

**MINUTES**  
**PLANNING BOARD, September 18, 2008**  
**7:00 PM, Town Barn**

**MEMBERS PRESENT:** Chair Matthew Farrelly, Vice Chair Kathleen Faherty, Dan Barker, Tom Campanella, Dave Remington, Bryant Warren, and Elizabeth Woodman.

**ABSENT:** Neil Jones, Steven Whitlow, and Barrie Wallace, absences excused.

**STAFF:** Planning Director Margaret Hauth.

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

Mr. Farrelly called the meeting to order at approximately 7:02 p.m. and confirmed a quorum of the Planning Board.

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

Mr. Remington added an ordinance adjustment suggested by the Board of Adjustment, which he would explain during committee reports.

Ms. Woodman added an item regarding County impact to the Town's EDD relative to the transfer station.

**ITEM #3: Approval of minutes from the August 21, 2008 meeting.**

Mr. Remington stated that in Item 10, he did not second the motion to adjourn.

**MOTION:** Mr. Warren moved to approve the minutes of August 21, 2008 as amended.

**SECOND:** Ms. Woodman.

**VOTE:** Unanimous.

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

- **Board of Adjustment** – Mr. Remington stated at the meeting last week the BOA had heard a request by the County to again postpone the action on Fairview Park. He stated that in order to resolve the issue regarding the sidewalk, the County would be subdividing the property into two pieces, with the parcel to be developed having frontage only on Torain Street and therefore avoiding having to put a sidewalk on Rainey Avenue as well. Mr. Remington stated the County was pursuing that as well as some other small modifications, and planned to come back to the BOA in December.

Mr. Remington said the BOA had heard an appeal by two people who wanted to establish a family care home on Harper Road, and the one restriction in the Town's ordinance and the only one allowed by State law was that two such homes could not operate within ½ mile of each other. He stated the appellants had initially been told that there was no problem with their application, and on that basis had proceeded to obtain the necessary permits and make the necessary modifications to the home, only to discover several months later after a more detailed records check by Town staff that there was a licensed family care home within ½ mile of the proposed home on Harper Road. Mr. Remington stated that home had shown up on State records but not the Town's records, and had been approved the previous year. He said the appeal was to request that the BOA rule on what constituted another family care home, because the other home was permitted but currently had no clients living there. Mr. Remington said the other appeal issue was how that ½ distance was measured, in that it was

slightly over ½ mile if measured by street distance, but less than ½ if measured by straight line distance.

Mr. Remington stated the BOA had denied the appeal because they had felt that the straight line distance measurement was appropriate and the other home was licensed and permitted. He said the BOA had also felt, partly to rectify the injustice inadvertently done to the appellants and to address the potential for ambiguity of things that were an overlap in the approval process, that they wanted to recommend a change to the ordinance to either eliminate the ½ mile requirement, or to consider reasons that might be acceptable that would allow a Conditional Use Permit to change the distance, or something of that nature. Mr. Remington stated the BOA was not specific, but the general feeling was to remove the ½ mile requirement from the ordinance.

Mr. Remington said he understood the Town was in the middle of the ordinance rewrite period and not wanting to make a lot of changes, but this was one that if it did go on the hearing schedule for next month then the Town Board could deal with it shortly thereafter. He said if nothing else, it would do some good for the appellants who had ended up losing the appeal through no fault of their own and would be an improvement to the ordinance.

Ms. Hauth noted the appellant was present and wanted to briefly address the Board. She added that she could also provide additional information if necessary.

Mr. Farrelly suggested adding this topic towards the end of the agenda. Mr. Remington agreed.

- **Parks and Recreation Board** – Mr. Warren stated that the Parks and Recreation Board continued its work on the Connectivity Plan and expected to have that completed in February. He said they had discussed what would be the work of the Board after the Connectivity Plan was completed, because that work finished up the original charge of that Board. Mr. Warren said that discussion would continue at next month's meeting.
- **Wayfinding Task Force** – Mr. Remington stated the Task Force would be putting out, hopefully by mid-October, Requests for Proposals for design of the wayfinding signs, which would detail logo and style types of design.
- **Tourism Board** – Ms. Woodman stated the Tourism Board had just approved a consultant to take over development of the Web site, and paired with that was a logo design component. She said they had chosen a local group, Walker Interactive, which had excellent technical proficiency.

