

**MINUTES**  
**PLANNING BOARD**  
**Thursday, May 15, 2008**  
**7:00 PM, Town Barn**

**MEMBERS PRESENT:** Chair Matthew Farrelly, Dan Barker, Dave Remington, Barrie Wallace, Stephen Whitlow, and Elizabeth Woodman.

**ABSENT:** Tom Campanella, Kathleen Faherty, Neil Jones, and Toby Vandemark, absences excused.

**STAFF:** Planning Director Margaret Hauth.

**GUESTS:** Steve English, Greg Spears, Jim Yamin, and Chad Abbott.

**ITEM #1: Call to Order and Confirmation of a Quorum.**

Mr. Farrelly called the meeting to order at approximately 7:03 p.m. and confirmed a quorum of the Planning Board.

**ITEM #2: Additions to the Agenda and Agenda Adjustments.**

Ms. Hauth said that because Ms. Vandemark could not be present this evening, they would not have a report of the Tourism Board, but a brief discussion regarding the Wayfinding Sign Committee would be appropriate. There were no other additions or adjustments to the agenda.

**ITEM #3: Approval of minutes from the February, March, and April, 2008 meetings.**

Ms. Woodman noted a correction to the February 21 minutes under Item 4; a word was missing from the second full sentence. Mr. Remington said in the same paragraph he wanted to make a clarification that there had been no variance request filed that he knew of. Ms. Hauth stated they had modified their plans. Ms. Woodman said on the first page of the March 20 minutes, at the bottom of page 7, number one, second line, it should read "...that the proposed changes would be..."

**MOTION:** **Ms. Woodman** moved to approve the minutes from February 21, March 20, and April 17 as amended.

**SECOND:** **Mr. Barker.**

**VOTE:** Unanimous.

**ITEM 4: Committee reports and updates:**

**Board of Adjustment:** Mr. Remington stated that at the March BOA meeting they had approved a Special Exception Permit for construction in the historic district, and at the April meeting the large time consumer was the hearing on the Fairview Park proposal. He said that the hearing on that issue had been left open so that additional information could be obtained.

Mr. Remington stated that the BOA had met last night and had received the withdrawal request from the Krishna Temple, as they were still working with the State Department of Natural Resources. They are expected to reapply. Mr. Remington stated there were still items outstanding on the park, so that had been continued as well.

**Parks and Recreation Board:** Ms. Wallace stated they continued to work on their Connectivity Plan, and had inventoried all of the park districts as to what existed and did not exist in terms of connectivity in the Town.

**Wayfinding Sign Committee:** Ms. Hauth said that the Committee would get started later this month, and that Mr. Remington was serving on that Committee. She said that Mr. Remington had wanted to make sure that the Planning Board was comfortable with him in both roles, noting he was not attending the Committee meetings as a Planning Board representative. Ms. Hauth stated the Committee would be meeting on May 27.

**ITEM #5: Recommendation to Town Board on Public Hearing items:**

- **Annexation request from Hugh and Carolyn Moren to annex the corrected alignment area for the connection of Cates Creek Parkway to Old NC 86 (part of TMBL 4.45..2e).**

Ms. Hauth stated that following the retreat, the Town Board had asked that the Planning Board offer recommendations or comments on each and every annexation. She said this request was unusual for not including a zoning request as well, but the primary interest was getting the road alignment in the Town's jurisdiction, and the zoning would follow promptly. Mr. Barker asked why that was changing. Ms. Hauth responded because there was not detailed engineering of exactly where the road should go at the time Waterstone was annexed, and the crossing originally chosen while on the map might look like a good place to cross, in reality it was about the worst place to cross Cates Creek.

**MOTION:** Mr. Barker moved to recommend to the Town Board approval of the annexation request.

**SECOND:** Mr. Whitlow.

**VOTE:** Unanimous.

- **Zoning Ordinance text amendment to amend Section 20 to establish a process to amend the Land Use Plan in conjunction with rezoning requests.**

Ms. Hauth said this would establish a process to amend the Land Use Plan in conjunction with a rezoning request if it became necessary.

