



# Planning, Development & Inspections

A Division of Community Services  
P.O. Box 550 • Raleigh, NC 27602  
www.wake.gov

## MINUTES OF BOARD OF ADJUSTMENT NOVEMBER 12, 2024

LOCATION: Wake County Justice Center, 301 S. Salisbury St., Room 2700, Raleigh, NC

### MEMBERS PRESENT:

1. Ms. Britany Waddell (Vice Chair)
2. Ms. Irene Butler
3. Mr. Joe Cebina
4. Mr. Waheed Haq
5. Mr. Mark Spanioli
6. Mr. Will Wingfield

### MEMBERS ABSENT:

1. Mr. Jeffrey Goebel (Chair)
2. Mr. DeAntony Collins
3. Mr. Russell Stephenson

### COUNTY STAFF:

1. Mr. Steven Finn
2. Mr. Timothy Maloney
3. Mr. Josh McClellan
4. Mr. David Parks
5. Mr. Geoffrey Pearson
6. Mr. Matthew Roylance
7. Ms. Beth Simmons

### COUNTY ATTORNEY:

1. Mr. Kenneth Murphy, Deputy County Attorney

1. **Meeting called to order:** Ms. Waddell called the meeting to order at 9:04 a.m.
2. **Approval of Minutes of the October 8, 2024, Meeting:** Mr. Haq made a motion to approve the October 8, 2024, minutes as presented. The motion was seconded by Mr. Wingfield and the minutes were approved unanimously.
3. **Approval of Written Decision for PLG-SU-005202-2024:** Mr. Spanioli made a motion to approve the Written Decision for PLG-SU-005202-2024 as presented. The motion was seconded by Mr. Cebina and was approved unanimously.
4. **PLG-SU-004983-2024 (Mr. Geoffrey Pearson, Code Enforcement Program Manager)**  
The petitioner is requesting a Special Use Permit to operate a Commercial Vehicle Repair and Service Business.

### Voting Members

Five voting members were identified:

1. Ms. Britany Waddell
2. Mr. Waheed Haq
3. Mr. William Wingfield
4. Mr. Joe Cebina
5. Mr. Mark Spanioli

**Location**

WAKE COUNTY PIN: 1763-22-5273  
ZONING DISTRICT: Residential-30 District  
LAND USE CLASSIFICATION: Non-Urban Area Non-Watershed  
WATERSHED: N/A  
CROSS REFERENCE FILES: N/A  
APPLICANT: Jerome Eatman, Attorney, Lynch & Eatman LLP  
PROPERTY OWNER: James Michael McNeil & Kainnan McNeill  
PROPERTY SIZE: 1.41 acres  
CURRENT LAND USE: Residential Single-Family  
PROPOSED LAND USE: Commercial Vehicle Repair and Service

**Documentary Evidence Accepted into Record**

- Staff Report
- Staff Presentation
- Applicant's Application

**TESTIMONY AND EVIDENCE PRESENTED**

**Testimony by Geoffrey Pearson**

Mr. Pearson was sworn in and requested that the Staff Report, Presentation, and the Petitioner's Application be entered into the record. Ms. Waddell accepted the evidence, and Mr. Pearson began his testimony. He explained that the request was for a Special Use Permit to operate a Commercial Vehicle Repair and Service business from a residential property. The property owners, James and Kainnan McNeil, are represented by Jerome Eatman of Lynch & Eatman LLP. The proposed business would be located at 5500 Meadow Run in Mark's Creek Township, where surrounding properties are zoned and developed for residential use.

In August 2024, Wake County staff received a zoning complaint that the site was being used for commercial vehicle repair and service. After confirming the violation, staff met with the property owners to inform them of the requirements for operating such a business in a residential-zoned district. On June 4, 2024, an application for a Special Use Permit was submitted to Wake County to allow the proposed business. Mr. Pearson presented the site plan proposed by the applicant, noting that the property is currently a single-family residence. A detached garage, constructed in March 2023, is proposed as the location for the business. He also noted the presence of a detached shed and in-ground pool along the eastern bufferyard, both of which the applicant intends to remove. Additionally, a gravel parking lot currently located in the northern bufferyard would be relocated.