Mr. Remington asked was there some duplicated effort there regarding the logo. Ms. Woodman said possibly. Ms. Hauth said what they were trying to do was to have a placeholder space on the wayfinding signs to plug the logo in as soon as it was available. Mr. Remington stated that would be more efficient.

**ITEM #5: Special Use Permit request from The Little School to develop on College Park Road (Lot 7 (4.97 acres) in Waterstone) as a daycare for 196 students with parking and outdoor play and instructional areas (part of TMBL 4.45..45).**

Ms. Hauth stated this had been continued from last month, mainly because there was some disagreement with the applicant and their consultant. She distributed a letter to the Board that clarified that, noting that The Little School was now formally the applicant for the project, they owned the property, they had contracted with the architect and the engineer to do these plans, and Mr. Blake and his firm were no longer a part of the project.

Ms. Hauth stated they were now in the position that the Planning Board could offer a recommendation on the project if they chose. She stated she had distributed information previously requested regarding how the building looked from College Park Road to address the compatibility. Ms. Hauth stated there was a lot of public comment that was generally in favor of the project, and there were some comments from a neighbor who now had a written agreement with The Little School regarding lighting, landscaping and so forth.

Ms. Hauth stated discussion points had been noted in the packet, and they could be discussed individually or all together. She said the Board could also have a discussion about the driveway connection to the adjacent townhome site and then relative to the streetscape discussion, and then she had A through G listed as possible conditions with some “fill in the blanks.” Ms. Hauth stated representatives of the applicant were present to answer questions.

Ms. Woodman asked Ms. Hauth to reiterate her comments regarding the agreement with the neighbor. Ms. Hauth stated there was a neighboring property owner in the Stagecoach subdivision that was heavily impacted by what went on in Waterstone in that his property was wrapped in on three sides. She said The Little School and the neighbor had a signed agreement to address things like landscaping, lighting, and buffering. Ms. Hauth said it made it easier for the Town to help him ensure that those conditions happened if that private agreement was referenced as a condition of approval. She said if the Board did not want staff to be involved in that, then the agreement should not be referenced but left between the two parties. Ms. Hauth said that agreement was what she had attempted to address in possible condition G. She said the issue regarding lighting was to ask that the lighting in the parking lot be turned off at certain times when there was not an event at the school that would preclude that.

Ms. Woodward asked if the conditions Ms. Hauth had listed were conditions that could be imposed. Ms. Hauth responded yes, noting that A, B, C, and D were normal or “boiler plate” conditions that would be imposed. She stated that E specified the square footage of the building, F related to the request for waiver of the buffers, and G related to the agreement with the neighbor.

Mr. Barker asked was there any resolution on the driveway issue. Ms. Hauth said that was an issue she had raised and there was no discussion of it at the public hearing. She said she did not know if it was an issue of concern for the Board. Ms. Hauth said the townhome development was immediately to the north and had an existing driveway that was proposed to come out to College Park Road. She said they were not asking that that one be removed, but she was asking that the day care center extend their driveway just a little

north and connect to the townhome driveway, so that if residents in the townhomes also were clients of The Little School they would not come out to College Park Road, and then into the driveway for The Little School. Ms. Hauth stated she understood some parents had raised the concern that someone from the townhome development might come down through The Little School parking lot and out to College Park Road rather than coming out their existing driveway, and that was a possibility.

Mr. Barker asked what would discourage that, such as signage or otherwise. Ms. Hauth said she was sure that could be considered, but to her you would only have to do it once to realize you were driving through a parking lot rather than going out a road. She said that would probably discourage you from doing it again. Ms. Hauth added that the applicant was not particularly interested in making that connection.

Mr. Remington said one thing that was brought up was possibly having one-way traffic flow, and if that was the case if the driveway came in from College Park and went out the other way it would not allow people coming from the townhome to enter, although he supposed they could go back home that way.

Ms. Woodman said that would put a fair amount of pressure on that intersection.

Mr. Barker said with a day care center, you had many people arriving near the same time, would park to take their child inside, then come back and drive back out. He said that would amount to twice the traffic flow to the driveway, so you would have an in lane, out lane, and cross-turning at the same point. He said it was of interest to him to not have people cross-turning there. Mr. Barker said giving them the 80 to 100 foot frontages was somewhat helpful, and having directional signs coming in from the side road in some ways took care of some of the concerns. Ms. Hauth said she believed they would want to sign it as "No Thru Traffic" or something similar, otherwise it defeated the purpose of providing access to the townhomes.

