

**MINUTES
BOARD OF ADJUSTMENT
MAY 14, 2012
REGULAR MEETING**

MEMBERS PRESENT: Dawn Brezina, Full Member (Acting Chair)
David Blankfard, Alternate Member
James Carter, Full Member
Mark Micol, Alternate Member
Larry Wright, Full Member, Planning Board Liaison

STAFF PRESENT: Michael Harvey, Current Planning Supervisor
Debra Graham, Board Secretary
Sahana Ayer, Staff Attorney

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: CONSIDERATION OF ADDITIONS TO AGENDA

Dawn Brezina: Our regular Chairman, Mr. Brown, has resigned from this committee as Chairman and we need to determine another person to take that position. After some discussion, Larry Wright said that he could do that. Would anyone else want to take that position? Any discussion on any other nominations.

MOTION made by Mark Micol to nominate Larry Wright as Chairman. Seconded by James Carter.

VOTE: Unanimous

Dawn Brezina: Can we amend that nomination to say he will start next month?

**AGENDA ITEM 3: APPROVAL OF MINUTES
A. JANUARY 9, 2012**

Michael Harvey: Dr. Wright had asked staff to secure from the attorney's office, an opinion on the minutes, the review and approval electronically, etc. I forgot to ask Mr. Roberts if he had finished his memorandum which is why you don't have it tonight. We have been told it will be complete in the next week and we will get that to you in advance of the next meeting so you have an answer.

MOTION made by Larry Wright to approve the January 9, 2012 minutes. Seconded by James Carter.

VOTE: Unanimous

AGENDA ITEM 4: PUBLIC CHARGE

The Board of Adjustment pledges to the citizens of Orange County its respect. The Board asks its citizens to conduct themselves in a respectful, courteous manner, both with the Board and with fellow citizens. At any time should any member of the Board or any citizen fail to observe this public charge, the Chair will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed. All electronic devices such as cell phones, pagers, and computers should please be turned off or set to silent/vibrate.

55
56
57
58
59
60
61
62

63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102

AGENDA ITEM 5: A-1-12 – APPLICATION FOR CLASS B SUP FOR DEVELOPMENT OF A CLASS II KENNEL

Michael Harvey: As the typical rules of procedure of this board require where all individuals intending to speak or provide any comments please come forward to be sworn in.

Individuals sworn in:

- | | |
|-------------------|---------------------|
| Bob Hornik | Mike Wheeler |
| Noral Stewart | David Schmidt |
| Tammy Purner | Robert Long |
| Kathleen Schenley | Chad Abbott |
| Claudia Harris | Cornelius Kirschner |
| Cecil Griffin | |

Michael Harvey: At this time, I would ask the board to accept staff's abstract which begins on page 3 of the packet into the record. This includes for purposes of the record, Attachment 1 which is the actual Special Use Permit application including the site plan and other attachments. Attachment 2, which is an aerial photograph of the property; and Attachment 3 which is staff correspondence concerning this request. I will call to the board's attention which begins on page 63 of the packet and that includes the septic permit issued by Orange County Health, comments from the Sheriff's Department, Fire Marshal, Animal Control, the Department of Environment and Natural Resources for Orange County and Attachment 4 which are the Findings of Fact for this request. This is a script that will be reviewed by you prior to the closing of the public hearing outlining the various standards to be held to. As you are aware, the planning staff provides a recommendation on specific items as specified by the ordinance. An example is, do we have a site plan, and was it submitted in accordance with the code as containing required information. You will be reviewing our responses to that information. This Board is obligated, once the public hearing is closed and deliberation begins, on page 97, you are required to make specific findings of fact dealing with the project's compliance to Section 5.3.2(A)(2), the General Findings of Fact, that the use will maintain or promote the public health safety and general welfare, that the use will maintain or enhance the value of contiguous property, and the location and character of the use of development according to the plans submitted will be in harmony with the area which is it to be located. In making motions to affirm or negate, you will have to make specific findings of the information that has been entered in the record allowing you to make this decision either for or against. I will also ask that you enter into the record a statement from the applicant further identifying this project's compliance to the Comprehensive Plan. You also have notes and a presentation from an adjacent property owner who is asking you to take some things into consideration. You also have a copy of the public notice we sent out to the adjacent property owners. I would like to submit the certified mail receipts to be entered into the record that we complied with the provisions of notification for the ordinance. We can now briefly review the application and turn it over to the applicant.

Bob Hornik: I am an attorney with the Brough Law Firm in Chapel Hill. I am representing the applicant here this evening in connection with the Special Use Permit application. Our team includes David Schmidt; one of the people behind the application, and we have Tammy Purner, and her husband, Andrew Purner, two of the applicants. We have Margie Schmitt, Dave's wife; she is involved with the team. We have Cecil Griffin who is the property owner to the north of the property and also an applicant. Chad Abbott from Southern Engineers, who will give you the design details and site plan layout for the proposed kennel facility. Also, Michael Wheeler, a certified real estate appraiser will talk about property value and Noral Stewart will provide a noise impact that might be associated with the kennel operation. I am not going to go into any detail right now regarding the application. Mr. Harvey did a good job of presenting the general outline of the application. Kennel use is permitted in the Rural Buffer district with a special use

103 permit from this board. As Mr. Harvey has indicated he has reviewed the application and I
104 guess we would not be here tonight if the application itself were not in compliance with the
105 requirements under the Orange County UDO. Hopefully the accumulated testimony of all who
106 will speak to the board tonight will show the board that we satisfy the requirements of the UDO,
107 both the specific requirements of the kennel operation and the general requirements that are
108 generally for site plans and that as a result entitled to the special use permit. We first have
109 Dave Schmitt to testify and give a presentation of the background about the application and
110 what the proposal is about.

111
112 Dave Schmidt: Thank you for coming out tonight and thanks for the attention you paid to the
113 package. Michael assured us that you would be familiar with the packet. I had not planned to
114 speak tonight but Drew is sick and so if there are questions that come up, I might be called upon
115 to answer, so I thought I needed to introduce myself. My wife and I have been in Chapel Hill for
116 about 11 years now. We have two kids in the Chapel Hill Schools; we are very involved in the
117 local community. I have done a lot of coaching for Culbreth basketball and baseball. Margie is
118 the president of the PTA at Culbreth. We are very involved in the St. Thomas Moore
119 community. We like the community involvement and we would like to continue that with the
120 kennel project. I have done a lot of corporate America stuff for longer that I would like to recall
121 and now we want to own and operate a business. We are referenced in the narrative as the
122 second family. This kennel is like a dream of ours. The tag line would be clean, green, safe
123 and fun. The green aspect would be cisterns for some power generation. The clean aspect
124 would be, we have toured other kennels, and the one thing that would be a distinguishing factor
125 would be the mechanisms that we use to keep the kennel clean and our commitment to keeping
126 it clean for the dogs. The safe aspect would be that we want to at all times to be safe. People
127 love their dogs and we want to take great care of them when they are in our care. The fun part
128 is that we want these dogs to be very active. We have play yards specifically designed for them
129 in an outside lot. Some of the kennels we toured, the dogs would only be outside for minutes or
130 a half hour a day. We are pleased to say that we meet the standards, as we understand them
131 and we want to thank your colleagues in Orange County for helping us work with them. We met
132 with Bob and Irene at Animal Services and learned a lot from them and look forward to working
133 with them in the future and the other departments with whom we have met. You have been very
134 cooperative and highlighted the things we needed to do to meet the standards. We have taken
135 a lot of care in the design of the project. I hope that comes through in the material. We wanted
136 to have a lodge type atmosphere. There are some kennels that are low key, very casual. We
137 want this to feel great and for people to feel their dogs are in great care in a great facility when
138 they are traveling. An element's that came through clearly is the site design aspect. We look
139 forward to working with you tonight and going forward.

