book.
That's all we're
- 21 asking for, is by the book. If you're containing run-off
properly, that's
- 22 great, if you're not containing it properly, it needs to be
addressed by a
- 23 professional, not by opinions. It needs to be reassured to the
community
- 24 that we can get some kind of peace and quiet every now and
then.

25 MS. MILLER: Ma'am, I think

1 that's something that the neighbors will
need to
2 address with the business, directly, but
we've
3 heard the items that you've shared
tonight, that
4 are a part of what decision we need to
make, in
5 regard to the violation. Thank you.

6 MS. WELBORN: Okay.

7 MS. SEAGRAVES: Hi, Tammera
8 Seagraves, 5133 Redwood Road. I back
up to
9 their property.

10 MS. MILLER: Okay. That's great.
This is
11 going to be the last testimony against.
The
12 gentleman in the blue shirt will be the
last
13 testimony against. Do you swear or
affirm to tell
14 the truth, the whole truth and nothing
but the
15 truth?

16 MS. SEAGRAVES: Yes, Ma'am, I
17 affirm.

18 MS. MILLER: Can you do me a
19 favor and stick to the matter at hand,
20 which is the
21 zoning issue and the fact that there's
22 encroachment upon AG.

23 MS. SEAGRAVE: Yes, Ma'am.

24 MS. MILLER: Please proceed.

25 MR. CALLOWAY: Ma'am, I think
you
need to turn on the microphone.

1 MS. REAVES: It's the top button.
Just
2 push it up.
3 MS. SEAGRAVES: So, anyway, I back up to their
property
4 and that would be that northeast corner, and yes, they have
cleaned it up
5 now, but they have shoved that over --- over where it
comes onto my
6 property, and a creek runs back there and I have pictures
that I took
7 yesterday and you can see the oil in the creek. And you can
see the rust in
8 the creek and it's coming from this direction (indicating)
because the creek
9 runs this way (indicating) and it runs down to Polecat Creek.
So, that's
10 contaminating all the water down there for the animals and
contaminating
11 our land. I don't care that he has a business, I put up with
the Medley's for
12 years, and you know, they made noise every now and again,
but you know,
13 I know that's not the Ordinance, but they make it all the
time. I mean, I
14 can't do anything in my yard. I can't have this conversation
in my yard,
15 because I have to yell all the time. That's pretty much what
I've got to say.

16

MS. MILLER: Thank you for

17

your testimony. I'm not sure who was
first.

18

MS. SEAGRAVES: I'm going to
leave

19

that so they can see them.

20

MR. ELKAN: And Madam Chair, I
would

21

object to the consideration of the
testimony as to

22

contamination and contaminants in the
creek

23

with a lack of foundation.

24

MS. SEAGRAVES: Would you like
to

25

see the pictures, Sir?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

MS. MILLER: Sustained.

MS. REAVES: Object.

MS. MILLER: After you sign in,
please

state your name and address.

MR. BASS: Steven Bass, 5001

Randleman Road.

MS. MILLER: Do you swear or
affirm to

tell the truth, the whole truth and
nothing but the

truth?

MR. BASS: Yes, Ma'am.

MS. MILLER: Please proceed.

MR. BASS: Madam Speaker, Councilmen,
advisors, we

appreciate you-all hearing us today. I have done the
research and according

to UNC Government Division, a "floating zoning" is to a
specialized

zoning district that is defined is an Ordinance, but not
applied until a

landowner petitions to rezone their property. "Floating
zones" are used in

many Ordinances and they are defining the text of the
Ordinance, but not

applied on the ground until a landowner petitions to rezone

their property.

- 19 Meaning that no "floating zone" would have been more or
less, denoted. It
- 20 would have to be denoted by the County on the zoning map.
Also,
- 21 according to EPA standards, a what they call "EOL", or End
of Life
- 22 vehicle facility must contain no less than five-point-zero-zero
(5.00) acres
- 23 and all stored fluids must be stored in an approved and
sealed container at
- 24 time of acceptance. That's all I have to say. Thank you,
Ma'am.

25

MS. MILLER: Thank you

1 very much for your testimony. If you
will, please
2 sign the paper there and then state
your name and
3 address for the record?

4 MR. ELKAN: Madam Chair, I just --
-for
5 the record, objecting to the
consideration of the
6 testimony as lack of foundation.

