

**Town of Angier  
Board of Adjustment  
Tuesday, February 27, 2024  
Municipal Building  
28 N. Raleigh Street  
Angier, North Carolina 27501  
Minutes**

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The Town of Angier Board of Adjustment met in regular session on Tuesday, February 27, 2024, inside the Municipal Building Board Room, 28 N. Raleigh Street. Mayor Bob Jusnes presided, calling the meeting to order at 6:30 p.m.

**Members Present:** Mayor Bob Jusnes  
Mayor Pro-tem Sheveil Harmon  
Commissioner Jim Kazakavage  
Commissioner Ashley Strickland

**Members Absent:** Commissioner Loru Hawley

**ETJ Members Present:** Everett Blake, III  
Lee Marshall  
Eric Julien

**ETJ Members Absent:**

**Staff Members Present:** Town Manager Elizabeth Krige  
Town Clerk Veronica Hardaway  
Planning Director Jeff Jones  
Town Attorney Dan Hartzog, Jr.

**2. Pledge of Allegiance:** Mayor Bob Jusnes led the pledge of allegiance.

**3. Invocation:** Commissioner Strickland offered the invocation.

**Board Action:** The Town Board unanimously voted to approve the February 27, 2024 Board of Adjustment agenda as presented.

**Motion:** Commissioner Kazakavage

**Vote:** 7-0; unanimous

**4. Approval of the January 23, 2024 Board of Adjustment Meeting Minutes:** The Town Board unanimously approved the minutes as presented.

**Board Action:** The Town Board unanimously voted to approve the January 23, 2024 Board of Adjustment Meeting Minutes as presented.

**Motion:** Commissioner Kazakavage

**Vote:** 7-0; unanimous

**5. Swearing in of Witnesses:** The following persons giving testimony during the evidentiary hearings on the agenda were duly sworn by the Town Clerk.

David Jones

George Young, Mattamy Homes

Michael Roselli, P.E.

Nathaniel Bouquin

## **6. New Business**

### **A. Variance**

Applicant: David Jones

Property Address: 8951 Kennebec Crossing Drive

Variance Request: Reduce the front setback in R-6 CZ zoning district by 1.8ft.

Mayor Jusnes opened the Evidentiary Hearing.

Planning Director Jeff Jones stated the applicant submitted a variance request for a front setback reduction by 1.8ft. The applicant is constructing a series of townhomes and the town home they would like to construct on lot 51 within Kennebec Crossing Subdivision encroaches into the front setback by 1.87ft due to the street radius.

The Board had questions regarding who designed the road and who designed the layout in conjunction with the road. David Jones with Robuck Homes Triangle, LLC, stated the project was engineered by ESP Engineering and the homes were designed by Robuck Homes. The homes were designed after the project was engineered.

For the record, no one in the audience signed up to provide evidence for testimony in this case.

Mayor Jusnes closed the Evidentiary Hearing.

*Such variances may be granted in such individual case of unnecessary hardship only upon findings by the Board of Adjustment after an evidentiary hearing that the following conditions exist:*

*A. Unnecessary hardship would result from the strict application of the ordinance; **Everett Blake, III & Lee Marshall** voted that this does apply; **Ashley Strickland, Eric Julien, Bob Jusnes, Sheveil Harmon & Jim Kazakavage** voted that this does not apply.*

*B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability;*

- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;*
- D. The requested variance is consistent with the spirit and purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved;*

**Board Action:** Based on findings A-D of the Variance Approval Criteria, the Board of Adjustment does not find there to be an unnecessary hardship as a result from the strict application of the ordinance, therefore, the variance request has not been approved.

## **B. Variance**

Applicant: David Jones

Property Address: 8935 Kennebec Crossing Drive

Special Use Request: Reduce the front setback in R-6 CZ zoning district by 3.83ft.

Mayor Jusnes opened the Evidentiary Hearing.

Planning Director Jeff Jones stated the applicant submitted a variance request for a front setback reduction by 3.83ft. The applicant is constructing a series of townhomes and the town home they would like to construct on lot 57 within Kennebec Crossing Subdivision encroaches into the front setback by 3.83ft. There was on street parking that was designed as part of the overall project to meet the Town's parking standards which created a situation where the right-of-way produced an indentation that the proposed townhome cannot meet setbacks.

The Board discussed moving the building back and give a variance related to the back setbacks; however, Mr. Jones stated there was a 20ft easement off the back as well as a storm system pipe and drainage system off the back as well.

For the record, no one in the audience signed up to provide evidence for testimony in this case.

Mayor Jusnes closed the Evidentiary Hearing.

*Such variances may be granted in such individual case of unnecessary hardship only upon findings by the Board of Adjustment after an evidentiary hearing that the following conditions exist:*

- A. Unnecessary hardship would result from the strict application of the ordinance; **Everett Blake, III & Lee Marshall** voted that this does apply; **Ashley Strickland, Eric Julien, Bob Jusnes, Sheveil Harmon & Jim Kazakavage** voted that this does not apply.*
- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when*



*necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability;*

- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;*
- D. The requested variance is consistent with the spirit and purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved;*

**Board Action:** Based on findings A-D of the Variance Approval Criteria, the Board of Adjustment does not find there to be an unnecessary hardship as a result from the strict application of the ordinance, therefore, the variance request has not been approved.

## **7. Old Business**

### **A. Special Use Permit**

Applicant: Mattamy Homes

Location of Property: 350 S. Raleigh St., Angier, NC

Special Use Request: Construct 168 Townhomes in R-15 Zoning District

Mayor Jusnes re-opened the Public Hearing that was tabled January 23, 2024.

Planning Director Jeff Jones stated a request was submitted by Mattamy Homes to construct 168 townhomes within the R-15 zoning district that is situated along S. Raleigh Street. There are several interconnectivities with current streets Cross & Crestview. Townhomes within the zoning ordinance requires a Special Use Permit if there are over 20 units. Special requirements for a townhome community is a maximum of 12 units to an acre with a minimum public street frontage of 150ft in this case. The front setback is 100ft.; side setback is 30ft; and rear setback is 30ft. Under this special use there is a maximum of 18 units per structure for multi-story and shall be a minimum of 10ft from any internal parking areas and drive aisles. The project perimeter setback areas shall be free of any structures, excluding access ways and signs. Amenities and accessory structures shall be permitted as an accessory use to the primary use. Development of 50 units or more shall provide two means of ingress and egress. The property in question is currently vacant agricultural land.

