

**MINUTES
JOINT PUBLIC HEARING
HILLSBOROUGH TOWN BOARD AND PLANNING BOARD
January 24, 2006**

MEMBERS: Mayor Tom Stevens, Mike Gering, Frances Dancy, Eric Hallman, Brian Lowen, Jim Boericke, Tom Campanella, Edna Ellis, Neil Jones, Paul Newton, Eric Oliver, Dave Remington, Toby Vandemark, Barrie Wallace.

STAFF: Margaret Hauth, Robert Hornik

PUBLIC: Mr. Watson, Mr. Gandhi, Mr. Nestor Unsudinii, Mr. Tom Stark, Mr. Larry Bender, Mr. Peter Henn, Mr. Nichols, Mr. Earl Lewellynn, Ms. Mary Bierman, Mr. Don Fraley, Mr. William Swaney, Mr. Sergio Rabinovich, Mr. Christian Smith, Mr. Tim Melody, Mr. Jack Smyre, Mr. Robert Wilson, Dr. Phal Wynn, Jr., Mr. Ken Redfoot, Mr. Callemyn, Mr. Ruffin Slater,

ITEM #1: Call to order and confirmation of quorum.

Mayor Stevens called the meeting to order at 7:05 p.m. and passed the gavel to Mr. Boericke.

Mr. Boericke informed those present that no decisions would be made at the meeting; that the purpose of the meeting was to accept input from for the public record and that following the meeting the applications discussed would go to the Planning Board which would make recommendations to the Town Board where decisions would be made. Mr. Boericke explained that the sequence of the meeting would be that Margaret Hauth would introduce each item then the applicant would describe what he/she wished to do in more detail, the Board would ask questions, and then the floor would be opened for public comment.

ITEM #9: Rezoning Request from Dwight Walters to rezone 1.67 acres on St. Mary's Road from R-20 to General Commercial (TMBL 4.21.C.7).

Mr. Boericke said that both the applicant and neighbors had informed Mr. Boericke that they agreed to continue this item to the April public hearing.

MOTION: Mr. Boericke made the motion to continue this item to the April public hearing.

SECOND: Mr. Campanella

VOTE: Unanimously approved.

Ms. Hauth clarified for the members of the audience that the Board had continued the item to their April Quarterly Hearing on the fourth Tuesday in April; therefore the Board would not be hearing any testimony on Item #9 at the present hearing.

ITEM #2: Special Use Permit request from Gandhi, Inc. to build a convenience store with 6 double-sided gas pumps, 2-bay car wash, and Huddle House restaurant at 620 Hampton Pointe Blvd (part of 4.45.4c).

Ms. Hauth reported that at the October public hearing on this item several pieces of information were requested including photos taken from the adjoining neighborhood at a time without vegetation on the trees, some clear information about exactly the water use projected for the site, and some revised driveway drawings noting the turn restrictions. Specifically the driveway coming out on Hampton Pointe Boulevard is restricted and does not allow a left-hand turn to go back in the traffic lane. The Town Board and Planning Board received the items in their agenda packets.

Mr. Watson came to the podium and took the oath. He commented on the additional information items, stating that the water usage calculations had been revised and corrected an error in the

previous calculations. The hours of the car wash have been adjusted to close at 10:00 p.m. and reopen it at 6:00 a.m. in response to comments at the previous public hearings. The shut-off of the car wash would be automatic. The water usage calculations showed that the car wash usage would be below the allocated water usage for the development. Regarding pictures of the development, three sets had been provided. One set was taken in October. Two other sets of pictures were taken earlier in January both daytime and nighttime. Thirdly, regarding the delivery truck circulation, several options had been considered and options had been included in packets.

Mr. Gandhi took the oath and spoke to the Boards regarding the application. He stated that as the owner of the proposed convenience store and car wash, he had discussed and considered the issue of safety for the public and the traffic going in and out of the store. He explained that the process used at his other stores was that the truck driver comes into the store and notifies the cashier and checks the meter before he begins putting the load in the ground. It takes approximately 25 to 30 minutes for the driver to drop the load, and when he is finished he must go back into the store and notify the cashier that he is finished, at which point the reading is taken again, and the cashier goes out and checks that all the gasoline has been delivered. The cashier will be wearing a bright-colored smock which also will be reflective, and he/she will direct the truck in and out of the parking lot to make sure it is absolutely safe for the truck to exit the property.

Mr. Oliver noted that in the new site plan, the fuel storage tanks had been relocated to the west of the pumps whereas before they had been on the south and asked why they were moved. Mr. Watson responded that in looking at the traffic flow on the site and the truck access, they felt that the new location would allow the truck to pull straight in rather than trying to maneuver the truck without having to make so many movements on the site.

Mr. Gering asked about the assumptions used in making the new diagram regarding the size of the truck and the turning radius. Mr. Watson stated that they had used a 65-foot tractor-trailer and an inside turning radius of 45 feet. Mr. Gering inquired if the 65-foot was representative of the trailers that would be dealt with at the location or would some be larger? Mr. Watson answered that the 65-foot would be the largest and most would be smaller, perhaps 45 to 40 feet

Ms. Ellis stated that she noted that there was already a traffic problem going into that area because of the lack of advance notice of a lane marked with a straight arrow becoming a turning lane and that she still was concerned about trucks and traffic coming out of the area going straight across because it is too near the entranceway and the circle. She suggested that the situation be looked at. Mr. Watson stated that they had located the driveway across from the previous driveway and also are showing an island to prevent people from going straight across. They felt they had addressed the issue with the island and the left turn sign.

Mr. Nestor Unsudinii took the oath. He stated that he worked at the nearby truck stop and had been managing the store for almost four years and had expanded their gasoline pumps. His concern was if there really was a need for another gas station or if something else was needed. He felt something else was needed like a restaurant.

MOTION: Mr. Hallman made a motion to close the item.
SECOND: Mr. Remington
VOTE: Unanimously approved.

