



# Minutes of the Roanoke Rapids City Council

A regular meeting of the City Council of the City of Roanoke Rapids was held on **Tuesday, October 1, 2019 at 5:15 p.m.** in the Council Chambers at the Lloyd Andrews City Meeting Hall.

**Present:** Emery G. Doughtie, Mayor  
Carl Ferebee, Mayor Pro Tem  
Ernest C. Bobbitt)  
Wayne Smith)

**Council Members**

Joseph Scherer, MPA, MS, City Manager  
Gilbert Chichester, City Attorney  
Traci Storey, City Clerk  
Leigh Etheridge, Finance Director  
Bobby Martin, Police Chief  
Kelly Lasky, Planning & Development Director  
John Simeon, Parks & Recreation Director  
Larry Chalker, Public Works Director  
Jason Patrick, Fire Chief  
Christina Caudle, Main Street Director

**Absent:** Councilwoman Suetta S. Scarbrough  
Kathy Kearney, Deputy City Clerk/Human Resources Manager

Mayor Doughtie called the meeting to order and opened the meeting with prayer.

**Adoption of Business Agenda**

Mayor Doughtie asked Council members about any known conflicts of interest with respect to the matters before them this evening.

There being no conflicts, a motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried to adopt the business agenda for October 1, 2019 as presented.

## Special Recognitions

### **Proclamation Recognizing Fire Prevention Week**

Mayor Doughtie read the following proclamation and presented it to Fire Chief Patrick, Deputy Chief Hux and Deputy Fire Marshal Butts:

#### **Proclamation Recognizing National Fire Prevention Week**

*WHEREAS*, the City of Roanoke Rapids is committed to ensuring the safety and security of all those living in and visiting Roanoke Rapids; and

*WHEREAS*, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

*WHEREAS*, the majority of US fire deaths (4 out of 5) occur at home each year; and

*WHEREAS*, when the smoke alarm sounds Roanoke Rapids residents may have less than two minutes to escape to safety; and

*WHEREAS*, Roanoke Rapids residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

*WHEREAS*, Roanoke Rapids residents should make sure everyone in the home knows how to call 9-1-1 or the local emergency number from a cell phone or a neighbor's phone; and

*WHEREAS*, Roanoke Rapids residents should practice using different ways out; and

*WHEREAS*, Roanoke Rapids residents should get out and stay out, never going back inside the home for people, pets, or things; and

*WHEREAS*, Roanoke Rapids residents are responsive to public education measures and are able to take action to increase their safety from fire, especially in their homes; and

*WHEREAS*, the 2019 Fire Prevention Week™ theme, “Not Every Hero Wears a Cape. Plan and Practice Your Escape!™” effectively serves to remind us that we need to take personal steps to increase our safety from fire.

*THEREFORE*, I, Emery G. Doughtie, Mayor of the City of Roanoke Rapids, do hereby proclaim October 6–12, 2019, as Fire Prevention Week throughout this city, and I urge all the people of Roanoke Rapids to be aware of their surroundings, look for available ways out in the event of a fire or other emergency, respond when the smoke alarm sounds by exiting the building immediately, and to support the many public safety activities and efforts of the Roanoke Rapids Fire Department during Fire Prevention Week 2019.

*IN WITNESS WHEREOF*, I have hereunto set my hand and caused the Seal of the City of Roanoke Rapids to be affixed this the 1<sup>st</sup> day of October, 2019.

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**Emery G. Doughtie, Mayor**

Chief Patrick said Deputy Chief Hux and Deputy Fire Marshal Butts were the guys leading the Fire Prevention efforts. They started last week but this week they have the preschools coming to visit the station. Next week they will be at Belmont Elementary and the following week at Manning Elementary. In between they will have different groups visiting the station.

### **Public Comment (Unscheduled)**

#### **Gary Danek**

Mr. Danek stated his issue is to be addressed to whomever is supposed to fix the air-conditioning at the Jo Story Senior Center. Old folks are a little more sensitive to hot and cold. He went there this morning and opened the door to the computer room and it was like opening a door to an old attic; the rest of the building was cool. He has asked them numerous times to fix it. He talked with City Manager Scherer about it and he helped it. It is a Band-Aid job at best, it is not working again in the computer room. Computers generate more heat. It is being patched, not being repaired. Whomever is doing it for them, if it is a contractor, he is making money off of it. If it is the City, then we need to get it done correctly. He asked for something to be done about it so it will be comfortable for everybody. He believes the guy that is fixing it is just putting in a shot of Freon. He thinks it is a leak causing the problem.

#### **Terry Buffaloe**

Mr. Buffaloe said he wanted to talk about democracy and how in a small community we should be able be a reflection of a more clear and fair and equitable path to democracy. I know everybody has their little tricks and hooks they play to downplay or silence opposition. Oh I want to keep this and let everything stay the way that it is. That is a big problem here because the main thing that is a problem is academic performance in all our school system really sucks. That impedes economic development as well as our ability to discern what the problem is. I have been saying these things for years and I have run for office a few times. The bottom line is I do not want to be one to be suppressed or silenced and I want to have an open debate with Mr. Ferebee at some point so the citizens can actually understand what they are voting for.

Councilman Smith called for point of order and stated this is not the platform for political subject matter.

Mr. Buffaloe stated you may be right about that so I retract part of that.