The proposed site meets UDO standards for utilities, as the property is served by a community well system and a private wastewater system, requiring no upgrades. The primary access to the property is from Meadow Run, and the submitted site plan complies with all required setbacks. Mr. Pearson further explained that UDO requirements for parking specify a minimum of 3 spaces, but the

applicant has proposed 6 spaces. The applicant also plans to install an opaque fence along the northern and eastern property lines to meet landscaping and buffer requirements. The addition of this fence allows the applicant to reduce the required 40-foot bufferyard to 30 feet, with the reduced bufferyard area also including the required tree plantings. The total impervious surface shown on the site plan is 10.9%, well below the 30% maximum allowed in the UDO for R-30 zoning.

Under Article 19, Section 19-23-8 (Conclusions Required for Approval), Mr. Pearson explained that the Board of Adjustment may not approve a Special Use Permit application unless it reaches positive conclusions based on findings of fact, supported by competent, substantial, and material evidence presented at the hearing. One of the required conclusions, as stated in Section 19-23-8(E), is that "the proposed development will be consistent with the Wake County Comprehensive Plan." Mr. Pearson noted that, according to the UDO Use Table, uses marked with an S\* must be located within a mixed-use district in accordance with the Comprehensive Plan. Since the proposed site is not within a mixed-use district, it is not consistent with the Comprehensive Plan. Additionally, the property lies within the Town of Knightdale's Walkable Center Development Growth Area. Wake County staff contacted Knightdale's Planning Department for comment, and the Town indicated that the proposed use would also not align with Knightdale's Comprehensive Plan.

Mr. Pearson presented photos and videos of the site and explained that notification letters were sent to adjoining property owners on October 31, 2024 along with a public hearing placard placed on the property. Staff recommends that, if the Board concludes positively on all required findings, the Special Use Permit request be approved, subject to the conditions outlined in the staff report.

Ms. Waddell asked whether the Special Use Permit request could still be approved if it was found to not meet all five required conclusions. Mr. Murphy responded that the applicants were entitled to have their request heard by the Board, even if it did not meet all the conclusions. Mr. Cebina inquired whether the property was within the Town of Knightdale's extraterritorial jurisdiction (ETJ), and Mr. Pearson clarified that it was currently within the County's planning jurisdiction. The property is located within a short-range service area, and as utilities extend into the neighborhood, the property may pursue annexation into the Town of Knightdale.

Mr. Haq asked if the proposed land use was consistent with the UDO, and Mr. Pearson explained that to "grandfather" a use, it must have been legal at the time it was established. Since the business began operations in 2023, it is not eligible for grandfathering. Mr. Haq then asked whether there were steps the applicant could take to make the use consistent with Wake County's Comprehensive Plan. Mr. Pearson explained that Wake County's long-range planning staff met with the applicant's attorney, and one option discussed was amending the long-range plan to designate the area as Mixed-Use District. This change would require review by the Planning Board and approval by the County Commissioners. However, the applicant ultimately decided not to pursue this option and instead submitted a request for a Special Use Permit.

Ms. Waddell asked about the zoning of the properties across Smithfield Road, and Mr. Pearson responded that they were zoned R-20. Ms. Waddell also asked about signage requirements if the request were approved. Mr. Pearson explained that the Special Use Permit would allow signage up to 32 square feet in size.

### **Applicant's Presentation**

#### **Testimony by:**

- 1) Jerome Eatman, Lynch & Eatman, LLP
- 2) Kainnan McNeil, property owner

Mr. McNeil was sworn in to provide testimony. Mr. Eatman introduced himself as an attorney with Lynch & Eatman, LLP, representing the McNeils in their request for a Special Use Permit. He explained that Mr. McNeil resided at 5500 Meadow Run and worked as a mechanic, repairing cars for friends and family in his backyard. After constructing a 936-square-foot detached garage, he moved his operations inside to ensure that vehicle repairs were performed indoors. Mr. Eatman noted that after learning that the UDO classified his operation as "Vehicle Repair and Service," which requires a Special Use Permit, Mr. McNeil sought to formalize the business through this request.