Mr. Boericke advised the audience that there was a chance that they would not get through the full agenda at the meeting and that in order to have a rational way of ending the meeting, at the point that 10:00 was reached, a vote would be taken of the Board as to whether continue discussion or close the meeting and continue the remaining items at a future hearing. The Board members

indicated agreement. Mr. Boericke again advised the public that Item #9 regarding the property on St. Mary's Road had been extended to the April meeting and would not be discussed.

ITEM #3: Annexation/Rezoning/Special Use Permit to authorize Ashton Hall, a 118 acre development on the north side of US 70A across from the Sportsplex to contain 272 dwellings with a recreation center and 20,000 sf of office and retail uses at the western entrance (TMBL 4.37.C.21 and 4.40.B.1).

Ms. Hauth explained that the hearing had been left open in October to allow some time for the neighbors to provide evidence relating to a potential property line discrepancy. The Board at that point limited the open record to that item. A lot of written material had been handed up to the two Boards since the agenda packets went out.

Mr. Boericke invited the applicant to come forward and speak to the topic, and Mr. Jack Smyre took the oath before speaking. He stated that much of the information had been given to the Town Board in a work session the prior evening. Regarding the boundary issue, he commented that it is really the duty of the seller, the current owners of the property, to resolve the allegations about accuracy of the survey and the encroachment issues. They had engaged a surveyor and were in conversation with the neighbors to the south of the property. A third surveyor had been engaged by the family to work on behalf of the family and the neighbors to not only examine the written, physical plat record but also to do the surveying. Separate and apart from the boundary issues are the encroachment issues, and the family is engaged on that. More time is needed. The applicant believes the two parties are on a course where this will be resolved within 30 days. His suggestion was that the limited public hearing on boundary information be left open and continued to a date certain. They did not wish to wait until the next public hearing. What he suggested was a continuance until the February 27th work session so that without intervening introductory materials, the Board could open a public hearing and close it fairly swiftly and then go into discussion at the work session. He also said that there is a chance that the boundary will shift regardless of whether the accuracy of the original survey is correct or not. It may shift voluntarily in order to solve the encroachment, as one way to solve the encroachment is to move the line between the two properties. They did need the record open so that whatever the two parties agree to, the information could be entered on the project boundaries.

There being no questions from the Boards, Mr. Tom Stark, representing Marie and Floyd Holmes who live adjacent to the property, took the oath. He displayed a tax map showing the Holmes' property. He stated that there were two issues which they had determined exist. One was that a tract of 73 acres had been omitted in their deed, so there was a potential problem there. The drawings that the boards had looked at show that property, so that does not appear to be an issue. The remaining issue is that, it appears that for the line going from the road up between the various small residential lots, that the surveyor used a distance off the new road and rotated the property slightly which changes the acreage. There is a remaining question about the west end of the property that runs out along the old road, but that is a smaller issue. The seller had retained a surveyor who was doing field work, and they hoped to have a survey shortly and be able to sort the issue out. Mr. Gering asked if Mr. Stark would be able to come back to the February workshop, and Mr. Stark said that that seemed like a reasonable time frame.

Mr. Larry Bender took the oath. Mr. Bender stated that he is a resident Poplar Ridge. His interest was the crowding of the space proposed for 270 homes sites on 117 acres. A 12,000 square foot playground abuts Poplar Ridge. He questioned the source of payment for roads, schools, and lighting, for the 800 people who would live in the sections 3, 4, and 5 and eventually up to 2000 new residents of Hillsborough. He stated his major concern as being liability. He asked that the developers be forced to put up at least an 8-foot high chain link fence between their property and

the Poplar Ridge property to ensure the current residents' privacy which is what those residents had paid for. He asked why it was necessary to pack so many people in to the space when there is so much land available.

There being no one else wishing to speak, Mr. Boericke entertained a motion to continue the item to the February 27th meeting

MOTION: Mr. Lowen moved to continue the public hearing on this item to the Town Board's Work Session on February 27th.

SECOND: Mr. Gering
Ms. Hauth asked for assurance of a quorum of the Planning Board on February 27th and that was confirmed.

VOTE: Motion carried with one dissent from Mr. Oliver.

ITEM #4: Special Use Permit for M/I Homes to build 134 single family homes on 51.7 acres in pods 1 and 2 of the Waterstone Master Plan.

Ms. Hauth informed those present that the item was continued from the October hearing. It is the first Special Use Permit in the Waterstone development for M/I Homes to build the 134 single family homes in pods 1 and 2. It is basically in compliance the master plan for Waterstone. The plan is complete. A full tree survey had been submitted. The plan meets the requirements.

Mr. Peter Henn took the oath. He stated that Waterstone had four items to present and what he wanted to do was to go through an overview so that the following items would be shorter. Item 4 would be the SUP for parcels 1 and 2, which is the single family homes. Item 5 would be dealing with the townhomes. Item 6 would be handled by individuals from Durham Tech. and Orange County. Item 10 would be handled by the applicant at the time, the item being the Parcel 6 amendment. Mr. Henn then invited Chuck Nichols to address the concerns about Lafayette Road.

Mr. Nichols took the oath and told the Boards that he understood that one of the concerns of the Boards was the acquisition of the right-of-way that ties in the northern entrance to the project near the Moren property. He stated that there had been a private agreement that provides for an exchange of properties that will provide a right-of-way easement near the development that ties into Lafayette Drive. They had met with the Town Attorney, Mr. Hornik, to determine what was needed to implement the agreement. In order to do that they needed a recombination plat so that the properties could be recombined appropriately. They needed a deed transferring the property from the SLS group to the Morens. And they needed a deed of easement creating the private easement that will accommodate the roadway. When construction starts, the roadway would be dedicated to the public. He said that he had received that night a draft of the recombination plat, and on quick review, it looked like it was in order. He also stated that he was in the process of preparing the deed to the Morens and the easement. Those documents would be submitted to Mr. Moren's attorney for review. When the reviews are complete, they will be able to effectuate the exchange, and that should happen in a matter of days unless there are questions about the documents. He had written a letter to Mr. Moren's attorney to confirm that and copied it to the Town Attorney. He then offered to answer questions.