140
141 Tammy Purner: I was sworn. My husband is the co-applicant and he is never ever sick. He
142 has been working months and months on this so I am going to speak on his behalf. I grew up
143 on Millhouse Road which is the main road our kennel is going to be off of. I spent all of my
144 childhood there and most of my adult life now. I was in California 13 years and we moved back
145 about 10 years ago to raise our kids here. I have seen a lot of changes on Millhouse Road.
146 When I grew up it was a dirt road. I would walk my horse to the local store and pay on a tab
147 without cash and had my kittens riding on the horse. I have seen it from what it was to what it is
148 now. I see Spence's Farm has moved in there and growing more and more. There are more
149 camps and traffic on the road. Waldorf School has gone in there which is a ton of traffic on the
150 road. The Town of Chapel Hill has put their operations sites and trash trucks and buses go ½
151 mile from my house. Now that Orange County has bought our adjacent property, they are
152 putting parks there and they run an office with all their equipment there. I guess my point is that
153 we are not the only people on the road that want to start a business. There are a lot of other
154 people who have businesses. Lots of smaller horse boarders along that road as well. Then we
155 have the animal shelter that is at the end of Millhouse Road off Eubanks Road and the UPS
156 station. The Town of Chapel Hill is in the process of trying to improve the Edge, a huge

157 development at the end of Eubanks Road at 1-40 and 86. Things are going to change. The city
158 has definitely moved out our way. I am hoping we are not changing it too much. We are trying
159 to stay as far away from Millhouse as we can. As far as being able to see our facility, you
160 should not be able to see it at all from the main road. We are back in the woods. My husband
161 and I and my dad have tried to meet with most of our neighbors before tonight to go over the
162 plans with them and answer any questions they had. My neighbor Neal had a bunch of
163 technical questions so we had Chad come out and meet with him to go over any concerns he
164 had. The reason we want to build this business is my husband had a job over in China
165 developing wind bars and we were living over there a couple of years. We just got back last
166 year and we need a new business and we thought this would be a lot of fun to do. It has been
167 in the back of my mind for a long time. In our lives now, it seems like the right fit and time. We
168 have two boys, ages 11 and 14 and we want to see a business they can work in through high
169 school and their friends can work in so we can keep an eye on them. My husband used to be a
170 K-9 handler, a police officer in California so we have been around dogs our whole lives basically
171 and it seems like the right fit for us now. You will see the site plan in a few minutes and more
172 detail.

173
174 Bob Hornik: Can you explain where you live in relation to the site?
175

176 Tammy Purner: If you see the red star, which is the site of the kennel itself. To the left is the
177 pond and up to the left of the pond is my house. This 15 acres basically borderlines my
178 property on the east and the west sides.
179

180 Bob Hornik: Does your father still live ...
181

182 Tammy Purner: My father lives over the river and through the woods. My parents are the only
183 house we can see from our house. They are just to the north. Our house, which is off this map,
184 the bare in the area you see is my Dad's barn and a field and his garden.
185

186 Bob Hornik: Just to the south of this site, is that the property?
187

188 Tammy Purner: The County of Orange owns that.
189

190 Bob Hornik: (inaudible)
191

192 Tammy Purner: They will eventually develop; they claim to put park land there like soccer
193 fields.
194

195 Bob Hornik: You talked a little about Spence's Farm and Waldorf School. Can you tell the
196 board where they are in location to the property?
197

198 Tammy Purner: About ½ mile north on Millhouse Road, which is the main winding road there,
199 there's Spence's Farm and Waldorf School is attached or adjacent to it.
200

201 Bob Hornik: How about where the Orange County Operations Center is in connection to the
202 property?
203

204 Tammy Purner: Across the railroad tracks.
205

206 Bob Hornik: And you think it is a little further south...
207

208 Tammy Purner: Then the county landfills are the other property that is up against the county
209 land.
210

211 Bob Hornik: Just west of the County

212

213 Tammy Purner: South. Which will hopefully be gone..

214

215 Bob Hornik: Where are the railroad tracks in relation to the property?

216

217 Tammy Purner: To the right of that end north and goes along the border of the picture.

218

219 Bob Hornik: How about I-40?

220

221 Tammy Purner: Just on the other side of that.

222

223 Bob Hornik: We now have Cecil Griffin.

224

225 Cecil Griffin: I have been sworn in. I have lived in the area since 1962 and according to my
226 recollection there is only one resident within a mile of me who has been in the area longer than I
227 have. There are a couple of residents, especially here, that have been here as long as I have
228 but not in the general area. I bought my original plot in 1978, moved into my house in 1980.
229 We originally wanted the plot that I now own and was not able to buy it but I was able to
230 purchase this 10 or 15 years ago and I often wondered what would happen to it. I wanted it to
231 stay in the family because I didn't buy the property just to make money off someone else buying
232 it. When my son-in-law and daughter decided to build a kennel, I said that sounds good to me
233 because that is a way I can make some needed income to supplement my Social Security. I
234 like the idea they are taking into consideration keeping it as isolated as possible for my
235 neighbors because we don't need to make anything more difficult for our neighbors. We have
236 enough traffic as it is. We are doing everything necessary to have minimal impact on the
237 neighbors but give us the opportunity to have a growing, thriving business that my grandsons
238 can work.

239

240 Bob Hornik: Next, we have Chad Abbott who will provide more detail about the plan, site and
241 property.

242

243 Chad Abbott: I have been sworn. We were asked to assist in this application to provide them
244 with a site plan and service for stormwater, sewer, and just site plan issues. I have a
245 presentation.

246

247 Michael Harvey: We are going to refer this as Petitioner's Exhibit 2; Exhibit 1 was the
248 memorandum at your desk.

249

250 Chad Abbott: Everything in the presentation should be pretty clear, just some of the contrast in
251 the pictures is a little different on the screen.

252

253 Larry Wright: What is Exhibit 2?

254

255 Michael Harvey: The PowerPoint presentation handout.

256

257 Chad Abbott: The property is located on Millhouse Road. There is approximately 15 acres
258 associated with the project but it is glass holed with another section in the rear which is another
259 property to the east, and the road will be extended to the rear. As you see, the yellow line is
260 going off the left side of the exhibit almost like a connection to this property. This is a picture
261 from the wintertime so it commonly has evergreens, pines, cedars and down in the bottom,
262 there is substantial park woods. The land does perk. A while back we had a problem with the
263 land being perked but this has been approved for a septic permit with a repair area so
264 everything is in line for a project to be successful on this property. I have outlined the adjacent

265 properties which are also shown on the plans we submitted. You can see a little detail as far as
266 who the owner is but I wanted to let you know what the uses were around the property. Number
267 one is Mr. Griffin's property, the barrier where the one is, is the barn. All the way around the
268 property except for number six are the same uses which are residential uses. Number six
269 would be the parkland that was alluded to earlier that the County has recently purchased for a
270 future park area. Number seven is the lot that the Purner's live on and in the lot connecting
271 expands to the rear of the property. This project is nestled in the woods in the evergreen
272 portion of the project to maintain the privacy and the surrounding sounds that exist now for
273 existing homeowners and landowners in that area. You also received a copy of this in the
274 original application packet. This is an elevation of what the Purner's and Schmidt's and our
275 architect in our office, Brian Shelby, has come to an agreement as far as the concept on what
276 they would like the building to look like. Certain elements could change a little depending on the
277 final structural design, etc. but the concept is there. How the roof pitches, and I don't know a lot
278 about those details because I am not an architect, but I know that the Purner's and Schmidt's
279 have worked heavily with the architect and could probably answer any questions about that. It
280 will contain about nine kennels. Nine units are about 9,800 square feet with about 23 parking
281 spaces. Some will be equipped with fences in the rear as required by your ordinance at least
282 six feet high. Pools, exercise yards, solar panels and the twenty foot drive that will come onto
283 the existing easement that was granted for the use of this property. We will also to have to
284 pretreat the pet waste before it goes to the conventional septic fields which I will talk about later.
285 The pet waste will be treated and then from there will go to the septic field. The system we
286 discussed, aimed in the stormwater treatment for the quality and quantity required by the
287 Orange County Stormwater division. This project airs on the side of low density so treatment of
288 stormwater will not be a problem. Are there any questions related to the site plan?
289

