Minutes
Regular Board Meeting
Aberdeen Town Board

September 26, 2016 Robert N. Page Municipal Building
Monday, 6:00 p.m. Aberdeen, North Carolina

The Aberdeen Town Board met Monday, September 26, 2016 at 6:00 p.m. for the Regular Board Meeting. Members present were Mayor Robert A. Farrell, Mayor Pro-tem Jim Thomas, and Commissioners Ken Byrd, Buck Mims, Joe Dannelley, and Elease Goodwin. Staff members in attendance were Planning Director Pam Graham, Planner Daniel Martin, Planner Kathy Blake, Town Manager Bill Zell, Fire Chief Phillip Richardson, and Town Clerk Regina Rosy. Attorney T.C. Morphis and approximately 25 other citizens were also in attendance for the meeting.

1. Call to Order

Mayor Farrell called the meeting to order at 6:02 p.m.

a. Pledge of Allegiance.

Mayor Farrell asked everyone to please stand for the Pledge of Allegiance.

2. Setting of the Agenda

Manager Zell stated an additional Closed Session needs to be scheduled for discussion of personnel. Manager Zell stated Item 5f needs to be removed from the agenda. A motion was made by Commissioner Byrd, seconded by Commissioner Mims, to approve the setting of the agenda as amended. Motion unanimously carried 5-0.

3. Consent Agenda

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held except on request by a member of the Board of Commissioners.

a. Minutes of Board of Adjustment Meeting on August 22, 2016, Board Meeting on August 22, 2016, and Work Session on September 12, 2016.

Commissioner Byrd stated he provided some corrections to be made to Town Clerk Regina Rosy. A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, to approve the minutes as amended. Motion unanimously carried 5-0.

b. Approve Revisions to Local Agreement with Reliance Packaging, LLC.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, to approve 3b as amended at the previous meeting. Motion unanimously carried 5-0.

4. Informal Discussion and Public Comment

Manager Zell reminded citizens that beginning on October 11th, the 11th year of the Citizen's Academy Program will begin and we are looking for applicants. Manager Zell stated the program runs for seven (7) Tuesdays from 5:30 – 7:30 p.m.

Mayor Farrell stated the Moore Philharmonic Orchestra has a program coming up on October 8th at 7:00 p.m. at the Owens Auditorium at SCC.

Mayor Farrell stated the Malcolm Blue Farmskills Festival was held this past Saturday and it was wonderful. Mayor Farrell stated the Parks & Recreation staff did a wonderful job with the event. Commissioner Byrd stated between the Public Works staff and Parks & Recreation staff, the property was pristine and the event was very nicely done.

Another citizen stated how much he enjoyed the movies by the lake.

5. Public Hearings and New Business

a. Conditional Use Permit CU #16-05 for The Academy Of Moore.

Mayor Farrell opened the public hearing for Conditional Use Permit CU #16-05 for The Academy Of Moore.

Commissioner Byrd stated he would like to recuse himself due to the conflict of interest with The Academy of Moore. A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to recuse Commissioner Byrd from this item. Motion unanimously carried 4-0.

Director Graham stated the Academy of Moore County requests a Conditional Use Permit to allow a school use at 12588 US Highway 15-501, Aberdeen. The property is located in the O-I (Office/Institutional) Zoning District. Director Graham displayed a map of the location of the property.

Director Graham stated the school is existing and was constructed in 2008 while the property was within the county's jurisdiction. Moore County issued a conditional use permit in 2007. The property was annexed into Aberdeen in 2010 and zoned O-I at that time. No measures were taken to transfer the CUP or issue a new one. As a CUP is required for school uses in the O-I District, the use is considered legal nonconforming. A CUP issued by Aberdeen is needed to remove that nonconforming status.

Director Graham stated the O-I District is intended primarily for office and institutional uses which have only limited contact with the general public and which have no offensive noises, odors, smoke, fumes or other objectionable conditions. As residences are permitted in this district and as this district is usually adjacent to residential districts, provisions are made for yards, off-street parking, off-street loading areas, and safe pedestrian access and connectivity.

Director Graham stated regarding adjacent zoning, the parcel is located on Highway 15-501 South, at the southern boundary of Aberdeen's jurisdiction and just south and west of the entrance into Legacy Lakes. The adjoining properties are within the county's jurisdiction and include open vacant land and single family residences. Properties across US 15-501 to the east are within Aberdeen's jurisdiction and zoned R20-16. Director Graham displayed a vicinity zoning map of the property.

