

**GAINESVILLE PLANNING AND APPEALS BOARD  
MINUTES OF MEETING  
JANUARY 12, 2016**

- CALL TO ORDER** Chairman Carter at 5:30 p.m.
- Members Present:** Chairman Doug Carter, Vice-Chair Jane Fleming, and Board Members George Hokayem, Carmen Delgado and Lemuel Betancourt
- Members Absent:** Board Member Connie Rucker and Eddie Martin, Sr.
- Staff Present:** Community Development Director Rusty Ligon, Planning Manager Matt Tate and Recording Secretary Judy Foster
- Others Present:** Council Members Zack Thompson and George Wangemann, and City Manager Brian Lackey

Chairman Carter welcomed Lemuel Betancourt to the Board. Chairman Carter also stated that he previously served on the Board for about eight years. He also welcomed City Manager Brian Lackey, Council Members Zack Thompson and George Wangemann, and his former French teacher Myrtle Figueras.

**MINUTES OF DECEMBER 8, 2015**

**There was a motion to approve the minutes as presented.**

Motion made by Vice-Chair Fleming  
Motion seconded by Board Member Delgado  
**Vote – 5 favor, 2 absent (Rucker, Martin)**

**NEW BUSINESS**

***NOTE: Board Member Hokayem recused himself from the meeting at 5:38 p.m.***

**A. Zoning Amendment Requests**

- 1) Request from the **Butler Property, LLC** to amend the existing Planned Unit Development (P-U-D) zoning on a 92.06± acres tract located on the north and south sides of the intersection of Old Oakwood Road and Millside Parkway (a/k/a **3035 Old Oakwood Road SW and 3523 Mountain View Road SW**).

Ward Number: Four  
Tax Parcel Number(s): 08-024-005-008A (Part); 08-025-000-004C  
Request: Single-family, multi-family, office/warehouse and commercial

**Staff Presentation:** Planning Manager Matt Tate gave the following staff presentation:

The applicant is proposing to amend a 92.06± acres portion of the Mundy Mill mixed-use development in order to better align the single-family uses with the proposed school site and the single-family lots located along Millside Parkway. In 2004, the 605± acres Mundy Mill development was originally annexed and zoned Planned Unit Development (P-U-D) for 1,148 single-family homes, 1,235 condominiums, townhomes or apartments, 806,000 square feet of office/warehouse space and

885,000 square feet of commercial/retail space. At this time, there are multiple phases of single-family homes under construction. Adjacent uses include single-family homes located within the Mundy Mill development and within and adjacent to the El Rancho Estates subdivision located within unincorporated Hall County. Non-residential uses include the RHW Trucking Company, ATEX, Inc. and undeveloped land owned by the Gainesville City School System for a future elementary school.

The Gainesville 2030 Future Development Map for the City of Gainesville places the subject property within the *Mixed-Use General* land use category and the *Low-Medium Density Residential* land use category and is located within the *Suburban Residential* Character Area. Specifically, the 92.06± acres subject property proposed to be amended is described as Pod's B, C and D which are highlighted on the map. Pod "B" is to be reduced in size but the planned office / warehouse / commercial uses will remain. Pod "C" will be increased in size and will contain the current planned multi-family residential units plus all of the multi-family units from Pod "D". The overall number of multi-family units for the entire development will not increase. Pod "D" will replace the current planned multi-family units with ninety (90) single-family lots. The overall number of single-family lots for the development will be increased by sixty (60).

According to the Gainesville Police Department, the additional 60 homes may create the potential for more law enforcement service calls along with the need to increase police presence.

The Planning Division staff is recommending **conditional approval** of this zoning amendment request based on the Comprehensive Plan and the adjacent uses. As part of the approval, the existing zoning conditions are recommended to remain, with the exception of minor modifications to zoning conditions 16, 17, and 18 as follows:

16. The number of single-family detached homes shall not exceed ~~1,148~~ **1,208** units and shall contain a minimum of 1,500 square feet of heated space....

17. The number of attached single-family condominiums, fee simple townhomes or apartments shall not exceed 1,235 total units to include a total of 775 units for Pod's ~~C~~ and E and 460 units for Pod's J and K.....

18. The height of an apartment building shall not exceed three stories, although  $\frac{3}{4}$  splits will be allowed. Each apartment unit will contain a minimum of 650 square feet for Pod's C, ~~D~~, E, J and K.....