Ashley Honeycutt Terrazas with Parker Poe Adams & Bernstein represented the applicant. Ms. Terrazas wanted to make sure the public hearing was re-opened to which Mayor Jusnes confirmed. She stated that as discussed last month, the Special Use Permit is for a proposed development of 168 townhomes on two parcels totaling 3137 acres between S. Raleigh and Cross Streets site zone R-15. This district permits townhomes subject to special requirements in UDO 4.2.10 including the requirement that if more than 20 townhomes are proposed, the plan requires a special use permit and as such the use must meet the criteria in Angier's UDO section 15.3.2. As the applicant, they have to meet the burden to present competent material and substantial evidence on each of the required findings. There was a lot of testimony given about this case last month and thanked Mayor Jusnes, Dan Hartzog, Jr., and the Board for guiding this process but they would like to quickly clarify how the applicants evidence relates to the required findings of fact and then offer

some additional evidence related to transportation as the Board encouraged last month. Ms. Terrazas stated there are 3 witnesses with her tonight prepared to testify in person: Michael Roselli, Professional Engineer will be testifying to Finding of Fact letter (B) Health, Morals, and Welfare; and Finding of Fact letter (C) adequate public facilities as well as clarifying some things about the site layout safety plan compliant conformance to the UDO utilities, access streets, drainage, sanitation, and those other necessary facilities. Nathaniel Bouquin, Professional Engineer will be testifying to factors B, C, and D related to adequate site access and transportation impact and then George Young, Developer & Licensed Real Broker will be testifying on factor A. related to integrity or character of the surrounding adjoining districts.

Ms. Terrazas called upon Mr. Roselli, and asked him to please state his name and address for the record. She also asked him to describe his background and experience for the Board. Mr. Roselli stated his office is located at 1149 Executive Circle, Suite C, Cary, NC 27511. He is a Licensed Professional Engineer and Licensed Professional Landscape Architect in North Carolina working for Underfoot Engineering. He has two degrees in Civil Engineering and Landscape Architecture from NC State University with over 15 years of extensive experience in residential planning design and permitting working on development plans throughout NC. Ms. Terrazas tendered Michael Roselli as an expert in the field of Civil Engineering and site design.

Ms. Terrazas: Mr. Roselli, you testified to the Board last time that you were the lead engineer for this project and prepared the layout and design of the South Cross town homes preliminary plat, correct?

Roselli: Yes.

Ms. Terrazas: You testified last time about all the technical aspects of the plan with respect to finding of fact (E) does the plan conform to the applicable regulations of the district in which it is located?

Roselli: Yes, we met with the Planning Director to discuss the direction of the project. Brought designs through two rounds of technical review to address all technical comments by Town staff as previously discussed. In many respects, the project exceeds UDO requirements. The plan provides over double the required open space it provides an additional acre and a half of recreational amenity area and additional buffering. The community provides the required sidewalks, ample guest parking and offers conditions for additional architectural standards.

Ms. Terrazas: And you testified last time about the projects sufficient access to utilities and town services, potable water, wastewater management, storm water management, emergency service access, and trash pickup. With respect to finding of fact (B), will the proposed plan be detrimental to the health morals and welfare?

Roselli: No.

Ms. Terrazas: And just to make sure we have all this evidence clear in the record, with respect to finding of fact (C), how would this project provide adequate utilities?

Roselli: We're providing potable water to the development by extending water lines into the community and connecting to all adjacent water lines to provide adequate wastewater service. The developer has provided a condition to provide any sanitary sewer improvements required from a downstream capacity analysis. As a condition for construction drawing approval, these water and



sewer improvements will become public improvements benefiting neighboring developments now and into the future.

Ms. Terrazas: And are there adequate access streets being provided?

Roselli: Yes, the plan has four points of access. Sufficient to provide access for 168 homes and Emergency Services, most projects of this size are served adequately by two points of access.

Ms. Terrazas: And will the plan provide adequate drainage?

Roselli: Yes, storm water will be controlled by on-site storm water control measures. These measures provide an adequate system to attenuate storm water runoff to pre-existing conditions or better for state and local requirements for storm water storage and treatment.

Ms. Terrazas: And will the plan provide adequate sanitation?

Roselli: Yes, residential trash pickup is proposed to be provided by the town similar to other residential developments in Angier. We re-reviewed relevant ordinances and confirmed that UDO section 9.5 does not require dumpsters for town homes and dumpsters are not planned for this project. We also checked the refuse collection and disposal ordinance code of ordinances part two-chapter 15 Article 2 and confirmed it does not require dumpsters from town homes.

Ms. Terrazas: Based on your experience and investigation, is it your expert opinion that the adequate utilities access streets drainage sanitation and all other necessary facilities have been or are being provided?

Roselli: That is my expert opinion.

Ms. Terrazas: Thank you, I'll tender him to the Board for any additional questions.

Mr. Jones: Mr. Roselli the waste water has not been analyzed is that correct?

Roselli: That is correct.

Mr. Jones: Okay, so we do not know that this project can fully serve under current utilities in the town?

Roselli: What we do know is that we're providing a condition saying that construction drawings would not be approved if it cannot be.

Mr. Jones: But you're asking the Board to approve you and you don't know we don't have that analysis.

Ms. Terrazas: Mr. Roselli, is it typical at this stage of the development to have that analysis done, the downstream capacity analysis?

Roselli: No, typically we do that at time of construction drawings.

Ms. Terrazas: Okay, and so with this condition, will that ensure that the project will have adequate access to sanitary sewer?

Roselli: That is my expert opinion.

Mr. Jones: But it is of the town's own, we have to agree to that condition that you do not have that. This Board has to approve you all prior to knowing all the analysis of the utilities. For a use that you're testifying that adequately is being served.

Dan Hartzog, Jr.: You can go ahead and answer. I do want to clarify the way this probably ought to work as the Board ought to be asking the questions if you've got additional testimony you want to provide.

Mr. Jones: We didn't know that these were going to come up and so I want to make sure that the Board is made aware.

Dan Hartzog, Jr.: So, I think procedurally the way this should work, the Board can ask him questions. If you want to get back up and make additional points that gives the Board questions that they might want to ask. But I don't think it would be appropriate for you to be asking the questions just procedurally.

Ms. Terrazas: Does the Board have any questions for this witness?

Mayor Jusnes: At this time, it doesn't look like we do.

Mr. Jones: I just wanted to make sure you all were hearing what the applicant and their expert witness was saying to you all and what reality is being presented to the town. He was testifying that this project can be served by the town's utilities. In his testimony he said there would be a condition of a downstream analysis to figure out pump stations and any kind of gravity lines that may be upsized or what have you. We don't have that analysis and we don't know what the impact of our current system would be for these for these 168 units. That's something you all should know and that's just something that you know you might want to ask more questions of.

Ms. Terrazas: And just to clarify the standard is adequate utilities have been or are being provided. At this time, I'd like to call Nathaniel Bouquin. Mr. Bouquin can you please state your name and address for Board?

Bouquin: Yes, my name is Nathaniel Bouquin and my office address is 621 Hillsborough Street Suite 500, Raleigh NC.

Ms. Terrazas: What is your background and experience?

Bouquin: I'm a Professional Engineer with a specialization in transportation engineering. I'm currently the traffic engineering lead at McAdams. I have a Bachelor's of Science in Civil Engineering from NC State University. I'm currently a professional engineer licensed in North Carolina, South Carolina, and Texas. I'm also certified by the transportation professional certification Board as a professional traffic operation engineer. I've performed hundreds of traffic studies for public and private developments throughout North Carolina.

