

**LEWISVILLE PLANNING BOARD
REGULAR MEETING MINUTES
Wednesday, March 13, 2019 at 6:30 P.M.
Town Hall, 1st Floor Council Chambers 6510 Shallowford Road**

1. **Call to Order**

- a. Vice Chair Tom Lawson called the meeting to order at 6:30 p.m.

2. **Roll Call**

- a. Board members present were Joseph Hamby, Jessica Higgins, Meghan Flow, Michael Sullivan and Bill Scantland. Chair Jeanne Marie Foster was unable to attend. Also present were Planner Stacy Tolbert, Attorney Bo Houff and Town Clerk Joyce Walker.

3. **Regular Business**

- a. Approval of Agenda
- i. Mrs. Tolbert asked to add under *New Business* Item b. to 7., setting a public hearing for 1181 Reynolds Road for April 10, 2019.
 - ii. With that addition, Bill Scantland moved to approve the agenda as amended. The motion was seconded by Joseph Hamby and approved unanimously.
- b. Approval of Minutes
- i. February 13, 2019
 - (1) Jessica Higgins moved to approve the February 13, 2019 minutes. The motion was seconded by Joseph Hamby and approved unanimously.
 - ii. February 27, 2019
 - (1) Minutes were not available.

4. **Public Hearings**

- a. L-086 The Lake at Lissara Phase II, Section V
- i. Rezoning from RS-40 (Forsyth County) to RS-40-S (Town of Lewisville)
 - (1) The map for the rezoning was reviewed.
 - (a) The site consists of whole and portions of several properties that will complete six lots of a Planned Residential Development (PRD) along Lissara Camp Court.
 - (b) This is a rezoning that must occur following an annexation.
 - (c) The rezoning is to place under Lewisville jurisdiction from county jurisdiction.
 - (i) This is the public hearing for the rezoning portion of the process.
 - (ii) Later there will be the technical review of the seven *Findings of Fact* that must be determined.
 - (2) The staff report was reviewed:

PLANNED RESIDENTIAL DEVELOPMENT (PRD) STAFF REPORT
The Lake at Lissara Phase II, Section V

DOCKET: L-086

STAFF: Stacy Tolbert, Town Planner

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Petitioner: Long Hill Properties, LLC
Ownership: Frank Bailey, Bobby & Lynn Marie Messick, Stanley Mock

REQUEST:

A PRD in the RS-40S district. The request requires meetings of both the PB and the Town Council for approval of a special use permit.

PIN(s): 5876-12-3710, 5876-12-1670, 5876-02-7186, 5876-11-3907 (portion of) & 5876-03-7082
(portion of)

Acreage: 19.48

LOCATION:

Street: Lissara Camp Ct.

Jurisdiction: Town of Lewisville (consecutive annexation)

PROPERTY SITE/IMMEDIATE AREA:

Existing Structures on Site: The site is vacant of structures and is completely wooded.

Adjacent uses:

- * North - Vacant property, accessed off Baileys Cove Dr, zoned AG & RS-40
- * East - Single family residences, Existing phase of The Lake and Lissara, zoned RS-40
- * South - Single family residences, 350 & 394 Pilot Ridge Dr, zoned RS-40
- * West - Vacant property, accessed off Baileys Cove Dr, zoned RS-40

GENERAL AREA:

Character/Maintenance: The homes in this area are mainly single family medium to large lots. The existing subdivision west of the subject property is an established neighborhood with approximately 99 approved lots.

PHYSICAL FEATURES:

Topography: The site slopes from the eastern to the western portion of the site.

Vegetation/habitat: The property is completely wooded.

WATER AND SEWER FACILITIES:

The lots are to be served by public water where all lines are sized to provide domestic water service to the site and meet minimum fire protection requirements. The sewer provided to the lots is a private system consisting of a low pressure pump collection system of sewer lines.

TRANSPORTATION:

Direct Access to Site: Shallowford Road, Lissara Lodge Drive
Street Classification(s): Shallowford Road - Major Thoroughfare
Lissara Lodge Drive - Private street

Interconnectivity: NC Fire Code Appendix D requires there to be two entrances for ingress and egress purposes. Section 4(B)(1)(f) & (g) of the Town's UDO requires interconnectivity and

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connection of stub streets between adjacent subdivisions. This plan meets this requirement because the lots to be developed access an existing street.