7 MS. MILLER: Sustained. Please
state
8 your name and address,

9 MS. WARREN: Susan Warren,
6905
10 Woodhue Drive.

11 MS. MILLER: Thank you. Do you
swear
12 or affirm to tell the truth, the whole
truth and
13 nothing but the truth?

14 MS. WARREN: I do.

15 MS. MILLER: Thank you very
much.

16 Please proceed.

17 MS. WARREN: Thank you. I have lived around
there since

18 1955, when I was born. Davis Mill Road is named after my
family, it's a
19 180 acre farm. I'm with Tammy Seagraves, all of that land
where the car
20 crushing company is, the water, whenever it runs off, it runs
into the pond
21 that's on the farm, which runs into Polecat Creek, which runs
through the
22 farm, which runs into the Randleman Watershed. So, you're
talking about
23 a lot of people's water they drink. I don't know, but I was
told by
24 somebody from the Guilford County Planning and Zoning,
that the County
25 would come out and test everybody's water and make sure
that it was safe.

1 I have the name of a young man who, whenever this first
started, when
2 they first moved in, and I called downtown and called
downtown just about
3 every day, because I'm like all the rest, and you-all don't
want to hear that
4 word, "noise", but I'm going to say it. So, that's it, but this
man was sent.
5 He was an Inspector from Environmental Health and he went
to the car
6 crushing place and he --- I saw him --- he had my number,
too, he was
7 coming to my house to check the water and the pond and
stuff, and he said
8 that he was not allowed to take pictures there whenever he
was there
9 because there were buckets and barrels of fluid. Some had
gas, some had
10 oil, some had transmission fluid. Some had brake fluid. None
of them ---
11 all different sizes --- none of them had lids on them. So, it
wasn't long after
12 that until a whole lot of gravel showed up on that. So, EPA
was contacted.
13 If you call EPA in Raleigh, from Raleigh – from Burlington to
Greensboro,
14 EPA comes out of Winston-Salem. So, anyway, the first man
that came out
15 there was wounded, had a bandage on --- a big brace on his

knee, so they

- 16 sent another guy. But yes, there was stuff that looked just
like oil and gas
- 17 all over the whole lake, just about --- I mean, the pond, and
it's almost 2
- 18 acres and it was on the --- where the little stream is, where
the water feeds
- 19 one of the feeders that feeds into the pond. So, anyway,
with that being
- 20 said, there is a water issue. We have people in the
neighborhood who are
- 21 senior citizens, we have people that have new babies, it's a
good mix of
- 22 everybody in the community. Everybody's concerned. I think
you ought to
- 23 be able to tell that by how many people showed up tonight
to see what is
- 24 happening here. I've lived there since 1955. So, anyway, to
say the least,
- 25 I'm almost antique material, but there is no way all of that -
-- I think there

1 are three (3), the last time I counted --- of these car
crushing machines that
2 are really like excavators, that all of that equipment and that
building that
3 is on that .96 acres of land, that's designated HI, that can be
--- you can't
4 put all of that stuff on that property. It all won't fit, he's got
too much of it.
5 So, other than that, why would anybody buy a property and
not have it
6 surveyed? I mean, how old are we? We're not teenagers,
really, there is
7 protocol and you have to follow it. And if you don't, you pay
the penalty
8 for what it is. So, anyway, going up the road one day, there
are car parts
9 usually in neighbor's yards that have to pick it up before
they can mow
10 their yards, there's glass all over the road.. One day I was
going up South
11 Elm Street following a tractor trailer truck that just left
there, that was
12 headed to get on Highway 73. Car parts were flying off the
top of the
13 vehicle. It was not covered, I picked up the phone, I called
9-1-1 and asked
14 for the State Patrol and this is what the State Patrolman told
me, "That's
15 not our concern." I said, "It will be your concern when you

have to go to

- 16 my house and tell my children that I just got killed because
of parts flying
- 17 off a truck that wasn't covered." So, that's another food for
thought, taking
- 18 it from a different aspect. So --- but no, sometimes if you
don't get a
- 19 survey, I don't care who you are, you're making a mistake.
You learn from
- 20 your lessons and there is not five (5) acres of land there.
I've known where
- 21 that place was, I knew the people who lived there before Mr.
Medley. Mr.
- 22 Medley didn't cause a whole lot of noise other than shooting
guns on
- 23 Saturday nights when everybody was drunk and all you had
to do was call
- 24 the law and the Sheriff's would go calm them down and they
knew exactly
- 25 where the noise was coming from. But this is --- I mean, it's
like they said

1 awhile ago, all the
time.

25

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

DRAFT

MS. MILLER: Thank you for your testimony. We appreciate it.

MS. WARREN: Thank you.

MR. ELKAN: Madam Chair, for

the record, I object to the Board's consideration and testimony, lack of foundation. More prejudicial than probative. Irrelevant.

MS. MILLER: Sustained.

MR. BAISDEN: Also, for the record, I don't own trucks, I don't have any trucks.