Ms. Faherty asked what the policy was for children being dropped off. She asked did their parents bring them inside or was there a "kiss and go" lane. Ms. Hauth responded no. Ms. Faherty said since the children were brought into the building there was no reason to have it one way, noting that as well it would not benefit the townhomes half the time.

Mr. Barker asked what the root concern was with the townhome traffic. Cara Lacey said the main concern was safety for the children. She said if people of the townhomes were cutting through to College Park Road while children were being dropped off, it could cause additional accidents. Mr. Barker stated that would not be a shorter path, so why would they cut through? Ms. Lacey replied because they could cut through, and although the SUP was approved they did not know if that road would remain there or if it could become a different entrance into the townhomes.

Mr. Barker asked was there something more tangible than the safety of the children and traffic cutting through? Kevin Hamak said he could not think of anything more tangible than the safety of the children. He said beyond the peak hours when children were dropped off and picked up, one of his main concerns was that throughout the day classes may be outside to access the walking trail or for other reasons, and if someone just decided to cut through they may not realize that children or others may be there.

Mr. Barker stated you would only cut through if it were a shorter path. Mr. Hamak said the psychology of it was that people used cut-throughs, even if they did not realize it was not necessarily the shorter path. He said another point was the volume that would necessitate that connection and the whole concept of connectivity. Mr. Hamak said they were talking about connecting two points about 300 feet from the main intersection, and asked what the benefit was of that connection.

Ms. Woodman suggested that there were traffic calming actions that could be taken. Mr. Hamak agreed, but asked that they look at the overall benefit of connectivity and apply it to this instance. He said the purpose was to disperse traffic, to decrease conflicts, and to reduce the volume on any one road. Mr. Hamak said that connection would not address any of those issues.

Mr. Campanella stated their original purpose in doing that was to eliminate a curb cut. But it appeared that in fact, he said, that it would not and would only facilitate access into the townhomes. Mr. Campanella said it was so close that a pedestrian connection would allow people from the townhomes to walk their children to the school.

Ms. Faherty said people would come into the site and park, take their kids in, and when leaving have to back out. She asked had they studied that traffic flow. Mr. Hamak said that was a normal process, that people came in one driveway and exited the same driveway. Mr. Barker stated there was usually a turnaround available somewhere, but this plan did not have one. Mr. Hamak said one was not needed.

Ms. Faherty stated it was said that the highest numbers of fatalities in new developments was children being backed over by vehicles, and this plan represented a lot of backing up. Mr. Campanella agreed. Mr. Hamak said even with that connection, it would not reduce the amount of backing up, because people would need to park to walk their children in.

Mr. Warren asked had the Fire Marshal seen these plans. Ms. Hauth said he had seen the plans without the connection shown. Mr. Warren asked if they recommended approval of the plans without the connection, could they add a condition that if the need for that connection was shown in the future, that the connection be opened up. Ms. Hauth said that would have to come back as a modification to the SUP. Mr. Hamak stated they would be willing to provide an emergency access with breakaway bollards, if the Fire Marshal determined it was necessary.

Mr. Barker asked if at that point they would have supported grass at that end. Mr. Hamak said there would be something there that would support a fire truck, either grass, gravel, or perhaps an asphalt fire lane.

Mr. Remington asked should they specify that option here, or should that be left to the Fire Marshal to determine. Ms. Hauth said the Fire Marshal had that option in any case, but if the Board wanted to send that message to the Town Board to make it clear what their comment was, then they could include that in their motion rather than as a written condition on the SUP.

Mr. Farrelly asked about the written agreement with the neighbor. Ms. Hauth stated that agreement spelled out the designated reduction in the 100 foot buffer and where the stormwater could be located, and in adopting that agreement as a part of the plan they would also be granting their request regarding the buffer.

Mr. Barker read through the waivers list:

- increase in square footage from 14,000 to 20,000
- reduction of buffer
- change in buffer
- setback from the road
- signage

Ms. Woodman asked about the runoff. Ms. Hauth stated that Orange County would review the stormwater plan to make sure it met the Phase II requirements. Mr. Hamak added that when they had prepared their stormwater plan they had taken into account the increased square footage.

Ms. Woodman asked was the type of lighting governed by ordinance. Ms. Hauth responded yes, including the maximum foot candle at the property line. She said the only place it was even close on that property was in the vicinity of the driveway where it came near the townhomes, and a slight relocation of one of the fixtures would address that. Mr. Barker asked about the proposed light poles, and should they require that they be the standard that would be found in the area. Ms. Hauth stated the proposed light poles were those inside the development, and that the poles on the street would be to the standard established by the developer. Ms. Faherty asked would those lights go off at a certain time. Ms. Hauth replied yes, noting that was a part of the agreement with the neighbor.