Ms. Terrazas: At this time, I'd like to tender Nathaniel Bouquin as an expert in the field of transportation engineering and traffic impacts. Nate, what is your role in this project?

Bouquin: I performed a traffic impact analysis for the proposed development in order to testify regarding finding a fact (B) whether the use will be detrimental to the health or welfare from a traffic perspective. With respect to finding of fact (D) I've also taken a look at and prepared to



testify on the adequacy of the measures that have been taken or will be taken to provide ingress and egress into the project.

Ms. Terrazas: You said that you performed a traffic impact analysis for the proposed development that traffic impact analysis was admitted into evidence last time but you understand that the Board had some questions about that analysis, correct?

Bouquin: Yes, I watched the Board of Adjustment meeting back from January 23<sup>rd</sup>.

Ms. Terrazas: Great, and could you please walk the Board through the process for the scoping and then the performing of the TIA?

Bouquin: Yes, so we began the traffic study by scoping our assumptions and the general study procedures with both Town staff and NCDOT representatives. We conducted the scoping meeting on April 17, 2023 with the Town's previous Planning Director, the Town's engineering reviewer and the Town's Public Works Director as well as representatives from the NCDOT district office, the NCDOT Division Traffic office, and the NCDOT Congestion Management Group which if you're not familiar, that group acts as a central reviewer on behalf of NCDOT for some of the more intricacies of a traffic study such as this.

Following that meeting, we distributed a scoping document that was sent around on April 20, 2023 that summarizes all the discussed assumptions and that document was agreed upon by both the NCDOT district office, the town's engineering reviewer Bill Dreitzler, as well as Jimmy Cook, the Town's Public Works Director. The scoping step is a requirement of your UDO section 9.1 to confirm that all parties agree with the general study assumptions prior to the completion of the study. Following that scope approval, we then move forward with the traffic counts, traffic analysis, and finalizing the TI report. I believe there were some questions regarding the trip generation at the last meeting. Our study utilized the Institute of Transportation Engineers you might hear that referred to as their trip generation manual which is required by NCDOT. For these traffic studies, that's a widely accepted manual throughout the United States for site trip generation calculations. This manual uses data collected at similar developments of a wide range of development types in order to allow us to calculate the trips expected by a specific proposed land use. Our study also reviewed the traffic impacts for proposed 200 units making the analysis very conservative as compared to the 168 units that we're now proposing.

In the traffic analysis, we have very specific thresholds that are required by both NCDOT as well as the town UDO that we follow to view where improvements or development mitigation might be needed. This eliminates any sort of subjectiveness in our analysis and defines very specifically what we need to be looking at and mitigating. The town UDO is generally more stringent than NCDOT and what those thresholds are. The focus on that was where we exceed level service "D" or if it is already level service "E" then we do not degrade that to a lower grade. That's again section 9.1 of your UDO. Based on review of those parameters along with those required by NCDOT, we completed our analysis which utilizes calculations and analysis contained in the highway capacity manual, which is again that manual developed by the transportation research Board and again is utilized throughout the United States for traffic studies such as that. Following the completion of the TI report, we submitted that study to the Town and NCDOT staff for their review.



Ms. Terrazas: In your opinion, will the traffic impacts generated by this project endanger the public safety?

Bouquin: It will not because the traffic expected to be generated by the project is relatively small because adequate mitigation measures based on NCDOT and town standards have been included in the plan or already in place. We performed initial traffic counts in late April of 2023 which was conducted on a typical weekday while schools were in session and applied a reasonable growth factor that again was approved prior to our study being conducted. Based on our trip generation calculations for the 200 units that we analyzed, the development is projected to generate 98 AM and 116 PM peak hour trips which again is conservative because we studied the higher density versus what we are now proposing. Additionally, the level service at key intersections is not expected to change at full buildout of the proposed development.

Ms. Terrazas: Will the proposed street configuration allow safe and efficient access for fire, rescue, and law enforcement?

Bouquin: Yes, appropriate access has been made for emergency service vehicles in accordance with applicable standards. Proposed connections will also improve emergency service access for the existing adjacent neighborhoods of the north.

Ms. Terrazas: And has a street network for the proposed development been designed to create a safe environment for vehicles and pedestrians?

Bouquin: Yes, the roadways and sidewalks will be in accordance with the approved right-of-way and pavement width characteristics using the NCDOT complete streets planning manual as a guide for that. The streets in the neighborhood provide sidewalks in order to provide pedestrians safe accommodations. Appropriate site distance is also provided all site driveways.

Ms. Terrazas: And, based on your analysis and experience, in your opinion is the use detrimental to health and welfare?

Bouquin: No.

Ms. Terrazas: Have you reviewed the proposed plan for access ingress and egress to this development?

Bouquin: Yes.

Ms. Terrazas: In your professional opinion, are the access streets adequate for access to this development?

Bouquin: Yes, access streets are adequate and will connect to adjacent streets and stubs increasing connectivity between residential developments in the area. The primary access will be on South Raleigh Street because that provides the most direct route for most drivers. Most drivers take the least circuitous route the data confirms that. We are providing a connection to South Cross Street stub for this development as well and I do expect some drivers to utilize that access point as we have studied in the TI. There will also be more than enough access points for this development and the provided ingress and egress lanes at each access street is sufficient to serve the expected traffic movements.

Ms. Terrazas: In your professional opinion, have adequate measures been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets?

Bouquin: Yes, South Raleigh Street is a major corridor with a center turn lane already existing for the Northbound ingress traffic to utilize. A southbound right turn taper is also being provided for the trips traveling from the north that are entering the site. Furthermore, I recommended just a single ingress lane and a single egress lane to and from the development at the access driveway. Based on our capacity analysis this will be sufficient to handle all trips without causing significant queuing or delay for the residents in the neighborhood and I do not see the need for any additional egress lanes. The project's four points of access provide plenty of access for this development and improves connectivity in the area. Connectivity provides additional routes for drivers and emergency responders to take and reduces congestion. In residential areas in particular, as many street connections as we can provide are advantageous and desired because it shortens the vehicular, pedestrian, and cyclist trips throughout the community. Finally, connectivity as Mr. Jones had mentioned in the last meeting, also improves emergency service response times and helps emergency vehicles navigate residential streets and will improve an existing issue for emergency vehicles with access to Oakwood Drive and Crestview Drive.

Ms. Terrazas: Does the Board have any questions for the witness?

Everett Blake, III: So, when you reference South Cross Street one ingress one egress is that just the road itself you're not making any improvements at that intersection?

Bouquin: The one egress and the one ingress, that was on South Raleigh at our driveway there.

Blake: No, you all have recommended by developer South Cross Street is what it says. Construction and extension to South Cross Street. So, you have one ingress and egress and South Cross Street is leading into Church Street, which is unless you're going to pave that road for us, it's pretty horrible. So, where are you going to have additional turn lanes coming in and out of that neighborhood from that area? If you say you have one ingress and egress, what is it, just a standard road is that all it is.

