

TOWN OF WAYNESVILLE

Planning Board

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Development Services
Director
Elizabeth Teague

Chairman

Patrick McDowell (Chairman)

Planning Board Members

Anthony Sutton (Vice-Chairman)

Marty Prevost

Robert Herrmann

Jason Rogers

H.P. Dykes, Jr.

Pratik Shah

Ginger Hain

Susan Teas Smith

MINUTES OF THE TOWN OF WAYNESVILLE PLANNING BOARD

Special Called Meeting

Town Hall – 9 S Main St., Waynesville, NC 28786

January 29, 2019

THE WAYNESVILLE PLANNING BOARD held a special called meeting on January 29, 2019, at 5:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

Chairman Patrick McDowell called the meeting to order at 5:30 p.m.

The following members were present:

Patrick McDowell (Chairman)
Anthony Sutton
Marty Prevost
Robert Herrmann
Jason Rogers
Ginger Hain
Susan Teas Smith

The following members were absent:

H.P. Dykes, Jr.
Pratik Shah

The following staff members were present:

Elizabeth Teague, Development Services Director
Jesse Fowler, Planner
Chelle Baker, Administrative Assistant
Attorney Ron Sneed
Captain Brian Beck
Ricky Mehaffey, Fire Department

The following media representatives were present:

Becky Johnson, The Mountaineer

1. Welcome/Calendar/Announcements

Chairman Patrick McDowell welcomed everyone and invited Ms. Elizabeth Teague, Director of Development Services to review the calendar. Ms. Teague stated that due to Presidents Day, the next Planning Board meeting had been moved to Monday, February 25 at 5:30 p.m.

2. Adoption of Minutes

A motion was made by Board Member Anthony Sutton, seconded by Board Member Robert Herrmann, to approve the minutes of the January 7, 2019 board meeting as presented. The motion passed unanimously.

B. BUSINESS

1. Public hearing on Major Site Plan/Design Review application for a 41.15 acre tract on Plott Creek Road, PIN 8605-42-0093, for a multi-family development within Waynesville's PC-NR District (Quasi-Judicial Proceeding).

Chairman McDowell explained that this was a Public Hearing for a Major Site Plan Review and there was an applicant option for a continuance. Attorney Ron Sneed advised that in attendance was a simple majority of the full Board, thus it would up to the Board to grant the applicant a continuance. Chairman McDowell stated that had been the policy in the past for the Board of Adjustment.

Chairman McDowell advised that unless the applicant comes forward at this time to ask for a continuance, the Board would move forward with the hearing. Mr. Hornik, attorney for the applicant, stated that the applicant would move forward.

Chairman McDowell further explained that while this is a new hearing on a revised site plan, not all parts of the plan have been revised and members of the Board were either in attendance at the previous hearing or had access to all the minutes from the previous hearing. He advised that accordingly, the Board would consider new evidence as well as evidence presented at the previous hearing as contained in the minutes.

Chairman McDowell also gave remind to the Board that the previous hearing did take place and is a part of the record and that the Board can take that into consideration in decisions and deliberations.

Chairman McDowell explained the protocols of a Quasi-Judicial Hearing to the Board Members and to the audience. Chairman McDowell asked anyone who wished to testify to come forward and be sworn in. After swearing in potential witnesses, Chairman McDowell reviewed further protocols with the Board and asked that the public also follow all protocols. He asked anyone who wished to have Standing to come forward.

**** As a note, in an effort to accurately record the comments from witnesses and speakers, their testimonies and responses will be as close to verbatim as possible using the audio recording from the meeting.**

**Mary Thomas
152 Sherman Way
Waynesville, NC 28786**

Chairman McDowell: And Mary how do you have an interest in determined to be in Standing different than the general public?

Mary Thomas: I hope that I will be allowed to speak on behalf of the residents of Plott Creek Residential District since I was the one that gave the survey.

Chairman McDowell: That, Ron?

Attorney Ron Sneed: To be a representative of a body, you've got to show that, well you can speak on their behalf, but to ask questions or to cross examine, then you would have to have Standing.

Mary Thomas: Not cross examine, I just want to speak.

Attorney Ron Sneed: Oh everybody will have a chance to speak.

Chairman McDowell: Thank you Mary.

**Chuck Dickson
1154 Plott Creek Road
Waynesville, NC 28786**

Yes, I am Chuck Dickson. I live within sight of the proposed project. And I have possibly just a few questions for a couple of the witnesses, I'm not even quite sure what they are going to testify to yet. As far as Standing goes, I live downstream of the project which proposes to fill-in most of the floodplain above our house which will very potentially increase the flow of water in the stream. And I'm not talking about storm water runoff right now, I'm just talking about decreasing the floodplain. As a member of the public, I have a big problem with this project and it's designation with civic space and it's designation of civic space which is defined in our ordinance as public space and that the civic space in this project will not be open to public. And so as a resident as the neighborhood and community, I will not have access to that area along with other members of the public. The third thing is the sight distance with the driveway access.

Chairman McDowell: Those are things you have problems with, but we are looking for determination of Standing, which I believe you are basing it on the possibility of increased water onto your property as potentially from this project.....

Chuck Dickson: Also, there is an intersection which is going to be created that will be a new intersection that will create in my opinion difficulties as far as turning and traveling as a member of the public.

Chairman McDowell: Ron, advice. Standing's always interesting.

Attorney Ron Sneed: The cleanest way to prove Standing is to bring in an expert to prove that either, one this project will diminish the value of your property or second a traffic expert who comes in with a traffic study and says that hazards will be created. However there's a case that arose in Raleigh from the former city attorney where Asheville tried it and lost where they found that Standing could be proved if you showed that other things that might be and one of those things happened to be water runoff.

Chairman McDowell: So water runoff is one that could be considered?

Attorney Ron Sneed: That is a basis that could be used for Standing.

Chairman McDowell: In determining Standing is there any other ones in besides us to testify to that or more a determination of the Board?

Attorney Ron Sneed: It is more a determination of the Board.

Chairman McDowell: A determination of the Board. I thought so. So you've heard from Mr. Dickson about...

Chuck Dickson: I don't want to take on the same role that Craig Justus took on at your last hearing. I doubt if I have more than about ten questions total.

Chairman McDowell: You've heard from Mr. Dickson, so our decision now is whether or not he has Standing. Although, any questions concerning that.

Attorney Ron Sneed: If I may, I think the applicant's attorney would like to argue against this before you make your decision.

Chairman McDowell: That's why I asked you if that was permissible at this particular point.

Attorney Ron Sneed: Standing is an issue that makes, I can't say they don't have a right to ask or at least present their reason for it.

Jason Rogers: Before we move forward, Mr. Dickson can you give us your exact address.

Chuck Dickson: 1154 Plott Creek Road

Chairman McDowell: Mr. Hornik, you can come forward then.

Kevin Hornik: Does Mr. Dickson have anything further, I'm happy to let you finish.

Susan Smith: Could we have another explanation of where your property is in respect to the project?

Chuck Dickson: It's across the street, I live across the street, it's across the street from the school, it's probably more across the street from the field-house which is right there and I'm on the creek, which goes about...

Susan Smith: Which is behind your house, right?

**Mr. Kevin Hornik
Durham, NC 27713**

Good evening ladies and gentlemen of the Planning Board, first I would like to clarify what Mr. Sneed said. In order to demonstrate Standing as a nonparty, meaning not an owner of the property under review or not a representative of the town having jurisdiction over the review, the individual landowner has to demonstrate that they would suffer special damages. And special damages are defined as damages that are distinct from the rest of the community or neighborhood at large. So to the extent that what Mr. Dickson is testifying to, he may suffer some increased traffic, or he may suffer some increased water runoff as a result of change or modification to a floodplain, so to would everybody in close proximity to this particular site. Which means that by definition, his damages that while they be real potentially are not distinct from the rest of the community. In essence, everybody who lives, who owns adjoining, abutting or nearby property may suffer those same effects. And the second argument I'd like to make is kind of an evidentiary one under NC general statutes 160A Section 393 which governs Quasi-Judicial Procedure the general statutes define what is competent evidence, and remember any Quasi-Judicial decision made by this Board needs to be based on competent, material, and substantial evidence presented on the record. Now one of the important elements of the definition of competent evidence is that any evidence or testimony that would require under, if this were a court of law, an expert to present that evidence or testimony must also be presented by an expert in a Quasi-Judicial proceeding. Now I haven't heard, Mr. Dickson may be an expert in water runoff or traffic impact, however he has not qualified himself as such. He has not presented sufficient education, experience, certifications, licenses. Therefore, his opinion about what may or may not happen both with respect to the traffic along Plott Creek road and to the potential of any water runoff damages are very lay opinions and those are very clearly by Statute in NC not competent evidence. So to the extent that this Board determines as part of the Quasi-Judicial proceeding that he does have standing, your decision would not have been made based on competent evidence and therefore would be null and void before Superior Court. However, it's entirely up to this Boards decision, I just want to make you aware and tender my objection in the event this Board does choose to bring Standing to Mr. Dickson. Thank you.

Susan Smith: Can you comment on the case law that our council raised with respect to the, it sounded like the one case that indicated it sounded like a lay opinion as to certain things would be accepted?

Kevin Hornik: Certainly, so to the extent that are you speaking about the Mangum Vs. the City of Raleigh Board of Adjustment. What Mangum says, what that case says, is that proximity to a particular site, so saying, "Oh, I'm a neighbor, I live nearby to this proposed development," is not sufficient by itself to convey Standing. What it also says though is that if you can adequately demonstrate that you would suffer additional damages, that includes noise pollution, increase

traffic, water runoff, really you know anything else, you may have Standing. And again, just suffering damages from water runoff alone is not sufficient, it's more or less a balancing test. The applicant or the person seeking Standing needs to demonstrate that they would suffer considerable additional damage and again they would have to do so by presenting competent, material and substantial evidence on the record in order for the Board to make that finding.

Chairman McDowell: Thank you. Ron?

Attorney Ron Sneed: I don't want to argue this case, but to clarify what Mangum did is sort of broaden it. Before that the only thing the courts were recognizing was property value was going to be diminished by whatever the project might be in my opinion. Magnum broadened that but didn't reduce the standard by which you had to show that you had Standing.

Chairman McDowell: And to have standing Ron, in my clarification, I can understand that but, the ability if the person bringing standing wants evidence they have to have an expert witness to do that, correct?

Attorney Ron Sneed: Depending upon what they're trying to prove.

Chairman McDowell: Right. Can a person have Standing and not present evidence but ask for cross-examination?

Attorney Ron Sneed: A person of Standing participates as their own party. They get to present their own witnesses and cross-examine.

Chairman McDowell: Correct, right, and they don't have to present evidence and still have Standing but they could cross-examine.

Attorney Ron Sneed: Correct.

Chairman McDowell: Ok. All right. Those in favor on granting the status of Standing to Mr. Chuck Dickson.

Board Vote taken: All ayes, none opposed.

Chairman McDowell: Mr. Dickson you have been granted status.

Chuck Dickson: I promise to be very brief.

Kevin Hornik: Just for the record I know I already mentioned this but I would like my objection.

Chairman McDowell: Your objection has been noted. Thank you.

Chairman McDowell continued explaining the rules and procedures of the Quasi-Judicial Hearing to the Board and public.

A motion was made by Board Member Anthony Sutton, seconded by Susan Smith, to open the public hearing at 5:54 p.m. The motion passed unanimously.

Chairman McDowell invited Ms. Elizabeth Teague, Director of Development Services, to present the staff report.

Elizabeth Teague: First I'd like to start by entering into evidence the public notifications, you received a copy of the notification that went out to adjacent property owners, as well as to The Mountaineer. I received an affidavit that this was published in The Mountaineer two weeks in a row prior to this meeting and we also posted the property with a sign on Plott Creek and so I'm going to give this to our clerk to enter into evidence. Also, in your agenda packet is a staff report that has been prepared by me with input from what we call our technical review committee but that consists of our Planning Staff, our Public Works Department, our Fire Chief, and our Building Inspections Department. I'd like that to go into evidence. Additionally, I've included just for your reference some area maps where one is showing the piece of property, the zoning that currently exists, and showing the scope of the zoning, the dimensions of the floodplain and the Haywood County topography. The topography map, I'll point your attention too, because we've marked the 2,900 foot topo line elevation, according to our ordinance, any development that is 2,900 feet in elevation and more than 25% with grade actually kicks us into um, another part of the ordinance, in this particular case, their development is below that line. So I just wanted to point that out and have that in front of you. I'll also note that attached is a letter from David Foster, our Public Services Director, he says that public services staff have again reviewed the plans submitted for the proposed Palisades at Plott Creek project as well as met with the project engineers and based on the submitted plans, the town can serve the proposed development with both water and sewer. We have been in contact with the developer and collectively identified the method and routes of connection. All proposed infrastructure will be installed and constructed to Town standards. Additionally, we have reviewed the submitted concerns regarding our Waste Water Treatment Plant with our consulting engineering firm (McGill and Associates), and we have been assured that there is sufficient capacity to accommodate the Plott Creek project under our current permit parameters, and most certainly adequate capacity under a future version of the treatment plant. And then Mr. Foster indicates that he's available for help but he was not able to attend this meeting. And then I'd also like to introduce to the record the application and coversheet that the applicant will go through. And with that, they submitted a traffic study months ago and we'd like that to go into the record as it did last time and I believe their traffic engineer is here too. Additionally, I did want to let you know that we received some ex-parte communication in the form of two letters. One from Mary Thomas, who is here tonight and then another, she sent two letters to two of you, and then we also received a letter this morning from Dr. Eric Morrison. I don't know how would you like me to handle that communication?

Attorney Ron Sneed: Those are hearsay presented to this Board, hence any members that have received it. I think this Board is aware that those are ex-parte and not evidence and not to be considered unless of course that person shows up and testifies.

Elizabeth Teague: Ok, so I am going to put those over here with you.

I am going to proceed with my staff report and for ease I have changed the format from what we've done in the past in terms of trying to better follow the ordinance. You should have all received clean copies reformatted of your Land Development Standards from Jesse which was a herculean job in trying to accommodate all the zoning changes and greatly appreciated.

This is an application is for a 200 unit multi-family development. The project property is on 40.96 acres. If you look that up on Haywood County GIS it actually says 41.15 acres but I am assuming they are going with a true survey. It consists of eight multi-family buildings, a clubhouse building with a pool, and three detached, garage buildings. 20.96 acres of property, including all of that portion of the property above 2,900' in elevation, is proposed for preservation.

In accordance with Chapter 15, the Planning Board must provide "Site Plan/Design Review (Major)" as part of a quasi-judicial procedure and provide findings on five criteria for an application of this number of units and scale and Patrick has read those criteria. Quasi-judicial proceedings are used when the ordinance authorizes a decision-making board to consider an application based on code compliance and "generally stated standards requiring a discretionary decision on findings of fact." (LDS Section 15.5). The "Administrator" must "review the application to ensure that it is complete, and prepare a report and recommendation" (Section 15.8.2) to the Board. Comments of Public Works, Fire, Building Inspections and Code Compliance staff, and information provided by NCDOT and JM Teague Engineering who submitted a Traffic Study on behalf of the developer, are considered in this report. It is formatted to follow requirement criteria and to assist the Board with its findings, but focuses primarily on staff determinations on land use plan consistency, code compliance and infrastructure. The Land Use Plan and Land Development Standards are found on our website: <http://www.waynesvillenc.gov/>, and as I mentioned you have a copy of your Land Development Standards in front of you.