Mr. Farrelly noted that they should consider discussing possible conditions A – G. He stated that A through D was boiler plate, and E would be 20,000 square feet. Ms. Hauth said they should take out F and substitute that the waiver was granted and documented on the face of the plans. Mr. Farrelly stated that G had already been agreed on.

Ms. Faherty asked what was the conclusion of the discussion on the driveway extra entrance. Ms. Hauth said they either needed to add another condition, or when the Board made the motion it should be stated that it would be left up to the Fire Marshal.

Mr. Barker stated he wanted to request that the access be installed as the applicant had offered, with breakaway bollards for emergency access. He said the condition could read “install access to townhome driveway for emergency purposes only and coordinate with Fire Marshal on ways to have it blocked during non-emergency times.”

Ms. Faherty stated perhaps they should consider having a swing gate that could be opened for an hour in the morning and an hour in the afternoon during peak times, and during that time the traffic could be designated as one-way.

Mr. Barker said the parking plan was not necessarily optimal to get a reduction in crossing traffic, and he did not think what this Board could do would solve that. He said if the SUP was approved, then the plan could not be changed, and he did not believe it was worth holding the application up at this point.

Mr. Farrelly stated he was familiar with a day care that was larger than this one but had a similar parking situation, and even with the larger size it did not appear to be a problem.

Mr. Barker said the point may be the way they phrased the condition, in that it be reserved for emergency use only, was likely what should be used.

Mr. Remington said he would prefer that the SUP come back for modification if that was to be done, so that the Board could deal it. He said connectivity was a good thing, but this was not a public street and believed it was best to have it for emergency purposes only.

Marty McConchie, attorney for The Little School Development Group, LLC, stated that the drop-off hours were between 7:30 and 11:00 a.m., and pick-up hours were between 2:00 and 6:00 p.m., so there was not a huge rush all at one time. He said there were peak hours, but it was somewhat more staggered in this case.

Mr. Farrelly stated one important point was that if the drop-off and pick-up was not working, the school would hear about it, because parents of small children tended to be very vocal with their concerns.

**MOTION:** **Mr. Warren** moved to recommend to the Town Board approval of the SUP for The Little School, with the noted conditions.

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

**VOTE:** Unanimous.

**ITEM #6: Presentation and discussion regarding the Long Range Transportation Plan for the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization and the Local Priority List for the 2011-2017 TIP.**

Ms. Hauth introduced Felix Nwoko from the City of Durham Transportation Department, who was a part of the staff to the Metropolitan Planning Organization (MPO) that worked with Chapel Hill, Carrboro, Orange County, Durham, Durham County, and Chatham County in conjunction with the NCDOT on regional transportation issues.

Mr. Nwoko stated the Board had been provided a booklet that contained quite a bit of information, and he would be happy to answer any questions. He provided the following overview:

- the booklet contained a report that recommended the process and results of the transportation alternatives for the MPO.
- this was a year-long process to look at the long-range transportation plan, required by the federal government.
- goals and objectives were used, and they had looked at socio-economic data and forecasts using adopted land use plans and forecasts of population and employment, to be fed into the regional model to identify where deficiencies were in the Triangle area.
- using those deficiencies, they had created alternatives, noted on 1-4 and 1-5 in the materials, as follows:
  1. the current plan
  2. comprehensive transportation plan, with no time horizon or fiscal constraint
  3. intensive highway focus projects
  4. rail projects

5. bus projects, such as express buses
  6. moderate multi-modal, such as hybrid
- those alternatives were then compared to land use scenarios, with results shown in Section 2.
  - the table showed different factors, for example vehicle miles of travel, average peak periods, and percentages of roadways experiencing congestion among others.

Mr. Campanella said on page 2-3, line 5.3, that was the annual cost of congestion. He asked why it would be some much higher for fixed guideway than highway? He said he would expect that with light rail it would reduce the cost of congestion. Mr. Nwoko said that even though they had fixed guideway, they would still have congestion, and even though you had light rail people would still drive their cars. He said that was just human behavior.

Mr. Remington commented that when you build wider roads people moved farther out and increased their driving time. Mr. Nwoko agreed.

