

MINUTES
JOINT PUBLIC HEARING
HILLSBOROUGH TOWN BOARD and PLANNING BOARD
Tuesday, October 24, 2006
7:00 PM, Hillsborough Town Barn

BOARD OF COMMISSIONERS PRESENT: Mayor Tom Stevens, Commissioners Evelyn Lloyd, Mike Gering, L. Eric Hallman, and Brian Lowen.

PLANNING BOARD MEMBERS PRESENT: Jim Boericke, Edna Ellis, Eric Oliver, Paul Newton, Dave Remington, and Barrie Wallace.

STAFF PRESENT: Town Manager Eric Peterson, Assistant Town Manager/Public Works Director Demetric Potts, Planning Director Margaret Hauth, and Town Attorney Bob Hornik.

ITEM #1: Call public hearing to order.
[7:03:45 PM](#) Mayor Stevens called the meeting to order.

ITEM #2: Rezoning request from Queen Street Partners to rezone 2.47 acres between NC 86 and Tuliptree Road from Residential-40 to Light Industrial (TBLM 4.5A.6a).

Ms. Hauth provided a brief presentation. She noted the request was regarding a land locked parcel adjacent the owner's site which is under development. She noted a representative of the company was present. Larry Fantazos offered to answer questions, but did not address the boards. Ms Hauth noted that the parcel was adjacent to the property under development by Habitat for Humanity. She said she had talked to the Executive Director, who had questions about the application. Ms Hauth said she had noted that a buffer is required between residential and industrial properties. She noted that Habitat had no further questions, but were not present to offer testimony. Ms Wallace noted her concern about rezoning property when the future property owners were not available to speak at the hearing. Commissioner Hallman asked about holding the hearing open on the item. Mr. Hornik noted that since the request is not quasi-judicial, additional information could be added or considered after the hearing was closed. The members discussed their options.

Upon a motion by Commissioner Lowen, seconded by Commissioner Gering, the Board moved to close the public hearing by a vote of 10-0. The motion was declared passed.

ITEM #3: Rezoning request from Amba ventures, LLC to rezone 3.12 acres on the west side of NC 86 South from Limited Office to Light Industrial (TMBL 4.40A.8r).

Ms. Hauth provided a brief presentation. She noted the property is currently occupied by Hillsborough Storage and the parcel was downzoned in 2000 as part of the implementation of the Entranceway Special Use district. She added the owner had contacted her about expansion and since storage is not a permitted use in Limited Office or Entranceway Special Use, the owner applied for Light Industrial. She noted the applicant was present. Britt Irwin said he was available to answer questions, but did not address the boards.

Ms. Ellis expressed concern about the proximity of Cates Creek and the potential impact to the creek and the Eno River of further development. Ms Hauth noted that the owner stated an

intention to convert existing space and build additional air conditioned storage over existing parking spaces.

Upon a motion by Commissioner Gering, seconded by Commissioner Hallman, the Board moved to close the public hearing by a vote of 10-0. The motion was declared passed.

ITEM #4: Rezoning Request from Weaver Community, LLC to rezone .75 acre on West Margaret Lane to Central Commercial. A portion of the site is currently Residential-20 (TMBL 4.36.E.5).

Ms. Hauth provided a brief presentation. She said the owner is seeking rezoning of the entire site to Central Commercial and the rear portion is currently residential-20. She noted the applicant was present. Commissioner Gering asked why the request since part of the original vision for the property included a residential component.

Ruffin Slater spoke representing the applicant. He noted that Weaver Street Market will be occupying the first floor of the adjacent Gateway Building and entered an agreement with that property owner to trade ownership of this property toward occupancy of the Gateway Building. He added Mr. Horton had other plans for the site. Mr. Oliver asked if the trade in ownership was dependent on the rezoning and Mr. Slater replied it was.

Mr. Boericke spoke as a resident of the neighborhood. He noted his support and that of his neighbors for the development plans they had reviewed in meetings with Mr. Horton.

Upon a motion by Commissioner Hallman, seconded by Mr. Oliver, the Board moved to close the public hearing by a vote of 10-0. The motion was declared passed.

ITEM #5: Rezoning and Special Use Permit request from Coucoulas/Knight Properties to rezone 2.16 acres on the west side of the 500 block of North Churton Street from residential-20 and Neighborhood Business to Entranceway Special Use with a Special Use Permit to build 33 residential condominium units beside the Sinclair Station building (TMBL 4.19.A.11,12,13).

Ms Hauth noted that the next items of the agenda require speakers to swear in as they have a quasi-judicial component. She was sworn in. She described the project as a combination request for rezoning to the Entranceway Special Use District and a Special Use Permit to develop 33 condominium units as part of a mixed use development with the existing Sinclair Station. Ms Hauth noted that this project review would also include the Historic District Commission, as the property is in the historic district and the commission would have design review authority. Ms Hauth noted that the Entranceway Special Use process allowed an applicant to seek exceptions to specific ordinance requirements if they could demonstrate compliance with the intent. She noted that the applicant is seeking a greater residential density than would be allowed under multi-family, an impervious surface greater than 50%, no provision of recreation space, and reduced and shared parking. Ms Hauth noted that a protest petition had been submitted by the neighbors and was sufficient to trigger a super-majority vote, should the Town Board decide to approve the rezoning. She noted the applicant was present.

Allen Knight, after being sworn in, described his project in detail. He said he had originally tried to acquire this property when developing the Sinclair Station. He said the area has improved

since the completion of the Station and he hoped that project was the catalyst. He said the recently adopted Churton Corridor plan encouraged infill development and basic smart growth principles. He added that these principles are catching on in other jurisdictions like Raleigh, Durham, Chapel Hill, and Carrboro. He said Gateway Center, Pancuito and this proposal are all examples of similar projects in Hillsborough.

Mr. Knight said the site density is 15 units per acre, plus the existing office use. He noted that this density is not appropriate everywhere, but it is at this location because it is a transitional area on the main commercial corridor. Mr. Knight noted the project is based on the garden apartment style that was common in the south before 1945 and the widespread use of cars.

Mr. Knight noted the project also parallels the common goals of the draft Strategic Growth Plan:

- 1) Preserve and enhance the Hillsborough core area.
- 2) Preserve significant cultural and natural resources.
- 3) Coordinate growth with water/sewer availability
- 4) Grow in a fiscally-responsible way.
- 5) Keep existing businesses healthy.