Attorney Chichester said Councilman Smith is correct and Mr. Buffaloe should not continue with the political issue.

## Approval of Council Minutes

Motion was made by Councilman Smith, seconded by Councilman Bobbitt and unanimously carried to approve the September 17, 2019 Regular Council Meeting minutes and the September 23, 2019 Special Meeting minutes as drafted.

## Public Hearing

### Continued Public Hearing for Rezoning Request (Leonard Love – Properties addressed as 205, 207 and 209 Mullen Drive from R-6 Residential to B-4 Commercial District

Mayor Doughtie re-opened the public hearing.

Planning & Development Director Lasky stated the public hearing is continued from September 3, 2019. She reviewed the following report and made a PowerPoint presentation:

Rezoning Request (map attached) – Leonard Love is requesting an amendment to the Roanoke Rapids Zoning Map to rezone properties addressed as 205, 207 and 209 Mullen Drive, Halifax Co. Parcels 0904738 (0.243± acre), 0906312 (0.232± acre) and 0902191 (0.218± acre) from R-6, Residential District to B-4, Commercial District. Located on the 205 Mullen Dr. parcel is a single-family house, along with two (2) accessory buildings in which the applicant operates a vehicle repair business.

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#### Summary Overview

<i>Subject Property</i>	<i>205 Mullen Drive has 67 feet of road frontage on the west side of Mullen Drive and a depth of 158 feet. 207 Mullen Dr. has 64 feet of road frontage on the west side of Mullen Dr. and a depth of 158 feet. 209 Mullen Dr. has 60 feet of road frontage on the west side of Mullen Dr. and a depth of 158 feet.</i>
<i>Proposal</i>	<i>Rezone from R-6 Residential District to B-4, Commercial District.</i>
<i>Applicant</i>	<i>Leonard Love</i>
<i>Property Owner</i>	<i>Leonard M. Love and Julie E. Love</i>
<i>Present Use</i>	<i>Vehicle repair shop</i>
<i>Proposed Use</i>	<i>Vehicle repair shop</i>
<i>Staff Recommendation</i>	<i>Deny.</i>

**WHEN EVALUATING A REZONING REQUEST, IT IS APPROPRIATE TO CONSIDER ALL PERMISSIBLE USES IN THE REQUESTED ZONING DISTRICT. CITY COUNCIL CANNOT SPECIFICALLY LIMIT WHICH USES ARE ALLOWED (OR NOT) AS A RESULT OF ANY REZONING CONSIDERATION.**

CONSIDER IMPACT ON/FROM:

- POTENTIAL USES
- NEIGHBORS
- GENERAL PUBLIC
- TRAFFIC
- UTILITIES
- NEIGHBORHOOD CHARACTER
- SCHOOLS

OMIT FROM CONSIDERATION:

- ETHNICITY
- RELIGION
- INCOME
- RENT OR OWN



Figure 1 Aerial Image of Subject Property

**Analysis and Detail:**

**1. Applicant and Property Owner**

The applicant is Leonard Love. A Deed recorded on February 1, 2019, shows a change in the ownership of 205 Mullen Drive from Michael M. Love to that of Leonard M. Love and wife, Julie E. Love with an address listed as 710 Liles Road, Littleton, NC 27850.

A Deed dated July 1, 2019, records a transfer in ownership of 207 and 209 Mullen Drive from Premier Land, LLC, to William Joseph Love. According to Leonard Love paperwork is being processed to obtain ownership of this property, and a Deed is expected to be recorded soon.

**2. Location/Area Description**

Mullen Drive is a north-south oriented, one block street in the City's Planning and Zoning jurisdiction. The subject lots, 205, 207 and 209 Mullen Drive, are located on the west side of Mullen Drive. (*See Figure 1, p. 2*)