MS. MILLER: Can we close the Public Hearing?

MR. MASON: I would suggest --- yes, you can close it.

MS. MILLER: All right. That concludes the Public Hearing and now the Board will deliberate.

MR. MASON: Would you

MR. ELKAN: Do we have an opportunity to close, or no?

MR. MASON: Yes.

MR. ELKAN: Closing arguments? MS. REAVES: Matt, can we do our

1 Closings?
2 MR. MASON: Yes.
3 MR. ELKAN: Okay.
4 MR. JOHNSON: Did you say there
was a
5 room, somewhere down there?
6 MS. MILLER: I'd love to. Do we
need to
7 make a motion on that?
8 MR. MASON: Yeah, apologies,
since
9 you've closed the Public Hearing, you
should
10 allow both sides to make Closing
Arguments.
11 MS. MILLER: Do you want me to
open it
12 again?
13 MR. MASON: No. No, it's not
evidence
14 at
15 this point.
16 MS. MILLER: Okay, got it.
17 MS. REAVES: I'm going to let you
go
18 last. I won't waive Opening on you.
19 MR. MASON: As long as it is

Arguments

20

and not evidence.

21

MS. MILLER: Just for everyone

that is ---

22

sorry --- for everyone in the gallery, we

are now

23

hearing Closing Arguments.

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

CLOSING ARGUMENTS - COUNTY

MS. REAVES: Madam Chair and Board, you got to hear

both sides tonight. The County side --- you actually got to hear three (3) sides, the Appellant side and you got to hear the Public side. Thank you guys so much for letting the public weigh in. I know it wasn't necessarily on topic, but you got to hear the surrounding community and also people that are supporting this business. But here's the brass tacks ----- please don't do that in the background while I'm doing my closing. Thank you.

Here's the brass tacks, Guilford County is responsible, under Article

2 of our Ordinance, Section 15. Our Planning Director has the duty to administer and enforce our UDO. In addition to that, under those powers of duties and the case law and the Ordinance was provided to the Board and also to Counsel in your packet behind the Exhibits, in that power and duty the Planning Director gets to make all final decisions and interpretations

16 and definitions of our UDO. And that is exactly what has
happened here.

17 Our Planning Director has determined that there was a
violation of the

18 Guilford County UDO. Not for noise, not for contamination,
but for going

19 outside of the HI boundaries that were established in 1970,
whether t was

20 4.9 acres or 10.2 acres, it was approved by Guilford County
for HI, but

21 within the confines of those metes and bounds. It doesn't
matter what it

22 looks like on the GIS, it just matters that its outside those
metes and

23 bounds. What does it mean for this Board? Well, I think part
of that -----part

24 of that burden that is shifting to the Appellant, is testimony
that there was

25 no survey done. That's what the attorney said, that's what a
closing

1 attorney said. That's a problem because not only do you
have the outside
2 boundaries of that property, you have an interior boundary
of that property.
3 And there is a duty of a purchaser to verify what they're
purchasing and to
4 verify the use. It doesn't matter if they talked to Oliver Bass,
or Boliver
5 Gas or whoever, on the phone. Oliver Bass does not bind the
County. What
6 binds this County and what binds the public is that written
UDO. That's it
7 and that's all. And we had a closing attorney that said he
doesn't really do
8 it, he owns some rental properties, that's not the same thing
as HI, and it
9 has nothing to do with split-zoned properties. It has nothing
to do with
10 going into an Ordinance and making sure that whatever
"floating zone"
11 term that you thought was there, that it's there, not
appearing, but your
12 customer is bound by that.
13 In the "floating zoning" argument, you heard one of the
guys to
14 come up, Mr. Bass, still a part of the research that I did, if
you look in your
15 packet, when you get time, you can do it in Closed Session,
the Ordinance

16 I just referenced is CL1, Case Law 1, the conditional
"floating" from the
17 NC School of Government, they discussed and it's listed as
DL 2 in your
18 packet. That conditional floating --- I mean, that "floating
zoning" is
19 Conditional Use – Conditional Zoning. That's where that
comes from. And
20 it can't be done by oral representation, it must be done by
written
21 application of the owner. That's it and that's all. So, saying
that someone
22 told me I could do it, that's a staff member that can't bind
the County,
23 when the UDO is public and the processes and information
for Conditional
24 Special Use Zoning are there, it's not a defense to operating
outside the
25 metes and bounds. Metes and bounds are solid.

1 As to the 2nd defense of continuation, taken by it's
plain meaning, a
2 prior conforming use, the testimony from the Appellant side
is that it was
3 diesel engine repair. I didn't hear any testimony about a
current continuing
4 use of diesel repair. That also, is not a defense to operating
outside the
5 solid metes and bounds that were established in 1970.