The following required application materials were received (LDS Section 15.8.2) this month along with a Traffic Impact Analysis from JM Teague Engineering and an Engineering Narrative from WGLA Engineering regarding the site that were provided earlier. They included:

1. Environmental survey (15.4.1)
2. A Master plan, (15.4.3).
3. Building elevations. (15.4.7)

I will make a note that detailed engineered drawings and construction documents are not required for Master Plans, but are to be submitted after Planning Board approval and that's also true for major subdivisions.

The application is provided in the Board's agenda packet materials, and the applicant is responsible for presenting their application and answering any questions the Board or others may have.

Ms. Teague gave the following property Information and existing conditions:

| | |
|-----------------------|--|
| Proposed Location: | Plott Creek Road, PIN 8605-42-0093 |
| Property Owner: | Triangle Real Estate of Gastonia, Inc. |
| Acreage of site: | 41.15 acres |
| Existing Development: | Right now it is an Undeveloped Lot |
| Zoning District: | Plott Creek Neighborhood Residential (PC-NR) |

Attached for reference is the following property information:

- Parcel Report with aerial;
- Zoning map;
- 2012 Floodplain
- Area topography

Ms. Teague continued presenting the staff report and stated:

Major Site Plan review criteria for Findings.

1. "The plan is consistent with the adopted plans and policies of the Town."

The Plott Creek Neighborhood Residential (NR) purpose and intent statement is:

2.3.3 Neighborhood Residential Districts (NR) Purpose and Intent

(F) While it is semi-rural currently, and this is from our Land Use Plan which was adopted in 2002, as the Plott Creek Neighborhood District (PC-NR) develops it should do so in a manner which compliments its location near the Hazelwood Town Center, and the Hazelwood Elementary School which is within its boundaries. Infrastructure should be well connected and networked (including sidewalks, streets, water/sewer, etc.) and other infrastructure needs should be addressed (such as recreational opportunities) as the area develops. Special care should be taken to enhance the natural features of the area, such as the mountain slopes and the creek, so that they become an integral part of the community. Connections (roads, trails, etc.) to other districts, such as Hyatt Creek area and to the large mountain tracts at the end of Plott Creek, are also important and must be considered as the area develops.

The future land use map in the Town of Waynesville: 2020 Land Development Plan, identifies the Plott Creek NR District as "medium to high" density and within the urban services boundary for water and sewer.

The Land Use Plan goals and objectives include:

- "Limit urban sprawl through the establishment of a planned growth area for the Town of Waynesville, (LUP 4-3)"
- "Protect the aesthetic and environmental significance of Waynesville's Creeks, wetlands, farmlands and steep slopes" and "require the clustering of development (with defined criteria) in designated sensitive areas." (LUP 4-4)
- "Provide an attractive range of housing opportunities and neighborhoods for all residents of Waynesville (LUP, 4-6)."
- "Utilize the zoning ordinance and map to promote residential development in accordance with the future land use map concentrating higher density housing where the services and land are suitable for such development and promote infill housing development." (LUP 4-8)
- "Evaluate all new developments for street connectivity and require connections in land development regulations and thorough plan review," and "provide pedestrian access in conjunction with new developments" (LUP 4-9)

Staff submits that this project is consistent with the adopted plans and policies of the Town because the project:

- Is within the Urban Services Boundary and within the area designated for medium to high density residential.
- Creates residential housing within 0.1 miles of the school, within 0.31 miles of 23/74 Great Smoky Mountain Expressway and within 0.75 miles of downtown Hazelwood. Those are all very rough numbers done with a measurement tool on GIS.
- The property is located in an area that is served by a state maintained road, has flat land available, and can be served by utilities.

- Will connect to the planned sidewalk linking Hazelwood Elementary and downtown Hazelwood, also meeting the goal of the 2010 Comprehensive Pedestrian Plan.
- Creates 200 new rental units which will add to the range of housing opportunities.
- Sets aside 20 acres or more of forested and sloped land for preservation, keeping areas above 2,900 elevation untouched, preserves wetlands and floodplain, and maintains approximately 3.7 acres of existing trees.

2. "The plan complies with all applicable requirements of this ordinance." Land Development Standards

- The project area is 20 acres and is designed to meet the Town's standards for the District following Chapter 2 and Table 2.4.1.
 - Compliant with NR Density of 10 units/acre. I want to make sure people are understanding when they resubmitted they did all their calculations based on the disturbed area and not the 20 acres they are leaving for preservation. SO in terms of what they are compliant with, I am just talking about the twenty acres.
 - Compliant with 5% Civic space, or 1 acre of 20 acres minimum: 1.09 acres shown
This includes a "village green" walking trail area = 0.8 acres
An "outdoor shelter" = 0.1 acres

A "playground" = 0.11 acres

And a "dog park" = 0.08 acres

- Minimum Setbacks in the area are met.

10' front: closest point to front boundary is the clubhouse at its nearest corner is 14 feet from the boundary.

10' east side: the closest points on the site plan are buildings 2 and 3 at 40' and building 6 at 35'.

10' west side: closest points are building 4 and 8 at 20' and building 5 at 15'.

6' rear: the closest structure there is garage C at 22' from proposed preservation area.

I am going to take a minute to go through their application here. There's the site plan. I know it's hard for some of the audience to see.

Ms. Teague at this point directs to an enlarged site plan map for the audience to view on the screen. She begins pointing out the locations of the setbacks and buildings she had reviewed in her presentation.

Dr. Eric Morrison: Where's Plott Creek?

Ms. Teague: Right here. (points out on site plan map/ screen)

Dr. Eric Morrison: And Plott Creek Road?

Ms. Teague: Right here. (points out on site plan map/screen)

Dr. Eric Morrison: And Will Hyatt?

Ms. Teague: That's right here. (points out on site plan map/ screen)

Dr. Eric Morrison: And the elementary school?

Chairman McDowell: Excuse me, this is not the time for questions. I'm sorry, this is not an open forum for questions.

Dr. Eric Morrison: I didn't understand that.

Ms. Teague continued with pointing out the setbacks of buildings on the site plan and then continued presenting the remaining staff report.

Compliant with building height maximum of 3 stories as measured from highest adjacent grade, and buildings do not exceed a height of 60' of highest adjacent grade to peak of pitched roof. The proposed buildings front along the shared parking and vehicular use areas.

- The project meets the town's general standards of Chapter 4 as the lot fronts Plott Creek Road and a 25' wide access road is provided to serve the development and shared parking areas.
- We find that the project meets the House/Townhouse/Apartment Residential Building Design Guidelines provided in Chapter 5 because:
 - Buildings have sloped roofs with eaves that include gutters.
 - Section 5.8.4(E) garages are accessed from interior vehicular use areas and are also turned or shielded by another building so that bays are not fronting Plott Creek Road.
 - Per Section 5.8.5 Façade Design, the clubhouse has a side façade along Plott Creek Road that includes a covered porch with pillars, window trim, and a decorative pattern. Ms. Teague showed on the screen a full site plan and architectural drawings. I ask that the applicant be able to talk you through those. They also brought in a fly-over, a 3D visualization which might help to see the scale and what these might look like. However, what's produced there shows dormers, gables, recessed entries, eaves (which require a minimum 10-inch projection which may include gutter), off-sets in building face and roof, window trim, and balconies. Buildings 2,3,4,5, also include decorative cupolas.
 - Per Section 5.8.6, building walls are proposed in wood, board and batten, and brick. The roof is clad in architectural shingles.
 - Civic space explained in Chapter 7 is provided within a ¼ mile of each residential unit and has greater than 60' of frontage along the access street within the development to "insure convenience to all residents of the development" and are "centrally and internally located so as to serve the needs of the residents of the neighborhood." (7.2.2-3). Civic space will have to meet all the design detail standards of 7.2.5.
 - We also believe that the Applicant has provided a preliminary landscape plan for compliance with Chapter 8. I believe this was in response to some of the comments from the last meeting. Ms. Teague shows the whole area site plan on screen and states:
 - And that plan shows a preservation of existing tree stands has been provided and supplemented along the side yards they have also added some Type C buffer where development is proximate to existing residential structures.

- Street trees are provided along the access road to the shared parking at a rate of 1 canopy tree for every 40'. These are placed at 50' on-center plantings except where bridge crossings or retaining walls prevent spacing (Section 8.5).
 - Shade trees within parking areas have been provided to comply with the 40' radius requirement of the ordinance.
 - The parking lot adjacent to Plott Creek Road has screening between the parking lot and the sidewalk. It also has a retention wall.
- Parking has been provided to comply with Chapter 9 with a request for a driveway distance reduction:
 - Exceeds the Town standard of 1.5 spaces per unit, by providing 374 surface spaces and 18 garage spaces. It also includes 20 spaces of bicycle parking.
 - Parking lots and interior pedestrian connectivity is provided.
 - The driveway into the Clubhouse building is less than 75' away from the intersection with Plott Creek Road but is pulled back to the greatest extent possible (45') in order to avoid encroachment into a wetland area. Let me get back to this, for the public's information. The driveway is aligned to create a four-way intersection here and the distance between the intersection and the first driveway which is the entrance into the parking area for the Club house is under what we would normally require and they are asking for an allowable variance that our ordinance give Administration the right to do whenever there is an ecological, topographical or engineering reason to pull it back. By pulling it back they preserve this buffer area along Plott Creek.
 - Line of sight and design regarding the intersection with Plott Creek Road is subject to the requirements of the NCDOT Driveway permit.
- In regards to Chapter 12, Environmental Conservation:
 - The area of the property adjacent to Plott Creek is within the Special Flood Hazard Area ("100 year") floodplain. Area along Plott Creek containing the required buffer and identified wetlands has been preserved within the floodplain. All construction within the Special Flood Hazard Area (SFHA) must comply with the Flood Damage Prevention Ordinance, including driveways, parking lots, retaining walls and Buildings #1, #2, #3, #4 and garages A and B are in fact encroaching on that 100 year floodplain and will have to comply with those additional rules. There's a 25 foot stream setback shown but also you'll see the applicant has marked a 30 foot setback on the "built upon area". This is a requirement of our storm water plan, so in addition to the twenty feet buffer setback from any trout stream, we also have the thirty foot "built upon area" setback that's part of our storm water ordinance.
 - A portion of the lot has a natural elevation above 2,900 mean sea level. The average slope on the parcel is 21.86%, this is below the 25% slope designation that kicks in the regulatory "steep slope area" (Section 12.6.2). The highest and steepest portions of the lot are in the 20 acre area to the south which is set aside for preservation.
 - The Applicant will be required to submit engineered storm water plans in compliance with the Town design standards (LDS 12.5.7). Engineered plans will be reviewed by a qualified engineer for compliance with this ordinance. The site plan indicates the 30' setback from streams for "built upon area" in addition to the 25' stream setback.

Please note that other compliance requirements will be addressed outside of, and in addition to the Planning Board determinations of the Master Plan. These include:

- A lighting plan which will be required for approval by the Town Engineer if/upon approval of Master Plan and must comply with the Town's design standards for the NR District (Chapter 10). This means it will require cut-off lighting that is under 25' for parking areas and directed architectural lighting for buildings and walkways. This is in keeping with the Town's Dark Sky Ordinance.
- Stream crossings are proposed as open-bottom culverts so as not to disturb stream beds, and these are subject to the US Army Corps of Engineers approval.
- A Land Disturbance plan and permit will also be required by the North Carolina Department of Environmental Quality prior to any land disturbance or grading taking place because this development exceeds one acre therefore the state will be doing that part of the permitting.

3. The third criteria is that *"There exists adequate infrastructure (transportation and utilities) to support the plan as proposed;"* (Chapter 6)

- Per Sections 6.3 and 6.11: Water and sewer infrastructure is available to the site and approved by the Town's water and sewer division for capacity to the number of units and a sprinkling system for each building for fire protection. Utilities will be buried within the development and all infrastructure must be built to the Town of Waynesville's specification manual and engineering standards.
- Per 6.7-6.10, a traffic analysis (TIA) has been provided by the developer showing that Plott Creek Road has the capacity to carry the traffic impact of the proposed development. Alignment of the development entrance with Will Hyatt creates a four way intersection and will be subject to NCDOT permit requirements.
- Per 6.8. sidewalk is provided along frontage of Plott Creek Road to connect to an approved NCDOT sidewalk construction project from Hazelwood right where Elysinia comes in to Hazelwood Road the sidewalk ends right before the bridge and we have a planned construction project with DOT to continue that sidewalk to the school in front of the school property and this proposal will connect to that sidewalk. Interior sidewalks are provided along the driveway roads and within interior parking areas.
- Power is provided to the Plott Creek Valley by Duke Energy and so staff finds that there is adequate utilities and infrastructure to support the project.

4. *"The proposed plan conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site;"*

The property lies on the western boundary of the Town of Waynesville's Municipal jurisdiction. To the west are the unzoned areas of Haywood County with an immediately abutting large estate which consists of a 3-4 story residential home and stables. To the east along Plott Creek Road toward town are a single family home, the Hazelwood Elementary School, and the commercial uses of Blue Ridge Glass and Smoky Mountain Indian Motorcycle retail, and then the 23/74 access ramps. Across Plott Creek Road to the north are single family homes and a townhome development along Will Hyatt Road

that are part of the Eagles Nest Low Density District and unincorporated, you also have unincorporated areas of the county. To the south, the property rises to a ridge that abuts an existing mobile home park and the Chancery Lane subdivision.

Staff submits that this development would introduce a new variety of housing into an area that already consists of a variety of structural types, including single family homes, a school, commercial uses and nearby townhomes and mobile homes. This is a large scale project which will have a visual impact, but no single building would have a footprint larger than the school. The architecture of proposed buildings meet the design standards of Chapter 5 which promote residential features in terms of facades and rooflines. The larger buildings are setback from Plott Creek Road so that the plan maintains several existing stands of trees and adds type C buffer along strategic areas to soften that visual impact.

The fact that this lot is on the border between the Town of Waynesville and the unincorporated areas of the County, means that it is the very point where land-use changes. The PC-NR District was designated as part of our medium to high density area and is close to major transportation corridors and the Hazelwood Town Center, and contains an Elementary School. The development pattern of large homes and estate lots, gated communities and subdivisions past this property towards the West are County jurisdiction and should not dictate the determination of neighborhood character.

5. *"The application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses."*

This is a challenging criteria to determine and staff do not have qualifications necessarily to speak to this point. The concern that stands out for us, is the safety of the driveway access onto Plott Creek Road and the increase in traffic pattern along Will Hyatt and Plott Creek, especially considering the peak traffic generation in the morning caused by Hazelwood Elementary. These are issues that the Town is committed to working on cooperatively with NCDOT into the future, and should not impact use of adjacent properties and may or may not impact land value.

This is the extent of my report, I am happy to answer any questions you may have right now.

Chairman McDowell: Any questions for Elizabeth at this time?

Marty Prevost: What is an open culvert?

Ms. Teague: Instead of a culvert that's a full pipe, it's round all the way around, it's a half pipe. So the culvert doesn't disturb the bottom of the stream, it just goes over the stream.

Marty Prevost: Will it be a bridge?