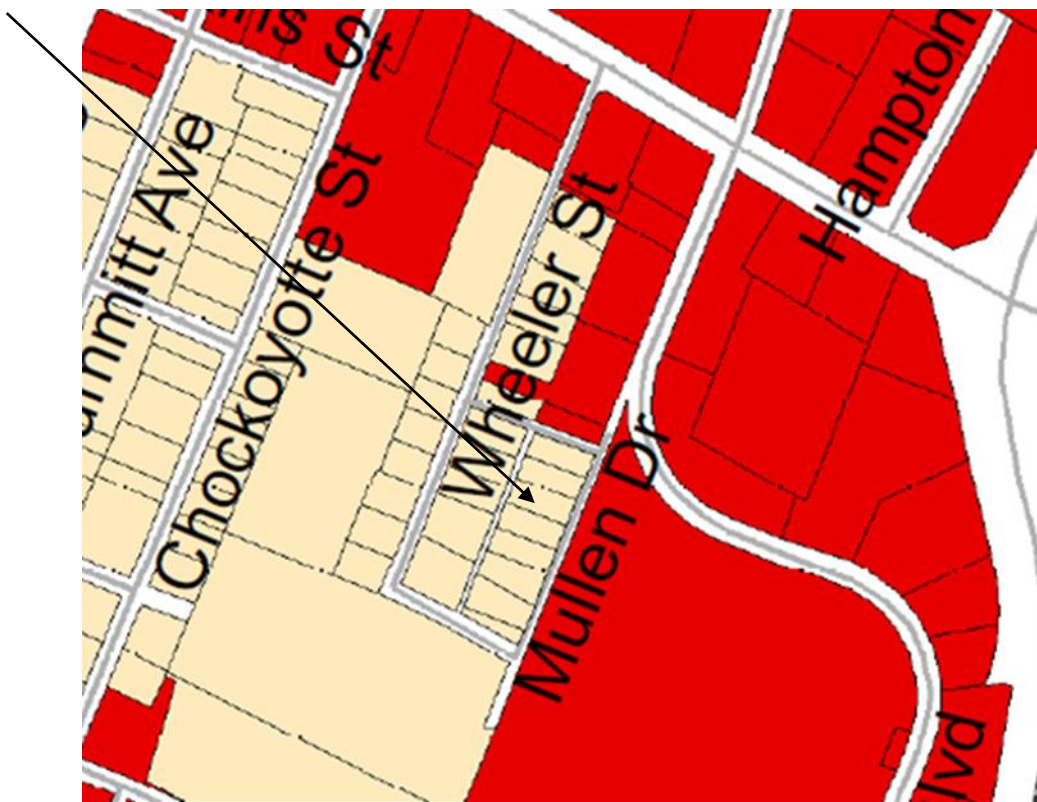
The 0.693± acre property requested for rezoning has 191 feet of Mullen Drive frontage. Across the street is the Premier Landing shopping center containing a Walmart store. Mullen Drive connected northward to Julian R. Allsbrook Highway prior to the creation of Premier Landing, but was closed off when Premier Boulevard was created in the early 2000's. At the south end of Mullen Drive is Chockoyotte Park. Cypress Drive connects Mullen with Wheeler Street adjacent to the Park and Strickland Street connects Mullen and Wheeler at Mullen's north end. There are 4 houses on Mullen Drive, all built between 1949 and 1955, with 2 without tenants and in disrepair. The house at 205 Mullen has a size of 1,152 sq. ft. All other houses are 700 to 900 sq. ft. in size.

### 3. Existing and Proposed Zoning

The Roanoke Rapids Zoning Map identifies the existing zoning classification of the area being considered for rezoning as R-6, Residential District, along with the rest of this block and Chockoyotte Park. The zoning map shows that once you cross Strickland Street heading north toward J. R. Allsbrook the zoning is B-4, Commercial District. From a planning perspective, this zoning change will not disrupt zoning continuity, and will be following a development pattern that is suitable for this area. (*See Figure 2, below*)

**The rezoning request is a change from R-6 (beige color), Residential District to B-4 Commercial District (red color).**

Figure 2 Roanoke Rapids Zoning Map Excerpt



**B-4: This district is designed to accommodate the widest range of commercial activities.**

The uses allowed in each zoning district are identified in Section 151-149 Table of Permitted Uses of the City of Roanoke Rapids Land Use Ordinance.

The following provides general descriptions of the existing and proposed zoning districts:

The subject property is proposed to be zoned **B-4, Commercial District**:

**B-4:** *designed to accommodate the widest range of commercial activities with no minimum lot density based on square footage, however minimum lot widths are established at 70 feet. Setbacks from the street right-of-way property line are 20 feet and the distances from other property lines are determined by the rating of the exterior wall of construction.*

The subject property existing zoning is **R-6, Residential District**:

**R-6:** *designed to accommodate single-family and two family dwelling units, with minimum lot sizes of 6,000 square feet and lot widths of 50 feet.*

**ANY PROPOSED CONSTRUCTION AND SITE PLANS ARE EVALUATED BY CITY STAFF AND THE DEVELOPMENT REVIEW COMMITTEE TO ENSURE A PROPER DESIGN. THE DEVELOPMENT REVIEW COMMITTEE INCLUDES THE SANITARY DISTRICT, NCDOT, PUBLIC WORKS, NC DOMINION POWER OR ROANOKE ELECTRIC, FIRE DEPARTMENT AND CODE ENFORCEMENT.**

#### **4. Traffic Considerations**

Traffic considerations are generally evaluated when development is presented and a site development plan officially submitted for review. The North Carolina Department of Transportation (NCDOT) regulates placement of access and driveway permitting for properties on state roads, and NCDOT Highway Division 4, District 1 District Engineers would be responsible for access approval from state roads to the subject site.

The Applicant has stated that the current use of the property is for a vehicle repair business, involving primarily the reconditioning of used vehicles into a state of near-new, high performance. At such time as a development proposal is presented, such development review may include NCDOT review for traffic concerns.

Planning & Development Director Lasky stated as for traffic considerations, looking at the residential nature of the streets: Mullen Drive, Wheeler, Cypress and Strickland Streets, they feel they are residential in nature and not ideal for heavy commercial traffic use.

#### **5. Utility Considerations**

There are no specific utility considerations that should negatively impact this property at the present time. The area is served with electricity by Dominion Power. Roanoke Rapids Sanitary District water and sewer utilities serve adjacent properties. A determination would need made, should there be an expansion of use, if there is adequate flow, pressure and quality to support any proposed development. All connections, extensions and responsibilities for services will be the responsibility of a developer.

#### **6. Other Considerations**

Future development of the site will be evaluated for appropriate **screening, drainage, stormwater retention/detention** and other items during the site plan and/or construction plan review process by the Development Review Committee. Opaque screening between potential commercial uses and existing residential uses will be required at the burden of the commercial developer. The ordinance requires opaque screening from the ground to a height of at least eight feet, which may be a wall, fence, landscaped earth berm, planted vegetation or existing vegetation.