290 As you saw on the site plans, there is a septic repair area that the kennel is centrally located on
291 the site to maintain the wooded area from there to Millhouse Road to help protect the adjacent
292 residencies. You can see there is a large fenced area for the exercise yard where the solar
293 panels will be located. It is also a pool there. Then you have the kennel which is not your
294 typical kennel where you have a metal building full of dog runs or cinder block buildings full of
295 dog runs. They have tried to be innovative. I am not an architect but I have been involved in
296 some of the conversations with the architect and he said it is one of the neatest projects he had
297 worked on to date.
298

299 Bob Hornik: David Schmidt had talked a little about the green features of the design. Can you
300 tell us about those features and where they are located?
301

302 Chad Abbott: The fenced in area will be here where there will be a row of solar panels in the
303 middle. That will be in the open area as a means to generate the electricity they are anticipating
304 as well as providing a shaded area for the dogs since you have a large exercise yard with no
305 real trees. Right now, we have not planned for the plumbing and where everything will be
306 located but there will be a cistern located to collect roof water and runoff used for washing down
307 the kennels. Those are the two items I know of and the design of the building has been done to
308 maximize the elements of natural sunlight. Those are the items I know of from the site plan
309 phase. Are there any questions regarding those items?
310

311 Larry Wright: With respect to the solar panels and the exercise area, I know that a co-member
312 of the planning board has a variety of solar panels, I think 40, and that requires cables because
313 that is generally what they do and I was wondering how that will interface with the exercise area
314 and the safety of the dogs.
315

316 David Schmidt: There are two envisioned arrays of photo cells. I think the picture shows along
317 the front of the building is one location and then the other is along the back. The cells
318 themselves would be raised on platforms. The platform is to provide shade because it gets hot

319 in the summer and the dogs need the shade. The cables would be buried underneath the
320 artificial turf which would run back up through the building.

321
322 Larry Wright: So they would be protected with conduit so they won't get chewed?

323
324 David Schmidt: The dogs will absolutely have no access to those. We would agree to anything
325 for the dogs to be safe.

326
327 Larry Wright: Relative to the cisterns and collecting water that ultimately carries waste in the
328 septic tanks, etc. and this will be a pretty large kennel and will these animals be housed in
329 cages?

330
331 David Schmidt: Not cages, pens or runs.

332
333 Larry Wright: Has the health department addressed the water used per day to wash the
334 kennels and how much water is used per day to wash each kennel? Can the septic system
335 handle that?

336
337 Chad Abbott: Yes. I believe on the site plans it is listed as 900 gallons per day is the
338 anticipated usage. That septic field has been sized to treat that amount per day. They
339 generated a permit that states they are approved for that amount of discharge so the water used
340 to wash down these kennels is incorporated into that 900 gallons per day. That is how you
341 generate that number.

342
343 Larry Wright: They know the number of kennels and that is all on the record?

344
345 Michael Harvey: Yes. Dr. Wright, if you will look at page 63 in your abstract, Attachment 3, the
346 Orange County improvements permit is submitted as part of staff's comments and that provides
347 the system is sized for a 9,800 square foot pet facility for 90 canines at 450 gallons per day, 20
348 foot lines, 100 gallons per day, 10 animal grooms per day which is 100 gallons per day, 250
349 gallons per day for a design flow of 900.

350
351 David Schmidt: 90 dogs is the application maximum. We think we would rarely have 90 dogs,
352 maybe Christmas or Thanksgiving or some weeks in the summer. The capacity is meant to ask
353 for room to accommodate that for those peak periods but it is much like a hotel where it is very
354 rarely fully booked. We think that for great stretches of time, we will be in the 60% utilization or
355 something like that. That 90 dog capacity gives room to move dogs around for cleaning but
356 very rarely we think it would be maxed out.

357
358 David Blankford: In the narrative, you stated it will have 90 dog runs and 20 felines. Is it 90
359 plus 20 or just 90?

360
361 David Schmidt: It will be 90 plus 20. The number of animals, we think the cattery would be way
362 under-utilized compared to the canines. We have done a lot of research on kennels and people
363 say you should have a cattery but don't count on high utilization.

364
365 Michael Harvey: That is also spelled out on the actual health permit itself where it says
366 maximum per day capacity, 90 dogs or 90 canines and 20 felines and then certain activities
367 limited to 10 per day. If this permit is issued, this is part of the record, they will have to abide by
368 this permit. If they choose not to, the health department will invalidate the permit and that is
369 grounds for revocation of the special use permit.

370
371 Chad Abbott: Any other questions on the site plan?

372

373 Larry Wright: Could you outline the pathway on the site plan of entry and exits?
374

375 Chad Abbott: We have an exhibit that we submitted... Here is the entrance and exit of
376 Millhouse Road as it comes into the site here. All this area is fully wooded. They do have the
377 septic area here and the department has approved them to put it in without clearing all the trees.
378 This is part of a field that is on the county property for the parks area. It starts here.
379

380 Larry Wright: And the traffic?
381

382 Chad Abbott: There was no use in the latest manual of the
383

384 Larry Wright: Just tell me how they come in and out and where they park.
385

386 Chad Abbott: They can circle here and park here and back up and come out. There are more
387 parking spaces as they come in to park. There is parking on this side and that side.
388

389 Larry Wright: I had a hard time with this.
390

391 David Blankfard: For future use of the park, do you know what the county is planning to use for
392 this road? Are they going to pave it someday? Will it be a major entrance into the park?
393

394 Bob Hornik: My understanding is easement will be reserved for the Purner's for access to their
395 property so the county's plan, as far as I know, I don't know if they are allowed to buy the
396 easement and use that driveway for access to their property.
397

398 Davis Schmidt: We were told the park plans were up in the air and maybe several years away
399 from putting fields or selecting what they will do with it.
400

401 Michael Harvey: Mr. Blankfard, if I could call your attention to page 83 of your packet, we have
402 a memorandum from the Department of Agricultural, Parks and Recreation, which is in charge
403 of parks. The master plan has not been completed yet. They did put the applicant on notice
404 and it is reflected here that there is more than likely going to be athletic fields, soccer, baseball,
405 etc. toward the northern property line. There was some discussion about getting a road
406 maintenance agreement to allow for county access but that has not been finalized but you will
407 read that the applicant has been put on notice that as the park is developed, there is the
408 potential for intensive uses to that northern property line. That may necessitate the county to go
409 to the applicant to secure rights for access.
410

411 Mark Micol: This was a larger parcel that was subdivided and an easement was put in at that
412 point in 2004?
413

414 Tammy Purner: That easement was there back in 1972. My three acres are to the left of that
415 pond that was in the middle of this property. A gentleman bought that land from the Blackwoods
416 who owned all this property. They gave him that easement right-of-way to get to that property.
417 When my husband and I bought the land 10 years ago, that property still belonged to Mrs.
418 Blackwood and she was in talks with a developer to develop homes on that property and it was
419 our understanding that if we put our driveway in where the easement was, they could use that
420 driveway as well to get to their home and we didn't really know what was going to happen and
421 thought we are not building a driveway and paying for it when they can come back a year later
422 and use it. So my Dad rented us an easement for this property but if I ever was to sell my
423 property, that is the only legal easement.
424

425 Cecil Griffin: When I bought property here, she had to grant me an easement to a portion of the
426 back so I have granted easement on the same easement. It didn't extend anything but it was
427 the same easement that already existed.

428
429 Bob Hornik: Chad, can you tell us about existing vegetation on the property, how much will
430 remain and how much will be cleared?

431
432 Chad Abbott: The only portions cleared are at the building location in the fenced area, about
433 20%-30% vegetation and around the edges of the pond. Of course we have the buffers that are
434 required around the perimeter. The layout has been done to maintain the largest portion of
435 vegetation between the road and the site to protect the adjoining residents.

436
437 Bob Hornik: What is the distance between the kennel building itself and Millhouse Road?

438
439 Michael Harvey: 423 feet according to the site plan.

