

**MINUTES
PLANNING BOARD
March 7, 2006**

MEMBERS Present: Jim Boericke, Eric Oliver, Edna Ellis, Toby Vandemark, Matthew Farrelly, Barrie Wallace, Paul Newton, Tom Campanella, Neil Jones, and Dave Remington.

STAFF: Margaret Hauth and Kenny Keel, Town Engineer.

PUBLIC: Wesley Cook, Alois Callemyn, Jim Parker, Bedford Lee, Jeff Black.

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

Mr. Boericke called the meeting to order at 7:00 p.m. and confirmed the quorum.

ITEM #2: Adoption of the minutes from the January 24 public hearing and the February 7 meeting.

Ms. Hauth pointed out that she put a note in the board members' packets about the Riverbend variance issue from the last meeting. She explained that at the last meeting there was a motion to deny; discussion followed, and the motion failed, so that variance was not approved but was also not denied. So it will be considered at the present meeting.

MOTION: Ms. Vandemark moved to approve minutes from January 24 and February 7.

SECOND: Mr. Remington.

VOTE: Unanimously approved.

ITEM #3: Additions to the agenda and agenda adjustment:

Ms. Hauth noted for the record that she would make an addition at Item #8.

ITEM #4: Committee reports and updates:

Board of Adjustment:

Mr. Newton reported that the Board of Adjustment met in February to review their Rules of Procedures, prompted by the question from the last meeting on the status of alternate members, and the intention is to continue this process at the next meeting.

Parks and Recreation Board:

Mr. Oliver reported that the Parks and Recreation Board met in February and reviewed the request for Riverbend to provide fees in lieu of land dedication for the subdivision. P&RB approved fees in lieu but offered to accept the land around the 63-inch diameter oak as a park in lieu of fees or specific recreation property even if it was less than the two-fifths of an acre that's usual. Mr. Oliver said there was discussion about Walkable Hillsborough's transportation forum on March 18, and there was discussion about sponsoring an Easter egg hunt, and Carillon Assisted Living offered to plan it, run it, and provide supplies for it. Every three years the county will hold the Easter egg hunt in Hillsborough.

Churton Street Corridor Committee:

Mr. Remington indicated the Committee met in February. There was discussion about signage, and they reviewed signage ordinances from other towns to consider signage for the Churton Street corridor. He also reported that the committee talked about the Open House meeting, which was mentioned at last month's meeting, and it will be on March 20 at 7:00 and the other Boards are invited.

Strategic Growth Plan:

Mr. Newton reported the committee met in February, and that the theme of the February meeting was water. The discussion covered topics that had already been discussed by the Planning Board in the past, basically a review of Hillsborough's water capacity and issues regarding water service boundary. The committee heard historical information. Mr. Newton said the next meeting would be on Wednesday, March 22, 6:00 at the Food Lab which is in the Orange County Planning Department building on Revere Road.

April public hearing:

Ms. Hauth gave a preview of the agenda for April 24. Items continued from January's public hearing included Walters rezoning, the consideration of master plan amendment being pod 6 in Waterstone, and if not taken care of before, then finish up on Ashton Hall boundary line issue. There is the annexation and zoning request of Old 86 Commons, 11 acres, mixed use, and also a series of text amendments.

ITEM #5: Annexation and zoning request from CCD Corporation for 38.58 acres on the west side of NC 57 between Rabbit Drive and Stroud's Creek Road to be zoned Light Industrial.

Ms. Hauth said that last month the Board asked the town engineer to be present to address some of the summary information provided by the applicant about the town's desire to have more utility customers. Kenny Keel was present to answer questions, as were the applicants.

Mr. Keel indicated it's generally true that the town wants sewer users but not high volume water users. The proposed commercial development typically uses less water than similar sized residential developments. The sewer line that passes through this property was put in by the school system for Pathways Elementary. The town contributed \$20,000 toward that construction in order to make it a larger size than the minimum required, upgraded to a 12-inch rather than an 8-inch, in anticipation of development in this area. If the project goes forward, the Town Board is expected to request an approximately \$60,000 payment from the development toward the sewer line that's planned to go in from the Thalle site on 86 that will tie into the Pathways line that's there. So the town has already spent \$20,000 and would save \$60,000 by getting that contribution from the developer.

