

MINUTES
JOINT PUBLIC HEARING
HILLSBOROUGH TOWN BOARD and PLANNING BOARD

Thursday, April 17, 2008

7:00 PM in the Gordon Battle Courtroom of the New Orange County Courthouse

BOARD OF COMMISSIONERS PRESENT: Commissioners Frances Dancy, Evelyn Lloyd, Mike Gering, L. Eric Hallman, and Brian Lowen.

ABSENT: Mayor Tom Stevens, absence excused.

PLANNING BOARD MEMBERS PRESENT: Chair Matthew Farrelly, Dan Barker, Kate Faherty, Neil Jones, Dave Remington, Barrie Wallace, Stephen Whitlow, and Elizabeth Woodman.

STAFF PRESENT: Planning Director Margaret Hauth, Town Attorney Bob Hornik, and Assistant Town Manager Nicole Ard.

ITEM #1: Call to Order.

Commissioner Mike Gering called the public hearing to order at 7:04 p.m. He did not read the Public Charge but noted it would be followed. Commissioner Gering then turned the gavel over to Planning Board Chair Matthew Farrelly.

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

Ms. Hauth stated this was an annexation request for just the corridor that would align Cates Creek Parkway with the Lafayette Drive entrance and then come into the traffic circle at Waterstone.

Mr. Farrelly indicated that no one had signed up to speak on this item.

Upon a motion by Commissioner Gering, seconded by Commissioner Lowen, the Board moved to close the public hearing on this issue. The motion was adopted unanimously.

ITEM #3: Rezoning request fro the Simpson family to rezone 2 parcels (approximately 8 acres) on Eno Mountain Rd from Multi-Family to R-20 (TMBL 4.38.B.24 and 24D)

Ms. Hauth said this concerned two parcels that currently had access to Eno Mountain Road via a private road called Shantina Lane. She said the one-acre parcel was developed as a single-family home and the remainder was vacant. Ms. Hauth said the family had requested the parcels be rezoned to multi-family a number of years ago because it was their interest to develop the parcels as multi-family development. She said they no longer wished to pursue that, and were requesting that the property be rezoned the same as another family home in the vicinity to R-20, which was the single-family zoning that required a 20,000 square foot minimum lot size. Ms. Hauth said these two parcels met that requirement with the access off the private road.

Ms. Hauth read the comments from the County Planning Department into the record:

- There was an unfunded and unengineered TIP request to align Eno Mountain Road and Mayo Street so that they intersect. One of the proposed routes would divide this parcel. The

development of this parcel into single-family residences could be detrimental to the realignment of Eno Mountain Road.

- The Orange Grove Access Management Plan called for the realignment of Eno Mountain and Mayo Street.

Ms. Hawth said other than questions of clarity, she had received no comments from neighbors on this application.

Mr. Farrelly indicated that no one had signed up to speak on this issue.

Upon a motion by Commissioner Dancy, seconded by Commissioner Lowen, the Board moved to close the public hearing on this issue. The motion was adopted unanimously.

ITEM #4: Rezoning Request from Kimeast Real Estate Investment Trust to rezone 9.65 acres on the north side of Cardinal Drive from High Intensity Commercial to Multi-Family (TMBL 4.42.B.3K)

Ms. Hawth said this was the vacant parcel somewhat behind and beside the Holiday Inn Express. She said there was a letter in the packet from Miller Valentine, as well as a letter from Greystone who was the property owner of Heritage Apartments just north of this property across the interstate. She said that letter provided information about their opinions on this rezoning request. Ms. Hawth said that letter did not qualify as a Protest Petition because the intervening interstate right-of-way was 300 feet wide, and State statutes allowed you to collapse a road right-of-way if it was less than 100 feet. So basically, she said, the property owner at Greystone was not within the required 100 feet to qualify for a Protest Petition.

Ms. Hawth stated that it could easily be construed that this application had a difficulty with the Land Use Plan. She said this area was designated as retail in that Plan, so the multi-family rezoning was not fairly consistent with that document. Ms. Hawth said later on in the agenda tonight there was a text amendment that would set up a process to allow them to fix that, but at this point that process did not exist in the ordinance.

Ms. Hawth read the comments from the County Planning Department into the record:

- The Orange Grove Road Access Management Plan recommended the extension of Cardinal Drive to Orange Grove Road. The preliminary site plans should show a reservation of right-of-way for the extension and construction of Cardinal Drive.
- Additional right-of-way along I-85 may be needed for future expansion of the interstate.

Ms. Hawth said that this rezoning does not include a development plan as part of the application, so those two comments while very reasonable and applicable to this request were not things that the Town could apply to the application because they were not reviewing a development plan. She said from a Land Use standpoint, the County made these comments:

- Rezoning the property from High Intensity Commercial to residential was incompatible with the adjacent interstate highway. Commercial uses were better suited to be located along I-85 due to noise, and the Town may want to consider that commercial businesses use less water than multi-family developments.

Commissioner Lowen said that NCDOT had provided a preliminary sketch of the I-85 interchange redesign, and asked how it would affect this property. Ms. Hauth said it would not extend deep enough into this property, although they may lose some right-of-way along their frontage on I-85. She said because this was behind the Holiday Inn Express they would not be impacted by the interchange, only the potential widening.