Mr. Eatman argued that Mr. McNeil's operation was more specialized and did not fit the standard "Vehicle Repair and Service" classification. He explained that Mr. McNeil only performed major engine repairs, not routine services like oil changes or lube jobs. The garage was limited to two vehicles at a time, with two repair bays. Mr. Eatman submitted an additional list of proposed conditions for the Special Use Permit, which Ms. Waddell accepted into the record. These proposed conditions included limitations on hours of operation, parking requirements, and restrictions to engine repair only. He also stated that the business would not have customer waiting facilities—services would be limited to drop-off and pick-up, and there would be no additional employees.

Mr. McNeil testified that he had been operating as a business for the past year, although he had been repairing vehicles at his residence for the past eight years. He specialized in major engine repairs, which were time-consuming and required drop-off and pick-up services. Mr. Eatman asked Mr. McNeil if he had reviewed and signed the Special Use Permit application, to which Mr. McNeil confirmed he had. Mr. Eatman also clarified that Mr. McNeil would have no employees and asked how many vehicles he serviced weekly. Mr. McNeil responded that it varied, but he estimated that he serviced about 10 vehicles a month. He explained that most of his equipment was electric, and he rarely used an air compressor. When asked about exterior lighting, Mr. McNeil clarified that the only lighting outside the garage was in compliance with the construction permit.

Mr. Cebina inquired how long Mr. McNeil had lived at the property, and Mr. McNeil responded that he had lived there for approximately 10 years. Mr. Cebina asked if the repair business had originally been conducted outside, and Mr. McNeil explained that it had been performed in a smaller detached garage before the new one was built. Mr. Haq asked about waste disposal from the repair work, and Mr. McNeil explained that any oil or engine parts were disposed of through AutoZone or the Town of Knightdale's waste facility. He personally handled waste disposal and did not rely on a commercial service for pickups. All waste was stored in approved containers, and nothing was disposed of on-site.

Mr. Eatman reiterated that the proposed business did not fit the typical definition of "Vehicle Repair and Service." He argued that it was a small, specialized operation conducted entirely indoors. While the operation technically falls under that classification in the UDO, he requested that the Board consider some flexibility. Mr. Eatman also suggested that, under Articles 160D-501 and 160D-605 of the General Statutes, if the Special Use Permit were approved, it would automatically constitute an amendment to the Comprehensive Plan for purposes of consistency. He asked Mr. Murphy to review this and confirm his understanding of the statutes.

Mr. Murphy questioned the basis for Mr. Eatman's claim that approval of the Special Use Permit would automatically amend the Land Use Plan. He pointed out that the statutes Mr. Eatman referenced applied to rezonings, not Special Use Permits. Mr. Eatman admitted that he did not have any specific authority to support his claim but believed the statutes were broad enough to include such a determination.

Mr. Eatman summarized the proposed conditions for the Special Use Permit, asserting that the development would not endanger public health or safety. He emphasized that there would be no impact on traffic or utilities. The applicant proposed building a privacy fence, and there would be no erosion issues. All waste would be disposed of through appropriate off-site channels. The operation met all ordinance criteria, would not substantially harm the value of neighboring properties, and would not generate noise, odor, or traffic. He argued that, based on the evidence, the operation would not negatively impact surrounding properties. Mr. Eatman concluded that, as a permitted use under a Special Use Permit, the business should be considered compatible with the surrounding area, and he urged the Board to consider the application in the context of its consistency with the Comprehensive Plan.

Ms. Waddell pointed out that while the operation may be allowed with a Special Use Permit, the use is not permitted in the R-30 zoning district. Mr. Eatman responded that it could be allowed if the application met all the required findings, based on the Use Table. Ms. Waddell asked if staff could provide the Use Table, and Mr. Pearson explained that certain uses marked with an asterisk (\*) in the Use Table, including Vehicle Repair and Service, are only allowed in Mixed-Use Districts in accordance with the Comprehensive Plan. He further explained that under Section 4-10 of the UDO, uses marked with an asterisk must be reviewed and approved through the Special Use Permit process. Furthermore, Special Use Permits must meet the conclusions required for approval in Section 19-23(8), which includes consistency with the Comprehensive Plan.