Mr. Knight noted that he had shared preliminary plans with the Historic District Commission, the Alliance for Historic Hillsborough, Downtown Merchants Association, and the Walkable Hillsborough Coalition, all with positive reactions. He said they hosted a neighborhood meeting to address questions and concerns and the meeting was positive.

He noted the proposed parking is reduced because the intended market is for people interested in a more walkable location close to many services in town. He added that a bicycle rack in included in the plan to encourage biking. He acknowledged the impervious surface limit was high and said if we could get that down to 50%, then he would like to do that. He stated his support of infill development as sustainable and smart growth and noted this type of project is not available elsewhere in Hillsborough. Mr. Knight introduced Jim Parker and Jim Spencer, his design team.

Jim Parker, after being sworn, discussed the site layout, traffic flow, and stormwater control.

Jim Spencer, after being sworn, discussed the general building design, buildings that we used to provide clues, and material choices. Ms Ellis expressed concern about the traffic impact and asked whether NCDOT had reviewed the proposal. She noted both access points were on State Roads. Mr. Parker noted that plans were under review by Chuck Edwards and that existing driveways were being closed to improve traffic flow.

Commissioner Gering asked how this project fit in the Entranceway Special Use District. Mr. Knight responded that the Churton Street plan designated this intersection as an entranceway and he was seeking the zoning designation to allow the sharing of parking and coordination of development with the existing Sinclair Station.

[7:53:06 PM](#) Ms. Ellis said in the proposal were 1-bedroom, 2-bedroom, and 3-bedroom condos, which would mean that these units would be appropriate for families with children. She said she was a proponent of having safe places for children. Mr. Knight agreed, but stated that demographically families were not attracted to this type of housing. He said families wanted yards and other amenities. Mr. Knight said that typically older citizens were drawn to condominiums, and statistics showed that about 45% of such units were occupied by single women of various ages. He said the other 55% were occupied by single men or retirement-aged

couples. He said that providing amenities for families was not a marketable or supportable thing to do. Mr. Knight said that was why the recreation area they had proposed was geared to serve those populations. He said that of course, families would not be excluded.

[7:55:05 PM](#) Commissioner Gering said he understood the point regarding the need for increased density, and what was being proposed was urban-style density. He said he did not believe that the Churton Plan or others had visualized the Churton corridor becoming all urban-style density. He asked why they chose this location, so close to the downtown. Mr. Knight said they had conducted a study of Churton Street from Highway 70 to the river, and found that less than 20% of that road frontage was single-family residential usage even though much of it was zoned for residential use. He said they saw that area as a transitional area towards more of a commercial area.

Commissioner Gering said he did not know how to interpret that, in light of the argument for improving the downtown, when he said increased density at this end of town was more appropriate. Mr. Knight said he was not aware of another site that lent itself to this type of density on Churton Street. He said the opportunity to do it was right here and right now, and he believed it was a transitional area and it was appropriate for this kind of use.

[7:59:04 PM](#) Commissioner Hallman asked if the annual tax revenue of \$90,000 was just for the courtyard portion. Mr. Knight said yes, it was for the residential portion of the project, and did not include what he was already paying in taxes on the Sinclair Station.

[7:59:32 PM](#) Ms. Ellis commented that people living here could walk to town, but would probably need vehicles to get to work. Mr. Knight reiterated that demographically many of the residents would be of an age that they would not be working regular jobs. He added that these units would appeal to people who did work downtown.

[8:00:38 PM](#) Commissioner Hallman said even though it was in draft form, could we include the Strategic Growth Plan in the evidence for this hearing? Ms. Hauth replied it would be difficult because it was a draft and not yet endorsed by the Board. Commissioner Hallman said he wanted to enter into evidence just those portions of the draft Plan that were germane to this discussion. Mr. Hornik said it could be entered into the record and then discussed, so that the applicant was aware of where that Plan was heading.

[8:01:41 PM](#) Commissioner Lloyd asked what price range these units would be in? Mr. Knight said these units would be for-sale condominiums, and would range from \$75,000-\$80,000 for the small 500 square foot studio units, the one-bedroom units at 700 square feet for \$130,000-\$135,000, the two-bedroom units at 1,000 square feet for \$180,000-\$200,000, and the three-bedroom units on the top floor for \$230,000-\$240,000.

Mr. Knight said he understood that affordability was an issue, and in order to address that they were included the smaller, more affordable units. He said the units would all be accessible, with wider hallways and wider doorways, as well as an elevator.

Mr. Knight said in response to neighbors' concerns of privacy and lighting, they would include in their landscaping plan a solid fence, with the approval of the Historic District Commission, which would be brick columns with wood panels in between to provide a sense of separation between this property and the properties south of it.

[8:05:47 PM](#) Vicki Wilson, after having been sworn, handed out presentation materials to the Board members. She said she was part of an organized group of neighbors and residents of Hillsborough who were vitally interested in and concerned about this project and the direction it might take us if allowed to proceed. Ms. Wilson submitted a signed petition to Ms. Hauth, to be entered into the record.

[8:08:34 PM](#) Ms. Wilson said the two lots proposed for the condominiums were approximately 56,000 square feet, zoned R-20, which allowed one single-family home per 20,000 square feet. She said that would mean two homes could be built on this site. Ms. Wilson said this site had been used for apartments, so a case could be made for rezoning it to multi-family use that would result in a maximum of 11 dwelling units. She said how could this 56,000 square foot, 1.3 acre site even be considered for a three-story, 33 unit condominium complex.

Ms. Wilson said their first area of concern was that the application had been filed under the Entranceway Special Use Permit project. She said that designation allowed the development of fully integrated projects containing a diverse mixture of commercial, office, and employment uses along the primary entranceways to the Town. Ms. Wilson said this special use designation was used for Hampton Point, the location of Wal-Mart and Home Depot, as well as Waterstone, a multi-use project so large it had a college campus on site. She asked how this could possibly apply to a 56,000 square foot residential lot in the historic district.