440
441 Chad Abbott: The animal waste treatment; once the kennels are washed down or the other
442 drains are washed down that are used to house and use animals will flow to a pretreatment
443 system like you would use where there is no perkable soils. There will be a holding tank, a
444 septic tank just like you have in a conventional system where the septic tank will have a wall
445 that will keep solids and liquids from spillover. It will be pumped to a sand bed to filter out the
446 fine particles which are called suspended solids and allow some bacterial processes to take
447 place through the sand. That is called the pretreatment. That is an example of a sand filter
448 from a residential project I did. That was about 12x12 for 480 gallons per day so one for a
449 kennel might be 24x24 or a couple of 12x12s together to allow the same surface area because
450 it is all surface area driven based on gallons per day so you can imagine two of those at the top,
451 two of those beside each other would be enough to treat from the actual dog operation and that
452 is for a whole 900 gallons and the whole 900 gallons will not go to this system. If you would
453 take two of those, that would treat everything, however, there are bathrooms for normal uses
454 that would go straight to a septic field just as it does at your house. Everything for the pets will
455 go here and filter out any solids that get through the septic tank and allow some of those
456 processes to take place as it goes through the sand. Then it goes through a disinfection,
457 fluorination or UV chamber to disinfect it so that when it leaves this system, often times in
458 residential cases, like this, you can discharge it into a creek or ditch because it has been treated
459 to that satisfaction of the State. When the water leaves this system, it will get additional
460 treatment because it will not be released into a ditch. In some places you spray, you drip but
461 because you have perkable soil, the State would rather you treat it through the soil so this
462 treated water will be pumped to the septic field they use to treat. That whole field has been
463 sized for the 900 gallons per day so this water will definitely be treated from the dog kennels
464 using this pretreatment and disinfection system and then be dispersed to the ground rather than
465 sprayed or dripped. That is how the septic will work on this site. I know there may be questions
466 relating to the quality of the water from this facility. The grading, Stormwater and Erosion
467 Control Issues, the county parkland here has a drainage running way back into the county
468 property. The drainage area is pretty deep so the storm water coming to this point and that gray
469 hatched area by Millhouse Road is a wet pond area. I am not sure if the pipe that was put in by
470 DOT was undersized or if it was put in at a bad invert but it is just a wet pond area you can see
471 in some pictures later. This may just be a seasonal issue but that is approximately the area that
472 stays wet and that, the pond and any conveyances on the property has been cleared by Orange
473 County Stormwater. There are not any wetlands, jurisdictional streams, etc. That wet area is
474 there and there is a lot of water coming into that point. As I was talking about grading and
475 stormwater erosion control, when we grade the site, we will maintain it at the existing drainage,
476 to the greatest extent possible to put it on the highest point on the site we can so that uphill
477 drainage is achieved across the site and we will catch our drainage and treat our drainage as
478 required by the county ordinance. On the board, we have these areas coming from the county

479 parkland. There is already, during large rain events, areas where it scours the leaf and off the
480 ground. This was back in March when I took these pictures. These areas are in bare areas
481 where the water rushes through and has already displaced the vegetation or leaf cover and
482 there is erosion and scouring that takes place as it exists now. I would say the pond may help
483 that situation to allow some of the stuff to settle out. We will use standard erosion control
484 practices to maintain the dirt on our site. When the construction is going on, and this is a low
485 density project which is about 15% impervious if you look at the total site acreage which is less
486 than 24% and we discussed it with the county stormwater and Terry Hackett said it would be
487 fine as far as our plans for treatment. There is a system that will catch water that will help
488 reduce the water from the well issues and use some of the rain water to wash down some of the
489 kennels and play areas. Then there are the traffic and driveway issues. This road is a bad road
490 all together from an engineering standpoint. You can look at the picture on the bottom right and
491 it is hard to pull out on any point on that road without being in a dangerous situation. We feel
492 that the access at the easement location is the most optimal point to maintain. As an engineer, I
493 am supposed to maintain the public health, safety, and welfare and the point we have chosen to
494 access this property is the best point. It is located on the outer radius of a horizontal turn. In
495 traffic terms that curve is a horizontal curve so when you pull up to it from the driveway, you will
496 be able to see all the way to the curve which isn't optimal but it is the best situation at this site
497 without moving further. If you try to move the driveway this way, when you get into this
498 horizontal curve, on the inner radius of it, you have to look behind your shoulder and by the time
499 you turn back and check this one, there could be someone coming the other way. This location
500 is the most optimal location.

501
502 David Blankfard: Looking to the right, is that the picture on the top?

503
504 Chad Abbott: Yes sir. There you also have a vertical curve and this is as far south as you can
505 go on the property without going off the property but at the same time you would not want to be
506 closer anyway because of that car stopping on that hill.

507
508 David Blankfard: What is the sight distance between where you are exiting and the hill?

509
510 Chad Abbott: The distance is shown on the plan to be about 250-300 feet to the crest of that
511 hill. That is about the best we can get there but we would like to optimize the distance coming
512 from the other way because that is the immediate adjacent lane of impact if something were to
513 happen coming around here.

514
515 Larry Wright: Is this subject to DOT approval?

516
517 Chad Abbott: Yes. I have corresponded with DOT. Anytime you have a commercial operation
518 they would like for the site distances to be 500 feet. We might get close to 500 feet looking
519 back that way (due north) and we discussed that with them and they are in concurrence that you
520 can only deal with what you have got so we have responded. You can't be denied access to
521 your property; you have to explain what parameters you can meet and why you can't meet the
522 ones you can't.

523
524 Bob Hornik: The top right hand photo is from the approximate location of the driveway looking
525 southbound on Millhouse. The bottom right hand corner is from just south of the driveway
526 location looking northbound on Millhouse and the photo on the bottom left is looking eastbound
527 down the proposed driveway across the street (Mr. Kirshner's house).

528
529 Chad Abbott: The view of the lower left photo is not the view which someone would be coming
530 towards that drive. That was the view to show the screen and the pipe area and the location of
531 the adjacent property because the drive is coming at a skew so it is not pointing perpendicular
532 to the road like my camera was. I would also like to point out with respect to the site distance at

533 the top of the hill that the traffic coming from that location is also coming from a four way stop
534 and going through a tight curve, almost a 90 degree turn before you top that hill so you won't be
535 traveling quite as fast. That is just the exhibit we had shown shows the angle of the driveway
536 coming out and the sweeping of headlights across adjacent properties as they would make their
537 way on Millhouse so that at any point the only time someone will be shining a light on adjacent
538 properties would be when they make that turn not when they are sitting there perpendicular to
539 the road.

540
541 Larry Wright: A line of vision to the north will be maintained there?
542

543 Chad Abbott: Yes. That is the good thing about being located on the outside of the curve is
544 that the line of vision is in the right of way so there is no trees or anything that the owners could
545 keep or plant or do anything to help or hurt that line of site. That is the view of the buffer; you
546 can see the water in the bottom picture. That is the wet area I was referring to and on every
547 one of those pictures, Millhouse Road is in the background and I am standing a couple of
548 hundred feet off the road so you can see there are a lot of existing, mature trees as well as the
549 undergrowth and the site will be double the distance this was taken from the road.
550

551 Bob Hornik: Using photographs up there now, you are standing about 200 feet into the property
552 from Millhouse Road and you are looking at Millhouse straight ahead?
553

554 Chad Abbott: Yes. If you look at the site plan, the hatched gray area is what I am standing
555 behind. Right there it may be pushed back into the woods because as it is shown on the plan at
556 the time was looked at and plotted...
557

558 Bob Hornik: Let us talk about what you have on the screen now because it is your analysis of
559 compliance with standards of evaluation.
560