Ms. Waddell sought clarification on Mr. Eatman's assertion that the proposed operation did not qualify as "Vehicle Repair and Service." Mr. Pearson explained that the County's definition of "Vehicle Repair and Service" does not distinguish between the volume of vehicles worked on. If a business involves repairing vehicles, it falls under the "Vehicle Repair and Service" classification.

Mr. Haq asked how long it would take to modify the Comprehensive Plan. Mr. Pearson indicated that the process would take at least four months.

Ms. Waddell opened the floor for public comments. Hearing none, she closed the public comment period and initiated board discussion at 10:31 a.m.

### **Board Discussion**

Mr. Cebina asked Counsel whether there was a state agency responsible for licensing mechanic shops that Mr. McNeil would need to comply with. Mr. Murphy responded that he was not aware of such an agency. He further clarified that, if such a body did exist, it would not affect the Board's decision in this case. Mr. Cebina also inquired whether the Board could impose a condition making the Special Use Permit specific to the current owner. Mr. Murphy explained that the Special Use Permit applies to the land, not the individual user. In response, Mr. Eatman indicated that the applicant would be willing to amend the deed to include a description of the use, should the Board determine that the conditions for approval were met.

Mr. Haq suggested that it might be appropriate to table the hearing until the applicant returned with additional conditions. Ms. Waddell asked for clarification regarding the Board's role in determining whether the requirements for approval of the Special Use Permit were met. Mr. Murphy explained that under state law, the Board must consider whether they have heard competent, substantial, and material evidence that supports each of the five required findings needed to grant a Special Use Permit. He added that, if the Board finds, based on the evidence, that the proposal is consistent with the Land Use Plan, they would be able to make a positive conclusion on that criterion.

Ms. Waddell expressed her desire to avoid prolonging the case unnecessarily, out of fairness to the applicant. However, she noted that, in addition to finding number 5, she felt the proposal did not meet finding number 2: "The proposed development will comply with all regulations and standards generally applicable to the zoning district." Based on testimony from Mr. Pearson, it seemed the proposal did not meet the standards for an R-30 zoning district. Mr. Spanioli expressed concern about finding number 4, specifically the issue of "harmony." He noted that the business was a commercial operation located in a residentially zoned area. Mr. Cebina countered that the fact that the applicant had been operating the business onsite for eight years indicated some level of harmony with the surrounding area.

Ms. Waddell outlined the five findings that the Board must make based on competent, substantial, and material evidence:

1. *The proposed development will not materially endanger the public health or safety.*

Ms. Waddell noted that testimony indicated the use would not increase traffic or impact utilities. Additionally, offsite disposal of waste produced by the business would be arranged, and all work would take place inside the garage, meaning there would be no impact on wastewater systems.

2. *The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses.*

Ms. Waddell reiterated that she had not seen sufficient evidence to demonstrate that the proposal would comply with the regulations for R-30, which is a residential-only zoning district.

3. *The proposed development will not substantially injure the value of the adjoining property, or is a public necessity.*

Ms. Waddell pointed out that the applicant had testified that he did not intend to increase the visibility of the business, and that the site would not be altered in any significant way from its previous operation. Setback requirements were met, and a fence was proposed for the site. She also noted that there had been few complaints from neighboring property owners.

4. *The proposed development will be in harmony with the area in which it is located.*

Ms. Waddell acknowledged that the Board had discussed both sides of the argument on this point. While any commercial use could potentially conflict with a residential neighborhood, she noted that the scope of work and the number of vehicles involved would be minimal. Mr. Cebina added that, for the record, there was no opposition to the proposed use from the neighbors.

5. *The proposed development will be consistent with the Wake County Land Use Plan.*

Ms. Waddell explained that staff had testified the proposal was not consistent with the Land Use Plan, and that the applicant's argument that the Board's approval would automatically update the Future Land Use Plan did not align with her experience as a Land Use Planner. She explained that the Comprehensive Plan was established by the Board of Commissioners as a long-term vision for what they wanted to see in various areas, including permitted uses. While it was within the applicant's rights to petition the Commissioners to amend the Plan, she clarified that such changes were outside the Board's purview.

Ms. Waddell entertained a motion on PLG-SU-004983-2024.

