

MINUTES
ORANGE COUNTY BOARD OF ADJUSTMENT
NOVEMBER 8, 2010

MEMBERS PRESENT: Thomas Brown, Chair
David Blankfard, Alternate
Mark Micol, Alternate
Dr. James Carter, Full Member
Dr. Larry Wright, Full Member, Planning Board Liaison

MEMBER ABSENT: Dr. Dawn Brezina (Excused)

STAFF PRESENT: Michael Harvey, Zoning Enforcement Officer
Debra Graham, Board Secretary

OTHERS PRESENT: Sahana Ayer, Staff Attorney

1. CALL TO ORDER

The meeting was called to order by Chair Thomas Brown.

2. CONSIDERATION OF ADDITIONS TO AGENDA

Michael Harvey: I have an update on the Maplevue Ag Center's appeal that was heard last month.

3. APPROVAL OF MINUTES
a. October 11, 2010

James Carter: Mr. Chairman, I have corrections on page 9, line 25 should read, "Yes, I have, in mentioning about being the education component and *if* there are some aspects involved...". Line 26 should read, "in the North Carolina standard course of study, could you tell me what component of the standard course of study is...". Line 44 should read, "*It is* sort of vague because I am quite familiar with the Standard of Study, I am a curriculum...".

David Blankfard: On page 25, line 9 should read, "Everywhere *else* it's referred to *as* just education."

Thomas Brown: Page 23, line 26 should read, "*If* that is your recommendation...". Page 24, line 2 should read, "Permit and how *the* additional uses...". Line 47 should read, "a hands on educational *operation* where it would not only". Page 25, line 45 should read, "Do the Board *members* have any other questions....". Line 51 should read, "was not one of your concerns *or* was it...".

Mark Micol: Page 28, lines 41 and 42 should read, "Mr. Chairman, could we just *take one issue* and *start with* the yoga instruction and then affirm that based on his *comments*...".

Sahana Ayer: Page 27, line 33 should read, "together and you would go over what the issues are basically....". Line 34 should read, "resolved with conditions. If they are going to come back...". Line 35 and line 36, "You have to say try and resolve what uses can be permitted,...". Line 37, "specific. You can't just let them go out and talk about it and....".

Thomas Brown: On page 26, line 25 and 26 "affirmation of your decision with the caveats that you have described on the record, reversal or arbitration. Would you call it arbitration?"

1 Mark Micol: On page 29, line 39 should read, "I think we can make modifications if we affirm what the zoning official
2 has said, and then say with the exception of....". Line 51 should read, "If we're talking yoga, could we not say, based
3 on the testimony, that yoga has a very close relationship...."

4
5 Thomas Brown: Page 30, line 47 should read, "and then testify that they would like to modify...".

6
7 Mark Micol: Page 30, line 9 should read, "I would say that fits in with the social retreat." Line 30 should read parties,
8 that's music, a fundraiser..."

9
10 Larry Wright: On page 30, line 52 should read "a wedding with eight or you can have a wedding with 800."

11
12 Thomas Brown: On page 31, line 14 should be Larry Wright instead of Larry Brown. Line 26 should read, "be in
13 consonance with 8.7.1 therefore we can say *that* we think yoga...". Line 44 should read, "At this time, after
14 discussion, unless there *are* more issues..."

15
16 Mark Micol: On page 31, line 2 should read "...75 kids coming for *a field trip and* it depends on..." Line 3 should read,
17 "To me, five is the *biggest issue with* the wedding receptions...". Line 5 should read, "...wedding receptions, and
18 parties, and advertising..."

19
20 David Blankford: On page 34, line 10 should read, "think they should *have* the special..." Line 40 should read, "I
21 wouldn't agree with that...."

22
23 Thomas Brown: On page 34, line 3 should read, "If you want the yoga, there are five of us here, the *full* members that
24 have to vote."

25
26 Mark Micol: On page 32, line 23 should read, "Like I said we're going to *have to say* we affirm Mr. Harvey's
27 decision..." Line 29, "Well, that's what I was suggesting..."

28
29 Thomas Brown: On page 32, line 26 should read, "we would allow public testimony and a *delineation* of the uses...."

30
31 Larry Wright: On page 34, line 14 should read, "or ordinances. So I'm sorry but weIt's a poison pill".

32
33 Thomas Brown: On page 33, beginning with line 44 should read, "...it takes four out of five votes to either modify or
34 reverse the Zoning Officer. If there are only two or three votes the zoning officer's decision stands and his
35 determination is approved entirely".

36
37 Sahana Ayer: On page 32, line 7 delete "or a hayride".

38
39 *[These corrections have been made.]*

40
41 **MOTION:** Larry Wright made a motion to approve the minutes with the noted corrections. Seconded by James Carter.

42 **VOTE:** Unanimous

43
44 Chair Thomas Brown read the Public Charge.

45
46 **4. PUBLIC CHARGE**

47
48 *The Board of Adjustment pledges to the citizens of Orange County its respect. The Board asks its citizens to conduct*
49 *themselves in a respectful, courteous manner, both with the Board and with fellow citizens. At any time should any*
50 *member of the Board or any citizen fail to observe this public charge, the Chair will ask the offending person to leave*
51 *the meeting until that individual regains personal control. Should decorum fail to be restored, the Chair will recess the*
52 *meeting until such time that a genuine commitment to this public charge is observed. All electronic devices such as*

- 1 *cell phones, pagers, and computers should please be turned off or set to silent/vibrate.*

1 The following individuals were sworn in:
2

Greg Andrews	Mickey Purcell
Frederick L. McAdoo	Adele Mittelstadt
Keith Askew	Stan Smith
LaToya Wilkins	Jay Parker
	Dickie Andrews
	Katherine Cole
	B. Moore Kuller

3 Michael Harvey: Mr. Andrews and I have a relationship outside this office. Mr. Andrews is a contractor who has
4 worked at my mother's house and when my mother passed away and I inherited it he continued to work on the
5 residence and is currently engaged in a construction project at the residence in question. It is important that you
6 understand that we have a relationship that will obviously not influence my decision or will not influence my testimony
7 here.

8 Michael Harvey then presented the case.

9 **5. A-4-10 – Recreational Facility (Non-Profit) – baseball field on property located**
10 **at the intersection of Gaines Chapel Road and Southern Drive.**
11

12 Ms. Shannon Andrews is requesting the issuance of a Class B Special Use Permit to allow for the development of a
13 Recreational Facility (Non-Profit) on two (2) parcels of property located at the intersection of Gaines Chapel Road and
14 Southern Drive.

15 Specifically, the application proposes the development of a baseball field on a two (2) acre parcel (TMBL 3.35.C.6
16 / PIN 9844-67-9028) and a point seven (.7) acre parcel (TMBL 3.35.C.6A / PIN 9844-77-1102) owned by the
17 Junious Loftin Heirs.

18 As detailed within the application, local residents originally used the properties as a baseball field. The applicant is
19 seeking to re-establish this use and develop a small concession stand housing storage, office, and bathroom facilities.

20 Michael Harvey: On page 37, you have staff's abstract concerning the case. This abstract has abstract Attachment A
21 beginning on page 45 of the application. Within this portion, you will find the narrative, the report issued by Mr. Vic
22 Knight concerning the Impact Analysis for the development of this proposed athletic field. Attachment B is an aerial
23 photograph denoting the two properties subject to this application. Attachment C is staff's correspondence including
24 memorandum from the Orange County Health Department, memorandum from the Orange County Fire Marshall and
25 our correspondence to the property owners. Attachment D is our Findings of Fact. Also, you have a statement before
26 you required by the Orange County Planning staff submitted by the applicant in accordance with requirement for
27 Section 8.8.21.1 Subsection E, the statement indicating there should be no adverse impact. The applicant is required
28 to reaffirm what is going to be occurring on the property. In this case, it will be a baseball and softball field. The
29 applicant is stipulating they will not allow this parcel of property be rented out for special events such as concerts,
30 carnivals, yard sales, fundraisers, etc. or any land use inconsistent with the proposed recreational use as delineated
31 on your site plan and contained within this application. Further, the applicant has written within the statement there will
32 not be any outdoor athletics erected as part of this application. You also have offers for sale and purchase executed
33 by Shannon and Greg Andrews. Greg Andrews being Ms. Andrews' husband of THD Construction and Junious Loftin.
34 Staff required that as proof that the Loftin heirs had to sell the property to the Andrews based on this application.

35 Thomas Brown: Should these be entered in as exhibits or included as part of the package?

36 Michael Harvey: As part of the package and staff will move it at an appropriate time for the formation of the record
37 from staff's standpoint.

- 1 Larry Wright: On page 38, you referred to Attachment A and on our handout they are listed as Attachments 1, 2, 3 and
2 4. I think that should be clarified.
- 3 Michael Harvey: It is Attachment A.
- 4 Larry Wright: Also, in the packet, on page 72, I was confused about this on the top of page 72, it says description of
5 proposed kennel site and I believe we are talking about this application and not the next one.
- 6 Michael Harvey: That is an error generated in Mr. Knight's report. The only thing I will comment is you will note for the
7 record that the rest of this application goes on to describe the property at the intersection of Gaines Chapel Road and
8 Southern Drive for the development of a baseball field. That is an error we don't see often from Mr. Knight.
- 9 Greg Andrews: My name is Greg Andrews and I live in Efland and run a construction company in Efland.
- 10 Michael Harvey: Mr. Chairman, point of clarification, as each individual stands, if they could state their name, where
11 they live and indicate they have been sworn in for the record.
- 12 Greg Andrews: I have been sworn in. I have two small kids that play ball. One plays tee ball and the other plays
13 softball. One thing I noticed that Orange County was missing was a fall softball so this year in partnering up with
14 HYAA, we were able to start the first softball league in Orange County other than rec ball and I'm very proud of the
15 support from the community. We have had a lot of teams come out. As any group that we have supported from
16 Orange High School and any softball camps or boy scout troops that I have supported through the years I have always
17 been an advocate of supporting the community in the different things our children do because my heart believes that is
18 where our future is, with our children. The Loftin ball field is one of the oldest ball fields in Orange County and is
19 probably one of the only all minority ball fields started back in the late 60s and early 70s. As softball moves on in
20 Orange County, we will have to have more ball fields. Right now, HYAA turns down about 100 kids actively a year
21 because there is not enough room for the kids to play. The fall softball brought in about 71 kids which was more than
22 we thought we would get. When the spring comes, we will need more ball fields. Part of giving back to the
23 community, my construction company has prospered through a lot of times and I owe a lot of that to the community, so
24 one thing my wife and I decided to do with Mr. Loftin was, when the opportunity came about for my wife and I to buy
25 the ball field and start a non-profit organization and let HYAA come up and we are going to have a community ballpark
26 and not charge anyone to come play. I appreciate your consideration.
- 27 Thomas Brown: I think we had other issues on plans and elevations.
- 28 Michael Harvey: Mr. Andrews has a handout for you.
- 29 Greg Andrews: These are the lease agreements between HYAA and my wife and I. Also, on the back page are
30 pictures of what we are proposing the dugout to look like.
- 31 Michael Harvey: Mr. Chairman, this should be entered into record as Applicant Exhibit 1.
- 32 Thomas Brown: What are these photographs depicting?
- 33 Greg Andrews: Those are the dugouts. I went down to look at the ball fields around Orange County from Schley to
34 Collins and these are the dugouts at the Exchange Club and they look close enough to what we are thinking about.
- 35 Thomas Brown: You are proposing that your dugouts will look similar to what is in the photo?
- 36 Greg Andrews: Yes.
- 37 Larry Wright: The intent is, because we haven't had the privilege of reading it before, could you briefly state what your
38 take home message is from this exhibit?