561 Chad Abbott: Per the Orange County Ordinance there are several standards of evaluation that I
562 am sure Mr. Harvey is aware of to address your decision on this project. The size is of
563 adequate size to protect the adjacent properties from adverse effects of the kennel and riding
564 stable/academy. I think it is apparent that the actual proximity of the site related to the
565 surrounding area will only be visible from the applicant's residence. It is fully nestled between
566 the existing wooded areas between Millhouse Road and the project. No part of any building
567 structure, runway or riding area in which animals are housed or exercised shall be closer than
568 150 foot from the property line except by the property occupied by the owner/operator of the
569 kennel. We met that standard. Of course, Mr. Griffin and the Purner's are both adjacent to the
570 site and they are owners/operators of the kennel and have met that 150 foot buffer around the
571 rest of the property by location of the facility. Any kennel which is not wholly enclosed shall be
572 enclosed by a security fence at least 6 foot in height. Any time the dogs will be out of the
573 enclosed facility, there is a large play area or fenced area where the solar panels are and where
574 the pool is, there will be a fence around it. The site plan shows the parking, the access areas,
575 and the existing buffer to be used for the screen. It can be supplemented if needed but it has
576 been determined that it is so heavily wooded that we don't feel additional screening will be
577 required. The site plan shall be reviewed by the Orange County Animal Control Department.
578 That has been done and they have issued their letters and met with the applicant several times.
579 Building plans have been provided. The plan Mr. Wright was looking for that shows the floor
580 plans and the units was issued at the same time and has been approved. A sign clearly visible
581 from the ground shall be posted at the main entrance of the facility. It shall contain the names,
582 addresses and phone numbers of the persons responsible for the facility. We have shown the
583 location for a sign, obviously the DOT permit will dictate if it needs to be put back further if they
584 say they want a larger site triangle than normal. However, a 10x70 site triangle is typical and
585 we can clearly accommodate that at the entrance if it doesn't need to be pushed back further I
586 am sure the applicants would be willing to, but right now we do have a sign proposal in the plan

587 but the details of the sign have not been worked out. The sign will comply with any portions of
588 the ordinance it is required to. Where required by the animal control ordinance, Class II kennel
589 permits shall be obtained from the Department of Animal Control.

590
591 Michael Harvey: The appraisal is actually part of Attachment 1 in your packet beginning on
592 page 25.

593
594 Mike Wheeler: I have been sworn in. I came out of construction management in 1991 and went
595 into the appraisal business full time as an associate broker for a national franchise. In 1998, I
596 decided to get into the appraisal side of the business and after two grueling years as a trainee, I
597 applied for and received my certificate with the North Carolina Appraisal Board. In 2000 I
598 started my company 'The Real Estate Shop' and have been running it on a full time basis ever
599 since.

600
601 Bob Hornik: You prepared an Impact Analysis in respect to the Green Beagle Lodge
602 application?

603
604 Mike Wheeler: That is correct.

605
606 Bob Hornik: Did you arrive at a conclusion as to whether the project, if built and developed as
607 operated as proposed will enhance or maintain the value of contiguous properties?

608
609 Mike Wheeler: Yes. I would like to direct your attention to page 3 of the report, the last
610 sentence in the last paragraph in bold print: **"Thus the surrounding properties and the
611 general neighborhood vicinity near the proposed Kennel project should maintain their
612 current market values, and over time, their respective appreciation levels."**

613
614 Bob Hornik: What did you base your analysis on?

615
616 Mike Wheeler: I found two model facilities to use and then I examined the real estate sales
617 surrounding those two facilities over the past 10 years. One that I used was Sunny Acres Pet
618 Resort located in Orange County but has a Durham mailing address. I examined the residential
619 real estate sales to the east, to the west and to the south of that facility. There was nothing to
620 examine to the north because that is owned by the Eno River State Parks. The results of that
621 investigation showed that property values over the past 10 years have appreciated at the rate of
622 2.04%. Please keep in mind this includes four years of recession. Our multiple listing services
623 has Orange County divided into sections not squares. These boundaries are normally county
624 lines and state highways. The section I used to examine the Sunny Acres Pet Resort properties
625 is identified at Section 214 which is a pretty large section. The overall properties for this entire
626 section over that same 10 years appreciated at a rate of 2.64% which is right in line with those
627 properties that are in a closer proximity to Sunny Acres. The next facility I used was Hampton
628 Point which is not a kennel. It is located at the intersection of Interstate 85 and Highway 86.
629 This is where the Wal-Mart is located and the Home Depot. Hampton Point was developed
630 after the majority of the sections surrounding that area had been developed. Property values
631 within the closed proximity to Hampton Point over the past 10 years have appreciated at a rate
632 of 2.43%. Going back to our multiple listing sections, it is identified as Section 213. It is a much
633 smaller section than 214 but that entire section appreciated over the past 10 years at a rate of
634 .86%, not even one percent so those properties that are located within the closest proximity to
635 Hampton Point appreciated at a better rate than those who are in a further proximity.

636
637 Bob Hornik: Based on your investigation and analysis, is the conclusion that the Green Beagle
638 Lodge, if developed as proposed, will retain the value of contiguous properties, the properties
639 immediately surrounding the site.

640

641 Mike Wheeler: Yes it is.

642
643 Bob Hornik: No further questions.

644
645 Larry Wright: Over the last 10 years, has the development of any enterprise in Orange County
646 depreciated surrounding property values.

647
648 Mike Wheeler: I didn't find any data to support that.

649
650 Larry Wright: In your experience, have you ever shown that or seen that?

651
652 Mike Wheeler: Ever?

653
654 Larry Wright: In the last 10 years.

655
656 Mike Wheeler: No.

657
658 Noral Stewart: I am with Stewart Acoustical Consultants, 7330 Chapel Hill Road, Raleigh, N.C.
659 I have been sworn. I am a professional acoustical consultant. I have been in this business for
660 over 30 years. I obtained my training at North Carolina State University in the Department of
661 Mechanical Engineering through PhD. I am a Fellow of the Acoustical Society of America, a
662 Fellow of ASDM International, a member of the Institute of Control Engineering and a past
663 president of the National Council of Acoustical Consultants. I was asked by Mr. Purner to
664 review his plans and visit his site with respect to any potential problems from the sound of dogs
665 affecting the neighboring areas and assure they would be able to comply with the county noise
666 ordinance. I did calculations and reviewed the site plan, the concept of the building, did some
667 calculations, visited the site, discussed it with Mr. Purner in length, listened to the sound in the
668 vicinity, observed this is an area in some ways not particularly noise and in other ways it does
669 have some noise sources around; the railroad, the interstate highway, the city facilities, a
670 shooting range not too far away and the potential of the park being developed with recreational
671 activities and I did observe there were already some barking dogs in the community. I did an
672 analysis of the dog sounds outdoors with the plan as it is shown and found they should easily be
673 able to comply with the daytime limits in the County Noise Ordinance. I have reviewed the
674 building plans as they are. The concept is the dogs will be indoors during the nighttime hours
675 and only outdoors during the daytime hours. They do not have the building plans complete... all
676 the little details have not been worked out yet. The concept and plan is that I would continue to
677 work with the architect on the development of those details to ensure there are no fatal flaws in
678 the design. I am confident the building can contain the sound to where they would meet the
679 nighttime limits to the closest boundary which would be the one to the south, the County park,
680 assuming the residential limits would apply at that boundary which are the most stringent limits
681 so we would have to work with the architect to make sure there are no fatal flaws in the detail of
682 the plans as they are worked out and submitted for a building permit but it can certainly be
683 done. I have done this with others who have been through this in the last couple of years so we
684 know we can do that.

685
686 Bob Hornik: Mr. Stewart, are there any particular features either of the plan or the site itself that
687 helped you form your analysis?

688
689 Noral Stewart: Yes. The layout of the building and the site is very good. The building is
690 situated such that the outdoor areas for the dogs are to the north side. There are some runs on
691 the exterior of the building on the north side. The shape of the building and its location does an
692 excellent job of blocking that sound going to the south where the parkland would be. To the
693 east where there are neighbors you have from the building itself would be 400 feet but from the
694 area where these dogs would be outside it is more like 500 feet. And that distance alone is

695 extremely helpful in reducing the noise reaching that area. The general layout with the buffer
696 space to the nearest non-owned boundaries and the owners having large parcels of land which
697 create buffers to the north and west are extremely helpful. I consulted the Noise Ordinances
698 and did my calculations with the expected sound levels from the dogs that might be barking
699 outdoors.