**Applicant Presentation:** Wendell Starke, 6760 Hedge Row Lane, stated that he was the manager of the development company. Mr. Starke stated that Mr. Tate shared what the request was and he can share why they are requesting the change. He stated they are trying to get away from the traffic that would be generated from the proposed new school which will hold about 1,000 students. They initially had a joint entry into both the apartments and the proposed school which needs to be revised for safety reasons and the school system is working on that now. Because of the topography of the land, the apartments will move from Pod D to Pod C which will allow for more green space making the apartments more attractive and more conducive than the commercial uses. Also, moving the apartments away from the school would make the traffic pattern better. The office/warehouse/commercial component would remain along Old Oakwood Road which will tie into the proposed

bridge that will connect the university to the Mundy Mill development, planned for construction in the next few years.

**FAVOR:** None

**OPPOSE:** Luca Di Benedetto, President of ATEX, Inc. stated that he really was not opposed to the request but wanted to get more information because they plan to expand their plastics manufacturing facility which can generate noise and cause problems when adjoining residential areas. He also asked what type of business would be in the commercial area. Planning Manager Matt Tate stated that the commercial component on the south side of Old Oakwood Road would remain the same, noting it was quite a distance from ATEX to the residential area of Mundy Mill. Mr. Tate stated that he was not aware of any specific businesses going into the commercial area at this time. He also commented that traffic patterns would be coming from a residential standpoint off Millside Parkway; Buffer zones would be required to buffer residential uses from commercial uses; and there is also separation between the residential area and ATEX which consists of Old Oakwood Road and the railroad. Chairman Carter suggested Mr. Di Benedetto meet with staff if they are looking to expand their business to discuss any requirements.

**Planning and Appeals Board Comments:** None

**There was a motion to recommend conditional approval to amend the existing Planned Unit Development for single-family, multi-family, office / warehouse / and commercial as presented with the following conditions:**

**Conditions**

**Transportation/Traffic**

- 1. All road improvements associated within the scope of the proposed development shall be at the full expense of the developer(s). The scope of the development shall be defined as those roads/intersections directly within, adjacent to, and within 1,500 feet of the subject property as studied within the Traffic Impact Study (TIS) submitted with this application. These road improvements are to include additional signalization, turn lanes, widening of roads, striping, and signage as stated in the TIS. This may include all or portions of Mundy Mill Road, Meeks Road, Fairbanks Drive, Old Oakwood Road, Old Flowery Branch Road, and Mountain View Road. The cost of the required road improvements shall be prorated based on developed property values of the residential, commercial, retail, office and industrial properties.**
- 2. The developer(s) shall work with the Georgia Department of Transportation, Hall County Traffic Engineering, the City of Oakwood, and the City of Gainesville Public Works Department to ensure that these improvements are performed in a timely manner so as to not conflict with any of the existing or planned road projects that are scheduled to take place outside the scope of the proposed development.**
- 3. All sign locations, access point (new and existing) designations for *new* roads, sight distances, and sight triangles shall be reviewed and clarified, in the beginning stages of plans and submittals with GDOT**

and the Public Works Director so as to limit the number of access points in that area.

4. A signal warrant study will be required for the major intersections of internal streets within the development. If a signal light is warranted at a specific intersection, such installation shall be completed at the expense of the developer(s) and shall meet all specifications as determined by the Public Works Department. A signal light shall not be installed until traffic volumes actually meet the levels as determined by the warrant study.
5. The developer(s) shall meet with Public Works prior to initiating the final civil design to discuss a traffic calming plan. A traffic calming plan consisting of tools such as landscaped traffic circles at intersections, raised crosswalks, landscaped center medians, chicanes, or other measures that aid in keeping the average speed on residential streets approximately 25 mph or below shall be prepared and approved by Public Works. Specific measures in the approved plan shall be constructed at the same time the streets are constructed.
6. All roads dedicated to the City of Gainesville shall meet City specifications, and all private roads shall be constructed with materials that meet City specifications.
7. All interpretations relating to transportation and/or traffic improvement conditions shall be subject to approval of the Gainesville Public Works Director.
8. The new four lane parkway as reflected on the site plan shall be constructed and designed so as to allow a connection to the Tumbling Creek Connector across Old Oakwood Road.