The subject property is located in the City of Roanoke Rapids Fire Department service area. Future development of the site will be evaluated for adequate water supply for firefighting operations and that driveways meet the requirements for apparatus ingress/egress.

## 7. Comprehensive Development Plan

The property is located within the City Limits and the Planning & Zoning Jurisdiction. The following implementing strategies may be considered from the City of Roanoke Rapids Comprehensive Plan, adopted by City Council on June 17, 2014:

*I.1 Support infill development.*

*I.18 Utilize the mixed use areas as a tool to aid in regulating/reducing strip commercialization, stimulate compact development, encourage infill development, reduce trip generation, provide flexible development options, and utilize existing infrastructure.*

*I.20 Encourage developers to utilize thoroughfares and natural topographic features to define the boundaries of a neighborhood and concentrate higher intensity uses at the outer boundaries of the neighborhood.*

*I.32 Protect, enhance, and encourage a high quality of life, image, and cultural amenities as an effective approach to economic development.*

*I.25 The city Planning board may consult this plan concerning all decisions, including rezoning and subdivision approvals, which will affect residential land use, including impact on existing residential areas.*

*I.33 Economic development efforts should encourage the revitalization and reuse of currently unused or underutilized structures, sites, and infrastructure in appropriately located areas.*

## 8. Public Response to Notice

The public hearing was initially scheduled for August 6, 2019, but the City Council did not meet due to absence of a quorum. Notice of the meeting change was sent to affected property owners, letters were sent to owners of property within 100-feet of the requested rezoning on August 7, 2019. One letter of citizen comment was submitted ***and attached to this memorandum:***

**Attachment #2: letter from Constance S. Tudor, 204 Wheeler St., property owner**

## 9. Staff Comments

The proposed request for rezoning is considered to be somewhat reasonable. Reasonableness is determined by considering the size and nature of the tract, any special conditions or factors regarding the area, the consistency of the zoning with the land use plan, the degree of the change in the zoning, the degree it allows uses different from the surrounding area, and the relative benefits and/or detriments for the owner, the neighbors, and the surrounding community.

Planning and Development Staff finds the proposed rezoning request to be consistent with the area land uses and reasonably in line with the Comprehensive Plan. Based on context and nearby land uses staff had requested that the rezoning be recommended to the City Council for approval.

The courts have established the following factors to determine the reasonableness of spot zoning:

1. ***The size and nature of the tract.*** Planning Staff has determined that the size and characteristics of the site make it more likely to be reasonable to rezone. The site is 3 small parcels in a



neighborhood with a variety of residential and commercial uses. The site has access to utilities and a relatively flat topography.

2. ***Compatibility with existing plans.*** The Land Use Ordinance sets forth the requirements for the various zoning districts. The Comprehensive Plan adopted by the City Council June 17, 2014 proposes and supports mixed uses in the subject area. Buffering or separation between uses is encouraged to minimize impact and provide a transition between lower and higher density land uses.
3. ***The impact of the zoning decision on the landowner, the immediate neighbors, and the surrounding community.*** The degree of change from R-6 to B-4 represents a increase in potential land use intensity. The specific change will benefit the land owner by bringing a nonconforming use into conformance with a use that is permitted in the district within the district in which it will be located. The specific potential impact to neighbors is viewed as minimal due to the existence of adjacent land similarly zoned with existing development, and that future development of nearby property is expected to be commercial in nature.
4. ***The relationship between the newly allowed use and the previously allowed uses.*** Planning Staff has evaluated and compared the permitted uses in the B-4 and R-6 Districts as enumerated in The Table of Permissible Uses (Section 141-49) in light of development trends. Upon viewing all permissible uses for these zoning districts staff has determined that the permitted uses in the current zoning classification are not supported by development trends, and the uses in the proposed classification support the reasonableness of the petitioner's request in view of adjacent property usage.

Planning & Development Director Lasky said the degree of change from an R-6 to a B-4 is fairly significant. The intention here is to bring the property to a conforming use that it is currently being used as now. The concern right now is not so much what is currently taking place, but what could potentially take place in the B-4 district in the future. And the relationship between the residential uses that are currently allowed and the uses in the B-4 district are significantly different compared to the commercial nature and single family residential uses.

She stated there is a significant amount of B-4 commercial in the surrounding area. Their primary hesitation with this is that the properties themselves have to be accessed through residential neighborhoods. The beginning of Wheeler Street is more commercial but traffic wraps around by Chockoyotte Park.

#### 10. Planning Board Recommendation

The Roanoke Rapids Area Planning Board held a public meeting on Thursday, July 18, 2019, to review the subject application. The applicant, Leonard Love did not attend this meeting.

**The Planning Board voted unanimously to deny a Recommendation of Consistency.**

**The Planning Board voted unanimously to recommend to City Council that the rezoning request be denied.**

In attendance was a Kenneth Lashley. He said that his property was adjacent to Mr. Love's and that he did not object to the proposed zoning change but wanted to know what kind of uses would be permitted on this property with the proposed zoning designation?

**11. Requested Action by City Council**

Staff requests that the City Council conduct a public hearing, receive citizen comment, deliberate on the matter and render a decision on two items:

- 1. Motion & Vote concerning Statement of Consistency**
- 2. Motion & Vote concerning a final decision to rezone the subject properties.**

Select appropriate response (approval or denial):

\_\_\_\_\_ **Approval:** Upon review of the request, it is City Council's determination that the above request is approved and in the public interest of the City of Roanoke Rapids in that it provides for the organized residential and commercial growth that will help to ensure the health, safety, and general welfare of the citizens of Roanoke Rapids.