Mr. Oliver questioned whether the water line is to be put in at the same time. Mr. Keel indicated there's already an existing water line running by the property. Mr. Keel responded to a question from Mr. Oliver about whether future use of water has been anticipated by saying that it's not in the capacity study, but the volume in this case is not a huge volume. The capacity study has some tolerance in it, and the Board would look at the question.

Mr. Oliver asked if it's strategic for the town to link up with Pathways and have this development as a customer in terms of future growth in his area. Mr. Keel said the sewer line coming from Thalle is going to be in place whether this particular development occurs or not, and that in is his opinion it was a good thing to have done because it basically saved from having an additional pump station by putting in that sewer. That it doesn't make any difference strategically about having a developer there to utilize sewer other than that there are existing facilities in there capable of handling a whole lot more.

Ms. Ellis questioned if the line is intended to go across to Habitat to Northern Fairview. Mr. Keel answered that that's already in the works, and the approved sewer from the Thalle property is going in from the Thalle property to Pathway sewer. The sewer from Habitat down to the Thalle property has also been undertaken by the town; a design contract has been approved for construction. And he said there is consideration being given to possibly rerouting that sewer a little to better facilitate the project, but the sewer is already committed, whether through this corridor or a slightly different one.

In response to a question from Mr. Newton about submission of a site plan, Ms. Hauth said most recent annexation requests have been requests for zoning into a special use district which then required the submission of a plan. This zoning of Light Industrial is not a special use district, so there's no obligation for a plan being submitted; and furthermore, that if the applicant submitted a plan, it would focus discussion on the wrong items because the Board can't talk about parking lots and building sizes, et cetera, and Ms. Hauth said that type of discussion is appropriate at the site plan review. If the property was annexed and zoned, then the applicant would come forward with subdivision of the lots, which the Planning Board would review, or site plans of the entire parcel or individual sites, which the Board of Adjustment would review.

Ms. Ellis brought up the memo containing comments from the County on this project. Mr. Boericke summarized the county's input which suggests holding the decision until after strategic plan is in place.

Ms. Ellis questioned if the list of possible uses in Light Industrial needs to be discussed, and Ms. Wallace questioned what constitutes Light Industry. Ms. Hauth responded that it's defined in the ordinance and quoted, "Manufacturer service repair or testing of products taking place in a totally enclosed building. There is no outside storage. Noise, glare, or emissions from the industrial activity are not detectable off the property." Mr. Boericke suggested that Ms. Ellis submit her suggestions about changing the list of Light Industrial to Ms. Hauth so that it may be on the agenda at a later meeting.

Mr. Oliver questioned how much the town can satellite annex at this point in time. Ms. Hauth answered that the base of town is in the ballpark of 3,000 acres; and ten percent, 300 acres, can be annexed. Presently 85 acres in Freeland Farms, and five acres that's Carillon, and roughly 30 acres at Patriot's Point, so currently annexation is not halfway to the total allowed.

MOTION: Mr. Newton moved to recommend that the applicant to come back after Growth Plan process is done due to the strategic growth plan, the comments from Orange County, and the adjacent uses to this property.

SECOND: Mr. Campanella.

DISCUSSION: Ms. Vandemark requested clarification on whether the motion involves annexation or zoning. Ms. Hauth said the motion is for the zoning only. Mr. Oliver said that it was his feeling that the timing is wrong for this applicant, in agreement with Mr. Newton's motion. He expressed that his support of the motion is only due to the timing issue and not the project itself. Ms. Hauth clarified for Mr. Boericke that there is no waiting period for resubmission since it's an annexation, and said that the applicant can withdraw the request at any time; that if the motion from this Board takes the proposal to the Town Board and the applicant feels the

response is not in his favor, he could withdraw without penalty.

VOTE: Motion to recommend denial of zoning request carried unanimously.

ITEM #6: **Preliminary Subdivision Plan for Riverbend Phase 2 to create 12 lots on 7.85 acres with access to Tuscarora Drive and US 70A. This request also includes a variance request for land use buffers along the north and east.**

Mr. Boericke thanked the applicant for his consideration of the tree on the property and indicated this consideration is taken as a measure of good intent. Ms. Hauth pointed out the Board's packet contained a report from Bartlett Tree experts of Raleigh about the status of the tree, and that Bill Crowther also provided a copy of the Conservation Agreement on the property to the east, the restrictive covenants. Ms. Hauth noted Mr. Remington's email to her regarding language in the Subdivision Regulations not allowing buffers to be coincident with utility easements and road rights of way. Mr. Parker noted that the overhead line along the east line is proposed to be removed and does not have a platted easement. Ms. Ellis asked when Riverbend Phase 1 was developed and Ms Hauth said approximately ten years ago.