Ms. Woodman said she believed that was true for bus transit as well. Mr. Nwoko said that was correct. He said that starting at 2.10 there were some evaluation measures, and stated there was a difference between evaluation measures and performance measures and called attention to the left-hand side of the page where “good, better, and best” were noted. Mr. Nwoko stated those were the measures established to measure the performance.

Mr. Farrelly asked Mr. Nwoko what he was looking for from this Board to get out of the information provided. Mr. Nwoko said in broad terms, they wanted to know what kind of transportation system they wanted, such as more rail or more highway; was there a specific project they wanted in or out of the plan; did they have a preferred land use scenario; and, cost alternatives were provided along with revenue options, and they wanted the Town to weigh in on where they wanted the money to go, such as transit or bike/ped.

Mr. Nwoko stated they could not fund all the improvements in the plan with traditional revenue alone, but were proposing new funding sources such as sales tax, real estate transfer tax, and others. He asked that they weigh in on revenue options, as well as where they wanted those funds to go, such as bike and ped.

Mr. Campanella asked about the mechanism to get comments to them. Ms. Hauth responded the Town Board would be discussing this on Monday evening, and she would be taking what was said tonight to the Town Board to be wrapped into their comments that Commissioner Hallman would carry to the TAC. She said now was the time for this Board to say which of the scenarios and options appealed the most so that they could develop a recommended vision.

Mr. Farrelly stated they could make broad statements, but did not know that walking through the plan was going to change anything that might be said in those broad statements.

Mr. Nwoko stated there were specific projects already on the list, and they could look at the alternatives and state which ones were preferred or which elements were preferred.

Ms. Faherty said the materials contained a Land Use Scenarios table, and then there were five basic discussions to extrapolate what was being shown in those scenarios. She asked were those five points considered alternative scenarios that they could choose. Mr. Nwoko responded yes, noting that the MPO had no authority to mandate land use so they had done an academic exercise to show how the land use and transportation could correspond.

Mr. Campanella said the more detailed they were, the more complicated it would get and the less likely they were to come to a consensus. He said if they simply said they liked trains and pedestrians paths, then that would be a broad direction. Ms. Hauth stated one possible relevant comment, since Mr. Nwoko asked that they try to add all desirable projects, was the designated location for a train station. She said the Board might want to ask that they analyze the transit and rail opportunity to make sure there was a designated train station in Hillsborough, so if they then wanted to put it on their TIP list it was in the document it needed to be in.

Ms. Woodman stated that the public transportation system in and out of Hillsborough was very strained, and it would be advantageous for that to be expanded. She said the buses were packed and were limited as to where they traveled. Mr. Nwoko said then they should add in their comments the desire for more express buses. Ms. Hauth stated they needed improved service and TTA was looking at expanding the 420 route.

Mr. Nwoko said already in the plan was two more TTA express buses, one from Chapel Hill to Hillsborough, and one from Hillsborough to Duke. He said the buses were proposed for every 15 minutes during peak time, and every 30 minutes off peak times.

Mr. Warren asked what about buses in Town. Mr. Nwoko stated currently proposed was only one local bus, because they did not know the internal dynamics in terms of where the local population center might be. Mr. Warren said they needed to be able to move people about Town, and move people from Hillsborough out of Town to such places and Chapel Hill and Durham which would allow people to then make other connections. He said part of what needed to be included on the list was having public transit within Hillsborough and moving out of Town, as well as the rail system with the capability of that system going to those other locations. Mr. Nwoko said they were thinking about connecting downtown Hillsborough to RTP, but did not think that had made it into the report.

Mr. Nwoko said regarding the train station, what they were proposing to do was in two phases. He said the first phase was to use NC Railroad, with four trains in the morning and four trains in the evening from Mebane to Selma south of Raleigh. Mr. Nwoko said the idea was that by using existing tracks there would be no construction costs.

Mr. Warren stated the third thing on that list should be that any roads built should have bike accessibility taken into consideration. Ms. Hauth stated it was not so much placing things on the list as it was adding comments saying that the Town supported an internal circulation in Hillsborough, that they supported a train stop at a designated location, and that they supported bike and pedestrian improvements along any new road projects.