CONFORMITY TO ORDINANCE/PLANS:

Town of Lewisville Unified Development Ordinance - The Unified Development Ordinance Planned Residential Development Use Conditions requires pedestrian access be provided. The UDO states that all new PRDs shall provide sidewalks, greenways or bikeways at a ratio of one (1) linear foot of sidewalk, greenway or bikeway per linear, centerline foot of public/private streets when considering the PRD as a whole. The UDO PRD requirements also state the sidewalks, greenways or bikeways shall meet or exceed ADA standards and shall otherwise be constructed of concrete, asphalt or other all-weather surface. The overall *Lakes at Lissara* subdivision has existing sidewalks and greenways/nature trails; however the greenways/nature trails do not meet ADA standards. In a separate document enclosed with this staff report, the applicant has requested an exemption from the ADA standards requirement of the greenways/nature trails, to be exempted by the Elected Body.

Lewisville Comprehensive Plan Update 2015 - The Plan describes this area as being single family residential and being classified as rural due to being located in the Yadkin River watershed. The minimum lot size is 2 acres, 1 acre if clustered and 20% of the site is left in open space. The proposed plan does meet the minimum 1 acre as stated in the plan and does conform to the PRD requirements as well as the open space requirements.

Legacy Development Guide - *Legacy* recognizes this area as being in GMA-5 Rural Area. *Legacy* states GMA-5 includes development goals encouraging subdivisions that conserve open space and not zoning property to more intense districts. This project does exceed the town's open space requirements and is a lateral zoning request to remain RS-40.

ANALYSIS:

The applicant is requesting for the property to be annexed in to the Town of Lewisville for a Planned Residential Development. The property is currently zoned RS-40 under the Forsyth County zoning districts. Through this process, if approved, the property will be annexed into the Town, rezoned to RS-40 under the Town of Lewisville zoning districts and allowed a special use permit, approved by the Elected Body, for a PRD in the RS-40 zoning district.

The Town's *Comprehensive Plan* designates the area within which the project lies as rural due to it being located in the Yadkin River Watershed. This area is mainly seen as very low density and agricultural. The RS-40 zoning district requires lots to be a minimum of 40,000 sqft.

Town staff is of the opinion that the request is in general conformance with the Town's *Comprehensive Plan and Legacy* for the area. The developer has met the PRD requirements and the RS-40 requirements for overall density of the tract of land.

FINDINGS OF FACT AT PLANNING BOARD MEETING:

Findings of the Planning Board accompanying a favorable recommendation shall include:

- (1) The development is in conformity with Legacy

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- (2) Water and sewer service are available in adequate capacity
- (3) Where buildings greater than thirty-five (35) feet in height are proposed within the Lewisville Town limits, there is adequate access for aerial fire-fighting equipment
- (4) Streets and highways, both within and in the vicinity of the development, are of such design and traffic-carrying capacity that the development will not create a traffic hazard
- (5) General layout and design of the development meet all requirements of this Ordinance
- (6) Adequate, safe and convenient provision is made for vehicular and pedestrian movement on the site with particular attention paid to the needs of public safety equipment and personnel (fire, police, etc.) and service vehicles and personnel (sanitation, postal delivery, etc.)
- (7) The Planning Board may recommend to the Elected Body conditions as identified in Section B.6-1.3(A)(1) for the issuance of the special use permit to reduce impacts associated with the project.

RECOMMENDATION:

The project meets the overall density requirements of the RS-40 zoning district as well as the PRD requirements as stated in Section 2-5.59. Staff recommends the project be approved as long as any conditions placed are met including the staff placed conditions below:

1. All comments from the Technical Review Committee shall be remedied.
2. A Staff Change shall be completed with the City/County Planning & Development Services Department to re-allocate open space required for the County approved Planned Residential Development to a new location prior to the signing of a final plat.
3. The PRD Pedestrian Access requirements regarding ADA compliance are waived by the Elected Body.