#### Development Standards

9. Sidewalks shall be required along both sides of the streets within the development and shall be a minimum of four feet (4') wide along streets classified as residential streets and six feet (6') wide along collector streets and streets in the commercial zones. Alternatively, sidewalks shall be permitted along one side of the street in parkway areas at a minimum width of eight feet (8') and a minimum of five feet (5') along roads classified as residential streets.
10. All proposed single-family lots within the development shall only be allowed to access new interior roads within the subdivision. Direct access shall not be allowed onto roads that existed prior to this development.
11. Access to all service areas adjacent to single-family detached homes, including dumpster pads, shall be limited to the hours of between 9:00 a.m. and 6:00 p.m., unless an emergency situation warrants access to these areas.
12. Upon completion of the development, no outside storage of any materials shall be allowed. No storage of hazardous chemicals, as listed in the Standard Fire Code, shall be permitted.
13. Outdoor lighting used in this development; be it for recreational, security or general purposes, shall be of non-spill design and placed in

a manner so as to minimize direct visibility by adjoining or adjacent properties.

14. The proposed residential, office, commercial, and accessory structures shall be similar in scale and architecture to the elevation drawings and pictures as submitted with the application.
15. The subject property shall be developed substantially in accordance with the site plan with minor engineering deviations excepted. All site plan, architectural renderings, pedestrian/trail access plan, and traffic impact studies shall become a part of the annexation, zoning and rezoning ordinances.
16. The number of *single-family detached homes* shall not exceed **1,148** **1,208** units and shall contain a minimum of 1,500 square feet of heated space. Front facades shall consist of masonry, stacked stone, cedar shake or stucco, architectural accents excluded. The remaining three facades shall consist of these materials or cementeous siding such as HardiPlank. Single-family lots shall be no less than 6,000 square feet in size, with 60 feet of lot width at the building setback line and minimum lot width at right-of-way line of 20 feet, with the exception of Pod M of the concept plan which shall have a minimum lot width at the building setback line reduced to 50-feet.

Pod L of the concept plan dated 10/06/04 shall be the highest-end product proposed by the developer and shall contain a minimum of 1,800 square feet of heated space. Single-family lots shall be no less than 6,000 square feet in size, with 60 feet of lot width at the building setback line, and minimum lot width at right-of-way line of 20 feet. Front and side facades shall consist of masonry, stacked stone, cedar shake or stucco, architectural accents excluded. The rear facade may consist of these materials or cementeous siding such as HardiPlank.

Each home within all single-family residential detached pods will have an attached garage for at least two cars. The front yard of each lot shall be sodded and planted with at least one hardwood tree. Monument signage shall be used for the entrance to any detached single-family residential pod as per the attached site plan, and each entrance shall have plantings or other architectural accents.

17. The number of attached *single-family condominiums*, fee simple townhomes or apartments shall not exceed 1,235 total units to include a total of 775 units for Pod's **CD** and E and 460 units for Pod's J and K. The minimum unit/lot width for each condominium or fee simple townhome unit shall be 16 feet, and each unit shall contain a minimum of 1,200 feet of heated space. Building separations shall be as reflected on the site plan, and private drives built to City specs will be used within these communities. Front, side and rear facades shall consist of masonry, stacked stone, cedar shake, stucco, cementeous siding or a mixture thereof. No vinyl siding shall be allowed excluding soffit areas. No fewer than three or more than ten condominium or fee simple townhome units shall exist within one continuous structure, and front facades will be staggered. All single-family condominiums shall contain one car garages. Monument signage shall be used for the entrance to any attached single-family residential pod as per the sign plan.