Jim Parker, with Summit, had previously been asked to address two issues; the tree and the buffer along the back of Lots 1, 2, and 3. He indicated the tree's location on a map, and said he met with DOT, Chuck Edwards, in the field to consider moving the road. The road has been shifted five to ten feet, but the concern is the sight triangle and the tie-in of the pavement to US 70. NCDOT doesn't allow the tie-in to extend beyond the projection of the property line of the adjoining property.

Mr. Parker presented their best effort to get the road in, and showed that it involves undercutting the tree. He suggested that the sidewalk could be left off. That would move the cut back in front of the tree, but it would leave very little stability for the tree.

He pointed to the letter from the tree expert that the Board has and that it indicates to preserve the existing health of the tree, no disturbance within 30 feet of the trunk should be made. He stated that the tree expert indicates one side of the tree area was cut away maybe 60 years ago and that the tree has grown with the obstacle of no dirt on that side. Mr. Parker pointed out his own opinion that the excavation will cause the tree to fall over in a good wind, and that it's the applicant's opinion that it cannot be saved; that the excavation will cause the tree to become a hazard.

Mr. Campanella questioned the drip line coming close to the edge of the pavement and wondered if a two to three foot high retaining wall could be built at the pavement edge. Mr. Parker pointed out that the wall would have to wrap around and be very close or into the right of way of 70, which would be a problem for DOT as an obstacle as far as sight distance. Mr. Wes Cook added that if the tree fell, it would go across 70, and Mr. Parker agreed that the tree would be in the road, if not across it.

Mr. Oliver questioned whether there's been investigation into the adjoining property owners allowing the road to be moved over. Mr. Parker's response was that he doesn't think they'd want to sell their land. In response to a further question from Mr. Oliver, he indicated there is no room on the left side of the tree and that the best effort has been made to move the road away from the tree.

Mr. Remington expressed his surprise at the arborist's favorable prognosis of the tree, and said that he had looked at the tree, and in his estimation the tree could survive six months or 60 years, but wasn't in wonderful shape. He noted an old fire or lightening scar, which is also noted in the report.

Mr. Cook stated that the arborist said that without doing a boring, he couldn't say how rotten it was on the inside. An audience member read, "It seems to be in fairly good health considering its age, size, injuries due to natural stress and previous injuries." And then Mr. Remington said that the phrase "considering its age, et cetera," equivocates about the tree's good health, and that normally if the tree was on public land, he would likely lean more toward saving the tree. The fact that it's on private land adds to his thinking that it may not be worthwhile to go to extraordinary lengths that may not prove successful to preserve the tree.

Mr. Parker added that the liability for the tree would eventually fall on the future homeowners association. Mr. Campanella suggested that this is one of the oldest living things in this area, and rather than a liability, he sees it as a unique and distinguishing feature of the project.

Mr. Remington questioned shifting the road, not building a wall, and leave the tree and modify the sidewalk, so excavate as little as possible, but on a closer look at the plan, he sees little chance unless the whole grade could change. He disagreed with Mr. Campanella by saying that there may be other big trees around. Mr. Remington pointed out another old tree on the east of the property that appears healthier and suggested there are others that are taller. Mr. Parker also said that in the development there will be trees planted and suggested that another white oak be planted.

Mr. Boericke asked for the time frame for the development, and Mr. Cook responded that hopefully it will be completed this year. Mr. Boericke questioned the possibility of leaving the tree for the rest of the year, and Mr. Cook responded that he wouldn't gamble with the tree; that he has talked with his insurance company and his attorney, and that both advised that it's best to take the tree down.

Mr. Oliver acknowledged the other board members' expertise in trees, and stated he felt the applicant had made the best effort, but he doesn't think the tree can survive the development. He stated that he believes the town would like to see the advantages involved in the development such as better access for the fire department, for buses, et cetera, to the whole of Riverbend, and as much as he'd like to see the tree stay, this issue will not affect his voting one way or the other for the issue of the development. Mr. Boericke and Mr. Newton voiced their agreement.

MOTION: Mr. Boericke asked whether a consensus existed on the Board as to dropping the tree as an issue and made a motion to drop keeping the tree as a requirement for this request.

SECOND: Mr. Newton.

VOTE: Carried unanimously.