Commissioner Lowen said it was his understanding that when the widening was eventually done, land would be taken from that center median. Ms. Hauth said that was what NCDOT believed they would be able to do with the widening of I-85. She said since it was unengineered at this point, they did not yet know what the full impact would be. Commissioner Lowen said whether the property was zoned commercial or multi-family, the potential widening would affect anything. Ms. Hauth said that was correct. Commissioner Lowen said should they just not do anything with the property since they were waiting on NCDOT. Ms. Hauth said the appropriate time to address that would be when they got to the development plan phase.

Mr. Barker asked was it reasonable to defer this request until they got the Comprehensive Plan. Ms. Hauth said at the point that the Board reached the end of the public hearing, they might choose to leave it open for a period of time so that the applicant could submit an application to amend the Land Use Plan.

Stephen English, with MV Residential Development, a part of the Miller Valentine Group, stated they had a conceptual plan and a preliminary plan with Cardinal Drive coming into this site and then turning off. He said there would be nine residential buildings and a clubhouse on the site. Mr. English said as Ms. Hauth had noted, that was simply conceptual and in order to get approval they would have to go through the site plan process.

Mr. English introduced Diane Evans with the North Carolina Affordable Housing Foundation, a partner in the development of this property. He said their company was fully integrated in the development, construction, and management of residential, commercial, and office properties, and provided some information on recent and past projects. Mr. English said the proposed rezoning would allow them to build 72 units of family-oriented affordable apartments. He said they would utilize tax credits from the NC Housing Finance Agency to keep rents at an affordable level to families and individuals in an income range of between \$14,000 and \$45,000. Mr. English said looking at the data from the NC Employment Security Commission for Orange County, that income range would include preschool teachers, occupational therapists, pharmacy technicians, patrol officers, legal technicians and paralegals, EMS technicians, and fire fighters.

Mr. English said that the 72 units would consist of a mix of 1, 2, and 3 bedrooms with square footages ranging from 710 to 1,153 square feet. He said they had chosen Hillsborough after considering three main factors, which were population growth, job growth, and overall trends. Mr. English said when looking at the Land Use Plan and how this property was positioned, it was at the very end of an area that the Land Use Plan had determined as residential, and was bordered on the other side by multi-family. He said adjoining property to the rear was proposed in the Land Use Plan to be mixed use which would typically include some type of residential as well as apartments and potentially other uses. Mr. English said they saw the location as being one that worked well in terms of transitioning between those uses.

Mr. English said they had spoken to the owner of the Holiday Inn Express who expressed no concerns with the proposed project and had actually felt that getting rid of the vacant lot could enhance his business.

Mr. Barker said he was interested in having Mr. English address the County's comment regarding the continuation of Cardinal Drive. Mr. English stated they had already oriented the site, and were able to fit in that drive along the south side of the property. He said they could accommodate it if necessary without impacting their development plan.

Mr. Barker asked would they be interested in going through a more conditional site plan before they took this step on the parcel which in some ways shifted the entire use of that. Mr. English said in order to proceed with the State tax credit process and because of the timing of the rezoning and quarterly schedule that occurred here, they would need to have their zoning established first. He said they were a very conservative company, and the cost to be outlaid prior to knowing if they had a confirmation of the tax credits for funding would have been unacceptable.

Mr. Whitlow asked if the market analysis that was done was a general Hillsborough market analysis or did it take into account that the site located right beside the interstate. Mr. English said it definitely took into account this site and it determined a primary market area that encompassed Hillsborough and certain surrounding areas.

Mr. Whitlow said he was having trouble with putting affordable housing so close to an interstate, noting that did not seem like the best option. He said he felt uncomfortable with putting people of lower income beside an interstate because there was no where else to put them. Mr. English responded they had looked at other locations and there were not a lot of options. He said the Heritage Apartments were across the interstate from this property, and there were many nice apartments in the Burlington area adjacent to I-40.

Mr. Farrelly said the packet indicated that the site had been marketed for over a decade for commercial purposes, and asked him to comment. Mr. English said that Greg Spears of Spears Reality had actually been the one marketing it, and asked him to respond.

Mr. Spears said he had sold the parcel originally about 10 years ago, and had sold the site for the Pantry as well as the parcel behind for a carwash that had not yet been developed. He said all commercial interest in the property had then ceased, noting that visibility of the site was poor when you get up the hill. Mr. Spears said the only interest in the past two years had been as multi-family.

Ms. Woodman said one of the concerns the County raised was water use, and asked Mr. English to address that. Mr. English said without knowing what the other commercial use would be for comparison, it was hard to address that. He said if you recognized the need for affordable housing, then you would recognize that housing would use water. Mr. English said if you did not want the affordable housing because of the water then that was something the Boards would have to consider. Mr. English said all the apartments would have energy efficient appliances, HVACs and low flow apparatus. He said tenants moving from substandard units would see lower bills due to better construction quality.

Mr. Farrelly said that with the number of units at 72, he asked about the estimated population that would be living there was. Mr. English replied there were 72 units, and they typically saw 2 to 3 people per unit, so that would be 140+.

Mr. Farrelly asked what would be the water use per person. Ms. Hauth said the estimate for multi-family was 150 gallons a day per unit.

Commissioner Gering asked how did the affordable housing program work over time in terms of giving the Town assurances that the units would remain affordable and not transition into a commercial market with cheap housing. Mr. English said that was done with a deed restriction, and with the receipt of tax credits they were obligated by the IRS to keep the property affordable for a 15-year period, and then the NC Housing Finance Agency required that it be extended for an additional 15 years, for a total of 30 years.