1 Greg Andrews: The dugouts already exist but they have deteriorated and are no longer safe. So the fencing for the
2 field is in place and in good shape. We want to rebuild the dugouts that were already there. In that picture, they show
3 metal posts which is not structurally what we would do. It would have 4x4 cornered posts and chain link fence with a
4 metal roof.

5 Thomas Brown: What about the concession area, what would that be composed of?

6 Greg Andrews: The cinder blocks that are there are actually in sound condition. The roof itself has deteriorated so we
7 would build it back and put a metal roof on it.

8 Thomas Brown: The existing cinder block would remain and you would replace the roof?

9 Greg Andrews: Yes.

10 Larry Wright: Is it a cement floor?

11 Greg Andrews: Yes. Mr. McAdoo told me that the second floor was not actually in use on the building but it was set
12 up so you could call the games from the second floor so the second floor is....it is a two story building. The bottom is
13 a concession so we would rebuild back the middle floor so you call the games from the top.

14 Larry Wright: So there is sound amplification there?

15 Greg Andrews: Yes sir.

16 James Carter: Will there be limited access to the field, how is that set up? Who could use the ball field?

17 Greg Andrews: That is something I have worked a lot with HYAA because HYAA and the rec department are the only
18 two leagues playing ball in Orange County but if you notice in the agreements I set up so law enforcement and EMS
19 and fire department can use it on notice and we are not restricting it just to HYAA. One of the things that the residents
20 on the west side of Orange County is that we have lacked in the community ball fields and activities and that is the
21 area I live in so we are hoping to pick up a lot more people who can afford to play ball there who can't afford it that live
22 n the Cheeks district and ride out to Schley and travel to Orange County. HYAA will be the only field in softball and
23 baseball and if there are any other teams who want to play, we will have a schedule that they can get on to play ball.

24 Larry Wright: For the sound amplification, is the concession stand facing the railroad?

25 Greg Andrews: It faces the back of home plate so if you look on the back of what Mr. Knight did, you will see home
26 plate.

27 Larry Wright: If sound was amplified, it would go toward Southern Drive and the railroad and not toward the Enoch
28 property or the Benson property?

29 Greg Andrews: Yes sir.

30 Larry Wright: I was there today and I think I saw the property. There are trees there and there is a black chain link
31 fence around it and then a gravel road with orange flags?

32 Greg Andrews: Yes.

33 Larry Wright: The parking would be off West Street? There are 13 spaces here?

34 Greg Andrews: Yes.

35 Larry Wright: Then you said there would be 55 maximum people probably at the game at any one time. Would they

1 all be coming by car? If that is so, that would be about four people per car.

2 Greg Andrews: To have 55 would be at the changing of games, that is what we were trying to calculate. There is not
3 55 at one game but in the transference of one team and the parents and the kids to the other is how we came up with
4 the 55. With the parking space, they would only be parking half that amount.

5 Larry Wright: Would there be children coming by bicycle? I'm not sure how these games are organized.

6 Greg Andrews: A lot of them car pool because of the limited space. There is a tremendous amount of kids that live in
7 the neighborhood around Efland that would get there by bicycles and they walk.

8 Michael Harvey: When staff began their initial review of the site plan, one concern we had expressed to the Andrews'
9 was that access off Southern Drive is undesirable because of the proximity to Mr. Enoch's property as well as the
10 potential problem of what happens as the North Carolina Railroad right of way is expanded to accommodate additional
11 rail line and we didn't want to propose a means of ingress and egress off a road that could disappear since we don't
12 have rights to it. Southern Railroad could get rid of that right of way in its entirety and we wanted to, from our
13 standpoint, keep the way for Mr. Enoch's property whose structure is fairly close to the side property line. We
14 suggested West Street because there is dedicated means of ingress and egress according to the deeds of this
15 property. Also, there is a better chance of establishing and protecting existing buffer and landscape.

16 Mark Micol: So it is the assumption that if you have overflow parking during an event, it will be off the Gaines Chapel
17 Road. There is no problem parking on that road during an overflow.

18 Michael Harvey: I haven't heard of any situation or expressed concern from any county staff person or NCDOT on
19 that issue and we will get some conditions that might address that concern a little later.

20 Larry Wright: I am quite confused where West Street is and where that gravel road is.

21 Michael Harvey: If you will look on page 93 of your application, there is a color aerial photo, West Street is essentially
22 to the south and there is gravel road leading essentially to the end of Mr. Enoch's property to the south and the
23 roadway does actually meander on both the subject parcel and within the right of way that is called West Street.

24 Thomas Brown: I know you wanted to address some other issues but there were a couple of sections that were not
25 totally present in the package concerning plans and elevations, descriptions of the color, nature of exterior materials. I
26 think your handout gives us an idea of what it is going to look like but I think it needs to be formally addressed. Mr.
27 Harvey, do you want to take that on now or discuss that?

28 Michael Harvey: I'll discuss it upon the board's completion of the questions of Mr. Andrews and of those who have
29 asked to speak.

30 Thomas Brown: Is there additional testimony in support of the ball field at this time?

31 Frederick McAdoo: I live in Efland on the north side of the track. I have been sworn. I actually grew up on both sides
32 of the track. My grandparents lived just around the curve and that is where we played ball for years. It wasn't a big
33 field but somewhere to play ball. I think Mr. Andrews and his wife are bringing something to the community for kids to
34 play ball. I never seen where there should be an issue with this generation in bringing something to the community
35 and doesn't cost a fortune. He is willing to take it upon himself, his wife and family to put this much into a ball field. I
36 think everybody I can speak for, my sister lives on that side, welcomes him and the ball field to the community. We
37 have a lot of kids in the community that cannot afford to pay \$45 and \$50 to play. I see so many kids throwing a base
38 ball and softball standing around the fence because their parents are mostly single parents who can't afford \$50 per
39 child when they have two kids or three so if he is bringing this to the community at a lower cost or rate or donation, I
40 approve. Thank you.

1 Michael Harvey: The next person I have signed up to speak is Mr. Keith Askew.

2 Keith Askew: I live in Hillsborough and I have been sworn in. My role is treasurer of HYAA which is Hillsborough
3 Youth Athletic Association. In the spring seasons, we have over 500 children playing baseball at HYAA... the number
4 is growing. As you know this area has grown a lot in the past 10 years and continues to grow and we are growing with
5 it. As Mr. Andrews indicated, we added softball and we were able to juggle some of the schedules between fields
6 because in the fall, we don't have as many kids playing baseball as we do in the spring. It will be a real issue with
7 fields for us in the spring because we are going to have those 500 kids plus playing softball in the spring. Having an
8 additional field and the generosity of the Andrews, I think it is really impressive for this area. I moved here in 2003 and
9 I see that because land is so valuable here we can't turn property into baseball and football fields and soccer fields.
10 We certainly have the opportunity to alleviate some of the issues we had in baseball with HYAA and it does mostly
11 center around the field.

12 Michael Harvey: The last individual to speak is Ms. Latoya Wilkins.

13 Latoya Wilkins: I live in the Cheeks area and I have been sworn in. My youngest daughter plays for Shannon
14 Andrews and it has been great because sometimes she has to take my child to practice because it is pretty far for me
15 to get off work and get her there. For it to be close by and run and pick her up and get her home at a decent time for
16 bed is good because of school. At first, we had it in Alamance County because it wasn't too much going on with less
17 teams and we were playing there but I really wanted something close by and for us to play and have a lot more teams
18 because we are playing with three teams and we all play each other so if we could add more teams it would be really
19 good. I would appreciate it greatly if everything goes well with Mr. and Mrs. Andrews.

20 Michael Harvey: That is all that has been signed up to speak.

21 Thomas Brown: Do any of the board members have any questions for those who have spoken.

22 Mark Micol: I have a question for Mr. McAdoo. You have lived here all your life. Over the years, when the field was in
23 operation the first time, were there any complaints from adjacent property owners or neighbors or traffic at that time?

24 Frederick McAdoo: No. When we grew up and played at Ms. Ella Watson's so that was our thing as the older
25 generation. We had to play ball on a Saturday and Sunday after church on the other side because they looked
26 forward to that so you never had any complaints because if you have young kids in the community aware they are
27 doing something and having fun, you will get more smiles out of your neighbors than if you were to put up a shooting
28 range or a 20 story building. It is not where you will have someone to say I wish they would stop playing ball. There is
29 only 10 or 12 residences that's occupied. I don't think you will have that issue because my sister lives on that side and
30 I talked to her before.

31 Larry Wright: Does she know there will be sound amplification there?

32 Frederick McAdoo: She likes baseball, she lived in New York. If they listen to that plane go by they can listen to the
33 innings in a ballgame.

34 Michael Harvey: I will request my abstract amended as follows be entered into the record. Page 38 change the
35 reference from Attachment One to Attachment A. For some reason I had my numbers and letters confused, and then
36 beginning on page 43 change the attached accordingly the application, Attachment One changed to Attachment A,
37 Aerial Photo map, change from Attachment Two to Attachment B, staff correspondence changed from Attachment
38 Three to Attachment C and the Findings of Fact changed from Attachment Four to Attachment B. I would also request
39 you enter into the record, staff's handout from earlier this evening specifically the Statement of Intent concerning the
40 development of the non-profit recreation facility and the contract agreements. I ask you submit this as part of the
41 abstract and include a certified copy of the Orange County Zoning Ordinance enforced at the time of submittal of this
42 application. If you have questions, please interrupt. I would like to begin by taking the board through page 40 of the
43 application which is part of the abstract.