Mr. Campanella wanted to add a couple of recommendations for the Town Board when the

final motion is on the table.

Mr. Newton questioned whether the plans include sidewalks on both sides of the street and along the frontage of 70, and the answer was yes. After a question from Mr. Newton, Mr. Parker answered that Lots 1, 2, and 3 are drawn assuming that the variance is granted. And in response to another question from Mr. Newton, Mr. Parker indicated the development will be hooking into town water and sewer and that there will not be curb and gutter.

In response to a question from Ms. Ellis, Mr. Parker indicated that Mr. Cook is going to create lots and sell them rather than development the lots himself. Ms. Ellis indicates the streets shown indicate 60 feet of right of way out at Highway 70, and asked about the right of way at Saponi or at Tuscarora. Mr. Parker answered that the right of way in some places is 40 feet. Ms. Ellis added that in order to be state maintained, the right of way has to be 50 feet minimum and it isn't shown on the plan. Mr. Parker responded that all new road construction will have 60 foot right of way, yet where it ties in with existing right of way; it may not be 60 feet.

Ms. Hauth added that the end of the street construction may not be state maintained at this time because the state has a specified dwelling density required; every quarter mile must have four houses. So on the piece beyond Saponi Drive, there are no houses, and until it gets extended into the development and the houses are built, the last little bit wouldn't likely be on the state system.

Mr. Parker added that the intentions are for the developer to improve even the gravel portion and tie everything together for continuity. Ms. Hauth pointed out that the developer is not asking for annexation.

Mr. Parker said again that the roads being constructed will be 60 feet right of way until it ties into existing right of way and that road plans will be submitted to DOT and approved for maintenance. Ms. Ellis asked for that to be submitted in writing to the board, and Mr. Boericke agreed to make that a condition.

Ms. Ellis pointed out that the land was acquired in November of 2001; that the buffer requirement was known at that time, and so Mr. Boericke introduced the buffer variance request. Mr. Parker said the initial request was for a 20-foot setback in lieu of the 50 foot type D buffer along Lots 1, 2, and 3, and he agreed the applicant could have known about the buffer requirement upon purchase of the property, but he did not have a design at that point, and to make this connection with the existing road, Tuscarora, and to try to design a connection to 70 in a way that would prevent a straight-through connection, they introduced the intersection to give some traffic calming effect.

Mr. Parker explained that the DOT minimum radius requirements of the resulting curve at the intersection created the existing road design which make the lots shallower than ideal with the 50 foot buffer requirement. Mr. Parker stated that he realizes a cul-de-sac design would alleviate the lot size problem, but the need for the road connection and the necessary design forces the lot sizes in question. Thus the request for a 20 foot setback at the rear of the lots, and he agrees to plantings to create a buffer as opaque and similar as possible to the D

buffer in the 20 foot space.

Mr. Parker reiterated his explanation to clarify for Mr. Farrelly, and Mr. Farrelly suggested the sacrifice of one of the three lots for the road design rather than try to maintain the three lots and ask for a variance from the Board. Mr. Parker acknowledged the validity of the suggestion but explained that it would create a financial sacrifice.

Mr. Farrelly questioned the cul-de-sac design for the property, and Bedford Lee, local realtor, responded that the present design is most advantageous for traffic flow. Mr. Lee explained that options have been studied, but that with a 40 foot setback on the front and a 50 foot buffer on the back, the lots would be unmarketable.

Mr. Campanella argued that the fact that the adjacent area that will never be developed is a benefit, rather than a detriment. Mr. Parker indicated the setback and buffer would leave only enough room for a house. Ms. Wallace suggested the plan could be re-drawn. Mr. Remington acknowledged limitations on the roadway curve's radius, but also suggested re-designing the road and lots. Mr. Parker responded that many ways have been considered, and that the proposed configuration of the lots is the best they could do. The hardship, he pointed out, is the cost to the developer in doing away with a lot.

Ms. Wallace questioned the validity of the hardship issue being a financial one and that the developer knew the buffer was there and he brought in a plan that doesn't conform to the requirements of the ordinance. Mr. Parker explained the costs of the improvements are fixed, and losing a lot is a financial loss. He stated the Board asked for reasons to grant the variance, and that the developer has tried to lay out the reasons in the geometrics of the property.

Mr. Parker pointed out the developer has met the open space requirement and he's met all the other requirements as far as improvements, and stated again that asking him to give up a lot is a financial hardship. Ms. Hauth pointed out that financial hardship is not one of the criteria for consideration of a hardship.