Bouquin: So, when we say one ingress one egress we're saying, and I believe the reference was more specific to the driveway on South Raleigh Street, it's saying that there's one lane inbound one lane outbound and then we will provide a stub to the existing South Cross Street as well.

Blake: Okay. The taper, it's an interesting term, normally we talk about a turn lane or a decell lane. Why is, why are you calling this a taper? Is it not long, do you not have enough property to formally put in a proper decell lane?

Bouquin: We don't have a sufficient enough volume to warrant the need for a full right turn.

Blake: Warrant is one thing. I thought our UDO stated any development over 100 some odd houses had additional turn lanes on the way into the property. So, depends on what you want to call your entrance into your property, but Highway 55 should be your main entrance into the property. It looks like you'll have once again the same access as Cross Street as your access onto Highway 55. There will be nowhere near the same amount of traffic going on those two streets. I hear the terms, I don't believe the outcome, and I don't believe the outcome quite clearly because when NCDOT approved the two subdivisions around Carolina Charter School NCDOT said there's no problem at all on Highway 55 building that Charter School. You will not have any worry; you



do not have to build any additional lanes. It's safe and yet we have police officers there every morning and every night for the Charter School conducting traffic where NCDOT said this would be no issue whatsoever. You're talking about putting almost the same amount of traffic out of which will now be James Street onto Highway 55 and telling me it's not going to have any difference. I mean, I wonder how many police officers we're going to have to have there. You also talk about traffic inside that neighborhood because y'all refuse to put dumpsters, you're going to have trash trucks driving around that neighborhood picking up possibly two trash cans per unit, 350 whatever trash cans taking multiple hours driving through there along with school buses coming in and out of that area plus the rest of your traffic. There's no way getting in and out doesn't do anything but divert. You said it yourself about people doing the whatever's the least way to get out. What you're going to have instead of heading out James Street, you're going to have people jumping through two small residential neighborhoods to try to get 20 ft down, 50 ft farther down the road because you didn't build the proper access on the Highway 55, which also is dead across from McIver Street, which happens to be our elementary school. What we're doing is we're creating multiple bottlenecks at the edge of an elementary school which already has tons of school buses, tons of trash trucks coming up and down on the weekend, construction trucks coming around the corner. And now we can only get a taper.

Bouquin: If I could clarify a little bit. I can't speak to the adequacy of traffic study for another development but for this specific development. When we looked at the traffic at the specific driveways in particular, the right turn taper that's entering the site, so that's traveling southbound on Raleigh Street turning right into the project, and so that's more or less for safety precautions to allow folks that are slowing down to get off of the main travel lane. Exiting the site, which it sounds like might be your bigger concern, that was a big part of the actual traffic study itself in looking at the capacity looking at the delay and looking at the cues for that approach. I can reference as well for you, if that would be helpful, the delay that we were looking at. On the eastbound approach, which is exiting that development onto Raleigh Street or at site driveway exiting on to Raleigh Street, we're looking at 16 seconds of delay which is level service "C" in the AM peak hour and 18 seconds in the PM peak hour which also is level service "C". Based on your UDO, that is adequate and appropriate for a development such as this.

Jim Kazakavage: How did you come up with the 16-second delay?

Bouquin: That's utilizing the highway capacity manual the calculations contained within that and our analysis model.

Kazakavage: The way the traffic is there now. I know for a fact because I come through that way every morning and I'm backed up there for at least 15 to 20 minutes before I can get through the intersection down here and that's all the way past Tippet Road which is just down the street from there. That's how bad the traffic is coming through there in the morning around 7-7:30.

Ms. Terrazas: Just to clarify, you did traffic counts?

Bouquin: We did traffic counts; I believe it was April 19th of 2023,

Ms. Terrazas: And the methodology that you're imposing is the industry standard to study?

Bouquin: That's correct.

Eric Julien: Was there any analysis done on turning from James to Raleigh Street going north since it would be a left turn when there wouldn't be a traffic light or anything? Is there any kind



of analysis about I don't know traffic getting out of there, the ease or difficulty of it or the time it would take or whatnot?

Bouquin: So, when we originally skipped the study with staff and NCDOT that was not an intersection that was discussed to include in the study.

Eric Julien: Okay. I'm just thinking that I would think that most of the people that would be turning out of there would be turning left heading towards Fuquay and just I know just like you're talking about it can get backed up and so I'm just thinking of the difficulty of turning left from there.

Bouquin: And, like we talked about just a moment ago, the traffic tends to find the areas that have the most kind of direct route and so a direct access onto Raleigh Street versus traveling up to James would be their more direct route which is what we included in the study

Blake: Another thing when I look at this as the entrance from James onto Highway 55. There is two pieces of property there, based on your design, you have now cut off access onto James so there's no connectivity there. That means he would have to have a driveway onto 55 right at yours and then there's another piece of property which once again your sidewalk which is should be your proposed sidewalk only limits him on to Highway 55 as well. So, what we've done is we've created three driveways right in a row, not to mention the Corner Grill which once again this was the side I wish you would have cut off the access to because by opening an access through the side of the back of the property of Corner Grill you're going to incentivize somebody to cut through the parking lot because the five cars in front of him are all trying to turn right to go north and he wants go left to go north and you know so somebody's going to begin using that. Now, granted is that your problem? Probably not, but does it hurt the welfare of the citizens? Yeah, that definitely opens up an area in there for somebody to who decided guess what we've cut through Crestview enough it doesn't get me anywhere I'm going to go the other way. I just think the entrance into Highway 55 from James Street based on local knowledge, you don't have a ton of people who are going to want to go Cross Street to Church Street to get out of there. You're not going to have a bunch of people who want to go through Crestview or through any other roads. They're going to go to Highway 55 and you're going to have probably 2/3 to 3/4 of these residents all piling out in one section. I don't think you'll have a good design. I think you could make a better design but I think this one, based on the things we've done with the town, what we've tried to instill with larger developments how we have changed our UDO to help try to stop developing developments from doing stage deployments so they don't have to build all the infrastructure yet. I just don't think your land use the way this is designed meets what we have been intending to do.

Ms. Terrazas: Just to be clear, is that your question whether people will cut through? I'm just trying to figure out what the question is.

Blake: This part of a statement mostly some of it saying that you know I see on one side you've limited the access onto James from two properties and on the other side you've created the one access where the Corner Grill is which is probably the worst thing to have done is now you're going to give people an access to cut through a parking lot.

Ms. Terrazas: Does the UDO require access to property?

Jones: It encourages it.

Bouquin: Just to clarify your question, earlier I misspoke when I said James was not included in the study. I was thinking Church Street. James Street was, that was what we were referencing as the site driveway on to Raleigh Street



Ms. Terrazas: Last witness I would like to call is George Young. Mr. Young please state your name and address for the Board.

George Young: My name is George Young, located at 11000 Regency Parkway, Suite 110 Cary, North Carolina 27518.

Ms. Terrazas: Can you explain your background and experience for the Board?