Mr. Boericke called for questions from the Boards. Mr. Gering asked the Town Attorney for the phasing obligations for the project. Mr. Hornik took the oath and responded that the northern entry road is included as part of Phase 1. There is no requirement in the master plan that says that it has to be completed at the beginning of Phase 1. It has to be completed as part of Phase 1. From his review of the master plan and conditions, his recommendation to the Board would be that there isn't any requirement that the northern entry road be completed at the front end of Phase 1; however,

there will come a point in time where development is sufficiently underway in Phase 1 that the Board may request that before further approvals or before any further building permits or COs could be issued, that roadway would have to be underway. It is really an issue that is controlled by some of the traffic engineering information, i.e., traffic studies. It may also involve information from the police and fire safety personnel about when the point is reached where it is important or critical to have a northern entry rather than just an entryway through the Waterstone Parkway or the southern main entrance road. Both the first part, the western part of Waterstone Parkway, and the northern entrance road are part of Phase 1. Waterstone Parkway will not be completed all the way through on the front end of the project which may give some traffic concern. He stated that he believed the Board could require the northern entrance road to be completed as part of Phase 1, but there is no condition in the master plan or conditions of approval that says it has to be completed before any other work in Phase 1 can get underway. It is in the Board's control to some extent. The Boards may want to hear some testimony to decide some threshold--some number of units, some number of lots, some critical point in time--where it becomes appropriate or necessary to have the northern entrance road completed. The decision may be dependent on information from the developer, traffic engineers, fire and police safety people who say it's important for response time reasons to have another entranceway.

Mr. Gering asked about when the decision should be made, and Mr. Hornik responded that questions should be asked of the developer regarding information about trip generation. He reiterated that it may not be necessary to have the northern entrance road for the approval of Pod 1 or even Pod 2, but somewhere along the line with increasing levels of new residents as well as Durham Tech., it may make sense for the Board to determine that another way to get into the area is necessary. Mr. Gering asked if it would be sufficient to draft that as a condition of approval for Phase 1 or Phase 2 without having decided all of those traffic issues. Mr. Hornik answered that he thought they could talk about the traffic condition that would address that, so they could say they had established some threshold in Phase 1 and Phase 2 by which it has to be started and perhaps a deadline by which it would need to be completed.

Mr. Henn came forward to ask the developer's traffic engineer to speak. He stated that the engineer's testimony should confirm that there is sufficient roadway capacity to handle every SUP being considered by the Board at the meeting. Mr. Henn further said he would represent that as they moved forward with subsequent SUPs, the applicant is more than willing to do the necessary updates to the traffic model because it would be the ITE standards which will dictate as well as NCDOT standards to meet the health, safety, welfare issues.

Mr. Earl Lewellynn took the oath. He said he had prepared the traffic impact analysis for the project. He informed the Boards that in looking at the project they phased the development into Parcels 1 through 11 and half of the community college. The intensity did not require a second point of access onto Churton Street, assuming that there are connections to NC 86, one on Churton, and one onto Cates Creek parkway, assuming four lanes on Waterstone Drive up to College Park Road. Mr. Oliver asked about the comment regarding Cates Creek Parkway being an access or an exit point to the south or to the north. Mr. Lewellynn confirmed that it would be to the north.

Mr. Boericke asked about the access on Old 86 and New 86 without going through Beckett's Ridge. Mr. Lewellynn responded that given the small amount of traffic that really uses the connection to Beckett's Ridge or the Millstone connection, the improvements that had been talked about and the network that they had talked about would provide adequate infrastructure along with the improvements that NCDOT has recommended and are part of the plan. Mr. Campanella asked if Mr. Lewellynn knew if NCDOT had plans to widen New 86 in the section south of 85. Mr.

Lewellynn responded that to his knowledge there are no plans for New 86 to be improved in the area.

Mr. Oliver inquired about the time that traffic signals would have to be in place as a part of the traffic plan. Mr. Lewellynn stated that they had talked with Chuck Edwards, the DOT District Engineer, who had agreed that it would be appropriate to assess the intersections at 40 percent build-out of Phase 1. They would be doing new counts every day to determine if the signals would be warranted, and, if so, they would be constructed. Mr. Gering asked if 40 percent completed meant 40 percent occupied, and Mr. Lewellynn responded that it meant 40 percent build-out, which would be the four pods, 1, 2, 3, and 6, and half of the community college. Mr. Gering continued by asking if it made a difference between when it was built and when it was occupied. Mr. Lewellynn said that in looking at the thresholds, it didn't seem like it would be triggered until 40 percent of Phase 1 which was the build-out of the pods being considered at the meeting. Mr. Gering commented that it seems somewhat arbitrary and inaccurate because what really needed to be assessed was the actual traffic, not the projected traffic, based on homes that are built but not occupied. Mr. Lewellynn then stated that he should have said occupancy rather than build-out.

Mr. Henn clarified some of the issues on roadway construction and traffic issues as they would carry through all the SUPs. He stated that the Beckett's Ridge/Millstone Drive connection would only happen when the Board wants it to happen. However, since the applicant has decided, in conjunction with Durham Tech, to open the entire Waterstone Drive sooner than originally contemplated once the roadway is done in the Fall of 2007, the Board and the neighbors at Beckett's Ridge and others might want to open that up because hopefully they are going to use a common sense approach. The connection from New to Old 86 is how construction traffic will get to the project rather than going through Beckett's Ridge at that point. The connection will not be opened until the Board approves. He also pointed out that it is also key that given what is required and what will be built in Phase 1 or the early and middle phases of Phase 1, there's sufficient capacity to handle Parcels 1, 2, 3, and 16--the community college--as well as Parcel 6.

Mr. Henn then discussed the Parcels 1 and 2 SUP. He noted that the key leadership within Stratford Group, which is the master developer, as well as the regional president of M/I Homes and who would be building the single family homes within Parcels 1, 2, and 3 was present. Representatives were also present from McAdams Engineering. A sketch of Parcels 1 and 2 was displayed. Mr. Henn assured the Boards that the application for the parcels was part of the record as well as all items that were subsequently submitted to staff and is complete. He further stated that he believed the Parcel 1 and 2 SUP is consistent with the master plan. Many years had been spent coming up with a good plan. He stated that they were also consistent with all of the zoning requirements and the general standards and requirements of facts that the Board must entertain to make a positive recommendation. The plan does not endanger public health, safety, or welfare but enhances it. The plan does constitute any type of lack of harmony with the neighbors.