Mr. Newton, in reviewing the ordinance, pointed out that it says, "make adherence impractical or impose a hardship," and he agreed with the applicant; they are putting forth a compromise. Going by the wording in the variance, these are unusual circumstances in terms of the neighboring property, and in terms of the spirit of the ordinance requiring buffers, there is nothing on the neighboring property to shield.

Mr. Newton added that since it's been a longstanding policy of this board to promote and encourage connectivity and based on the fact that if the 50-foot buffer were in place, it does create an impractical situation, that he finds the variance request acceptable. He harkened back to the four findings the board must consider.

Ms. Wallace asked for more explanation. Mr. Newton responded that the required buffer would make building on the lots impractical according to letter A. The circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this ordinance. The fact that the lots are next to a

conservation trust where there's never going to be any or limited development, that the variance will not destroy the intent and purpose of the ordinance, which is basically protecting, preserving, promoting visual appeal, character, value of the surrounding property, to provide a sense of privacy, and to promote public health. Mr. Newton stated that in granting this variance, he didn't see any of that compromised in this situation.

Mr. Farrelly noted the fact that there may be trails on the adjoining property, and the visual appeal has to do with the other uses on the adjacent areas, and if there isn't the required buffer, that changes the visual appeal. Mr. Boericke reiterated that the option under consideration is the 20 foot buffer planted to a comparable opaqueness of the 50-foot buffer, so that the proposal includes a reduced yet comparable buffer.

Mr. Farrelly also pointed out that the developer/applicant has the specific financial numbers involved in the other design options, and that although it's not listed as a consideration, it could be informative to the Board, and the Board has no opportunity to know the precise financial numbers that the applicant is using to conclude that other configurations are impractical. And Mr. Parker acknowledged the financial hardship not being a part of the criteria of hardship as the reason he didn't put forth the numbers.

Mr. Cook responded to Mr. Farrelly's requests for clarification of the financial concerns of the applicant with some costs of the land and resulting sale price of the lots and also noted a requirement by the state to create a turn lane on 70 which creates another expense, and he insisted that the 12 lots create a break-even financial situation, and that without all 12 lots, it's a no-go situation.

Mr. Oliver pointed out the ordinance language of the characteristics of other land in this jurisdiction, and he expressed his concern of setting a precedent in allowing a 20 foot buffer. Mr. Boericke expressed a question of whether a 50 foot buffer is necessary next to park land and asked for the designation of historic homesite property. Ms. Hauth responded that it has to come in under 1) existing developed and 2) undeveloped, vacant. The only place where AR is under undeveloped/vacant, and that's where you get the Class D. It's not resource protection, which seems logical since the only two things there are quarries and agricultural uses. So the next closest thing is the 40,000 square foot lots which is what's allowed in AR, and in that case, the buffer is more along the lines of an A buffer, which is significantly smaller. She pointed out that the table being consulted hasn't been changed since it was first put in the ordinance, and that it has a lot of weaknesses.

Mr. Boericke stated he likes the road proposal; the consideration for slowing down traffic is a plus for the neighborhood. He stated he thinks a 50 foot buffer next to open parkland seems excessive; he likes, however, the buffer plantings to establish the property line and provide a screen for the houses. So the 20-foot planted buffer is satisfactory to Mr. Boericke, and he anticipates straightening out the table when re-doing the ordinances.

Ms. Hauth wished to make the Board aware that the processes for Ashton Hall and Fox Haven are different because they are not standard subdivisions; those are special uses, wherein, the buffers are negotiated. So the issue of precedent setting is lessened with regard to these other projects.

Mr. Remington expressed his inclination to agree with Mr. Newton in terms of criteria A and B but still wondered why not cut down lots 1, 2, and 3 to two lots, and therein each larger lot would increase in value enough to offset the cost issue. Item C concerned Mr. Remington also if Classical American Homes Preservation Trust were to sue on that issue of the proposed trails. Ms. Hauth pointed out the Cates Creek Trail is proposed to go more on the east side, where the power line runs, not so much on the north side. Mr. Remington expressed his preference that the 20 foot buffer not be a row of Leland cypresses and suggested that that be a condition. Mr. Parker agreed to that.

Mr. Remington pointed out that the east side was still an issue to consider, whether there's an easement along the area of the power line. Mr. Parker responded that they can find no easement for it and that the intention is to remove or relocate that. Since Mr. Remington sees that area as possibly being planted, he stated he feels more inclined to working with the proposal.