Chairman McDowell: It is like a bridge, it's an arch support.

Ms. Teague: It's an arch culvert.

Chairman McDowell: Any other questions for Elizabeth at this time? We will have an opportunity to ask additional questions later. If the applicant will come forward to present his evidence and I just do want to reiterate that it is incumbent upon you to present the evidence that meets the criteria.

Kevin Hornik: Absolutely, yes.

Chairman McDowell: If you'll give your name and address as well.

**Kevin Hornik
8211 Morrell Lane
Durham, NC 27713**

I am the attorney for the applicant. First I want to say we've all been here before so you guys have heard most of the evidence that will be presented as the Chairmans already pointed out. I think our approach this evening is to make a concerted effort not to belabor this presentation. We will highlight some of the changes that have been made since the last presentation and we will kinda supplement the presentation that Elizabeth has already given. Elizabeth has pretty thoroughly canvased at least four of those five Findings of Fact that this Board must meet. But, first, I would like to introduce our project team. These are the individuals who will be speaking to you under their subject matter s experts.

First we have William Ratchford, he is the Vice-President of the applicant.

Tom Jones, he is the lead engineer.

We've got Don Read, behind him, who is our appraiser, who will be testifying about the effect this project will have on adjacent properties.

We've got Jason Fultun of Mark Teague Engineering, he's one of the traffic engineers that worked on this project.

And then we've got Mark Teague back there, who will also be presenting evidence on the impact this project might have on the traffic flow on Plott Creek and the surrounding area.

So at this time what I'm going to do, is I'm going to turn the floor over to Will Ratchford. He's going to give you a brief statement about the project and about the company that will transition in to the technical data, and then this Board obviously is more than welcome to ask whatever clarifying questions you may have. Thank you very much.

**William Ratchford
3005 Laure Court
Gastonia, NC 28056**

Good evening, once again, I'm William Ratchford, Vice-President of Triangle Real-Estate and Southwood Realty. Both builder and developer and then we also manage the apartment complexes once they're completed. The company was started in the 60's and 70's by my grandfather. It is currently owned by my uncle and my father. We are currently the largest owner of apartments in the Western NC area. Been here since 2001 in Henderson county and we have not sold a property in Western NC. We have full staffs, regionals, and full maintenance staffs in the area. In this property if approved we will have full-time maintenance and management staff on property.

Can I get the you-tube video?? This is a visual of the property by my architect.

*Staff played you-tube video on the Board Room screen- Palisades at Plott Creek/ Miller Architecture

Now with this video, it was done by an architect, Miller Architecture is a national award-winning architect. I think he's won four awards in the last five years. The actual grades of the complex were brought in to show the actual representation of the property.

The project is consistent with 200 units, the project carries the name of Palisades which will be branded with the best located overall properties we have built or acquired in each region. For example we have one in Asheville, NC; Jacksonville, NC; Greenville-Spartanburg has a palisades. The project has brick on all sides and there's no cost cutting between the front and the back by dropping the level of brick. Also, the board and baton siding that Elizabeth mentioned is actually a cement board material it is not wood. The property is gated which fits the neighbors requests. We have met with, we have conversed with Mr. Morgan, the Ruth Plott Estate and they have agreed to a fence material that I will pass as an exhibit around and we have talked to Julia Plotts as well. There's been a conversation in the proposed tree area on the North side that we'll go check the health and quality of the trees and still keep that tree area there but cut and replace, she has a couple of concerns about trees falling so we will go back and check the health of the trees and then come back and plant and supplement and plant so if anything had to be taken down. The interior of the property, the interiors of the units are 9 foot ceilings or vaults, granite countertops, crown moldings, 42 inch walk-outs, ceramic tiles in the kitchens and baths. The unit mix is 66- 1's, 98- 2's, and 36- 3's. That will help create the complex to have the ability to have a diverse mix of population and age range but also often creates a close knit community. Rents shall cater to a workforce of high-end housing.

The apartment complex that comes, the important part about this complex is that it caters to the character of Waynesville itself. The complex has a density of 5 units/ acre through the whole project or 10 units in the developed project area. We were going to build a complex that has the amenities of Asheville but it's not the sheer density that you get in an Asheville project. Most of the complexes we build in Asheville are 16 units/acre. They are very tight. You know, when you're looking for every available square footage of use this is a much more spread out site which has allowed us to take care of and preserve both the trout streams and preserve the open space around the buildings and area and it preserves the range above, the mountain above it, to give a more rural feel as a mix of this setting. Physical attributes to the property, which does not make it the best property for its current time in Waynesville but it makes it a very highly competitive property, apartment property for the future. Once you build something with this density, at this low density, it creates a character that pretty much unmatched by a lot of property, it's very rare that you would have another one built at this density. But the 200 units, still classifies as institutional apartment size property, which still keeps the value at a competitive market value if the property was to ever be sold. I will now turn it over to Tom Jones to talk about the civil part of the site and I will send these exhibits around, the fence and then the interior shots of a different property but the same floorplan and the same class of materials. And I think we still have the exhibits, you still have the exhibits, previously, the cabinets and countertop material, they were taken from the last meeting.

Ms. Teague: We don't have that here tonight.

Mr. Ratchford: I don't think it matters, but they are there.

Tom Jones
WGLA Engineering
724 5th Avenue West

Hendersonville, NC

We appreciate you having us back tonight. I did want to touch on a few things that have happened since the last meeting. We've been over some more details on the site plan, but essentially it's the same plan that you saw back in the summer. However, at the meeting that we had then there were some questions raised about one item was, retaining walls being in the 30 foot setback from the stream. So we took that to heart and modified the plans and any and all retaining walls are more than 30 feet from the stream, so we've already modified the site plan which you have in your packet to address that concern. Another, comment that was raised, there was a question about civic space but we've clarified that based on the project area we've exceeded the required civic space. The drive for the clubhouse, Elizabeth already spoke to this, that was another concern raised about the proximity to the intersection and more specifically was, the distance how its measured, we got into is it measured from the edge of the road or is it measured from the right of way and it looked like there was a gray area of your alls ordinance but in any case we went ahead and made it now from the right of way so that concern was addressed, that was raised at the last meeting was addressed. So I think those were three of kind of the bullet point items that we needed to work on the site plan. I'll also talk about, in a minute, the building height and just kind of clarify that for you all, so that you can see that this project also meets your building height rules. Number two thing I will talk about the floodplain and I will specifically talk about how we can address those concerns. If we can go to the first page of the site plan. C101 is the first page of the master plan and one thing I want to touch on as it relates to the floodplain, the first building as you come into the development is the clubhouse. The flyover presentation that we showed a minute ago shows it nicely. That's a one-story building, so from Plott Creek Road, the first building that you see is actually a one-story building, its actually sitting a little below the road and the road rises as you pass it. This isn't some prehistoric building sitting right ontop of Plott Creek Road. It's a one story clubhouse with nice finishes. The elevation of it is in your package. As you go into the site, on C101, as you move to the back of the site plan those buildings do have the basement story which is allowed per your building height ordinance so I get back to the building height elevations here in just a few minutes. Going back to the front, to speak about the floodplain little bit. The floodplain runs along Plott creek and in the engineering that I provided last time I was going to talk about how that was going to be addressed. A floodplain development permit will need to be issued to grant construction in the area of the project that's designated in a flood hazard area, the Town required the buildings including the basement floor elevation be elevated to be no lower than the regulatory elevation as per section 17.4. We have had a preliminary flood study done by Floodwaters Engineering to determine the impacts of the floodplain. Based on the model, the crossing of Plott Creek and the fill in of the project will not create a rise in the base flood elevation in Plott Creek. So we've done the engineer study preliminarily already which will be finalized and submitted to town staff as part of the floodplain application. So the report is to have no rise in elevation based on this project and the fill associated with it or the crossing of Plott Creek. To follow up on the crossing, the arch pipe is exactly as Elizabeth described. It is an arch that has curvations on the sides where the actual stream will not be disturbed, so it's going to look like a bridge basically, it's just a large open bottomed that's the situation with floodplain in terms of there's already been a model done preliminarily, it will be finalized and to this point there's no rush and in any case it will meet your ordinance. There will be no rise, and your ordinance says no rise no more than one foot, but our goal actually in this case will be no rise.

Regarding building height, I touched on the clubhouse as one story, the middle buildings are three story, I think everybody, that's pretty straightforward. I just want to go to the back of the project where there's the stories that, they do incorporate the basement story. So like in your package, Building 6 on the site plan is the one.

Ms. Teague: It's hard to see, but this is Building 6.

So building 6 is the one. C102 so based on elevations, you can see the side elevation is three stories, that would be the parking lot, which would be the front of the building, the rear, the base of the story will be at the back of the building. So that's going to be a similar situation. Building 8 on the other side, Building 7 will be similar but its two stories in the front and three in the back. So these are the only buildings in this project that do incorporate that story. In any case, designation from the front of the building, as measured from the front of the building to the height or the ridge of the roof to the highest adjacent grade which would be the front of the building, right around there it would be less than sixty feet which is what your ordinance allows. I believe they scaled that off, building heights will meet your approved ordinance. Going back to the site plan, regarding the clubhouse drive, I should had to reconfigured that whole parking lot of the clubhouse to accommodate that problem, but we were able to do that and that really is as far as we can go . Any further and you actually have to fill more of the floodplain and you have to move the whole clubhouse back towards the stream and I think that would be detrimental to the project and some of the concerns we had with the stream. Elizabeth touched on this already, I met with town staff and shared preliminary plans for the water and sewer storm water, routes, pipe diameters, everything that we were expected to do and got their feedback and they were comfortable with our plans. The detailed plans will still be formally submitted as required by your ordinance, but staff has concurred with the type of facilities in terms of infrastructure for water/sewer/storm water. There's also and I will get Teague up here to talk about that, part of the infrastructure being Plott Creek road itself. We will address that. Since the last meeting, we obtained a driveway permit from NCDOT, so as far as that, they looked at the sight distance, we met with them on site, and they were obviously comfortable with this project meets their sight distances required by their rules and that's obviously something to feel comfortable with, it's not just something out there that we may not be able to get, it's already in hand. That's favorable for this project. So at this time, if you have questions now, you can ask, or I can turn it over to Teague to speak about the traffic a little bit and then we can come up as we need to answer questions.

Chairman McDowell: Questions for the engineer at this time?

Ms. Teague: We did have a question for the Board, do any of you want extra copies, hard copies of the site plan if that would help you, and we also have a larger version of the plan if that would help you? Everybody ok?

Chairman McDowell: Yes, thank you.

**Mark Teague
525 North Main Street
Waynesville, NC 28786**

Good evening, my name is Mark Teague, I am with JM Teague and JM Planning. Don't have a lot of new stuff, just want to point out a few things. Some of them may be repeat but I think it's important. We did the traffic study for this project February of last year, so it's been around two years ago. Generally, some of the things we thought about upfront was the town has a certain threshold for where mitigation has to take place or has to be considered for impact. The threshold for the Town of Waynesville is what they call body to capacity ratio. So basically the body of traffic versus the traffic of the road and with the Town it was the threshold of if it exceeded .1 then you could really look at

mitigation. When we analyzed the intersections, nothing exceeded that threshold, so that's why the recommendation came back with no mitigation because it did not exceed any of the Towns thresholds for mitigation. The other thing that traffic engineers typically look at, and I don't believe this is technically in the Town's ordinances but it's called the level of service. And I have reviewed that with you guys before. Level service A is like downtown Waynesville in about six hours, maybe in the middle of the night after Boojums and the bank closes and no one's around. Level service F is like it was during the eclipse. It might be like Russ Avenue at like 5:15 in the afternoon, but generally you want roads to be around C and D, that's kind of the sweet spot. If the level of service is A or B, you have probably overbuilt your facility and wasted some money. If level service is E or F all the time, you're probably underbuilt and you probably need to put more money to that facility. Obviously most roads will go to go to level services E and F during peak times. One thing we found on Plott Creek was during the school time that there was an extreme surge traffic, specifically in the A.M. it got to the level service E and F coming out of the school. So that was on the school approach to Plott Creek Road. DOT and the Department of Public Instruction requires that all schools be built to accommodate their own traffic, I don't know when the school was built how it worked, but obviously now, it does spill out onto Plott Creek Road and we've all seen that. There needs to be some adjustment from the school to accommodate the traffic in a better way, it really shouldn't fall on anybody else but the school to do that. The next things we did, as part of our traffic study was called the trip generation. Basically with a traffic study, you take what's out there, you add to it from the project, and then you analyze it after the fact and you see how much worse did it get. Trip generation is a big part of that, that's based on a trip generation manual that traffic engineers all over the country use, it's got examples of everything from casinos to laundromats, to apartment complexes to anything you can imagine. What we found with these 200 units, this is something a lot of lay people don't understand when it comes to trip generation is you don't have everyone leaving at once and everybody coming back at once, that's just not how it really operates. But with the 200 unit apartment complex in the a.m. you are going to have 82 vehicles leave and about 20 come in and in the p.m. you're going to have about 83 come in and about 45 leave. Don't be surprised, it's a very good system, the habits of people they go to work, they come in, sometimes they go back out at night and then they come in from work in the afternoons. Once we gathered all that data, we looked at the individual intersections to study and again we studied the intersection of Will Hyatt, we studied the intersection of the school, we studied the 74A ramp. None of those approaches exceeded any threshold of mitigation except for coming out of the school which was that service level E or F and that was just for a short period of time. The p.m. time of school does not coincide with the p.m. time in the peak time of this project, so that's not even on the table of something to consider. We also looked at the road itself, and that was a request from the Town to ask us to do that, and not just the intersections. Generally, capacity on the road is really kind of a loose term and it's hard to define because roads are always different, and there are factors to look at but generally, 8-10 thousand is a capacity for a 2-lane rural road. DOT considers this a "major collector" so it's designed to collect traffic from residential areas, local streets and other roads. What we found based on our traffic data, is that it's generally about 3,000 cars a day on Plott Creek Road. So 8,000 to 10,000 is at capacity and we are looking at about 3,000. We've really got a long way to go to get to that 8 to 10 thousand max capacity. Bottom line, it's going to impact traffic, but it'll be at a minimal level and no big issue really is required. Questions?

Susan Smith: Excuse me, so the 3,000, when you mentioned that, that includes traffic that's coming toward the school from Hazelwood, going onto the ramp, was that part of the study area for the overall traffic?

Mark Teague: Jason, you might help me out with this.

Jason Fultun: Can you ask the question again?

Chairman McDowell: Where was the traffic count..

Susan Smith: What area, you mentioned the ramps to the expressway?

Jason Fultun: So, we counted Will Hyatt and Plott Creek intersection, the ramps and Sulphur Springs, and Hazelwood Avenue. So, 3,000 vehicles per day is the traffic crossing Will Hyatt, Plott Creek intersection.

Susan Smith: Ok, so it's not somebody that's coming from Hazelwood and then would be going up on the ramp to go west?

Jason Fultun: Well that is Sulphur Springs, if you're traveling onto Plott Creek and your turning onto a ramp then that would be included.

Susan Smith: Not from the other direction.

Chairman McDowell: Not coming from Hazelwood.

Jason Fultun: It's a little larger beyond the ramps travelling toward Hazelwood because most vehicles are getting onto the highway, so that number near the ramps would be more like 4,000 there.