700
701 Bob Hornik: Mr. Purner or Mr. Schmidt can answer this question. I don't think we have
702 discussed the hours of operation?

703
704 David Schmidt: The proposed hours are 7:00 a.m. to 7:00 p.m. There are two components to
705 the services we are offering. One is a boarding service; the other is a daycare service. You
706 would expect the daycare to be people picking up dogs after work and the boarding would be
707 drop-off when they wanted to with a maximum of 7:00 p.m. There is a quiet time in the middle
708 of the day and a lot of restricted hours on Sunday.

709
710 Michael Harvey: For the board's information that is contained on sheet C1 on your site plan.

711
712 Mark Micol: The hours would not change during the summer?

713
714 Noral Stewart: One of the things you plan when you are planning these facilities is that dogs
715 bark at strangers coming up and cars approaching and the layout is such that the dogs are on
716 one side of the building and the people coming and going are on the other so the dogs don't
717 have that distraction.

718
719 Bob Hornik: That is all we have as our presentation. I don't know if the practice is for a brief
720 summation or after others who wish to speak.

721
722 Dawn Brezina: We do the summaries at the end. If that is complete, we can open it up to the
723 people who would want to speak with any objections to the project.

724
725 Michael Harvey: Does anyone who wishes to speak this evening have any questions?

726
727 Kathleen Schenley: I am sworn. I want to ask Mr. Stewart whether you measured the acoustics
728 from across the street on the east side. The sound bounce off Blackwood Mountain is pretty
729 significant.

730
731 Noral Stewart: No, I have not.

732
733 Kathleen Schenley: I am the property owner directly opposite the property where you go back
734 to the first, I am number 4 and I received no notification about this meeting. I found out about it
735 in the newspaper.

736
737 Michael Harvey: A certified letter was mailed on the 27th of April.

738
739 Kathleen Schenley: Never made it.

740
741 Michael Harvey: I'm sorry but we did send it.

742
743 Kathleen Schenley: My name is Kathleen Schenley. My home is at 6714 Millhouse Road. It
744 was built in 1981. My property is directly across the street from the proposed facility. Here are
745 my concerns. First, water pollution; the runoff from this facility will drain directly into the pond
746 beside my home, the wetlands across the street and the ground water area in which my well is
747 located. Having witnessed the amount of runoff that occurs in this low lying area in a moderate
748 rainstorm, I need to see hard evidence that adequate measures are in place to protect the area.

749 I have attached to my statement documents for your perusal that outline the problems that result
750 from improper management of pet waste and storm water runoff. The potential for disease is
751 undeniable. The impact on the surface and ground water in this area could be disastrous.
752 Noise pollution; already our once peaceful, rural buffer community has been impacted with
753 noise from the town operations center. We hear the coming and going of buses and
754 maintenance vehicles and the testing of sirens and the disconcerting shots from small arms
755 practice and the increased noise from I-40 caused by the removal of the buffer of trees that
756 used to protect us from the worst of this traffic sound. Now we are asked to add the sound of up
757 to 90 dogs to this mix. On an acoustical basis alone, the project is not suitable for our
758 neighborhood. Traffic; Millhouse Road is a small winding road... a scant two miles long. This
759 road is heavily used during rush hours. Parents are delivering their children to the Waldorf
760 School. Commuters from the southwestern part of the county use the road as a short cut to
761 Highway 86. UPS trucks use it to avoid the stoplight at Eubanks Road. City and County
762 vehicles use it as a shortcut to Hillsborough. After many years, we were finally granted a 30
763 mile per hour speed limit posting although it is not enforced and speeding remains a problem.
764 The planners of this project have chosen the worst possible location on the road for a new
765 entryway. The location is on a blind curve on a blind hill. Each dog owner represents two trips
766 down Millhouse Road for each visit. Add to these staff vehicles and the deliveries of supplies,
767 hopefully in small amounts because nothing larger than a pickup truck would be able to make
768 the angle of that turn at that location. Adding a new entry and more traffic to Millhouse Road is
769 not a safe proposal. Quality of life; I hear a lot of talk about the value of the Rural Buffer and the
770 preservation of space and the need to make careful decisions about commercial expansion. It
771 is time to walk the walk. If this permit is granted, what other commercial ventures might it open
772 the door for? Mobile homes, stone quarries, fraternity houses. All of those are Class B
773 projects. This permit application should never have been allowed. According to (my reading of)
774 the Unified Development Ordinance adopted in 2011, this type of permit is only allowed in
775 designated economic development areas and we are not one. We are still zoned as a rural
776 buffer. Therefore, I feel the authorizing of the permit is not valid.

777
778 Michael Harvey: Did any other citizens want to ask questions? Unless the board has any
779 questions for Mr. Stewart or Mr. Wheeler.

780
781 Dawn Brezina: Considering the comments from Mrs. Schenley, does anyone have any
782 questions for Mr. Wheeler or Mr. Stewart concerning noise?

783
784 David Blankfard: I know you said you would be involved in the project to make sure there are
785 no fatal flaws to the detailing, is there a report you can turn in with the design drawings?

786
787 Noral Stewart: If requested, that can be done, that is at the time of the building permit, you
788 could, as a condition, say that we have to have a report saying we have reviewed the plans and
789 the building will function and meet the ordinance.

790
791 James Carter: This question is for Mrs. Schenley and Mr. Stewart. She asked you a question.
792 Mrs. Schenley, did he answer your question about what you wanted in terms of the acoustics.

793
794 Kathleen Schenley: He just said he had not tested the acoustics from across the street where I
795 live. My question was because the way the topography of the land is, the mountain acts as a
796 backdrop so when the cougars are running around the mountain, we hear them quite loudly at
797 our house so I was curious if he tested how it would be with taking into account that acoustic
798 factor of a mountain behind.

799
800 Noral Stewart: As I indicated, I have not done any testing or measuring. Topographical
801 features like that if you have a strong high rising hill, you can hear the echo off of it. Echos are
802 typically not as loud as the direct sound you hear to follow up the echo sound. Sounds from

803 distant places like that are often heard when atmospheric conditions are strong and someone
804 might think they are reflecting off the hill but it may just be the atmospheric conditions. Did you
805 notice there were certain times of the day; early in the morning or in the evening when you hear
806 things from a great distance more loudly than you do over the afternoon? That has to do with
807 atmospheric conditions. It will cause you to hear these distant things sometimes.
808

809 Mark Micol: In your expert opinion, based on the distances from the road, which is 500 feet, I
810 believe, will the cars turning on the road be louder than a barking dog?
811

812 Noral Stewart: If you are standing close to the car, yes. If you are standing on the shoulder of
813 the road, the cars on the road will be louder than the dogs. I don't have the sound level for a 35
814 mph car. I know that at 55 mph the sound that a car makes is about the same as a large dog, in
815 terms of maximum level. If you are 100 or 400 feet from the car or 400 feet from the dog, when
816 the car goes by, the maximum level is about the same as the level of the barking. We know
817 there is about a four or five dB decrease for each 10 mph so 35 would be 10 dB lower but you
818 also have to take into consideration the distance but if you are close to the car, it will be louder
819 than the dog.
820

821 Bob Hornik: The sound of a car driving past someone on Millhouse Road right beside the road
822 would be louder than the sound of the dog in a kennel 400 or 500 feet away?
823

824 Noral Stewart: Certainly if they are close to the road. That road is only 35 mph so I can't make
825 a claim that 400 feet from that road, the car is the same as the dog 400 feet away because the
826 car is going slower than 55 mph. If you did have traffic of 55 mph individual cars, maximum
827 level would be about the same as a maximum level as a car.
828

829 Dawn Brezina: Any further discussion or questions? Could we label this last piece of paper
830 Exhibit 3... Mrs. Schenley's paper?
831

832 Michael Harvey: If no one has any questions, it is up to the Chair to excuse the experts.
833

834 Dawn Brezina: Does anyone else think they may have any questions?
835

836 Cornelius Kirschner: I have been sworn in. I have prepared a short blurb and sent it to Mr.
837 Harvey and apparently he has given it to you but subsequently I received some test results back
838 on my pond, Millhouse Pond, and I would like to submit that as part of my blurb so I have these
839 here if you want to hand them out.
840