Young: Certainly. I am a North Carolina real estate broker and have been in the business for approximately 25 years working in Wake, Chatham, Harnett, Johnston Counties and surrounding areas.

Ms. Terrazas: At this time I'd like to tender Mr. Young as an expert in the field of impacts real property and compatibility with surrounding properties. Can you explain your role in this project?

Young: Certainly. I am the Vice President of land acquisition for Mattamy Homes. My role in this project is I've been part of the team that has been working with land owners and your staff on the acquisition and planning for this community. We've spent approximately 16 months going through that and we've spent a lot of time in here analyzing the market to make sure that we're planning a community that is within keeping of the surrounding areas of Angier. We know that this is a rapidly growing area that needs good quality homes and communities and we're excited to bring a quality development to your town.

Ms. Terrazas: And, you discussed some of this last time, but when you were planning the community did you evaluate whether it would impair the integrity or character of the surrounding or adjoining districts?

Young: We did. We spent a lot of time researching that and analyzing adjacent properties both from a density perspective a value perspective and an impact to make sure that all of the elements that we were submitting to you really were going to be well received by the town. Part of our application was really to enhance the value of the surrounding area. We have plenty of guest parking, large amenity areas, and our town homes, as I mentioned last time, will be sold as fee simple individual ownership. Similar to other properties in the area, making sure that it's something that would be well received here in the market so characteristics of density and value as well as previously mentioned, in studying the surrounding areas, we really looked at density to make sure that we were falling within what is adjacent to us North and South. Our property is zoned R-15 which calls for medium density residential as townhomes are an allowable use on your future land use map. The area just to the north of us is classified as high density residential. In analyzing the communities that are nearby, one of the communities that's just to the South, Cotswold Community across Tippet Road, our density of 5.36 units to the acre is less than what is approved over there under the same R-15 zoning. That community is 5.65 units to the acre. Further down Raleigh Street, if you go down you find Vaughn Farms which is under an R-30 zoning classification and they are 4.9 units to the acre. So, we felt that what we were submitting to you was a good plan from a density perspective. It fits very well within the surrounding characteristics, and as Mike had mentioned, the project provides additional buffering which is typical between residential uses, will control all the storm water and we will bring public utility to the area. Nate mentioned that we'll have sufficient access basically mitigating the surrounding access and transportation issues and really all this leads me to the conclusion that our project would not impair the integrity of the surrounding area or joining districts.

Ms. Terrazas: Are there any additional questions for this witness?

Blake: If I'm not mistaken, Cotswold and Vaughn Farms were both PUD's, right? They were not granted by permit they were actually planned unit developments which carried far different criteria.

Young: Cotswold was a special use permit, same as ours.

Blake: The special use permit is for the town homes, but the design I thought overall was a PUD, same as Myrtle Manor. Myrtle Manor is in my front yard. I get to see it every day and I think they're doing a great job over there. When that was approved, the town homes were approved in that case because when they started the density of that product of that land use, the builder brought us a design at optimal usage of the property. He found out later on how mistaken they were with the groundwater and with other water runoff. They asked for those additional town homes to be permitted so we can maintain the standard density he would have been allowed as an R-15, which is quite different than this. If you're looking at an R-15, the density on this is dramatically different. But, I do see there's a big difference in the concept and when you say yes town homes permitted over 20 is a special use it doesn't, in my opinion, necessarily give you a density change; that's a zoning change. I think you're using a special use permit to change zoning regulations. You could have done a PUD, you could have done other things, but building the special use in this case is allowing 20 or more town homes on a piece of property.

Ms. Terrazas: George, do you know the maximum allowed density in the UDO and R-15?

Young: It's 12 units to the acre.

Ms. Terrazas: Okay, and you're proposing 5.36?

Young: Yes.

Ms. Terrazas: One quick follow-up question for you. So, we're offering and it should in the Board's packet, some architectural conditions. Can you talk a little bit about how you came to those and why you're offering them?

Young: Certainly. Part of it was, you know, making sure we provide a quality product for the community. Architectural elements anti-monotony; making sure you don't have the same unit all the way down the street changes of color pallets, changes of material, you know some stone some brick accents, those types of things, grids in the windows and those are all submitted as part of your package.

Ms. Terrazas: At this time, I'll ask that the staff report, the agenda, all attachments including the TIA and the video and audio recordings of this meeting and the meeting on January 23<sup>rd</sup>, 2024 be admitted into the record. I'd like to reserve my right to cross-examine any contrary witnesses and to summarize our evidence after the close of any additional opposing evidence before the close of the hearing.

Mayor Jusnes: I have a question for Jeff. During those testimonies, did any information occur to you that you thought might be relevant to us?



Jones: We'll circle back to the utility one. (C) Adequate utilities, access drainage, sanitation and/or other necessary facilities have been or are being provided. I think there's a little distinction there and I would ask you all to look at the traffic impact analysis and ask questions regarding table six - the Capacity Analysis of West Church Street and West Depot Street and how the level of service is currently existing at a "d" and "e" and how those will go to an "f."

Mayor Pro-tem Harmon: In almost every incidence, except for minor side streets, it went down.

Jones: I would ask you all to ask the traffic impact analysis engineer about that.

Harmon: It wasn't a small change that seemingly this was proposed as a not very impactful development and that's impactful to me to see those numbers.

Jones: Ask the engineer how that meets the UDO.

Bouquin: So, just to be clear, I didn't say that we would not be having any impacts. We were looking strictly at what the UDO as well as NCDOT requires to be mitigated. Another distinction when you're looking at the level service tables existing is more so there for informational purposes. When we're looking at what our impacts are, we're comparing "no build" to "build." That includes the growth rate and all of the future projections under the "no build" and then the only difference between "no build" and "build" is we add our site traffic onto that as well.

Harmon: So, why include existing? If you don't I mean, what's the purpose of us even knowing it?

Bouquin: It's a requirement of your UDO as well as a requirement for NCDOT.

Harmon: And the UDO made mention of not diminishing that significantly? Is that the verbiage; can you refresh me? You guys are very prepared with your scripts and your speeches and while you all have had a time to collaborate, we have not. So, while we're kind of deer in headlights with this, you know there's no collaboration that goes on amongst us because that's not allowed. So, please expand on the diminishment of grade level.

Bouquin: When we're looking at overall intersection delay we're looking at if it is level service "d" or better; we cannot degrade that to a worse level of service. So, for instance if it was total overall level service "c," we couldn't send it to a "d" without any sort of mitigation. If it is level service "e" under no build, we cannot again degrade that worse without mitigation. If it is level service "f," there's a couple different scenarios there where we need to look at the mitigation and provide mitigation to offset the additional delay.

Harmon: You're telling me to exclude information you've given me, so at this point I'm having to understand that you've given me existing information and telling me not to use it in the decision, so I'm trying to understand what we need to apply.

Bouquin: I'm just saying what our impacts are, which is what the UDO requires to be mitigated, is the difference between "no build" and "build" question.