[8:11:56 PM](#) Ms. Wilson said the Churton Street Corridor Plan defined several types of entranceways for gateways. She said one gateway was the entrance into the historic district itself, and in the Churton Street Corridor Plan the intersection of Churton and Highway 70A was designated as community or primary gateway, and Churton and Corbin as a historic district gateway. Ms. Wilson said they did not believe that this project would qualify as a gateway into the historic district. She said there was nothing in other gateways into historic districts that they knew of that called for master plans, fully integrated projects, subdivision regulations, or 20-acre lots, as described in Section 2.17 of the Town's Zoning Ordinance and under which this application was made.

[8:14:44 PM](#) Ms. Wilson said it was their contention and their main point that the Entranceway Special Use application for this residential lot in the historic district was grossly inappropriate. She asked that the Planning Department be instructed to look at clarifying and amending Section 2.17 of the Zoning Ordinance to further prevent misapplications such as this.

[8:16:12 PM](#) Holly Synder, after having been sworn, stated she lived in the historic district five blocks from the proposed development. She provided comments regarding her background and experience with restoration of historic homes. Ms. Synder said there were many aspects of the project they liked, such as the courtyard, the horizontal and vertical balance, the combination of materials, the ironwork around the balconies, and other aspects. She said these types of housing were becoming popular throughout the country, but they could not envision a more inappropriate site for this project than this one.

Ms. Synder said the extreme density of this project, its failure to meet the Churton Street Corridor Plan, how it under-mined the character of the historic district, and the inability of this site to handle this site plan all spoke to its inappropriateness. She observed that this was a three-story building, 45 feet tall, but the architect's renderings downplayed the height and made it

appear it was nestled in the woods. Ms. Snyder said the buildings had been drawn in miniature as compared to the visual cues in the rendering. She also made reference to the way in which trees were drawn in the rendering.

[8:22:30 PM](#) Ms. Snyder exhibited a poster that illustrated the density of surrounding properties, noting that more dwelling units would be placed on this one site than there were in the entire 3-block area bounded by Union, Churton, Tyron, Queen, Castle, and Lake. Ms. Snyder said this type of density was what you might find in an inter-city area of larger communities such as Durham or Raleigh.

[8:24:03 PM](#) Ms. Snyder said their third area of concern was that they did not believe the developer had met either the mission or the objectives of the Churton Street Corridor Plan. She said the developer had stated in the first plan mission was that the condominium project improve the appearance and economic vitality of the Churton Street corridor. Ms. Snyder said saying that it would improve the appearance was a subjective statement, not a fact. She suggested that regarding economic vitality, the tax revenue generated by this project would not meet that goal.

Ms. Snyder said the second plan goal was to protect and celebrate the diverse, historic, and cultural identity of the town. She questioned whether this project did in fact do that. Ms. Snyder said it might do so if built in Raleigh or Atlanta or Charleston, but not in a town the size of Hillsborough.

Ms. Snyder said shoehorning this project onto this site created environmental hardship, not only on this site but on surrounding sites, and mentioned the runoff from the site and how it would be handled. She said keeping the current zoning and allowing only two houses on the site would resolve the runoff issue.

[8:28:12 PM](#) Ms. Snyder said the fourth and final mission statement, encourage and support an active lifestyle, was supported by the developers with the addition of a bike rack and the project's proximity to the downtown and its amenities. She said because of the limited restaurants and shopping downtown, people would still be getting into their cars for various reasons. Ms. Snyder said there would be the opportunity to walk and bike, but no one would put their car in storage if living there. She said this project would add 66 to 100 or more cars making multiple trips each day on Churton Street.

[8:29:42 PM](#) Ms. Snyder said the second goal the developers had listed as being committed to meeting was to identify and plan for districts within the Churton Street Corridor that displayed a common character or types of land uses. She said that spoke directly to density, and suggested that there was no similar usage within the district with this development.

Ms. Snyder said the third goal listed by the developers was to develop community entrances that conveyed a sense of arrival, and reflected the character of Hillsborough. She asked how this development would reflect the character of Hillsborough or of the entranceway to the historic district. Ms. Snyder stated that mature trees were part of character, and the developer had proposed to cut down all existing trees on the site, thereby destroying character. She suggested that the proposed buildings were not compatible to the surrounding district because they were out of proportion and out of scale, thereby destroying character.

[8:32:14 PM](#) Ms. Snyder stated that this was a three-story building, 45 feet tall, with a front lobby, elevators, and a sprinkler system. She said it could be built anywhere in larger communities, and perhaps elsewhere in Hillsborough, but it was not compatible to the surrounding properties in form, scale, and massing of the historic district. Ms. Snyder said in fact, this project would destroy the character of the historic district.

[8:34:13 PM](#) Martha McMillan, after having been sworn, provided some comments regarding her credentials and experience. She stated their main concern was the inappropriate zoning application applied to this site. Ms. McMillan said that no project of this magnitude should be considered for this site.

Ms. McMillan remarked that combining these two lots in addition to the Sinclair Station and using the total acreage as consideration for the new project seemed like double dipping. She said the Sinclair Station should play no part in this proposal, because it was a separate site with separate requirements. Ms. McMillan said combining the lots could relieve the developer of the responsibility of providing buffers and setbacks between the two properties.

Ms. McMillan said regarding the entranceway into the historic district, tying these three sites together resulted in the entranceway into the historic district becoming an enormous 2.16-acre site filled with multi-story brick buildings and parking lots. She said such a drastic change should be looked at carefully.

[8:37:53 PM](#) Ms. McMillan provided some comments regarding the current site and the existing trees. She said Hillsborough placed a great deal of emphasis on preserving trees, yet this entire site would be cleared because of its density. Ms. McMillan said the application cited 37 parking spaces, many for compact cars only. She said the Section 6.6 of the Zoning Ordinance required a minimum of 2 off-street parking spaces per dwelling, plus one visitor space per 5 dwelling units. Ms. McMillan said that section said nothing about including the parking spaces of an office building next door. She commented that the office building might eventually be used for other purposes, and there was no guarantee that the parking spaces would be available during the day, or even in the evening. Ms. McMillan said even if you counted all of the parking spaces on the sites, it still would not meet the minimum ordinance requirement for this one condominium building.

[8:40:11 PM](#) Ms. McMillan said the condominium building should have at minimum 73 parking spaces and it had only half of that. She said there was a possibility that a household would have more than 2 cars, and suggested many would have to park on surrounding streets. Ms. McMillan said even though the developers did not have as many parking spaces as required by law, they had “squeezed” in more than they were allowed by law.