Ms. Ellis reiterated the setting of precedent and that the developer has been aware of the buffer requirement all along. Mr. Boericke responded that the narrow lots have been created in response to the Board's inclination toward and the town's benefit with the connectivity to Tuscarora, and that he feels this is a better plan than the alternative cul-de-sac design.

Ms. Ellis stated that annexation is another possibility and also expressed her strong feeling that there should be playground space allotted for children. Ms. Hauth explained that it was agreed that if they couldn't work out the tree issue, payment in lieu in this subdivision would be accepted.

Mr. Remington agreed with the concern about precedent, and that if granted, he suggested the reasons be carefully stated with regard to Item B. In response Mr. Boericke stated the reasons: 1) its 20 foot for 50 foot and 2) the ordinance does not clearly address what the buffer should be next to the type of property that's adjoining, and he feels 20 foot buffer as boundary for a park is okay.

Following expressions of confusion regarding zoning, Ms. Hauth indicated the property in question is zoned Agricultural Residential even though it's not what the real use is.

Mr. Remington acknowledged that it is a unique circumstance that makes it impractical to build on lots of the size it's zoned for along the north line. Given the desire for the connectivity and the DOT requirements for the road layout and tying into an existing road location and given that the land is not being used for what it's zoned for and the only aesthetic issue is not in the area that the variance is being asked for, he felt there were sound grounds for granting the variance.

Ms. Hauth responded to a question from Ms. Wallace about why the Conservation agreement is included in the Board members' packet by saying that Mr. Crowther asked that it be included to inform the Board members of the possibility of improvements for the adjoining property. Mr. Boericke specified that it says they have the right to put up a building for displays, exhibits, to build a parking lot, as well as the trails.

Mr. Newton reminded the Board that at the last meeting the representative from Classical American Homes had said they wanted the Board to hold to the ordinance regarding the buffer. Mr. Boericke indicated he would agree if there were a proposal for no buffer but 20 feet and opaque, in his estimation, satisfies. Mr. Remington also recalled that the representative was also including the east side.

MOTION: Mr. Newton moved that the Board approve the variance for a 50 foot to a 20 foot buffer with the condition that the vegetation planted in the buffer is varied and something that doesn't look so artificial as Leland cypresses, in light of the fact that the Planning Board and the town are very much interested in the connectivity of this project to Tuscarora; also because the use of the land does not match the zoning creating a unique circumstance making building on the lots impractical; and due to these circumstances being peculiar to the parcel, noncharacteristic of other parcels in the jurisdiction, does not destroy the intent and purpose of the ordinance in light of the fact that the Board is still maintaining an opaque buffer.

SECOND: Ms. Vandemark.

DISCUSSION: Mr. Oliver stated the motion needs to include the specification of Lots 1, 2, and 3, and whether the east side is included. Mr. Parker pointed out that the east side of Lot 3 is also requested.

VOTE: Six in favor and four opposed: Jones, Campanella, Ellis, and Oliver.

Mr. Boericke introduced the consideration of the recommendation to the Town Board.

Mr. Campanella wished to recommend that if the project is recommended, that when the tree is taken down that the applicant make a donation to the Tree Board of one shade tree sapling per decade of growth of the tree being removed which would be determined by the arborist. And secondly, that when the tree is removed that two sectional discs be cut, 8- to 10-inch thickness, to be provided to the town to be used for educational purposes, recognizing that if it's rotted through, it would not be feasible.

Mr. Parker responded that he could concur with the first request, but not the second. Mr. Campanella responded to a question from Ms. Hauth that the placement of the donated saplings would be determined by the Tree Board. Mr. Newton expressed his appreciation to Mr. Campanella and the applicant.

MOTION: Mr. Newton moved to recommend approval to the Town Board of the preliminary subdivision plan for Riverbend Phase 2 with the first condition mentioned by Mr. Campanella.

SECOND: Ms. Vandemark.

DISCUSSION: Ms. Ellis also wished to recommend to the Town Board that the property be annexed. She suggested the town could benefit financially with the property taxes collected. Mr. Boericke suggested that the issue be considered as a separate motion.

Mr. Oliver expressed his feeling that the Board is relinquishing too much in the buffer. He suggests maybe 30-foot buffer on the eastern side should be a condition. He said he likes everything about the proposal except the variance. Mr. Farrelly asked if a 30-foot buffer is a possibility. Mr. Parker said they prefer the 20. And Ms. Hauth pointed out that the variance has been decided.