Director Graham reviewed the existing site conditions. The parcel contains 18.06 acres and consists of the existing school development on its northern portion with the remaining portion to the south undeveloped and wooded. There is nearly 1285' of frontage on the highway with a single access point. Parking is provided in front of the building, along a circulation route that allows for drop-off and pick-up at the school's front entry. The Estes Trucking Company operates on the adjoining parcel to the north.

Director Graham displayed an aerial image from 2015 of the property. Director Graham displayed several street images of the school.

Director Graham stated several issues needed to be reviewed for compliance with the UDO.

- Parking: Section 152-291(C)(6) sets a standard of five vehicular parking spaces per classroom for schools. Including spaces for two buses, the existing parking space count is twenty-six. The facility contains 16 classrooms, including three temporary modular classrooms intended to provide space for four years until a permanent addition is constructed, and 16x5=80 spaces required. Director Graham stated the UDO does allow flexibility in the parking standard, allowing the Town Board to require more parking or allow less parking if it finds that "a sufficient number of parking spaces to accommodate the number of vehicles that are ordinarily likely to be attracted to the project in question are provided." While the number of available parking spaces are fewer than the UDO standard, the Board may approve less parking if they determine that all vehicles will be accommodated under ordinary circumstances.

- Screening and landscaping: Director Graham stated Article XIX provides requirements for screening and landscaping. For the subject property, the following requirements apply:

a. An opaque screen along the street frontage consisting of a mix of large trees and shrubbery. *This requirement has been complied with.*
b. Shrubbery along the front and sides of buildings which can be seen from the street. *The front of the building is sufficiently landscaped and only the building's south end will require additional shrubs to meet the requirement.*

Director Graham stated the future Land Use Map associated with the Plan proposes no future land use for this property as it had not yet been annexed into the Town when the map was developed in 2005. Nearby properties are designated as Medium and Low Density Residential, Commercial, and Conservation. School uses are considered to be compatible with all of these uses.

The Plan also includes as Goal #4: "Provide child and youth related recreational and social facilities". Specific actions to facilitate this goal

include to "improve the quality and infrastructure of Aberdeen's schools." *Staff considers this proposal to be in general conformity with plans adopted by the Board.*

Director Graham reviewed the recommended conditions for the CUP:

1. Conditional Use Permits (CUPs) run with the land and as such CU #16-05 applies to the entirety of the property reflected in PID #00049693. An amendment to the CUP is needed to remove property from the CUP or to make changes to the CUP. If an activity is a use by right, it is not subject to the CUP.

2. The development is authorized to continue operation as a public school as identified in Item 5.100 of Section 152-146: Table of Permissible Uses of the UDO with subordinate uses typically associated with a school facility.

3. The development is authorized to maintain site development as depicted on the provided sketch overlay indicating a One Story Charter School Building (existing), a Multi-Purpose addition to the rear of the principle building (existing), two Temporary Modular Structures (existing), and a Future Classroom Addition to the south of the principle building (future).

4. UDO Parking Standards indicating a minimum of eighty (80) parking spaces are:

   a. Reduced to __ spaces as authorized by Section 152-291(C)(7)(a) and shall be installed no later than 180 days from the issuance of CU #16-05, or

   b. waived as authorized by Section 152-291(C)(7)(a), or

   c. Required to be installed no later than 180 days from the issuance of CU #16-05, following approval by staff of a submitted site plan detailing the construction of the required parking.

5. As required by Section 152-308 of the UDO, shrubbery with a minimum height of 18" at planting and of a variety that can be expected to

reach a minimum of 36" within five years of planting shall be required along the south-facing façade of the principle building. A sketch of the proposed plantings, with spacing and species indicated shall be submitted for staff review and approval prior to installation.

6. The Aberdeen Planning Department shall be notified of any new uses, activities, or construction on the property subject to CU #16-05 and all applicable reviews and/or permits shall be obtained in accordance with the UDO.

7. All additional conditions or requirements as provided in the UDO are enforceable with regards to the proposal approved by CU #16-05.

Clerk Regina Rosy swore in Richard Schoen. Mr. Schoen stated he is the Office Manager for the Academy of Moore. Mr. Schoen stated the school is growing very quickly and they are doing their best to accommodate the growth. Mr. Schoen stated he understands there is one objection to the CUP from the adjacent trucking company – based on the trucking company's concern that their operation will disturb the school. Mr. Schoen stated the trucking operation does not conflict with the school at all – they have nothing but a great relationship with the trucking operation.

