

**Town of Mocksville  
Regular Board Meeting  
February 7, 2023**

The Town of Mocksville Board of Commissioners met for the Regular Board Meeting on Tuesday, February 7, 2023 at 6:00 p.m. in the Energy United building located at 182 S. Salisbury Street.

<b>Present:</b>	Mayor, Will Marklin	<b>Absent:</b>
<b>Commissioners Present:</b>	Jenny Stevenson Carl Lambert Johnny Frye Justin Draughn Rob Taylor	

**Others Present:**

Ken Gamble, Town Manager  
Emily Quance, Deputy Town Clerk  
Al Benshoff, Town Attorney  
Brian Moore, Public Services Director  
Frank Carter, Fire Chief  
Chris Vaughn, Parks and Grounds Director  
Tami Langdon, Community Development

Mayor Marklin called the meeting to order.

The Town of Mocksville Board paused for a moment of silence.

Mayor Marklin led the Pledge of Allegiance.

**Adoption of Agenda**

*A motion was made by Commissioner Taylor to adopt the agenda as written. The motion was seconded by Commissioner Lambert which carried by a unanimous vote 5-0.*

**Citizen Comments**

Mayor reads; Under GS section 160A-81.1, the Board shall provide one period for public comment per month. Public comments are a valued part of the Board meeting but we also have to handle monthly business items. If your public comment is not heard this month we provide the same opportunity at each month's Board meeting. Public comments are limited to 3 minutes per comment. The Mayor asks that groups appoint spokespersons for groups supporting the same position, especially when the number of people wishing to attend the meeting exceeds the capacity of Town Hall. When the comments become repetitive and no longer provide new information then discussion for this meeting may be stopped. As a reminder, the comment period is not a question and answer session. As always, the Mayor shall provide for the maintenance of order and decorum in the conduct of the comment period.

No one spoke.

## **Communications**

### **Fire Fighters Swearing In:**

Mayor swore in six full-time fire fighters. Congratulations to all! Fire Chief thanked the Board for their support.

### **Surplus Property Report July 2022-December 2022 – Town Manager to Present**

Disposal of Property under Chapter IV, Article 1, Section 4-1.6 July 2022 – December 2022 totaling \$54,566.

### **Non-Profit Presentations:**

YVEDDI Operations Manager Dave Torres addressed the Board. YVEDDI requests \$7,514 (*same as last year*) from Mocksville for FY24 to leverage matching County, State and Federal funds to help sustain the Mocksville Microtransit.

Habitat for Humanity Restore Family Services Director Dwayne Thompson addressed the Board. Habitat requests help with awareness, volunteers and waive utility fees (\$6,600) for two housing projects.

Arts Council Director Sidnee Suggs addressed the Board. Davie County Arts Council is the most positive recreation in DC. DC Arts Council requests help with awareness along with \$27,000 that help cover deposits for all the shows.

Cognition President Jessica Yarbrough addressed the Board. Cognition promotes exploration, education, and innovation in DC and surrounding communities. We accomplish this by creating opportunities for people of all ages to play, learn, and grow. Cognition hosted 88 classes and events for 1,104 guests in 2022. Cognition requests \$15,000.

Ignite Davie Partner Carolyn McManamy addressed the Board. Ignite Davie is our College Promise Program that pays tuition, fees and a stipend for books for Davie County students to attend Davidson-Davie Community College full-time, without incurring debt. With the support of our municipalities, businesses and individuals we are raising the educational attainment of our students while developing a well-trained workforce to meet the needs of our local employers. Ignite Davie requests \$10,000.

Joppa Cemetery Treasurer Terry Johnson addressed the Board. Joppa Cemetery is a historical landmark in the Town of Mocksville and Davie County that deserves to be maintained properly. Joppa Cemetery receives numerous visitors, both local and out of town, each year. Over the last several years, maintenance has been conducted at bare minimum due to non-guaranteed funding. In the last three years, only two plots have been sold. As a non-profit organization, we depend on donations. In 2022 we spent \$3,305 for minimal maintenance. Joppa Cemetery requests \$15,000.