Mr. Remington asked what the odds were that very large parcels would request a land use change. Ms. Hauth said it was possible, and would be more likely to come in with an annexation request. She said right now the ordinance did not allow any process for amending the Land Use Plan.

Ms. Hauth called attention to the two bullet points noted in the material, and asked the Board to indicate their agreement or disagreement in terms of adding them to the recommendation to the Town Board. Mr. Remington said he agreed with the two bullet points offered by Ms. Hauth.

**MOTION:** Mr. Barker moved to recommend to the Town Board approval of the text amendment because it would help Hillsborough manage its future growth in beautiful and successful ways, and was a way to protect the efficacy of this Board and the Town Board, and honor the Land Use Plan.

**SECOND:** Mr. Remington.

**VOTE:** Unanimous.

- **Rezoning Request from the Simpson family to rezone 2 parcels (approximately 8 acres) on Eno Mountain Road from Multi-Family to R-20 (TMBL 4.38.B.24 and 24D).**

Ms. Hauth stated that Orange County's comments were provided in the packet and that this request would actually bring the property zoning in alignment with the Future Land Use Map, as they had designated this area for low density residential while it was zoned multi-family.

Ms. Wallace said she did not understand the potential impact of single family houses versus multi-family on the road alignment project mentioned in Orange County's review comments. Ms. Hauth stated that could be addressed at the point that development was requested. Ms. Wallace said she had no problem with the rezoning.

**MOTION:** **Mr. Remington** moved to recommend to the Town Board approval of the rezoning request as it would bring the zoning into compliance with the Land Use Map.

**SECOND:** **Mr. Whitlow.**

**VOTE:** Unanimous.

- **Rezoning Request from Kimeast Real Estate Investment Trust to rezone 9.65 acres on the north side of Cardinal Drive from High Intensity Commercial to Multi-Family (TMBL 4.42.B.3k)**

Ms. Hauth stated that the applicants, Steve English and Greg Spears, were both present. She said in the packet was a map of the parcel and comments from Orange County about the right-of-way extension for Cardinal Drive and the possible need for right-of-way along I-85. Ms. Hauth said, as stated at the public hearing, those were issues that could be addressed at the time of site development. Ms. Hauth said what the Board was to consider was whether this was an appropriate location for multi-family of any type, and if so then there was some language to address as to why perhaps the Land Use Plan was not quite right.

Mr. Remington said the more basic question was that the request was in conflict with the Land Use Plan. He said without a procedure in place and without that request to change to Land Use Plan along with this, then the zoning was not in compliance with that.

Ms. Wallace said she generally did not like putting housing next to a freeway, noting that with the noise and pollution it seemed unwholesome to her.

Mr. Whitlow stated he had visited the site, and wondered if they did not rezone the property there was nothing to prevent the applicant from coming back at a later time and requesting a Special Use Permit. He said with a Special Use Permit it would give the Town greater control over where things were situated on the site, which to him was a more attractive alternative than opening it up to any type of multi-family development.

Mr. Remington said he was confused, and asked if under the current zoning this could be done as a Special Use Permit. Ms. Hauth explained that if this was denied, the applicant would have the opportunity to come back with the same rezoning to multi-family, but under the multi-family special use and submit an application for a special use permit at the same time.

Mr. Remington said he would rather see something come back with that kind of request so that they could consider whether they agreed with the change to the Land Use Map. He said the proximity to the freeway was pertinent to that, although he did not have his mind made up one way or the other as far as what he thought about that, although he was concerned about it. Mr. Remington said he did not believe they were on good grounds to consider this until they considered the Land Use Plan. Ms. Hauth said if the Board wanted to recommend it tonight, they would have to make some statement that the Board found based on whatever reasoning that there was a mistake in the Land Use Plan.

Mr. Farrelly stated going towards Greensboro you could see the property from the highway, noting that while it was not everyone's most desirable location that if land for that purpose was cheaper because of its proximity to the highway, then there were those who would choose to live there. He said obviously you would not build luxury condos there.