Ms. Faherty asked where the 100 foot buffer began, and asked was it at the edge of the property or at the edge of the buildings. Mr. English said that would be worked out on the site plan, but the buildings were set away from that buffer line. He said that final site plan development would actually determine that.

Commissioner Hallman said if they were to rezone the property and a site plan came forward, what review level process would be used. Hauth said it would require a Conditional Use Permit with the Board of Adjustment.

Town Attorney Bob Hornik stated that at the moment what was before them was a general use rezoning, so they could not really consider the details of the plan that was shown to them. He said this project exceeded the threshold for a simple Technical Review Committee review but was a CUP process, so conditions could be imposed to make sure that the plan as built would satisfy some of the kinds of concerns expressed tonight. Mr. Hornik said at this point the Board was being asked to determine if this property was suitable for the uses permitted in a multi-family district.

Mr. Farrelly stated he had been able to determine that the use of water for this property was about 4 million gallons per year, but did not know what that represented in terms of remaining capacity. Mr. Barker said it was not that much. Commissioner Hallman said it was also \$4 million in revenue.

Mr. Remington said they had a case not long ago where a rezoning was approved with a concept plan which turned out to be exactly what the developers wanted to do, but they had run into buffer requirements that made that unworkable. He said recognizing that this was just a concept plan, did there appear to be anything on the plan that would not be workable in terms of buffers or anything else. Ms. Hauth said she had not reviewed, and had not received a detailed scale drawing that could be reviewed in any detail.

Mr. Remington said on the Land Use map, the cross hatching to the west was mixed use residential. Ms. Hauth said that was correct, that it was mixed use with residential, which was the same designation as the entire Waterstone area. Mr. Remington asked did that mean it could include some residential and some commercial. Ms. Hauth said that was correct.

Ms. Woodman asked was this a non-profit property due to the tax credits. Mr. English replied not, that they would be paying taxes.

Commissioner Lloyd asked if all or only some of the units would be affordable. Mr. English said all would be affordable, noting they would be available to those earning between \$15,000 and \$45,000 a year.

Commissioner Lloyd said then if the rent were \$700 a month, would the person pay only a percentage of that because of the tax credits. Mr. English said no, they would pay the entire rent. He said through the tax credit program, they were required to restrict rents to a certain maximum level, and that had to be balanced against what the actual market conditions were. Mr. English said tax credits provided funding that allowed them to have a small mortgage, which in turn gave them less debt service and allowed them to keep the rents lower.

Commissioner Dancy said they had set the range up to persons earning \$45,000, so residents could not exceed that. Mr. English said that was correct.

Mr. Farrelly said the largest units would be 1,153 square feet, which would be 3 bedrooms. Mr. English said that was correct. He asked about the maximum rent. Mr. English said they had referred to a rent of \$675 which was what they were proposing to charge, but the maximum they could charge might be slightly higher than that. He said when looking at the market research, \$675 appeared to be the target rate. Mr. Farrelly said he asked because in the letter they had received it referred to rents that ranged from below the current rate of \$649 to a high of \$900, with the \$900 being for the 3-bedroom units. Mr. English said the \$900 3-bedroom units would be his \$675 units.

Commissioner Hallman reiterated what Mr. Hornik had said in that this plan was irrelevant to what was being decided tonight, which was whether this rezoning request to multi-family would be approved. He said they should not be worrying about the details at this point.

Mr. Farrelly said to him the details were relevant because it might change the comments from neighbors.

Ms. Wallace said if they rezoned the property and this applicant went away, they would need to be sure that this was a good multi-family spot.

Mr. Hornik asked the Boards to forget about policy and what might be good for Hillsborough, noting the law said you had to look at the suitability of this site for multi-family development. He said while the applicant had good intentions to do what they said they were going to do, it was not a relevant consideration.

Mr. English said while this may be an irrelevant comment, they were far enough along in their process to have a high degree of certainty for receiving the tax credit financing.

Mr. Barker said as this project moved forward and came back for plan review, he would expect the buildable area to shrink in a significant way. He said if that happened, would this site remain viable for multi-family. Mr. English said every site was different, noting you could generally build 10 units per acre and they had a cushion with this site.

Mr. Barker asked what the buildable acreage with their current plan was. Mr. English said they had some significant setbacks around the edge, and did not want to guess at this time.

Ms. Wallace asked what the maximum number of units was that the Town's ordinance allowed. Ms. Hawth said for multi-family it was 9 units per acre. Mr. English said that would mean 86.5 would be allowed on this site.

Ms. Woodman asked who would review the site plan, the Planning Board or the Board of Adjustment. Ms. Hawth responded the Board of Adjustment.

Mr. Farrelly determined that no one else was present who wanted to speak on this issue

Upon a motion by Commissioner Lowen, seconded by Commissioner Gering, the Board moved to close the public hearing on this issue. The motion was adopted unanimously.

ITEM #5: Annexation, Rezoning, and Special Use Permit request from the Banks Law Firm for the Eno Haven project. The annexation includes 4.13 acres on US 70 East adjacent to the Meadowlands (TMBL 4.40.A.10). The Rezoning request is for 11.52 acres currently zoned Limited office and County R-1 to be rezoned Multi-family Special Use, with a Special Use Permit to construct 90 1- and 2-bedroom apartments for senior and disabled residents (TMBL 4.40.A.10 and part of 9D).