Ms. Mary Beerman took the oath. She pointed out that the project was consistent with all aspects of the master plan including 134 single family lots. The individual lots range from 6,600 square feet up to about 24,000 square feet. There are areas set aside that would be owned and maintained by the homeowners association that are to the rear of the lots in the pods and also along the perimeter of the property. In particular along the property line adjacent to Beckett's Ridge, there is a 50-foot strip of buffer that would be owned by the homeowners association, so there would be an extra protection in that area consistent with the buffer that's required along the Beckett's Ridge side. That buffer area is provided with an extra level of protection by being owned by the homeowners association as opposed to being within the lot itself. She pointed out another item, the pedestrian connection that goes between the single family area and the townhome area and provides access

from the single family area to have the use of some of the recreation facilities. She also added that there are sidewalks on both sides of the streets and street trees which meet all the requirements of the landscaping ordinance. They propose a nice streetscape. She showed the stormwater ponds which had been designed to take care of all the drainage for the site.

Mr. Oliver commented that what was shown was a change from what was originally proposed and that the most recent pedestrian path of 2003 is no longer valid. He further noted that the Parks and Recreation Board had requested that they update the pedestrian path and include it as part of their submittal. Mr. Henn stated that if the reference was to the exhibits that were part of the master plan approved two years ago, they could update that at a time certain although he did not know that that was necessarily a part of the current process. He said that they did want to make sure both boards had the most current information. Mr. Henn further drew the Boards' attention to the diagram of a traffic circle which had not been part of the original plans and stated that they were more than willing to update all of the items at that time. Mr. Oliver recalled that on the 2003 pedestrian exhibit, it showed a greenway going into Beckett's Ridge, and they had noticed it was no longer there and would like the pedestrian exhibit updated to reflect what was being shown currently. Mr. Henn represented that they would get that done within the next 60 days, and if that was sufficient, the developers would commit to that. He added that he would rather update everything and provide a book that was consistent. Mr. Oliver said that he wanted to be sure that the plan did not include a greenway connection into Beckett's Ridge. Mr. Henn responded that when they came back to the Boards on the 7th and 13th of February, the greenway would not be there.

Mr. Hallman expressed concern with the internal road about pedestrian safety and traffic speeds. He noticed that the street profile showed roll curbs instead of square-cut curbs and would like to see the Boards consider asking for square-cut curbs which provide for better pedestrian safety. Ms. Beerman responded that they were proposing the roll curbs on the internal streets, but the question could be proposed to Mr. Fraley. Mr. Fraley said he didn't think that was a problem either way. Ms. Beerman noted a correction that needed to be made to the plan. There was a typo on Sheet C-2 in relation to the building height which stated that the maximum building height for the single family at 20 feet. They are two-story buildings, so with the articulation rooflines they would like to increase the height maximum to 35 feet.

Mr. Gering asked to verify the road profile on the internal roads that the planting strip is 10 feet wide between the sidewalk and the roadway. Ms. Beerman confirmed that that was accurate in order to have a tighter streetscape and can be looked at as a traffic calming device. They are proposing to have the sidewalk at the back of the right-of-way and have a larger planting strip.

Mr. Henn stated that he would ask the regional president of M/I Homes to speak and to quickly go through the overview of the actual product that will be within the single family homes and apartments in 1 and 2.

Mr. Don Fraley took the oath. He told the Board that M/I Homes builds throughout the Triangle and had been doing so since 1984. They produce about 200 homes per year in this general market. The company is a publicly traded company out of Columbus, Ohio. The community that they are proposing in Hillsborough is very similar to a community they are building in Cary, North Carolina. In addition they will be offering townhouses. The range of townhouses would be between 1500 and 1800 square feet and priced in the \$200,000s. The single family houses would be between 2500 and 3500 square feet and be in the \$300,000 price range. There will be a recreational facility that will be shared by all the residents within the two communities and will be controlled by the homeowners association which also will take care of the common area to be sure that it's maintained. He then offered to answer questions.

Mr. Gering commented that he noticed in the drawings the closest thing to the street on the houses is the garage which provides a fairly unfriendly streetscape. He asked Mr. Fraley to comment on that. Mr. Fraley stated that the width of the lot would dictate what you can and cannot do while at the same time trying to maximize square footage on the size of the lot. He also stated that in the project they had been able to accomplish some courtyard entrances, which means that the garage is not on the front of the house but on the side of the house. They do intend and will try to incorporate that, but a lot of it will be dictated by how the lot lays out. Mr. Gering added that the examples he was familiar with were also small lot sizes, but they had managed to push the garage behind the facade. Mr. Gering stated that they had tried the garage behind, but typically the garage behind was a detached situation where they have not found great market acceptance.

Ms. Wallace asked what kind of input the Boards would have on the designs, what is the leeway, or do they have any? Mr. Hornik responded that to some extent, if the developer satisfies the setback requirements, the Board ordinarily does not get involved and does not have architectural standards that some other jurisdictions have. So they may have some say in that but are relatively limited in what style of home may be put on the lot. Ms. Wallace then asked if they would have the leeway to say no snout houses and stated that she would like to say it if they could. Mr. Campanella added that it was not just a stylistic issue but is an urban design issue and speaks to the experience of the streetscape for pedestrians and others. The snout houses are roundly ridiculed for their presentation to the street and their unfriendliness. He suggested that the developers do all they can to bring the house itself to the front and push back the automobile from such a high profile place on the street.

Mr. Hallman commented about the issue of preserving as much of the native trees as possible at least on the back part of the lots. Mr. Fraley stated that they would acknowledge that completely. Strictly from a selfish marketing standpoint, as many trees as they can maintain, they certainly will, recognizing that the greatest opportunity to do that is in the back. He also said that handling drainage makes it very difficult to keep a lot of trees on the sides because of creating swales and getting the water to run either to the street or to the back of the lot. They do definitely try to maintain as many in the back as they possibly can, and they will be sensitive to that.