## **Public Hearing for a Zoning Map Amendment**

The Board reviewed a request by Jeremy and Jennifer Gordon that applied to rezone 2 acres of approximately 17.048 acres from Open Space Residential (OSR) to General Industrial-Conditional (GI-CD). The subject property is located at 363 Harvest Way. The property is further described as Davie County Tax Parcel H50000001305.

Planning Director Johnny Easter addressed the Board.

### **LAND USE/ ZONING HISTORY**

#### **a. Proposed Zoning**

The General Industrial district is established to accommodate traditional industrial uses on individual tracts of land and within coordinated industrial parks. Such uses may constitute health or safety hazards, have greater than average impacts on the environment, or diminish the use and enjoyment of nearby property by generation of noise, smoke, fumes, odors, glare, vibration, industrial vehicle traffic, or similar nuisances.

#### **b. Mocksville Land Use Plan**

The Town of Mocksville Comprehensive Plan provides a clear and compelling vision for the future growth and well-being of our community. The 2019 Plan looks at past and current development trends and plans, analyzes demographic and economic data, gathers a broad range of community values and desires, and provides a shared vision for our future and a set of recommended goals, objectives and strategies to achieve this vision. The Plan provides a framework for decision-making and the allocation of resources related to the long-term growth and development of Mocksville. The Plan builds on existing assets while taking advantage of opportunities for improvement and growth. The Plan will be implemented through annual budgeting, departmental work programs, zoning decisions, and development projects.

The Land Use map classifies this property with the land use category of Rural Residential.

The Mocksville Comprehensive Plan states:

- Facilitate steady managed growth in the most appropriate places while carefully preserving environmentally sensitive areas, especially along stream corridors, for water quality and natural resource protection and to provide recreational amenities and greenway trails.
- Use the Future Land Use Map (Figure 25) and Existing Zoning Map (Figure 19) to encourage managed growth compatible with the Town's character, surrounding land uses, available infrastructure and services.
- Facilitate steady, managed growth, locating new development in the most appropriate places to foster a sustainable land development pattern that complements the character of our Town, while preserving and enhancing our valued historic, cultural and natural resources and open space as we grow.
- Require new land development to coincide with our ability to provide adequate public services and infrastructure (e.g. water, sewer, roads, parks & open space)
- Provide a wider selection of housing options and price ranges to help our older generation age in place and to retain and attract younger generations.
- Preserve and enhance existing residential neighborhoods while striving to provide a wider variety of single-family and multi-family housing options and price ranges to best serve the needs of our growing community.

## **PLANNING STAFF FINDINGS**

As a Conditional use rezoning the Planning Board shall consider the specific use of the property in the General Industrial district as a Building Contractors-Heavy Use. The Board should consider the following in making its recommendation:

1. The property's potential for an industrial site.
2. The property's potential for a residential site.
3. The property's location and surrounding zoning & property uses.
4. Whether the proposed reclassification is consistent with the purposes, goals, objectives, and policies of adopted plans for the area.
5. Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property.

The Planning Board did pass unanimously.

### **Zoning Map Amendment 2022-05 Conditions**

A 2.2 acre portion of 363 Harvest Way is rezoned from Open Space Residential to General Industrial Conditional District. The following conditions apply:

- 1) The only permitted use is Building Contractors-Heavy
- 2) The site plan submitted with the application is incorporated herein by reference for the purposes of identifying the 2.2 acres zoned GI-CD, the shop building and the location of the berms mentioned below.
- 3) Add approved evergreen vegetation meeting the requirements of the Mocksville Zoning Ordinance to the existing 330' long 7' high berm.
- 4) Extend the berm running parallel to the rear of the property so that the rear boundary of the berm is parallel to the rear of the building and add approved vegetation meeting the requirements of the Mocksville Zoning Ordinance to the extended berm.
- 5) Install a 10 foot high Piedmont Fencing 11 gauge wire fence with plastic inserts from the rear edge of the berm to the rear edge of the shop building.
- 6) Install a 10 foot high Piedmont Fencing 11 gauge wire fence with plastic inserts, and two 20 foot gates, from the front edge of the shop building to the berm.
- 7) Install a 10 foot high Piedmont Fencing 11 gauge wire fence with plastic inserts and two 20 foot gates along the frontage of Harvest Way, from the tree line on the west side of the parking lot to the existing berm..
- 8) The conditions will be signed by the Applicant or Applicant's lawyer no later than the close of business on Friday, Feb. 10, 2023.