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- i. The public hearing was opened at 6:38 p.m.
 - (1) Cornelio Ruperto, 350 Pilot Ridge Drive, Lewisville, owned property adjacent to the property being rezoned and came to find out information.
 - (a) Attorney Houff explained the statutory technical rezoning change that must be done following an annexation. The zoning change is from the county to a municipality. Otherwise, the municipality into which the property is annexed has no jurisdiction over the property. Also the town's open space requirements are less stringent than the county's. This does not affect the Ruperto property for annexation. On the PRD portion, the developer will either meet the *Findings of Fact* or not and the public will not be allowed to speak at that time.
 - (2) Debrorah Breyer, 9647 Lissara Camp Court, Lewisville, had questions about the site plan; however, that is not the portion under review and any of those questions could not be answered at this time.
 - (3) Zack Lyon, 9227 Sparrow Hawk Court, Lewisville, had questions about the rezoning and site plan. He also asked about services and whether other property owners will

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have to come into the town.

- (a) Mrs. Tolbert explained that there are technical questions that must be answered. The rezoning has to do with the annexation. The rezoning is to change from county to town jurisdiction. If there are going to be any changes to the site plan, the developer would have to ask for a site plan amendment.
 - (b) Mr. Houff also explained that there is a five foot wide strip that makes the annexation contiguous to the town. Any services provided to residents of the town are extended to the properties being annexed. He also explained that there are no longer forced annexations in the State of North Carolina. Any property owner must petition the town to be annexed.
- ii. Having no other speakers, the public hearing was closed at 6:50 p.m.
 - iii. Attorney Houff also explained that nothing at this meeting is final. This is a recommendation only to Town Council, who will make the final decision on this case. Later you will hear the technical review. At the Town Council, residents will be able to provide evidence at the quasi-judicial hearing.
 - iv. After discussion, Tom Lawson made the motion to recommend this to Council for their approval. The motion was seconded by Meghan Flow and approved unanimously.
- b. L-087 Pegram Landing Phase II
 - i. Public Hearing:
 - (1) Rezoning from RS9 to RM12-S for multi-family complex
 - (a) This rezoning is of property already located in the town. Everyone was reminded that Phase I was rezoned in May 2018.
 - (b) The map and site plan were reviewed, noting that there are four different PIN numbers associated with this rezoning.
 - (c) This is approximately five acres which will allow for 60 units.
 - (d) Pegram Farm Road will continue to be used for access.
 - (e) This portion of the town is considered an activity zone and this project is a transition from the business area to single family homes.
 - (f) DOT has not yet responded about access.
 - (g) The Planner has recommended approval of the rezoning and would place a condition that the TRC comments would have to be met.
 - (h) There is a connection noted between the two phases.
 - (i) The staff report follows:

SPECIAL USE DISTRICT REZONING STAFF REPORT
Pegram Landing Phase II

DOCKET: L-087

STAFF: Stacy Tolbert, Town Planner

Petitioner: Charlie Heritage with South Creek Development, LLC

Ownership: John Todd Pegram

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REQUEST OF REZONING:

From: RS-9 (Residential Single Family, minimum lot size of 9,000 sq.ft.)
To: RM-12-S (Residential Multifamily, maximum 12 units/acre)
PIN#: 5885-91-7317, 5885-97-5413, 5885-91-6553, & 5895-01-1273
Acreage: 5.02 acres

LOCATION:

Street: 6550 Pegram Farm Road
Jurisdiction: Town of Lewisville

PROPERTY SITE/IMMEDIATE AREA:

Existing Structures on Site: The site has an existing home place as well as some accessory structures.

Adjacent uses:

- * North - Single family residences, 6559 & 6590 Pegram Farm Rd, zoned RS-9
- * East - Single family residence, 4968 Styers Ferry Rd, zoned RS-9
- * South - Pegram Landing Phase I, zoned RM-12S for a 60 unit Multifamily site including 5 buildings and a clubhouse, zoning docket L-083 approved May 10, 2018
- * West - Single family residence, 1175 Lewisville Clemmons Rd, zoned RS-9

GENERAL AREA:

Character/Maintenance: This area is somewhat of a transition zone between residential usage and commercial usage.