#### **Motion on PLG-SU-004983-2024**

Ms. Waddell made a motion in the matter of PLG-SU-004983-2024, that the Board find and conclude that the petition does not meet the requirements of Article 19-23 of the Wake County Unified

Development Ordinance because it is not consistent with standard 5 or standard 2, related to consistency to zoning districts and the Comprehensive Land Use Plan and the requested special use permit be denied.

Mr. Spanioli seconded the motion, and it was approved with the objection of Mr. Cebina.

**5. PLG-SU-005202-2024 (Mr. David Parks, Planner II)**

The petitioner is requesting Special Use Permit Approval as required by section 4-11 of the Wake County Unified Development Ordinance (UDO) for an existing electrical substation that has been previously established on the property in 1973.

**Voting Members**

Five voting members were identified:

1. Ms. Britany Waddell
2. Mr. Waheed Haq
3. Mr. William Wingfield
4. Mr. Joe Cebina
5. Ms. Irene Butler

**Location**

WAKE COUNTY PIN: 0619-14-7086  
ZONING DISTRICT: Residential-80 (R-80)  
LAND USE CLASSIFICATION: Rural (Holly Springs)  
WATERSHED: Cape Fear  
CROSS REFERENCE FILES: None  
APPLICANT: Duke Energy, Manoj Karki  
PROPERTY OWNER: Duke Energy Progress, Inc.  
PROPERTY SIZE: 1,012 Acres  
CURRENT LAND USE: Electrical Substation  
PROPOSED LAND USE: Electrical Substation

**Documentary Evidence Accepted into Record**

- Staff Report
- Staff Presentation
- Applicant's Application

**TESTIMONY AND EVIDENCE PRESENTED**

**Testimony by David Parks**

Mr. Parks was sworn in and requested that the Staff Report, Presentation, and the applicant's documents be accepted into the record. Ms. Waddell accepted the evidence, and Mr. Parks began his testimony.

Mr. Parks explained that the case before the Board was a request by Duke Energy for a Special Use Permit for an existing electrical substation located at 5413 Shearon Harris Road. The substation, which was originally constructed in 1973, with additional improvements made in 1991, is situated on a parcel zoned R-80 (Residential District). Since the substation predates the adoption of the Wake County UDO in 2006, this request also seeks to establish a special use for any future expansion of the facility. Mr. Parks further clarified that the site has access from Shearon Harris Road and consists of a fenced gravel yard with a turnaround area, accessed by a gravel driveway.

Mr. Parks provided the Board with the site plan submitted by the applicant, showing the existing substation and access road. He noted that the area to the west of the substation is proposed for future expansion. He also presented photos and videos of the site, indicating that sufficient vegetation is in place to meet the buffer yard requirements. Mr. Parks explained that a public hearing placard was posted on October 29, 2024, and notification letters were sent to adjoining property owners on October 22, 2024. To date, staff has received one phone call inquiring about the substation, but no formal opposition has been indicated.

Staff recommends that, if the Board makes positive findings on all required criteria, it approve the request subject to the conditions outlined in the staff report.

Ms. Waddell inquired whether the existing substation had been grandfathered in and if the Special Use Permit request was specifically tied to the proposed expansion. Mr. Parks responded that Duke Energy had contacted staff about the possibility of expanding the site. During the review, it was found that no Special Use Permit had been filed for the substation. When the substation was built in 1973, the requirement for a Special Use Permit did not exist. Therefore, staff determined that the best course of action was to acquire a special use permit to bring the site into compliance with current regulations.

### **Applicant's Presentation**

#### **Testimony by:**

- 1) Amy Crout, Smith Anderson Law Firm
- 2) Derrick Remer, District Manager, Government and Community Relations, Duke Energy
- 3) Chris Morris, Integra Realty Resources

Mr. Remer and Mr. Morris were sworn in to provide testimony. Ms. Crout introduced herself as an attorney with Smith Anderson Law Firm, representing Duke Energy in their request for a Special Use Permit. Ms. Crout requested that her presentation and application materials be entered into the record, which Ms. Waddell accepted. She thanked staff for their assistance and explained that when Duke Energy approached the County to discuss potential future accessory uses for the site, it was discovered that the substation did not have a Special Use Permit due to its construction predating the Wake County UDO. To bring the substation into compliance and avoid it being considered a nonconforming use, Duke Energy has decided to apply for this permit. Ms. Crout stated that her presentation would address the five special use standards required to make a positive conclusion. She also noted that Duke Energy had submitted written responses to each finding in their application and that she would present additional testimony to address any questions the Board might have.