Mr. Henn stated that he wanted to bring up the civil engineer to comment on some of the issues about relocating the garage and how it effects drainage and various issues. Mr. William Swaney took the oath and stated that with respect to the driveway issues, moving the garage to the back of the house would significantly increase the amount of driveway and impervious area on these lots, which is contradictory to what they are trying to do to limit the impervious areas. He said that it may not look attractive to have garages in the front of the house, but the environmental devastation in increasing the impervious area is worse than the physical effects of seeing the garage in front of the house. Mr. Gering stated that he thought that was a value judgment rather than an engineering issue. Mr. Swaney responded that it was an environmental issue as the more impervious area that is added to a lot, the more run-off there will be. Mr. Remington added that in looking at some of the designs, part of the issue is the idea that they would all be side-entrance garages which are difficult to maneuver into and actually adds to the driveway and requires that the house be set back from the garage, and perhaps that would be the first thing that could be changed. Mr. Swaney answered that he knew that if the driveway and garage were moved to the back of the house, it would increase the driveway and impervious area. Mr. Henn added that the master plan was approved for a set amount of density. The developer has met that density. When setbacks and right-of-way, sidewalks, and drainage are added, there is only so much that can be done at any given time to get the density that the Board approved in the master plan. At the same time, one of the reasons he had selected M/I Homes initially to partnership with was some of their product that he had seen in other areas. He

said the market is what is going to dictate the appropriate types of design that actually go there. He indicated that once the trees come in and the sidewalks are in it will look much better than initially and concerns will work themselves out over time.

Mr. Campanella commented that some of the issues which were coming up had to do with the amount of oversight and control the Planning Board and other boards have in the development process. He stated that he felt it was not an issue for the current meeting but is something that he felt should be added to the record, that they should think about a design review process. The Boards go through a lot of work on the design plans and site plans then really lose control of the process at the end. At that point they are given a product that the market will dictate about what will be seen in the town. As they had heard, this was something that had been built in Cary and could be used Hillsborough or somewhere else without any reference to the local spirit of the place, the local architectural traditions, and so forth. He wished to underscore that they need a design review process in Hillsborough. Mr. Henn commented on the point that he felt it is critical that the record reflect the comments of the Town Attorney that there does not exist today that criteria. The developers have met the intent of the master plan. They have met the specifics of the master plan. They have met the specifics of the code. If the town board wishes to get a workshop together, he would be more than happy to be one of the volunteers over the next year or so to work on those design criterias, but for the current purpose he felt it was necessary to stick within the framework of what they have, which is what the developers had met.

Ms. Wallace asked if that was what the town attorney had said, and Mr. Hornik responded that he had said they had limited input into design but some input as part of the SUP process. Ms. Wallace then asked how many house designs the developer had that were not garage out front. Mr. Henn said that he saw six pictures and three had side entry, so it would be about 50/50. He also commented that a mix of house types and curved roads makes for a better overall design. He felt that the people who would be the new neighbors and citizens of the area should have a right to pick what they prefer.

Mr. Boericke called for public comment, and Ms. Hauth said there were two speakers who had signed up.

Mr. Christian Smith took the oath. As a resident of Stagecoach Run, he commented that the people of that area had reached a legal agreement with the Waterstone development and had resolved their issues and were now supportive of the development.

Mr. Sergio Rabinovich took the oath and stated his concern regarding the preservation of larger trees which often died as a result of the roots being damaged in the development process. The homeowner is often left with the expense of have the dead trees cut down. He stated that it was a balancing act.

Mr. Tim Melody took the oath. His question was whether Cates Creek Parkway was connected to Millstone/Beckett's Ridge. Ms. Hauth responded that it is in the plan to be connected, but the road will not be open to traffic at any time until the Town Board votes to open it to traffic. Mr. Melody asked further if that meant it would be opened before or after the construction was completed or somewhere in the process. Mr. Boericke stated that the intent of the Town Board was to prohibit construction traffic from going through Beckett's Ridge, so the Town Board would review the state of the construction and make a decision if it should be opened. Mr. Melody stated that even with the few houses that have been built, he had seen concrete and flatbed trucks going through and is concerned. Mr. Boericke reiterated that the intent of the Board is to review and decide.

Mr. Henn commented on the utility issue in relation to Beckett's Ridge that all of the lots that front along Beckett's Ridge have utilities in the front, so the entire issue of utilities affecting trees on the back is probably a moot point because of the way the property has been designed. Again, he stated that the master plan which was approved two years ago makes it clear that they cannot open that connection until the town is ready. There will be public notice, and it will be debated. They intend for Waterstone drive to go from New 86 to Old 86 by fall of 2007, so that would not be a problem.

Mr. Henn noted that the Code, Section 4.3.9.1 sets forth certain standards as well as 4.3.9.2, and they have met all the standards, and there has been no opposition or evidence to the contrary of the standards. He stated that that being the case, he was very optimistic that their SUPs will get a favorable recommendation on February 7th and on the 13th of February. They are ready to go and want to get started.

MOTION: Mr. Hallman made a motion to close the item.

SECOND: Ms. Vandemark.

VOTE: Unanimously approved.

ITEM #5: Special Use Permit for M/I Homes to build 104 townhomes on 22.3 acres in pod 3a of Waterstone. The plan also includes design and infrastructure for 24 additional units to be built by Orange Community Housing and Land Trust.

Ms. Hauth reviewed the item by stating that the topic was the townhome section of the Waterstone plan, Pod 3, also to be built by M/I homes. The pod is in two phases, A and B. A will contain 104 townhomes, and Phase B will include the planning and infrastructure for 24 additional units to be built by Orange Community Housing and Land Trust. The application is complete as required by ordinance.

Mr. Henn took the oath and spoke thanking Ms. Hauth for confirming that the application was complete pursuant to code. He stated that he believed that all the materials which had been submitted are consistent with the master plan. They are consistent with the zoning code. They are consistent with the general standards. They are compatible with the neighborhood. They do not endanger the public health, safety, welfare. The developers believe that it will increase property values, that it is a good thing. They are excited to work in partnership with the Orange Community Housing and Land Trust. To make the record clear, he stated that M/I Homes will be constructing 104 of the townhomes. The land for the 24 affordable housing townhomes will be conveyed to the Land Trust, who will then select a developer. When Parcel 3 is done, the goal is to have harmony between the two subparcels so everyone feels like it is one community at that point. He asked Ms. Beerman to give an overview and comment about the buffer area.