The Board briefly discussed potential revenue sources, and came to consensus that a fuel tax was preferred. Ms. Hauth noted that comment would be the fourth added to the list of comments she had just reiterated. The Board also agreed to add their support for increased

transit to Duke and Chapel Hill. The Board then discussed the list of projects for the Local Priority List and their individual preferences for priority. The outcome of that discussion was as follows:

	Barker	Campanella	Faherty	Farrelly	Remington	Warren	Woodman
Elizabeth Brady Road	9	7	10	10	10	1	10
South Churton Street	5	3	2	4	4	6	2
US 70 connector	8	9	3	6	6	7	5
Ped/40	4	4	6	5	5	8	6
NC 86 Bike	3	2	4	3	2	5	3
Nash Street	2	10	7	7	9	2	9
Eno Mt./Or. Grove Rd.	7	8	5	9	7	9	7
Western Bypass	10	6	8	8	8	10	8
Train Station	1	1	1	1	1	3	1
US 70/Or.Grove Rd.	6	5	9	2	3	4	4

The Board briefly discussed reordering the agenda, and agreed by consensus to consider Item 8, then Item 9.75, then come back to Item 7.

**ITEM #8: Discussion of Text Amendments to create Special Use Permit process for recreation facilities in the Neighborhood Business district**

Ms. Hauth stated that at the last meeting the Board had asked that she craft a Special Use Permit process for outdoor recreation for profit in the Neighborhood Business District. She said in looking at the ordinance there existed special use provisions for a use category called “Recreation, Amusement, and Entertainment,” and she was proposing a number of changes to that. Ms. Hauth said she had included in the materials the current standards for parks and athletic facilities as a reference. She said in looking at the Neighborhood Business district, she believed the Board would want to look at the criteria highlighted in the material which had often been problematic for people applying for Neighborhood Business zoning. She said with that zoning the uses generally would not serve commuters or persons outside the surrounding neighborhood. Ms. Hauth said while it made sense that that was what you would want for Neighborhood Business, if you looked at the list of uses already permitted in Neighborhood Business, they may want to reconsider some of them.

Ms. Hauth said the existing language said that “the uses shall indicate their maximum building capacity and their expected peak usage times.” She said that assumed that other things like movie theaters and bowling alleys would come in that category. Ms. Hauth said she had added language that said “including capacities and peak usage for outdoor facilities, fields, and courts.” She said she also added “Shared parking with adjacent uses that have different usage peaks is encouraged. If shared parking is not proposed the site must provide parking to meet the ordinance requirement.” Ms. Hauth said she was proposing that existing language to be deleted was “the location of these uses should reflect consideration of their potential impact on adjacent uses.” She said she had not felt that language was specific enough.

Ms. Hauth said new language included was “Outdoor facilities, fields, and courts located within 1,000 feet of residential uses shall not be used after 10 p.m. unless specifically authorized at the time of the permit approval. The public use portion of outdoor facilities, fields, and courts shall observe a 50-foot setback from property lines when adjacent to

property in residential use. In considering requests for setback reduction, the Town must consider the impacts of noise, lights, and loss of privacy on neighboring properties. Mitigation measures may include but are not limited to: grade change, landscaping, fencing, operation modifications, and details. In reviewing applications the Town will balance the needs for security and neighborhood impacts for these uses.” Ms. Hauth stated the new language was not real specific, but it did provide some flexibility.

Ms. Woodman said regarding #4, would that trigger a public hearing. Ms. Hauth said all of those would trigger a public hearing with the Planning Board and the Town Board because it was a special use. Ms. Woodman said she wanted to be sure the neighborhood would have the opportunity for input.

Mr. Barker asked what the hours were in the current Noise Ordinance. Ms. Hauth stated there were two difference noise ordinances. She said there were the Zoning provisions which broke at 7 a.m. and 7 p.m., and then there was the “reasonable” standard that generally occurred at night and on weekends when complaints were made to the Police Department.

Mr. Warren stated that what Ms. Hauth had put together looked good to him, noting that the Parks and Recreation Board had discussed this at their last meeting. He said that Board had only one concern, and that was with the 10 p.m. limit. Mr. Warren stated the Parks and Recreation Board had preferred 9 p.m. as the cut-off time. The Board agreed by consensus to change the language to reflect a 9 p.m. limit.

Jennifer Boroski stated Ms. Hauth had provided her a copy of the proposed text amendment, and she had no issues with it at this time. She asked if there was a special event taking place and they wanted to go until 10 p.m., how they would go about doing that. Ms. Hauth responded at the time they came forward with a Special Use Permit request, they should indicate that there were “x” number of special events throughout the year that might run until 10 p.m.

**MOTION:** **Mr. Warren** moved to send the proposed text amendments to create a Special Use Permit process for recreation facilities in the Neighborhood Business district to public hearing in October.