1

2 The applicant is required to adhere to the submittal requirements and design criteria standards as detailed within
3 8.8.21.1 and 8.8.21.2. Their first requirement is a description of the exact type of facility plan, the amount of area
4 including the number of members or participants expected, the site plan citing the size of existing and proposed
5 buildings. As part of this application, we do have a site plan and a narrative that fulfills this requirement, Subsection B,
6 access, parking, service and recreation areas for all planned or existing facilities. Both the site plan and the narrative
7 provide this level of detail. Subsection C, plans and elevation for all proposed and existing structures and descriptions
8 of the color and nature of all exterior materials. The applicant has provided you something and I would respectfully
9 request that you allow me to suggest a condition at an appropriate time concerning adherence to this standard. While
10 the applicant has submitted detail I think some additional information is required which I believe can be handled and I
11 want to propose a condition. The next condition, a landscape plan showing at the same scale as the site plan, existing
12 and proposed trees, shrubs, and ground cover. We have a unique situation here in that the applicant wants to hold
13 himself to a higher standard than the ordinance currently exists. They are required to provide a 20 foot landscape
14 buffer for Article 12 of the existing zoning ordinance. What Mr. Andrews has elected to do instead of just providing a
15 buffer that meets those standards, he is actually incorporating and adopting language that will be in the proposed
16 Unified Development Ordinance by asking the board to impose a condition that would allow Mr. Andrews to develop a
17 landscape plan in accordance and consistent with recommendations from Orange County Planning Staff and the
18 Orange County Cooperative Extension Office to identify plants and utilize native vegetation that is drought tolerant that
19 would also address concerns that we would have in working with the local utility company concerning the power line
20 easement. We have recommended that a condition be imposed on this landscape plan which I will address in a
21 moment. I would like to stipulate that Mr. and Mrs. Andrews voluntarily incorporated a requirement that is in the
22 proposed UDO in terms of working with Cooperative Extension to have a landscape and buffer plan that actually made
23 use of indigenous local vegetation that was drought tolerant and tried to respect the existing power line instead of just
24 planting trees that the current ordinance would allow that we know would get mowed down because it is near a power
25 line easement. The next subsection E, a signed statement from the owners or operators that there shall be no activity
26 allowed that will have adverse affects on adjacent property. Mr. Andrews submitted that this evening to staff which we
27 have given you a copy and it has been entered into the record. We believe it is consistent and adheres or satisfies the
28 condition of Subsection E.

29 At the bottom of page 41, standards of evaluation per Section 8.8.21.2, the first requirement is the lot size shall be
30 adequate for the method of sewage disposal proposed, and for the proposed recreational uses. We are finding in the
31 affirmative based on the memorandum supplied to the Orange County Health Department and attachment 3 there is
32 also a condition associated with this which I will go over in a moment. The site plan, number 2, should show the
33 boundaries of the site, the distances to the nearest residential structures, proposed or existing access points, parking
34 and service areas, location of outdoor recreational facilities and location of existing or proposed buildings. We attest
35 the site plan provides the required data. At the top of page 42, The landscape plan shall be at the same scale, I am
36 not going to rehash what I had commented on the landscape plan, elevations of all structures and buildings. Again, I
37 will propose a condition that addresses my concerns for this point. Finally, there are no adverse impacts on the
38 adjacent roads or residential property which I believe is addressed in their statements. This is ultimately up for the
39 Board's consideration but I believe he has met the requirements of the ordinance.

40 It is my opinion that recreational facilities are permitted in the zoning district where this property is located. The Health
41 Department has indicated there are no concerns for the proposed use or portable toilets at this facility although they
42 have recommended a condition which Mr. & Mrs. Andrews have agreed to which I will go over in a moment. From
43 staff's perspective, the proposed operation of this facility complies with the intent and purpose of the 2030
44 Comprehensive Plan specifically the 10 year transition area which this property is located. You will note within the
45 applicant's narrative they have provided documentation they feel their policies and goals of the comprehensive plan
46 that support the development of this facility which staff concurs with. Mr. Chairman, I would like to take the Board
47 through attachment D, beginning on page 107, the Findings of Fact.

48

49

1 Larry Wright: Please note at the top of page 116, "Class II Kennel".

2 Michael Harvey: On page 116, Section 8.8.21.1 Subsection C, Plans and elevation for all purposed and existing
3 structures. Mr. Chairman, I am going to make a finding of Yes with a condition that I will review later. We have heard
4 no evidence or been provided no evidence that would lead staff to make a negative finding of any of the items on page
5 116.

6
7 Michael Harvey: I would ask that you consider renumbering recommendations number 7 and 8 after the following
8 conditions are discussions and adhered to, I have three or four additional conditions I would like to recommend.

- 9
10 7) The applicant, within 60 days, would submit a revised impact study completed by Mr. Knight correcting the error
11 identified by the staff and Board of Adjustment correcting the misidentification of the proposed used of the
12 property (i.e. Class II Kennel).
13
14 8) Submission of the detail for the facilities developed on this property that as part of the building permit
15 application, the applicant, based on his testimony, submit sufficient detail renderings including the color and
16 nature of all proposed exterior materials to be utilized for all structures on the property for review and approval
17 by the planning staff to ensure compliance with submitted testimony that the facility would be consistent with
18 those buildings and facilities at the Exchange Club.
19
20 9) As part of the driveway permit for the North Carolina Department of Transportation, that Mr. Andrews work with
21 the county and DOT to include directional signs allotting entrance and exit to the facility.
22
23 10) Facility to comply to all applicable noise standards as enforced by the Orange County Sheriff's Department
24 regarding any amplified voices or other disturbances on the property.
25

26 Michael Harvey: Mr. Chairman, if those conditions are imposed, Staff's recommendation is to approve as modified.

27
28 Thomas Brown: On item 8, were you intending that to include 8.8.21.1.c and 8.8.2.21.1.d?

29
30 Michael Harvey: Yes sir. I will be happy to answer any more questions from the board reminding the board that once
31 you close the public hearing, you are not allowed to ask questions of the applicant or staff. You are deliberating.

32
33 Larry Wright: On page 97, from Mr. Konsler, the health department, the facility would be prohibited from any form of
34 food handling or food preparation on the site so the concession stand would have to be packaged food because there
35 would be no way to sanitize this with soap and water?

36
37 Michael Harvey: Yes.

38
39 Larry Wright: I go up and down 86 and I see people in their homes and they just have fish fries out there so what
40 would happen if a team wanted to have a neighborhood party? This has been a property historically that seems like
41 the neighborhood has moved in and when there is people that wanted to get together to play ball or whatever they did
42 so what would happen if they set up a fish fry?

43
44 Michael Harvey: Dr. Wright, if at the conclusion of the game, teams wanted to have a fish fry for consumption by the
45 local residents or the local people playing there, it would be my assertion that they would have to obtain approval from
46 the health department for the apparatus to be used as part of that activity and they would have to, as we have done in
47 other instances, sign waivers and statements that absolve the health department from all liability. What can't happen
48 is Mr. Andrews cannot be preparing food at the concession stand for sale without going through an appropriate
49 process in order to ensure there is adequate septic and/or sewage capacity. If they voluntarily decide to do something
50 where they understand the risks and have approval from the health department for the facility they are proposing and
51 it is not selling to the general public or inviting the general public onto to the property to buy it then I think it would be

1 legal under the health department guidelines.
2

3 Larry Wright: I find it curious that there seem to be spontaneous fish fries that go on and it doesn't seem I have
4 been trained in microbiology and I don't understand all this.
5

6 Thomas Brown: Do the other board members have any other questions of Mr. Harvey or any of the testimony prior to
7 the closing of this case to the public?
8

9 Larry Wright: When I visited that site, I did not see a sign of notification that this was coming before the board on that
10 parcel.
11

12 Michael Harvey: We posted the sign and it was removed. We don't know why or how... within a couple of days of
13 being posted. We have had similar problems with similar sites. Let me stipulate that one of the reasons we have to
14 go through the arduous advertisement process we do is because signs disappear which is why we send out certified
15 letters to all the adjacent property owners and advertise in the paper. We had a similar problem, in the next case and
16 on a case two months ago with the dog kennel on Davis.
17

18 James Carter: To Mr. Andrews, I applaud your interest in creating something positive for the neighborhood.
19

20 Michael Harvey: When Mr. and Mrs. Andrews began talking about this, the obvious question since it was a ball field
21 and used as a ball field at one point in time, why do we need a Class B Special Use Permit to reestablish the ball field.
22 It was my determination that since the use had been dormant for several years, that it lost any status in order to claim
23 that it had been a recreational facility based on the current definition of the ordinance and as such, in my mind, they
24 had no choice but to come through this process.
25

26 Larry Wright: This is submitted jointly with the HYAA?
27

28 Michael Harvey: HYAA is partnering with the Andrews' and HYAA will be the predominate user of the field according to
29 the application.
30

31 Larry Wright: And it is under lease agreement?
32

33 Michael Harvey: Correct.
34

35 Larry Wright: If for some reason, this lease was no longer renewed, would the spirit of this ball field still be a
36 neighborhood ball field? Would it be inclusive of what the spirit of it was in the 60's and the 70's as a place for the
37 youth to get together and would not be taken over by adult games. It was brought to us as a community endeavor and
38 the spirit of it is to have a facility for the youth to have constructive athletic events. In the event that lease is broken or
39 not be renewed, would that still exist or is that not germane to what we decide here?
40

41 Michael Harvey: I think the application and the narrative, as I recall, is broken down twofold. One it talks about this
42 cooperative relationship with HYAA and also providing opportunity for local kids to engage in softball/baseball
43 activities. I think the applicant is voluntarily committing themselves to providing a recreational amenity geared and
44 focused towards the provision of this field primarily for the use of local children. The HYAA lease agreement and their
45 use of the facility is not secondary because it is a joint partnership. I think it is a benefit and if it dissolves, I think there
46 is sufficient detail in the narrative and the application package that commits the use of this facility primarily as a place
47 for the local children to play ball.
48

49 Thomas Brown: The public hearing portion of case number A-4-10 is now closed. I would like to thank staff, applicant
50 and citizens for their time and thoughtful testimony. We have heard the testimony of the applicant and the staff. The
51 applicant has made a request for the Special Use Permit to operate a non-profit recreational facility specially a ball
52 field. Testimony and evidence has been provided during this hearing and has been noted that there will be no ball

1 field lighting and no night time events. The board now has the responsibility of deciding the Special Use Permit
2 request based on the testimony provided. Before asking for motions, does the board wish to discuss or comment
3 among themselves? We will be going through the specific and general standards for determination which are
4 contained on pages 109 through 119 in the packet. We will first review the specific standards beginning at the bottom
5 of page 109 and entertain motions concerning the approval of the staff recommended findings. After the specific
6 findings, we will turn to the general standards on page 119. The motions on the general standards must include a
7 factual basis for the motion. The board will then review the staff recommendations on page 120 and then a final
8 motion on approval or denial of case A-4-10 to include conditions if appropriate will be required. Let's begin on page
9 109 on the specific standards. The chair will entertain a motion on these standards. You can go page by page or
10 Article by Article.
11
12

**FINDINGS OF THE ORANGE COUNTY PLANNING STAFF
PERTAINING TO REQUEST SUBMITTED BY SHANNON ANDREWS
REQUESTING A CLASS B SPECIAL USE PERMIT TO ALLOW FOR A
RECREATIONAL FACILITY – NON PROFIT (BASEBALL FIELD)
FOR TWO PARCELS OF PROPERTY LOCATED AT
THE INTERSECTION OF GAINES CHAPEL ROAD AND SOUTHERN DRIVE
(PIN 9844-67-9028 and PIN 9844-77-1102)**

Special Uses must comply with general and specific standards as set forth in Article 8.