Ms. Beerman showed a map which demonstrated the two sections. She said that they had had a number of meetings with the Orange Community Housing and Land Trust to work together in creating the design and location of the affordable units. They have not yet selected an architect, are looking to M/I Homes and their intent is to mirror and have the consistency with the same look, facade, building materials, etc. as the M/I Homes units. She showed a graphic representing the elevations for the market-rate units and stated that the elevation had been sent to the Housing and Land Trust. She further stated that it was what the Housing and Land Trust would be taking to their architect as they develop specifics for their units, so that all of the units will tie in together to be a homogenous integrated community and have a similar look and feel. She showed the recreation facility and pool location for use of the residents with a connecting walkway to tie them together.

In terms of the buffer adjacent to Stagecoach Run, Ms. Beerman commented that it was one of the areas that was included in the developer's agreement with the joining neighborhood. It

included having a buffer that extends out to 180 feet from the property, and the shape conforms with the 50 feet required out to the 180 feet adjacent to Stagecoach Run. Also in the agreement, she said, there are some specifics related to some additional plantings that would be in the buffer in order to provide year-round screening.

Mr. Boericke invited public comment.

Mr. Jack Smyre, engineer, took the oath and spoke regarding the access from Lafayette into Waterstone. He stated that he was representing the Morens who own the property to the north through which the access corridor would move. He said that the agreement was not quite as resolved as might have been represented although there is agreement on points A and B. Mr. Moren has not agreed to everything although he is supportive of gaining access into Waterstone from Lafayette and has been interested in it for almost 20 years. The interest is the larger scheme of things for the undeveloped portions of the northeast quadrant of the interchange; that the orderly extension of utilities and access are looked at so that beyond Waterstone continued development in the economic development district can be seen. Their concern would be timing issues as is the Town Board's. There are other factors than the traffic passage that should be considered, including emergency access. It will be important that the Board find a threshold but agree that it doesn't have to be there as the project begins. He stated that the private agreement could not be relied on to get the road built as it does not speak to the completion. They said that the state fire codes and international fire codes suggest that 100 is a good number for a second point of ingress/egress which might be a time to make sure there is a northern access. They will continue to monitor the process.

Mr. Robert Dowling took the oath. As Executive Director of Orange Community Housing and Land Trust, he wanted to speak to the development that they are pleased with the siting of the 24 homes. They had worked with M/I Homes and McAdams who had been very useful and accommodating. He stated that they want their homes to look as good as they can look and to fit in with the market-rate homes. They look forward to going forward. He then offered to answer questions.

Mr. Henn stated that everything would be worked out in time, and the good thing was that there would be a lot more infrastructure being done because of the obligations and desire to make the community college work by having a connection, and at that time, they will rely on all traffic standards to do the right thing. For Parcels 1, 2, 3, and 6 and the community college, there is sufficient capacity now. They will obviously start the permitting of the northern connection once the swap is done. He felt it was important to focus on the SUP for the Parcel 3 alone. The comments made by Mr. Warren's representative did not go to that, per se. Everyone will be monitoring it. The codes set forth certain standards which the developer has met; therefore he anticipates returning in February for a positive vote so they can get going with the 104 townhomes as well as the 24 affordables. Mr. Hallman thanked Mr. Henn for listening to the concerns about affordable housing.

MOTION: Mr. Gering moved to close the public hearing on this item.
SECOND: Mr. Hallman
VOTE: Unanimously approved.

Mr. Boericke called for a 10-minute break in the proceedings and it was taken.

ITEM #6: Special Use Permit for Durham Tech to build a 40,000 sf, 2 story classroom building with 200 parking spaces and a 125 space park and ride lot at the intersection of Waterstone Drive and College Park Road on pod 16 of Waterstone.

Ms. Hauth informed the Boards that she had received comments from Orange County which were included in the packets. They predominately related to compliance with smart growth standards that the county is interested in seeing put in all public buildings, and she would provide a nutshell agreement that, by and large, the plans do a pretty good job of meeting most of the standards. The plans in the packets showed alternates because the park and ride is considered as an alternate which may or may not end up in the final bid. The park and ride lot will be partially funded with a transportation grant. Mr. Oliver asked about not all the checks being checked off on the check-off list, specifically on the lighting plan. Ms. Hauth responded that the applicant had provided the information to her in written form that it will be a shoebox-type light, and she had asked them to testify to that so it would be in the meeting record. She also said that there were signage elevations in the plans.

Dr. Phal Wynn, Jr., President of Durham Technical College, took the oath. He addressed the Board and the public and said that the college's request for a SUP was the culmination of a long and deliberate and intensive process to realize a dream, a partnership between the citizens and elected bodies of Durham and Orange Counties. They had begun some years ago looking for a location for building a permanent facility to serve the adult education needs of citizens in Orange County. They had been serving the citizens of Orange County in temporary locations for more than 30 years. The time had come to find a way to provide more comprehensive educational services to those citizens. The process began with the appointment of a Citizens Needs Advisory Committee to examine all of the adult education needs in Orange County to help prepare an assessment so that courses and programs could be offered when a facility was built. There were 23 Orange County citizens on the committee. There was a lengthy site selection process in which more than 17 sites were investigated before a suitable one was decided upon. Then an extensive architect selection process was undertaken in which they received proposals from more than 28 architectural firms. Dr. Wynn stated that they had reached the point where they are ready to proceed with the significant accomplishment of the construction of the first building of the satellite campus within Waterstone development.