Ms. McMillan said she was concerned about impervious surfaces, such as parking lots, sidewalks and roofs. She said the most impervious surface allowed in an Entranceway Special Use district per Section 3.5.2, was 50% of the gross lot. Ms. McMillan said this application was asking for a special exemption to that requirement and proposing 60% for this project. She provided a brief explanation of how impervious surface affected the environment.

[8:42:42 PM](#) Ms. McMillan said that this project was too big for this site. She said the Zoning Ordinance was written and adopted with the intention of avoiding project proposals such as this one, that is, projects that changed the topography and removed all existing trees, and that

removed existing trees and did not have enough roof to allow for vegetation and natural buffers, as well as grossly inadequate parking.

[8:44:26 PM](#) Vivian Cobb, after having been sworn, a resident of West Orange Street, commented she was concerned about the many changes coming to Hillsborough, and in particular this development. She said this project was literally in her backyard, and was concerned about the appropriateness of its size in the historic district. Ms. Cobb said preserving the character of the Town and the historic district were important to her, and asked the Board to deny this inappropriate development.

[8:46:56 PM](#) Craig Perrin, after having been sworn, a resident of West Orange Street, said he had purchased his house because of its historic nature. He stated that even though Mr. Knight had stated they wanted to keep the neighborhood happy, they were not happy with this development. Mr. Perrin said this proposal was complete audacious and inappropriate proposal for the historic district. He said he was stunned and amazed that the developer had gotten this far in the process, and he was not happy about that.

[8:51:08 PM](#) Mr. Perrin pointed out that the community groups mentioned by Mr. Knight as being in support of this project were not present tonight, and it was completely inappropriate for him to stand up and give sworn testimony that these groups had given any kind of opinion on this project. He asked that Mr. Knight's comments regarding those groups be stricken from the record.

Mr. Perrin said the ramifications for this community if the project was approved would include the Strategic Growth Plan being rendered meaningless. He said approval would set a terrible precedent for the Town, making it clear that the Strategic Growth Plan meant nothing. Mr. Perrin said he and his neighbors would not yield and would not stop until an appropriate project was put in place, which he defined as two single-family homes under the current zoning regulations. He asked the Board to take a stand for good planning and smart growth, and don't let the Strategic Growth Plan be ignored. Mr. Perrin asked the Board to reject this project now, and take a stand for the Town's zoning regulations in place today.

[8:54:26 PM](#) Mr. Remington wondered if Mr. Perrin had suggestions of what they should have done rather than having a proposal for the public hearing like this one. Mr. Perrin said he did not believe things should necessarily have been done any different, but stated his surprised and amazed that a developer thought they could come to a town like Hillsborough and make this kind of proposal in the historic district. He said he did not believe the proposal should have ever been made.

Mr. Remington said he wanted everyone to understand that when an applicant made an application for a rezoning or a Special Use Permit, they were entitled to a public hearing, which was the time when the public had the opportunity to provide comments to the developer, the boards, and the staff regarding the proposed project. He said the law entitled the applicant and the public to that process, and that was how the applicant had "gotten this far."

[8:56:55 PM](#) Mayor Stevens said it would be atypical for the Board to make a decision about this project at this time, since that was not usually done at a public hearing. He said the Board would want to contemplate what it had heard tonight and have the opportunity to discuss it as a Board.

[8:58:02 PM](#) Mr. Knight clarified that the condominium height was planned for 35 feet, not the 45 feet noted by a previous speaker.

[8:59:16 PM](#) Sam Griffith, after having been sworn, said he lived around the corner from the proposed development. He agreed with previous speakers that this was an inappropriate development for this site, noting that the residential and historic character of the area should be preserved.

[9:00:43 PM](#) Upon a motion by Commissioner Gering, seconded by Commissioner Lloyd, the Board moved to continue the public hearing until the Planning Board meeting on November 7.

[9:02:07 PM](#) In response to a question regarding consideration by the Historic District Commission, Ms. Hauth stated that the HDC could not consider this proposal until the Town Board and the Planning Board acted on it, because they needed to be assured that the zoning was compliant in order to process the application. She said the HDC would have to consider the appropriateness of the demolition of the existing buildings on the site and the appropriateness of the reconstruction.

[9:03:16 PM](#) Ms. Hauth asked if there were any items the Boards wanted staff to pay particular attention to and bring back for the Planning Board meeting on November 7. Commissioner Hallman requested that the Strategic Growth Plan document be provided so that it could become a part of the record at that time.

Commissioner Gering asked for a staff analysis of the points raised regarding the provisions of the Entranceway Special Use ordinance and its applicability to this parcel.

[9:04:53 PM](#) By a vote of 10-0, the motion was declared passed.

The Boards took a short recess.

ITEM #6: **Master Plan modifications** for Waterstone to: increase the allowable retail square footage in Parcel 13 to 90,000; increase the allowable retail square footage in Parcel 22 to 450,000; remove the portion of Cates Creek Parkway between Waterstone Drive and Old 86; improve Oakdale Drive between Old 86 and Millstone Drive to provide access; and make additional improvements to OLD 86 at the Waterstone Drive intersection.

[9:12:33 PM](#) Ms. Hauth, having already been sworn, stated this was a master plan amendment and the developer of Waterstone was asking for a number of modifications to the master plan. She said first and foremost was a prior request to convert Parcel 6 from multi-family to single-family that was now withdrawn, meaning that Parcel 6 would remain multi-family. Ms. Hauth said the requests included an increase in allowable retail square footage in Parcel 13 from 70,000 to 90,000 and in Parcel 22 from 380,000 to 450,000.

Ms. Hauth said the developers were also asking that the portion of Cates Creek Parkway from the western boundary of Waterstone Drive to Old 86 be deleted, that is the portion that was not in Waterstone proper. She said they would stub out the Cates Creek Parkway from the traffic circle west to the edge of the development, but not the portion that appeared on the plans in the

narrow arm of the site outside of Waterstone. Ms. Hauth said to compensate for that there would be some improvements to Oakdale Drive between Old 86 and Millstone Drive on the existing public right-of-way to allow for access out for vehicles at a traffic light at Oakdale Drive, and also improvements made to Old 86 at the Waterstone Drive intersection.

Ms. Hauth said this was basically a two-part request that may or may not be seen as being directly related. She said there was the request for the increased commercial square footage, and then the change in the street access for the plan. She said both of those were significant changes to the master plan that required the Town Board's approval for modification.