Article 8.2.1 b) requires written findings certifying compliance with the following:

- (1) The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted;
- (2) The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property); and
- (3) The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners;

In addition, the Board shall make findings certifying that the application is complaint with the following specific standards:

- (1) Specific standards for the submission of Special Use Permit applications as outlined within Section(s) 8.6 and 8.8 of the Ordinance,
- (2) Applicable provisions of Article 5 (Dimensional Requirements) and Article 6 (Application of Dimensional Requirements) of the Ordinance.
- (3) Section 8.2.4 relating to the method and adequacy of the provision of:
 - a. Sewage disposal facilities,
 - b. The adequacy of police, fire, and rescue squad protection, and
 - c. The adequacy of vehicular access to the site and traffic conditions around the site,
- (4) Specific regulations governing the development of individual Special Uses as set forth in Article 8.8, specifically Section 8.8.21 *Recreational Facilities* of the Ordinance.

1 Listed below are the findings of the Orange County Planning Department regarding the application in question.
 2 The findings have been presented by Article and requirement to assist the Board of Adjustment in its
 3 deliberations.
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7 **ARTICLE 8.6 AND 8.8 - APPLICATION COMPONENTS ("Yes" indicates compliance; "No" indicates non-compliance)**
 8

FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
<u>Ordinance Requirements</u>			
8.6 - Application submitted on forms providing full and accurate description of proposed use, including location, appearance and operational characteristics.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	A complete application on appropriate forms has been submitted.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8.8 a) - Ten (10) copies of the site plan prepared by a registered land surveyor, architect, or engineer.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Ten (10) copies of the site plan, prepared by Carolina Cornerstone were submitted	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8.8 b) - Elevations of all proposed structures to be used in the development.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Proposed structures are shown on the site plan. The application contains renderings of the proposed buildings	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8.8 c) - Ten (10) copies of the Environmental Assessment and/or Environmental Impact Statement, if required, by the Orange County Environmental Impact Ordinance.	Not applicable – An EIS statement is not required by the Orange County Environmental Impact Ordinance as the proposed amount of land disturbance is under the minimum amount necessary to warrant an EIS statement	Not applicable – An EIS statement is not required by the Orange County Environmental Impact Ordinance as the proposed amount of disturbance is under the minimum amount necessary to warrant an EIS statement	<input checked="" type="checkbox"/> Not Applicable
8.8 d) - A fee, as set by the Orange County Board of Commissioners.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The application fee has been paid.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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ARTICLE 5 - DIMENSIONAL REQUIREMENTS ("Yes" indicates compliance; "No" indicates non-compliance)

FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
<u>Ordinance Requirements:</u>			
Article 5 lists standards for minimum lot size, lot width, front, side and rear setbacks, maximum building height and lot coverage, and development intensity.			
The applicant has applied for a Special Use Permit on property zoned Agricultural Residential (AR). The standards for the AR district are set forth in Article 5.1.2 and are as follows:			
a) Minimum lot area per use 40,000 sq. ft.	<u> x </u> Yes <u> </u> No	The property is zoned Agricultural Residential (AR) and Rural Residential One (R-1) both requiring a minimum lot area of 40,000 square feet. There are approximately 2.8 acres in the tract.	<u> x </u> Yes <u> </u> No
b) Minimum lot width - 150 ft.	<u> x </u> Yes <u> </u> No	The lot has over 360 feet of frontage along Southern Drive and 300 feet of frontage along Gaines Chapel Road	<u> x </u> Yes <u> </u> No
c) Required front setback - 40 ft.	<u> x </u> Yes <u> </u> No	The proposed structures comply with the setback requirement	<u> x </u> Yes <u> </u> No
d) Required side and rear setbacks - 20 ft.	<u> X </u> Yes <u> </u> No	The proposed structures comply with the setback requirement	<u> x </u> Yes <u> </u> No
e) Maximum building height - 25 ft.	<u> x </u> Yes <u> </u> No	The proposed facilities as shown within the submitted renderings are compliant with the maximum height requirements.	<u> x </u> Yes <u> </u> No

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1 ARTICLE 6 - APPLICATION OF DIMENSIONAL REQUIREMENTS
2 ("Yes" indicates compliance; "No" indicates non-compliance)

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FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
<u>Ordinance Requirements:</u>			
Article 6 lists specific standards that apply to various types of development applications.			
Article 6.12 contains those development intensity standards which apply to group developments controlled by the Land Use Intensity (LUI) system			
a) Minimum gross land area - N/A	Not applicable – This proposed project is not subject to the requirements of Article 6.12 of the Zoning Ordinance with respect to the minimum gross land area requirement	Not applicable – This proposed project is not subject to the requirements of Article 6.12 of the Zoning Ordinance with respect to the minimum gross land area requirement	<u> x </u> Not Applicable
b) Maximum gross land area - N/A	Not applicable – This proposed project is not subject to the requirements of Article 6.12 of the Zoning Ordinance with respect to the maximum gross land area requirement	Not applicable – This proposed project is not subject to the requirements of Article 6.12 of the Zoning Ordinance with respect to the maximum gross land area requirement	<u> x </u> Not Applicable
c) Maximum floor ratio - .088 or 10,733 sq feet of allowable floor area	<u> X </u> Yes ___No	In utilizing the information supplied on the site plan, the Board finds that the applicant's proposal complies with the Maximum Floor Ratio limit of .088 per Section 5.1.2 and Section 6.12.2.3 of the Orange County Zoning Ordinance	<u> x </u> Yes ___ No
	The site plan indicates that the proposed floor area of the for the boarding facility and covered arena are approximately 756 sq feet .		
	Staff has determined that the proposal is consistent with the permitted Maximum Floor Area Ratio limits		

1

d) Required minimum open space ratio - .84

Yes No

In utilizing the information supplied on the site plan, the Board finds that the applicant's proposal complies with the Required Minimum Open Space Ratio requirement of .84 per Section 5.1.2 and Section 6.12.2.4 of the Orange County Zoning Ordinance.

Yes No

Required minimum open space – 102,453 sq. ft.

Staff has utilized the submitted site plan and calculated the existing open space on the property and verified that there is approximately **110,698 square feet** of open space on the property.

Staff has determined that the proposal is consistent with the required Open Space Ratio

e) Required minimum pedestrian/landscape ratio - .21
Required minimum pedestrian/landscape space – 25,613 sq. ft.

Yes No

In utilizing the information supplied on the site plan, the Board finds that the applicant's proposal complies with the Required Minimum Pedestrian/Landscape Ratio of .21 per Section 5.1.2 and Section 6.12.3 of the Orange County Zoning Ordinance

Yes No

Staff has utilized the submitted site plan and calculated the existing landscaped area on the property and verified that there is approximately **28,420** square feet, of pedestrian/landscaped area as defined under Section 6.12.3 of the Orange County Zoning Ordinance

Staff has determined that the proposal is consistent with the required Minimum Pedestrian/Landscape space.

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ARTICLE 8.8.21 - SPECIFIC STANDARDS FOR RECREATIONAL FACILITIES (S-34) (Class B Special Use)
("Yes" indicates compliance; "No" indicates non-compliance) (continued)

FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
<p>In addition to the information required by Subsection 8.2 and 8.8, the following shall be submitted as part of the application in order to determine compliance with the site specific development requirements for a Class II Kennel as outlined within Section 8.8.21 of the Ordinance:</p>			
<p>Section 8.8.21.1</p> <p>a) A description of the exact type facility planned, the amount of area, including and number of members or participants expected, a site plan showing siting and size of existing and proposed building.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The submitted site plan and application narrative provides the required information.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Section 8.8.21.1</p> <p>b) Access, parking, service and recreation areas for all planned facilities or existing facilities.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The submitted site plan provides all essential information as required under Section 8.8.21.1(b)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Section 8.8.21.1</p> <p>c) Plans, and elevation for all proposed and existing structures and descriptions of the color and nature of all exterior materials.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The applicant has indicated this information will be supplied at the hearing</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

5

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Section 8.8.21.1

Yes No

- d) A landscape plan showing, at the same scale as the site plan, existing and proposed trees, shrubs, ground cover and any other landscape materials

The site plan provides information detailing the required landscaping. Existing vegetation shall be preserved to comply with the mandatory twenty (20) foot Type A Land Use Buffer.

Yes No

The applicant has requested, and staff can support, a request to complete a formal landscape plan once the applicant received approval for the project and can consult with an arborist with the local Cooperative Extension Office to select native species of foliage that are drought tolerant.

By requesting this, the applicant is technically holding themselves to a higher development standard than currently contained within the Ordinance.

Staff recommends this as a condition of approval

Section 8.8.21.1

Yes No

- e) A signed statement from the owners or operators that there shall be no activity allowed that will have adverse effects on adjacent property. The statement shall also include a complete list of all recreational activities that will take place on the site.

The application contains this detail Yes No

Section 8.8.21.2

Yes No

- a) Lot size shall be adequate for the method of sewage disposal proposed, and for the proposed recreational uses

Based on the memorandum supplied by the Orange County Health Department staff believes that this standard can be met Yes No

Section 8.8.21.2

Yes No

- b) The site plan should show the boundaries of the site, the distances to the nearest residential structures, proposed or existing access points, parking and service areas, location of outdoor recreational facilities, and location of existing or proposed buildings

The site plan provides this detail Yes No

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Section 8.8.21.2

Yes No

The site plan provides this detail. Staff still recommends the imposition of the above referenced condition.