\_\_\_\_\_ **Denial:** Upon review of the request, it is City Council's determination that the above request is denied and not in the public interest of the City of Roanoke Rapids, with a finding that the proposed use negatively affects adjacent residential uses as proposed. Denial of approval helps ensure the health, safety, and general welfare of the citizens of Roanoke Rapids.

**Attachments**

- 1. Statement of Consistency**
- 2. Public Notice Response Letter**
- 3. Noise Complaint Call Information (Email from Police Chief Martin)**

Mayor Pro Tem Ferebee said the applicant was operating in the designated area and asked if the zoning stays the same what happens then. Planning & Development Director Lasky replied it depends on the nature of the commercial activities taking place. During the last meeting, the applicant stated he had intended to expand his operations which would not be allowed. One of the main issues is a property owner can work on their own vehicles in their yard or garage. She said what triggered this was the actual signage and advertising drawing customers to the property. It becomes more of a commercial business activity when someone takes their vehicle to a residential property to have work done. We run into this every so often and it is a difficult situation to resolve should it not be approved. It depends on the compliance with person conducting the operations. The next steps would be through zoning enforcement. She noted the signage has been removed. As far as noise is concerned, the noise ordinance would address that.

Mayor Doughtie asked if there had been any additional comments or complaints since the public hearing was held. Planning & Development Director Lasky replied no, they only had the one comment letter and tonight she distributed a copy of the signatures

from a couple of the adjacent property owners that indicate they support the rezoning request. He stated it was his observation that it was fairly neutral amongst the community. He said she mentioned that people were taking their vehicles there to be worked on or repaired, but when the applicant spoke at the last meeting, he said he was working on engines that would be shipped somewhere else. He was working on his own vehicles which she said was allowed. Planning & Development Director Lasky replied when the applicant was notified that he could not conduct a business in a residential district, the rezoning application was one of the options provided as far as changing the zoning district which would make his operations permissible. This is an action of the applicant to move forward to seek compliance.

Mayor Pro Tem Ferebee asked if the applicant was notified because of the signage, the noise or what. She replied because of conducting a business, vehicles repairs on the property. The signage drew the commercial attention and they had received a neighbor complaint back in the spring about the noise. It wasn't argued and the applicant submitted an application in an effort to get a commercial zoning classification in order to continue operations.

Mayor Pro Tem Ferebee said the person that wrote the letter indicated they did not live there but may not be able to rent or sale the house and asked if she knew if the property was rented at this point. She replied she did not know and they need to consider the impacts on the neighborhood and not the rental or ownership statuses.

Councilman Smith asked for Planning & Development Director Lasky to pull up the slide showing the different zoning districts. He said he has taken the time to look at the area and listened. In his opinion, if the residents in the neighborhood of that area want B-4 zoning there then the whole neighborhood ought to be trying to do that instead of just putting it in one spot.

Mayor Pro Tem Ferebee asked if the proposed rezoning B-4 touch the existing B-4 properties. She replied Mullen Drive is in between them and the property north of Strickland Street does have a commercial zoning classification of B-4.

Planning & Development Director Lasky stated if approved, some of the things they could consider with permitting the commercial operations would be to get more information from the applicant about hours of operations and consider requirements for sound proofing. It would be something the owner would be willing to do. She was not sure if they could enforce it as a requirement and it cannot be made part of the rezoning request.

Mayor Doughtie commented that they had a similar situation in town off of Julian Allsbrook Hwy on Patsy Albritton Street. There are two or three houses and then there are businesses on both sides of the street.

She said some of the impacts to the surrounding residential properties the closer you get to Chockoyotte Park if Strickland Street was improved or if the commercial access was used via Strickland instead of wrapping around and coming down Wheeler it reduce some of those cut-through vehicles to the property. She said when you look at the site (Parcel #0904739) someone could potentially apply for a commercial operation there and that site will have to access via Strickland Street, Mullen Drive, Cypress Drive or Wheeler Street. Right now it is a single family home but potentially the same impacts could occur if the property owner asked for commercial activity on that site.

Councilman Smith asked if the City approves the rezoning, could we specify that a driveway has to be put on Premier Blvd. She replied they cannot do that. It cannot be a condition of a rezoning approval and either way it is under NCDOT's driveway access agreement; only NCDOT has the authority to approve the driveway access onto Premier Blvd.

Mayor Pro Tem Ferebee asked if the applicant asked for the request because the City asked him to stop the operation or was it because he wanted to expand his business. Planning & Development Director Lasky replied she would allow the applicant to address that question but did say when the applicant is notified that commercial activity is taking place then either they stop or try to comply in order to keep business going.

Councilman Smith asked when the applicant put the building up, he got a building permit so at that time what did he say the building was going to be for. She replied she could not recall, typically they will say for a garage or storage but it was not for a business.

Mr. Leonard Love presented a photograph showing what he does. He stated he was not an automotive repair shop, he builds engines. The noise they hear is his race cars. He does machine work only. He said he has heat and air conditioning in his shop so he could shut the doors and nobody would know he was in there. The building he was trying to put up cost \$150,000 with sheetrock walls and LED lights. It is going to be nice and the doors will be shut. She is making it like it is a big noise ordinance issue but it is not. As far as hearing the race cars, that will not stop. He owns four cars, he races and his boys race.