PHYSICAL FEATURES:

Topography: The site slopes gently from the east to west portion of the site.

Vegetation/habitat: The majority of the property is wooded except for areas around the existing structures.

Impact on Existing Features: Impacts are to be expected. The wooded areas are likely to be removed as well as the structures on the property due to the request to build 60 apartments.

WATER AND SEWER FACILITIES:

Public water and sewer are available to the site. All lines are sized to provide domestic water service to the site and meet minimum fire protection requirements. All sewer lines are sized to provide adequate service to the property.

TRANSPORTATION:

Direct Access to Site: Styers Ferry Rd
Street Classification(s): Styers Ferry Rd, major collector
Average Daily Traffic Count/Estimated: 16,000 (source: NCDOT AADT 2017)

HISTORY/RELEVANT ZONING CASES:

- * L-029; RS-9 to RM-5-S and RM-12-S (Single-Family and Attached Residential Housing); approved 08/14/2003; south side of Shallowford Road west of Summerglenn Drive; 54.86 acres; Planning Board and staff recommended approval.
- * L-078; RS-20 to RS-9-S (Single-Family Residential Housing) approved 04/13/2017; south side of Lewisville

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Clemmons Rd and near Lalanda Drive; 10+/- acres; Planning Board and staff recommended approval.

- * L-083; RS-9 to RM-12-S (Multi Family Residential) approved 05/10/2018; west side of Styers Ferry Rd adjacent to this property for Phase I of this same project including an apartment complex of 60 units; Planning Board and staff recommended approval.

CONFORMITY TO PLANS:

Lewisville Comprehensive Plan Update 2015 - The Plan describes this area as being where higher density uses are appropriate, particularly where sewer is available. This area is shown as activity center on Map 9 of the comprehensive plan. This area would be suitable for multifamily development due to ease of access to surrounding complementary uses.

The Plan also contains a number of "Recommended Actions." In the chapter on Land Use, recommendations include; allowing higher density where appropriate, preserving the character of town, and promoting high density development in areas supported by infrastructure.

Legacy Development Guide - Legacy recommends increasing residential densities along growth corridors and in activity centers.

ANALYSIS:

The applicant is requesting a change from RS-9 to RM-12-S zoning; as a "special use" request, a preliminary site plan has been submitted for review by staff and the Board. Both the RS-9 and RM-12-S zoning districts are intended to accommodate residential uses. RS-9 is intended to accommodate single family and the RM-12-S is intended to accommodate multi-family. Multi-family usage is not permitted in RS-9 zoning. The applicant is sensitive to concerns that may exist for those non-residential uses that are allowed as uses by right in the RM-12 zoning district. It is for this reason that he has asked that only multi-family apartments be approved for construction.

The major difference between RS-9 and RM-12-S zoning is the multi-family component. The lot size and dimensional differences are summarized below:

	<u>RS-9</u>	<u>RM-12-S</u>
Minimum Lot Size -	9,000 sq.ft.	7,000 sq.ft.
Minimum Lot Width -	65 ft	70 ft
Minimum Front Yard -	20 ft	25 ft
Minimum Rear Yard -	25 ft	25 ft

RS-9 is generally considered to accommodate high density single family detached dwellings in urban areas. This district is typically used for single-family development where public sewer is available. RM-12-S is primarily intended to accommodate multi-family uses at a maximum of 12 units per acre. This district is appropriate in GMAs 1, 2 and 3 and may be suitable for metro activity centers where public water and sewer are available.

The Town's *Comprehensive Plan* designates the area within which the project lies as GMA-3 "Suburban Neighborhood." This acknowledges opportunities made available by having access to public water/sewer and proximity to existing thoroughfares such as Lewisville-Clemmons Road and US421. The proposed RM-12-S zoning would support the uses in the nearby activity center. The requested density is more than that found immediately

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surrounding the subject property. The majority of the lots in the area are 3/4 acre or more with RS-9 zoning. The proposed rezoning, if approved, would allow multi-family use in and around the activity center at Lewisville Clemmons Rd/Styers Ferry Rd/US 421. Although the density and use may differ from the existing uses in the area, the proposed land use (multi-family residential units) is appropriate for the area and would complement the existing commercial uses in the area.