Mr. Whitlow said if there were other alternatives that the applicant could go through that would provide the Town with a little more control over how the site was actually developed, that would perhaps make it somewhat better. He said that would make him more inclined not to allow the rezoning.

Ms. Wallace said the Town had begun requiring affordable housing in such developments and would in fact have such housing in Waterstone, and believed there was a way to achieve such housing without putting people next to a freeway.

Mr. Farrelly said given what they had in front of them right now, they had no reason to believe there was an error in the Land Use Plan. He said it would seem that regardless of what the alternative was, there was no reason to make the change.

Steve English, speaking as the applicant, pointed out various areas on the Land Use Map that was designated to be retail, multi-family, mixed use and hotel. He said in their view it was not a huge stretch to change the zoning because the retail terminated with that parcel and it in fact was transitional and the last piece in that retail strip. Mr. English said that in land planning the idea was to have transitional areas where you went from various levels of intensity to another. He said another factor that had been proven was that over two decades no viable commercial concern had come forward with a use for the parcel, and he believed that proved the parcel was not suitable for commercial or retail.

Mr. English stated he had spoken to the owner of the Holiday Inn who had indicated he was amenable to the concept of having apartments built on that tract. As far as timing, he said they were in a situation where they were requesting something that had not yet been addressed by the procedural process, which was unfortunate. In terms of delaying the project, he said, they were planning on using the NC Tax Credit program and were on a time schedule for that. He said if they did not achieve the rezoning then they would be delayed an entire cycle, and other funding already committed would become questionable.

Mr. English stated their market study regarding affordable housing had come back very strong, noting that the rents were more than most could afford to pay if they were making minimum wage or at an entry level job. He said it was reasonable to say that the tail end of

a piece that had been designated retail may not have had all the processes necessary to determine if it was indeed zoned as it should be. Mr. English said as far as other locations for affordable housing, there were not a lot of multi-family zoned tracts in Hillsborough, and they did consider this to be a good location because of the access, the ability to get to retail, and other services on the other side of the interstate. He said as the Churton Street improvements continued, that potentially it would be a walkable situation.

Mr. Barker asked concisely, what reasoning the Board could use to argue an error in the Land Use Plan. Mr. English responded the error was made in fully evaluating the extent of the retail corridor and the viability of that retail corridor along Cardinal Drive.

Greg Spears, who had been marketing this parcel for two decades, stated that in today's age you would usually go with mixed use and not straight commercial zoning.

Mr. Remington said it appeared to him that the parcel could have gone in any direction, so he would not argue with what the applicant had said. But, he said, he believed it was a stretch to say it was an error since it could have been classified three different ways.

A general discussion took place regarding the argument that a detailed analysis may not have been in creating the Land Use Plan, that because of the surrounding land uses it was not inconsistent, that there had been a process when the Land Use Map was created, and the issue of whether or not affordable housing could be provided if a change was not made.

Mr. Farrelly reminded the Board that they were not discussing affordable housing, that they were discussing the rezoning.

Another discussion took place regarding having homes so close to the freeway, the fact that there were many communities where luxury homes were in such a location, and the buffer that would be required to mitigate noise.

Mr. Farrelly said it appeared the Board wanted to see a Special Use Permit for multi-family, and asked what the process would be. Ms. Hauth said they would be denying this request unless they could convince the applicant to withdraw it, and then leave the possibility open for the applicant to reapply. She said that would mean the applicant would need to start over again, but the Board could send it forward with a statement to the Town Board that they did not want the applicant to have to wait an entire year as the ordinance required. Ms. Hauth said the difficulty was that the applicant was facing a deadline and they needed a decision on the rezoning within weeks to qualify for the tax credit program; otherwise, they would need to wait another year to apply.

Mr. English asked if the rezoning was not recommended for approval, would it still go before the Town Board. Ms. Hauth responded the Town Board had the final word.