841 Michael Harvey: We will call this Exhibit 5 and Mr. Kirschner's statement Exhibit 4.
842

843 Cornelius Kirschner: Before I begin, I have to say I am impressed with all the work and
844 professionalism everyone has displayed here. It is amazing how large this project is how much
845 already has been put into it. I have lived at the Millhouse on Millhouse Road since 1972. On
846 March 11, Tammy showed me the architectural plans for the proposed kennel located on the
847 beginning slope of Blackwood Mountain above my home. My home is located directly on
848 Millhouse Pond. On March 15, I sent them a three page outline of my grave reservations about
849 the project. My concerns centered around the road access to the proposed kennel, traffic
850 generated by this business, immediate and long term erosion control, water quality, both ground
851 and surface. Tammy and Drew suggested that we meet with their civil engineer, Chad Abbott,
852 on March 29 to address my written reply. Regretfully, the meeting did not leave me with any of
853 my concerns. They were unwilling to change any part of their plans to address the issues I
854 raised. Every point I was met with the standard response, all facets of the proposed kennel
855 meet code. Furthermore, when I addressed the issue of the new road for the proposed kennel,
856 they refused to entertain the motion to use the existing private road, Bruin Way, which leads

857 directly to the proposed kennel. Tammy's father was a partner and owns the private road;
858 consequently, I am here this evening to bring these concerns directly to you. New road access;
859 the Purner's have chosen to exercise their right to build this new access road on an easement
860 which is on county land. Several crucial problems attach to this plan. First, the new road will
861 open directly onto my home. The corner of which is only 30 feet from the hard surface of
862 Millhouse Road. Noise from the vehicles entering and exiting while vehicle lights in the winter
863 and dust from the road with southwest winds would all cause a significant diminution of the
864 quality of my life. This traffic will be seven days a week. It is a business. Second, the surface
865 area resulting by building this new road, now mostly trees and underbrush would only increase
866 the runoff entering into this watershed. I understand the county or the state does not recognize
867 this as an official watershed but there is a tremendous amount of water. Even Mr. Abbott stated
868 that a lot of water comes through this area, a tremendous amount. Third, this runoff from the
869 road will wash over the proposed drain field for the septic tank. Up to 900 gallons a day is
870 permitted into this drain field. This road is at 500 feet if you look at the plot. The pond is about
871 482 feet; an 18 foot drop and approximately 150 feet. A significant drop in such a short
872 distance. To open up additional surface by building this road above the drain field and not
873 necessary at best, at most it is reckless. Fourth, the exit is not safe with a blind hill to the south
874 and a blind turn to the north. In ice and snow conditions, no vehicle can turn south towards
875 Chapel Hill and go up the hill from a dead stop. Bruin Way entrance could be moved 30 or 40
876 feet to the north to help with a safer exit. That is eliminating any safety issue whatsoever.
877 Given the time, expense, the serious impact on my life and property and the impact and use of
878 county land for this business, the decision to have this new road is seemingly so arbitrary when
879 one, the proposed owners has a road already made. That is indeed perplexing to me. As a
880 partner, Mr. Griffin can easily grant an easement namely, Bruin Way, to this proposal kennel
881 and also the Purner's home which they use already. Given that the proposed kennel is
882 encumbered by the owner's agreement as stipulated on the plans, then Mr. Griffin as part owner
883 could have no problem in granting this new easement to the proposed kennel. I submit that no
884 documented material has been supplied to this board to show that these concerns have been
885 met. Health, welfare and safety issues which I raise here are substantial and I find nothing in
886 the presented information to address them. The real problem here that I don't emphasize is that
887 this new road will open directly on to my house which is very close to the road and those cars
888 during the winter on exiting if they are open up to 7:00 p.m. during the winter. All the foliage will
889 be down in front of my house and the lights will scan if they are going north as they turn. That
890 will be intolerable. I never thought this would happen. Also, I think a very significant problem is
891 trying to go south on this road from a standstill going up the hill is impossible. I worked for the
892 postal service for 32 years and every time there was going to be any weather condition, and I
893 went to work at 2:00 a.m., and I had to leave my truck at the top of the hill because I could never
894 get out of my driveway from a standstill off a gravel road onto the hard surface road to go up the
895 hill because you can't go uphill. So I had to take my vehicle to the top of the hill and park it at
896 my neighbors. Drainage, there are very significant problems with water drainage throughout
897 this whole area. Look at the land gradient on the map. To open up such a significant area to
898 surface runoff by building is indeed questionable. Now, it is mostly forestry. With the addition of
899 the proposed road and its open surface area, we are talking about a very significant area open
900 to surface runoff. How much? It does not say. Any restriction on further exposed areas to
901 drainage, it does not say. All this water will enter Millhouse Pond. There is no other exit. We
902 have here the central point is Blackwood Mountain. To the north slope of Blackwood Mountain
903 is the source for New Hope Creek. The southeast portion of Blackwood Mountain comes
904 through this whole area we are talking about. Notice the pond above the kennel, there is my
905 pond, just at Millhouse Road and there is a pond below this and all these empty into New Hope
906 Creek. There will be a significant amount of water coming through here. Several years ago, I
907 had my pond redone after it was a pond for 80 years. The dam was compromised by animals
908 so I had a contractor come in and he did the pond at significant expense. We dug it out and did
909 the dam and while I was in Florida looking after my mother, one spring, there was so much
910 water, it washed out the dam. Now, the contractor made good on it and we did it again but I

911 can't over emphasize enough how much water comes through here. There needs to be more
912 study and documentation submitted to this board. I find no study or documentation that neither
913 addresses the increased amount of water nor is there any documented evidence concerning the
914 increase and speed this water will come down this watershed. What assurance do I have that
915 this increased water flow will cause no harm to my property? To cite according to code, I
916 suggest, is not enough to property, nor the health, safety and welfare of those downstream of
917 this facility. Water quality; the pond is in good health. I re-did the pond approximately six years
918 ago. I have never had problems with algae or weeds. Never any fish kills. To ascertain a
919 better understanding of this water quality, I have retained the services of Tri Test, a certified lab
920 by the State of North Carolina. The tests include Nitrate, Nitrite, ammonia, fecal coli, nitrogen
921 and total suspended solids. I took this action myself to provide a baseline. The results of these
922 five tests are included in the packet. Nothing found in the test suggested any contamination
923 whatsoever. We use this pond which is 15 feet from my home for recreation and fishing and
924 irrigating the garden. Mr. Abbott could offer no guarantee that the system would not fail in the
925 future and so stated that disclaimer at our meeting. Please keep in mind that the drain field
926 along the proposed field is about 14 feet in height about the pond. What if it begins to fail? By
927 then it is too late. Once a year inspection, as according to code, hardly seems sufficient for the
928 amount of water going into this drain field directly, as well as all the remaining runoff water into
929 the pond. Code simply does not address this issue at all. There are no plans to test the water
930 quality of the pond that was offered. Also, there was a spring and large water collection box just
931 below the proposed drain field. The Millhouse did get its water from the spring. The water line
932 was cut when the state re-did the road and paved it in 1992. The Millhouse has had its own well
933 water since 1965. This spring and its protection are not mentioned at all in any of the literature.
934 I can say the same for my well water. I have good well water. The county tested the well four
935 months ago so at least I have that as a baseline. But if this project goes through without further
936 safeguard to drinking water, I should be allowed to test the well myself more frequently. In light
937 of all the above, I submit to you that no documented evidence has been presented to you to
938 ensure the safety, health and welfare of me as a landowner and the county in general. Until
939 such time as all these issues are satisfactory, this project should not go forward. You talk about
940 the noise, you noticed; none of the experts mentioned the north side. There are homes to the
941 north side. The building is to the south side so the runs will be open to the north side and that is
942 where all the noise will be going to the north, not towards the south. Also, hours and weekends.
943 This is a country road and this place will be open as a business seven days a week. Weekends
944 are important because that is when people come home and people leave. We are going to
945 have a very unique situation. The school is closed on the weekends. Nothing goes on during
946 the weekend. On weekends, we are going to have a lot of traffic generated. Winter time when
947 there is traffic, there will be lights all the time. If I am trying to sell my place and I say there is a
948 kennel there and they listen to the dogs and see the traffic, there is no question; it will affect the
949 resale value given the road. Thank you for your time. I think you have to understand, this is a
950 very big watershed for this area. That is why there are three ponds and it all goes into New
951 Hope Creek and there is no other place for the water to go. This is not one home; it is a
952 tremendous area to open up to increased water.