Town staff is of the opinion that the request is consistent with the Town's *Comprehensive Plan* for the area and complements the uses in the activity center.

FINDINGS:

1. The request is for special use zoning; a preliminary draft site plan has been submitted and a specific use requested. If the property is later subdivided, the Planning Board and the Town Council will be required to review and approve the subdivision plan.
2. The uses allowed under either RS-9 or RM-12 are similar in that they are residential in nature; however, different types of residential uses are allowed in RM-12.
3. The requested zoning would allow residential development at densities higher than most nearby properties. However, the requested density is supported by existing infrastructure and anticipated and encouraged by the Town's *Comprehensive Plan*.
4. The proposed zoning district would not introduce a use(s) or density of development incompatible with the existing nearby residential development.

STAFF RECOMMENDATION:

The site has available infrastructure to support the density of development that is being proposed. Statements found in both the *Lewisville Comprehensive Plan* and *Forsyth County Legacy Plan* encourages higher density within a suburban/urban environment along growth corridors or in activity centers. Given these findings and other supporting information found in this report, staff recommends the rezoning to the Planning Board.

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- (j) Board members asked about the connection between the two properties and were advised that it is best to base decisions on the site plan presented and not to speculate on what might be. Also, the Council may ask for changes at their hearing.
 - (k) Charlie Heritage, 7204 West Friendly Avenue, Greensboro, the developer, explained he doesn't have a problem with different inter-connectivity within the two projects; however, he is concerned about what the DOT will say about the site plan as well as stacking. He said he will be doing whatever the DOT tells him to do. He's not sure if the DOT will be asking for other improvements on Styers Ferry Road.
 - (2) The public hearing was opened at 7:05 p.m.
 - (a) Sarah Jones, 4805 Styers Ferry Road, Winston-Salem, said that she has learned to live with increased traffic and accidents. She pointed out that

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another property down the road has been approved that will place more than 300 new residents and retail/businesses in the area. She talked about the traffic study that was prepared by the DOT detailing accidents along Styers Ferry. The traffic study noted that there were a number of accidents between Phillips Bridge and HWY 421. Most of the accidents were people trying to make a left into Jbutlers restaurant. She would like to see the property remain as RS9 for less traffic impact and for everyone to consider this rezoning very carefully. She asked about whether there will be schools because of all the new construction.

- (b) Charlie Heritage, 7204 West Friendly Avenue, Greensboro, reminded everyone that this project is a mirror image of Phase I with 60 units that will have its own playground, picnic shelter, etc. He said there will be a mix of materials such a brick, vinyl, wood, etc. for the exterior. Each building will be three stories in height with fire sprinklers. He related that this zoning traffic count would be 487 trips a day compared to a retail traffic count that would yield 2500 trips a day and is in the activity zone as noted by the Comprehensive Plan. As a transition area, there will be good buffer around the property. His company will be partnering with a firm that manages property and there are no plans to sell the property once it is built. There will be sewer piped from Styers Ferry Road. Mr. Heritage also provided background on himself and his company.
- (3) Having no other speakers, the public hearing was closed at 7:22 p.m.
- (4) Mr. Lawson explained the activity center overlay as a defined area so that there would not be sprawl along Styers Ferry Road.
- (5) Board members commented that the project is a good one as well as the site plan but there are traffic concerns, noting that there is incomplete information for the DOT.
- (6) There was much discussion on the traffic issue and concern by members of the board.
 - (a) Several members wanted to know when the traffic report would be available for the DOT and were hesitant to move the project forward until the report is received and traffic impact is noted.
 - (b) Because other projects are on Styers Ferry, there was concern whether the DOT is analyzing the entire road for traffic mitigation.
 - (c) There was a comment that this is an opportunity to have a voice in the process (with the NCDOT) and could choose not to approve based on this traffic issue.
 - (i) It was noted that the board is not qualified to make this decision.
- (7) After discussion, Tom Lawson moved to recommend approval of the special use zoning to Council but to get a more proactive response from the DOT to projects and with the condition to include a second internal connection between Phase I and Phase II. The motion was seconded by Bill Scantland and approved with a 4-2 vote with board members Hamby and Higgins voting against.
 - (a) Mr. Hamby stated that the motion on the table doesn't protect the citizens or the area.
 - (b) There was discussion on the internal connection for better traffic flow.