Mr. Remington asked if the Town's desire to see affordable housing could be a reason to suggest that the one-year waiting period be eliminated. Ms. Hauth said what they could say was that if this same applicant came back with the same project as a Special Use Permit, that the Planning Board would recommend that staff not impose the one-year wait due to the fact that it was an affordable housing project. She said you could also suggest

that if they came back with a Special Use Permit, they could say there was enough difference between a general purpose zone and a special use zone that it would not be the same application. She said that provided more flexibility for the property owner.

**MOTION:** **Mr. Remington** moved to recommend to the Town Board denial of the rezoning request for the following reasons: (a) the Land Use Map was inconsistent with the proposed zoning, but the parcel could be reclassified as mixed use with residential or high density residential; (b) the property had not been able to be marketed as commercial and current opportunities were multi-family, but an SUP would give a more appropriate level of control; (c) the SUP may allow resolution of concerns about site development; and (d) that the Planning Board recommended a waiver of the one-year wait before the applicant reapplied for a Special Use Permit.

**SECOND:** **Mr. Whitlow.**

**VOTE:** Unanimous.

**ITEM #6: Recommendations to Town Board Annexation, Rezoning, and Special Use Permit request for the Eno Haven project.**

Ms. Hauth stated that in the response to the comments made at the public hearing, there were two modifications to the application. She said that the total number of units had been reduced from 90 to 76, and that occupancy would be limited to a maximum of two persons per bedroom. Ms. Hauth said also in the packet were comments from Orange County and a report from Kathleen Faherty regarding a site visit she and several others had taken to Carolina Springs in Carrboro. She said she had also provided fact sheets on some different affordable housing programs to help the Board understand how tax credits worked versus vouchers, Section 8, or HUD 202.

Ms. Hauth stated that the applicants were present, and had sought funding through the Orange County Affordable Housing Bonds which carried an additional, longer affordability period, so while the tax credits ran for 30 years the bond funding had a 99-year requirement.

Mr. Remington said another change he believed should be noted was that before, 80% of the units would be limited to at least one person over 55, 10% to persons with disabilities, and another 10% open. Now, he said, it looked like all the units would be limited to 55 and older. Ms. Hauth stated that was correct, and apologized for overlooking that. Mr. Remington said 10% of the units would be limited to persons over 55 with a disability.

Mr. Barker asked if the Town Engineer had made any comments. Chad Abbott stated that Kenny Keel had provided the standard review comments but did not indicate any critical problems or issues with the plan. Mr. Barker stated that Mr. Keel's comments had not been provided to the Planning Board.

Mr. Whitlow asked how many parking spaces would be provided. Mr. Abbott stated they were proposing 80, including 8 handicap. He then provided the Board with a copy of the letter from Mr. Keel dated April 2008 regarding utilities. Mr. Farrelly asked if the parking being provided was similar to Carolina Springs. Ms. Hauth said that the manager at Carolina Springs had estimated their parking at 2 spaces per units during the tour. Mr. Abbott stated that Jim Yamin had actually counted those spaces and the results were 132 parking spaces at Carolina Springs for 126 units, which was not 2 to 1.

Mr. Barker asked why the units for persons with disabilities under 55 were removed. Mr. Yamin responded that the disabled units were still included, and that the change was they were age-restricting those as well. Mr. Barker asked why. Mr. Yamin responded it was in response to comments and concerns heard at the public hearing, and, it was preferred by the management company because it made for a more harmonious project.

Mr. Whitlow said he assumed no progress was made in securing any sort of pedestrian easement either through the Duke or the charter school property. Mr. Yamin said not so far, but he was still hopeful that after the facility was constructed and had operated for an amount of time, that it would become obvious that the residents would be benign. He said they would try again at that point to work something out.

Ms. Wallace said she wanted to be clear that the age restriction still allowed younger people to live in the household. Mr. Yamin stated that was correct. Ms. Wallace asked had the applicant read the comments provided by Ms. Faherty regarding the visit to Carolina Springs. Mr. Yamin responded he had read them.

Mr. Farrelly stated the report noted that no teenagers or children were permitted at Carolina Springs. Ms. Hauth stated that Carolina Springs operated under a slightly different model, and they did occasionally have someone underage who was a caregiver for a resident but they were not on the lease. She said if the caregiver's charge passed away, they had no right to remain in the complex.