Chairman McDowell: So your count of 3,000 was taken at Will Hyatt and Plott Creek, is where that count comes from?

Jason Fultun: Correct because we focused on that intersection, obviously because that's the intersection that would be incorporated to access this project, the 3,000 is now and after the project is built there's an additional 1300 trips associated with the project so the 3,000 will go to 4,200 approximately at the Will Hyatt intersection.

Anthony Sutton: Which is still half the capacity projected.

Chairman McDowell: Any other questions for the engineer?

Mark Teague: One more thing, if I could point out real quick, got some DOT data that kinda corroborates that. In 2016 it was 2500 was the ADT and that was taken real close to the ramp on Plott Creek. It kinda stays right there all the way back to 2003, fairly consistent.

Chairman McDowell: Any questions for the applicant, or JM Teague?

Marty Prevost: What kind of class did you say the road is according to DOT?

Mark Teague: According to DOT website, it is officially called a "major collector".

Marty Prevost: But not a rural road?

Mark Teague: No, a "major collector"

Marty Prevost: Can you define that?

Chairman McDowell: because you gave it to us earlier.

Mark Teague: Basically a "major collector" is a road that is designed to collect from local roads, from residential areas, it usually feeds into arterial which would be like 74, so it's kinda that arterial to collector to local road.

Chairman McDowell: Any other questions for the engineer? Thank you. Anyone else from the applicant.

Mr. Kevin Hornik: Yes, Mr. Chairman. So, this is Mr. Read and Mr. Read conducted a market analysis, kind of an appraisal of the effect that this project might have on the abutting and adjacent properties. So, first I would like Mr. Read to please state his name and address for the record:

Don Read
23 Spring Cove Road
Asheville, NC 28804

Mr. Kevin Hornik: What I'm going to do is go through the formal rigamoral to establish him as an expert. If this Board is satisfied with his credentials, I will then admit his market analysis with copies going to the Board and to the clerk for the record. So can you tell us a little bit about your education, experience as a real estate appraiser.

I started as a real estate trainee in 2000 in Buncombe and Haywood County with primarily residential property. I started working for a firm out of Raleigh doing commercial and residential. I started my own firm in Asheville in 2003 and I have been an appraising in Western North Carolina since then. I do a lot of commercial and residential properties. I do apartment complexes, most recently Haywood County had to have stuff, done Downtown Hazelwood, 400 acre subdivision just one the edge of Waynesville, Town home projects, motorcycle dealerships, mobile home parks. I am state certified general in North Carolina, I have a MDI designation from the appraisal institute, which requires quite a bit of education and submittal of work samples. My work sample for getting that was actually an apartment complex.

Mr. Kevin Hornik: Is the Board satisfied with Mr. Read's credentials as an expert?

Chairman McDowell: We are.

Mr. Kevin Hornik: Ok, Mr. Read, you prepared a market analysis of the Plott Creek area and the effect that our project, or proposed project, might have on adjoining or adjacent, abutting properties. Is this a fair and accurate representation of that market analysis?

Don Read: yes.

Mr. Kevin Hornik: I would like to admit this as evidence on the record. I have a copy for you. Unfortunately, I only have three copies because I did not want to dump hundreds of pages on the Board that would not be useful beyond tonight, but you can share amongst yourselves. Mr. Read will

kind of testify to the pertinent information contained in the report. So Mr. Read can you tell us a little bit about what it is or how you conducted your market analysis.

Don Read

So what I wanted to do, the question was, what kind of impact is it going to have on Plott Creek and the adjoining properties and so what I wanted to look at were neighborhoods similar to Plott Creek, that have had apartment developments in Western North Carolina. I know there's been a lot of activity around the Asheville area for new complexes, so I was looking at the apartment complexes that had at least three stories because what's proposed is two to three stories. And then, looking for areas that apartment complexes went into that were relatively similar. So I was looking at about 7 or 8 apartment complexes in the region that I started considering, and then I started looking at properties that had sold before they bought the land, during the construction and then after the construction. And in this case, one apartment complex on Clayton Road which is the Southside of Asheville. Clayton Road comes off of Long Shoal's, off of Brevard Road, French Broad river. Well, it's a similar traffic count, traffic counts at that time were 3,200 cars per day. It's got a rural setting like Plott Creek, it's got horses and cattle, high-end low density housing and then there's also a sub-division development. Went in to look at the subdivisions and riverpress is a good example. Riverpress is just across the street, just north of where 1230 Roberts Lake Circle is the specific complex that I started analyzing and then when you go to Riverpress I looked at sales over the years. Taking ideally, the best way to comparison, taking a property that sold and then re-sold three or four years later, and then researching to find out if they fixed it up, did they do anything, and then what were their reasons for sale. What I found out was that is that from 2010 on all the way through current, that the sales were right at where the market is. Markets right at 4 % of appreciation for that time period over the last five years, the total MLS system, which our MLS covers now from Charlotte all the way through here, that was at 5.8% but that hard market was at 4% and all those sales were right in that area. In fact, the most recent sales, were people that had bought the property just prior to the apartment complex being built at Roberts Lake Circle, those sales were over 4%, there were some out-lyers in there but all of those sales were related to REO properties where they were bank owned or bought as bank owned properties. One of them had like an 18% return, another one was down for like a 1% return for the year and that property, they put like \$60,000 into it to fix it up real fancy, didn't get a lot of their money back out of it. Any kind of questions on that. I found no, I found everything in that neighborhood as far as residential single family, no negative impact at all. As far as anything, it was outperforming the rest of the neighborhood. When you look at development land apartment complexes are bought based upon a per unit or per door basis. So when developers are looking to buy land, their pricing it on how much do I have to pay per door, and that's typically in our market had been, at that time in 7 to 8 thousand dollar per door range but then when you buy a piece of land, what goes out to the public, everyone hears the per acre price. In this case, when you go down on Clayton Road, that was one of the highest land sales per acre but then it just increases activity in the neighborhood and the other land sales near there. There's a 143 Ellis Road, it used to be 143 Clayton but they changed the name, just down the road a little private land, it was an inheritance and it was a family property, they were looking to sell it and they sold it for significantly more than what the other comparable properties were. The property next to it was bought for single family, same thing, it showed an increase all because oh there's new development here. Look what they paid per acre, even though it's a different use, it still influences use, it's a positive influence.

Mr. Kevin Hornik: So Mr. Read, would you say in your professional opinion that this project would not have a substantial negative impact on adjoining and abutting property values?

Don Read: Yes.

Kevin Hornik: In fact, would it might be fair to say that this project, might even increase some of the adjacent, adjoining, and abutting property value?

Don Read: Yes.

Chairman McDowell: Questions for the appraiser?

Jason Rogers: Did you happen to compare this to any of the projects in Haywood County? Vantage Point, Great Laurels, there were some apartments recently built in Canton, did you happen to look at any of those in this market and not in the Buncombe County market?

Don Read: I kinda, I started, I looked at sales and property here, but I couldn't find enough data as far as sales around the property to really say one way or another.

Chairman McDowell: What about Jackson County?

Don Read: I didn't want to go out there, because it's harder to get data and information and when you get projects that are near the University, the demographic of the tenant and the rent going into the apartment has a huge impact into what's going on in the neighborhood. So that was another reasoning in the criteria of looking into apartments, I was looking into what is the projected rent for this market and that neighborhood and the quality of the tenant that's going to be there has a big impact. However, over in Jackson County, a lot of the apartments are very student oriented so they tend to be nine months in and out and they are very noise oriented.

Kevin Hornik: So would it be fair to say that you think that the comparable that you used in your study are more similar to this proposed project than some of the other apartment complexes here in Haywood County or in Jackson County?

Don Read: Yes, and I've done apartment complex stuff here. I've appraised multiple little apartment complexes, recently I've done an expansion of mobile home parks, that's been the most development activity in Haywood County in the last year that I've been involved in.

Chairman McDowell: Any other questions for the appraiser? Thank you.

Kevin Hornik: Thank you for your time and patience, I think that just about concludes our presentation unless this Board has any additional questions for any of the project team. I do want to make a couple of closing statements. First, you've heard the staff presentation. The staff presentation particularly on pages 17 and 18 of the staff report, make it clear that this particular project and the information proposed submitted by the applicant is consistent with the adopted plans and policies of the Town. Further, you've heard testimony from the staff that the plan complies with all applicable requirements of the Town's ordinance that is found primarily on pages 18 through 21 of the staff report. You've also heard staff testify on page 21 of their report that there exists adequate infrastructure for both transportation and utility infrastructure to support the plan as proposed. You've heard testimony from staff indicating that the proposed plan does conform to the character of the neighborhood considering the location, type and height buildings and structures and to the type and extent of the landscaping on the site. Further, you've also heard in our previous presentation over the summer, and

in fact this Board voted to approve that plan those same arguments. In fact, the handful of things, or the handful of uncertainties that some members of this Board may have had over this summer have since been addressed, as you've heard by Mr. Jones' testimony. So I think it's fair to say that the first four findings of fact that this Board needs to make to approve this site plan have been very thoroughly covered and there remains very little uncertainty about or ambiguity about whether those findings of fact can be proven. What we didn't do last time was present a certified appraiser, expert opinion to testify about their opinion of the effect that our project might have on adjacent and abutting properties. Now, further, staff could not make a recommendation on that count. However, tonight on just that count, you've heard an expert opinion of a real estate appraiser that this Board has certified as an expert. Not only was his expert opinion that the project would not have a negative impact on adjoining and abutting properties, but his expert opinion was that it may even increase the value of properties in the surrounding area. So, I think it's very clear based on the evidence presented tonight by staff and by the applicant, as well as by the evidence presented over the summer at our last site plan hearing, that all five of those Findings of Fact that this Board must make in order to grant approval can be met and have been demonstrated. That's further evidenced by the fact that this Board previously voted to approve a substantially similar site plan and in fact a site plan that may have had more question marks than this current one does, so unless this Board has any additional questions for me or for any of the project staff, I believe the applicant will conclude.

Robert Herrmann: I have a couple, and I think the Vice-President would help? What is your average length of lease and what is it that you require for the length of lease?

William Ratchford: Our average, ok, so basically, I will go over our whole rental criteria. We have an applicant, they pay an applicant fee, it goes to a blind in-house, it's in our corporate office where they do not, they cannot see the full HUD descriptions, they cannot see age discrepancies, all they check is credit and criminal, based on criminal they are looking for felonies, you know anything from sexual assaults, murders, stealing, theft, and go through that and make a decision. On credit they are looking that a person makes three times plus the average rent for the household into that select unit. We go with, once that's done, there is a deposit that's waived, the deposit is based on credit and is typically as \$200-300 all the way up to the full month's rent. We accept, we typically accept on new properties, twelve month leases and seven month leases, but the twelve months can be scattered to 11, 12, 13, 14 and 15, based on putting an average time of what an apartment complex exit south people of what we know, there's probably not going to be many people in Waynesville moving in December, January or February moving because it's too cold. We typically see in Asheville or Hendersonville people actually moving out. So we would stagger our leases, so that according we would statistical distribution to make sure that we are not overexposed too much in one month and that would change upon the history on what the property in Waynesville would act like. So then that property, that unit, if it was somebody moving from a current property of ours, would also do an in-house inspection to make sure that they're keeping the unit in the proper condition. As before they would be fully approved, as the renewal process starts, the renewal process starts typically 2-3 months before the lease ends, they will have an inspection, we have quarterly inspections in every unit in every complex we own. To make sure we do a filter change, but at the same point in time you are looking for hoarders, to make sure people maintain, that the right, correct people are on the lease because there should be no subleasing, no Airbnb of our properties, there's also to make sure all of our pets are also properly identified. We do have pet restrictions to make sure that we are not, so that we don't endanger, pet endanger people from pit-bull, great danes, german shepherds, there's about 18 breeds. Part of that is for the protection of the person, but it's also protection because of noise, so there's no basset hounds, because basset hounds if they get you know, there's that restriction as well. And all of our pets have

to go through a pet interview process to make sure that the pet is who you identify and that does not include the service animal part of ADA. We have had Pit bull service dogs that were protected and listed as the requirements. So that is how our typical renting is done, we currently use our own North Carolina lease, we don't use the Apartment Association even though we are members, because it is based off the apartment lease but we wanted our own qualifications. These are also nonsmoking units being precedence so there is a nonsmoking addendum. There is a pet addendum, there is a pest control addendum, and now the leases are starting to look like 18-20 pages and it's like signing for a loan now as these documents get longer. There will be a gate addendum to make sure you don't hit the gate and going on. Our typical renewal I would like to say that it's up to the Board's opinion, but all of our apartment complexes, we have two complexes in Asheville property, we have a complex in Fletcher and a complex in being built in Fletcher, we have two complexes in Buncombe county, we have one in Candler and one off Brevard Road going towards, after the outlet mall, going into the more rural section, then we have the two properties in Hendersonville, one built in 2001 with a phase that just opened two weeks ago and then we had a phase built a 360 unit complex built in 11 and 12. I would argue that you would not act like a true property in Asheville, you would act like a property in Hendersonville. And that Hendersonville type of Market, Hendersonville has roughly the same size population that you all have, Apple festivals, you have people in Hendersonville that actually commute to Greenville and to Asheville, just like you have people that commute to Cullowhee and commute to Asheville. You have a couple millionaires that actually live there, but most of the people are actually workforce. We've had the city manager, we've had fire chiefs, building inspectors, it's mainly workforce, we've had all the way to the high end, but you're going to have all of your workforce. Waynesville's not currently going to fill up 200 high-end housing units in apartments, it's just not the market you're looking for, that workforce and whatever may come above, it's just going to have to fit into that workforce range for people to afford it to fill up in Waynesville.

Robert Herrmann: I understand, not to cut you off, but my questions was really length of lease so that it's not short term, in other words you don't have people constantly coming and going from the same unit.

William Ratchford: Right, and in our 12 month leases, so we did a study on our average renewal based on that 12 month leased and in that first year through all of our Asheville properties, we started looking at 29% of people leaving the door, so that's a 71% renewal. So they tend to not just be one year, they are multiple years. And based on the current pricing of starter homes that kind fulfills the theory that people are in them much longer than normal.

Robert Herrmann: Do you also have the range of rents?

William Ratchford: It's predicted 9-13 hundred.

Robert Herrmann: 9-13 hundred.

Jason Rogers: Can you clarify that? 1 bedroom, 2 bedroom, 3 bedrooms?

William Ratchford: So a 1 bedroom's around \$900, there are some larger 1 bedrooms that are around 940 square feet that more established people would typically rent or a couple would tend to rent that size. We have 2 bedrooms typically around \$1000 and then a 3 bedroom is at \$1295, \$13-15 range typically. You're looking comparatively to those same units in Asheville, you're looking \$1050-\$1200 on a 2, and you're looking at 1480 to 15 hundred's on a 3 right now.

Robert Herrmann: What are the square footages of the units on average, obviously their very

William Ratchford: Typical one bedroom sunrooms are, the one bedrooms are 800, the sunrooms are 860. You have that special large one bedroom that's 949 square feet. 2 bedrooms 1102, typically on the patio with 1216, 1220 on the sunrooms. 3 bedrooms are 1318 on the patio, 1408 on the sunrooms.

Robert Herrmann: I have a question on the, in looking at the site plan, how do you anticipate that people are going to get from the apartments to the clubhouse? The only option I see is to drive over and the parking there looks somewhat limited.