Councilman Smith asked if he tested the engines before he ships them out. Mr. Love replied no he did not. He does not have an engine dyno right now, but he wants one. He does a lot of monster truck engines and dirt track stuff. He ships out the engines, 90% of his work is not from Roanoke Rapids, it is from other states. As far as traffic, the traffic there is unreal to start with. His business will not affect it any. They use the cut through by KFC to Walmart. He lives across the field. He said this property looks nothing like the photograph, most of the vehicles they see are his and the others are for the couple of guys that work for him. The vehicles are not being worked on. He runs a machine shop, he does not run an automotive repair shop. He stated Franklin Jones, Jr. wanted to attend the meeting but could not so he wrote a letter. Mr. Love submitted the letter for Attorney Chichester to review.

Planning & Development Director Lasky added the images shown were taken when the initial zoning complaint came in showing the signage on the garage that says Love's Performance and Auto Repair, but they are gone now. Mr. Love said the sign was one he already had. He had a shop beside Napa and just used what he had so he would not have to spend another \$800 on a sign.

Mayor Doughtie said he went by the property a week or so after the public hearing and the noise is kind of an issue. Mr. Love said it really was. He is woken up every morning at 4 a.m. by forklifts and containers. He asked Mr. Love if he was allowed to continue with his business and he puts up the type of building, will he be running the motors inside that building. Mr. Love replied yes but the noise will not be any louder than the trucks that ride around town with the exhaust on them and there are a lot of young people come flying through by Walmart at that straight away. He said as far as his business, there is not a lot of traffic. It takes a while to do one of these engines, he keeps some of them a year or two. He recently had one shipped from South Carolina and he will have it a year. A lot of this comes in through UPS and FedEx on a truck. He does not sell parts, he does machine work. He has been doing it for 16 years and like he said, if he turns his air-conditioning on and shuts the doors they would not be able to tell he was there. The reason he was pursuing trying to get this done was because he wanted a newer, nicer and bigger building and the only way he can get it done is to go through the City.

Mayor Doughtie asked Mr. Love if he planned to put the building on the last two lots. He replied yes that was correct. Mayor Doughtie asked if he was planning to purchase the lots. Mr. Love said he had already bought them and the lots have been cleared off.

Planning & Development Director Lasky added that Planning staff would support the rezoning for the existing use that is being described, but from a permitting standpoint to get the zoning permit authorized they would address any future noise complaints

through the nuisance code. Also, if any change of use if the commercial property would become something else one day, then they could go through the review process of other specific requirements. Again, this is not so much about what is currently taking place but about the potential for intrusion into the neighborhood based on future commercial uses and the access that is currently there.

Mayor Doughtie stated he understands that Planning & Development Director Lasky was saying if the rezoning was approved, the City has a nuisance ordinance that he could abide by with the initial permit and as time goes in the event an issue arrives.

Mr. Love said he has been there five years and only had one complaint. A majority of the work is done inside the building.

Attorney Chichester said he had a chance to review the letter from Mr. Jones submitted by Mr. Love. The letter is written by an attorney but it is not as an attorney for Mr. Love. It appears that some of the property in that area is owned by a trust and Mr. Jones is the trustee for that property so submit to Council's approval, Mr. Love should be allowed to read the letter for the record. (Copy on file in Clerks Office).

Mr. Love read the following letter:

October 1, 2019

To Whom It May Concern:

I am writing at the request of Leonard Love, Jr. to have property his owns rezoned. I write not in my capacity as an attorney but rather as trustee for a trust that owns property in the general area of Mr. Love's property.

As trustee, I have no objection to the city granting Mr. Love's request. I do not anticipate that the change would negatively impact the neighboring property valuses as the neighborhood is surrounded by various commercial businesses. Had I objected to this change, I would have been present to voice my concerns as I have been notified by mail of Mr. Love's request.

Thank you for your consideration in this matter.

Sincerely,

Franklin L. Jones, Jr.

Mayor Pro Tem Ferebee asked Mr. Love if he could point out on the map the property

Mr. Jones is trustee of. Mr. Love said he could not. Planning & Development Director stated she could look that up. She said it was the property directly behind Mr. Love on Wheeler Street, parcel numbers 0900921 and 0905946. Mayor Pro Tem Ferebee asked if parcel number 0907623 was Ms. Tudor's property who submitted a letter. She replied that was correct.

Councilman Smith stated he would like to ask the Police Chief a question since the topic of noise at Walmart has come up the last two sessions. He asked Chief Martin how many complaints he has had about noise at 4 a.m. at Walmart from the residents in that area. Chief Martin replied they have received none. He said he went through the CAD system in regards to noise violations and complaints about Walmart and they did not have any.

Mayor Pro Tem Ferebee questioned that in relation to Mr. Love's property, there has only been one. Chief Martin said they have had one noise ordinance violation and a criminal complaint in regards to work on a 4-wheeler that was not completed at that address. They have only had one call in reference to the race cars which was on August 25<sup>th</sup>.

Mayor Pro Tem Ferebee asked did he understand the race cars were his personal cars and was not related to this. Mr. Love replied that was correct.