Mayor opened the public hearing for comments in favor of or against. (6:44pm)

**In favor of:**

Attorney Chad Bomar representing the Gordon's presented a PP and addressed the Board. This is an existing DC business in Mocksville's ETJ Gordon and Sons Fine Grading, Inc. 363 Harvest Way (shop); berm, drainage and landscaping \$38,000 in place and people on the other side cannot see in. They plan to add vegetation on top of the berm, natural tree line buffer, gates and 10ft fence so even roof top will disappear. Expected additional cost of fencing, gates and landscaping \$23,476. Jeremy Gordon wants to keep this small business in DC and wants to store and maintain equipment on his property which is mostly in the winter. See voluntary conditions listed above.

- Inherently reasonable to allow someone to make the best and highest use of property
- Inherently reasonable to allow someone to enhance his property and his business

WILL NOT HURT SURROUNDING LANDOWNERS - "...we have concluded that rezoning the subject property will be consistent with existing surrounding land use patterns and suggests no measurable impact on the market value of the neighborhood." In the public interest to keep this business in Davie Co. (\$140K)

Clyde Scott – Friend of the Gordon family and they are fine folks and run an utmost business. There is nothing harmful about this business. The Gordon's are trying to help their employees.

Jeff Lowe – It is not a trucking company. They go from job to job and hardly ever home (Out Spring/In Fall). I pulled the permit and Harvest Way is permitted for 132,000 lbs. of travel/7 axles. All trucks are cleaned before coming back in.

David Morris – The Gordon's are good neighbors. He has the equipment and existing building. They stay gone 10 months out of the year. I have no issues with this business and want to see it grow. We are on a dead end road in the Country. His business brings money into Mocksville. He needs your support.

Ron Foster – The Gordon's take pride in their business. It is clean and top notch.

Jeremy Gordon – The reason the re-zoning is being requested is because the DOT (Baltimore Road Ext.) is taking property of mine and that is why I am coming before the Board again because I am out of options. Please consider and support my request.

Harold Lacy – I have no problem with the Gordon's business.

Yolanda Morris – I have a business at home 7 ½ years. There is no noise from this equipment. I want to see the business grow. The Gordon's business is near the Country Vet and you can hear the noise from the animals and the traffic from 158 and Country Lane. The dust is coming from the easement. The Gordon's are investing in our community.

Ron Loftis – I am a real-estate agent. 158 is a growth park. I analyzed the surrounding areas, what is being planned and what I see in the market place. The Gordon's are offering voluntary conditions. There is no impact from this business being rezoned.

**Against:**

Harvest Way Rezoning 2 ac from OSR to GI-CD

Attorney Bradley Friesen - Bell-Davis-Pitt representing Peggy and Mike DelliSanti presented a PP and addressed the Board. The DelliSanti's live at 307 Harvest Way is a 100 yards from the Gordon's building. You are being ask to change the rezoning/law. Why do we have zoning? Zoning regulations shall be made in accordance with a comprehensive plan and shall be designed to promote the public health, safety, and general welfare. The Mocksville 2019 Comprehensive Plan supports "clear and compelling vision", "growth and well-being", "framework for decision-making", "zoning decisions", legally challenged as arbitrary" and "less politically charged".

Open Space Residential is provided to encourage the development of compact residential neighborhoods that set aside significant natural vistas, parkland, and landscape features and other rural heritage features for permanent conservation.

General Industrial district is established to accommodate traditional industrial uses on individual tracts of land and within coordinated industrial parks. Such uses may constitute health or safety hazards, have greater than average impacts on the environment or diminish the use and enjoyment of nearby property by generation of noise, smoke, fumes, odors, glare, vibration, industrial vehicle traffic, or similar nuisances.