Ms. Wallace asked why that was not proposed here so that it would be an actual senior living facility. Mr. Yamin stated he had received from the management company tenant selection documents which noted that all units in the facility would be for occupancy of seniors age 55 and older. He said they did not have a desire to structure it in a way that would raise concerns in the community, and that he would raise the issue with the management company. He added he believed they could establish a policy as the Town wished.

Mr. Farrelly asked if every unit had a person 55 or older, why they would want to restrict the others. Mr. Barker said he did not believe there was a reason to put that kind of restriction on their approval because odds were that for their business plan they could have to do that anyway. Ms. Wallace said she thought it was a good idea because it was safer for the seniors who were there. Mr. Barker stated the market would control the need for flexibility at start-up. Ms. Wallace said her preference would be no residents under the age of 55. Mr. Farrelly said then if someone 55 was married to someone younger, the spouse could not live there? Ms. Wallace said she believed that was standard. Ms. Hauth said it perhaps was not standard, but they had seen it on other age restricted projects.

Mr. Remington said he worried about restricting the facility since it was becoming more common for grandparents to have the care of grandchildren. He said he worried about placing too many restrictions without allowing some exceptions that were reasonable. A brief discussion ensued regarding age restricted living, the likelihood of seniors having other family members in their care, particularly grandchildren, the effect of teenagers

living in the facility, and how Carolina Springs operated. Ms. Wallace stated she would like to visit a facility that followed the model being proposed here.

Mr. Yamin stated they had three definitions of “elderly” living under the tax credit program: at least one person 55 and older; all residents 65 and older; and, a project funded with USDA rural housing program funds. He said almost every project applying for tax credits chose the first definition.

Mr. Farrelly asked if they had an example of that type of facility. Mr. Yamin stated he believed Carolina Springs was very similar, but did not have examples of others at the moment but could easily obtain that information. He said as to the question of whether there may be one individual or more under age 55 in households, he did not know. Ms. Wallace said she would like to know that.

Mr. Remington asked what on-site staff was planned. Mr. Yamin stated they would have a full-time property manager who would not live on-site, as well as a full-time maintenance person. He said both would be on call 24/7.

Mr. Whitlow stated he had studied the Carolina Springs site and they appeared to be within 1,000 feet of a shopping center and that the facility was on a bus line. He said he was concerned about the isolation, and this project would potentially have 152 people living there with only 80 parking spaces. Mr. Whitlow said if the assumption was that many of the people living there could not afford cars, then how they could live there if they could not get anywhere. He said it was unfortunate that they could not get an easement at least to the Sportsplex area. Mr. Abbott said it was important to keep in mind that public transportation would be provided at the site. Mr. Yamin said they had included in their operating budget funds to contract for dedicated transportation services at least 3 times a week, 4 hours a day.

Mr. Farrelly asked was 1 to 1 parking really enough given the isolation. Mr. Yamin stated they were open to reconsidering the number of parking spaces and had no objection to increasing that number, adding they had plenty of room.

Mr. Remington said when the number of units was reduced, did it change the footprint of the buildings in any way. Mr. Abbott stated the building would remain three stories, but the building had been reduced by one unit on each end for all three stories. He said that had brought the building further away from the property line.

Mr. Farrelly asked about potential future parking. Mr. Abbott stated there was plenty of room to provide additional parking, but they had suggested 1 on 1 parking because that was what the market study had indicated. Mr. Farrelly said he was not interested in cutting down more trees, but if an already cleared area could be designated for future potential parking that would satisfy him. The Board briefly discussed the number of parking spaces and how additional spaces could be provided in future if the demand existed.