With no one else wishing to speak, Mayor Doughtie closed the public hearing. He called for City Council to make a decision on the following Statement of Consistency:

**Statement of Consistency with Plans to Amend the Official Zoning Map**

**Reference Rezoning Request by Leonard Love for an amendment to the Roanoke Rapids Zoning Map to rezone properties addressed as 205, 207 and 209 Mullen Drive, Halifax Co. Parcels 0904738 (0.243± acre), 0906312 (0.232± acre) and 0902191 (0.218± acre) from R-6, Residential District to B-4, Commercial District. Located on the 205 Mullen Dr. parcel is a single-family house, along with two (2) accessory buildings in which the applicant operates a vehicle repair business.**

The Roanoke Rapids City Council met on Tuesday, October 1, 2019 at 5:15 p.m. and determined by a majority vote of Council members that the above mentioned request is consistent/inconsistent with the Roanoke Rapids Comprehensive Plan and the Roanoke Rapids Land Use Ordinance. Said Motion thereby, adopted by City Council on October 1, 2019.

Comprehensive Development Plan Policies:

I.1 Support infill development. Infill development is development or redevelopment of land that has been bypassed, remained vacant, undervalued and/or is underused as a result of the continuing urban development process. Generally, the areas and/or sites are not particularly of prime quality; however, they are usually served by or are readily accessible to the infrastructure (services and facilities). Use of such lands for new housing and/or other urban development is considered a more desirable alternative than to continue to extend the outer development pattern.

- I.4 Encourage commercial development to occur in clusters or planned shopping centers at the intersection of major thoroughfares to minimize “strip” development and to maintain the proper functioning of the arterial street system.
- I.7 Provide effective buffering and/or landscaping where commercial development adjoins existing or planned residential uses.
- I.10 Encourage office and institutional development to locate as a transitional land use between activities of higher intensity and those of lower intensity.
- I.19 Consider allowing different housing densities to abut one another as long as proper buffering and design is provided as needed and traffic generated by such land use does not mix within the neighborhood.
- I.22 The city Planning Board may consult this plan concerning all decisions, including rezoning and subdivision approvals, which will affect residential land use, including impact on existing residential areas.
- I.30 Support economic and community development initiatives that capitalize upon and enhance the city’s Town Center areas, including 10<sup>th</sup> Street and Julian Allsbrook Highway.
- I.63 Minimize access to arterial streets and restrict excessive development at critical access points.
- I.64 Promote neighborhood designs which limit access to adjacent arterials and utilize street patterns which promote slower internal traffic speeds.

Select appropriate response (approval or denial):

\_\_\_\_\_ **Approval:** Upon review of the request, it is City Council’s determination that the above request is approved and in the public interest of the City of Roanoke Rapids in that it provides for the organized residential and commercial growth that will help to ensure the health, safety, and general welfare of the citizens of Roanoke Rapids.

\_\_\_\_\_ **Denial:** Upon review of the request, it is City Councils determination that the above request is denied and not in the in the public interest of the City of Roanoke Rapids, with a finding that the proposed use negatively affects adjacent residential uses as proposed. Denial of approval helps ensure the health, safety, and general welfare of the citizens of Roanoke Rapids.

ADOPTED BY THE ROANOKE RAPIDS CITY COUNCIL ON THE 1ST DAY OF OCTOBER 2019.

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Emery G. Doughtie, Mayor

Motion was made by Councilman Smith, seconded by Councilman Bobbitt that the proposed zoning amendment be rejected based on the inconsistency with the comprehensive plan, that the amendment is unreasonable and not in the public interest.

Mayor Pro Tem Ferebee had a question about the inconsistency. Planning & Development Director Lasky stated if a statement of consistency is denied, a rezoning



request can still be approved but if it is approved, they would have to amend the comprehensive plan to make it consistent. Mayor Pro Tem Ferebee said he had not heard that reasoning before. She replied the statement of consistency requirements by the State have changed to require specific language so this is a reflection of that.

He asked what that language was. She said the reasonableness, the public interest and compliance with the code. The comprehensive development plan policies that are enclosed is what is being considered for approval or denial. They have some that support it and some that can go against it. It is really a matter of interpretation and determination by City Council in its decision.

Mayor Doughtie commented several years back that area was all farm land with a few houses and no businesses. The businesses have encroached the houses that are still there. With the economic growth, he could see that area, just by the value of the property, becoming commercial.

Mayor Doughtie called for a vote: Councilman Smith and Councilman Bobbitt voted in favor of the motion; Mayor Pro Tem Ferebee voted against. The motion for denial of the statement of consistency is approved by a 2-1 vote.

### **Final Decision**

Motion was made by Councilman Smith, seconded by Councilman Bobbitt that upon review of the request, it is the City Council's determination that the above request is denied and not in the public interest of the City of Roanoke Rapids, with a finding that the proposed use negatively affects adjacent residential use as proposed. Denial of approval helps ensure the health, safety and general welfare of the citizens of Roanoke Rapids. Councilman Smith and Councilman Bobbitt voted in favor of the motion; Mayor Pro Tem Ferebee voted against. The motion for denial of the rezoning request carried by a 2-1 vote.

Mayor Doughtie asked Planning & Development Director Lasky what else this gentleman could do, is there any other recourse he has with this property? She replied the property will remain residentially zoned so he has to comply with residential zoning classification uses. At this point the rezoning to a commercial district is denied so they will have to look more closely at home occupation regulations depending on the intensity.