Director Graham read a letter received from Estes Trucking, received on 9/23/16. The letter requests the Board to vote in opposition of the CUP. The letter stated the trucking operation operates 24 hours a day, 7 days a week, and the noise generated from the operation would not normally be considered tolerable for an educational facility in such close proximity. Director Graham stated the expansion of the new building is not what is being considered this evening. Director Graham stated the temporary buildings referenced in the letter are already in place.

Director Graham read a letter from Marsha Ransdell Southers asking for her letter to be entered in to the record – dated 9/21/16. Ms. Southers stated the Academy has asked for a current easement on her property to be relocated – and she is not willing to agree to the relocation of the easement.

Mayor Farrell asked if Estes Trucking was notified of the public hearing. Director Graham stated the Planning Board heard this item in

August, and notification was mailed to adjoining property owners at least 10 days prior to the public hearing. Director Graham reiterated that the expansion of the school is not being considered this evening. Director Graham stated the purpose of the CUP is to create an active CUP in Aberdeen for the project. Commissioner Mims stated it sounds like Estes wants to be on record for saying that they are concerned about the safety of students at the school if it is located any closer to the trucking operation.

Mayor Pro-tem Thomas stated he could see where the negotiated buffer could become a cause for concern for Estes. Director Graham stated the Town of Aberdeen has no authority to enforce the buffer – and that is an issue between The Academy of Moore and Estes.

Attorney Morphis stated the rules for a CUP and how you amend that are different than that for a nonconforming use. Attorney Morphis stated it seems like creating the CUP in Aberdeen was a better way to handle this, rather than treat it as a nonconforming use. Commissioner Dannelley asked Director Graham if she had spoken with a representative from Estes – Director Graham stated she has not spoken to anyone at Estes since receiving the letter dated 9/23/16 but did speak to them prior to receiving the letter.

Commissioner Dannelley asked if the testimony received from Mr. Schoen is sufficient to address the safety concern received from Estes. Attorney Morphis stated he believes the testimony received is sufficient. Attorney Morhpis stated he believes the letter from Estes is really just to cover themselves and say that any issues with their operation going forward is not their problem.

Commissioner Dannelley asked if the buffer could become an issue down the road. Director Graham stated it could be, but it could also be included as a condition for the CUP. Mayor Farrell asked Mr. Schoen about the buffer – and Mr. Schoen stated that was before he became involved with the school. Mr. Schoen stated the master plan for the school is going to be located in the opposite direction and will not become closer to Estes.

Mayor Pro-tem Thomas stated the buffer appeared to be a handshake agreement between the 2 groups – and he thinks the Academy should think

long and hard before building anything any closer to Estes Trucking – since it is unknown what Estes might build down the road on their property.

Commissioner Mims asked Director Graham about the buffer on the southern part of the property. Director Graham stated there were some deficiencies on the southern part of the property, so that is why the buffer is being requested. Commissioner Mims stated he does not want to see the school buy any shrubbery if it is not needed. Director Graham stated Mr. Schoen has already agreed to the 6-8 shrubs that would be needed to make it compliant with the UDO.

Director Graham stated one decision point would be related to if the Board wishes to waive any portion of the parking requirements. Attorney Morphis has recommended that a statement be added that as the structures expand, then the parking should expand as well, unless relief is granted from the Board of Commissioners. Attorney Morphis recommended under Motion 8 to issue approval with conditions as discussed.

Commissioner Dannelley encouraged staff at the Academy to bridge the relationship with Estes.

With no further discussion, Mayor Farrell closed the public hearing.

b. Consider action on Conditional Use Permit CU #16-05 for The Academy of Moore.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that CU #16-05 is within the jurisdiction of the Town Board according to the Table of Permissible Uses. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that CU #16-05 is complete as submitted. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that CU #16-05, if completed as proposed, will comply with all requirements of the UDO. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that CU #16-05 satisfies Finding #1: will not endanger the public health or safety. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that CU #16-05 satisfies Finding #2: will not substantially injure the value of adjoining or abutting property. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that CU #16-05 satisfies Finding #3: will be in harmony with the area in which it is to be located. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that CU #16-05 satisfies Finding #4: will be in general conformity with the Land Use Plan or other plans specifically adopted by the Board. Motion unanimously carried 4-0.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, that based on the Findings of Fact and the evidence presented, the Town Board issues approval with conditions as stated with the following revision: 4b shall state that the UDO parking standards indicating a minimum of eighty (80) parking spaces are waived as authorized by §152-291 (C)(7)(a). If the use expands, UDO parking requirements shall be met, unless relief is expressely granted by the Board of Commissioners. Motion unanimously carried 4-0.

c. Continued Public Hearing for CU #16-04 Submitted by George Nelson for Property Located on Lighthorse Circle.