Ms. Hawth said this was a public hearing on the annexation, a public hearing on the rezoning, and a public hearing on the SUP, so all speakers would need to be sworn. She said a person had approached her just prior to this meeting and indicated that the way the agenda listed this item and the way the notices listed this item were different, so she would attempt to clarify that. Ms. Hawth said this project was also a tax credit project, so was an affordable rental project. She said in the SUP process the Board could accept the plan as presented or could attach conditions.

Ms. Hawth said the applicant had stated that the majority of the units would be available to seniors who met the income requirements, and some of the units would be available to disabled persons who met the income requirements. She said so it was both affordable housing, and senior and disabled housing.

Ms. Hawth said the applicant was seeking several waivers, which could be pursued through the SUP process. She said due to the long driveway into the project before you reached the parking area, the applicant was asking for a waiver of the requirement that the parking be separated from the street by solid evergreen hedges of 3 feet. Ms. Hawth said they were also asking for a waiver from the off-street parking, and a waiver from the requirement for recreation area due to the nature of the complex and the ages or physical capabilities of the residents.

Ms. Hawth read into the record comments from the County Planning Department:

- Planting of nandina would not be the plant of choice for this site.
- A bus drop-off and shelter should be provided either on US 70 East or in the complex. If the area was provided within the complex then the parking lot should provide special turning radii for the bus.
- A right-turn table should be provided along US 70 East for people coming from Hillsborough and turning right into the site.
- The fire access road should be connected to the entrance road near the fire hydrant for ease of access for emergency vehicles.

- The Town should consider connecting the sidewalk along US 70 East to the Sportsplex on the road right-of-way.
- Visitor parking should be designated in an area separate from the resident and employee parking.
- An additional right-of-way dedication may be necessary and should be verified with the Department of Transportation.
- A stormwater identification should be completed by Orange County Soil and Erosion Control.
- Engineering details about the retaining wall on the eastern property line should be submitted with the building permit or grading permit, whichever was first.
- Landscaping plan showed the only tree species as Red Maple, and urban environment biodiversity was desirable. When one species suffers from stress due to drought, pests or diseases a different species may be favored by protecting the development from severe die back of the landscaping.
- Xeroscaping should be considered for the landscaping and native drought tolerate species should be used.
- The lighting plan should be overlaid on the landscape plan so that the landscaping did not create a security issue by limiting the light patterns and causing visibility problems.

Ms. Hauth indicated that the applicant would provide additional details and would be providing a PowerPoint presentation as well.

Commissioner Gering said he had a question regarding the zoning classification, either mixed use or residential. He asked how the project would work with something that was just residential. Ms. Hauth said in the packet she had included the language directly out of the Land Use Plan for that, and then read that language. She said a question for the Board was to determine whether what would become one parcel was integrated enough with the adjoining parcels to qualify as a mixed-use, or not. Ms. Hauth said the fact that this site sat in between a site that was already developed non-residentially and a site that probably would develop non-residentially, it provided that residential component that made the area a little more mixed use.

Tracy Parrot with Summit Consulting, speaking for the applicant, was sworn. He introduced Chad Abbott, the Project Engineer for Summit, Jim Yamin, the Development Manager for Banks Law firm, adding that Graham Robinson and Sharrad Banks were also present from the Banks Law Firm. Mr. Parrot said Mr. Ballentine, the architect for the project, was unable to attend this evening.

Mr. Parrot provided a summary and statistics of the project.

- The project was entitled Eno Haven, owned by Eno Haven LLC.
- It was affordable senior living,
- The development would be comprised of 2 main apartment buildings, with 90 units total, with a mix of 1 and 2 bedrooms – 66 1-bedroom at 760 square feet and 24 2-bedroom at 960 square feet.
- There would be a central community building connecting the two 3-story apartment buildings, to be developed and operated in strict accord with the Fair Housing Act.
- 80% of the units would have at least one resident 55+ years of age.
- 9 units would be reserved for disabled persons.
- Income of residents would not exceed 60% of the County median income.

- The applicant had met with the Department of Aging and a letter was provided in the packet of information.
- They would show that the location was appropriate and the application met ordinance requirements.

Chad Abbott was sworn, and provided the Board with a copy of his PowerPoint presentation. He provided an overview of the project, which included a site overview, adjacent properties and land uses, photos of surrounding sites and buildings, and added that similar building materials were proposed for the new building to match the surrounding structures. Mr. Abbott said as for the proposed project details, it was a total of 33,000 square feet, there was a single main entrance for privacy and safety, that they had placed the parking and buildings on the site to protect the existing trees and provide a wooded site, that they had received a letter from the NC Housing Finance Agency indicating that two-thirds of a parking space per unit was average for projects with NCHFA funding which would be 60 spaces but they were providing 92, that the site plan accommodated buses as requested by Orange County Planning, and that the closest structure from the property line was the Orange County Charter School at 90 feet.

Mr. Abbott, referring to a slide, indicated that the shaded areas showed 15% and greater slopes. Referring to a slide regarding the environmental protection plan, he said it showed only 12" and larger trees, noting they had tried to keep the development area slender to fit on the site as well as to limit land disturbance.