Town Manager Elizabeth Krige: If the Board would like to reference the ordinances, it's under Chapter 9: Infrastructure 9.1.2.

Jones: Under 9.12 traffic impact analysis required.

*"A. Level of service standards.*

- 1. The traffic impact analysis must demonstrate that the proposed development will not cause peak-hour level of service on any adjacent roadway or at any intersection within the study area to fall below Level of Service (LOS) "D" as defined by the latest edition of the Transportation Research Board's Highway Capacity Manual, or where the level of service is LOS "E," that the proposed development would not cause the LOS to fall to a lower grade.*
- 2. If a road segment or intersection within the study area is LOS "F," the analysis must demonstrate that the proposed development, with any proposed improvements, would not cause build-out year peak-hour operation to decrease more than five percent of the total delay on any intersection approach.*
- 3. Proposed roadway access points within a development must be shown within the analysis to avoid unsafe conditions on adjacent roads and intersections.*
- 4. Failure to meet the standards of this section will require the developer to install any roadway or intersection improvements needed to correct the deficiencies identified in the analysis."*

Harmon: So, it specifically says that buildout year is applied for the impact. That's the number that we are referencing.

Jones: I'm reading the ordinance here and I'm not sure that the ordinance as read says that you are not to consider current standards. It talks about the impact of the development at buildout. So, you can ask the applicant more questions.

Mayor Jusnes: So, there is a reduction between "no build" and "build" on westbound approach from a "d" to an "e." The only intersection that I see on your tables that have any analysis South Raleigh and West Depot. I'm just making sure that I'm analyzing this properly myself for "no build" Westbound at the PM peak hour. It's at a "d" with "no build" and it's at an "e" with "build." I might be understanding it wrong, but I thought we were not allowed to drop down without mitigation. Are there mitigations being done or would they be required?

Bouquin: When we're looking at a signalized intersection we're looking at the overall; that's what the next column over is showing. The "e" was 61 seconds to an "d" with 70 seconds.

Mayor Jusnes: Does the drop from "d" to "e" only apply to overall delay?

Bouquin: At a signalized intersection, that's typically what happens.

Mayor Jusnes: If we're looking at overall delay; it's N/A for all other intersections.

Bouquin: That's just a signalized intersection that has the overall. The reason for that is when you have a signal controlling the intersection that provides a little bit more uniform total intersection look at it.

Mayor Jusnes: When you were describing when it is an "f," you mentioned that other things had to be considered. At West Church and West Depot it starts as an "f" in "no build" and it you know worsens obviously, but stays an "f". I don't know if it gets any worse than an "f." I would imagine probably does not, but can you explain to me how when you said when we start with an "f" there's



certain things we consider? Can you just expand that a little bit for me when I'm looking at this intersection at least West Church and West Depot?

Bouquin: In that situation we do look at the individual approaches. For those individual approaches for the minor streets, so the stop control approaches, it's truly the delay for that overall approach. For the main line, that's the delay for the left turn volume, just because you're looking at where delay could occur. The throughs and the rights on the main line are going to operate as free flow; when you approach the intersection, you can just turn. So, in that situation we do look at what the impacts are to those specific approaches and movements. In that specific situation we did look at the need for the potential need for a traffic signal; that was what would be able to provide an improved level of service there. When you're looking at the need for a traffic signal there's very strict requirements from the state and its actually Federal requirements for the need for those traffic signals. It follows what's called manual on uniform traffic control devices. Essentially, you want to make sure that before you put in a traffic signal there's sufficient volumes at that intersection for the need for the signal. You don't want to provide a signal there to stop people on the mainline that currently are able to travel through when there's maybe just one car sitting there. That looks at the main requirement typically is having sufficient volumes on the side streets. Generally speaking, it's around 100 peak hour trips on those side streets and then that has to be sustained for a fairly long period throughout the day. For this situation, that approach I believe was a volume of 34 peak hour trips on the side street. We were well below the threshold for a traffic signal to be warranted and so that was not a possible improvement there.

Mayor Jusnes: West Church Street and West Depot Street, that intersection would be the proposed route that someone in this neighborhood would use to get to Lillington most likely. I don't know that they would take cross all the way to West Depot. Seems most practical that they would take Cross north, Church west, and then West Depot out towards Lillington. That's not a question but just an observation.

Blake: Looking at table five for one, this is one of your primary points of entrance; one of your four. You're saying that this has such little traffic there's no impact but guess what, this is one of your primary points of entrance. This will be one of your major pieces and you're basically, instead of going into a highway, you're putting one of your primary points into an incredibly active neighborhood. Have you been down that street?

Bouquin: Yes sir.

Blake: If I look at 10% of your traffic going out that entrance that'll be only tripling - quadrupling - the amount of traffic up and down Church and Cross. It's a little hard because it is a very residential and yes there's not a whole lot of delay at this current time. There's no impact analysis on the other two small streets that you're going to sub to because there's no traffic there right now. There's no access to them but there's no study talking about how it will affect them based on traffic leaving this area.

Harmon: Delay is not going to be their concern. It's going to be safety.

Mayor Jusnes: Delays are a matter of risk.

Blake: The impact to those residents is sufficient, it'd be pretty sufficient, based on the number of the additional cars going through there, but it's hard to quantify if that's what you want to do by a straight number because there's not enough traffic to warrant that study today.

Bouquin: Just to add on to that, the intersection that you're referencing where it's level service "a" on the northbound approach, we were looking at 13 cars in the AM peak hour, so 13 cars leaving the site traveling northbound and that's spread across a full hour. And as I mentioned earlier, the benefits of connectivity, that's where this is beneficial is we have multiple access points multiple routes that we're providing for the folks in the community.

Blake: 13 car trips out of a projected 1300-1400 is what your numbers show.

Bouquin: We're looking at the AM peak hour so that is a one-hour period. We look at with our traffic counts between 7 AM and 9 AM and then we find what the busiest hour is within that time period.

Mayor Jusnes: The busiest hour on the whole hour or is it sliding?

Bouquin: Yes, it slides.

Julien: Looking at James and Raleigh Street does it consider, based off the number of cars the delay any type of standard table, is there any projection for the possibility of car accidents? It's 35 mph through there but if you're waiting 60 seconds or more to turn left, that might get people eager to turn when they take more of a risk. I was wondering if there in your analysis, is there anything that says there is the potential amount of accidents per year or anything?

Bouquin: No, when it comes to crashes if folks follow the laws of the road then that's not a concern. It's where folks deviate from traffic laws that those crashes occur, so we don't have a way to project those out.

Julien: So, there's nothing in any kind of traffic engineering that says here's a table. It's human nature so that if you're sitting there, you're sitting there, you're sitting there to want to eventually get out and so we take risks based off how fast traffic is moving how you know the distance between cars. So, you're saying there's no table or anything that you could reference?

Bouquin: Not to my knowledge,

Kazakavage: Your study doesn't also include the new developments that are going in down the street, does it?