Ms. Crout reviewed the site plan, explaining that the substation occupies 12 acres of a larger 1,000-acre parcel. Duke Energy also owns an additional 5,000 acres surrounding the property as part of the Shearon Harris Nuclear Power Plant. The area is zoned R-80, and a substation is allowed with a Special Use Permit. She pointed out that the additional standards for substations include restrictions on storage and requirements for the exterior appearance of any structures, which must be in keeping with the character of the neighborhood. She confirmed that these standards are met and that the substation has been in operation for over 50 years. No new service or storage areas are being proposed. Ms. Crout provided an aerial view of the site and noted that while the substation is technically a nonconforming use under the UDO, it has operated without incident for decades and would not materially endanger public health or safety. She added that the substation is in harmony with the area and consistent with the Wake County Comprehensive Plan.

Ms. Crout called Derrick Remer to the stand to provide additional information on the substation's role as a public necessity and its impact on public health and safety. Mr. Remer, a member of the Government Affairs team at Duke Energy, explained that the substation has been serving customers for over 50 years and is critical infrastructure for both the Shearon Harris Nuclear Power Plant and Duke's daily grid operations. He noted that any future accessory uses would address increased growth in the area, strengthening the energy infrastructure and improving service reliability. Mr. Remer also stated that only authorized personnel are allowed to access the site, and that access is strictly for maintenance, meaning there would be no increase in traffic. He added that the site is secured with fencing and lighting, and that no proposed modifications would negatively impact the surrounding area. The substation occupies a small portion of a 1,000-acre tract, which is surrounded by a 5,000-acre tract, providing ample buffer and minimal impact on neighboring properties. Mr. Remer further mentioned that Duke Energy had mailed a notice to 17 neighboring properties and made phone calls, with all feedback received being positive.

Mr. Haq inquired about security measures, and Mr. Remer responded that the station is monitored remotely 24/7 and is secured by multiple layers of fencing. Mr. Cebina asked about the scope of the proposed expansion, and Mr. Remer clarified that it would be limited to the western portion of the existing footprint. Ms. Waddell asked if the Special Use Permit request was related to bringing the substation into compliance or specifically tied to expansion plans. Ms. Crout clarified that the application was for the existing substation, and she provided a slide showing additional proposed accessory uses, which would be processed through administrative approval with the County. She emphasized that any proposed expansion would not require a separate Special Use Permit.

Ms. Crout added that Duke Energy intends to maintain the existing layout of the substation, with a single access road off Shearon Harris Road. She reiterated that the facility is surrounded by fencing and is remotely monitored for safety and security. The site does not require a well or septic system, and is connected to an existing transmission line. The substation has two parking spaces, as required by the UDO. Proposed accessory uses would be located to the west, further from Shearon Harris Road. Ms. Crout also noted that there is a significant vegetative buffer around the site, as shown on the site plan, and that Duke Energy plans to repair or replace deteriorated or dead screening within the next six months.

Ms. Crout called Chris Morris, an appraiser with Integra Realty Resources, to testify. She requested that his impact study be entered into the record. Mr. Morris explained that for his appraisal, he assessed the site as if the substation did not already exist. He noted that the adjacent residential properties are located to the east of Shearon Harris Road, between 1,300 and 2,100 feet from the proposed substation. The area between the homes and the substation is heavily wooded, and Shearon Harris Road is lightly traveled with no interchange at US-1. Mr. Morris compared other substations near residential developments in Wake County to determine whether the substation would adversely impact surrounding property values. Based on his analysis of properties in five different subdivisions, Mr. Morris concluded that there was no material impact on property values. He added that the properties he reviewed were closer to the substations than the proposed site.

Ms. Crout summarized the application, emphasizing compliance with the Special Use Standards, the substation's public necessity, and its consistency with the Wake County Land Use Plan.

Ms. Waddell then opened the floor for public comment. With no responses, the public hearing was closed, and Board discussion began at 10:27 a.m.