Yes No

c) The landscape plan shall be at the same scale as the site plan and should show how the facilities will be screened from the adjacent properties, in addition to proposed or existing trees, shrubs and ground cover

Section 8.8.21.2

Yes No

The applicant has indicated this information will be supplied at the hearing

Yes No

d) Elevations of all structures and buildings. The structure shall be of such a nature as to preserve the residential character of the area

Section 8.8.21.2

Yes No

Based on the orientation of the field and the proposed landscaping, staff does not believe this will be an issue

Yes No

e) There are no adverse impacts on the adjacent roads or residential property.

2

3 **MOTION** made by David Blankfard to find in the affirmative sections 8.8.21.1 on pages 116 and 117. Seconded by
4 James Carter.

5 **VOTE:** Unanimous

6

7 Thomas Brown: On the specific standards, all we need to do is affirm the yes. On item "c" you need to have a
8 condition on the yes in the affirmative will have a condition that will be addressed in the conditions phase. If you would
9 like to restate your motion.

10

11 David Blankfard: I will retract my motion

12

13 **MOTION** made by Larry Wright to find in the affirmative for the applicant and with staff's recommendation for Section
14 8.8.21.1a-8.8.21.1c on page 116, Section 8.8.21.1.d on page 117, Section 8.8.21.1.e on page 117 and Section
15 8.8.21.2 on page 117, on page 118, Section 8.8.21.2b, 8.8.21.2c, 8.8.21.2e. Seconded by David Blankfard.

16 **VOTE:** Unanimous

17

18 Thomas Brown: We will have to deal with page 116 for "c" and page 118 for "d" separately and we can have a motion
19 for those with conditions.

20

21 **MOTION** made by David Blankfard to agree with staff's recommendation with conditions of the affirmative for Articles
22 8.8.21.1c on page 118 as well as 8.8.21.2d. Seconded by James Carter.

23 **VOTE:** Unanimous

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ARTICLE 8.2.1 & 8.2.2 - APPLICATION COMPONENTS
(“Will” indicates compliance; “Will Not” indicates non-compliance)

FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
<u>Ordinance Requirements</u>			

In accordance with Article 8.2.1 and 8.2.2 of the Zoning Ordinance, the Board of Adjustment shall also consider the following general conditions before the application for a Special Use can be approved:

Article 8.2.1 & 8.2.2

1. The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.

To be determined by Board after receiving evidence to be submitted or heard at public hearing.

___Will ___Will Not

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Thomas Brown: On page 119, we have the general standards and these are the standards where we must include factual basis for the motion. There are three portions.

MOTION made by Mark Micol to find in favor of the applicant in that the use will maintain or promote the public health, safety and welfare if located where proposed and developed and operated according to the plan as submitted based on testimony of local resident Mr. McAdoo and HYAA official Mr. Askew stating that the project as proposed would be of great social value to the surrounding area and open to a broad portion of the population as well as making sports more affordable for the children of Orange County . Seconded by David Blankfard.

VOTE: Unanimous

Article 8.2.1

2. The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property).

To be determined by Board after receiving evidence to be submitted or heard at public hearing.

___Will ___Will Not

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MOTION made by David Blankfard to agree with the applicant that the use will maintain or enhance the value of the contiguous properties based on the impact analysis by Mr. Knight with the amended report by Mr. Knight. Seconded by Larry Wright.

VOTE: Unanimous

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Article 8.2.1

3. The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the general plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.

To be determined by Board after receiving evidence to be submitted or heard at public hearing. ___Is ___ Is Not

2

3 MOTION made by Larry Wright that this application and the site of this is in a location in character of its use. The history that has been in testimony here has shown that this has been a ball field since the 60's. It is just laying fallow and now it will be rejuvenated. The applicant in a very detailed manner did list how it conforms to the 2030 Comprehensive Plan and therefore I think this is in line with what the Commissioners would accept. I move that we approve Article 8.2.1(3) on both the testimony and application. Seconded by David Blankfard.

8 VOTE: Unanimous

9

10 RECOMMENDATION

11 The Planning Staff has not received any information that would establish grounds for making a negative finding on the general standards. These standards include maintaining or promoting the public health, safety, and general welfare, maintaining or enhancing the value of contiguous property, and the use being in compliance with the general plan for the physical development of the County.

16 The Planning Staff has reviewed the application, the site plan, and all supporting documentation and has found that the applicant does comply with the specific standards and required regulations.

19 In the event that the Board of Adjustment makes the determination that the permit can be issued, Planning Staff recommends the attachment of the following conditions:

- 22 (1) That within one hundred eight (180) days from the approval of the Special Use Permit the applicant develop, in coordination with Planning Staff and representatives of Orange County Cooperative Extension, and obtain approval of a landscape plan that utilizes drought tolerant, indigenou, vegetation that satisfies the required Type A twenty (20) foot landscape buffer mandated by the Orange County Zoning Ordinance,
- 26 (2) That the applicant complete and submit a formal application to the Orange County Inspections Department requesting authorization to commence construction of the proposed structures. The application, including all applicable fees, shall be submitted within one hundred eighty (180) days from the approval of the Special Use Permit,
- 30 (3) That the applicant obtain any and all required Erosion Control and Sedimentation permits authorizing land disturbing activities within one hundred eighty (180) days from the approval of the Special Use Permit
- 32 (4) That within one hundred eighty (180) days from the approval of the Special Use Permit the applicant submit a detailed plan for the provision of portable toilets and hand washing stations for review and approval by the Orange County Health Department,
- 35 (5) That the applicant be required to submit a sign rendering for review and approval by the Planning Department within one hundred eighty (180) days from the issuance of the SUP and that the approved sign shall be installed prior to the issuance of a Certificate of Occupancy allowing for the ball field operation to commence.

- 1 (6) That the applicant obtain a driveway permit for the facility from NC DOT within one hundred eighty (180) days
2 from the issuance of the SUP
- 3 (7) If any condition of this Special Use Permit shall be held invalid or void, then this Special Use Permit shall be
4 void in its entirety and of no effect, and
- 5 (8) The Special Use Permit will automatically expire within twelve (12) months from the date of approval if the use
6 has not commenced or construction has not commenced or proceeded unless a timely application for
7 extension of this time limit is approved by the Board of County Commissioners as provided in 8.4.11 of the
8 Orange County Zoning Ordinance.

9 Thomas Brown: Now we come to the recommendations and conditions based on the testimony of staff. They have
10 reviewed the conditions 1-6 and added 7-10 and then renumbering 7 and 8 to numbers 11 and 12. We will be required
11 to have a motion that accepts the conditions for approval for this special use permit for final determination. We need
12 to ensure we have the wording of these additional conditions. We will add wording into condition number 7 that the
13 applicant will ensure that a revised impact study statement by Mr. Vic Knight is submitted within 60 days. Number 8,
14 that the applicant during the permit process submits sufficient detail to verify adherence to Sections 8.8.21.1c and
15 8.8.21.2d.

16
17 David Blankfard: The submittal shall show sufficient color and nature of all structures.

18
19 Thomas Brown: Condition 9, that in conjunction with the DOT permit, that the applicant submit plans for directional
20 signage. Condition 10 that the applicant adhere to the existing Orange County Noise Ordinance.

21
22 David Blankfard: I think in number 8 we were suppose to have a landscaping plan.

23
24 Thomas Brown: If we go with 21c and 21d that will be sufficient. If we are all in agreement with the conditions, we
25 would need a final motion to approve the special use permit case A-4-10 with an attachment requiring the adherence
26 to the following conditions, 1-12.

- 27
28 (1) That within one hundred eight (180) days from the approval of the Special Use Permit the applicant develop,
29 in coordination with Planning Staff and representatives of Orange County Cooperative Extension, and obtain
30 approval of a landscape plan that utilizes drought tolerant, indigenous, vegetation that satisfies the required
31 Type A twenty (20) foot landscape buffer mandated by the Orange County Zoning Ordinance,
- 32 (2) That the applicant complete and submit a formal application to the Orange County Inspections Department
33 requesting authorization to commence construction of the proposed structures. The application, including all
34 applicable fees, shall be submitted within one hundred eighty (180) days from the approval of the Special Use
35 Permit,
- 36 (3) That the applicant obtain any and all required Erosion Control and Sedimentation permits authorizing land
37 disturbing activities within one hundred eighty (180) days from the approval of the Special Use Permit,
- 38 (4) That within one hundred eighty (180) days from the approval of the Special Use Permit the applicant submit a
39 detailed plan for the provision of portable toilets and hand washing stations for review and approval by the
40 Orange County Health Department,
- 41 (5) That the applicant be required to submit a sign rendering for review and approval by the Planning Department
42 within one hundred eighty (180) days from the issuance of the SUP and that the approved sign shall be
43 installed prior to the issuance of a Certificate of Occupancy allowing for the ball field operation to commence,
- 44 (6) That the applicant obtain a driveway permit for the facility from NC DOT within one hundred eighty (180) days
45 from the issuance of the SUP,

- 1 (7) That within sixty (60) days from the approval of the Special Use Permit the applicant submit a revised Impact
2 Analysis from Mr. Vic Knight correcting several spelling mistakes and removing erroneous references to the
3 impact analysis being for a 'Class II Kennel',
- 4 (8) That as part of the building permit application the applicant provide the necessary detail referenced within
5 Section 8.8.21 (1) (c) relating to the development of all proposed structures, specifically the dugouts and
6 concession/office space, including professional renderings, the proposed color of the facilities, and the
7 material that will be utilized in their construction,
- 8 (9) That as part of condition number six (6) the applicant work with staff and NC DOT to install directional signs
9 designating the entrance/exit of the project as well as parking areas,
- 10 (10) That the applicant comply with the Orange County Noise Ordinance,
- 11 (11) If any condition of this Special Use Permit shall be held invalid or void, then this Special Use Permit shall be
12 void in its entirety and of no effect, and
- 13 (12) The Special Use Permit will automatically expire within twelve (12) months from the date of approval if the use
14 has not commenced or construction has not commenced or proceeded unless a timely application for
15 extension of this time limit is approved by the Board of County Commissioners as provided in 8.4.11 of the
16 Orange County Zoning Ordinance.
- 17 **MOTION** made by David Blankfard to approve the Class B Special Use Permit request with the 12 conditions.
18 Seconded by Mark Micol.
19 **VOTE:** Unanimous
20
21 Thomas Brown: The special use permit requested in case A-4-10 is approved with conditions as stipulated.