Uses in GI, GI-CD

#### Permitted Uses

- Building materials supply
- Car wash
- Construction vehicle sales, repair, leasing, maintenance, or storage
- Fuel dealer
- Motor vehicle body shop, repair, storage yard
- Building contractors, general, heavy
- Manufacturing
- Salvage yard
- Freight terminal

#### Prohibited

- Home occupations
- Child Care
- Riding Stables
- Nursing Care
- Home Daycare
- Residential Dwellings

A zoning ordinance, or amendment, which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, ... so as to relieve the small tract from restrictions to which the rest of the area is subject to. It is held to high level of scrutiny by the courts. It must adhere to the comprehensive plan, and it must consider the effects of the rezoning within the larger community context.

A zoning ordinance, or amendment, which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, ... so as to relieve the small tract from restrictions to which the rest of the area is subjected, is called 'spot zoning.' It is beyond the authority of the municipality, in the absence of a clear showing of a reasonable basis for such distinction.

Spot Zoning

- the size, physical conditions, and other attributes of the area proposed to be rezoned,
- the benefits and detriments to the landowners, the neighbors, and the surrounding community,
- the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
- why the action taken is in the public interest; and
- any changed conditions warranting the amendment.

There is no ill will; it is all about the business not the people and the conditions want change anything.

Mrs. DelliSanti addressed the Board and said she has been living at 307 Harvest Way for twenty-three years. She is against rezoning the Gordon property because of the increase in traffic, visual site, loud running equipment, smell of the chemicals, the equipment takes up the entire road and rezoning the property will make their property value decrease.

Susan Parker addressed the Board. This is about real-estate. I am a neighbor and the Gordon's are great people. It is not about the individuals, noise, equipment, chemicals or business it is really about DC has a comprehensive plan within a 1 mile radius of our town and were moving toward sophisticating our town and moving the industrial out of town and that is the plan we should stay on. We should not be here changing zoning rules for a "spot" on someone's property. It is beautiful land and it should stay that way. It is concerning for the surrounding areas and all the land owners. It is not zoning appropriate. Why does the additional acreage need rezoning?

Mayor closed the public hearing. (7:54pm)

Town Attorney Benschhoff addressed the Board. The rezoning request is to change 2.2 acres to General Industrial and the only use permitted is the new and if you approve it is (Building Contractors-Heavy). That is a specific term of art defined in the zoning ordinance and that is what is permitted to be used on the 2.2 acres forever until the zoning is changed. It does not matter who owns it because it runs with the land.

Planning Director Johnny Easter read definition:

**§ 8-3.8.12 Building Contractors, General; Heavy.**

- (A) All outdoor storage of non-passenger vehicles and building materials shall be kept at least 100 linear feet from any adjacent residential use and shall be located in a side or rear yard only. This setback requirement may be reduced to 50 feet if the outdoor storage area is enclosed by a solid fence of six minimum feet with approval from the Planning Director.
- (B) No outdoor equipment or materials shall be visible to the public.
- (C) Any materials within a fenced area shall not be stacked higher than the fence.

*A motion was made by Commissioner Lambert to approve the zoning map amendment 2022.05 a request made by Jeremy and Jennifer Gordon that has applied to rezone 2 acres of approximately 17.048 acres from Open Space Residential (OSR) to General Industrial-Conditional (GI-CD) and the zoning conditions amended by Town Attorney Benschhoff for future clarity and that become a part of the zoning district. The subject property is located at 363 Harvest Way. The property is further described as Davie County Tax Parcel H50000001305. The motion was seconded by Commissioner Draughn which carried by a unanimous vote 5-0.*

Town Attorney Benschhoff stated this is a conditional zoning and the applicant has proposed some extra conditions. The Board and the applicant have to agree on the conditions. The conditions become a part of the zoning district until they are changed. Please look at the specifics of the request and I am asking the Gordon's to amend their conditions only for the reason of clarity so there is no problem of interpretation in the future. Add new conditions:

- Extend the berm running parallel to the rear of the property so that the rear boundary of the berm is parallel to the rear of the building and add approved vegetation meeting the requirements of the Mocksville Zoning Ordinance to the extended berm.
- The conditions will be signed by the Applicant or Applicant's lawyer no later than the close of business on Friday, Feb. 10, 2023.