Tom Jones: There is a sidewalk there, it's probably not real clear by the scale of your little drawing but there's actually a concrete sidewalk all the way along the drive there.

Chairman McDowell: You can see on that lower end Bob, as it goes across there you can see there's a double line there on the inside lane and that's the sidewalk.

Robert Herrmann: There's no crossing over the creek?

Chairman McDowell: The sidewalk alongside the road, there's a crossing on the bridge, it's a sidewalk.

Tom Jones: We tried to make it as walkable as possible, there's walking paths all throughout.

Robert Herrmann: I think that was my question. I know there's a sidewalk, that's all well and good but you know you take it from the far out apartments, they're gonna walk all that, that's a pretty good distance. Which is probably good exercise but still.

Tom Jones: What people tend to do also is as their leaving the community or coming in, they can stop off and if they want to get their mail at that time, they can do that. But generally it's set up so that if people can walk if they want to, to visit the clubhouse.

Robert Herrmann: Hmm. Ok.

Chairman McDowell: Susan did you have questions?

Susan Smith: No, I'm good.

Chairman McDowell: Do you have questions Jason?

Jason Rogers: Yes, the staff report says that water and sewer is available to the site, and how is that?

Tom Jones: Water runs along Plott Creek Road so it will be extended it into the property to serve all of the units, sewer is available down Plott Creek with a more straightforward route in Will Hyatt Road, or across Will Hyatt Road, so we will have to get an extension along Will Hyatt to get to the property, but we worked on the route with slopes and pipe angles with the staff and their comfortable with that.

Jason Rogers: So are you putting it in the DOT right of way?

Tom Jones: Correct

Jason Rogers: And they've given you approval to do so?

Tom Jones: That has not been approved yet. We have to get an encroachment from DOT for that.

Jason Rogers: That's correct. So far you do not have the encroachment to do that, so it is not on site.

Tom Jones: No, it is not on site at this moment. The encroachment will be part of the detailed plans that's gonna follow this meeting so.

Kevin Hornik: That's not something that would be expected to be included at this stage.

Chairman McDowell: Any other questions for the applicant at this time?

Marty Prevost: The trees that were shown in the architectural program, were those original trees or were those supposed to be planted?

Tom Jones: Well, those are probably some of both, the newly planted trees won't be part of our job so this will be like developed several years from now. But there are going to be tree save areas such as the western edge of the property although the Plott's want us to take off some of those trees out, there are quite a few trees in those areas, really the mature trees really from day one and all throughout the project, not the whole site will have to be cleared to make this happen. We try to work with the land and the topography and the streams to the best *unclear* development but there is a safe area in between and avoid the streams, preserve trees, and likewise this is something we probably didn't cover as well as we should have but at the very back of the project we have twenty acres that will be untouched as part of this project, so I think you will see that there's going to be a lot of trees still on this forty total acres when it's all said and done.

Chairman McDowell: Any other questions for the applicant at this time? Thank you.

Attorney Ron Sneed: Mr. Chair, before we proceed, Mr. Dickson has qualified and may have questions.

Chairman McDowell: Yes, right, I know and I am getting there, thank you.

Kevin Hornik: And just for the record, I would like to reserve time to rebut Mr. Dickson's testimony.

Chairman McDowell: That is built in. So, we've been here two hours. I would to take a ten minute break and then we will proceed.

Chairman McDowell called for a short recess at 7:22 p.m.
The meeting reconvened at 7:34 p.m.

Chairman McDowell: We'll reconvene our meeting. So any additional questions at this time from the staff and the Board for the applicant?

Jason Rogers: What is the current median income in Waynesville? Do we know that?

Elizabeth Teague: I can't pull that up off hand, but let's see I know that Jesse Fowler's done some extensive- Do you happen to have the most recent current median income level for Waynesville?

Jesse Fowler: Off the top of my head.

Becky Johnson: \$45,000 for a family of four.

Jesse Fowler: I think so, or like a \$39.

Elizabeth Teague: Can you come up, it was in the thirty's.

Jesse Fowler: I think off the top of my head, I can't be 100%, but like 39 or 42, something like that

Anthony Sutton: Was that household?

Jesse Fowler: ummmm, I think so, I know...

Becky Johnson: Forty Five for a family of four, Forty Five for a family of four, I reported it last week

Chairman McDowell: Remember this, remember that's not an expert testimony, that's something that's a heresy statement as a hearsay statement as far as that goes, not that she's not correct, that's not it we have to be careful who we're addressing on this. Ron...

Ron Sneed: And another thing is none of the requirements of the standards you have to meet is has to do with pricing or affordability

Chairman McDowell: That is correct, that's right. Our focus has to be on those five questions. Thank you Jesse. Any other questions for the applicant, before the staff can move on? Parties in Standing at this time, but there's one additional party in Standing who can be allowed to ask questions of those presenting, Mr. Dickson.

Chuck Dickson: Sure, yeah, I would like to ask Elizabeth a few questions if that's ok?

Chairman McDowell: If you would give your name and address and then you may.

**Chuck Dickson
1154 Plott Creek Rd
Waynesville, NC 28786**

Chairman McDowell: Go ahead.

Chuck Dickson: I wish I could talk loud enough I think so you could...

Chairman McDowell: I need you to, yes please, we have a recording...

Chuck Dickson: Ok, I'm sorry. Elizabeth, you said in your report that the developer is setting aside the preservation area, a little less than 21 acres, could you explain what that means.

Elizabeth Teague: Yes sir, I'm gonna go back to the, this environmental survey that they submitted. This drawing shows the entire lot, which is over 41 acres. The development plan is on the front half of that lot, and we do not have any further development other, nothing else is being sought for approval other than that front twenty acres.

Chuck Dickson: Ok, so would it be fair to say that right now that may be the developer's intent but there is no requirement that they keep that as a preserved area.

Elizabeth Teague: No, not from us, however there is a limit because they only have one entrance, they have a limit of how much, how many units they may have in there and 200 is the cap unless they have a secondary exit.

Chuck Dickson: All right. Ok, and I have a question about in our ordinance 6.4.3 providing adequate and well located space for shelters and bus drop-off areas if the property is on a transit route. Do you consider a school bus route to be a transit route that would require this?

Elizabeth Teague: I did not and I did not consider that.

Chuck Dickson: The third question I have has to do with the distance between the driveway and the intersection street. When I looked at it, I took the intersecting street to be Will Hyatt road and the driveway to be the entrance to the subdivision and that there be a requirement for the 75 foot distance between those two, those two street and driveway, am I reading that wrong, or?

Elizabeth Teague: I'll go ahead and read what the ordinance says. There's two parts of the ordinance that may pertain. In 6.4.3, what Mr. Dickson is referring to is that 'projects with 100 or more residential units, or ten hundred thousand square feet of nonresidential space that are adjacent to present and planned transit routes shall provide adequate and well located space for a shelter and bus drop-off area.

Chuck Dickson: And I'm sorry if

Elizabeth Teague: We did not plan for that and did not consider that as part of this review.

Chuck Dickson: Ok, You're aware that this is on a bus route.

Elizabeth Teague: Um, I'm aware that Haywood County has a transit on call service.

Chuck Dickson: And there's a school bus route that goes right by this. Correct?

Elizabeth Teague: If you say so, Sir. I was not aware.

Chuck Dickson: I may have to testify.

Elizabeth Teague: ok.

Chuck Dickson: I'm sorry. The other ordinance now is 9.8.3

Elizabeth Teague: Um, 9.8.3 relates to driveway standards and it talks about, let's see, your question concerned the distance?

Chuck Dickson: The distance between the driveway and the intersecting street, Will Hyatt road.

Elizabeth Teague: Well, the intersecting street that is proposed is across from Will Hyatt road creating a four-way inter.....

Chuck Dickson: It's not a street though, it's a driveway correct? The entrance to this development is not a public street is it?

Elizabeth Teague: Um, it is a public, it's not a, it is an access road into the development at least for the first 200 feet. It is not necessarily closed off, they are proposing a gate behind the driveway to the pool and the clubhouse

Chuck Dickson: Ok so what you're saying is it's not considered a driveway into the subdivision.

Elizabeth Teague: It's not.

Chuck Dickson: Ok. All right.

Elizabeth Teague: For at least the first 200 feet. And I will add that, that part of the road complies with the Town standard for access roads.

Chuck Dickson: and then the last question, questions, serious questions. Has to do with civic space. You're aware that the ordinance defines civic space in 17.4 as an outdoor area dedicated for public use.

Elizabeth Teague: I am.

Chuck Dickson: Could you tell me whether any of the civic spaces designated on the site plan front on a public street?

Elizabeth Teague: In Section 7.2.2 Accessibility it says that all civic spaces shall be conveniently accessible to all residents of the development

Chuck Dickson: My question was, did any of the civic spaces designated on the site plan front on public streets?

Elizabeth Teague: the civic spaces that are behind the gate are not. They're accessed by the shared parking areas and the access roads into the parking areas.

Chuck Dickson: Is the green area by the creek, I think it's about eight tenths of an acre, is that accessible to a public street?

Elizabeth Teague: Well, it's accessible to the front part of the road, but that street is not necessarily dedicated for town, if you mean by public street as something that the town maintains then no.

Chuck Dickson: Ok. Um, can you tell me how the civic spaces in this development will provide focal points or focal point for the town?

Elizabeth Teague: Um actually, what the ordinance states, in section 7.2.3 is that Land for civic spaces shall be centrally and internally located so as to serve the needs of the residents of the neighborhood or the residents within the immediate area within which the development is located. And it also says that required civic spaces shall provide required focal points for developments and the town and it also says that areas described in the Waynesville Land Development Plan or any other adopted plan as park recreation, open space land, or greenways shall be preserved and dedicated for practical &&&& this area is not part of our town's adopted parks and recreation master plan.

Chuck Dickson: Correct, can you tell me how the civic spaces will provide a focal point for the town?

Elizabeth Teague: These civic spaces provide a focal point for what will be the largest residential development in that area.

Chuck Dickson: You still haven't answered my question, which is how will they provide a focal point for the town?

Elizabeth Teague: Um, so if you are familiar with our parks and recreation plan, you would know that the plan has um called out for pocket parks and areas that serve local neighborhoods and creating this plan you're essentially creating a whole neighborhood and providing park space for that neighborhood.

Chuck Dickson: So you're defining the neighborhood to be served as only the neighborhood within the development? And the area to be served to be only the area within the development itself and it does not extend to any area out the development, correct?

Elizabeth Teague: Correct, that's the way these parks areas have been designed in this particular project.

Chuck Dickson: But, I'm going to go back to my question again, how will these civic spaces provide a focal point for the town? The answer I think is they won't.

Kevin Hornik: Mr. Chairman, I would like to object, he's badgering the witness and this is getting unduly repetitive. It's clear that what Ms. Elizabeth Teague has said is that the greenways and the civic spaces presented on the plan will serve the residents of the development and that is considered to be serving the residents of the town through the town's enacted plans.

Elizabeth Teague: Yes, and now add that our town has many focal points and each neighborhood we have tried to serve with small parks, all right, so this is a brand new neighborhood which will have its own small parks for the residents of that neighborhood.

Chuck Dickson: The underlying answer to the question is there is no public access to any of the spaces shown on this plan.

Elizabeth Teague: If you call the public, um, that live in that neighborhood, who are also members of the public, they have access to that.

Chuck Dickson: I would consider that private, but we'll talk about that later. That's all the questions I have.

Chairman McDowell: There are no other parties in Standing, so parties in Standing will be allowed to cross examine witnesses. So thank you for jumping ahead of me.

Kevin Hornik: Sorry Mr. Chairman, just trying to not waste the Boards time this evening. I just have one question on re-direct for Ms. Teague. I suppose re-direct although I never direct examined her. Um, could you tell me, has the town ever designated Plott Creek Road as a present or planned transit route?

Elizabeth Teague: we have not.

Kevin Hornik: So to the extent that what Mr. Dickson is arguing that somehow this development is required to install shelters and bus stops on this road, he is incorrect because the town does not require that because the road is not a present or planned transit route as designated by the town. That's all I have on re-direct.

Chairman McDowell: Any other re-direct at this time? Any other cross-examination of witnesses by parties in Standing? At this time the public will be allowed to speak. Ms. Thomas were you?

**Mary Thomas
152 Sherman Way
Waynesville, NC 28786**

I apologize for not having tightly prepared remarks tonight I just came with a bunch of notes. I would like to open up by saying that Becky Johnson has an article in The Mountaineer on Monday about hearings drawing to a close where she writes, while opponents turned out in force to public hearings on the apartments last year their numbers dwindled as it became apparent the town leaders were in support of the project. I would say that the Plott Creek residents and neighbors do not. At the June hearing, Mr. Jones, the lead engineer made a statement, our goal requirement was to minimize impact on streams, minimize impact to wetlands, and also preserve the wooded areas to the greatest extent that we can and in that same hearing that lasted for hours, there was the mention of the amount of fill to be brought to elevate buildings above the floodplain, the hard surfaces in the actual floodplain, particularly buildings 2,3,4 and 5, parking lot in 2, garage buildings to accommodate 12 cars total, there's the storm water management that would require underground chamber systems, at their estimate would be at least 6 to accommodate any rain runoff for an hour, to preserve the wooded areas the developers will point to the 20 acres, the preserve land in the section of the lot that is about 2900 feet, Plott Creek will disappear somewhat underneath an arched culvert, one of our greatest natural resources, water will be challenged. Also, Mr. Jones mentioned in the hearing in June, July, that while there are no apartments currently in the Plott Creek Neighborhood districts, the over 20 acres of preservation areas, buffers and landscaping, speak to finally number four in the plan of the 2020 Land Development Plan that was being under consideration that night. It shows the project, in our opinion, doesn't conform to the character of the neighborhood. There are other opinions about

that including the opposition of almost 90% of the PCND neighbors and hundreds of their neighbors. Um, tonight in the presentation, Elizabeth Teague mentioned that the development should support the Hazelwood Town Center, which is accessed by a narrow two lane road with a small public parking lot that is usually full all day long. There are no Palisades, another point she made, no Palisade buildings with a footprint larger than the school but consider the actual physical presence particularly the three floor buildings 100 feet shy of the 2900 foot level buildings, I think it's 6, 7 and 8. There are obviously various 3D visualizations and I reference Sightops from Blueridge analytics in Charlotte which gives a 3D visualization *unclear which would show the development, the proposed development, in the actual site it would be built crammed up to the road and the fences of two pastures and that's what it is PIN 8605527205. We have many concerns but I believe the public comment has begged that this whole business comes to an end pretty soon. Thank you.

Chairman McDowell: Any other public comment? That was the only one that was sworn in, anyone else with public comment? Come forward and be sworn in please. Please come forward and be sworn in. Let me find my sheet here just one moment.

Chairman McDowell swears in witness.

**Eric Morrison
12 Sandtrap Rd
Waynesville, NC**

I live at 12 Sandtrap Rd, Waynesville and its right off of Will Hyatt, I can show you on the map.

Chairman McDowell: We're familiar with it, yes.

Eric Morrison: You guys are familiar with where I live, ok. Um, I I don't know if you all, have you read the letter that I gave all of you for the hearing?

Attorney Ron Sneed: Letters are treated as hearsay, and this Board is not to read them, that is why you have to come in and testify and tell them....