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- (8) If the internal connection is made on the plan, the update will be provided to the board.

4. Technical Review

- a. L-086 The Lake at Lissara Phase II, Section V
 - i. Review for Compliance for PRD
 - (1) The site plan was reviewed, noting the cul-de-sac improvement and fire protection.
 - (2) There is a letter addressed to Council asking for an exemption for the ADA requirements.
 - (3) (See the staff report above for the seven *Findings of Fact*.)
 - (4) All TRC comments have been remedied.
 - (5) The open space requirements for the county and town were identified and will be completed by both staffs.
 - ii. Lang Wilcox, 1210 Forest Wood Drive, Lewisville, explained the open space changes and the coordination between the county and the town.
 - iii. Attorney Houff again reiterated the complexity of this process since it involves annexation, rezoning and the PRD requirement for an evidentiary hearing. He also explained that some of the hearings are public and others are not. The process is:
 - (1) A public hearing on the rezoning and assuming it goes well, contingent on the annexation.
 - (2) A request for the Planned Residential Development (PRD) at a quasi-judicial hearing where evidence is presented in an **evidentiary hearing** for the four *Findings of Fact* for a special use permit, and if all goes well, contingent on the annexation.
 - (3) Finally, the annexation. If the annexation is not approved, the developer has the right to withdraw the others.
 - iv. There were no inconsistencies in the *Findings of Fact*.
 - v. With no additional discussion, Joseph Hamby stated that L-086 is consistent with the seven *Findings of Fact* and recommends to approval to Council along with the conditions recommended by staff. The motion was seconded by Bill Scantland and approved unanimously.

5. Reports & Updates

- a. Chair
- b. Planner
 - i. The town survey is undergoing its final draft.
 - ii. The resolution reiterating the authority of the planner to make minor site plan changes will be going to Council tomorrow night. Some examples were discussed and they are in agreement. Council was also reminded that this authority is in the UDO.
 - iii. The Utility Committee voted 4-1 to recommend Alternative 2 to the Council for the replacement of the lift station behind the Food Lion. Their thought process was to provide service to existing neighborhoods. Council will also decide tomorrow which alternative to provide to CCUC.
 - iv. RFQ's have been received from nine firms for the new community center. There is a meeting to make a short list for presentations on March 25th and 26th.

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- v. Discussion
 - (1) There was a question on whether Planning could comment on Utilities and vice versa.
 - (2) Attorney Houff explained that Planning might be looking at impacts to planning but that direction would be coming from Council.
 - (3) There was a comment that this might be a good opportunity for the two to look at opportunities together.
- c. Clerk
 - i. No report.

6. New Business

- a. L-088 The Lake at Lissara Phase II, Section VI
 - i. Briefing will be next meeting and information will be in packets.
- b. Set public hearing on L-089 for 1181 Reynolds Road
 - i. This property has also asked to be annexed into the town.
 - ii. This is also required to be rezoned from county jurisdiction to town jurisdiction.
 - (1) Bill Scantland moved to set the public hearing for April 10, 2019 for L-089. The motion was seconded by Joseph Hamby and approved unanimously.

7. Continued Business/Work Session

- a. Neighborhood Outreach Requirements
- b. Land Use - Defining Map Sections
- c. Uses/Ordinance Assignment

8. Meeting Review

- a. Action Item Consensus/Next Steps
- b. Next Meetings
 - i. Work Session - March 27, 2019
 - ii. Public Hearing - April 10, 2019

9. Adjournment

- a. Having no other business to discuss, at 8:24 p.m., Joseph Hamby moved to adjourn the meeting. The motion was seconded by Jessica Higgins and approved unanimously.

Tom Lawson, Vice Chair

ATTEST:

Joyce C. McWilliams Walker, Town Clerk