The applicant has to agree to the conditions.

#### Statement of Consistency

*A motion was made by Commissioner Frye to approve the statement of consistency; The Mocksville Board voted for Approval of the Zoning Map Amendment (unanimously); the amendment is consistent with all applicable adopted plans & finds the request to be reasonable and in the public interest; as it meets many of the Land Use Plans goals and objectives; there is existing industrial zoning near to the site; and that it enhances the quality of life in Mocksville by managing future growth in a manner that encourages well planned, high quality development and services that meets the needs of the citizenry and builds upon the community's small town character. The motion was seconded by Commissioner Draughn which carried by a unanimous vote 5-0.*

#### **Public Hearing to Consider Granting Economic Development Incentives**

Terry Bralley addressed the Board.

Incentives being considered are for an Economic Development Project by the Company which involves the expenditure by the Company of approximately ninety-seven million-six hundred thousand dollars (\$97,600,000.00) to construct a new facility and purchase and install manufacturing equipment and fixtures, which will result in a minimum increase to the ad valorem tax base of the Town of \$97,600,000.00, and the creation of fifty-two (52) new jobs at the facility. The property where the Economic Development Project will take place is 178 AVGOL Drive, Town of Mocksville, and Davie County, North Carolina. The Incentives being considered are approximately \$416,788.29 from the Town of Mocksville to assist the Company with the construction of a new facility and purchase and installation of manufacturing equipment and fixtures as authorized under North Carolina General Statute §158-7.1. The Incentive Agreement will provide remedies to the Town if the Company fails to create the jobs or fails to meet the tax base increase requirement of \$97,600,000.00. It is expected that the investment will be returned to the Town in tax revenue derived from the project in less than five years.

Mayor opened the public hearing for comments in favor of or against. (8:05pm)

No one spoke in favor of or against.

Mayor closed the public hearing. (8:05pm)

*A motion was made by Commissioner Taylor to approve the incentive agreement for the economic development project by the company which involves the expenditure by the company of approximately \$97,600,000 to construct a new facility and purchase and install manufacturing equipment and fixtures which will result in a minimum increase to the ad valorem tax base and the creation of 52 jobs. The approval of \$416,788 from the town to assist the company with the construction of a new facility and the purchase and installation of manufacturing equipment and fixtures. The motion was seconded by Commissioner Draughn which carried by a unanimous vote 5-0.*



## **Public Hearing to Close Out CDBG Project Blowfish/Special Event Services**

Michael Walsler addressed the Board.

In September 2020, the Town was awarded a \$175,000 Community Development Block Grant (CDBG), by the North Carolina Department of Commerce, Rural Economic Development Division, for its Project Blowfish/Special Event Services, Inc. (SES) Infrastructure Economic Development Project. The funds were designated to assist the Town with the extending a sewer line to serve SES's planned production facility to be located at 216 Angell Knoll Avenue. SES committed to create 14 new full-time jobs while retaining the 24 full-time jobs, which already existed in North Carolina. The sewer line extension is complete and all grant funds have been expended. The company has reported that it currently employs 52 full-time jobs at its Mocksville location; therefore, it has far exceeded its job creation commitment. The state has not conducted a monitoring review of the program files at this time. The Town is required to conduct a "close-out" public hearing in order to initiate the close-out process.

Open the public hearing for comments in favor of or against. (8:07pm)

No one spoke in favor of or against.

Close the public hearing. (8:07pm)

No action needed.

## **Consent Agenda**

*A motion was made by Commissioner Lambert to adopt the consent agenda as presented. The motion was seconded by Commissioner Taylor which carried by a unanimous vote of 5-0. Items approved were: (A) January 3, 2023 Regular Board Meeting and Closed Session (B) Monthly Financials (C) Tax Releases*

## **Consider Annexation Petition Request from Davie Blackwelder Development, LLC and a Resolution Directing the Clerk to Investigate the Sufficiency of the Annexation Petition Located at 148 Cana Road and 2254 US Highway 601**

Town Manager addressed the Board. The Cana Road property approximately 105 acres planned for industrial development over the next 8 to 10 years estimating \$100,000,000.