Eric Morrison: Ok, I'll read it for you. Um, so this letter is written by my wife and I, Erica back there, and um it was written to the Mayor and Aldermen of the Town of Waynesville but it's also written to the Planning Board of the Town of Waynesville. We are also concerned about planning and the future of our town. I've lived here for thirty years, and uh I love this town, I've raised three kids here, and um, and my wife and I love where we live right now, we built our house about ten years ago on that property we're on right now. It says, Dear Honorable Mayor and Aldermen to the Town of Waynesville and the Planning Board for the Town of Waynesville, as concerned citizens and taxpayers of the town of Waynesville, we are asking that you disclose all engineering plans, site plans, and DOT traffic pattern plans, to the citizens of Waynesville and apartment developer before you vote to approve this 200 unit apartment complex. Please do that. We feel that there are many other sites in Haywood County with more appropriate with pre-existing infrastructure to accommodate this type of project. Why lead on these developers that this site is appropriate when an overhaul of sewer, floodplain, grading, and adequate roads to and from the property has not been planned for. Our taxpayer dollars have been spent upgrading other parts of the town specifically for this purpose i.e. the renovation of the old Asheville Highway and renovation of the road between Russ Avenue and Asheville Highway with the Golden Gate Bridge, you know what I'm talking about?

Chairman McDowell: Yes, sir.

Eric Morrison: There is a perfectly fine piece of property ready for development across from Old Champion next to the Greenway Trail ready for this type of project. Mr. Moody said that there are many other pieces of property that haven't even been explored with far better potential. The property on Plott Creek was not approved in the town ordinance to put apartments on it until it was railroaded through in one day by the Aldermen after they made a mistake and told the developers it was ok to build an apartment complex when it really wasn't. If a mistake is made and it's *inaudible in an ordinance, just say a mistake was made and not find a loophole to cover it up. We're also very concerned that the money we spent to move Hazelwood Elementary School will be wasted. The school was moved out of Hazelwood to Plott Creek to get away from high density housing, so parents and buses can easily pick up their children and drop them off. If you go to the school and see the line of cars for pickup and drop-off at 7:30 and 3 each day you'll see it would be absurd to build a high density housing project once again next to this at capacity school. It would put a huge burden on traffic flow. I agree we need affordable housing but please stop this developer on, stop leading this developer on and start presenting the facts so that he can make an educated decision to position this development in a more favorable part of the county and you can use our tax payer dollars that we already spent more wisely to help this developer and not waste his money with costly infrastructure. Look right here, how many cubic yards of fill is going to be needed to increase the floodplain. Does anyone know where Vantage Point is? How many entrances are there to Vantage Point?

Ron Sneed: Sorry, you can.....

Chairman McDowell: You can make a statement.

Eric Morrison: There's two entrances to Vantage point. They have 170 units. This is 200 units, they have one entrance. This is a huge funnel that's going to go right out into Plott Creek without any infrastructure there from DOT. DOT has not proposed that they're going to widen any roads here. Who's going to pay for this? Is the school going to pay for this, I can't see the school paying to widen a road, and someone said the school's going to pay for this. There's also going to be 43 hundred cars is that accurate? Was that traffic count put in accurate position that um, we talked about earlier to figure out how many cars there are? 43 hundred cars on a 2 lane road, what does that look like? Think about it, I mean, I would say a 2 lane road could handle it if it had a center turn lane because you get down a road and you got 4300 cars, most of the people are going to be there going from 7:30 to 5:30, that's what ten hours right there, 4300 divided by 10 is..

Chairman McDowell: Mr. Morrison, do you have a statement for us because you're testifying to traffic counts and you're not a traffic engineer, so we cannot do that. So if you've got a statement, we'd be happy to hear the statement.

Eric Morrison: I'd like to have the traffic engineer propose where they put the traffic count and uh, I would like to see that information more accurately because it seemed like it was kinda so-so right there, but um, so I really believe that uh, we need to revisit this, this um, development and um, reconsider where it needs to be placed. Thank you.

Chairman McDowell: Thank you. Any other public comment at this time.

Chuck Dickson: I did want to make one comment.

Chairman McDowell: You're a member of Standing.

Attorney Ron Sneed: You presented no evidence. It's the Board's call whether or not you'll allow him to speak.

Chairman McDowell: You spoke already, you didn't present any evidence.

Chuck Dickson: I didn't speak.

Chairman McDowell: Come forward Mr. Dickson.

Chuck Dickson: Thank you. Again I'll try not to be too long. I did want to point out just a couple of things, thank you very much. The twenty acres that are preserved are nearly, you know, what they are talking about right now, anything can happen to that property. In the ordinance there is no definition of a transit route, I'm not going to testify that busses go by there every day, I think you can assume that it is one block from the Hazelwood school that probably busses do go by this development. Um, number 3, I do think that 9.8.3 does apply because what we are creating here is a four-way intersection with Plott creek road, um, the, and I think that the ordinance talks about not having intersections like that and offsetting the entrances to a 75 feet away from the, a road like Will Hyatt Road. The main thing I want to talk about is the civic space, I mean, I don't that you can just say because this is a private development....

Chairman McDowell: You brought that up already.

Chuck Dickson: Well, but I want to talk about the ordinances.

Chairman McDowell: Quickly.

Chuck Dickson: I will. We talked about what civic space is defined as. The ordinance says that civic spaces shall be neighborhood civic spaces. Neighborhood means more than just this development, it means neighborhood. We've been talking about Plott creek neighborhood for a long time, but now apparently we're limiting that back down to the development itself. And all land dedicated for required civic spaces shall meet the criteria, that's not permissive, it's mandatory and one of the, in 7.2.2 says all civic spaces shall have at least sixty feet of frontage on at least one public street within the development. Now, what you're saying is there are no public streets within the development so we're just not going to require this. Well, I don't think that you can do that. You have to follow the ordinance. You can require that the street coming in be dedicated as a public street, and that would give access at least to the greenway area along the creek. Civic spaces are to serve the needs of the residents of the neighborhood, again, which is the, Elizabeth is taking a very limited definition of neighborhood and of the immediate area. Our civic spaces shall provide focal points for the town. This does not provide a focal point for the town. It doesn't comply with the ordinance. This development. She couldn't answer that question. Required civic spaces shall be usable by persons living nearby, it doesn't talk about people living nearby that just live within the subdivision. Your ordinance sets for civic public spaces. What is being proposed is a private space in this area and I believe it does not comply with the ordinance.

Chairman McDowell: Thank you. Mr. Dickson, what was your reference on that last bit 7. What?

Chuck Dickson: I've referred to 7.2.2, I've referred to 7.2.3, 7.2.5.

Chairman McDowell: Ok. Any additional public comment? Before we close the public comment portion, we need to be sure we've answered and asked all the questions we need of the parties, because once we close it's totally our discussion at that point. So if you have any discussion of, or any questions of Elizabeth, of the applicant, or any party in Standing, they need to be asked at this time before we close public hearing.

Jason Rogers: I do have a few.

Chairman McDowell: Jason, go ahead.

Jason Rogers: Elizabeth, where is access road found in the ordinances and in the standards?

Elizabeth Teague: This came up with our subdivision in that we don't actually have standards for access roads, we only have standards for roads, what we have is an access into this development that meets one of our town roadway standards, now for me that front part of the roadway and where it intersects with Plott Creek Road is subject to the NC Department of Transportation driveway permit but it's also designed to meet what we call our road standard, at least the front part of it, as you get past that front drive way to the clubhouse you get into parking and shared access into the development, so that is actually not public. But, Jason, we don't have any specifics about access roads.

Jason Rogers: So, I guess my question was, you stated that it met the access roads standards but I just don't know what that standard is.

Elizabeth Teague: I'm sorry if I said that, what I said was it met the, um, DOT driveway standard as they approved it and it met, and it meets the town roadway standard for the first part of the road.

Jason Rogers: So it's considered a driveway?

Elizabeth Teague: Um, well let's look at a definition for driveway and perhaps you're right. It says that 'A driveway is a private vehicular access connecting a dwelling, carport, veranda, parking area, or other buildings with a street. A driveway is not a road, street, boulevard, highway or parkway.' So if you as a Board determine that this access is in fact a driveway, then it would be a driveway. I'm comfortable with that.

Jason Rogers: So it would either have to be a driveway or one of the street standards. Access road is not an actual term in this ordinance. Ok, and then my next question is for the developer. Um, you all stated that the height requirement had been met but you did not give us a number. What is the height of your tallest building?

William Ratchford: The height of the tallest building.

Tom Jones: While he's working on that, the intent too is part of the final detailed plans is we'll provide staff with building height elevations showing how it conforms to your ordinance. I believe the way their drawn typically about 43 feet from the current ridge to the....

Jason Rogers: I understand, but we're trying to find if the figure complies with the ordinance tonight.

Elizabeth Teague: If I may, in our staff review, we scaled off each building to make sure that it complied with the new ordinance. I have our notes on this plan if you'd like to see them?

Jason Rogers: * Inaudible- papers shuffling * I was just wondering what that height actually is.

Elizabeth Teague: I do. Yes, the tallest building we have... let's go see which one was the tallest. So for building number eight, which is in the back, that scales out from the highest adjacent grade of the roof, I think that's the tallest one, that scales out at ...

Kevin Hornik: For the record, what you have, you have the sworn testimony of the applicant and staff that the building height is met by the standards, even without numbers.....

Jason Rogers: I understand, I still want the number....

Kevin Hornik: I just want to point that out on record.

Elizabeth Teague: It's showing it at, uh, 47 feet from highest adjacent grade to the tip of the roof, and on the back side of the elevation in 57 feet but that includes an under-basement that's below grade. Do you want to see these Jason?

Jason Rogers: No, * inaudible*

Chairman McDowell: Any other questions?

Ginger Hain: *Inaudible, papers shuffling* talking about setting aside twenty acres of forested and sloped plan for preservation. Keeping areas above 2,900 feet untouched, reserve for wetlands, floodplain, approximately 3.7 acres of existing trees. Is there an intention to either deed the twenty acres or put them in a conservation program?

William Ratchford: I'll answer it. We've kept it in the plan, so if this got approved tonight it would be locked in planning unless there was another change. We have offered to the town to put it in the conservation easement. We would, we still want to be able to control trespassing and part of that with Mr. Morgan is that, even though we would, we're not going to fence that area but we will monitor it for trespassing and that's been a statement with Mr. Morgan that we would take an active role into ensuring that to the best of our abilities.

Ginger Hain: So Elizabeth, follow up then for conservation, would the town be involved in the development of that conservation easement?

Elizabeth Teague: No, usually they have to go to a third party land trust. We don't actually accept conservation easements, um that could be something we explore as a town, but right now I don't believe we're....

Ginger Hain: No, I'm just wondering how um, what's the oversight if this is met if we don't have an Oversight?

Elizabeth Teague: Well, the oversight at this level is that this is the approved plan and therefore there can be no further development of the hill..

Ginger Hain: If there's a conservation easement?

Elizabeth Teague: Yeah, and then if they actually.... Even without a conservation...

Chairman McDowell: without a conservation easement, even without it actually there'd be no further development, because this is the plan that we approved. Once we approve a plan it can't be changed. So it couldn't be developed further without..... right.

Elizabeth Teague: If they did register with a land trust for a donation of those development rights in perpetuity on that easement then that land trust would hold the development rights or hold the conservation easement and there'd be a legal process for them to do anymore.

Tom Jones: If you all approve the plan tonight, what we're saying is, this is the way it's approved, therefore, no additional units, nothing can be done in that area. There's a process we would have to follow to make any change to the plan to use that area, so we're sorta locking that area in so we can't make any development on it.

Ginger Hain: Thank you.

Chairman McDowell: Other questions?

Kevin Hornik: I just want to say as a statement of record, that if the Board finds they need any additional evidence, uh, or anything else from the applicant, the applicant is happy to continue this meeting and provide the applicant time to submit that for consideration. Just want to note that.

Chairman McDowell: At this time I will entertain a motion, we're ready for that aren't we Ron, to close the public hearing?

Attorney Ron Sneed: Sounds like it, yes.

A motion was made by Board Member Robert Herrmann, seconded by Anthony Sutton, to close the public hearing at 8:13 p.m. The motion passed unanimously.

Chairman McDowell: We are now in our deliberations. I do want to, and this is not against any public person, but public comments are just that-comments, that are not expert witnesses, unless someone came forward that was an appraiser was an engineer, or was anything like that, everything else is nothing more than their opinion and thought can't be weighed as evidence because the fact of there was no expert testimony to contradict what was within it. Additionally, why we have gone through this process is this area has been zoned for this type of development, so that's not a, part of this that can be considered of whether or not it should be allowed there, that has already been done by our zoning so what we're are doing is looking at these five questions can be whether or not this development meets those standards not whether or not it should be or shouldn't be housing there. Thoughts?

Marty Prevost: The character just bothers me, the whole project. It certainly doesn't fit the neighborhood or the character.

Chairman McDowell: Very good. Would you like to go down one through five each one at a time like we did last time, everybody, does that sound good?

Board as a whole: yes.

Chairman McDowell: The first one is the plan is consistent with the adopted plans and policies of the town. Did anyone find that it is or isn't?

Jason Rogers: You know some of the stuff on that for me, the urban sprawl. I mean this is right on the edge of town, got a little bit of a question on that, they provide an attractive range of housing, the objective to that is the 30% median income that's the reason I was asking about that, that's one of the objectives to it. I don't see where this actually meets that.

Anthony Sutton: I will say that Waynesville has, I looked it up, four thousand more dollars in median income than Hendersonville, so if the median income in Waynesville is actually greater than Hendersonville where they already have two developments and it's thirty nine thousand so it does fit within the 30%.

Robert Herrmann: I would add also if I may to that Jason, if these people are putting the money into it that they're talking about putting into this project. They're not doing it without having done the research as to people being able to afford to rent these properties and apartments.

Chairman McDowell: And I don't know that but the success or failure of a business is not our concern, um, whether people come in and put a restaurant where it's allowed by zoning and we think it's a bad idea is not something we get to determine because that's that fact that it's allowable there. Success or failure of a project is not something that we can gauge as part of our part here.

Jason Rogers: But the goal of the agenda of the ordinance is.

Chairman McDowell: yes, the ordinance, yes.

Jason Rogers: And that's what I was looking at.

Chairman McDowell: So Jason you don't believe the plan is consistent with our policies and plans of the town?

Jason Rogers: I do not. I don't think it protects the environmental flood lands of the creek with the retaining walls and such that are going to be built there, I don't think it protects it personally.

Anthony Sutton: But they said they have engineers saying it would.

Chairman McDowell: Right there actually.....(*Inaudible)

Jason Rogers: (*Inaudible) elevation but is it protecting the creek and the waterway?

Chairman McDowell: I think....(*inaudible)

Jason Rogers: (*inaudible)protects the people downstream from it, it doesn't protect the stream itself.

Chairman McDowell: I believe that's a bluewater stream isn't it?

Jason Rogers: I believe it's a trout.

Chairman McDowell: I believe that's gonna have to be...

Susan Smith: Trout stream is what they call it.

Chairman McDowell: Yeah, Corps of Engineers approved the plans which would mean that I would say the Corps of Engineers approved such a plan then it is protecting it in my opinion because that is the governing body concerning that. I know that's just my opinion concerning that Jason.