Mayor Farrell opened the continued public hearing for CU #16-04 submitted by George Nelson for property located on Lighthorse Circle.

Director Graham stated a public hearing was held on this item in June and was continued to this evening. Clerk Rosy swore in Tammy Lyne.

Director Graham stated George Nelson, on behalf of GHN Properties, requests a CUP to construct three condominium buildings to complete the

Lighthorse Trace Community. Eleven buildings currently exist in the development, two of these are duplexes and the remaining nine are "fourplex" buildings with 4 units in each, for a total of 40 existing units.

Director Graham stated the development received approval in 2004 for construction of a Residential Planned Development to consist of 48 lots, each with a condo unit. Over the years, progress has been sporadic. Two of the condo buildings were constructed as duplexes and three buildings are yet to be built. The current proposal seeks to complete development with one "fourplex" building and two triplex buildings, bringing the final build-out to 50 units. Director Graham stated a public hearing was held on June 27th and was continued to August 8th and again until September 26th to give an opportunity for the applicant to work with the residents of the community to address concerns regarding the development plans.

Director Graham displayed an aerial image of the development. Director Graham displayed the most recent plan proposed for the development, which we are now looking at two triplexes between Lighthorse Circle and Saunders Blvd, and one fourplex. A retaining wall is proposed behind the two triplexes. Director Graham displayed a front elevation drawing of existing fourplexes and the proposed fourplex. Director Graham displayed the front elevation and floor plan for the triplexes and fourplex. Director Graham displayed front street views and elevations of the units on the property. Director Graham stated there are no sidewalks in the development, and narrow right of ways.

Director Graham stated the zoning of the property is R6-10, described as being a district where the principal use of land is for single-family, two-family, and multi-family residences. The regulations are intended to provide areas of the community for persons desiring small residences and multi-family structures in relatively high-density neighborhoods.

Director Graham displayed a vicinity zoning map of the property. Director Graham stated the vicinity zoning map shows the parcel abuts R6-10 zoning on all sides that are within Aberdeen's jurisdiction. The nearest R20-16 zoning is approximately 1/3 mile to the south at Stephanie Street. Also

nearby is R10-10 zoning (on Midway Road) and HC (Highway Commercial) approximately 1/4 mile to the north at the Kangaroo Gas Station.

Director Graham stated regarding open space requirements for multi-family development are of two categories. Common Open Space is required at the rate of 435 square feet minimum for each dwelling unit. This open space must be no less than 40' wide or having a minimum radius of 26'. For the full build-out proposal of 52 units, the total required common open space is 22,620 square feet. The net open space area after full build-out will be over 62,000 square feet and easily meets the width and radius requirement. Director Graham stated private open space is also required for each unit of a multi-family development, in the form of a porch, deck, patio, balcony, atrium or other similar area. These open space amenities may be no less than 15% of the dwelling unit floor area, or 90 square feet, whichever is greater. As detailed architectural drawings are not yet prepared, compliance with this requirement will be determined during Site Plan Review, following approval of the conditional use permit.

Director Graham reviewed the landform and general site layout. Director Graham stated the original plans show a retaining wall running parallel to Saunders Blvd. (The wall was never constructed nor were the buildings adjacent to it.) The proposal for the two new structures in this section of the property indicates a smaller footprint with one less unit in each and greater distance from the slope. A modified retaining wall is proposed to accommodate the slope and the smaller footprint of the buildings in this area. Director Graham stated the plans originally approved in 2005 indicate front setback distances ranging from 5' to 45' with six units showing setbacks at 10' or less. Plans approved in 2008 proposed duplexes for lots 25-34 and show front setbacks that range from 1.5' to 10'. Lots 31-34 were built per this plan, with the front setback on Lot 361 measuring 1.5'. Condition #8 included in the Planning Board's recommendation, allows for front setbacks to be reduced to 10', well within the range of actual setbacks for existing units.

Director Graham displayed the 2005 and 2008 plans, showing the right of way and how the development approved in 2005 and 2008 was planned

for build out. The reason for this new approval is because the CUP had expired for the project.