Bouquin: That was something that we talked through during scoping. I believe Town staff and NCDOT had some limitations with tracking down any sort of other TI's that were done in the area so, in place of that, we increased our growth rate and that was something that was agreed upon by all parties during that scoping process. I can explain the background growth, what I mean by that, a little bit more when we conduct our study to your question earlier about the difference in existing and "no build," that's where we consider any sort of growth in the community. For this project, we take a compounded growth rate and apply that to all volumes across the Board at all intersections. This study, I believe, initially during scoping we were looking at a 2% growth rate but we increased that to 4%. So, that's 4% compounded every year from existing, so 2023 all the way up to 2028 just to account for all that additional growth in the community.



Harmon: That explains the very minimal difference between "build" and "no build." So we are going to experience an influx of traffic regardless of if this is build or not.

Bouquin: It's the difference between existing and no build.

Harmon: Right, because it's seconds difference, and so that was the question I had.

Bouquin: Yes, that's the difference.

Harmon: So, we're likely going to be experiencing those "f's" regardless of this build or not.

Bouquin: Yes, that's why we look at what our impacts are, which is "no build" to "build." Sorry, I didn't explain that well earlier.

Julien: This might be a question for Dan. What's the process, so I know this is quasi-judicial, what's the next step?

Harmon: Before we vote, I'd like to pivot back to utilities so when we go through that line up of questions on when we choose to vote.

Dan Hartzog, Jr.: Once you've concluded the public hearing and asked all the questions of the witnesses, the attorney has the opportunity to ask whatever additional questions she would like to ask. Then, you close the public hearing and then you'll discuss and vote.

Julien: Is there other approvals that need to be met before the Commissioners?

Jones: You're approving the use, which is 168 town homes, it still has to go through all the ordinances of the Town whether it's zoning or utility ordinances or things like that. Staff would review that.

Mayor Jusnes: It's clear to note that this site plan could change even after we approve this.

Jones: There could be modifications to the site plan, yes.

Harmon: I want to go back to the discussion that was had about the potential conditions that would exist and what we would be approving without having any of them. For the wastewater management.

Dan Hartzog, Jr.: They've offered certain conditions to go with a special use permit. You're entitled to impose conditions to the extent they're necessary to meet the criteria and they've offered several of those, I believe, to assist in meeting the criteria. If you choose to approve the special use permit with those conditions, what that means is those conditions, as their attorney said, run with the land, meaning that, you know, you're approving the special use permit conditionally on those things being done that they say they're going to do. Those conditions that you would put on it tonight would be a requirement that goes forward throughout the process.

Mayor Jusnes: For (C) of the Findings of Fact; when we're talking about the sanitation part of this, the attorney pointed out herself that the wording for (C), I'll paraphrase for sanitation, "have been" or "are being" provided and the question that occurs to me is, it does not say have been are being

or will be provided and so it sounds like what we're being presented is a "will be" provided and not necessarily a "have been" or "are being" provided.

Dan Hartzog, Jr.: I think if the idea is it would be included in the plan that is to be provided by virtue of what they say they're going to do in the planning.

Ms. Terrazas: Just to clarify, that "are being provided" the adequate utilities are being provided through this condition that we have here that we have voluntarily offered. We are 100% fine with the Board imposing on this project any sanitary sewer improvements required for adequate downstream capacity as part of a Town of Angier wastewater collection system analysis review shall be a condition of construction drawing approval. Mr. Roselli's point earlier was we've got to do this additional analysis. We have an idea now, at this stage in the development process, that we're going to get it but we're still going to do this additional analysis as recommended. This was something we worked on with planning staff and, before the construction drawing could be approved, we would have to show that we have the downstream capacity. Mr. Roselli can speak a little bit more about what that entails. But, again, like Mr. Roselli stated, industry standard traditionally at this stage of the development that would not be part of it typically comes later.

Roselli: A Downstream Capacity Analysis will look at every sanitary sewer, manhole, and pipe between this development and the receiving facility, whether that's a pump station or a sanitary sewer treatment plant. At the time of construction drawings that will be performed and any pipe or structure that is deficient and is shown cannot serve the development will have to be upgraded.

Mayor Jusnes: I'm in construction myself so I totally understand the concept of industry standard. What I'm wondering in a strict legal proceeding such as we're being faced with right now, if industry standard meets a legal requirement to support Finding of Fact (C).

Dan Hartzog, Jr.: The legal requirement is that you find that they have provided adequate utilities. It's somewhat in the eye of the beholder being the Board, do you believe that that they are providing adequate utilities and access streets? Industry standard is one way in which you might determine that they are, but industry standard depends on which industry you're talking about and how big a net you cast. There might be specifics to Angier that you consider that are beyond what an industry standard might be across the state.

Ms. Terrazas: The Downstream Capacity Analysis isn't required in the UDO, so this is something that we're saying we're voluntarily checking on the system.

Jones: That has been a comment from day one from our public works department, so that is not correct. It's not a condition that they're offering, that's a requirement of the town.

Dan Hartzog, Jr.: This would be required and its part of what you're offering to do anyway. Absent this special use process, it would be required.

Mayor Jusnes: I'm going to give the Board a couple of moments to steep some of this and see if we have any other questions or comments before we move on. Like Ms. Harmon said, we have not been able to discuss any of this since the last meeting, so we're all just soaking it all in.

Dan Hartzog, Jr.: If there's not any additional questions I believe they'd like to make a closing statement.



Blake: Dan, just looking at this as a special use, our special use is solely granting 20 or more town homes on this piece of property, nothing else?

Dan Hartzog, Jr.: I'll let Jeff weigh in on that in particular but it's whatever is on the application that they're seeking.

Blake: If I'm saying this correctly, everything else has to meet exact standard; no variance, nothing at this point going forward. All we're really saying is, and my question being is, spending enough time in planning is, I have gotten Plan A more than once that fit a zoning and then got Plan B when they came to do the design. I just want to make sure that this special use to understand the exact definition of what we are approving completely.

Jones: Part of a special use permit you're getting a site plan that shows the layout, the number of units, the number of units that kick you into a special use permit, and as an ordinance requirement TRC which comprises of Planning, Public Works, and Engineering. We review based off of our ordinances, we provide comments, doesn't necessarily say that the TRC has to approve the project prior to coming to you all for the permit but it does sort of indicate that TRC will give feedback on the project. This special use kicks in at the number of units and everything else is still a requirement of the project, just may not be something that you all are considering for the most part. However, if there are standards that you have to wrestle with.

Blake: We have these standards that we have to focus on. The special use will allow 20 or more and then the TRC will control the rest.

Jones: Correct. If there would need to be a future variance or some waiver or some mechanism that the TRC or can't be handled administratively, then it would go to the appropriate Board at that time.

Dan Hartzog, Jr.: I believe Ms. Terrazas would like to make a closing statement.