Mr. Remington said regarding the Orange County comments, they had wanted a right-turn lane and bus pull-off. Ms. Hauth said if DOT required it as part of the driveway permit, then it would have to be done. She said if DOT did not require it, the Town could require

it if they believed it was necessary. Mr. Abbott stated that the traffic impact analysis had indicated the only thing warranted was a left-turn lane to allow free flow going into Town; that a right turn lane going out of Town was not warranted. He said since the bus would only be in the lane for a few moments, was it possible to use the right-turn lane as the bus lane as long as it was sufficient to not block the driveway. Mr. Remington said alternatively, if there was no need for a right-turn lane then perhaps only a small bus pull-off could be provided. He said if DOT suggested that a right-turn lane was needed, he believed it could be used as the bus pull-off as well.

Mr. Remington said if the sidewalk was placed up high, would it be able to connect to the property next to it sometime in the future. Mr. Abbott stated the sidewalk would be placed on top of the slope so that it could be extended in the future without it being next to the road.

Mr. Remington asked about the County erosion control comments. Mr. Abbott stated that in his conversations with the County, it had been suggested that they get a surface water identification done which they would do, but indicated they would be crossing the stream where the crossing already existed.

Mr. Remington asked about a fence between this property and the charter school and Merritt Marine. Mr. Abbott said no one had contacted him since the public hearing.

Ms. Wallace asked had they considered that the charter school's concerns would go away if the project were age-restricted for all residents. Mr. Yamin stated they were not opposed to that but were not committing to it at this time.

Ms. Woodman said she had thought this project would follow the Carolina Springs model and they had been led to believe that, so it did raise issues in her mind. She said she knew of no other facility in the area that had only one person 55 or older in the units.

The Board discussed the issue of persons living in the complex that were younger than 55 and restrictions that might be considered. Mr. Remington said he believed there came a point where they had to leave some issues to the operator's business plan as far as what would work well and what would not. He said he did not want to impose a condition that would not allow for exceptions if someone had a family member providing care or some other contingency that could be allowed on a case-by-case basis.

Mr. Farrelly asked at what point would they say it was not okay for others to live there, and, would the Town have to come up with a definition of who was a caregiver and who was not. He said that appeared to be a difficult task. Mr. Barker said he believed that was a management issue. Ms. Wallace reiterated her concern about people younger than 55 living at the facility, noting that if seniors were living there they would expect a safe, quiet place to live and unsupervised teens or others would disrupt that. Mr. Farrelly stated to his mind, they had to weigh the chances of that happening against the cost of trying to put conditions together that were workable and enforceable. He said he believed the potential of having teenagers in this type of complex was rare. The Board briefly discussed the types of rules or conditions that could be considered, and the fact that some residents might be elderly as well as disabled.

Ms. Wallace stated that the parking may not be adequate and recreation areas might not be suitable for entire families.

Mr. Remington stated he agreed with Mr. Farrelly that clearing trees and putting down pavement was not really wanted, but if there was a condition that a location for optional additional parking if it became necessary is designated, then that was preferable.

Mr. Abbott stated when they had reduced the number of units, 44 would be one bedroom and 32 would be two bedrooms. He said the one-bedroom units would be restricted to two people, so it was unlikely that if a grandparent and grandchild were living together that they would be sharing a bedroom, or that the grandchild would be of an age that would cause disruption to the facility.

Mr. Barker said on the proposed plans, there was no sign of exterior lighting. Mr. Abbott stated there would be lights at the fire exits at the back of the wings as well as the entrance at the front. Mr. Barker said it appeared odd to him that no lights were shown on the structure.

Ms. Wallace asked could the applicant reassure her and others that this facility could be for seniors 55 and older. Mr. Yamin stated he could not speak for the management policy at Carolina Springs, but he was not opposed to a policy requiring all residents to be 55 and older. Ms. Wallace said she believed that could be a commitment with reasonable exceptions. Mr. Yamin said that would be an owner decision.

Ms. Hauth suggested that they consider doing what Carolina Springs was doing, in that those who were on the lease were residents, but anyone else, for instance a caregiver, was not a resident because their name was not on the lease. The Board discussed the merits of that kind of policy. Ms. Hauth suggested a condition that stated that lease-signing residents would be age restricted, and others would not be considered residents.