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

**VOTE:** Unanimous.

**ITEM #9.75 Discussion of Family Care homes which were required to be at least ½ mile from each other.**

Ms. Hauth stated that family care homes were State-licensed facilities for the care of one to six unrelated individuals with support staff. She said the Town treated such homes as single-family residences. Ms. Hauth said a group home was when you had seven to fourteen unrelated individuals, which required Conditional Use Permits. She said to her knowledge there were no group homes anywhere in the Town, noting there were more constraints on the type of people who could reside in a group home than in a family care home.

Felicia Brown stated they had just appealed the requirement that family care homes be no less than ½ mile from each other to the Board of Adjustment, but had lost that appeal.

Mr. Farrelly asked if anyone knew why that ½ mile requirement was added to the ordinance. Ms. Hauth responded because there were companies that sometimes went into depressed neighborhoods, bought up a series of homes next to each other, and then operated those homes both as group homes or family care homes and spread their staff out over more than one house.

Ms. Brown stated there was a great need in Orange County for family care homes for challenged individuals, and she had received a letter of support from OPC Mental Health because there were only two such homes in Hillsborough. Ms. Hauth noted the licensing restrictions from the State were very rigorous. She said she did not believe that people realized that the new construction on the corner of Nash and Tryon was a family care home. Ms. Hauth said the purpose behind limiting the number of people was so that it was not so unlike the traffic you would see with a normal home. She said if the Board was so inclined, what was being proposed tonight was for the Board to move to amend the ordinance to remove the ½ mile spacing requirement.

Ms. Woodman asked how the Town would be able to prevent having a company come in and buy up homes as Ms. Hauth had described. Ms. Hauth responded if they took the ½ mile provision out, then the Town would not be able to act immediately.

Responding to a suggestion to change the provision to ¼ mile, Ms. Hauth said that would solve the situation they had now with Ms. Brown, but would not solve the issue of whether or not it could be implemented so that staff was certain it was being abided by.

Mr. Farrelly said one way around that would be to say that there could not be two such homes within ½ mile that were owned and operated by the same entity.

Mr. Remington asked if some company did buy up a number of homes in a neighborhood, was there some particular harm that would be caused to the neighborhood given that the number of people in the home was limited.

Several Board members remarked that one harm would be the perception of property values falling.

Mr. Remington said they could keep the ordinance as it was, but require that it would need a Conditional Use Permit which would mean it would go before the Board of Adjustment for approval or denial. Several Board members stated they would prefer just to remove the ½ mile requirement.

Mr. Farrelly stated he believed it was highly unlikely that someone would be waiting to find several houses that were available in one neighborhood, and believed the best course of action would be to just remove the ½ mile requirement.

**MOTION:** Mr. Barker moved to send the proposed text amendment to remove the ½ mile spacing of family care homes to public hearing.

**SECOND:** Mr. Warren.

**VOTE:** Unanimous.

**ITEM #7:** Discussion of Text Amendments to create a special use permit process for event centers within the Central Commercial zoning district.

Ms. Hauth stated she had made some additional changes to the language, such as when deliveries were made and as well as loading spaces.

Mr. Barker asked if the term “event center” was the industry standard. Ms. Hauth responded no, it was a term staff had come up with. Mr. Barker stated that was a term used in the building industry with which these events did not quite align. Ms. Hauth stated the paragraph at the top was the important part, where she attempted to establish what the boundaries of an event center were and what combination of things that might involve. She said an event center was being proposed as a special use within the Central Commercial zoning district.

Mr. Farrelly suggested that the hours for outside amplified music be changed from 10 p.m. to 9 p.m. There was no objection from the Board. Ms. Hauth stated if the Board was inclined, they could use the same language here regarding the security and neighborhood impacts as was just used in the previous discussion regarding the tennis courts, which read “In reviewing applications the Town will balance the needs for security and neighborhood impacts for these uses.” There was no objection from the Board.

Ms. Hauth stated there was not a lot of language that would prevent anyone from applying, in that it was not crafted narrowly to only accommodate the Colonial Inn. But, she said, a property owner would have to apply for a rezoning to Central Commercial with a Special Use Permit, and go through the public hearing process. She said that would be much harder if the property were not contiguous.

The Board briefly discussed other properties that might be proposed for such a use and the likelihood of that occurring.

**MOTION:** **Mr. Barker** moved to send the proposed text amendment to create a special use permit process for event centers within the Central Commercial zoning district to public hearing, with the hour changed from 10 p.m. to 9 p.m., as well as the additional language regarding security and neighborhood impacts.