6 The 3rd defense was conforming use. How many of you
guys have
7 looked at this Permitted Use Matrix over and over and over
again in your
8 roles, and if you will just look through there and look at the
AG portion for
9 waste sites, or where you have your junk and your salvage
yards, or you
10 look at the recycling for outdoors. You see that "P" the right
to use it for
11 that in HI, you don't see it in AG. Do you know why? N your
packet you
12 will see a case called Dobo V. Zoning Board of Adjustment.
It was heard
13 in the Court of Appeals, that got reversed by our Supreme
Court. It's a
14 2003 case. I heard arguments about, "well, you have track
hoes, and you
15 have farming equipment", but guess what? That's not
enough. If you read

16 this Dobo case, the Supreme Court said, "It has to be
customary, incidental
17 and primary use of land." I didn't hear any testimony today
about
18 Agricultural conduct on that land. The presence of a tractor
or a track hoe,
19 excavator, or things that might be used in farming is not
enough to say that
20 it can be used for Heavy Industrial. As a matter of fact, let
me get to my
21 page here, because they have a really good quote in here.
Our Supreme
22 Court overturned the Court of Appeals, based on a property
that was
23 operating customarily, incidental and subordinate to the
primary residential
24 use of the property. It was about a sawmill and a buyer was
building a
25 woodshop at the back of his house with the wood off of his
own land,

1 using the sawmill. Customarily, incidental. And he would
occasionally do
2 some work, not for pay, for his friends. And the Supreme
Court overturned
3 and said, "That is irrespective of any potential use of the
saw. What
4 mattered was the actual use of the equipment." So, it
doesn't matter if you
5 have a farm tractor, if you're not using it for farming, it's not
the potential
6 use, it's what you're actually using it for. So, the conforming
use argument
7 fails. Now, you also heard how cooperative Mr. Baisden has
been, and he
8 has. He's been responsive, and I think he got, maybe, in
over his head. I
9 hate that he didn't get a survey, but it's not my job to argue
about his
10 cooperativeness. I do ask that the Board recognize that. My
job is to make
11 sure that this Board has the information from its Planning
Director that
12 validates the Notice of Violation that was issued December
20th of 2022,
13 and to provide you with the Case Law and our Ordinances
that back that
14 up. And we have done that today. You have the evidence
and the testimony
15 and you have the Case Law to back it up and some of you

have the

16 background, when it comes to these type of violations. So,
it is the
17 Planning Department's position that the Board should affirm
it's Notice of
18 Violation and allow the County to move forward with
enforcing that, or in
19 the event that they can work something out with the owner,
to postpone
20 that. If the Planning Director decides to do that to allow that
Application to
21 go through, but I think, right now, where we are is that the
Board is in a
22 position where it has to affirm the NOV. Thank you so much
for your time.

23

24

CLOSING ARGUMENTS – APPELLANT

1 MR. ELKAN: Madam Chair, Board members, I'll try
to be
2 brief. In speaking, specifically, to the evidence that you've
heard, I would
3 submit to you that there is a lack of evidence of operations
outside of the
4 HI property, there is a lack of foundation with respect to the
testimony
5 concerning the GPS. Mr. Calloway testified that --- I believe
he testified
6 and I'm certainly not trying to mischaracterize his testimony
--- but that the
7 GIS map that was provided to Zoning staff was not,
necessarily, accurate
8 with respect to the HI portion of the property. So, I would
submit to you
9 also, that staff did not and there is no evidence
demonstrating that there
10 is a lack of continued non-conforming use. The non-
conforming use
11 Ordinance, 11.06 addresses --- (b) addresses non-
conforming uses and I
12 believe the testimony was regarding, from Mr. Calloway, was
regarding
13 the truck --- diesel truck repair operations. The Statute that
our-----excuse
14 me, the Ordinance that I just cited, talks about non-
conforming uses and
15 the issue isn't whether it's the same, it's whether it is equal

of less

- 16 intensity. And so, it doesn't have to be continuing use for
diesel truck
- 17 repair. I would submit to you that this is a similar operation
to diesel truck
- 18 repair, and given how that property was used for that
purpose. So, in that
- 19 regard, I think I've addressed the conforming use that
there's also a lack of
- 20 evidence regarding the extent of the alleged non-conforming
use on the
- 21 AG property. Not only to the area, but as to what those
uses, in fact, were.
- 22 And so, those are two basis for the Appeal, the other basis
for the Appeal is
- 23 a "floating zoning", which has gotten a lot of discussion
because folks
- 24 hadn't heard of it. Well, you heard testimony from the
Closing Attorney,
- 25 and I would submit to you that that issues, as well as what,
undoubtedly, be