Regarding the site plan, Mr. Abbott said it was 11.5 acres, it included 19% impervious surface, and the building was 45 feet tall on the rear and 36 feet tall in the front. He said the dumpster area had been considered as well as truck maneuvering and fire access. Mr. Abbott indicated they had received preliminary approval from the Town Fire Marshal. He added they had not extended to the road in order to limit disturbance, and indicated that sidewalks were being provided along the driveway and frontage.

Mr. Abbott stated they had received preliminary approval from Orange County Soil and Erosion Control, and were using grass swales to treat stormwater for nitrogen. He said the fire access road would be a stone base roadway with soil and grass above so it was more visibly pleasing. Mr. Abbott said the edge of the road would be outlined with a ditch to increase its visibility for the fire department. He said there would also be an underground chamber for some limited storage or used as an underground vault depending on the feasibility of the site.

Regarding the lighting plan, Mr. Abbott said the lights were taller along the roadway. He said shorter, more aesthetically pleasing fixtures would be used within the site. Mr. Abbott said in regards to the landscaping, they would be using foundation plantings and shade trees. For the recreation plan, he said they were asking for a waiver from the required points. He said to reach the required points, they would be required to have a possible 600+ points, and any points applicable to the residents were not high point value activities. He said they would be limited to providing picnic shelters and walking trails and perhaps some garden areas. Mr. Abbott said they could not provide such amenities as playgrounds which would carry high point values but would not be needed by the residents. He said instead they wanted to provide walking trails on site with perhaps a gazebo along the road and a trail down to the creek with a picnic shelter, as well as perhaps a community garden.

Commissioner Lloyd asked if the lighting was going to impact Hospice in any way. Mr. Abbott responded that in the lighting plan, the poles were 15 feet tall and the cut was 15' feet. He said the Hospice site would look down on top of the fixtures. Commissioner Lloyd said she did not want to hear about light pollution later on. Mr. Abbott responded they were at or below the light intensity required by ordinance.

Mr. Parrot stated they had met with DOT regarding the project, and in the packet was the traffic impact report that had been provided to DOT and they were awaiting their comments. He said at present there was a left turn lane into the site for westbound traffic which was driven by the existing traffic, not Eno Haven.

Commissioner Hallman asked what about a deceleration lane. Mr. Parrot said that was not recommended in the traffic impact analysis, so the plan did not include one. He said he understood the County's comment on that and they would take a look at it. He said typically with an access such as this, they did not anticipate peak hour traffic.

Mr. Remington asked about the number of staff. Mr. Parrot responded there would be one to two on site during normal business hours, Monday through Friday, 8 a.m. to 5 p.m.

Commissioner Lloyd asked about the expected ages of residents, and were there age restrictions for visitors. Jim Yamin with the Banks Law Firm, after having been sworn, stated there would be 2 full-time employees, a full-time site manager and a full-time maintenance person. He said the population would primarily be seniors, in that 80% of the tenants must have at least one person per unit who was 55 or older. Mr. Yamin said the remaining 20% would be available to the non-elderly, with 9 units reserved for persons with disabilities. He stated they had a contractual agreement with OPC Area Program for management services for the disabled, and they would be the lead agency between the management company and the range of other service agencies that would provide coordinated support services to the 9 disabled households. Mr. Yamin said that OPC would act as the referring agency for disabled residents. He said the remaining 9 units would be available to non-elderly tenants.

Mr. Yamin said he had received a very enthusiastic reception by the Director of the Orange County Department on Aging as well as the Orange County Advisory Board on Aging. He said this project would be comparable to Carolina Springs, which was fully occupied and had a waiting list for its 120 units. Mr. Yamin said they had provided funds for dedicated transportation service to Hillsborough and Chapel Hill 3 days a week, and its proximity to the new Central Orange Senior Center was a special opportunity and a big asset that would add to the quality of life for a majority of the residents.

Mr. Yamin said regarding earlier comments regarding some of the potential development plans for adjacent parcels, the current owner of the property that fronted NC 86 had indicated he saw this development as playing a leading and guiding role in setting the character for subsequent development he might want to pursue with his parcel in the future.

Commissioner Dancy said in regards to the non-senior units, could those residents be of any age, including children. Mr. Yamin said there could be children. Commissioner Dancy said that having children in the development would lead to the necessity of other amenities. Mr. Yamin said to keep in mind there would be only 1 and two bedroom units. Commissioner Dancy said there could be 2 children in one bedroom, and asked how you could limit that. Mr. Yamin said they would be required by NCHFA to allow those 9 units to be available to any income eligible family. Mr. Yamin added the

standard rule of thumb was 1½ persons per bedroom. He said they would prefer exclusivity, but there were 9 unrestricted units.

Commissioner Lloyd said that teenagers could be living in the development and that would have an impact on residents as well as the nearby school. She asked how you would screen that. Mr. Yamin said they took that very seriously and that was also part of the review by State agencies that they were required to follow. He said there would be case managers working with disabled households, and OPC was the screening mechanism for disabled residents and would remain under OPC's case management. Mr. Yamin said his experience was over four to five years in the program State-wide, and he was not aware of any difficulties between disabled residents and other residents or the general public.