Mr. Remington asked if a condition requiring an on-site manager would be acceptable. Mr. Yamin said that would have revenue implications and did not know how that would impact the job search for a site manager. Mr. Whitlow said an alternative would be to have three managers that each covered an 8-hour shift. Mr. Yamin said the tax credit facilities he was familiar with did not typically have 24-hour site managers.

Mr. Remington said it was important to remember that this development was much smaller than Carolina Springs. Mr. Yamin said if they converted a unit for an on-site manager that would then become a non-tax credit unit which would reduce the amount of credits available to the development. Ms. Wallace said the on-site manager could be a qualified resident 55 or older.

Ms. Wallace said she would be interested in finding out how Carolina Springs approached that. Mr. Yamin said he would research that in more detail.

The Board discussed at some length conditions that might be placed on approval: that space for 30 additional parking spaces be identified for possible future need; that all lease

signers be 55 or older; that the bus pull-out would share the right-turn lane; that weekend bus service be contracted for either Saturday or Sunday; that staffing be provided 16 hours a day, 7 days a week; that a recreation waiver be provided; that the landscaping plan be modified as specified; and, that no fencing be required.

**MOTION:** **Mr. Barker** moved to recommend approval to the Town Board of Annexation, Rezoning, and Special Use Permit request for the Eno Haven project with the following recommended conditions: that space for 30 additional parking spaces be identified for possible future need; that all lease signers be 55 or older; that the bus pull-out would share the right-turn lane at the entrance on US 70A; that weekend bus service be contracted by the management company as previously proposed and that service be available on either Saturday or Sunday; that on-site staffing be provided 16 hours a day, 7 days a week; that a recreation waiver be provided; that the landscaping plan be revised as specified; and, that no fencing be required.

**SECOND:** **Mr. Remington.**

**DISCUSSION:** Mr. Remington asked was it clear that the motion encompassed the changes noted in the applicant's response to public concerns. Ms. Hauth said it could be. Mr. Remington offered that as a friendly amendment. Mr. Barker accepted.

Ms. Wallace asked were they assured that this facility would remain senior living for a very long time. Ms. Hauth stated she was satisfied with what the IRS required in order to grant the tax credits for 30 years, but the additional \$1 million the applicant had applied for carried a 99-year stipulation.

**VOTE:** The vote was 4-2, with Mr. Whitlow and Ms. Wallace voting nay. Mr. Whitlow and Ms. Wallace both stipulated there no vote was because they preferred 24-hour on-site management and Mr. Whitlow added he still had reservations regarding the isolation of the project.

**ITEM #10: Preliminary Plan for a non-residential subdivision on NC 57.**

Ms. Hauth stated that on the back of the second page of the agenda materials under Special Subdivision Note, the request was to create the 5.4-acre parcel that had the frontage that was separated from the remainder of the site by the creek. She said the owners were not proposing at this point to do any kind of unified stormwater control or the sidewalks, since those were required when they got to the site plan review stage.

Mr. Remington asked if the landscape plan was a part of what they approved. Ms. Hauth responded yes, and it would be installed before the final plat. Mr. Remington asked were Bradford Pears still on the approved list. Ms. Hauth replied yes. Mr. Remington stated they did not live very long. Ms. Hauth noted that as much as possible what was already planted would be saved, and then supplemented in a pattern like that shown on the plan. Mr. Remington said he would encourage the use of something other than Bradford Pears. Mr. Farrelly suggested Red Buds.

Ms. Wallace asked about the issue of stormwater. Ms. Hauth said that Lot B was the parcel wanting to be created and was 5.44 acres, and was already separated from the remainder of the site by virtue of the stream. She said so, they were not really doing anything to the site to create that lot and they were asking to not be required to build the stormwater device and the sidewalk along NC 57 until such time as something was

actually being constructed on the site. Ms. Hauth said the purchaser of Lot B would be required to do the stormwater and sidewalk when they brought forward a site plan, and whoever purchased the remainder of the site would need to put in a road which meant the sidewalk would likely have to be torn out to put in that road. So, she said, it did not make sense to require it now.

Ms. Hauth stated the applicant would be encouraged and the Parks and Recreation Board would likely accept a payment-in-lieu of recreation space for that parcel.