1 extensive evidence and testimony presented to the Planning
Board for their
2 determination that the rezoning is the economic impact of
this operation,
3 that his intentions and actions and investment, with
ensuring compliance,
4 ensuring that they're not violations with respect to
environmental harms, et
5 cetera, et cetera, that is a plethora of evidence and five-
hundred forty-six
6 (546) signatures on a petition that will be presented is not at
the Rezoning
7 Hearing and before that Board to appropriately make that
determination.
8 So, the "floating rezoning" for your consideration, I would
submit, is an
9 equitable consideration since you understand the context
under which
10 Cardinal Metals acquired the property and set forth on its
operations. That
11 would go, also, to --- and would discuss the penalty issue, I
would submit
12 to you that there was lack of evidence of the violation. I
would also submit
13 to you that --- and I agree with Counsel for the County, that
Mr. Baisden
14 has been very cooperative, is trying to --- and as I said in
my Opening,
15 trying --- in my request for a continuance, trying to do what

the County

16 preferred that he do, in terms of seeking the rezoning. I
would also agree
17 with Counsel, that should the Board make a determination
on the NOV this
18 evening, that it would delay any determination on a penalty
and allow the
19 parties to undertake mediation, Alternative Dispute
Resolution, which is
20 relevant to 160.d-405, which I have mentioned also earlier
in the evening.

21 So, thank you very much for your consideration.

22 MS. MILLER: At this time, I
23 would like for someone to, possibly,
entertain a
24 motion for a Closed Session.

25 MR. JOHNSON: I make a motion

1 that we go into Closed Session to
discuss the
2 Findings.
3 MR. STANDLEY: Second.
4 MR. ELKAN: If I might, if it's not
5 going to be appropriate to go into
Closed
6 Session, just to discuss the Findings. It
is
7 appropriate to go into Closed Session to
consult
8 with the Board's attorney, if the Board
wishes to
9 consult with the attorney.
10 MR. JOHNSON: Oh, okay. I said it
11 wrong, but you heard it right.
12 MS. MILLER: All right, so we have
13 motion and a second to go into Closed
Session to
14 discuss with the attorney.
15 (Thereupon, Mr. Calloway conducted a roll-call vote and
the
16 Board members voted unanimously in favor of the
Closed
17 Session)
18 (Thereupon, the Board members left the room to go
into

19 Closed Session at 10:02 p.m. until 10:21 o'clock p.m.
20 at which time the Board returned to Open Session)

21 MS. MILLER: All right, let's
22 have a motion to come back into Open
Session)

23 MR. JOHNSON: I make a motion
24 that we come back into Open Session.

25 MR. STANDLEY: Second.

1 (Thereupon, Mr. Calloway conducted a roll-call vote and
the
2 Board members voted unanimously in favor of the
Open
3 Session)

4
5 MS. MILLER: Thank you very
6 much. All right, after discussion, do we
have a
7 motion on this case?

8 MR. HAVENS: I want to make a
9 motion. Bear with me, my voice may be
worse
10 than hers tonight. I move that we find
the County
11 did prove a violation of the Uniform
Development
12 Ordinance, as stated in the Notice of
Violation
13 by the greater weight of the evidence.

14 MR. JOHNSON: Second.

15 MS. MILLER: A motion has been
16 made and seconded. Please take the
roll-call vote.

17 (Thereupon, Mr. Calloway conducted a roll-call vote and
the
18 Board members voted unanimously in favor of the
motion)

19

MS. MILLER: Are there any

20

additional motions that need to be
made?

21

MR. HAVENS: Yes, I move that

22

we find the applicant did not prove a
lawful non-

23

conforming use by the greater weight of
the

24

evidence.

25

MR. JOHNSON: Second.

1 MS. MILLER: We have a motion
2 that's been seconded. Call the roll,
please
3 (Thereupon, Mr. Calloway conducted a roll-call vote and
the
4 Board members voted unanimously in favor of the
motion)

5 MS. MILLER: Motion passes.
6 Are there any additional motions:
7 MR. HAVENS: Yes, I have one (1)
final
8 motion. I move that we find that the
Appellant
9 did not prove that the County is stopped
from
10 enforcing the violation of the Uniform
11 Development Ordinance by the greater
weight of
12 the evidence.