[9:15:40 PM](#) Commissioner Gering asked should the parts of the application be considered independently as we deliberated. Ms. Hauth responded they could, adding it might also be appropriate to ask the applicant if they were somehow tied in a way that we were not aware of. She said she perceived them to be separate because they came in separately.

[9:16:25 PM](#) Dave Denison, the applicant, after having been sworn, stated they had not intended for the two parts of the application to be separate. He said in regard to increasing allowable square footage on Parcels 13 and 22, these were two major retail tracts. Mr. Denison said Parcel 13 was 12.5 acres and Parcel 22 was 58 acres. He said they believed that both of these sites were underutilized and they could easily add the requested square footage on both parcels, and the Concept Plan would still work well, leaving room to provide the necessary buffers and the required infrastructure including the elevated storage tank.

[9:19:09 PM](#) Barbara Todd of ETD, after having been sworn, stated that she was a landscape architect and a land planner. She said they had wanted to test the theory that 450,000 and 90,000 square feet would work on these two parcels and still be able to provide the stormwater amenities and the necessary buffers required. Ms. Todd briefly went through the Concept Plan and described how those requirements would be met. She mentioned the location of the elevated storage tank, the recycling center, the bus stop, the 50-foot undisturbed buffer along the eastern edge adjacent to some of the large residential lots, as well as the undisturbed 100-foot buffer along I-40. Ms. Todd also pointed out the undisturbed 25-foot buffer along the western edge of the property. She indicated there was a 30-foot landscape buffer along Waterstone Drive.

[9:22:07 PM](#) Ms. Todd called attention to the good system of pedestrian circulation, noted by connecting dots on the map, that lead from the bus shelter to the west side as well as along the south side of the property and connecting from Waterstone Drive all the way through the development.

[9:23:32 PM](#) Commissioner Gering said by his calculations the increase for Parcel 13 was about 43% and for Parcel 22 it was about 18%. He wondered what the effect would be on traffic and traffic infrastructure on Churton Street. Mr. Denison said their traffic engineer had looked at that, and he incorporated that study into his study on the next issue, so that would be addressed at that time. He said they did believe that the current road system could carry it and the most value with the least amount of service from the Town would be to use that property as retail.

[9:25:01 PM](#) Commissioner Hallman said the increase in square footage was occurring at the southern border for the larger parcel, and asked if that was primarily where we would see the increase in traffic, as opposed to the outparcels along Waterstone Drive. Mr. Denison responded that without the increase, it would be spread throughout the development.

[9:26:40 PM](#) Mr. Remington said he would hope that the Boards would receive more information regarding the retail markets expected to occupy this space. Mr. Denison replied they had not yet conducted formal market studies, since they were still in the Concept Plan stage. He said due to their informal survey, they believed there was a market for this type of space and it would be filled with little problem.

[9:29:10 PM](#) Mr. Denison said they were almost ready to submit an SUP request for Parcel 6. He said when they received the SUPs for Parcels 1, 2, and 3, the Board had told them that when they brought forth Parcel 6 they would only need to address the additional outlet. Mr. Denison said they had searched for an alternative, and their engineer with John R. McAdams Company would present his study showing the improvements required to be made to handle the traffic out of Waterstone. He said that study did assume that the additional square footage was added to the two parcels in question.

[9:31:03 PM](#) Earl Lewellyn, PE, with the John R. McAdams Company and after having been sworn, stated that he had prepared the traffic study for both Phase 1 and for full buildout of Waterstone. He briefly took the Boards through what had been proposed as points of access and where improvements had been proposed. Using the map provided with the packet materials, he pointed out the proposed signal and intersection improvements, as well as the Rippy Lane and Millstone Drive realignments.

[9:34:30 PM](#) Mr. Lewellyn said the map showed that we realize there will be additional improvements necessary with Phase 2, and had always acknowledged that those improvements would be required regardless of where the other connections happen. He said those improvements were shown in yellow on the map, and provided a brief description of them. Mr. Lewellyn then provided a brief description of improvements that might be needed under certain conditions, noting they were shown in blue on the map.

Mr. Lewellyn said with all the improvements shown, a good level of service would be reached. He said no new improvements were necessary on New 86 with Phase 2 other than the traffic signals and the turn lanes already in the plan. Mr. Lewellyn reiterated that the traffic study was conducted having assumed that the additional square footage of retail was included.

[9:37:35 PM](#) Mr. Lewellyn said they had met with Chuck Edwards, the NCDOT district engineer, and he had indicated that this was a good plan that he could support. In addition to these improvements, he said there was an improvement that the applicant was willing to add, and that was the construction of Oakdale Drive between Churton Street and Millstone Drive, which would allow traffic coming from the north to come out to a signalized intersection. Mr. Lewellyn said there may be some signal modifications necessary, and they were committed to doing that as well. He reiterated that Mr. Edwards of NCDOT had agreed that this was a good solution.

[9:39:30 PM](#) Commissioner Hallman said in the model, how do you apportion the split in traffic that took a southbound route and the northbound route out of the Waterstone development, given this new scenario. Mr. Lewellyn said it was based on a gravity model. He said if you were closer to one area, you would be likely to go to the north; however it was a more circuitous route. Mr. Lewellyn said that would lessen the amount of traffic that would use that route, so they had included more traffic at the other intersection due to that. He said if there was

a miscalculation in that regard, then they had probably overestimated traffic rather than underestimated traffic, because they had assumed that that intersection was serving primarily the northern residential pods and not others.

[9:40:39 PM](#) Commissioner Gering asked what the levels of service were in this new plan as it compared to the old plan. Mr. Lewellyn said the levels of service at the Churton Street/Waterstone intersection would be Level of Service C under the old plan, and with the new plan it would be Level of Service D, which was still an acceptable level of service. He said regarding the intersection of Waterstone Drive and New 86, the breakpoint between Levels of Service A and B occurred at 10 seconds, and because of some signal timing changes it would get better due to the anomaly in how you timed the signal. He said it would be at a high A/low B Level of Service.

[9:42:01 PM](#) Commissioner Gering said when it had been mentioned that signalization was warranted, did that mean that the developers would pay for that signalization. Mr. Lewellyn said that was correct, as well as any modifications that would be necessary by NCDOT with the extension and completion of Oakdale Drive. He said if NCDOT felt that the left-turn phasing was necessary, the developer would add traffic signal heads and build the new design.