Commissioner Lloyd said she was not referring just to the disabled, but to the seniors as well. She asked could a 16-year-old live with a senior. Mr. Yamin said that could happen. Commissioner Lloyd said she was concerned about any impact to the Charter School of teenagers living nearby. Mr. Yamin said there could be a situation where a senior had a grandchild in their care, and conceivably he could see that family being eligible for occupancy in the development. He said they did have very strict lease provisions, and their property management stressed maintaining a safe and secure environment for all residents. Mr. Yamin said if there was any inappropriate behavior, they would be willing and able to manage those immediately.

Mr. Whitlow said they were seeking an easement from adjoining properties to allow walking paths to the Senior Center, and asked about the status of that. He also asked about the parking, noting it did not seem to be enough parking and no any visitor parking. Mr. Yamin stated they had approached the Charter School and the Hospice for access, but did not receive positive responses although they planned to continue discussions. He said they planned to use a 6-person golf cart to move residents back and forth if access was granted. Mr. Yamin said in regards to parking, they were exceeding that which was required by the NCHFA, which was 60 spaces, and they were proposing 92. He said they were open to revising that figure if necessary to find a balance.

Ms. Woodman said she was wondering if the 2/3 parking space per unit was standard for a more urban setting. She asked what the parking arrangement was at Carolina Springs. Mr. Yamin responded he did not know.

Mr. Barker asked had Town Public Works/Utilities Director Kenny Keel reviewed the plans, and if so were there any comments. Mr. Abbott said the plans were currently under review by Mr. Keel. Mr. Barker said there was an area of low pressure in that area, and was curious if that could be supported by current utilities. Mr. Abbott said again, they were awaiting comments from the Town, but if they found that a booster pump was needed they would install one as part of the development to ensure adequate fire flows to all parts of the development.

Mr. Barker asked if the top floor would be as high as the Summit offices. Mr. Parrot responded no, it would not, noting this site sloped downward.

Mr. Parrot stated that a lot of information had been provided, and that the application was complete, it met the ordinance, and was aligned with the Strategic Growth Plan. He said this was the missing piece for a mixed use area and would serve as a special sector of the demographic.

Chad Merritt, after having been sworn, stated he was speaking for Carl and Debbie Merritt who were the owners of Merritt Marine, and he was the General Manager. He said they begin work at 6 a.m. and worked until midnight, adding that their mechanics worked outdoors. Mr. Merritt said the building was within 75 feet of the property line and they worked to the property line. He said this proposed project sat higher and would look down at their site. Mr. Merritt said they had a chain link fence on the front but not on the rear, and that they were heavily wooded to Brookshire but not as wooded toward this site. He said they were concerned about loss of product from their site. Mr. Merritt said the steepness of the site was not available for the elderly, and they would prefer to be surrounded by other businesses. He stated that this property was part of his parents' retirement security, and he wanted it protected.

Ms. Hauth said for the record, the Merritt's had submitted a qualifying Protest Petition on this site, noting they shared the entire southern property line. She said since a portion of the site was seeking rezoning, it was figured on the perimeter of the whole Owl's Wood project, so their Protest Petition was valid.

Vicky Jacobson, after having been sworn, stated she was a parent at the Charter School, and most of the teachers, staff, and parents at the Charter School were concerned about the impact of this development on the children at the school. She said the school had purchased the property because it was close to Hospice and was isolated and safe. Ms. Jacobson said she did not believe connectivity was a benefit to the school or the students. She said there were no guarantees that residents won't come onto their site, use their facilities or use their parking area. Ms. Jacobson said they also did not know how many people could be in each unit. She said it was her understanding that the Senior Center was not as enthusiastic about the project as stated by the applicant. Ms. Jacobson said the project was first presented as a senior facility, not a low-income project. She urged the Board to deny the request, noting the school had been there for 10 years and provided a service to the community that public schools did not necessarily provide.

Mr. Farrelly said many schools were located in neighborhoods and surrounded by lots of people, and asked was there some specific concern Ms. Jacobson wanted to express. Ms. Jacobson said a specific concern was the number of residents in a small space next to the school and the low-income aspect. She said the site was very close and they did not want any cut-throughs. Ms. Jacobson said there was a very real concern about screening of applicants and safety for children.

Commissioner Lowen stated that many schools were surrounded by people. He said he just did not understand the concern of safety, noting to him it sounded elitist. Commissioner Lowen said he was shocked to hear those concerns, adding he did not see the negative impact of a project that was targeted to senior living. Ms. Jacobson said you generally did not have apartments next to schools, and mentioned Few Gardens near Duke. She asked how the Town would reassure the parents and staff.

Commissioner Lowen asked how you would assure any neighboring property, noting someone could always cross a property line. He said at some point this property would be developed, and if it was not this particular development it would be something else, even commercial. Commissioner Lowen said he was concerned that low income was perceived to indicate dangerous behavior and that a lower income development would increase the possibility of inappropriate activity. Ms. Jacobson asked how Commissioner Lowen would feel if it was his property and people he did not know were crossing onto his property without his permission. She said the cost of putting up a fence along the property line

would be staggering, and would also make it a negative atmosphere for children. She also mentioned the increased traffic and the negative impact that would have on the school.

Commissioner Lowen said he heard Ms. Jacobson's concerns, but believed she was insinuating that this development would not be peaceful even though it was targeted to senior citizens. Ms. Jacobson asked had anyone addressed the number of people that could reside in each unit, noting she believed it was 5 or 6 residents per unit. Ms. Hauth said the Code did not speak to that generally, but housing laws required a certain square footage per person, and she did not believe in a 2-bedroom unit you could possibly have more than 4 people, with 2 people in a 1-bedroom.