Director Graham stated regarding transportation, sidewalks and/or paths are required for multi-family developments linking residential buildings, adjoining streets, mailboxes, trash disposal areas, and on-site amenities. The existing development was constructed prior to the establishment of these standards and the only sidewalks existing on the property connect front entries with their respective driveway. Mailboxes are located immediately adjacent to the driveways and there are no common trash disposal areas. Director Graham stated the right of way for Lighthorse Circle is 35' wide and some existing structures do not meet current setback requirements. Retrofitting sidewalks into the existing development would be problematic and entirely at the Town's expense. Requiring street-side sidewalks for the proposed units is not recommended by staff.

Director Graham stated regarding landscaping and screening, multi-family developments have landscaping requirements specific to this use, in addition to those found elsewhere in the UDO. A semi-opaque screen at property boundaries that adjoin other residential properties is required.

Director Graham stated additional multi-family requirements that would need to be addressed tonight are:

- Parking lot landscaping – *no parking lots are proposed.*
- Minimum spacing between buildings of 20' – *plans indicate compliance with this requirement; will be verified during Site Plan Review.*
- School bus shelter for developments of more than 16 units – *this could be waived for this proposal (10 units proposed)*
- Building design features – *detailed plans have been submitted in order to provide sufficient information for the Board to make a determination.*

Additional multi-family requirements include:

a. Buildings must have a multi-faceted exterior form *(plans indicate compliance);*
b. Interesting and attractive architectural design *(plans indicate compliance);*
c. Flat walls with minimal features are prohibited *(plans indicate compliance);*

d. Buildings may not exceed 150 feet in length *(existing multi-family buildings in the development range from 160-175' in length);*

e. Buildings greater than 50' in length must incorporate wall projections or recesses with ground floor facades to include windows, entry areas, awnings or other features for at least 60% of their length *(the applicant has advised that the proposed buildings' garage projections, entryway recesses, and windows constitute over 80% of the front façade);*

f. Front entry garages must be recessed at least 12' behind the unit front wall *(the existing buildings do not meet this requirement);*

g. At least two of the following design elements must be included: horizontal projections, changes in roof elevations, roof dormers, hips or gables, or open balconies that project at least 6' from the front building plane *(plans indicate compliance with this requirement);*

h. An exterior lighting plan shall be submitted for staff review *(this will be reviewed during the Site Plan Review process, following approval of the CUP).*

Director Graham stated the 2030 Land Development Plan's Future Land Use Map identifies this area as high-density residential. This designation is consistent with the current zoning, existing residential uses in the immediate vicinity, and with the proposal.

Dean King, owner of Pinnacle Development, stated he and his partner have been hired by George Nelson to design and construct the buildout of this development. Mr. King stated one of the biggest challenges has been dealing with the 20' slope off of Saunders Blvd and the short right of way. Mr. King stated two units have been conceded to try to make this project work – but there will have to be concessions in order to make this work. Mr. King stated the goal is to keep the buildings closer to the street, so they are not as close to the retaining wall. Mr. King stated the quad proposed looks just like all the other quads on the property. Mr. King stated all 6 of the units in the triplexes are 3 bedroom units with 2 car garages. Mr. King stated several of the neighbors met with him this past Friday and had a "charrette" with this project. Mr. King stated the concern from residents now appears to be the size of the units – they are roughly 1600 square feet and are more fitted for the market. Mr. King stated the residents are concerned it will drop the value of their properties since the size of the units are smaller. Mr. King

stated these units will sell for around $225,000 and as soon as a shovel is put in the ground on these abandoned lots, the adjacent properties will go up in value. Mr. King stated on Friday everyone seemed in agreeance that the issues had been resolved, but today he received an email that was no longer the case. Mr. King stated it is a fact that property values will go up, not down. Mr. King went through the findings – and stated it meets all requirements and passes through all the findings.

Commissioner Mims asked about the setbacks. Mr. King stated the setbacks will be at least 10' and will be more than enough for vehicles to park in front of the garages. Director Graham stated the level of detail is important due to the findings of fact for the CUP approval process. Commissioner Dannelley stated he was approached by 2 citizens about the value of their property if these units are constructed. Commissioner Dannelley stated Mr. King is spot on with the information he has presented, and he applauds Mr. King for bringing in a real estate appraiser to address the property value concerns. Commissioner Mims asked for clarification on the appearance of the front of the units – Mr. King explained there is a slight variation to provide the egress needed.

Clerk Regina Rosy swore in Melvin Jeter, Karen Wolf, Marilyn Kane, and Bob Stayton.