**SECOND:** **Mr. Remington.**  
**VOTE:** Unanimous.

**ITEM #9:** **Discussion of Text Amendments to permit school identification signs off school property.**

Ms. Hauth stated the Town Attorney had expressed concern regarding this proposed text amendment due to First Amendment concerns. She said that concern was because they were not being content neutral in regulating the sign, noting the Town could regulate signs but could not regulate content. Ms. Hauth said they could limit the time and place, but by saying it was directed toward Orange County schools rather than just schools would mean they may not be treating other schools such as private schools in a like manner. She said the Attorney was also concerned about any distinction between public schools and private schools. Ms. Hauth said the language needed to say “all purpose signs for schools” not “Orange County public schools.” Or, she said, they could say “all schools in the Orange County school district.”

Ms. Woodman stated it should say “Hillsborough schools” since they were the only ones they had jurisdiction over. Ms. Hauth said by saying just “schools” it was the same thing. She said as well, the language indicated schools that did not directly front on a street

classified as an arterial. She said the 2,000 feet noted in the language was the distance needed for Orange High School to be able to place a sign at the intersection at Orange High and US 70.

Mr. Barker asked how this ordinance would affect the charter school by the Sportsplex. Ms. Hauth stated they fronted US 70A which was an arterial, so it would have no affect.

Mr. Barker asked could this text amendment be used by trade schools or private schools. Ms. Hauth said they could put in the language that it referred to primary or secondary schools, to eliminate art schools, day cares, or something of that sort. Mr. Barker said a good example of what they would want to eliminate would be something like a karate school.

Ms. Faherty asked why the language required that the lettering be flush rather than allowing raised lettering. Ms. Hauth said it was an attempt to make the distinction that it would be a flush sign, or if they wanted raised lettering it would have to be something that met the definition of natural materials. She said they needed to discuss metals and whether metal was considered a natural material. Ms. Hauth said since the school had proposed that the sign be metal but this Board had not liked that, then a distinction needed to be made. She said what she had attempted to do in the language was to specify that paint and vinyl lettering was acceptable, but that other materials may not be acceptable. Ms. Hauth said it may be easier to say what the Board did not want to see rather than what it must be. She said she believed they would want to make sure the sign was opaque as well.

The Board discussed the types of materials that would or would not be acceptable and why, as well as the advantages of using materials such as wood with routed lettering. Durability of materials was also discussed, and whether to eliminate the language regarding natural materials and state that acceptable materials would be wood, brick, metal or stone. Also discussed was the potential need for maintenance of the sign, and how the sign might be modified in the future.

**MOTION:** Mr. Warren moved to send the proposed text amendment to permit school identification signs off school property to public hearing.

**SECOND:** Ms. Faherty.

**VOTE:** Unanimous.

**ITEM #9.5: County Impact to the Town's EDD relative to transfer station.**

Ms. Woodman stated there were 7 to 9 sites that had been designated by the County's consultant for the future waste transfer station which would be place where garbage trucks would transfer their loads to larger trucks to be transferred out. She said such a transfer station would generate a lot of impact on the community, and Hillsborough did not generate a significant portion of the garbage.

Mr. Barker stated that the number one ranked site was at Old 86, and they were about to add "social factors" that would rule out the Eubanks Road site.

Ms. Woodman said she would have liked to have a courtesy review. Ms. Hauth said at the time it was developed they would have a courtesy review. She said that Commissioner Lowen served as the Town's representative on the Solid Waste Advisory Board for the County, and this Board could raise the issue with the Town to raise it with the County as to

how they would take comments from the three jurisdictions. Ms. Woodman said she would like to know how they would be included in the process.

The Board briefly discussed the possibility of the Town annexing one of the designated sites on Old 86 near Waterstone that was slated for takeover through the eminent domain process because the owner did not want to sell. They also discussed some of the other sites and the pros and cons of each.

Ms. Woodman asked how their requests could be sent to the Town Board. Ms. Hauth stated the Board could request from the County Board of Commissioners the opportunity to review and participate in the process. The Board agreed by consensus. Ms. Hauth stated she would send the Board the link to the Web site via email.

**ITEM #10: Adjourn**

Upon a motion by Mr. Warren, seconded by Mr. Campanella, the Board moved to adjourn the hearing. The vote was unanimous. The meeting was adjourned at 9:30 p.m.

Respectfully submitted,

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Margaret A. Hauth, Secretary