Jamie Daniel, after having been sworn, stated he was a parent of two children who attended the Charter School. He said he was concerned about safety not just for the children and staff, but for the residents of the proposed development as well. He said it would not matter if these were \$300,000 townhomes or low-income units, because to him security and safety was the primary issue. Mr. Daniel discussed the federal laws that said you could not commit a crime within 1,000 feet of a school, nor carry a weapon on school grounds. He said he was wondering how close the edge of that facility was to the Charter School, which would also impact any easement that would be presented to the Board of Directors of the Charter School. Mr. Daniel said there would be no way the Charter School could provide an easement because of the federal law, so if there was a crime committed within those limits it would be a felony.

Mr. Daniel said his other concern was that he did not believe there was another high density development, like an apartment complex, in Orange County that was near one of the Orange County schools. He said there had already been one incident where a bounty hunter had chased a suspect through school grounds.

Commissioner Lowen said that was several years ago at Efland Cheeks, and that would have happened whether there was a high density development next to it or a single-family home. Mr. Daniel agreed, and that was his point. He said it did not matter whether the development next to the Charter School was high income or low income. Mr. Daniel also noted that out of 92 parking spaces, there was only 4 set aside of handicap parking, and this was suppose to have disabled residents. He said they had also not designed DOT to take over the Class C road, so TTA could not run a bus there nor could they run an Orange County school bus if any persons in the development attended school. Mr. Daniel said they also did not address the fact of whether the applicant had to be 55 or older to live in these units. He said it was possible that a senior could apply for the unit and someone much younger with children would actually occupy the unit. Mr. Daniel said also not addressed was whether the person applying for the unit had to be low income, but they had only said that the senior had to be 55 or older. He said that meant that this development qualified more for senior housing than it did for low-income housing, so the zoning did not quite make sense.

Mr. Daniel also mentioned the sidewalk that was shown to go all the way to US 70A, noting he had driven that area many times and had never seen a sidewalk. He said another concern not voiced was that they had no problem with low-income, high-income or whatever, but what they were really concerned about was people encroaching upon the safety and security of the school. Mr. Daniel noted that there were 84 registered sex offenders in Orange County, and 7 were within half a block of a bus stop. He said whether you were rich or poor, you still cared about your children, and if that facility was that close to the back door of the school, it was a concern.

Mr. Whitlow asked if they would be opposed to the project if the developer said they were going to put in a sidewalk in the public right-of-way along US 70. He asked was that perceived to be just as dangerous to the school to have people walking on the sidewalk as to not have the sidewalk. Mr. Daniel said these would be senior citizens walking perhaps to the Sportsplex, and that in itself was dangerous because of the traffic. He said you would need slow-down lanes just to make sure no one was rear-ended.

Mr. Barker asked had Mr. Daniel seen any accidents in that area in the last five years. Mr. Daniel responded he had. Mr. Barker said the statistics they had indicated only two in the last five years. Mr. Daniel said he had seen a few on US 70 and Business 70. He said last year alone he had been first responder on three incidents. Mr. Barker stated that was not supported by the traffic study.

Chad Merritt indicated that he had witnessed an accident 300 feet from the Sportsplex today.

Mr. Jones asked what would be acceptable in his eyes as a parent on this parcel. Mr. Daniel said he did not like that the school had an open playground; that he would like to see more restrictions put on the housing; he would like to see that no registered sex offenders were allowed in the complex; he would like to see a 6' fence enclosing the property; and, that a sidewalk along US 70 with barriers from traffic be included.

Ms. Faherty said she had assumed that the screening process of applicants would include criminal records for sex offenders of other criminal activities. Mr. Yamin said absolutely, noting they were not proposing a nuisance. He said credit and criminal checks would be conducted on all residents, and they would be monitored for compliance annually by NCHFA and reported to the IRS. He said those provisions were in place for 30 years. Mr. Yamin added they had more restrictions than any market rate complex.

Ms. Faherty asked what would be the number of people in each unit. Mr. Yamin responded the average was 1.5 persons per bedroom.

Ms. Faherty asked was the 55 year age requirement for the applicant. Mr. Yamin replied yes, noting there would be income and age verifications for each unit, reported annually.

Mr. Farrelly said they may be listed, but were they really living there. Mr. Yamin said there would be a full-time site manager, and this person would be acquainted with all the residents. He said it would be their job to personally get to know the residents, noting that if it was found that the applicant was not living in the unit that would be a lease violation.

Ms. Woodman asked about the statistics on the median age. Mr. Yamin said the majority of the residents would be older than 55, noting the development was for independent living.

Mr. Farrelly said he would imagine that a teenager would find this site to be "hell" and would not want to come. He asked was it common for seniors to have grandchildren in such a development. Mr. Yamin responded anecdotally he had not seen any children in senior developments during his visits.

Mr. Barker asked was there any response to the concerns raised by the Merritt's. Mr. Yamin said that fencing was always an option since "good fences made good neighbors," and they were willing to establish the boundaries. Mr. Yamin added he had spoken personally to the Merritt's a few weeks ago

to personally present the proposal, and provided them the opportunity to contact him whenever they felt it necessary to exchange information or ask questions.