Mr. Jeter stated he was not in attendance for the meeting on Friday, due to his duties in the army. Mr. Jeter stated his major concern is to maintain the integrity of the neighborhood, and have the same look in the neighborhood. Mr. Jeter stated these proposed homes do not look the same, and they look off compared to the ones already built. Mr. Jeter stated residents want to see duplexes, not triplexes. Mr. Jeter stated the smaller the retaining wall, the developer stands to make more money. Mr. Jeter stated his concern is to maintain the integrity and character of the neighborhood and he believes three duplexes could be built, it would just require more money for the retaining wall. Mr. Jeter requested that an opportunity be given for residents to agree on a design and layout, before the Board approves this item. Mr. King stated one unit has already been conceded, and yes his company is for profit, and by building duplexes he cannot make the project work and it will have to just remain undeveloped.

Marilyn Kane, resident at Lighthorse Trace, stated she would like to read a letter from Pat McLaughlin. The letter stated opposition to the construction of the ten units proposed due to the 25% reduction in square footage, no screen porches, and other features which will lower the value of properties in the neighborhood. It also stated that he would recommend the Town Board consider approval of 8 units in the form of duplexes. Ms. Kane stated she just wants to see her neighborhood stay the same type of units as what is already there. Director Graham stated state law requires expert testimony in regards to the value of property values, and not personal opinions.

Tammy Lyne stated she is a realtor, and also a state certified real estate appraiser. Ms. Lyne stated she pulled some sales from the MLS today and looked at the past year. The unit sold was 1677 square feet – it sold for $215,000, which is $126/square foot, derived from the tax value. The four 3-bedroom units sold in the past 2 years, sold on average for $110/square foot. Proposed units are going to sell for approximately $130-$135/square foot. Commissioner Mims asked for Ms. Lyne's opinion on the appearance of the units and how that might affect value. Ms. Lyne stated the floor plans proposed are extremely functional and very applicable to today's buyers. Ms. Lyne stated Pinnacle is building a development now on May Street called Hunter's Ridge. The developer totally redesigned the last 5 units to fit the neighborhood and 4 out of 5 of the units have already been sold. Ms. Lyne stated the elevation drawings probably do not do the project justice – the units are actually very similar to what is already built in the neighborhood. Ms. Lyne stated she has seen a monster retaining wall before at Hunter's Ridge – and she has sold more townhomes in Moore County than any other realtor. Ms. Lyne stated the Board would not want to see a huge retaining wall in this development if not necessary.

Ms. Kane asked who are today's buyers. Ms. Lyne stated they are empty nesters and military families.

Bob Stayton stated he is a resident in Lighthorse Circle – he stated if the proposed units do not look exactly the same as the current units, then it will not be right for the development. Mr. Stayton stated that is the major concern of the residents.

Karen Wolf stated she was the original broker for Stover Homes and sold some of the first units. Ms. Wolf stated these units sold for $259,000 - $262,000, and now these proposed units will be sold somewhere between $205,000-$235,000. Ms. Lyne asked if those units sold for $260,000 were front units. Ms. Wolf stated no that is not correct. Ms. Wolf stated four duplexes being built for the build out would be best for the neighborhood.

Clerk Regina Rosy swore in Calista Fore.

Attorney Morphis stated the ordinance states the applicant is entitled to the permit, unless the Board makes a finding that there is evidence that one of the four findings is not met. Attorney Morphis stated state law says property value testimony can only be given by a real estate appraiser or someone who is knowledgeable about property values in the area. Others are not qualified to provide that testimony. Mayor Farrell stated the letter read from Mr. McLaughlin does not carry weight since he is not licensed to provide that testimony.

Calista Fore, stated she lives in a 3-bedroom, 2,000 square foot home. Ms. Fore stated she was at the meeting on Friday. Ms. Fore stated she is concerned about how her 2,000 square foot unit is being condensed into a 1,600 square foot home with the same number of rooms. Ms. Fore stated she bought into a luxury townhome development, and she is afraid that these units proposed are more apartment like. Ms. Fore stated if she is faced with a decision of triplexes with no retaining wall, versus duplexes with a retaining wall – then she would prefer duplexes with a retaining wall. Mr. King stated bedroom sizes, finishing products, etc. are not relevant to the matter at hand. Commissioner Dannelley stated one of the things the Board has to consider is harmony with the area. Commissioner Dannelley stated he would like testimony on how the proposal presented is in harmony with the area. Mr. King stated courtyard entrances are provided, front entrances for garages, same windows, same doors, pitch and height of roofs, are all the same as the current units. Mr. King asked if the Board approves this tonight as presented – could he re-plat the project as 3 triplexes and 1 duplex and have it approved at staff level, rather than coming back to the Board?