- 18. The height of an apartment building shall not exceed three stories, although  $\frac{3}{4}$  splits will be allowed. Each apartment unit will contain a minimum of 650 square feet for Pod's C, D, E, J and K. Each unit shall have at least 1.75 parking spaces. Front, side and rear facades shall consist of masonry, stacked stone, cedar shake, stucco, cementeous siding or a mixture thereof. No vinyl siding shall be allowed excluding soffit areas. Minimum building separations shall be as depicted on the site plan. Signage shall be as per the attached sign plan.**
- 19. The subject property may be developed for up to 806,000 square feet of traditional office, mid-rise office, and office warehouse space. Within the 806,000 square foot maximum, commercial and retail uses may be allowed within Pods B and N. At no such time shall the maximum allowed square footage within those pods exceed what is specified on the approved concept plan. This space may be developed for these uses but sold in a condominium format. Height of such structures shall be limited to 3 stories from average finished grade. Parking spaces will be provided at a minimum ratio of 3.5 spaces per 1000 square feet of useable office space. Monument signage shall be required in any office pod as per Exhibit B, and lights shall be shielded and angled so as to minimize glare onto adjacent properties. Minimum setbacks shall be as per the site plan, but there shall be no minimum lot, lot width or lot frontage required.**
- 20. The subject property may be developed for up to 885,000 square feet of commercial/retail space. The maximum height of any structure, excluding architectural accents; such as clocks, cupolas and bell towers; shall be 50 feet. Use of pitched roofs shall be encouraged. Minimum setbacks shall be as per the site plan, but there shall be no minimum lot, lot width or lot frontage required. Parking shall be provided at a minimum of four spaces per 1,000 square feet of space. Lights shall be shielded and angled so as to minimize glare onto adjacent properties, and dumpsters shall be screened. Under no circumstances shall the following uses be allowed: Pawn shops, adult entertainment, adult bookstores, extended-stay hotel, rooming house, or boarding house. Signage shall be as per the attached sign plan.**
- 21. Architectural treatment shall be of consistent design throughout the community and as per the renderings.**
- 22. A minimum of 100 acres shall be maintained as green space, with passive recreation and trails as per the plan. Sidewalks shall connect the residential and non-residential components of this community.**
- 23. A Mandatory Property Owners Association will be created for the single-family detached community to insure that these conditions are observed during development and in terms of architectural consistency thereafter. Separate mandatory associations will be set up for the single-family detached and single-family attached products to own and manage open space, common areas, and architectural controls. Open space elsewhere in the project shall be maintained as common area by the overall Property Owner's Association, or by a separate Association within whose boundaries the common area is located. Maintenance of the amenities package set forth on the site plan shall be the responsibility of the owners of single-family detached homes. However,**

at the option of those residents, memberships may be extended to other Mundy Mill residents for a fee to cover maintenance. Amenities packages also may be established in the individual townhome or apartment pods, but shall be the responsibility of the owners of land therein.

#### Buffers

24. A 100 foot wide buffer shall be provided against Balus Creek and all other blue-line streams. The first 50 feet of the buffer shall be measured from the top of the creek bank and shall be undisturbed. The remaining 50 feet of the buffer, if disturbed, shall be stabilized and replanted with vegetation subject to Planning Department approval.
25. A 25 foot minimum perimeter buffer will be created and infilled as necessary with plant material. However, this buffer will not be required along any Mundy Mill Road frontages. Landscaped buffers of at least 25 feet are also required along any road frontages.
26. Landscaped buffers of at least 25 feet also shall separate any non-residential pod or existing non-residential use from a residential pod. The buffer shall be subject to Planning Department approval.
27. All proposed detention ponds shall be sufficiently fenced and buffered from view from all roads and adjacent properties. All buffer materials shall be approved by the Planning Department.

#### Gainesville City Board of Education

28. As agreed to by the owner/developer, the 17.0 acre tract of land identified on the plat/site plan attached as Exhibit A shall be reserved for use as an elementary school site. At that time (or earlier at the owner/developer's discretion), and presupposing the School Board still wants the property for an elementary school, the owner/developer shall promptly convey to it, without charge. In the event the School Board does not secure a building permit and begin construction of an elementary school before December 31, 2012, then the developer shall retain all rights to development of the entire 17.0 acres tract as per the original terms of zoning approval except for this condition, and the School Board shall promptly convey marketable title to the property back to the owner/developer at no charge. Additionally, if no elementary school is actually constructed on this site by December 31, 2013, then the School Board shall return marketable title to the property to the developer without charge. The conveyance documents executed by the owner/developer to the School Board will contain these terms and requirements. This agreement to reserve the 17.0 acres tract shall not prohibit the owner/developer from including it in any plat it may prepare for its development of a single-family residential pod and also will allow the owner/developer to put on it any necessary utility or other storm water easements which may be required for the development as a whole, provided such improvements do not materially affect the Board's ability to use the site for a school. This agreement also shall not prohibit the owner/developer from earlier transferring the 17.0 acres site to the City to be held for the School Board, subject to the requirements of this paragraph. Finally, but for utility/drainage easements or right-of-way dedicated as part of the road system in or along the frontages of