Dr. Wynn continued by saying that the comprehensive services they would provide to address personal and professional needs would be extensive. He said that they feel they have a very good plan in terms of the kinds of offerings they will provide. They are designing a very flexible building that would allow them to offer all of the courses and programs the citizens have indicated they need and want. He added that they have done all they needed to do to adhere to the master plan. They had very carefully selected the architects who were familiar with the policies and procedures and who could move them forward expeditiously because they had hoped to open the first building on the campus on the fall of 2006. The deliberate process they had followed had changed that deadline to the fall of 2007. The citizens have been told that and expect that. He stated that he hoped the Boards would be sensitive to the fact that given the construction time table needed to get the first building completed along with other contingencies, it is important to stay on track as closely as possible. He stated that they were very proud of the unique relationship of working with the Orange County Commissioners, the Hillsborough Town Board, Hillsborough Planning Board, and the citizens of Orange County.

Mr. Ken Redfoot, project designer, took the oath and stated that he had Mike Hammersly, the civil engineer, with him who would be available to answer questions about storm water management and access around the site. Mr. Redfoot then addressed the issue of the shoebox fixture and confirmed that it would be a shoebox-type fixture. He further showed a diagram and

stated that they were asking for an SUP which deals with a portion of the overall development for the area which is a 20-acre site bounded by Waterstone Drive, College Park Road, Stagecoach Run on the north with a 100 foot buffer, senior housing, and a park to the south and ultimately Town Center Road. He said that they had developed and incorporated in the packets a master plan which is a conceptual plan moving toward the future. The current topic was only the first piece, which is a 2-story, 40,000 square foot classroom building that will be the keystone of the multi-building campus that will happen over the future. The building is located prominently at the intersection of Waterstone and College Park Road with access points from College Park Road into the property and access also to Waterstone Drive, so there is good safe access at two points. He further noted that there are 200 parking spaces that serve the needs of the faculty and students for the project. There is also a 125-car park and drive lot which will be an asset to the campus and the town and Orange County. The parking which accesses the building is fairly equally distributed on both sides of the building. The main entrance of the building has its orientation as the creation of an axial relationship for further development for the future. There is very good pedestrian access and separation that ties to pedestrian access around the perimeter of the site as well as good and safe pedestrian access from the park and ride lot out to a bus shelter location. Pedestrian access will be demarcated by a change in materials so there would be a safe understanding of vehicular versus pedestrian arrangement of the site. He noted that landscape plans also were included in board packets. Regarding the trees on the site, they had worked very hard to retain the portion of the acreage and to keep as much of the tree edge intact as possible. He offered to take questions before speaking about the elevations, and there were none.

Moving on to the elevations, Mr. Redfoot showed diagrams of the four principle elevations. He said that the developers feel that the appearance of the building is appropriate in terms of its appearance for the college and in terms of fitting within the character of Hillsborough and beyond that into the Waterstone development. He said that they are basically arranging a pedestrian relationship as it goes through the multi-building campus. There would be a strong entrance, and signage will be across the building. The two wings of the building establish the classrooms which run down on both sides of the project. The south elevation showed the main entrance from the side which has a brick colonnade appearance with a pediment on top. It addresses the corner of College Park and Waterstone Drives. The principle materials are two colors of brick, a light brick and a red brick, the red brick tying into the urban fabric of Hillsborough and North Carolina in general. There is a contrasting lighter color across the top at the gables and roof edge. On the west and north elevations can be seen the unity and consistency of design elements. The west end is similar in appearance to the east in terms of its appearance and materials. The north elevation is similar to the south elevation. He noted that they have a number of alternates which they will plug into the project, and if the funding is available through the county, they will look at some alternative systems such as rainwater collection, PV panels, flat-plate solar collectors, and things of that nature. He felt they had a nice collaboration but were entering into an area where they had been engaged to design some of the features and if the funding is available they can move forward and add those to a very nice, flexible and usable building. Mr. Redfoot again offered to answer questions.

Mr. Remington asked about how much the natural topography would be altered by grading other than the buildings. Mr. Redfoot responded that the building is actually on a relatively flat area. The topography which has to be addressed is basically coming in on both sides and then coming up to the upper plateau. It is relatively flat throughout the rest of the project.

Mr. Oliver asked about the PV panels mentioned and whether any additions would go above the 45 feet. Mr. Redfoot answered that they would be designed to be placed on the roof surface

facing toward the south so there would be no additional height required. Mr. Oliver then spoke about the architectural design being harmonious with Hillsborough/Orange County and also with Waterstone and asked if there were any discussions with the Waterstone development team that might lead to expectations that office/retail buildings look something like what the college is proposing. Mr. Redfoot responded that what they had done was to present the elevations to the design committee of Waterstone, and they were pleased and encouraged by what they saw. Mr. Henn spoke to correct that they had not met the criteria, they had exceeded the criteria. He stated that he believes the design was such that it could serve as a catalyst for the rest of the urban development area with office and retail in that. He commented that the college was the crown jewel location of the Waterstone project and will set the tone for things to come.

There being no comment from the public, Mr. Christian Smith took the oath. He said that earlier he had spoken to make clear that general hostilities between Stagecoach Run and Waterstone had been resolved. He stated that he believed that they were also at peace with Durham Tech's proposal specifically as shown in the current SUP. As a professor at Carolina he said he was all for adult education. In the legal agreement with Waterstone, the residents of Stagecoach Run did not agree on any binding conditions because it was too late to influence anything specifically there. However he felt that in the agreement, the Waterstone developers did agree to ask the county to make all reasonable efforts to maximize distance between their neighborhood and unsightly and noisy elements of the Durham Tech. campus. He read, "NORCA shall make a written request to the county asking that the county make all reasonable efforts to locate buildings, roads, paved parking, trash dumpsters, and utilities on the community college parcel as shown in Attachment C so as to maximize the distance between such improvements and facilities and the boundary of the Stagecoach Run division." He then spoke for himself and his immediate neighbors stating that they were content with the current campus master plan. They only asked that the design for future development as shown on the map be done in a way to keep dumpsters and delivery trucks away from their residential neighborhood. They were asking at this time because they felt the design now might have implications for what will end up relatively close to their houses. He asked that future design give fair consideration to the established residents who live directly behind the new campus.

Linda Logan who was listed to speak passed on her turn.