Ms. Terrazas: Thank you so much for allowing me to address you tonight. I would like to kind of briefly summarize the evidence that's in the record, competent material and substantial evidence that we have provided tonight, and also back in January during this quasi-judicial hearing on each of the five required findings found in your ordinance. Finding (A) use will not impair the integrity or character of the surrounding or adjoining districts; Mr. Young offered his expert testimony about the proposed neighborhood will not impair the integrity or character of the surrounding area providing quality homes. He talked about his architectural conditions, the amenity areas, and additional open space that this plan is providing. It will enhance the values of adjacent properties. Finding (B) use will not be detrimental to the health morals or welfare. Mr. Roselli testified the project has been designed to protect the health and welfare of the residents and neighbors, controlling storm water and bringing public utilities. I know we had some discussion about that; the public utilities are going to be provided as required by the ordinance. We're going to be doing that Downstream Capacity Analysis and upgrading anything we find there that needs to be upgraded. That's done at the time of construction drawings. Additional permits such as driveway permits also happen after this process. Finding (C) use will have adequate access, drainage, sanitation, and all other necessary facilities to serve the project including private recreational facilities. Mr. Bouquin also testified that the access streets were adequate and increase in traffic would not endanger the public health or safety. Adequate utilities, access street drainage,

sanitation and other necessary facilities are being provided. Mr. Roselli, an expert in civil engineering site design, testified that the project will have adequate utilities and will provide updates to the public infrastructure in the area, adequate access drainage, sanitation and all the necessary facilities. Mr. Bouquin testified that the access streets were adequate to serve the development. Finding (D) adequate measures have been and will be taken for ingress and egress designed to minimize traffic congestion in the public streets. Mr. Roselli testified that the plan will have sufficient access points and circulation. Mr. Bouquin presented his traffic impact analysis and methodology which show that ingress and egress access points minimize additional traffic congestion in the public streets and the additional connectivity will provide benefits to existing and new residents. Finding (E) use conforms to the applicable regulations of the district in which it's located. Mr. Roselli presented a plan and testified that it's been through staff technical review, has no outstanding technical comments, and that it meets all applicable standards of the UDO. These three witnesses have offered expert testimony on each of the five factors required in UDO Section 15.3.2.3. North Carolina law states that if each is proven with competent material and substantial evidence the applicant has made its Prima Facie case. Absent contradicting evidence that rises to the same level of expert qualifications, the Board must grant the special use permit. North Carolina Court of Appeals explained this in *PHG Asheville v. City of Asheville* in 2018, confirmed by the North Carolina Supreme Court in 2020 where it overturned the denial of a conditional use permit based on the Board's lay opinion and methods offered by witnesses were deficient, requiring the city to issue the permit. Because we've met our burden here the special use permit should be granted. We've met each of the five findings with required evidence, competent material, and substantial evidence by expert witnesses. North Carolina requires that the special use permit should be issued and we respectfully request that the Board grant the special use permit tonight. Thank you.

Mayor Jusnes: Thank you. Is there anyone else here from the public who's been sworn in that would like to address us?

Seeing no one, Mayor Jusnes closed the Public Hearing and called for a recess.

Mayor Jusnes reconvened the meeting.

Mayor Jusnes: Jeff, if you don't mind to join us up here and help walk us through these criteria.

Jones: The findings that you need to go through are on the screen and in your agenda packet as well. I think the applicant and their representation has covered their point of view of each of the findings. It's for you all to sort of go through them as a Board and determine amongst yourself if the applicant has met that Finding of Fact.

Mayor Jusnes: Dan, can you remind me what our threshold on the vote is for this case?

Dan Hartzog, Jr.: Just to clarify one other point, the Board can decide these criteria are met with a condition in place. The conditions that they suggested need to be pointed out while going through the criteria.

Blake: Just to make sure because we talked about conditions but we really didn't point them out in the packet. It's actually slide 31 if you're going through the overall piece, 31 and 32, it has a point that says conditions 1 through 9 Section 12, those are the conditions where, and I got to admit you know I love a builder who does change it up. I love the fact that you talk about the different



things; that's always a great point when for years we couldn't get anybody to put brick on the front of a building. But, that talks about the buffering type, where they changed it, what they did, and the conditions that are agreed for upon at this time.

Mayor Jusnes: With the proposed conditions, raise your hand if you agree that criteria (A) is met. (A) The requested use will not impair the integrity or character of the surrounding or adjoining districts; ***The following members agreed this does apply: Eric Julien; Everett Blake, III, Bob Jusnes, Lee Marshall, Jim Kazakavage. The following members agreed this does not apply: Ashley Strickland; Sheveil Harmon.***

(B) With the proposed conditions, the requested use will not be detrimental to the health, morals, or welfare; ***The following members agreed this does apply: Ashley Strickland; Eric Julien, Lee Marshall. The following members agreed this does not apply: Everett Blake, III; Bob Jusnes; Sheveil Harmon; Jim Kazakavage.***

Blake: When I look at the public health and welfare I just do not feel that this development is anything but detrimental to the people on Church Street that area with the amount of additional traffic it will bring. The way that community is and their history of how they have been entertaining and how they hang out the additional traffic would be a detriment to their health.

Kazakavage: I have to agree with you on that.

Harmon: I do as well.

Kazakavage: There is no proper ingress or egress and is a public safety issue.

Ms. Terrazas: Only expert opinion on whether additional traffic will cause a public safety issue can be considered.

Dan Hartzog, Jr.: The Board can consider the expert testimony and decide if the criteria are met.

Mayor Jusnes went on to review the remaining criteria.

(C) With the proposed conditions, adequate utilities, access streets, drainage, sanitation and/or other necessary facilities have been or are being provided; ***the following members agreed this does apply: Eric Julien; Bob Jusnes; Lee Marshall. The following members agreed this does not apply: Ashley Strickland; Everette Blake, III; Sheveil Harmon; Jim Kazakavage.***

(D) With the proposed conditions, that adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; ***the following members agrees this does apply: Lee Marshall. The following members agreed this does not apply: Ashley Strickland; Eric Julien; Everett Blake, III; Bob Jusnes; Sheveil Harmon; Jim Kazakavage.***


(E) With the proposed conditions, that the Special Use shall, in all other aspects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment. ***The following members agreed this does apply: unanimous.***

Blake: I'd like to discuss that one really quick. We're saying the special use of having multiple town homes is okay we're just saying that how we get to it and how we did it doesn't apply. It's not an anti- town home. It's that we didn't feel like the other pieces met the criteria enough around public health, utilities, and transportation to warrant granting a special use in this case.

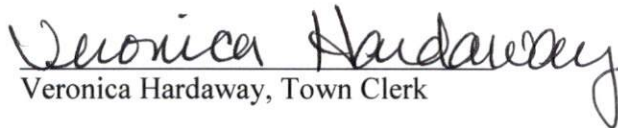
**8. Adjournment:** Mayor Jusnes entertained a motion to adjourn the meeting. Motion to adjourn was unanimous at approximately 8:36pm.

**Motion:** Mayor Pro-tem Harmon

**Vote:** 7-0; unanimous

  
\_\_\_\_\_  
Robert M. Jusnes, Sr.  
Chairman / Board of Adjustment

Attest:

  
Veronica Hardaway, Town Clerk