[9:42:39 PM](#) Mr. Oliver asked about the Levels of Service for Oakdale. He asked what kind of traffic would be coming out to the Oakdale/Old 86 intersection. Mr. Lewellyn said that intersection would have a Level of Service A, and that information was contained in the Traffic Study turned in to the Town today. Mr. Oliver asked if that study included the traffic impact on Millstone and on Beckett's Ridge. Mr. Lewellyn responded yes, noting it was Level of Service B for the Cates Creek/Beckett's Ridge/Millstone intersection. He added he was submitting that study as traffic part of the record.

[9:44:22 PM](#) Mr. Denison pointed out that the Oakdale Drive improvement was not something that was required by the traffic study, but that staff had believed the improvement would enhance Millstone Drive. He said they had asked us to consider improvement that and we had agreed to do so.

Mr. Denison stated they would still be stubbing out Cates Creek Parkway at their property line, and all of their traffic would work without that connection. He said the connection would be built by others as that property to the west was developed. Mr. Denison stated that with full development of this property, these connections would handle all of the traffic at acceptable service levels even if the Cates Creek Parkway connection were never made.

Mr. Lewellyn agreed, stating that was addressed in Tables 2 and 3 of the handout. He said those tables indicated what the service levels would be with and without the Cates Creek Parkway connection.

Mr. Denison said they had analyzed the cost and believed there would be some cost savings for them. He said they had met twice with the Parks and Recreation Board to talk about the community park, and one issue brought out was that there was no provision for restrooms. Mr. Denison said if their alternatives were approved, they would be willing to agree to include restrooms on Parcel 5 as a requirement.

[9:48:33 PM](#) Jim Pendergrass, after having been sworn, stated that there were two contracts for this 30-acre parcel of land, and both had included that Cates Creek Parkway connection. He said during the course of meetings, issues were raised about changing the contract because of questions regarding who would build the connection and how it would be done, as well as the cost. Mr. Pendergrass said there were other conditions being introduced, including additional sloping that was not part of the original contract. He said after all that, the only issue that was left to be address was the signatory authority of who would sign the deed to give the Moren's this tract of land. Mr. Pendergrass said once that last issue was resolved, the Lawrence's had every intention to make the swap of land to allow for the connection.

Mr. Pendergrass said that it had been indicated that Mr. Denison was the designated signatory, and they had requested proof that he was the authorized signatory of the group that would be signing that deed, because it was their initial understanding that Mr. Denison was not an officer of that company and had seen no evidence to indicate otherwise. He said that was the only issue that remained in order for that land to be swapped out and that connection made.

[9:52:29 PM](#) Jack Smyre, after having been sworn, stated he was a registered professional engineer, a certified planner, the Principal of The Design Response, and the original designer of the Master Land Use Plan for Waterstone. He said he was representing the Moren's, the seller of the 30 critical acres of land and the provider of the right-of-way corridor for Waterstone's northern access road to Churton Street. Mr. Smyre reminded the applicant and the Town Board of the many reasons why the approved Master Land Use Plan was what it was and why it should remain the same as it is. He mentioned ingress and egress points, and expectations placed on the Waterstone development that a number of infrastructure improvements would be installed as a direct result of that zoning approval. Mr. Smyre noted those included extension of the sanitary sewer outfall at Cates Creek, funding a water tank, provision of civic space for emergency services, a public park, and provision of a major road network system that would open up the quadrant and provide connection between the two major roads, including that northern access road to be constructed through the Moren property to the Lafayette Road intersection.

[9:56:27 PM](#) Mr. Smyre said that northern access road was important, in that it provided two direct points of access to Old 86, one north and one approximately one-half mile to the south. He said plans also called for a four-lane, divided median street cross-section, which provided a needed traffic signal location at the existing Lafayette Drive intersection to be installed at developer expense, thereby providing Cornwallis Hills with a safe and efficiency means of ingress and egress. Furthermore, Mr. Smyre said, providing a northern access road allowed the northern residential parcels to have direct access to Old 86 without having to detour one-half mile down to the south, and by the applicant's own traffic impact analysis degrading an intersection that would previously have performed at a satisfactory C level of service to what he considered an unsatisfactory D level of service.

Mr. Smyre said the longer the Old 86 signal stayed red to let additional traffic come and go from Waterstone, the longer the line of stopped cars would grow on NC 86 for commuter and through traffic. He reminded that Boards that one of the Master Land Use Plan conditions was the necessity of keeping any connection to Beckett's Ridge and Millstone Drive closed until deemed necessary and appropriate by the Town, which condition was inserted for the very good purpose of preventing Waterstone traffic, particularly during the construction period, from cutting through Beckett's Ridge.

[9:58:34 PM](#) Mr. Smyre said removal of the direct connection from Old 86 to the northern residential parcels while opening up a connection to Beckett's Ridge invited this very scenario to occur. In fact, he said, the use of Millstone Drive, particularly during construction, could have unintended destructive consequences, such as cut-through traffic and damage to a Town-maintained road by construction traffic. Mr. Smyre said it would be far better for construction traffic to use its own access roads for ingress and egress so that any repairs would be born by the developer during the road's warranty period.

Mr. Smyre reminded the Boards that all of the Waterstone Master Land Use Plan conditions of approval were acceptable to the original developer in March of 2004 when the project was approved. It was only now, he said, with new owners that the Master Land Use Plan revisions were being proposed. He said they included that infrastructure expenses be lowered, and revenue opportunities requested to be increased. Mr. Smyre said there were reasons that the approved Master Land Use Plan is what it is, and particularly that the circulation and access pattern is what it is, and it should remain.

[10:00:39 PM](#) Rob Wilson, after having been sworn, stated he was a certified planner, and the Senior Project Manager for The Design Response. He said he was actively involved in preparation of the application materials, and had helped to author the conditions of approval associated with the approved Waterstone Master Land Use Plan. Mr. Wilson said he was representing the Moren family, who was the provider for the right-of-way corridor for Waterstone's access road to Old 86. He discussed the impacts that Master Land Use Plan changes would have on traffic and the provision of emergency services.