Mayor Doughtie asked once it is denied in a situation like this, can they come back at a later time. She replied yes. He asked how long do they have to wait. She said there is no waiting period per se, the ordinance states 12 months but it is based on situational changes that could take place. For example, if access to Premier Blvd. was

obtained, then that would be a situational change that would make this request different than today.

**New Business**

**Consideration of Resolution Approving Surplus Item (Resolution No. 2019.09)**

Public Works Director Chalker presented the following resolution including an additional item for Council to consider declaring as surplus and authorize to sale by electronic auction:

**RESOLUTION NO. 2019.09**

**Resolution Approving Surplus Items  
In accordance with NCGS 160A-270(c) – Electronic Auction**

**WHEREAS**, the Roanoke Rapids City Council desires to dispose of certain surplus property of the City;  
and

**WHEREAS**, the following items have been identified as being surplus to the needs of the City:

<i>Vehicle #</i>	<i>Description</i>	<i>Serial/Vin #</i>
	<i>2007 Dodge Charger (Mileage = 89,230)</i>	<i>2B3KA43H57H845464</i>

**WHEREAS**, the Roanoke Rapids City Council, at a Regular Meeting on December 13, 2011, adopted Resolution No. 2011.25 authorizing the use of electronic auction services to dispose of surplus property;  
and

**WHEREAS**, the necessary agreements with GovDeals, Inc. are in place to utilize the company's electronic auction service to dispose of surplus items;

**NOW, THEREFORE, BE IT RESOLVED** that the Roanoke Rapids City Council hereby declares the foregoing list of property to be surplus to the needs of the City, and authorizes disposal of these items by electronic auction (specifically by website: [www.govdeals.com](http://www.govdeals.com)) in accordance with NCGS 160A-270(c).

**ADOPTED** this 1<sup>st</sup> day of October, 2019.

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Emery G. Doughtie, Mayor

ATTEST:

\_\_\_\_\_  
Traci V. Storey, City Clerk

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried to adopt Resolution No. 2019.09 to officially declare the item listed as surplus and authorize the sale by electronic auction.

### **City Manager's Report**

City Manager Scherer reported the overall financial outlook has the City with a YTD \$281,000 positive fund balance. They have expressed to departments that they still need to watch unnecessary spending. Small things add up in addition to regulatory and administrative expenditures. Several payments are due in October: the installment financing payment of equipment, E-911 and health insurance.

He said the Splash Pad is still open. They plan to close and winterize it November 1<sup>st</sup>. The Parks & Recreation Department is working on upcoming holiday events to include Trunk or Treat, Holiday Tree Lighting on December 5<sup>th</sup> and the Christmas Parade on December 8<sup>th</sup>.

He stated Joyner Environmental in Rocky Mount will be here the week of October 14<sup>th</sup> for asbestos survey/sampling of properties being considered for demolition which is required before any demolition can occur. They are looking at the Fire Department to potentially use 212 Washington Street for training pending the asbestos report. The Planning Department has received site plans for a car wash on Julian Allsbrook Hwy; they are out for review. The new building beside the Visitors Center should get their final this week or next week. Jersey Mike's plans to open October 9<sup>th</sup>. The Police Department will have officers in the area as traffic will probably be congested that day.

City Manager Scherer reported the street paving is finished other than Hunting Ridge Road in front of Rooney Ridge apartments so when the contractor paves the Rooney Ridge parking lot they will continue going out into street. Public Works Director Chalker has a few issues with transitions on Old Farm Road that he plans to have them fix. As for street repairs, Public Works may get a torch blower to heat asphalt up and roll/smooth out some patches. In the future they may send roller out with truck when doing patches along with the truck operators getting better with the process, to include leaving less loose gravel at patch sites.

He said the Fire Department has planned numerous Fire Prevention Month Activities. First Presbyterian Preschool was at the station today and will be there tomorrow. Rosemary Methodist will visit later this week. They will be at Belmont next week and the following week they will be at Manning Elementary. They received a letter from

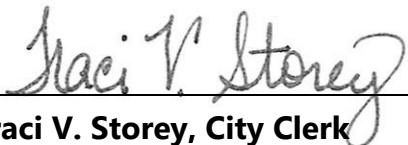
the Office of the State Fire Marshal stating their rating met the minimum requirements for being a Certified Fire Department.

He announced the Police Department received a grant of approximately \$4K from the Federal Department of Justice to purchase new ballistic vests for officers. The department will participate in National Coffee with a Cop day tomorrow at Touchstone Bank from 9 – 11 a.m. Tomorrow is also Walk a Child to School Day. Officers will meet at Centennial Park at 8:45 a.m. to walk with Clara Hearne students. The Department is working with local landlord on a property where serious violations have occurred in the past, to evict those tenants and clean up the property.

Councilman Smith asked if the E-911 payment was the same as last year and how much was the payment. Finance Director Etheridge replied it is the same and the payment is slightly over \$80,000 per quarter. He asked how much was the health insurance increase. She replied it was a 2% increase.

<b>Other Business/Adjournment</b>
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There being no further business, motion was made by Councilman Smith, seconded by Councilman Bobbitt and unanimously carried to adjourn. The meeting adjourned at 6:25 p.m.

  
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Traci V. Storey, City Clerk

**Approved by Council Action on: October 15, 2019**