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3 6. **A-5-10 – Riding Stable/Academy – development of a commercial boarding and**
4 **training facility for horses.**
5

6 Ms. Micky Purcell is requesting the issuance of a Class B Special Use Permit to allow for the development of a Class
7 II Kennel/Riding Stable at 1318 White Cross Road.

8 Specifically, the application proposes the development of a commercial horse boarding and training facility on a sixty
9 (60) acre parcel (PIN 9747-18-4527) owned by Carol and William Bryon.

10 As detailed within the application, the applicant has placed an offer to purchase the property contingent on the
11 approval of the Special Use Permit allowing for the development of the boarding and training facility.

12 The applicant is proposing to board approximately sixteen (16) to twenty (20) horses and offer training classes to
13 boarders. The applicant stresses that there will be no competitions or horse shows held on the property in
14 conjunction with the proposed facility.

15 Michael Harvey: On pages 122, Attachment one becomes Attachment A and on page 128, Attachment one is
16 Attachment A, application, the aerial photo map of adjacent property is Attachment B, staff correspondence is
17 Attachment C and the findings of fact is Attachment D. Per the ordinance, this is a Class II kennel because that is
18 how it is defined. We have had discussions on several occasions concerning the horror the term kennel engenders
19 with some residents. As I have done in the abstract, this has nothing to do with dogs but a riding academy.
20 Unfortunately, the ordinance does call this a Class II Kennel/Riding Academy. That is the terminology we have to
21 use to be consistent with Article 8.8.11. I understand the board's desires and wishes in terms of creating a
22 distinction. In the future that will be addressed with the Unified Development Ordinance. Mr. Chairman, you have a
23 valid permit request to develop a riding stable, commercial boarding facility, training center on a 60 acre parcel of
24 property. I would like to call the board's attention to the site plan for a couple of areas that might address some
25 concerns. You will note the site plan denotes a large array of stream buffers. As denoted in the application
26 narrative stream buffers will be left in the natural, undisturbed state with the exception of an existing gravel road
27 that already crosses into the stream buffer on the northern portion of the property. That is to allow horses access to
28 the pasture area. The applicant is going to preserve and protect the existing stream buffers. That includes the
29 large stream buffer area in the middle of the property. I will also call to your attention to the southern part of the
30 property. When you look at the required Type B buffer and you look at other setback information, the southern part
31 of the property is essentially unusable, undeveloped. It will all be left in a natural buffered state and the application
32 does denote that. The southern portion and the western top portion of this facility, you will have the required Type B
33 buffer around the perimeter of the property. The applicant has already alluded that they will plant additional trees.
34 You will note that the facilities are compliant with the 150 foot setback. The applicant proposes to live in the single
35 family residence as a security measure.

36 Micky Purcell: I live in Chapel Hill. I have been sworn in. I have the opportunity to buy this property and develop it
37 as a horse boarding facility. I can get up to 20 horses but generally on average, I will only have 12 to 14 horses
38 that ensures better care and the quality of care. The facility will mainly be boarding and training both people and
39 horses. No shows, no competition, although we will have small clinics at the facility. We will develop pasture but
40 we will keep all buffers and extra buffers in place.

41 James Carter: Could you define small clinic?

42 Micky Purcell: That is a horse term where you have outside instructors coming in so I am a trainer and for a clinic I
43 would get a clinician to train there from outside to teach my clients and maybe bring one or two outside people with
44 their horses to have a lesson with the outside trainer. You will generally have clinics run to six people and I have
45 boarders and ourselves so we will already have six people but they have three or four outside horses coming in for
46 extra training. Those are usually a morning or afternoon.

1 Larry Wright: On page 145, I assume "C" represents stables.

2 Micky Purcell: They are units. Unfortunately, what Cecil Brewer did, there are six stables on the outside and on
3 the inside is my tack room and offices. He has put them down as stables because his computer program would not
4 put them in as offices.

5 Larry Wright: I was looking at the plans and went through the application. The proposed covered area, what is
6 that, could you tell me a little of what that is? It is 225 feet by 100 feet and what is the floor like and what does it
7 look like?

8 Micky Purcell: It is a steel arch building, 100 feet wide by 225 long. Twenty-five feet right at the end will be
9 sectioned off with just one wall. The arena is 100 by 200. The footing is going to be a mix of sand and rubber units
10 that will keep the dust down. That is where we ride.

11 Larry Wright: You will have people coming here to train? I didn't see restroom facilities.

12 Micky Purcell: They are in the center here.

13 Michael Harvey: Dr. Wright, when we get into attachments and staff's correspondence, we do have the various
14 septic permits associated with this project. The applicant has requested that two additional pieces of information be
15 provided to you; one is a statement submitted by Mr. Jay Parker, who is signed up to speak, concerning
16 presentation discussion of the development impact of this proposed facility to address compliance with Section
17 8.2.1 Subsection b, the impact on the value of this property. We also have, although it can't be accepted as direct
18 testimony, an email by Dickie Andrews, giving his support for the proposal.

19 Thomas Brown: Would the letter from Weaver Street Realty be Exhibit 1 for this case?

20 Michael Harvey: I will call it Applicant's Exhibit 1 and the email Applicant's Exhibit 2. I believe Mr. Parker should
21 address the board concerning his submission of the Development Impact Opinion which is Applicant Exhibit 1.

22 Thomas Brown: Mr. Parker have you been sworn in?

23 Jay Parker: I live in Chapel Hill. I am not a registered appraiser as Vic Knight. This is my opinion based on my
24 experience selling property for 25 years in Orange County and surrounding areas. My experience has been that
25 property that has not been used other than the one rental that properties adjoining facilities like Ms. Purcell has
26 proposed, my experience has been that buyers are drawn to those properties because they are interested and
27 don't create a lot of nuisance like a kennel might do. I have sold a number of properties in this general area in the
28 past where there are a number of different kinds of training facilities of different sizes throughout Orange County.
29 My opinion is that this an enhancement to the general value of that area.

30 David Blankfard: What is NCRE?

31 Jay Parker: My real estate license.

32 Michael Harvey: If there are no questions, the next person to speak is Ms. Adele Mittelstadt.

33 Adele Mittelstadt: I have been sworn in. I live directly across the property in question and my husband I are
34 delighted that it is not another housing development. To be able to come home and turn onto our road and see
35 horses in the pasture is a very pleasant thing plus our granddaughter is thrilled that there will be horses across from
36 us. It is a positive thing for us.

37 Michael Harvey: The next individual to speak is Mr. Stan Smith.

1 Stan Smith: I have been sworn in. I live on the same road with the Mittlestadts. I run a family grading and
2 excavating business. The Purcells have contacted us about doing some of their work. Putting that aside, I have
3 lived on this road since 1979 with my family. Along this road, there are other farms with other livestock and I don't
4 think this would create a problem. I have worked with other people that have done horse arenas in the past and
5 the properties are always well maintained and never had a problem with anyone. I have never heard any
6 complaints from others saying after a complex like this has been put up that it has been a bad thing. I agree with
7 the gentleman before that this will enhance the property value of this area. The land was timbered a few years ago
8 and is not attractive at all. I think the approval of this would be good for the community because it will blend it with
9 the farms and not create a problem.

10 Dickie Andrews: I live in Carrboro but I have been a resident of Orange County my whole life. I represent the
11 sellers or owners of this property and they would like to encourage you to approve this permit. They feel it is a
12 good fit for the neighborhood. It is a low impact development as opposed to a residential subdivision. We also feel
13 like it would enhance the value of the surrounding properties. I have been in real estate 32 years and have some
14 experience in seeing appreciation and we felt like this would be a good fit for the neighborhood.

15 Ms. Katherine Cole: I have been sworn in. I live about one quarter mile south of this property on Marks Lane, right
16 off White Cross Road. I am a horse owner so my family will benefit directly from having a horse facility in the
17 neighborhood. What I also see planned for this property as being a win win situation for the whole community. The
18 good news for Orange County is this land will increase in value on the tax books once the facility is built. Unlike
19 other agricultural uses, this facility does not qualify for special use tax so they will be taxed at full benefit so we will
20 gain something for Orange County. The neighborhood will benefit because Ms. Purcell intends to use local people
21 to build the road and grade for the barn and arena and local people for seeding her fields or pastures and cutting
22 and baling the hay. Local sources for buying additional hay and feed. She will use a North Carolina builder for the
23 barn and riding arena. The community will benefit because hers will be the first covered riding arena in the area
24 allowing horse owners to ride even when the weather is bad. Last but not least, this land will not become farmland
25 in Orange County. Keeping horses is a low impact activity that allows us to have productive rural land without
26 sacrificing a rural lifestyle. According to the NC Department Agricultural, the equine industry has an annual
27 economic impact of \$1.9 billion dollars in North Carolina. I think it is a fine idea for White Cross and Orange County
28 to share in that prosperity and if I had my way, we would turn all empty farms into horse facilities instead of housing
29 developments.

30 Barbara Kuller: I live on Marks Lane so I am very close to Ms. Purcell's proposed facility. I have been sworn. I
31 think everyone has said what I would have said. I can also vouch for the integrity of Ms. Purcell. I have known her
32 a year and half and worked with her. I cannot imagine anyone who will do a finer job keeping this facility as a top
33 notch training facility. It will be a win win for everyone and our community and I hope it is approved.

34 Michael Harvey: That is the extent of those lined up to speak.

35 Thomas Brown: Would you do staff comments at this time.

36 Michael Harvey: What we have identified in our abstract essentially is that the project complies with the various
37 standards of the ordinance. I will get into more detail when I get to attachment D. Staff has determined on page
38 127 of your abstract that from our perspective the proposed operation applies with several provisions, goals and
39 objectives of the Comprehensive Plan. We have those listed on pages 127 and 128. It is our opinion that it is
40 consistent with the definition of the land use category which it is located. It is consistent with Section 5.6, the Land
41 Use Overreaching Goal and it is consistent with Objectives LU, 3.1 and 3.3 which we have summarized. On
42 Attachment C, staff correspondence, the one item I would like to bring to your attention is that I have two valid
43 health department permits for the septic system. I also have correspondence from David Sykes, the fire marshal
44 for Orange County stipulating they have no qualms about this facility being approved.

45 Larry Wright: On the map, when you talk about the health department, are those two septic systems connected?

1 Michael Harvey: No sir. That is the distance separating the two. On page 158, the proposed septic facility for the
2 barn is that northern most septic system and the other septic system would be for other ancillary facilities on site
3 and there has to be a separation distance outside the stream buffer. With respect to adjoining property owners, I
4 have only spoken to one individual, Jane Williams, who expressed no opinion. She wanted an explanation of the
5 project, specifically were they boarding dogs. Of course the answer is no. We did post the property and the sign
6 disappeared due to the election. I would like to call you attention to the Findings of Fact on page 177.