Commissioner Mims asked why is it possible to do a triplex, but not duplexes. Is it not financially possible, or is it not physically possible? Mr. King stated it is physically not possible, and the retaining wall is $100,000 to build.

Mr. Jeter stated his fear is that if this is approved tonight, then when duplexes can't work, it's too bad for the residents and triplexes will have to be built as presented. Commissioner Mims asked if there is anything in the HOA covenant, where residents have to sign off on development before it can take place.

Ms. Fore asked if the quad could be approved tonight, and then go back to work on the triplexes. Commissioner Mims stated the problem is that was not the application presented. Director Graham stated the Board could add a condition to make that an option this evening if they want.

Ms. Lyne stated she still has not heard anything that goes against the criteria for the findings of fact. Ms. Lyne stated when you drive into the neighborhood, the first several units are completely different than all of the other units. Ms. Lyne stated if the retaining wall is built, then it will become the responsibility of the HOA to maintain, which could be extremely expensive.

Ms. Kane stated the Cove is what Ms. Lyne was referencing – and it is completely separate from Lighthorse Circle – everything in Lighthorse Circle is similar design.

Director Graham stated the retaining wall is no greater than 4' in height. Director Graham read a letter received from Brant McWilliams, 630 Lighthorse Circle – he is concerned about the CUP due to lack of aesthetical characteristics. Floor plans appear to be 20% square ft smaller than current units. The request is to require the developer to build units at the same level of detail as current units. He was also concerned about harmony with the area, with the proposed design of the units.

Commissioner Dannelley asked if the application as submitted is fully compliant with the UDO. Director Graham stated the items not compliant would be the bus shelter, building length and 12' recess of the garages, and

setbacks. Director Graham stated in order to meet the setbacks, something else would have to be given up. Ms. Kane stated residents bought into the duplexes, not triplexes. Mr. Stayton asked for all Lighthorse Circle residents to raise their hands – there were at least 18 residents that raised their hands. Mr. Stayton stated they are concerned about this proposal.

Ms. Wolf asked if the original 3-bedroom homes built in the neighborhood would fit in this area. Director Graham stated no, they would not fit and meet setback requirements.

Mr. King referenced setbacks when this project was originally approved. Director Graham stated back when it was originally approved setbacks were waived. Mr. King asked again if this is approved tonight then he can build the quad as presented, but cannot build the triplexes, until the residents sign off on the design. Director Graham stated staff has no authority over the HOA.

Director Graham reviewed the recommended conditions for the project.

Attorney Morphis stated if the Board decides to approve some or all of the units tonight – then our ordinance says the permit issuing authority may not authorize additional conditions unless extraordinary circumstances exist that justify the conditions.

Town Clerk Regina Rosy swore in Dottie Garmin. Ms. Garmin stated a lot has been heard about Hunter's Ridge tonight – and she would challenge the Board to ride through that neighborhood and then ride through Lighthorse Circle and see where they would rather live.

With no further discussion, Mayor Farrell closed the public hearing.

d. Consider action on CU#16-04 Submitted by George Nelson for Property Located on Lighthorse Circle.

Commissioner Byrd stated he would like to consider the quadplex only this evening, and have the developer work with the residents on the triplexes before considering approval of the triplexes. A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, to only consider

the quadplex this evening, and have the developer work with the residents on the triplexes before considering approval of the triplexes. Attorney Morphis recommended reopening the public hearing and continuing it to a later date to later discuss the triplexes. There was a verbal commitment from Dean King. Mayor Pro-tem Thomas stated his only concern is that if that discussion has not already taken place, why has it not? Mayor Pro-tem Thomas stated it seems like the residents want these units to look the same as the ones already built. Mayor Pro-tem Thomas stated he doesn't really understand what difference 2-3 weeks will make. Mayor Pro-tem Thomas stated he also doesn't think a majority of the residents were in attendance for the meeting this past Friday. Mayor Pro-tem Thomas stated he also doesn't feel the difference in square feet will really affect property values. Mayor Pro-tem Thomas stated he doesn't understand why an agreement has not already been reached between the residents and developer. Commissioner Mims stated additional homes have been built in his neighborhood that are much different – and it has turned out just fine. Commissioner Mims stated expert testimony has been received about the property values. Commissioner Mims stated what he doesn't want to do is kick the can and delay a decision. Motion carried 3-2, with Mayor Pro-tem Thomas and Commissioner Mims voting no.

Attorney Morphis stated he would like for the Board to set the date to reopen the public hearing. A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, to reopen the public hearing on October 10, 2016 to further discuss the triplex units. Motion unanimously carried 5-0. (The project is now broken into 16-04-A and 16-04-B. The following motions apply only to 16-04-A).