### **Board Discussion**

Ms. Waddell indicated that there were five elements the Board would need to make positive findings based on competent, substantial, and material evidence:

1) *The proposed development will not materially endanger the public health or safety.*

Ms. Waddell noted that the application was not making changes to the site, only to bring it into compliance with the UDO. No additional traffic is anticipated, and existing parking and buffering were compliant with regulations.

2) *The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses.*

Ms. Waddell indicated that the use was allowed in R-80 with a Special Use Permit.

3) *The proposed development will not substantially injure the value of the adjoining property, or is a public necessity.*

Ms. Waddell explained that it was fair to say this utility was a public necessity, and identified testimony from Mr. Morris that it would not injure the value of the adjoining property. She added that much of the adjoining property was owned by Duke Energy, providing a substantial buffer.

4) *The proposed development will be in harmony with the area in which it is located.*

Ms. Waddell noted that the substation was not changing its use and was surrounded by established tree buffers. It was not visible from the street and seemed to be in harmony based on testimony.

5) *The proposed development will be consistent with the Wake County Land Use Plan.*

Ms. Waddell identified testimony from Mr. Parks and Ms. Crout indicating it was consistent.

Ms. Waddell entertained a motion on PLG-SU-005320-2024.

#### **Motion on PLG-SU-005320-2024**

Mr. Cebina made a motion in the matter of PLG-SU-005320-2024, that the Board find and conclude that the petition does meet the requirements of Article 19-23 of the Wake County Unified Development Ordinance and General Statute 160D-705D and that the requested Special Use Permit be granted with the recommended staff conditions. The motion to approve is based on the following findings of fact:

- 1) The proposed development will not materially endanger the public health or safety;
- 2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses;
- 3) The proposed development will not substantially injure the value of adjoining property, or is a public necessity;
- 4) The proposed development will be in harmony with the area in which it is located and
- 5) The proposed development will be consistent with the Wake County Comprehensive Plan.

Ms. Butler seconded the motion, and it was approved unanimously.

#### **6. Planning, Development & Inspections Report**

Mr. Finn informed the Board that there had been an increasing trend of split zoning on properties under review, particularly in water supply watersheds. He noted that 41% of the County is located outside the 12 municipalities, falling within the unincorporated area. The primary role of counties is to manage regional water supply, particularly in terms of conservation and protection. As a result, zoning in water supply watersheds typically involves lower densities and larger lot sizes. Mr. Finn

mentioned that some subdivisions in the Falls Lake area are subject to more stringent technical reviews. He also highlighted that code enforcement remains active, and that some of the cases coming before the Board in December may be related to enforcement issues.

Additionally, Mr. Finn reported that 80% of pre-submittal forms for nonresidential uses that were submitted to the office led to formal applications. This, he noted, indicated that staff's collaborative efforts and proactive assistance have been effective in helping customers. He explained that information requests have shifted from on-site visits to phone inquiries, with an average of 480 calls per month. Staff aims to provide excellent customer service by taking the time to communicate proactively, hoping to reduce the number of cases that come before the Board.

Ms. Waddell asked how often the County reviews the UDO Use Table to address concerns, such as those raised during the first case. Mr. Finn responded that the review was related to changes in how activity centers (not Multi-Use Districts) are identified on the use map. He explained that staff regularly reviews the UDO, and that Ordinance Amendments were passed earlier in 2024. In the first quarter of 2025, Mr. Finn noted that he would be working with Mr. Maloney to gather additional feedback and explore potential amendments.

Mr. Maloney added that staff works closely with applicants to help avoid cases where approval is unlikely, but emphasized that applicants always have the right to be heard by the Board of Adjustment.

Mr. Finn concluded by indicating that he anticipated additional cases over the coming months.

## **7. Adjournment**

Ms. Waddell adjourned the meeting at 10:50 a.m.

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REGULAR MEETING  
WAKE COUNTY  
BOARD OF ADJUSTMENT  
November 12, 2024

All petitions complete, Britany Waddell declared the regular meeting of the Wake County Board of Adjustment for Tuesday, November 12, 2024, adjourned at 10:50 a.m.

Respectfully Submitted:



Britany Waddell  
Wake County Board of Adjustment

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