VOTE: Seven in favor to three opposed, Mr. Jones, Ms. Ellis and Mr. Oliver.

MOTION: Ms. Ellis would like to recommend to the Town Board that they annex this contiguous property. Ms. Hauth agreed it is contiguous; it's not a problem to annex it, but that the town usually does a cost benefit analysis to help with such a decision. Mr. Boericke agreed that this Board needed more information before they recommend annexation.

SECOND: Mr. Boericke.

DISCUSSION: Mr. Newton questioned the developer about why he did not seek annexation and acknowledged that the Town Board would likely want to see some fiscal impact analysis. He suggested that the garbage trucks will be heading out in that direction due to Ashton Hall, and the police and fire already have to go out that way because the city limits are well beyond that.

Mr. Cook responded that Tuscarora and Saponi area residents are on septic tanks, and the town would only have these 12 lots to access. He said he didn't think about annexation at the time, yet added he didn't have a preference either way, but he said he knew the city wouldn't want to take in Tuscarora, Saponi as well as the new ones.

Ms. Hauth responded to a question from Mr. Oliver that the fire service would be the same, but they'll pay the fire district tax, that the Sheriff's Department provides public safety, and if they choose to pay for garbage service, it would come from a private contractor.

Mr. Remington questioned whether curb and gutter would be required if the project was in the city limits, and Ms. Hauth said it wouldn't, but that the town's concern with the street layout would be where the water meters are placed.

Mr. Boericke again stated more financial information would be needed before a recommendation is put forward; however, he reminded the board that the motion is on the floor to recommend annexation to the Town Board. Ms. Ellis stated that this Board can't require it, but the Town Board can. Ms. Hauth said that the town could seek the information, that it's the standard in water/sewer extension contracts, but it doesn't always get brought up and that this would bring the item before the Town Board and thus make sure somebody considers annexation now rather than later. Mr. Newton suggested the motion be worded to include a suggestion to consider, rather than recommending annexation. Ms. Ellis agreed to the amendment.

VOTE: Carried unanimously.

ITEM #7: **Receive request to define "outlet sales" as a permitted use in General Industrial and Light Industrial Districts.**

Ms. Hauth referred to a letter in the Board's packets from Jeff Black from Vietri for a text amendment to the ordinance to basically allow outlet sales, which weren't thought of when rewriting the General Industrial and Light Industrial a few years ago.

Ms. Hauth reported that some years ago retail sales was put in as a conditional use in the General Industrial district and was limited to a certain number of days of the month to accommodate the Vietri Outlet Sale that they have twice a year, so that the provision on Page 4-27 is only useful for an occasional sale.

Mr. Boericke expressed reluctance to open outlet sales to be like Burlington, but having it as part of a warehouse or manufacturing has been addressed well. Ms. Hauth suggested the Board may want to expand it to include High Intensity Commercial because of the uses like Unaffiliated Wine Distributor and Steel and some of the others that are in the HIC district.

After a question from Mr. Farrelly, Ms. Hauth pointed out that Eurosport rezoned their property to High Intensity Commercial specifically because they wanted a retail operation on site and they couldn't under the General Industrial zoning.

Mr. Black was invited to address the board and said his business has developed with the twice a year sale and high customer demand. He informed the Board that his business will be selling their retired product.

In response to a question from Mr. Boericke, Mr. Black indicated his intent is to allocate less than ten percent of his establishment to this retail portion, 3,000 square feet out of 76,000. He related to the Board that he has already hired an architect to put forward ideas.

Mr. Oliver said the parking lot and access for Light Industrial situation is different than for a retail situation and questioned whether safety issues were going to be reviewed. Ms. Hauth's response was that since its space in an existing building, there's no need for a site plan review. If they were building an addition, it would be a Board of Adjustment issue.

Mr. Oliver expressed his concerns for safety issues and wished to put in a condition for the Planning Director or staff to review the request for these issues. Ms. Hauth agreed that the Board could craft the definition to require attention to safety issues, and the applicant would have to demonstrate it.

Ms. Ellis indicated she has no problem with putting the outlet such as Jeff's request. She does have a problem with Item #4 about occupying flex space. Mr. Boericke reviewed the conditions in place: ten percent of the space and review of safety considerations of the design. Ms. Hauth pointed out that some flex space operations, by definition, include retail and suggested that this is an opportunity to document the acceptability of this retail type of operation.