**the Mundy Mill development, the owner/developer shall not be required to dedicate or give to the City of Gainesville any additional property incidental to this development. However, if the School Board fails to acquire this property, then the owner/developer shall convey three acres of land to the City for a public safety use.**

**Notwithstanding any of the foregoing, if at such time as the School Board has acquired the 17.0 acres site and is ready to begin feasibility assessments, and if the State Board of Education should determine that the site is not then suitable for use as a school under the applicable state standards, then the Board of Education may sell the 17.0 acres tract and retain the proceeds for use in purchasing an alternative site. Provided, however, that once an arms length transaction for a fair market value purchase of the site has been secured by the School Board, the owner/developer shall have a right of first refusal to repurchase the tract at the exact same purchase price. Provided further, that the proceeds from such sale must be expended on a new school site within 60 days of closing, otherwise it shall be remitted instantly to the owner/developer.**

**The City notes that this condition may be imposed only because the owner/developer has agreed to it.**

#### **Quality Enhancement**

- 29. In order to further enhance and assure the quality of development, the City expects the developer shall perform/provide the following:**
- Detailed landscape plan for parkway, subject to approval by the Department of Planning and Development.**
  - Reconstruction of Mundy Mill as focal point for community, subject to approval of the Georgia Department of Transportation.**
  - A minimum of two amenity locations shall be provided for the entire development of the detached single-family residential pods. At minimum the amenity sites shall include a pool house, swimming pool and playground.**
  - Sidewalks and streetlights throughout community.**
  - All products within the development shall contain exterior construction materials limitation; must use brick, masonry stucco, stacked stone, cedar shake, or HardiPlank.**
  - Open space - 18%.**
  - Pedestrian trail plan (3.5± miles) connecting entire community.**
  - Parkway plan sidewalk width sufficient to create a bicycle lane.**
  - Every single-family home built on the subject property shall contain ceramic tiled bathroom floors.**
  - Every single-family home shall be built to accommodate at least one fireplace.**
  - No vinyl siding on any product within development excluding soffit areas.**

- **Each pod of townhouses and apartments will have its own amenities package.**
- **All underground utilities.**
- **Uniform mailboxes will be provided for each detached single-family residential pod.**
- **Uniform street signs will be provided throughout the development.**

**30. Along Balus Creek, the developer shall reserve for the City, by way of easement, a ten foot strip of land for use as a bicycle path. At such time as the City or County constructs an element of its bike path system to which this easement might connect, the City and/or County, at its/their expense, may pave this strip. No development shall occur on the property which would interfere with the eventual construction of this path by the appropriate governmental entity, except for the boulevard which will cross the creek.**

Motion made by Vice-Chair Fleming

Motion seconded by Board Member Delgado

**Vote – 4 favor, 1 recusal (Hokayem), 2 absent (Rucker, Martin)**

***NOTE: Board Member Hokayem returned to the meeting at 5:55 p.m.***

***NOTE: Board Member Delgado recused herself from the meeting at 5:56 p.m.***

- 2) Request from the **Alcovy-20, Inc.** to amend the existing Planned Unit Development (P-U-D) zoning on a 0.244± acres tract located on the west side of Lenox Drive, north of its intersection with Athens Highway (a/k/a **2613 Lenox Drive SE**).
- Ward Number: Three  
Tax Parcel Number(s): 15-022G-000-012  
Request: Single-family home

**Staff Presentation:** Planning Manager Matt Tate gave the following staff presentation:

The applicant is proposing to amend a property zoned Planned Unit Development (P-U-D) for the purpose of constructing a single-family home. The subject property is located within the Lenox Park Subdivision and is adjacent to single-family homes and undeveloped land. The proposed home is to be similar in architecture and scale with the existing homes within Lenox Park, but will be improved. The building setbacks for the property are to be the same as what is currently approved for the Lenox Park subdivision.

The Comprehensive Plan places the subject property within the *Low-Medium Density Residential* land use category and the *Suburban Residential* Character Area, which supports single-family uses.