7 On page 188, with respect to the Findings of Fact, staff stipulates that we have heard no evidence this evening that
8 would cause us to make a negative finding with respect to Section 8.2.1, 8.2.2, subsection 1, the use will maintain
9 or promote the public health, safety and general welfare, if located where proposed and developed. Staff will
10 stipulate the stream buffers on this property are being preserved in their entirety which limits ultimate locations for
11 pasture and horse areas. That the facilities as proposed comply with the minimum setback requirements, that the
12 applicant demonstrates they will comply with the Type B buffer requirement as stipulated by the ordinance. That
13 the applicant chooses to live on the property which means there will be continuous security and monitoring of the
14 horses to ensure their perpetual safety. Staff will also stipulate that as the applicant has attained approval for the
15 septic systems from the Orange County Health Department that there is no issue that the property will not comply
16 with the various necessary health standards with respect to the disposal of generated waste on the property. With
17 respect to Section 8.2.1, subsection 2, you have testimony from Mr. Parker indicating that it is his experience as a
18 realtor in the area for many years that this type of development actually enhances and promotes adjacent property
19 values given the fact that this is currently the term utilized in both his assessment and that this will make purposeful
20 use of the property and as the applicant will be preserving the existing stream buffer. Staff will further argue that
21 the environmental integrity of the property will be preserved and will only enhance the value of the adjacent
22 property. With respect to compliance with 8.2.1, subsection 3, staff would remind the board that we have
23 determined that the project is consistent with several goals and objectives of the Comprehensive Plan as
24 articulated on pages 127 through 128 of our abstract. We further find that based on the findings or based on the
25 testimony submitted by Mr. Sykes that there are no fire or safety code issues based on this being located in
26 agricultural residential land use category as defined by the Comprehensive Plan as an area intended for promoting
27 stable agricultural development which we believe is consistent with that land use category and this is consistent
28 with promoting and preserving agricultural development of the county. We urge you to make an affirmative finding.
29 On page 189, we have recommended seven conditions.

30 Thomas Brown: Does the board members have any questions for Mr. Harvey? If not, we will close the public
31 hearing and begin deliberation. The public hearing portion of Case A-5-10 is now closed. I would like to thank the
32 staff and citizens for their testimony. We have heard the testimony of the applicant who has made a request for a
33 special use permit to operate a commercial boarding and training for horses which falls under the category of Class
34 II Kennel/Riding Stable. There will be no competition or horse shows on the property. The Board now has the
35 responsibility to decide the SUP request based on the testimony. We will be begin with the specific standards
36 contained on pages 177 through 187. Mr. Harvey went through these in sufficient detail so that if we have a motion
37 to stipulate as long as there is no problem with this process I would say we can entertain a motion to approve all
38 specific standards on pages 177 through 187.

**FINDINGS OF THE ORANGE COUNTY PLANNING STAFF
PERTAINING TO REQUEST SUBMITTED BY MICKEY PURCELL
REQUESTING A CLASS B SPECIAL USE PERMIT TO ALLOW FOR A
CLASS II KENNEL – RIDING ACADEMY/HORSE BOARDING
FOR A PARCEL OF PROPERTY LOCATED AT
1318 WHITE CROSS ROAD (PIN 9747-18-4527)**

Special Uses must comply with general and specific standards as set forth in Article 8.

Article 8.2.1 b) requires written findings certifying compliance with the following:

- (1) The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted;
- (2) The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property); and
- (3) The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners;

In addition, the Board shall make findings certifying that the application is complaint with the following specific standards:

- (5) Specific standards for the submission of Special Use Permit applications as outlined within Section(s) 8.6 and 8.8 of the Ordinance,
- (6) Applicable provisions of Article 5 (Dimensional Requirements) and Article 6 (Application of Dimensional Requirements) of the Ordinance.
- (7) Section 8.2.4 relating to the method and adequacy of the provision of:
 - a. Sewage disposal facilities,
 - b. The adequacy of police, fire, and rescue squad protection, and
 - c. The adequacy of vehicular access to the site and traffic conditions around the site,
- (8) Specific regulations governing the development of individual Special Uses as set forth in Article 8.8, specifically Section 8.8.11 *Kennels or Riding Stables/Academies* of the Ordinance

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Listed below are the findings of the Orange County Planning Department regarding the application in question. The findings have been presented by Article and requirement to assist the Board of Adjustment in its deliberations.

ARTICLE 8.6 AND 8.8 - APPLICATION COMPONENTS ("Yes" indicates compliance; "No" indicates non-compliance)

FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
<u>Ordinance Requirements</u>			
8.6 - Application submitted on forms providing full and accurate description of proposed use, including location, appearance and operational characteristics.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	A complete application on appropriate forms has been submitted.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8.8 a) - Ten (10) copies of the site plan prepared by a registered land surveyor, architect, or engineer.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Ten (10) copies of the site plan, prepared by Freehold Land Surveyors were submitted	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8.8 b) - Elevations of all proposed structures to be used in the development.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Proposed structures are shown on the site plan. The application contains renderings of the proposed buildings	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8.8 c) - Ten (10) copies of the Environmental Assessment and/or Environmental Impact Statement, if required, by the Orange County Environmental Impact Ordinance.	Not applicable – An EIS statement is not required by the Orange County Environmental Impact Ordinance as the proposed amount of land disturbance is under the minimum amount necessary to warrant an EIS statement	Not applicable – An EIS statement is not required by the Orange County Environmental Impact Ordinance as the proposed amount of disturbance is under the minimum amount necessary to warrant an EIS statement	Not Applicable
8.8 d) - A fee, as set by the Orange County Board of Commissioners.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The application fee has been paid.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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ARTICLE 5 - DIMENSIONAL REQUIREMENTS ("Yes" indicates compliance; "No" indicates non-compliance)

FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
<u>Ordinance Requirements:</u>			
Article 5 lists standards for minimum lot size, lot width, front, side and rear setbacks, maximum building height and lot coverage, and development intensity.			
The applicant has applied for a Special Use Permit on property zoned Agricultural Residential (AR). The standards for the AR district are set forth in Article 5.1.2 and are as follows:			
a) Minimum lot area per use 40,000 sq. ft.	<u> x </u> Yes <u> </u> No	The property is zoned Agricultural Residential (AR) requiring a minimum lot area of 40,000 square feet. There are approximately 60 acres in the tract.	<u> x </u> Yes <u> </u> No
b) Minimum lot width - 150 ft.	<u> x </u> Yes <u> </u> No	The lot has over 1,000 feet of frontage along White Cross Road (SR 1951)	<u> x </u> Yes <u> </u> No
c) Required front setback - 40 ft.	<u> x </u> Yes <u> </u> No	The proposed barn (boarding facility) and covered arena are both approximately 750 feet from the front property line. The existing house, as shown on the site plan, is 40 feet from the front property line	<u> x </u> Yes <u> </u> No
d) Required side and rear setbacks - 20 ft.	<u> X </u> Yes <u> </u> No	The proposed boarding facility and covered arena are approximately 150 feet from the eastern property line, 1100 feet from the western property line, and 2600 feet from the rear property line. The existing residence is approximately 740 feet from the western, 800 feet from the eastern, and 900 feet from the rear property line	<u> x </u> Yes <u> </u> No
e) Maximum building height - 25 ft.	<u> x </u> Yes <u> </u> No	The proposed facilities as shown within the submitted renderings are compliant with the maximum height requirements.	<u> x </u> Yes <u> </u> No

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ARTICLE 6 - APPLICATION OF DIMENSIONAL REQUIREMENTS
("Yes" indicates compliance; "No" indicates non-compliance)

FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
<u>Ordinance Requirements:</u>			
Article 6 lists specific standards that apply to various types of development applications.			
Article 6.12 contains those development intensity standards which apply to group developments controlled by the Land Use Intensity (LUI) system			
a) Minimum gross land area - N/A	Not applicable – This proposed project is not subject to the requirements of Article 6.12 of the Zoning Ordinance with respect to the minimum gross land area requirement	Not applicable – This proposed project is not subject to the requirements of Article 6.12 of the Zoning Ordinance with respect to the minimum gross land area requirement	Not Applicable
b) Maximum gross land area - N/A	Not applicable – This proposed project is not subject to the requirements of Article 6.12 of the Zoning Ordinance with respect to the maximum gross land area requirement.	Not applicable – This proposed project is not subject to the requirements of Article 6.12 of the Zoning Ordinance with respect to the maximum gross land area requirement	Not Applicable
c) Maximum floor ratio - .088 or 229,996 sq feet of allowable floor area	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The site plan indicates that the proposed floor area of the for the boarding facility and covered arena are approximately 33,000 . Staff has determined that the proposal is consistent with the permitted Maximum Floor Area Ratio limits	In utilizing the information supplied on the site plan, the Board finds that the applicant's proposal complies with the Maximum Floor Ratio limit of .088 per Section 5.1.2 and Section 6.12.2.3 of the Orange County Zoning Ordinance	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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d) Required minimum open space ratio - .84

Required minimum open space – **2,195,424** sq. ft. (50 acres)

Yes No

Staff has utilized the submitted site plan and calculated the existing open space on the property and verified that there is approximately **2,308,680 square feet** of open space on the property.

Staff has determined that the proposal is consistent with the required Open Space Ratio

In utilizing the information supplied on the site plan, the Board finds that the applicant's proposal complies with the Required Minimum Open Space Ration requirement of .84 per Section 5.1.2 and Section 6.12.2.4of the Orange County Zoning Ordinance

Yes No

e) Required minimum pedestrian/landscape ratio - .21
Required minimum pedestrian/landscape space – **548,856** sq. ft.

Yes No

Staff has utilized the submitted site plan and calculated the existing landscaped area on the property and verified that there is approximately **827,640** square feet, of pedestrian/landscaped area as defined under Section 6.12.3 of the Orange County Zoning Ordinance

Staff has determined that the proposal is consistent with the required Minimum Pedestrian/Landscape space.