13 MS. MILLER: Motion has been
14 made, do we have a second?

15 MR. JOHNSON: Second.

16 MS. MILLER: A motion has been
17 made and seconded.

18 (Thereupon, Mr. Calloway conducted a roll-call vote and
the
19 Board members voted unanimously in favor of the

motion)

20 MS. MILLER: The motion is
21 approved. Deputy Attorney Reaves, I
would like
22 to request that you draft a proposed
Order to send
23 to Mr. Elkan for review and after
agreed-upon
24 changes, if any, Mr. Elkan, if you would,
send it
25 to the Board through Mr. Mason and the
Board

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

will vote and adopt a formal Order at
our next
meeting.

MS. REAVES: Yes, Madam Chair.

MS. MILLER: Thank you. And
that ends this case for the evening.

(Thereupon, the Board continued to the business items
on the
Agenda)

(Thereupon, the October 2023 Board of Adjustment
meeting ended
at 10:29 o'clock p.m.)

24

25

C E R T I F I C A T E

STATE OF NORTH CAROLINA

) COUNTY OF GUILFORD)

I, Judith H. Decker, Court Reporter and a Notary
Public,

duly appointed and qualified in and for the County of
Guilford and State of North Carolina, do hereby certify:

That said meeting was reported by me and the
foregoing transcript is a true record, to the best of my
knowledge and belief.

That I am neither attorney or counsel for, nor
related to or employed by any of the parties to the action
in which this transcript is taken, and further that I am not a
relative or employee of any attorney or counsel employed
by the parties hereto, nor interested directly or indirectly in
the matter, or financially interested in the actions
conducted during the meeting.

Certified this _ day of October, 2023

NOTARY PUBLIC, COUNTY OF
GUILFORD STATE OF NORTH

Triad Reporting & Typing Services
Verbatim Court Reporters
4106 Hobbs Road
Greensboro, NC 27410
(336) 317-7492

GUILFORD COUNTY BOARD OF ADJUSTMENT MEETING HELD
10/3/23

PAGE 263

CAROLINA NOTARY NUMBER:

11953450037

MY COMMISSION EXPIRES: MARCH 27, 2026

Triad Reporting & Typing Services
Verbatim Court Reporters
4106 Hobbs Road
Greensboro, NC 27410
(336) 317-7492

| | | | |
|----|---|----|------------------------|
| 1 | 1 | 38 | Exparte, 90 |
| 2 | 160.d-405, 11, 128 | 39 | F |
| 3 | A | 40 | Findings of Fact, 5, 8 |
| 4 | Aaron Calloway, 2, 12, 13, 14, 24, 25, 80 | 30 | Exhibit #2, 45, 46, 47 |
| 5 | aerial photograph, 65, 66 | 31 | Exhibit #4, 54, 55 |
| 6 | AG-zoned district, 13 | 32 | Exhibit #5, 36, 37, 39 |
| 7 | Alex Elkan, 6 | 33 | Exhibit #6, 52, 53 |
| 8 | Appeal, 3, 7, 8, 12, 14, 19, 23, 27, 31, 36, 37, 39, | 34 | Exhibit #8, 30 |
| 9 | 40, 41, 50, 51, 57, 63, 64, 73, 74, 112, 127 | 35 | Exhibit #9,, 33 |
| 10 | Authority, 1 | 36 | Exhibit 8, 29, 31 |
| 11 | C | 37 | Exhibits 8 and 4, 12 |
| 12 | Cardinal Metals, 6, 8, 10, 12, 18, 26, 27, 40, 51, | | |
| 13 | 53, 66, 74, 83, 84, 96, 100, 102, 108, 128 | | |
| 14 | Closed Session, 91, 121, 124, 128, 129 | | |
| 15 | Closing Arguments, 122 | | |
| 16 | CLOSING ARGUMENTS - APPELLANT, 126 | | |
| 17 | CLOSING ARGUMENTS - COUNTY, 123 | | |
| 18 | Conditional Zoning, 10, 41, 42, 74, 124 | | |
| 19 | continuance, 6, 19, 22, 128 | | |
| 20 | CROSS EXAMINATION, 57, 75, 87 | | |
| 21 | D | | |
| 22 | DIRECT EXAMINATION, 26, 69, 80 | | |
| 23 | DIRECT EXAMINATON, 83 | | |
| 24 | E | | |
| 25 | Evidentiary Hearing, 7 | | |
| 26 | Exhibit #1, 37, 60, 64 | | |
| 27 | Exhibit #10, 56 | | |
| 28 | Exhibit #12, 14 | | |
| 29 | Exhibit #13, 14 | | |