Mr. Hallman asked Dr. Wynn about Item #10 regarding modification of Pod 6 to single family residences. He asked for Dr. Wynn's opinion on single family homes versus apartments or rental units as far as the community college was concerned. Dr. Wynn said that his initial response would be that as they looked at the demographic profile of the students the college serves, a large percentage of those would be aspiring home owners, those that are employed, underemployed, or seeking employment that would probably live in multi-family kind of homes with the objective and goal of getting better employment, upgrading their skills so that they could purchase single family residences. He felt that having a sufficient mix of single family plus multi-family residences would be very important to the college, based on their historical demographic trends.

MOTION: Mr. Lowen moved to close the public hearing on this item.

SECOND: Mr. Hallman.

VOTE: Unanimously approved.

ITEM #7: **Annexation and zoning request from CCD Corp. for 38.58 acres on the west side on NC57 between Rabbit Drive and Strouds Creek Road to be zoned Light Industrial (TMBL 4.44.1, 1b).**

Ms. Hauth introduced the request as an annexation and zoning request. She noted that on this item speakers did not have to be sworn in because it is not a quasi-judicial proceeding. The light industrial district is a general purpose zoning district. The owners were not submitting a plan for redevelopment of the property at the meeting because they were not required to. What the Board is charged with doing is looking at the whole list of uses that are permitted within a light industrial district and determining whether those, in their entirety, would be acceptable on the site. The site would actually develop under either one or a series of site plans and may or may not be subject to a subdivision depending on the owner's interest in the property.

There being no questions, Mr. Callemyn took the oath. He introduced himself as a professional land surveyor, speaking on behalf of the applicants, formerly known as CCD Corporation. He stated that the CCDC was a family who has been doing business on the location since 1962. The family and neighbors from adjacent properties were present in the audience. He commented that it was his understanding from Ms. Hauth that the application was complete. He did not plan to submit any additional materials at the meeting. He offered to answer questions and reserved the right to answer any concerns after other speakers. He added information for the Boards that the Wilkerson group, CCDC, had been approached by Thalle Construction who is working on the sewer lines that are running from 86 over to 57. The engineer came up with some ideas to save some time and money and facilitate the installation of the sewer line. Mr. Callemyn said he had agreed to work with both parties to locate that and get the design changes to the engineer. Both parties have agreed to do that, and they are talking about moving a portion of the sewer line from the east side to the west side. He asked for any questions.

Mr. Oliver asked whether, in order to make the decision, the Board should have a zoning map or a map with all of the adjacent parcels with the zoning that's on the adjacent parcels. Ms. Hauth responded that she would provide the information to the Boards. Ms. Ellis commented that on the map, they did not list the houses that are on Rocky Lane and asked how close the property was to Rocky Lane. Mr. Callemyn answered that the property lies about 150 to 200 feet north of Rabbit Drive which is a couple hundred yards north of Rocky Lane. Ms. Ellis asked if there was any way of protecting the neighborhood from any commercial development, and Mr. Callemyn responded that there was, and that speaking on behalf of the applicant, he could say that any future commercial property that backs up to residential that could cause a negative impact should be and will be addressed with a future site plan. He also believed that after annexation, the Town of Hillsborough would have appropriate setbacks and buffers between commercial and residential. Ms. Ellis also expressed concern that if development were commercial as to whether there would be large dumpsters that would require large trucks to come in and pick them up. Mr. Callemyn assured Ms. Ellis that her concern was noted.

Mr. Hallman asked if the neighbors had commented on the issue. Ms. Hauth stated that she had no written comments and had had no phone calls. The notices had been sent and the property had been posted with signs as well.

Mr. Remington inquired about how close the property was to the existing town limits. Ms. Hauth advised the Boards that the closest town limits would be off the map to the south and west at the northern-most tip of Harper Street. The requirement for satellite annexation is three miles, and the property is within the 3-mile limit. She offered to provide the exact distance in the packets.

Mr. Callemyn responded to Mr. Hallman's question by saying that the family had contacted some of the neighbors, and they have no negatives. In response to some of the concerns

expressed at the meeting, he had spoken to a neighbor and answered a question, and they would be available to answer questions at the meeting or in the future.

MOTION: MsDancy moved to close the item.
SECOND: Mr. Hallman.
VOTE: Unanimously approved.

ITEM #8: **Rezoning Request from Hillsborough Community LLC to zone the entire .75 acre parcel at 137 W. Margaret Lane to Central Commercial. The rear portion of the site is currently R-20 (TMBL 4.36.E.5).**

Ms. Hauth advised that there was a valid protest petition on the property by an adjacent property owner. She felt the applicant had something more pressing he wished to say. Mr. Ruffin Slater, manager of Hillsborough Community, L.L.C., spoke stating that they would like to withdraw the application and request that the Board waive the one year waiting period to re-apply. Mr. Boericke responded that he thought that was a request to the Town Board.

MOTION: Ms. Dancy moved to allow the withdrawal request without the one year delay to re-apply.
SECOND: Mr. Hallman.
VOTE: Unanimously approved.

ITEM #10: **Master Plan modification for Waterstone to designate pod 6 as single family development and add residential units to pods 15, 18, and 22.**

Mr. Henn addressed the Board and suggested that the item be deferred to April 25th. That would give the applicant some time to work with the neighbors, the Morens, and follow up on some ideas, including a suggestion from Commissioner Hallman that perhaps a small amount of single family would be appropriate. Also he would like some time to address the comment that Dr. Wynn made about multi-family options. He stated that he would like to come back and show some true alternatives so that a better recommendation could be made.

Mr. Boericke determined a consensus of the Boards. Mr. Hallman clarified that he had said he would be open-minded to other alternatives. Mr. Henn added that in Chapel Hill, they had seen some cluster houses, and they needed to do some more work so they could better get to the issue.

MOTION: Mr. Lowen moved that that the item be continued to the April 25th hearing.
SECOND: Ms. Dancy.
VOTE: Unanimously approved.

Mr. Boericke closed the Planning Board portion of the Public Hearing and turned the meeting over to Mayor Stevens.

Mayor Stevens invited a motion to adjourn. It was so moved, seconded, and unanimously approved. The meeting was adjourned at 9:47.

Respectfully submitted,

Margaret Hauth, Secretary