The subject property was approved in 1997 as one of the original Lenox Park subdivision lots. Later in 2007 the subject property and the adjacent 47.6± acres tract to the west were rezoned together for the purpose of developing a 100-lot subdivision which has remained undeveloped. The subject property was specifically zoned to serve as the only access road for the adjacent tract, as there is an existing

zoning condition that does not allow access onto Floyd Road. In 2010, the subject property and adjacent tract were acquired by Branch Banking and Trust Company bank and were later sold separately in 2012 and 2013 to two different property owners not realizing the access restriction.

It is staffs understanding that the applicant and the adjacent property owner have discussed the issue; however, there has been no resolution to this matter. Therefore, at this time, staff is recommending **denial** of this zoning amendment request as the current proposal would remove the only means of approved access for the adjacent property.

**Applicant Presentation:** **John Roberts**, 540 Woodland Drive, stated he was President of Alcovy-20 and the owner of the property. He stated he has never been in a situation quite like this before, noting the adjacent property was purchased about a year before he bought the subject property with neither property owner knowing about this access lot at the time of the purchase. Mr. Roberts stated he found out about it about a year ago when he tried to get a building permit to build a house on the lot. He contacted the adjacent property owner to inform him about the situation and he did not have any plans for the property at the time and didn't want to purchase the subject lot. Mr. Roberts wants to move forward with his plans for the lot after failed attempts for the adjacent property owner to purchase his lot so rezoning was his only option. He stated that about two weeks ago the adjacent property owner offered to purchase the lot at only 50% of what the lot is worth and he rejected the offer but would consider a counter-offer. He stated that he told the adjacent property owner about two other lots on Lenox Drive that were for sale where he could gain access to his property but he is not aware if those property owners were contacted. Mr. Roberts stated that the adjacent property owner stated he didn't have any plans to do anything with the property for the next eight to ten years. Mr. Roberts stated he has a lot that he can't do anything with and he is between a rock and a hard place.

**FAVOR:** None

**OPPOSE:** None

**Planning and Appeals Board Comments:** Chairman Carter encouraged questions for Mr. Roberts. Chairman Carter noted that the two other lots on Lenox Drive are not currently zoned to allow access to the adjacent property at this time, but the property owner could go through the proper process to try to obtain access.

Upon inquiry by Board Member Hokayem, Planning Manager Matt Tate confirmed that the subject property was approved in 2007 for the sole purpose of providing access to the adjacent property for a subdivision.

Vice-Chair Fleming asked whose responsibility it was to catch that condition. Mr. Tate stated that it appears the bank did not disclose the condition of zoning to the purchasers and the two parcels should have actually been sold together.

Board Member Betancourt stated that in the letter staff received from the adjacent property owner he had offered Mr. Roberts five times the amount he paid for the property but Mr. Roberts refused the offer. There was some discussion as to whether the adjacent property owner meant that he offered five times the amount he

paid for the property or that he made five different offers to Mr. Roberts. Chairman Carter stated that regardless of what price was offered, the two property owners could not come to an agreement for the price of the lot.

Planning Manager Matt Tate stated that the purview of this Board is to consider if it is an appropriate use based on the Comprehensive Plan and also if it has any negative impacts to the adjacent property, noting this should be weighed in making a determination on the matter.

**There was a motion to recommend denial of the zoning amendment request.**

Motion made by Board Member Hokayem

Motion seconded by Vice-Chair Fleming

**Vote – 4 favor, 1 recusal (Delgado), 2 absent (Rucker, Martin)**

## **MISCELLANEOUS**

### **Doyle Johnson Proclamation**

Chairman Carter reminded the Board about the City Council meeting to be held on Tuesday, January 19<sup>th</sup> at 5:30 p.m. in which former Chairman Doyle Johnson will be honored for his outstanding service to the Planning and Appeals Board.

### **New Board Members**

Community Development Director Rusty Ligon stated that staff appreciated Chairman Carter and Board Member Betancourt for volunteering to serve on the Board because it is the toughest Board in the City.

## **ADJOURNMENT**

**There was a motion to adjourn the meeting at 6:11 p.m.**

Motion made by Vice-Chair Fleming

Motion seconded by Board Member Betancourt

**Vote – 4 favor, 3 absent (Rucker, Martin, Delgado)**

Respectfully submitted,

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Doug Carter, Chairman

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Judy Foster, Recording Secretary