In utilizing the information supplied on the site plan, the Board finds that the applicant's proposal complies with the Required Minimum Pedestrian/Landscape Ratio of .21 per Section 5.1.2 and Section 6.12.3 of the Orange County Zoning Ordinance

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ARTICLE 8.2.4 - SPECIFIC STANDARDS/ALL SPECIAL USES
("Yes" indicates compliance; "No" indicates non -compliance) (continued)

FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
Article 8.2.4 requires the applicant to address the following:			
a) Method and adequacy of provision for sewage disposal facilities, solid waste and water service.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Information contained within Attachment Three (3) of the abstract completed by staff indicate that the well and septic system have been approved by the Orange County Health Department, indicating that the method and adequacy of sewage and water service is acceptable. With respect to solid waste disposal, the applicant has indicated that he will contract with a private firm for the removal and disposal of waste. According to staff this is acceptable with respect to the requirements of the Ordinance	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b) Method and adequacy of police, fire and rescue squad protection.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The White Cross Rural Fire Department will provide fire protection. Rescue services will be provided by Orange County EMS. The Orange County Sheriff's Department shall provide police protection. Based on letters/memorandum contained within Attachment Three (3) of the abstract, staff has asserted that these services can be adequately provided to support the proposed use.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
c) Method and adequacy of vehicle access to the site and traffic conditions around the site.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The site plan indicates the lot is accessed through a driveway onto White Cross Road (SR 1951). NC DOT has indicated that a driveway permit can be issued allowing for the existing driveway to be used to support the hoarse boarding and training facility. They cannot issue final approval until there is an approved site plan. This should be a condition of approval.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Approved 3/14/2011

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ARTICLE 8.8.11 - SPECIFIC STANDARDS FOR A CLASS II KENNEL
("Yes" indicates compliance; "No" indicates non-compliance) (continued)

FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
<p>In addition to the information required by Subsection 8.2 and 8.8, the following shall be submitted as part of the application in order to determine compliance with the site specific development requirements for a Class II Kennel as outlined within Section 8.8.11 of the Ordinance:</p>			
<p>Section 8.8.11.1</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The submitted site plan shows the location for all buildings proposed for use as part o the operation.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>a) Plans for all kennels, barns, exercise yards, riding arenas, pens and related improvements, including signage.</p>			
<p>Section 8.8.11.1</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The submitted site plan provides all essential information as required under Section 8.8.11.1 (b)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>b) Site plan showing the improvements listed in a) above, other structures on the same lot, and structures on adjacent property</p>			
<p>Section 8.8.11.2</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The site appears to be of sufficient size to allow for the development of the proposed facility</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>a) The site is of adequate size to protect adjacent properties from adverse effects of the kennel or riding stable/academy</p>			

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Section 8.8.11.2

Yes No

The site plan denotes that any and all areas where animals are housed are within enclosed buildings.

Yes No

b) No part of any building, structure, runway or riding arena, in which animals are housed or exercised shall be closer than 150 feet from a property line, except property occupied by the owner/operator of the kennel. These minimum distances shall not apply if all portions of the facility, in which animals are housed, are wholly enclosed within a building

Section 8.8.11.2

Yes No

The site plan denotes that the arena utilized for exercise and training activities will be covered.

Yes No

c) Any kennel which is not wholly enclosed within a building shall be enclosed by a security fence at least 6 feet in height, which shall include primary enclosures or runs

Section 8.8.11.2

Yes No

The site plan denotes the proposed parking, access areas, and screening devices for buildings and animal training facilities

Yes No

d) The site plan shows parking, access areas and screening devices for buildings and animal boarding facilities

Section 8.8.11.2

Yes No

The site plan has been tentatively reviewed and deemed appropriate by Animal Control.

Yes No

d) The Site Plan shall be reviewed by the Orange County Animal Control Department, and found in conformance with Section XIX of the Animal Control Ordinance

The applicant will be required to apply for and obtain a permit from Orange County Animal Health in addition to the Special Use Permit.

A condition of approval is that the applicant be required to obtain this permit within one hundred eighty (180) days from the issuance of the SUP

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Section 8.8.11.3

Yes No

The renderings and floor plan have been reviewed by Animal Control.

Yes No

a) Building plans for all kennel facilities shall be reviewed and approved by the Director of Animal Control prior to issuance of any building permits

The applicant cannot make an application for final approval until the SUP is issued.

A condition of approval is that the applicant be required to obtain a building permit within one hundred eighty (180) days from the issuance of the SUP and that the building plans have to be approved by the Director of Animal Control

Section 8.8.11.3

Yes No

The applicant has indicated on the site plan that there will be a sign on the property adhering to this condition

Yes No

b) A sign clearly visible from the ground shall be posted at the main entrance to the facility and shall contain the names, addresses, and telephone numbers where persons responsible for the facility may be contacted at any hour of the day or night. The sign shall comply with dimensional requirements as set forth in Section 9.11 of this Ordinance

A recommended condition of approval is that the applicant be required to submit a sign rendering for review and approval by the Planning Department within one hundred eighty (180) days from the issuance of the SUP and that the approved sign shall be installed prior to the issuance of a Certificate of Occupancy allowing for kennel operations to commence.

Section 8.8.11.3

Yes No

The applicant has indicated that the plan will be reviewed and approved by the Orange County Department of Animal Control.

Yes No

c) Where required by the Animal Control Ordinance a Class II Kennel Permit shall be obtained from the Department of Animal Control within the first 30 days of occupancy. Failure to obtain and maintain a valid Class II Kennel Permit or other related permits which may be required by the USDA or Wildlife Resources Commission will result in revocation of the Special Use Permit.

This should be a condition of approval

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3 **MOTION** made by David Blankford to approve all the specific articles that are contained on pages 177 through page
4 187 (Article 8.6 & 8.8, Article 5, Article 6, Article 8.2.4, and Article 8.8.11). Seconded by James Carter.

5 **VOTE:** Unanimous

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ARTICLE 8.2.1 & 8.2.2 - APPLICATION COMPONENTS
("Will" indicates compliance; "Will Not" indicates non-compliance)

FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
<u>Ordinance Requirements</u>			

In accordance with Article 8.2.1 and 8.2.2 of the Zoning Ordinance, the Board of Adjustment shall also consider the following general conditions before the application for a Special Use can be approved:

Article 8.2.1 & 8.2.2

1. The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.

To be determined by Board after receiving evidence to be submitted or heard at public hearing.

___Will ___Will Not

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MOTION made by Mark Micol to find in the affirmative for Article 8.2.1 subsection 1 that the use will maintain or promote the the public health, safety and general welfare if located where proposed and developed and operated according to the plan as submitted based on the testimony from local residents that the project will enhance the esthetics and overall beauty of the surrounding community. Seconded by David Blankfard.

VOTE: Unanimous

Article 8.2.1

2. The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property).

To be determined by Board after receiving evidence to be submitted or heard at public hearing.

___Will ___Will Not

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MOTION made by James Carter to find in the affirmative for Article 8.2.1, subsection 2, in terms of the enhancement of the property. Mark Micol added to the motion based on the testimony of Mr. Parker and his 25 years of experience. He mentioned that the property in its current state is in poor condition and this project will enhance and increase the value of the surrounding property. Seconded by David Blankfard.

VOTE: Unanimous

1

Article 8.2.1

3. The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the general plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.

To be determined by Board after receiving evidence to be submitted or heard at public hearing. _____Is _____ Is Not

2

MOTION made by Larry Wright to find in the affirmative for Article 8.2.1, subsection 3 based on the testimony of Mr. Harvey that the stream buffers have been adhered to and it has been determined on pages 127 and 128 in our packet and the abstracts how this does conform to the Comprehensive Plan. Mr. Sykes testified that there are no fire or safety code conditions and it is consistent with the agricultural land use category. Seconded by Mark Micol.

VOTE: Unanimous

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RECOMMENDATION

The Planning Staff has not received any information that would establish grounds for making a negative finding on the general standards. These standards include maintaining or promoting the public health, safety, and general welfare, maintaining or enhancing the value of contiguous property, and the use being in compliance with the general plan for the physical development of the County.

The Planning Staff has reviewed the application, the site plan, and all supporting documentation and has found that the applicant **does** comply with the specific standards and required regulations.

In the event that the Board of Adjustment makes the determination that the permit can be issued, Planning Staff recommends the attachment of the following conditions:

- (1) That the applicant complete and submit a formal application to the Orange County Inspections Department requesting authorization to commence construction of the proposed kennel facility. The application, including all applicable fees, shall be submitted within one hundred eighty (180) days from the approval of the Special Use Permit. Further, the building permit application shall be reviewed and approved by the Director of Animal Control for compliance with any and all applicable animal control regulations in accordance with the provisions of Section 8.8.11.3 of the Zoning Ordinance,
- (2) That the Orange County Fire Marshall's office shall review and approve the building plans, as part of the normal building permit review process, and that any and all modifications to the structure be made to address fire code issues prior to the issuance of the permit authorizing the commencement of construction activities,
- (3) That the applicant complete, submit, and receive approval for a Class II Kennel application from the Orange County Animal Control Department within one hundred eighty (180) days from the issuance of the SUP,

- 1 (4) That the applicant be required to submit a sign rendering for review and approval by the Planning Department
2 within one hundred eighty (180) days from the issuance of the SUP and that the approved sign shall be
3 installed prior to the issuance of a Certificate of Occupancy allowing for kennel operations to commence.
- 4 (5) That the applicant apply for and receive a driveway permit from NC DOT within one hundred eighty (180)
5 days from the issuance of the SUP and provide planning staff with a copy of the issued permit,
- 6 (6) If any condition of this Special Use Permit shall be held invalid or void, then this Special Use Permit shall be
7 void in its entirety and of no effect, and
- 8 (7) The Special Use Permit will automatically expire within twelve (12) months from the date of approval if the use
9 has not commenced or construction has not commenced or proceeded unless a timely application for
10 extension of this time limit is approved by the Board of County Commissioners as provided in 8.4.11 of the
11 Orange County Zoning Ordinance.

12 Thomas Brown: We now need a motion to approve the Special Use Permit A-5-10 subject to the conditions
13 stipulated on page 189, items numbers 1 through 7.

14 **MOTION** made by David Blankford to accept staff recommendations and conditions 1 through 7 and that the Board
15 approve the Special Use Permit A-5-10. Seconded by Larry Wright.

16 **VOTE:** Unanimous

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18 Thomas Brown: Case number A-5-10 is hereby approved.

19
20 Michael Harvey: I met with Mr. Bob Nutter to discuss the board's action on his application request. Mr. Nutter
21 indicated that it is his intent of interest to file a modification to his Special Use Permit application to expand or allow
22 additional use consistent with his arguments as referenced at last month's meeting. Also, based on the advice of his
23 attorney, they are going to file an appeal to observe appeal rights but it is their intent to come back before this board
24 and seek to redress the SUP modification process in accordance with Section 8.7 of the Zoning Ordinance.
25

26 **7. ADJOURNMENT**

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28 The meeting was adjourned at approximately 10:00 p.m.

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30
31 Tina Owen, Minutes Preparer