MOTION: Mr. Newton moved to forward this issue to the public hearing in April with all comments that have been mentioned provided to Margaret.

SECOND: Mr. Boericke.

VOTE: Motion carried unanimously.

ITEM #8: Discussion and consideration of pending text amendments.

Ms. Hauth noted there were two pending items--prevention of demolition by neglect and the Bevan's request for an event center. There are some junk car amendments to delete the current definition of junk cars and refer people to the town code for consistency.

There was also a request for Classic American Homes Preservation Trust and the other property owners on Elizabeth Brady Road for an off-premises sign. Ms. Hauth had a rendering of the sign requested to distribute to the Board for their consideration.

Ms. Hauth asked for direction on which items the Board wished to prepare for April and pointed out that the junk car ordinance is ready; that no work has been done on prevention of demolition by neglect; and that interested parties were present on the issue of the event center.

Mr. Boericke said that demolition by neglect is probably not going to be ready for April, and Ms. Hauth agreed. He said he would talk to the planning people about the event center issue.

On the junk cars issue, Ms. Hauth said the joint public hearing will be amending the definition in the town code, which is a Town Board item, and she reported that the town Board wishes to notify the folks in danger of being in violation to encourage them to respond to the new definition. Right now simply not having tags or insurance on a vehicle qualifies as a junk car.

Ms. Hauth reported that she had received comments from some folks that they believe that the town is pursuing them as a revenue generator because if a vehicle is registered, there's tax collected. Whereas, the truth is the town doesn't want the cars to become a nuisance. So the town is willing to allow a little flexibility on that definition.

MOTION: Mr. Farrelly moved to go forward with the proposal as listed in the text to amend the zoning definitions to refer to the town code definition.

SECOND: Mr. Newton.

VOTE: Motion carried unanimously.

Ms. Hauth suggested diligent work to prepare the event center issue for next month.

Ms. Hauth discussed the off-premises sign issue. A business directory sign has been suggested by Elizabeth Brady Road businesses saying there are more businesses in that area now that wish to make their location clearer. Right now there is not a way under the ordinance to allow the sign. Ms. Hauth stated that this is a formal request signed by all the property owners on the street, except the town's waste water treatment plant. In response to a question from Mr. Oliver, Ms. Hauth answered that American Classic Homes did sign off on the request also. She suggested she wouldn't have it ready for April.

Mr. Newton noted that the Board has had several requests for off-premise signs that the Board has deferred because of the Churton Street corridor, and he wondered if it would work better to have the ordinances rewritten first.

Mr. Remington offered the idea of giving the area there a district type name to identify the location and a sign indicating the district. Ms. Hauth said the ordinance does allow subdivisions to have identification signs, and that if the property owners could incorporate themselves into a business park, maybe the ordinance would allow a sign.

Ms. Ellis brought up the fact that the rezoning signs are too small to see when driving by. Ms. Hauth suggested they need to request money to have larger signs made.

Mr. Oliver asked if the sign proposed would be on both sides, and the response was that it appears so.

The size of the sign proposed was discussed, approximately four by eight. Mr. Oliver pointed out that there is a new traffic signal at the intersection which might suffice temporarily. Mr. Newton agreed to the need to table this issue until later when the ordinances are rewritten. Mr. Boericke agreed also. Ms. Hauth said the issue would then be taken up in about a year, and until then possibly a larger street sign would be possible. Mr. Boericke noted a consensus of the Board.

ITEM #9: Discussion of any specific Budget request for FY07-09.

Ms. Hauth stated that in the department analysis, the staff requested of the Town Board three full-time staff, and they responded that she really needs four full-time staff and told her to proceed with the hiring of two. She announced that Margaret Schucker will not be returning, and that a code enforcement officer will be brought on as a full-time permanent employee, a new planner will be hired, and then a senior planner will hopefully be funded in the budget.

Mr. Oliver asked for E size drawing of current town of Hillsborough, meaning 36" by 48" size, and Mr. Newton asked for a map which differentiates ETJ from city limits. Mr. Campanella suggested Orange County GIS and Google Map as resources for good maps.

ITEM #10: Adjourn

MOTION: Mr. Newton moved to adjourn the meeting.

SECOND: Ms Vandemark

Mr. Boericke adjourned the meeting at 9:30 p.m.

Respectfully submitted,

Margaret Hauth, Secretary