Jason Rogers: I understand. So that's where I am on number one.

Chairman McDowell: Any thoughts?

Robert McDowell: I find that it is consistent.

Chairman McDowell: I'll entertain a motion for either one. Jason, do you want to make a motion that it doesn't or Bob if you do or unless someone else has

Marty Prevost: Just one question... Has anything been done to mitigate the flooding that was done several years ago at Chuck's house?

Chairman McDowell: I have no idea about that. That wasn't anything that was brought up or testified on or about.

Jason Rogers: Actually in the last meeting, I may be contradicting myself, but Chuck had made a statement that there was a stream from a construction project that went through his property so he did make that statement.

Chairman McDowell: *Inaudible* if we fail on anyone of these, then it fails, so if we can make a motion. Ron do you have any problem with that?

Attorney Ron Sneed: The thing is that each of these votes is just information to make sure you have a consensus on each point.

Chairman McDowell: And if any one point fails the consensus then we've not met the standard, correct?

Attorney Ron Sneed: Then you would be entertaining a motion to deny the application, correct.

A motion was made by Board Member Anthony Sutton, seconded by Robert Herrmann, that it does meet the requirement of number one.

Chairman McDowell: Are you basing that on the preservation of the town's computation.

Anthony Sutton: Correct, and also the testimony from the land owner.

Chairman McDowell: We have a motion, and a second, any further discussion on item one of is the plan consistent with the adopted plans and policies of the town. Any further discussion? All in favor, any opposed?

Six ayes (McDowell, Sutton, Prevost, Herrmann, Hain, Smith), one nay (Jason Rogers), motion passed.

Chairman McDowell: Item two. The plan complies with all applicable requirements of the LDS of the ordinance. Comments or thoughts?

Ginger Hain: I took apart Mr. Dickson's questions about civic space but the way I read 7.2.2 and 7.2.3, um is general civic spaces for the development.

Chairman McDowell: I tend to find with you as well on that one.

Ginger Hain: That's why I was questioning exactly what he was reading because I heard something different than what I was reading, so.

Chairman McDowell: I think that's, I think the wording on it may be...

Ginger Hain: I think it was pretty clear.

Chairman McDowell: And it may be clear, I think Mr. Dickson thinks it was pretty clear on his way as well.

Ginger Hain: It says development.

Chairman McDowell: Yeah, I did see that word.

Ginger Hain: Development.

Susan Smith: Yeah, I think another meaning opens the door to when somebody puts in a golf course or something and you have to take housing and golf or tennis or whatever you're thing is and then suddenly you are being required to open it up to the whole town as public and that's certainly not the intent.

Ginger Hain: Right, *inaudible*

Chairman McDowell: Any other comments on number two?

A motion was made by Board Member Anthony Sutton, seconded by Robert Herrmann, that it does meet the requirements of number two by the public spacing and also the extra greenway. All ayes. Motion passed unanimously.

Chairman McDowell: Is there any discussion?

Chairman McDowell: Next question, Does there exist adequate infrastructure, transportation and utilities, to support the plan as proposed? I do know that the, they did receive a letter from the town engineer stating that, their saying that it does meet, there is sufficient, and then of course there the engineering from Mr. Teague which was just, I think it was pretty clear where they took that at through our additional questioning, which was at the intersection of Will Hyatt and Plott Creek, obviously that's gonna have a different count than right there at the on ramp, off ramp as this is North or above the school, so obviously you know every time you move it a little bit it changes for the road on Plott Creek, it will be even less, so better than what's stated was taken. Any thoughts or comments on that?

Robert Herrmann: I move that number three.....

Jason Rogers: My argument on this one is the, getting the sewer to the property. And actually not having it to the property or having the encroachment permit in place at this point. I'm worried that they can't get it there after this approval.

Chairman McDowell: Well if they can't get it there, they fail. That's not our concern. Up to a point, it's DOT, not every project we do has to have engineer plans and they don't even have to the DOT driveway permit or access permit, however it's the condition of the Board that it happens for, in order for it to move forward, correct, Ron?

Attorney Ron Sneed: *Inaudible* Engineering, there's still things they have to do. Your ordinance says that water and sewer infrastructure is available. It doesn't say that it's on site or to the site. It says that it's available. If they fail to get the permit to cross the road to get the permit to get to the sewer line, then their project probably ends. You're approving the site plan but they fail on some other point.

Chairman McDowell: Exactly. And this was very similar to the project that we had up at Allen's Creek on the property where they were trying to get driveway access and if it failed on getting a DOT permit, then the project would have failed, but they did get it, therefore it succeeded so. So with other projects with this sort of thing.

A motion was made by Board Member Robert Herrmann, seconded by Anthony Sutton, that it does meet the requirements of infrastructure, transportation and utilities to support the plan as proposed.

Chairman McDowell: Any Discussion? Any other questions or comments on that? All those in favor say Aye.

Six ayes (McDowell, Sutton, Prevost, Herrmann, Hain, Smith),

Chairman McDowell: Any Opposed?

Jason Rogers: I'm opposed.

One Nay (Rogers). Motion passed.

Chairman McDowell: Item four, the proposed plan conforms to the character of the neighborhood, considering the location, type and height of buildings and structures and the type and extent of landscaping on site. Marty, do you have some concerns about that one?

Marty Prevost: Yes, I certainly do.

Chairman McDowell: Do you want to voice them?

Marty Prevost: I mean everything around it, in the Town of Waynesville.

Chairman McDowell: You're very specific.

Marty Prevost: In the Town of Waynesville, is, I mean one level or two, it certainly is not consistent to that part of the neighborhood. The school is one level, um it certainly, it does not have the character at all.

Ginger Hain: I concur.

Anthony Sutton: Going back to the ordinance, it says that, that is for high density. How do you get high density?

Ginger Hain: I don't know that high density and character are one in the same.

Anthony Sutton: I think it lends to the character. But you have another private estate right next to it that is a four story home and stables.

Ginger Hain: Yes. It's in the county, right.

Anthony Sutton: But it's in the neighborhood, it's right next door.

Ginger Hain: No, it's county, we can't, we call that county.

Anthony Sutton: So it's right next door, but you have a school next door, and you have commercial. So I do believe it fits in that scheme of the neighborhood.

Ginger Hain: I think it's large.

Chairman McDowell: It is large. The school's large.

Ginger Hain: The school's fundamental.

Anthony Sutton: and there's a highway that's large too.

Chairman McDowell: I think part of the problem too is when things are allowed in the neighborhood, when a project is allowed in the neighborhood, or a type of project is allowed in the neighborhood, the idea is how well can they make that conform to the existing style, which I think they've done here with the peaked roofs, the everything else that goes around it. Once you allow something in the area it's hard to then say, you can't do it because how those things are built in form and I think that's how we get in conflict with our ordinance. If we're gonna, I think it's either you allow it or you don't allow it, once it's allowed, you try to make it the type of structure of things that are going in there have as much design functions to meet homes and such in the neighborhood. We allow three story buildings in that district and we allow apartments in that district. So to say you allow those things and then to say no because of character is a conflict to me that can't be met once you allow now that you've said yes now what you have to do is say do the designs of those buildings. I would say if you have block, and no one would build it, but you know the old block style apartment complexes then yes it doesn't fit in the neighborhood because there's no character to the buildings. But once you allow those type of buildings in a area and it meets all the requirements, does it have the architectural features to make it feel more like the area is what I think this project does to it.

Ginger Hain: So you're definition of character is architectural design?

Chairman McDowell: Part of it, yes it really is, because once you open the door to a type Zoning allows something in the area, how you achieved it. And that's where I come in at, in the fact that, how you make it look in design as much as possible to fit in the area. You know if you're in an area with nothing but, if you're building an apartment complex next to Wal-marts and Best Buys and all that, then yes, you can have flat roofs, you know the concrete block apartments, such as that it fits the character. However, when you're in this area, those design standards is what we have in ordinance because we do allow both the height, density, and the style and the zoning part of it in there, so once you have that I think you have to *Inaudible

Robert Herrmann: Chairman, on the last paragraph of item four it points out, you can all read it as well as I can, but I'll point out, but the very last sentence the developed the pattern of large homes and estate lots, gated communities, and subdivisions. Has this property or county jurisdiction and should not dictate to the determination of neighborhood character.

Ginger Hain: That's what I said.

Chairman McDowell: That's what she said. And what I am saying also is the fact that it is allowed, the type of structure is allowed in the zoning.

Anthony Sutton: So in this neighborhood, you have the school and commercial.

Jason Rogers: So, my argument in the character of it, as I stated in the last meeting was the thirty foot retaining wall with a forty seven foot building above it. That is a large, aesthetic structure from below in the Plott Creek neighborhood. I don't think it's in-keeping with the character of the neighborhood at all.

Marty Prevost: And I will further say that the name Palisades to me, sounds like a fort.

Chairman McDowell: But Marty, You and I are in real estate and we know all sorts of streets that don't meet the name of the streets.

Marty Prevost: That doesn't meet the character of the neighborhood at all, especially for Plott Creek or Haywood County.

Chairman McDowell: Any further discussion? Susan, did you have anything to add to that?

Susan Smith: No, I think we've talked about it before. I think exactly as you've said, I think the zoning is in place. It allows this type of use, this type of density, and I think they've done an excellent job talking about building materials that will be high-grade, the landscaping, the preservation area is the best I think we can ask for. I think it's a very good attempt to do the right thing.

Chairman McDowell: Any other comment?

A motion was made by Board Member Susan Smith, seconded by Robert Herrmann, that the proposed plan conforms to the character of the neighborhood considering the location, type and height of buildings or structures and the type and extent of landscaping on the site.

Chairman McDowell: Any further discussion? All those in favor, say aye.

Four ayes (McDowell, Sutton, Herrmann, Smith)

Chairman McDowell: Any Opposed?

Three Nays (Rogers, Hain, Prevost).

Chairman McDowell: So there's three Nay's is that correct?

Ginger Hain: Three nay's, four aye's.

Chairman McDowell: Right, Gigi, Marty, and Jason. All right, given that....

Attorney Ron Sneed: Let me, this creates a quandary for you. You're final vote on whether or not it gets approved is gonna take a final vote of 5, but this is basically a straw poll going down the list and I guess it's, it's gonna be a matter of those three, if everything else is overriding and if any of them might change their mind on the final vote, then you'll have to stop short and find out later.

Chairman McDowell: Number 5, the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.

Marty Prevost: I feel like it would affect the value, um I mean, I know we have an expert testimony here but there were no comparisons to Haywood County.

Chairman McDowell: But we haven't had a project here for fifteen or ten years.

Marty Prevost: I know we haven't had any, but I never said there is nothing here to compare it too.

Susan Smith: That's a chronic problem, we had the same problem on a mortgage, there weren't enough homes of a certain type.

Chairman McDowell: In many ways, I think that's one of the ways we need these types of projects is the fact that we don't have enough of them to actually compare them to either.

Marty Prevost: Well, I mean I have forty five years of experience and I feel like it would affect the value.

Jason Rogers: For me, I am no expert in the value of the property, I kinda wish they would have had a comparable even to the advocates own words in Hendersonville, where the incomes were similar instead of on Clayton Road in Buncombe County where values and living is extreme.

Anthony Sutton: It's Clayton Road though, it wasn't, it's farm land, it's very, very comparable.

Jason Rogers: I can't speak to whether it would damage the values or not but it would have been better to have something more comparable to Waynesville then Buncombe County.

Anthony Sutton: But there was no testimony to contradict that.

Chairman McDowell: All right, any other comment? Ok we'll do another straw poll as a motion then.

A motion was made by Board Member Robert Herrmann, seconded by Anthony Sutton, that the application will not substantially injure the value of adjoining, adjacent or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.

Chairman McDowell: Any further discussion? All those supporting that, say aye.

Six ayes (McDowell, Sutton, Rogers, Herrmann, Hain, Smith)

Chairman McDowell: Those opposed?

One Nay (Prevost). Motion passed.

Chairman McDowell: All right. So those are our straw polls, and there's obviously a sticking point, and so, uh, character of the neighborhood, um, I do think this is um, here's my pitch to those who say nay on that issue. There is no area in our town. Where would you put this, that is not surrounding homes that are single story, ranch style homes, whether that is next to the property at Champion where you have that neighborhood right behind it where Fred used to live and all that and across the road is single family homes. I don't know where you can put this project, which the town needs, in any district that's allowed that is not different from the surrounding homes and that is what you're basing it on. What you're basically saying is this Board will not support any multi-family 3-story homes which we

allow. And I have an issue, personally, and I understand, I mean no one wants this in their neighborhood. No one wants lots of things that we end up approving in their neighborhood. They all agree that the county needs it, the town needs it but it always goes elsewhere. Where in our town would we be able to put another 3-story project to where you can get a small footprint, good density and where we can be, and not by your definition out of character with the neighborhood?

Ginger Hain: Maybe it's two story.

Chairman McDowell: yeah, but

Ginger Hain: I know what we allow, but, so in character, maybe it's two story.

Chairman McDowell: So what happens then, let me tell you what happens then. Instead of a ten acre project, you become a fifteen acre project, which means you have more disturbed land, more sprawling and more pavement. Ok. Yeah, you're taking out a third of the housing and so now you have to do the additional land. So now what you're doing, is you're creating more space that it goes on and less height. But then we allow this, we just approved a sixty foot height at our last meeting. Where would that fit anywhere else, why have it, why allow it if we then if we're going to hold that against any development in those areas?

Susan Smith: And I think that Jason's concerns *inaudible* appear tolerant but you can drive up Eagles Nest and you can drive up Plott Creek and you can see homes that have that appearance everywhere in the mountains. It's a mountain...

Ginger Hain: You talking about height?

Susan Smith: Yeah.

Anthony Sutton: Plus in the mountains, with not flat terrain, you're going to have retention walls.

Chairman McDowell: Where are we going to have a project? Everybody, even people posing in this location have testified that they think the town needs it. So where's it gonna go that it's not quote on quote out of character with the single family homes around it? And that's a real issue for me when we deem it that it doesn't fit because of the height, which we allow.

Ginger Hain: We do have this, we do have this on number four, so we do have the sixty feet. And we also have the consideration of character, so I think that's where you've got some judgement, some *inaudible* to come in, it's not just clear cut, black or white, sixty foot or less.

Chairman McDowell: I mean, right, so this is sixty foot and we allow the stories. I mean it's, well-meaning what we allow but what we're in essence saying is but we're not going to allow it.

Ginger Hain: Well it has to be balanced.

Robert Herrmann: But that's going to be the reply no matter where you go.

Ginger Hain: I totally agree, which is what the planning board does.

Robert Herrmann: I would rather see it in the city, done inside the town than opposed to outside the town for the simple reason that there's more, better things.....

Anthony Sutton: A developer could come in there and build town homes all the way up the mountain

Chairman McDowell: right, and the mountain, because the slope is less than the grade that meets, they could develop all the way up the mountain. Irregardless, of whether they develop there, I really, really have a problem with us saying, no to something that meets the standards that we've done just because it bigger than the surrounding homes because guess what everywhere it's gonna be bigger than the surrounding homes. There's no place it's not predominantly one level homes.

Marty Prevost: I think what bothers me is the visibility of this huge structure all of a sudden....