- MOTION:** **Ms. Woodman** moved to recommend approval to the Town Board of the preliminary plan for a non-residential subdivision on NC 57, with the suggestion that Red Buds be added to the landscape plan, and that no sidewalks or stormwater device be required at this time.
- SECOND:** **Mr. Remington.**
- VOTE:** Unanimous.

Mr. Remington asked how they would get Bradford Pears off the approved list. Ms. Hauth said that could be added to the list of things to be revised during the ordinance rewrite.

**ITEM #11: Discussion of ordinance requirements for temporary signs.**

Ms. Woodman stated she and Mr. Whitlow had discussed this, and would like to propose that they form an ad-hoc sidewalk committee to study signs, outdoor seating, and planters, with a report and recommendations to come back in the fall. Mr. Whitlow added it would be for the central commercial district, but it could be for the whole Town.

Ms. Woodman stated they were proposing that the committee include citizens and retail shop owners to provide a good cross-section of members. Ms. Hauth said a lot of the work to be covered was not in the jurisdiction of this Board, noting that sidewalk dining was regulated by the Town Board. She said that was not to say the other issues could not be considered.

Ms. Woodman said the ad hoc committee would include her and Mr. Whitlow, and anyone else who was interested. Ms. Hauth remarked that the downtown merchants were very interested in temporary signs.

**ITEM #12: Discussion of potential for an architecture review committee for large-scale projects.**

Mr. Barker said "large" may not be the restriction he would place on it, and suggested perhaps "mid to large." Mr. Barker said in some ways it was nice because it took the design issue off this Board's table and onto a targeted body.

Mr. Farrelly asked what that committee would be attached to. Ms. Hauth said it would be another function of the Planning Department, and they would have to get worked into the process as another step. She said her question would be how that Committee would interface with the HDC because she was not sure both could have jurisdiction over the same building, which would be very problematic.

Ms. Woodman noted she had gone to the Town Board to ask them to do it, and they had said to start with the Planning Board. Ms. Hauth asked was that something that could be

studied during the course of the zoning ordinance rewrite, or was it something they might want to try to implement faster.

Mr. Farrelly stated they had professionals working on the ordinance rewrite, and it might be better to let them review that. Ms. Hauth said she was looking at getting an intern or two for the summer and having research projects to assign to them. The Board generally agreed that having such research would be helpful. The question of how this review would integrate with the historic district process was raised.

Mr. Whitlow said when he got a packet; he immediately had many questions and suggestions for change. He added that the hearing and this meeting were so exhausting; he didn't raise the issues in concern for wasting time. He asked to have a more direct dialog with the applicant. Ms. Hauth said she could relay those requests to get better communication between members and applicants or hearings could be continued. Mr. Whitlow asked could such questions be asked outside of the public hearing process. Ms. Hauth said it depended on the question, that if it could be tied back to information presented at the public hearing or was an ordinance question, then that was appropriate. The Board discussed how such questions could be asked and when they might be appropriate. After some discussion, Ms. Wallace stated she would like to have included in the packet each time the standards by which the applications on the agenda were to be reviewed.

Mr. Whitlow said for each action, he would like to see a one-page summary sheet of what was expected to be decided, for example, the top five criteria. Ms. Hauth stated that might mean receiving the packets at a later date. Mr. Whitlow stated he would not take the time now to discuss it, but would contact Ms. Hauth directly.

Mr. Barker expressed concern about whether application packets were truly complete. He noted the lighting and landscaping sheets for this site were incomplete and inaccurate. Mr. Barker said a professional design review committee could actually address many of those things. Ms. Hauth stated the committee would look at the architectural details of the building, and this Board was the one to review those other issues. She said if the Board received a packet that was incomplete, she needed to know that.

**ITEM #13: Adjourn**

Upon a motion by Ms. Woodman, seconded by Mr. Whitlow, the Board moved to adjourn the hearing. The vote was unanimous. The meeting was adjourned at 10:20 p.m.

Respectfully submitted,



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Margaret Hauth, Secretary