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, that CU #16-04-A is within the jurisdiction of the Town Board according to the Table of Permissible Uses. Motion unanimously carried 5-0.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, that CU #16-04-A is complete as submitted. Motion unanimously carried 5-0.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, that CU #16-04-A will comply with all requirements of the UDO. Motion unanimously carried 5-0.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, that there are extraordinary circumstances that justify varying from the requirements of the UDO. Motion unanimously carried 5-0.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, that CU #16-04-A satisfies Finding #1: will not endanger the public health or safety. Motion unanimously carried 5-0.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, that CU #16-04-A satisfies Finding #2: will not substantially injure the value of adjoining or abutting property. Motion unanimously carried 5-0.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, that CU #16-04-A satisfies Finding #3: will be in harmony with the area in which it is to be located. Motion unanimously carried 5-0.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, that CU #16-04-A satisfies Finding #4: will be in general conformity with the Land Use Plan or other plans specifically adopted by the Board. Motion unanimously carried 5-0.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, that based on the Findings of Fact and the evidence presented, the Town Board issues approval of the quad unit (as bifurcated) with conditions as presented. Motion unanimously carried 5-0.

e. Consider action on new squad apparatus for the Fire Department.

Manager Zell stated the bid for the new squad apparatus came in within the budgeted amount, but above an informal bid limit which is $90,000. Fire Chief Phillip Richardson stated $150,000 was budgeted for the vehicle, and the bid came in at $148,900. Chief Richardson stated it is a 270 day build out for the fire truck once ordered. Chief Richardson stated the

goal is to use smaller trucks when feasible and reduce wear and tear on larger more expensive trucks. Chief Richardson stated delivery would most likely take place in June 2017. A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to approve the new squad apparatus for the Fire Department. Motion unanimously carried 5-0.

f. Consider action on a Proclamation declaring September 17th as National Gymnastics Day.

Removed from agenda.

6. Other Business - None

7. Closed Session pursuant to N.C.G.S. 143-318.11(a) (3), (4), and (6) to preserve attorney-client privilege, to discuss economic development matters, and to consider the qualifications, competence, performance, and conditions of appointment of a public officer or employee.

A motion was made by Commissioner Dannelley, seconded by Commissioner Byrd, to go into Closed Session pursuant to N.C.G.S. 143-318.11(a) (3), (4), and (6) to preserve attorney-client privilege, to discuss economic development matters, and to consider the qualifications, competence, performance, and conditions of appointment of a public officer or employee. Motion unanimously carried 5-0.

The Board returned from Closed Session.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, to open regular session. Motion unanimously carried 5-0.

8. Adjournment

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Goodwin, to adjourn the Board Meeting. Motion unanimously carried 5-0.

Regina M. Rosy

Regina M. Rosy, Town Clerk

Minutes were completed in
Draft form on September 26, 2016

Robert A. Farrell

Robert A. Farrell, Mayor

Minutes were approved
on December 12, 2016

gas is to use smaller trucks when feasible and reduce wear and tear on larger more expensive trucks. Chief Richardson stated delivery would most likely take place in June 2017. A motion was made by Commissioner Mosby, seconded by Commissioner Goodwin, to approve the new squad apparatus for the Fire Department. Motion unanimously carried 5-0.

f. Consideration on a Proclamation declaring September 17th as National Gymnastics Day.

Removed from agenda.

6. Other Business - None.

7. Closed Session pursuant to 5 C.G.S. 143-318.11(a), (1), (4) and (6) to preserve attorney-client privilege, to discuss economic development matters, and to consider the qualifications, competency, performance, and conditions of appointment of a public officer or employee.

A motion was made by Commissioner Goodwin, seconded by Commissioner Byrd, to go into Closed Session pursuant to 5 C.G.S. § 143-318.11(a) (3), (4) and (6) to preserve attorney-client privilege, to discuss economic development matters, and to consider the qualifications, competency, performance, and conditions of appointment of a public officer or employee. Motion unanimously carried 5-0.

The Board returned from Closed Session.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, to open regular session. Motion unanimously carried 5-0.

8. Adjournment

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Goodwin, to adjourn the Board Meeting. Motion unanimously carried 5-0.

Regina M. Rosy

Regina M. Rosy, Town Clerk

Minutes were completed in
Draft form on September 26, 2016

Robert A. Farrell

Robert A. Farrell, Mayor

Minutes were approved
on December 22, 2016