42 GIS, 54, 55, 56, 67, 82, 86, 88, 123, 127

43 GPS coordinates, 81

44 grading,, 93

45 **H**

46 HI zoned portion, 9

47 **K**

48 Kaye Graybeal, 2, 13, 79, 80, 82

49 **M**

50 Matrix Use Tables, 34

51 Mr. Baisden, 9, 13, 21, 57, 58, 66, 76, 77, 78,
83,

52 84, 85, 86, 88, 126, 128

53 Mr. Bass, 10, 15, 33, 34, 39, 45, 46, 52, 53, 57,
58,

54 69, 75, 78, 79, 85, 86, 87, 88, 89, 124

55 **N**

56 Notice of Violation, 9, 12, 19, 28, 32, 36, 37, 38,

57 39, 50, 51, 54, 57, 126, 130

58 NOV, 8, 12, 13, 14, 18, 32, 60, 126, 128

59 **O**

60 Order, 8, 131

61 **P**

62 parcel #144107, 54

63 **Q**

64 quasi-judicial Board, 5

- 1 **R**
- 2 Randal L. Baisden, 12
- 3 recess, 90, 91
- 4 **RECROSS EXAMINATION**, 79
- 5 **REDIRECT EXAMINATION**,
78
- 6 Rezoning Application, 6, 71,
72, 73, 74
- 7 **S**
- 8 Section 10.03.B.1,
38, 39
- 9 Sections 10.03, 38
- 10 sketch plan, 9, 14, 72
- 11 survey, 10, 15, 19, 76, 90, 114, 120,
123, 126
- 12 **U**
- 13 underground retentions, 93
- 14 Use-Matrix, 13
- 15 **V**
- 16 Voting Session, 132

DRAFT

(Insert Color Paper)

BROOKS hr,

4iiij

PIERCE

FOUNDED 1897

2000 RENAISSANCE PLAZA
230 NORTH ELM STREET
GREENSBORO, NC 27401

T 336.373.8850
F 336.378.1001
WWW.BROOKSPIERCE.COM

January 19, 2023

VIA E-MAIL and HAND DELIVERY {acalloway@guilfordcountync.gov }

Guilford County Board of
Adjustment c/o Mr. Aaron
Calloway
Planning & Development
Department Guilford County
Government
400 West Market Street
Greensboro, NC 27401

*RE: Appeal of Notice of Violation 22-02-GVPU-00082 issued Dec. 20,
2022 by Guilford County Planning Department to Cardinal Metals,
LLC*

Dear Board of Adjustment Members and Mr. Calloway:

This firm represents Cardinal Metals, LLC ("Cardinal") regarding the above-referenced matter, which involves Cardinal's use of the property located at 5149 Randleman Road, Greensboro, North Carolina 27406 (Parcel No. 144107) (the "Property").

I am writing on behalf of Cardinal and pursuant to Guilford County Code Sec. 15-56 Unified Development Ordinance ("UDO") Subsec. 10 [10.04(C)] and Subsec. 3 [3.04] to appeal to the Board of Adjustment Notice of Violation 22-02-GVPU-00082 issued by Guilford County Planning Department on December 20, 2022 (the "NOV"). A copy of the NOV is attached at *Exhibit 1*.

It is Cardinal's position that the NOV was improperly issued in that, among other things, its issuance was arbitrary and capricious, without proper authority, unlawful, and/or without sufficient legal or factual basis, including, but not limited, to for the following reasons, which may be considered cumulative and/or alternative:

- 1. "Floating Zoning" Representations and Reliance Thereon.** Upon information and belief and as will be demonstrated by presentation of competent evidence and legal arguments at the hearing of this matter, Guilford County is estopped from and may not otherwise enforce the NOV against Cardinal because, among other things, the County, through its staff and agents represented to Cardinal and its agents, prior to the purchase of the Property, that the Property had a Heavy Industrial "floating zoning" applied such that the Property could be used for the operation of a scrap metal recycling business similar to that being carried

out on the Property. Cardinal reasonably relied upon such representations in purchasing the Property and further investing in and carrying out operations on the Property.

- 2. Continuation of Prior Conforming Use - AG-1 Rural Family Occupation and/or Prior Nonconforming Use.** Upon information and belief and as will be demonstrated by presentation of competent evidence and legal arguments at the hearing of this matter, Guilford County is estopped from and may not otherwise enforce the NOV against Cardinal because, among other things, the current operations on the property are similar to and a

Writer's Direct Dial: 336-271-3134 Email:
aelkan@brnol<spierce.com Brnoks, Pierce, Mclendon,
Humphrey & Leonard, L.L.P.
Attorneys and Counsellors at Law

continuation of permitted prior conforming use (AG-1 Rural Family Occupation) and/or permitted prior non-conforming use of the Property, including, among other things, as a salvage yard and auto and truck repair and maintenance business.