Anthony Sutton: but I don't think you'll be, I don't think it won't have that much of an impact

Marty Prevost: I mean other places that I could see putting it would have like a backdrop of a rise behind it.

Chairman McDowell: This does have a rise behind it.

Marty Prevost: Very little, it's mostly flat, wooded.

Chairman McDowell: Not behind it, if you look straight behind, that's what is back there because it goes above 29 hundred. Now if you look to the left or right of it, no, but that's because it is because that's of similar.

Marty Prevost: It's still going to be very visible.

Ginger Hain: One thing Marty, that I feel more comforted by is the lay of, um the protected land, the lay of the public space and the lay of spacing of the buildings instead of just being all, and it might be that when they did the 3D aerial shot, it did look like it was a bit more spaced out. When I looked at these properties in Asheville and Hendersonville, I was in Asheville, they are all like this.

Anthony Sutton: It looks like a road house, these are actually.

Ginger Hain: In that sense, I think an effort to meet the character.

Marty Prevost: It is, but there were mature trees in that visual illustration.

Chairman McDowell: Someday there will be mature trees Marty, but I mean anywhere you go...

Marty Prevost: I know, I understand.

Chairman McDowell: You can't transplant mature trees.

Marty Prevost: I understand that, but that's what made it more appealing.

Robert Herrmann: Chairman I call the question.

Chairman McDowell: Now we have to make a motion because the question's been called for either the Findings of Fact support the five criteria or they don't, Ron?

Attorney Ron Sneed: At this point the motion would be whether to approve the application or deny it and at this point if you get the votes that matched across the Board as you did then it would fail, that is the ultimate question.

Chairman McDowell: Questions been called, so I need a motion one way or the other.

A motion was made by Board Member Anthony Sutton, seconded by Robert Herrmann, that the application does meet the criteria and should be approved.

Chairman McDowell: Any further discussion? All those in favor of approving the plan as presented say Aye.

Chairman McDowell: Aye

Anthony Sutton: Aye

Robert Herrmann: Aye

Ginger Hain: Aye

Susan Smith: Aye

Chairman McDowell: All those opposed?

Marty Prevost: Nay

Jason Rogers: Nay

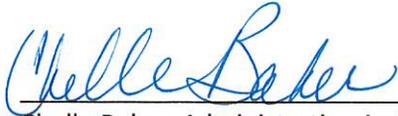
Chairman McDowell: Motion Passes. Second, we must file those conditions and then we have the Board hearing. Ron, is there anything else we need to do.

Attorney Ron Sneed: That was it. That was the motion to approve the application and it passed 5 to 2.

Chairman McDowell: Now I'll entertain a motion for dismissal.

D. ADJOURN

With no further business, a motion was made by Anthony Sutton, seconded by Robert Herrmann to adjourn the meeting at 8:42 p.m. The motion passed unanimously.



Chelle Baker, Administrative Assistant



Patrick McDowell, Chairman

TOWN OF WAYNESVILLE
COUNTY OF HAYWOOD

BEFORE THE WAYNESVILLE
PLANNING BOARD

In the Matter of the Application of)
TRIANGLE REAL ESTATE OF)
GASTONIA, INC.,)
for a Major Site Plan Approval)
_____)

ORDER APPROVING MAJOR
SITE PLAN

THIS CAUSE, coming on to be heard before the Planning Board for the Town of Waynesville in the Town Hall Board Room at 9 South Main Street in Waynesville, North Carolina, on January 29, 2019, on the Application of Triangle Real Estate of Gastonia, Inc., for approval of a major site plan for the development of a 40.96 acre tract of land on Plott Creek Road, Waynesville, North Carolina.

Elizabeth Teague, Director of Development Services, appeared for town staff and attorney Kevin Hornik appeared for the Applicant and Owner. Elizabeth Teague presented the application as it was submitted and the staff report on the elements of the application with the findings made and conclusions reached by staff as to the requirements of the Land Development Ordinance and whether those requirements were met by the Applicant. She testified as to the matters in the application, noting which requirements for major site plan applications were contained in the application packet, and Kevin Hornik made the initial presentation for the applicant. William Ratchford, as representative for the owner and applicant, Thomas (Tom) Jones, engineer with WGLA Engineering, Don Read, MAI, with Don Read Real Estate Services Company, and Jason Fulton and Mark Teague of J.M. Teague Engineering, PLLC, testified for the Applicant. Chuck Dixon offered evidence of his standing and the board found that he had standing, allowing him to participate in the hearing. Others in attendance were allowed to speak.

This matter had been before this Board before, on July 30, 2018, and Chairman McDowell noted and announced that the majority of the board in attendance for this hearing was in attendance at the prior hearing, and the full transcript and all evidence from that meeting was available to those members who were not in attendance at the prior hearing.

The Planning Board of the Town of Waynesville, having heard the testimony and having reviewed the evidence, makes the following

FINDINGS OF FACT

1. The Planning Board has jurisdiction to hear this application for site plan approval pursuant to Section 15.8.2 of the Land Development Standards of the Code of Ordinances for the

Town of Waynesville (hereafter called the Land Development Standards or LDS.)

2. Proper notice of the hearing was posted, published and mailed as required by the North Carolina General Statutes and by the ordinances of the Town of Waynesville.

3. The Applicant owns that real property located Plott Creek Road, Waynesville, North Carolina, which is approximately 40.96 acres (shown as 41.15 on the county GIS maps and stated as being 41.26 acres in the Applicant's deed) described in that deed recorded in Book 853 at Page 601, Haywood County Registry. Applicant desires to build a multi-family development consisting of eight multi-family structures, three garage buildings, and a clubhouse with a pool. 20.96 acres is proposed for preservation, with all improvements to be constructed on 20 acres closer to Plott Creek Road. The current PIN number for that property is 8605-42-0093.

4. The property is in the Plott Creek Neighborhood Residential District (PC-NR) zoning district, and multi-family buildings are allowed as a matter of right in that district, subject to approval of the major site plan by the Planning Board, as required by Section 15.8.2 of the Land Design Standards ("LDS").

5. The applicant as part of its application did provide an environmental survey in compliance with Section 15.4.1 of the LDS, a master plan in compliance with Section 15.4.3 of the LDS and building plans for design review, all as required by Section 15.8.2.D of the LDS.

6. The environmental survey did show that there were stream buffers and wetlands, and those plans also show that there is no work to be done in wetlands and no impervious materials or structures will be placed within the stream buffers.

7. To obtain approval of this major site plan the Applicant was required by Section 15.8.2.I to prove:

- (1) The plan is consistent with the adopted plans and policies of the Town; and
- (2) The plan complies with all applicable requirements of the LDS; and
- (3) There exists adequate infrastructure (transportation and utilities) to support the plan as proposed; and
- (4) The proposed plan conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site; and
- (5) The application will not substantially injure the value of adjoining or abutting property; and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.

8. The plan is consistent with the adopted plans and policies of the Town, as the comprehensive plan, entitled Town of Waynesville: 2020 Land Development Plan states that some of its goals and objectives are to "Limit urban sprawl through the establishment of a planned growth area for the Town of Waynesville", "... , "require the clustering of development (with defined criteria) in designated sensitive areas", ... , and "Provide an attractive range of

housing opportunities and neighborhoods for all residents of Waynesville”.

9. The site plan, as submitted and amended, does meet these goals and objectives, as all construction and improvements will be clustered on the lower half of the property, leaving over twenty acres undisturbed, and will provide 200 new housing units for the residents of Waynesville.

10. The master plan, exhibits and testimony do show that the plan is in compliance with all applicable requirements of the LDS, to wit:

A. The development will comply with the maximum density requirement of ten units per acre, creating a fraction under ten units per acre if consideration is given only to the built upon area, or under five units per acre if the full 40.96 acre tract is used to make the calculations.

B. The civic space requirements are met, as the plans show compliance with 5% Civic space, or 1 acre of 20 acres minimum, with 1.09 acres shown as "village green", a walking trail area of 0.8 acres, an "outdoor shelter" of 0.1 acres, a "playground" of 0.11 acres, and a "dog park" of 0.08 acres.

C. The proposed building meets all required setbacks from the fronting thoroughfare and from property lines. The required minimum front setback from the fronting thoroughfare is 10 feet, and the closest point to the front boundary is the clubhouse at 14 feet 10 inches. On the east side, the closest points are buildings 2 and 3 at 40 feet from the side boundary and building 6 at 35 feet 10 inches from the boundary, and on the west side the closest points are building 4 and 8 at 20 feet and building 5 at 15 feet 6 inches from the property line; and at the rear the closest point is garage C at 22 feet from proposed preservation area.

D. The tallest proposed building has a total height of less than sixty feet, and is within the building height maximum of 3 stories as measured from highest adjacent grade, and buildings do not exceed a height of 60' of highest adjacent grade to peak of pitched roof. The proposed buildings front along the shared parking and vehicular use areas.

E. The project meets the town's general standards of Chapter 4 as the lot fronts Plott Creek Road and a 25' wide access road is provided to serve the development and shared parking areas.

F. The proposed buildings meet the House/Townhouse/Apartment Residential Building Design Guidelines provided in Chapter 5. Buildings have sloped roofs with eaves that include gutters. As required by Section 5.8.4(E), garages are accessed from interior vehicular use areas and are also turned or shielded by another building so that bays are not fronting Plott Creek Road. As required by Section 5.8.5, Facade Design, the clubhouse has a side facade along Plott Creek

Road that includes a covered porch with pillars, window trim, and a decorative pattern on the exterior finish of brick and wood, meeting the design guidelines. Each apartment building's (Nos 1-8) primary elevations and elevations facing the public street or common parking areas have required architectural features for Apartment buildings. These include, dormers, gables, recessed entries, eaves (minimum 10-inch projection which may include gutter), off-sets in building face and roof, window trim, and balconies. Buildings 2,3,4,5, also include decorative cupolas. Per Section 5.8.6, building walls are proposed in wood, board and batten, and brick. The roof is clad in architectural shingles.

G. The Applicant has provided a preliminary landscape plan for compliance with Chapter 8. Preservation of existing tree stands has been provided and supplemented along the side yards with a Type C buffer where development is proximate to existing residential structures. Street trees are provided along the access road to the shared parking at 1 canopy tree for every 40'. These are placed at 50' on-center plantings except where bridge crossings or retaining walls prevent spacing (Section 8.5 of the LDS). Shade trees within parking areas have been provided to comply with the 40' radius requirement of the ordinance.

H. Parking lot landscaping requirements are met. The parking lot adjacent to Plott Creek Road has screening between the parking lot and the sidewalk.

I. Parking has been provided to comply with Chapter 9 with a request for a driveway distance reduction. Planned parking exceeds the Town standard of 1.5 spaces per unit, by providing 374 surface spaces and 18 garage spaces. 20 spaces of bicycle parking are provided. Parking lots and interior pedestrian connectivity provided. The driveway into the Clubhouse building is less than 75' away from the intersection with Plott Creek Road but is pulled back to the greatest extent possible (45') in order to avoid encroachment into a wetland area. This driveway location is also sited to allow for left hand turns coming from within the development, into the Clubhouse parking lot. A reduction of driveway separation distance up to 30' (40%) was requested under Section 9.8.3. C. 3. Line of sight and design regarding the intersection with Plott Creek Road is subject to the requirements of the NCDOT Driveway permit.

J. In regards to Chapter 12, Environmental Conservation, the area of the property adjacent to Plott Creek is within the Special Flood Hazard Area ("100 year") floodplain. Area along Plott Creek containing the required buffer and identified wetlands has been preserved within the floodplain. All construction within the SFHA must comply with the Flood Damage Prevention Ordinance, including driveways, parking lots, retaining walls and Buildings #1, #2, #3, #4 and garages A and B. A 25' stream setback and 30' "built upon area" setback for stormwater plans has been shown. A portion of the lot has a natural elevation above 2,900 mean sea level. The average slope on the parcel is 21.86%, below the 25% slope which designates a regulatory "steep slope area" (Section 12.6.2). The highest and

steepest portions of the lot are in the 20 acre area to the south which is set aside for preservation.

10. There is sufficient access to water and sewer to serve the proposed development, as the Town's water and sewer divisions have determined that there is sufficient capacity to serve the proposed development, and the roadway planned to serve the property connects to Plott Creek Road which can handle the additional traffic to be created by the project as shown by the traffic analysis and the testimony of the traffic engineers.

11. The proposed plan conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site. The property lies on the western boundary of the Town of Waynesville's Municipal jurisdiction. To the west are the unzoned areas of Haywood County with an immediately abutting large estate which consists of a 3-4 story residential home and stables. To the east along Plott Creek Road toward town are a single family home, the Hazelwood Elementary School, and the commercial uses of Blue Ridge Glass and Smoky Mountain Indian Motorcycle retail, and then the 23/74 access ramps. Across Plott Creek Road to the north are single family homes and a townhome development along Will Hyatt Road that are part of the Eagles Nest Low Density District, and unincorporated area of the county. To the south, the property rises to a ridge that abuts an existing mobile home park and the Chancery Lane subdivision. This development will introduce a new variety of housing into an area that already consists of a variety of structure types, including single family homes, a school, commercial uses and nearby townhomes and mobile homes. This is a large scale project which will have a visual impact, but no single building would have a footprint larger than the school. The architecture of proposed buildings meet the design standards of Chapter 5 which promote residential features in terms of facades and rooflines. The larger buildings are setback from Plott Creek Road and the plan maintains several existing stands of trees and adds type C buffer along strategic areas to soften that visual impact. The fact that this lot is the border between the Town of Waynesville and the unincorporated areas of the County, means that it is the very point where land-use changes. The PC-NR District was designated as part of our medium to high density area and is close to major transportation corridors and the Hazelwood Town Center, and contains an Elementary School. The development pattern of large homes and estate lots, gated communities and subdivisions past this property are County jurisdiction and should not dictate the determination of neighborhood character.

12. The planned development will not substantially injure the value of adjoining or abutting property; and will not be detrimental to the use or development of adjacent properties or other neighborhood uses as the use of the property for construction of multi-family housing is a permitted use in the zoning district. The only substantial and competent evidence that was presented by real estate appraiser Don Read showed that the development will not detrimentally affect the value of other properties in the zoning district. There was evidence and testimony that the proposed buildings will be taller than most structures within the zoning district, and matched or exceeded in height by few, if any, but the type structures (multi-family) and the heights are specifically allowed by the Land Design Standards and those are policy decisions established by

ordinances which direct this board in its decisions. There was no substantial and competent evidence indicating that the development will detrimental to the use or development of adjoining properties or other neighborhood uses.

BASED UPON THE FOREGOING FINDINGS OF FACT, by a vote of 5 to 2, this Board concludes as a matter of law that the Applicant's major site plan should be allowed, with an allowance for the reduced space between the entry off Plott Creek Road and the drive into the clubhouse parking lot.

IT IS NOW, THEREFORE, ordered that the major site plan application of Triangle Real Estate of Gastonia, Inc., be and is hereby approved, with an allowance for the reduced space between the entry off Plott Creek Road and the drive into the clubhouse parking lot, which said distance may be reduced from 75 feet to 45 feet.

This the 25 day of February, 2019.



Patrick McDowell, Chairman

If you are dissatisfied with this decision of the Board, an appeal may be taken to the Superior Court of Haywood County within 30 days after the date this order is received by you.