Mr. Wilson said regarding traffic impact and diminished levels of service, one condition of approval was that Waterstone could not connect to Beckett's Ridge Drive Extension without the authorization of the Town Board. He said even if the Town Board reversed itself on this condition, it was important to note that this connection presently could not physically occur because there was a small piece of intervening land between Waterstone and Beckett's Ridge Drive Extension. He said the idea of using Oakdale as another point of ingress and egress was dependent on an intervening parcel of land, which was approved for a small subdivision but had not yet been built, and therefore right-of-way through this property does not currently exist nor was there a timetable for when the subdivision might be developed. Mr. Wilson said it would take additional property acquisition negotiations or the use of eminent domain to insure that this right-of-way corridor would exist for Waterstone to connect to Beckett's Ridge Drive Extension, if the Town Board wanted to authorize that and allow it to occur.

[10:02:44 PM](#) Mr. Wilson said since that connection was currently prohibited and the right-of-way was not acquired, the applicant's proposal to remove the Cates Creek Park connection between Waterstone and the intersection of Lafayette Drive and Old 86, which was a component of the approved Waterstone Master Land Use Plan, would effectively mean that College Park Drive and Waterstone Drive would become the only method of ingress and egress for residents. Mr. Wilson said with that being said, that approach would mean that Waterstone's northern residential areas would be located at the end of a long cul-de-sac with no other opportunity for access or traffic distribution.

Mr. Wilson said these conditions would alternatively send traffic south and degrade the traffic conditions on Waterstone Drive, it would push the level of service for the Waterstone Drive and Old 86 intersection down a full letter grade in both the morning and afternoon peaks, even with

the proposed improvements as explained by the applicant on Old 86. Mr. Wilson said it was also worth noting that the degradation of traffic conditions at the Waterstone Drive and Old 86 intersection did not take into account the additional traffic load that would be associated with the west-bound leg of this intersection, that would serve as the primary future point of access for the northwest quadrant of the Hillsborough EDD, known as the Addison property.

[10:04:41 PM](#) Mr. Wilson said while the current proposal for modifications to the Land Use Plan decreased the level of service on Waterstone Drive and Old 86 intersection from a C to a D, it was quite possible that the development of the Addison property would add enough traffic to further deteriorate the level of service associated with Waterstone Drive movements from a D to an F. He said the level of service on Lafayette Drive would also deteriorate.

Mr. Wilson said if the request for modifications were approved, Cornwallis Hills residents were looking at an unsignalized three-way intersection and a significantly reduced level of service for their neighborhood. He said if the request for change was approved, note that from the applicant's own traffic numbers that the magnitude in the reduction in the level of service at the Waterstone Drive and Old 86 intersection was fairly significant, resulting in a wait that would be 75% longer.

[10:06:23 PM](#) Mr. Wilson said regarding the provision of emergency services, he had already noted the obstacles to providing right-of-way through the intervening parcel of land that had been approved for a small subdivision. He said if the proposed plan was approved, College Park Drive and Waterstone Drive provide the only way to reach Waterstone's residential parcels, thus for Waterstone residents coming home from downtown Hillsborough, or heading north towards Interstate 85, this detour via Waterstone Drive and College Park Drive would add approximately one mile of additional distance for each vehicular trip.

Mr. Wilson based on that scenario, a fire truck coming from downtown and heading to Waterstone's residential area would require the fire truck to travel approximately two and one-quarter miles to reach the center of Waterstone's residential area. He said the applicant's scenario without the connection on Millstone and Oakdale and Beckett's Ridge Drive being able to occur, would require that the fire truck to travel three and one-eighth miles, or seven-eighths of a mile further for an emergency call. Mr. Wilson said at a speed of 40 mph, each trip would require an additional 80 seconds. He said the fire department standard was to respond to such calls in four minutes or less.

Mr. Wilson said under this scenario every emergency service trip as well as every public works trip would require that additional travel time and distance. He said even the proposed alternative, assuming the right-of-way was acquired and a segment of street was constructed through the intervening parcel of land between Waterstone Drive and Beckett's Ridge Extension and that the Town Board authorized the connection to occur, that would still result in longer trips than the currently approved connection Lafayette Drive.

[10:09:45 PM](#) Mr. Wilson said if Waterstone did not provide the approved connection to Cates Creek Parkway to Lafayette Drive, then there would be only one point of western access to the community college campus from the residential areas, and this would be the only point of access as part of Phase 1 of the project.

Mr. Wilson said with this being the only point of ingress and egress into the development, any emergency that might block the road coming into Waterstone would have potentially grave consequences.

Mr. Wilson said based on the deteriorating traffic conditions at the Waterstone Drive and Old 86 intersection, as well as at that Lafayette Drive and Old 86, the proposed change to the Waterstone Master Land Use Plan would not benefit future Waterstone residents, the remainder of the Hillsborough EDD, or the greater Hillsborough community. He said based on the diminished access to the community college and Waterstone's northern residential areas, this proposed change to the Plan would increase travel distance and response times associated with both emergency service vehicles as well as Town public works vehicles. Mr. Wilson said these changes would not benefit future Waterstone residents or the Town. He said based on this information and the applicant's own traffic impact information, this proposal clearly did not maintain the public health, safety or welfare and would injure the value of adjoining property in the Hillsborough EDD. Mr. Wilson requested that the Board determine that the appropriate findings could not be found to approve the proposed change and that the Board not approve the applicant's proposal to utilize Oakdale Drive and Millstone Drive in lieu of the originally approved connection to the intersection of Lafayette Drive and Old 86.

[10:11:45 PM](#) Commissioner Hallman asked if the response times Mr. Wilson had stated were one-way or round-trip. Mr. Wilson stated they were one-way times.

[10:12:13 PM](#) Bill Cloud, after having been sworn, said he was speaking on behalf of the Beckett's Ridge Homeowners Association. He said this plan to move more traffic onto Millstone and onto Beckett's Ridge Drive was a bad plan, and a poor substitute for completing the Cate's Creek Parkway. Mr. Cloud said Millstone was already inadequate for the traffic it handled.

Mr. Cloud said the plan would put more traffic onto Beckett's Ridge Drive, which contained a dangerous 90-degree downhill curve on a narrow paved roadway with bad shoulders. He said it could encourage cut-through traffic through Beckett's Ridge and onto Old 86. Mr. Cloud said Millstone carried a lot of truck traffic, used by vans and trucks both large and small, and traffic would only increase as commercial lots were developed nearby. He said the car traffic could increase as well, with children being dropped off and picked up at the nearby school.