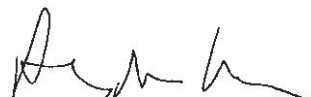
- 3. Conforming Use.** Upon information and belief and as will be demonstrated by presentation of competent evidence and legal arguments at the hearing of this matter, Guilford County is estopped from and may not otherwise enforce the NOV against Cardinal because, among other things, Cardinal's operations on the Property are in accord with respective applicable HI and AG land use restrictions and requirements of the UDO, under the circumstances.

Please note that while Cardinal maintains its appeal of the NOV and its position that the NOV was improperly issued and its operations on the Property are lawful and not in violation of the UDO, Cardinal also intends to work with Guilford County Planning towards a timely remedy, which may include adjustment of its operations (as and if practicable), requesting an appropriate rezoning, and/or other action(s). Because Cardinal intends to pursue an appropriate remedy, Cardinal respectfully requests that both the enforcement of the NOV and the hearing on Cardinal's appeal of the NOV be stayed.

Enclosed please find a check made payable to Guilford County in the amount of Two Hundred Dollars (\$200.00), to cover filing fees for this appeal.

Thank you for your attention and consideration.

Respectfully,



Alexander Elkan

C (via mail
only):

Ms. Taniya Reeves, Deputy Attorney, Guilford County
[treaves@guilfordcountync.gov]
Mr. Randall Baisden, Cardinal Metals, LLC
[cardinalmetalsusa@gmail.com]

Exhibit 1

Notice of Violation



GUILFORD COUNTY
PLANNING AND DEVELOPMENT

NOTICE OF VIOLATION
Via Certified Mail

December 20, 2022

22-02-GVPU-00082

Cardinal Metals, LLC
Randall L. & Heather
Baisden 5149 Randleman
Rd.
Greensboro, NC 27406

Attn: Cardinal Metals,
LLC Randall L.
Baisden,

Pursuant to Section 10.4-8 of Guilford County Unified Development Ordinance {UDO} you are hereby notified that the below listed Ordinance violation(s) are current on your property located at **5149 Randleman Road, Greensboro, NC 27406, Parcel Number 144107.**

The nature of the violation is: OPERATING A METAL RECYCLING BUSINESS IN THE AG (AGRICULTURAL) ZONING DISTRICT. THIS USE IS ONLY PERMITTED ON THE HI (HEAVY INDUSTRIAL) PORTION OF THE PROPERTY PER UDO SECTION 4.3.1.

Guilford County Planning and Development staff conducted a site visit on October 11, 2022 to confirm and document that the business is being conducted outside of the Heavy Industrial (HI) zoning limits, encroaching into the Agricultural (AG) district

The section(s) of the Guilford County Unified Development Ordinance violated are as follows:

Sec. 10.03.A.1.

Any failure to comply with a requirement, prohibition, or limitation imposed by the provisions of this Ordinance, or the terms and conditions of any permit or other authorization granted pursuant to this Ordinance, shall constitute a violation of this Ordinance.

Sec. 10.03.B.1.

400 W Market Street
Post Office Box 3427, Greensboro, North Carolina 27402
Telephone (336) 641-3334 Fax (336) 641-3255

Occupy, develop, or use any land or structure without first obtaining all appropriate permits or development approvals and complying with such terms and conditions.

GUILFORD COUNTY
PLANNING AND DEVELOPMENT

400 W Market Street
Post Office Box 3427, Greensboro, North Carolina 27402
Telephone (336) 641-3334 Fax (336) 641-3255



GUILFORD COUNTY PLANNING AND DEVELOPMENT

You may remedy the violation by confining the operations to only that portion currently zoned HI, request to rezone the entire property HI (CONVENTIONAL OR CONDITIONAL), or cease operations.

The violation(s) must be corrected by **1/19/2023** to avoid further action. If you have not remedied the violation by this deadline further enforcement action may be taken including one or more of the following: Injunction, Civil Penalties, Denial of Permit or Certificate, Conditional Permit or Temporary Certificate, Stop Work Order, Revocation of Permit, and/or Criminal Penalties.

If you feel your property is not in violation of the Guilford County Development Ordinance as listed above, you may appeal this decision of the Zoning Enforcement Officer to the Guilford County Board of Adjustment within **thirty (30) days** following the date of this Notice of Violation. The Guilford County Board of Adjustment shall hear the appeal within a reasonable time, and it may affirm, modify, or revoke this Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the Zoning Enforcement Officer in this Notice shall not be subject to further review.

Sincerely,

Aaron Calloway, MPA, Planner
(336) 641-2489
acalloway@guilfordcountync.gov

Order will be available at the
meeting.