*A motion was made by Commissioner Taylor to approve the annexation petition from Davie Blackwelder Development, LLC and adopt the resolution to instruct the Town Clerk to inspect the Davie County parcel numbers 5820620150 and 5820712649 on 148 Cana Road and 2254 US Highway 601 for sufficiency. The motion was seconded by Commissioner Lambert which carried by a unanimous vote 5-0.*

## **Consider Annexation Petition Request from Angell Revocable Living Trust; Elsie Bowens Angell and a Resolution Directing the Clerk to Investigate the Sufficiency of the Annexation Petition Located at Angell Knoll Avenue, Madison Road and Highway 64**

Town Manager addressed the Board. This is approximately 200 acres (50 acres already in town limits) so 150 acres to annex. There is currently a rezoning case making its way to the Planning Board Thursday night which will take place during the annexation process. It is another industrial development comparable to Hollingsworth property over the next 5 to 10 years. Requesting annexation to obtain water and sewer.

*A motion was made by Commissioner Taylor to approve the annexation petition from Angell Revocable Living Trust; Elsie Bowens Angell and adopt the resolution to instruct the Town Clerk to inspect the Davie County parcels 5729806809, 5739011199, 5728777768 and 5728798112 on Angell Knoll Avenue,*

*Madison Road and Highway 64 for sufficiency. The motion was seconded by Commissioner Frye which carried by a unanimous vote 5-0.*

#### **Consider Budget Amendment #5 FY 22-23 Additional Powell Bill Revenue**

*A motion was made by Commissioner Taylor to adopt budget amendment #5 in the amount of \$27,662 for additional Powell Bill revenues received. The motion was seconded by Commissioner Stevenson which carried by a unanimous vote 5-0.*

#### **Consider Budget Amendment #6 FY 22-23 Additional Rural Fire Protection Funds**

*A motion was made by Commissioner Frye to adopt budget amendment #6 in the amount of \$100,557 for additional Rural Fire Protection Funds received from DC. The motion was seconded by Commissioner Taylor which carried by a unanimous vote 5-0.*

#### **Consider a Resolution to Confirm the Sale of Real Property**

Town Manager addressed the Board. The upset bid process started in October 2022 and now we have our final bid in the amount of \$465,000 made by Neal Cheek. The Board can accept the bid or reject the bid. The Board has no obligations.

Mayor recused himself from any discussion because he is business partners with Mr. Cheek on other projects but not this particular one.

Commissioner Stevenson asked what Mr. Cheek will do with the building. I cannot accept not knowing what the plans are.

Town Manager says Mr. Cheek does not have any plans at the moment. The current zoning is town center "mixed use".

Town Attorney Benschhoff stated if the Board wants to know what the plans are for the PD building you should reject the offer and start over and make the plans a requirement of the bidding.

*A motion was made by Commissioner Draughn to adopt resolution to confirm the sale of 278 N. Main Street Davie County parcel number I4130D0005 and the adjoining parking lot at 807 AC N. Main Street Davie County parcel number I4130D0006 final upset bid received in the amount of \$465,000 to Neal Cheek. The motion was seconded by Commissioner Frye which carried by a vote 4-1 with Commissioner Stevenson voting against.*

#### **Communication from Town Staff**

Town Attorney Benschhoff: I will work with the Clerks on the voting process for zoning to make it clearer.

Town Manager Ken Gamble: Will be submitting the All-America County application.

#### **Communication from Mayor and Town Board**

Commissioner Lambert: Retreat went well and

Commissioner Taylor: N/A

Commissioner Stevenson: N/A

Commissioner Frye: Retreat went well and very informal.

Commissioner Draughn: N/A

Mayor Marklin: Rotary is sponsoring a breakfast 2/25 at the First Baptist Church to raise money for Cognition and Community Park.

### **Adjourn**

*A motion was made by Commissioner Taylor to adjourn the February 7, 2023 Regular Board Meeting. The motion was seconded by Commissioner Draughn which carried by a unanimous vote 5-0.*

The attached documents are incorporated herewith and are hereby made a part of these minutes.



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William J. Marklin, Mayor



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Emily Quance, Deputy Town Clerk