Mr. Cloud said the situation was even worse on Beckett's Ridge Drive Extension, with school buses traveling too fast on that downhill grade and having to make an extreme right-hand turn and cross over a 15-foot culvert with no guardrails on either side. He said that road was already too dangerous.

[10:15:28 PM](#) Mr. Cloud said what this new proposal would do was to bring the flood of traffic from homes in Waterstone out onto Beckett's Ridge Drive Extension and along Millstone Drive, and the road cannot handle that. He said it appeared that it was possible for the developers to stay with the original concept of opening Cates Creek Parkway all the way to Churton and Old 86. Mr. Cloud asked that they not be stuck with this new plan, instead make the developers abide by the original agreement and open Cates Creek Parkway where it intersected with Old 86.

[10:18:02 PM](#) Margaret Cloud, after having been sworn, said she believed that the Boards should require the developer to follow through with the original plans to build the road out to

Old 86. She pointed out that Beckett's Ridge Drive and Millstone were already well used, by residents and cut through traffic, and did not believe that planning to fix that problem later was a good idea. Ms. Cloud said let's get the infrastructure in place and do this the right way.

[10:20:38 PM](#) Brad Williams, after having been sworn, said his specific area of concern was the impact of traffic through Beckett's Ridge Drive itself. He said unfortunately the change that had been proposed would place more emphasis on Beckett's Ridge Drive as a thoroughfare. Mr. Williams said if as he suspected traffic would increase on that Drive, the danger to children and pedestrians would increase. He said people drove inappropriately on that road now, citing speeding and running stop signs. Mr. Williams said if you increase the traffic, you would increase the number of people driving unsafely.

Mr. Williams said connecting Cates Creek Parkway out to Old 86 was an excellent solution. He said not sticking to the original plan was a bad idea, and given the points made by previous speakers it was an even more terrible idea.

[10:24:55 PM](#) Martin Brown, after having been sworn, stated that he was the President of the Stagecoach Homeowners Association, and said they vigorously objected to any modifications to the Master Plan. He said particularly, they objected to the removal of the Cates Creek Parkway connection. Mr. Brown said they had just completed an agreement with Waterstone regarding buffers, and even though this project would greatly impact their neighborhood they had come to grips with the Master Plan as it now existed. He said the changes requested in the roadways would adversely impact their quality of life.

Mr. Brown said he could see no positive outcomes if the changes to the Master Plan were approved. He said it would be nice to have Oakdale Drive connected to Millstone in a quality way, so that should be considered as the Town considered this development. Mr. Brown said he understood the developer's business needs and the amount of retail space he wanted to build and sell, but he did not see how more retail space could be placed in this community without decreasing the roadway space. He encouraged the Boards to refuse the Master Plan modifications.

[10:28:07 PM](#) Nathan Mills, after having been sworn, a resident of Beckett's Ridge Drive, stated that there were 11 children living in six homes immediately around his home. He said we needed to do what was necessary to preserve the safety and wellbeing of the families that lived there. Mr. Mills said more vehicular traffic was just unacceptable.

Mr. Mills said he was opposed to the request to reduce from 4 to 3 the number of exit points for vehicular traffic from Waterstone to the adjoining roadways, noting that was a 25% reduction. He said he was sure that when the current owners purchased the property, they had been made aware that the original Master Plan had been approved by the Town and accepted by the former owners, and the new owners were expected to abide by it. Mr. Mills said it seemed to be late in the process to make these kinds of changes now. He asked that the Board to reject the request to reduce from 4 to 3 the number of exit points.

[10:30:38 PM](#) Margo Pinkerton, a resident of Lafayette Drive, stated that exiting from Lafayette Drive was already a challenge, and described how traffic backed up in the area during peak hours. She said it was obvious that a traffic light was needed at that location.

Ms. Pinkerton said she was concerned about the watershed and the effect the additional retail space would have because of the additional impervious surfaces necessary for additional parking.

[10:32:50 PM](#) Upon a motion by Commissioner Hallman, seconded by Commissioner Gering, the Board moved to recess the public hearing until the Planning Board's November 7 meeting.

[10:33:07 PM](#) Mr. Oliver said there had been some question about separating this issues, and asked should they separated now, or when would the modification items be considered independent of each other. Mr. Hornik said when the time was reach for deliberation and decision, the Board would separate them at that time and vote on each issue separately.

[10:33:52 PM](#) Commissioner Lloyd said if we were going to leave this public hearing open until the Planning Board's November 7 meeting, did that mean that the Town Board should attend that meeting?

[10:34:19 PM](#) Mayor Stevens noted that the Town Board members could attend if they felt it necessary, but any information they would need to have would be contained in the minutes of that meeting.

[10:34:28 PM](#) Commissioner Hallman said if possible, the Town Board should attend, noting that if the applicant was going to present additional information and the staff would be there to answer questions, then the Town Board would benefit from that discussion.

[10:34:53 PM](#) Ms. Hauth pointed out that if the Planning Board were to close any of these hearings and then move forward with the applications, it would not be possible for any minutes to be prepared for the Town Board's meeting on November 14.

[10:35:36 PM](#) Commissioner Lloyd said suppose there was no quorum of the Planning Board. Ms. Hauth said then a new date would have to be identified and re-advertised. She said it was rare that she did not have prior notice that no quorum would be present, but occasionally she would not know that until the time of the meeting.

[10:36:32 PM](#) By a vote of 10-0, the motion was declared passed.

[10:36:43 PM](#) Commissioner Hallman requested information on traffic counts and how opening Waterstone Drive impacted through traffic on Beckett's Ridge Drive. Ms. Hauth said the staff could conduct current counts. Mr. Peterson said this really needed a destination study. Ms. Hauth she could pull the pertinent information from the traffic study so the Board could see the level of service impacts on those streets. She said they could put out their counters for a week at any location the Board requested. Commissioner Hallman suggested doing that on Beckett's Ridge Drive and Millstone.

ITEM #7: Motion to Adjourn

[10:38:20 PM](#) Upon a motion by Commissioner Lowen, seconded by Commissioner Lloyd, the meeting was adjourned by a vote of 10-0. The motion was declared passed.