Mr. Merritt stated he meant no offense, but with that back area not being lit, he did not believe a 6-foot fence or even an 8-foot fence would keep out anyone from the development out of your yard. He said the only way to solve that would be to light the area, and that would create another nuisance to those living in the units on that side. Mr. Yamin stated he did not agree with that. He said they had a 100-foot driveway there, and it was a matter of just walking across the road where there was several million dollars worth of boats just sitting in the lot. Mr. Yamin said this would not be a development where as many people as wanted to could live in a unit, noting their management policies would provide them full awareness of what was happening within the development, including who was occupying the units.

Mr. Farrelly said he wanted to discontinue the back and forth, noting that the concerns had been stated and the points had been made. He suggested that Mr. Merritt and Mr. Yamin talk one-on-one to address any concerns.

Mr. Barker asked what the Town's ordinance required in regards to parking. Ms. Hauth responded 180. Mr. Barker said then basically this proposal was for roughly half the number of required parking spaces, and the presumption was you would have fewer parkers because you had older residents. Mr. Yamin said that had been the experience of the NCHFA for previous developments they had been funding over the years.

Mr. Barker asked had they done a similar change on any other project in the past. Ms. Hauth said they had never had a similar application where waiving the parking could be considered.

Commissioner Hallman asked did some of the questions regarding comparable numbers need to be in the record of the public hearing. Mr. Hornik said the specific question could be asked and the public hearing closed, then the information could be provided after that time.

Commissioner Hallman said they had mentioned Carolina Springs as a comparison, so he would like to know the median age of its residents as well as the parking ratios used. Mr. Yamin said they would be happy to supply that information.

Mr. Hornik wondered whether on this site there was an area that could possibly be reserved for future expansion parking if it was found that 92 was not sufficient.

Ms. Jacobson asked for any comparisons on 3-story rental units built this close to a school.

Mr. Whitlow said he would like to have more information regarding the transportation service, such as how often and where.

Commissioner Gering said he would like them to check on whether transportation services could access the site, noting he was referring to Mr. Daniel's questions.

Mr. Yamin noted that the driveway was built to allow the bus to access it. Mr. Parrot added that they anticipated that heavier duty pavement would be used in the bus area.

Commissioner Gering said he would like to see elevation drawings as you looked back up the slope. Mr. Parrot said elevation drawings had been provided in the packet.

Mr. Parrot said they had been sensitive to the concerns expressed tonight all along. He said they had indicated that they would consider sharing the cost of a fence. Mr. Parrot said they also understood and appreciated the concerns raised by the Merritts. He said one distinction that needed to be made was that this would be a different population that would not be invalids or require daily care, and some would likely still be in the workforce. Mr. Parrot said the concerns about lighting and noise existed already for the facilities in proximity to Merritt Marine, so this development should be of less concern than those already in existence.

Mr. Barker stated he wanted to be sure all of the County's comments were addressed.

Jamie Daniel said he would like clarification about the access driveway from Business 70 back into the facility. Mr. Parrot said they expected the road to meet or exceed DOT policy.

Philip Weber, after having been sworn, stated he was a parent of the Charter School. He said he was confused, noting he believed the project was very well thought out but wondered why the property should be rezoned to accommodate this project. He said he did not see the driving need to change the zoning for this property for this project. Mr. Weber said the other property owners in the area had the expectation that the zoning would remain the same. Mr. Parrot said that was a valid question. He said the Land Use Plan called for mixed use with residential, and this project was consistent with that and would be the project that added the residential component to the area and made it mixed use.

Mark O'Neal, after having been sworn, provided some zoning history on this property. He said it had been zoned Industrial when it was in the County's jurisdiction and remained that way when annexed. Mr. O'Neal said it was down-zoned to Limited Office when the Entranceway Special Use zone was implemented. He said the Town had always expected this site to be rezoned in some manner.

Mr. Farrelly determined that no one else was present who wanted to speak on this issue.

Upon a motion by Commissioner Hallman, seconded by Commissioner Gering, the Board moved to close the public hearing on this issue. The motion was adopted unanimously.

ITEM #6: Zoning Ordinance text amendment to amend Section 20 to establish a process to amend the Land Use Plan in conjunction with rezoning requests.

Ms. Hauth said when the Town Board adopted the Land Use Plan in December, they had realized they needed to put a process in the ordinance to allow persons to request both an amendment to the Land Use Map along with a rezoning for their property. She said the option they had selected was in the packet, which would allow persons to submit a parallel process, or a joint application, to address both an amendment to the Land Use Map and provide specific information to support their argument to change the Land Use Map to allow their rezoning request to come forward in conjunction with their request for a rezoning. Ms. Hauth said the intent of this amendment was to set up that process and establish some basic requirements for an application so the Board would have some information to use in its review of the request. She said a fee would also have to be established for that process.

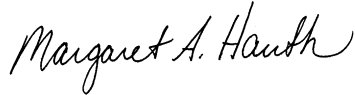
Mr. Farrelly determined that no one was present who wanted to speak on this issue.

Upon a motion by Commissioner Hallman, seconded by Commissioner Lowen, the Board moved to close the public hearing on this issue. The motion was adopted unanimously.

ITEM #7: Adjourn.

Upon a motion by Commissioner Lowen, seconded by Commissioner Dancy, the Board moved to adjourn the joint public hearing at 10:10 p.m. The motion was adopted unanimously.

Respectfully submitted,



Margaret A. Hawth, Secretary