953

954 James Carter: I listened to the presentation about the hours of operation 7:00 a.m. until 7:00
955 p.m. and the acoustic expert who testified. We also had someone who gave an appraisal. Did
956 they answer your questions?

957

958 Cornelius Kirschner: I don't buy the road. The road is very dangerous. I do know that no
959 permit has been issued and one can't be until this is passed. The existing road there now,
960 would be more than adequate to do it. The noise, the point I will make is the acoustic expert,
961 never mentioned the noise to the north where the homes are close by. He said the homes on
962 Millhouse Road are 300 or 400 feet away but the other homes to the north side are close by.
963 He never talked about the north side of the kennel. I don't buy the evaluation. I know it will
964 affect me directly to have that road there and the kennel there. And then with the water quality,

965 there is no guarantee. The one thing I would love to see in this is there is no meter on how
966 much water is going into this drain field a day. There is nothing. How do they know how much
967 water is going in there. I find that astounding that a commercial business would not be required
968 to have a meter and keep a log on how much water is going in on a 24 hour period. To see that
969 it is not being overused because once it is overused, me as a result would be the direct recipient
970 of that coming right through my pond. No, they didn't answer anything.

971
972 James Carter: So you are opposed to the kennel?

973
974 Cornelius Kirschner: Until I receive satisfaction on the issues I have brought up.

975
976 Mark Micol: Your biggest concern is not the kennel per say but the amount of water?

977
978 Cornelius Kirschner: The amount of water, the increase in flow. Where the road is going to be
979 positioned and incidentally the noise won't directly affect me as much as the neighbors to the
980 north will. But certainly the traffic seven days a week. I can't see how they can compromise on
981 keeping the kennel closed on weekends.

982
983 Mark Micol: So how would you feel about the county building a park where you have traffic?
984 Are you for or against the park?

985
986 Cornelius Kirschner: I have no problem with the park.

987
988 Mark Micol: You don't think the park will generate just as much traffic as the kennel?

989
990 Cornelius Kirschner: I think it will generate more. They won't have a drive in front of my house.
991 Their parking lot is going to be way to the south. That is how they tell me will be the main
992 entrance there. Of course you will have noise and lights. Another significant problem for the
993 kennel; that park will generate noise and games, etc. and it will agitate the dogs. It just not cars
994 driving by. It will be a significant source of irritation probably for the dogs.

995
996 Larry Wright: I have a question for Mr. Harvey and this is relevant to Mr. Kirschner's point on
997 drainage from the development. Can you briefly state how housing must require to conform to
998 permeable and impermeable surface ratios relative to street, etc?

999
1000 Michael Harvey: Let me say this particular parcel of property is not located in a protected or
1001 critical watershed. As a result there is no impervious surface limitation imposed like we have in
1002 other portions of the county. To provide an example; property west of Carrboro is located in a
1003 critical watershed and there is an impervious surface limit of 6% which was including the house,
1004 drive or anything that would prohibit or prevent the natural flow of water. What this project is
1005 limited to is dimensional requirements associated with the rural buffer where they are only
1006 allowed a maximum building area per the code. Obviously, part of the limitation of the building
1007 size will be the septic system, the availability of parking, compliance with applicable setbacks
1008 because you have to be 150 feet from various property lines. So while there is no impervious
1009 surface limit, there are other limitations imposed within the Unified Development Ordinance that
1010 restrict the size of the kennel operation that could be developed on this property. From an
1011 erosion control and stormwater standpoint, the site will have to be developed in compliance with
1012 the recently adopted State stormwater management and nutrient loading criteria meaning their
1013 erosion control and stormwater plan which would be reviewed and approved by Orange County
1014 Erosion Control, Mr. Terry Hackett, Mr. Ren Ivins, and Mr. Wesley Poole, proving that the runoff
1015 number one compliance with established flow parameters in terms of what can lead the site in
1016 accordance with state law, that the nutrient loads have to be consistent with the basin in which it
1017 is located and that there will have to be annual inspections to ensure the viability of any

1018 stormwater feature on the property consistent with state law and consistent with the recently
1019 revised Unified Development Ordinance incorporating those state standards.

1020
1021 Larry Wright: For the education of the board and others, this is before the new state laws which
1022 are very stringent for new development, etc. and that would satisfy Mr. Kirschner's concern
1023 about what runoff would be coming into his pond. Am I overstepping that?

1024
1025 Michael Harvey: I won't say you are overstepping it. I will say there is obviously restrictive
1026 stormwater management that we have to abide by that we will hold the applicant to. Without
1027 seeing the stormwater plan I would not dare say what could or could not happen because it
1028 would be a little unfair for me to represent since I am not an expert in stormwater. It would be
1029 even worse for me to represent there would not be a problem. I think the honest answer is, as
1030 with any special use permit, class A or B, there are certain minimum requirements of standards
1031 that have to be met. If you can't meet them, you can't develop the project. Certainly, if they
1032 don't comply with established stormwater standards, they will not be able to get a building
1033 permit. Does that address Mr. Kirschner's concerns? I don't know. That is a question he would
1034 have to answer.

1035
1036 Larry Wright: I think at the last quarterly public hearing, the potassium levels, a lot of people
1037 thought they were unrealistic.

1038
1039 Michael Harvey: That is a fairly correct statement.

1040
1041 Mark Micol: A point of comparison from a residential stand point, could someone come in
1042 without a Board of Adjustment special use permit and build a large residence say with stables
1043 that would generate an equal amount of runoff?

1044
1045 Michael Harvey: Yes. There could be a farm built on property in the rural buffer because farms
1046 are technically exempt according to the general stature, 153A 34B2 which could include horse
1047 boarding operations based on the revised state definition of what a farm is. There are
1048 numerous committed uses that by permitted use according to the UDO means it is subject to
1049 staff review and approval and if they demonstrate compliance with the dimensional standards of
1050 the code, we are obligated to issue the permit so yes, you could have a development of a
1051 residential nature on this site that could have many if not more of the same impacts from a
1052 stormwater and drainage perspective.

1053
1054 Bob Hornik: Mr. Kirschner, you testified that you worked for some 30 odd years for the postal
1055 service... in what capacity?

1056
1057 Cornelius Kirschner: Clerk.

1058
1059 Bob Hornik: You are not a licensed engineer?

1060
1061 Cornelius Kirschner: No.

1062
1063 Bob Hornik: Not a real estate appraiser?

1064
1065 Cornelius Kirschner: No.

1066
1067 Bob Hornik: Not a scientist, soil scientist, water scientist?

1068
1069 Cornelius Kirschner: No.

1070
1071 Bob Hornik: That is all I have.

1072
1073 Claudia Harris: I have been sworn in and I live across the street also. I wonder... Mrs. Schenley
1074 mentioned that there was a type of zoning that could be done for the rural buffer area and this
1075 doesn't fit in that. Is that your understanding?

1076
1077 Michael Harvey: That is an incorrect representation of the UDO.

1078
1079 Claudia Harris: Where is the water coming from used to hose out where the dogs are?

1080
1081 Chad Abbott: A well that has been approved for the site.

1082
1083 Claudia Harris: I use well water too and I don't think I use 900 gallons a day and I was
1084 wondering if that was a realistic amount of water to expect from a well. Another option would be
1085 to pipe water down from the pond.

1086
1087 Chad Abbott: If the well ran out of water then they won't use 900 gallons a day. The cisterns
1088 will be used to supplement the well. They would be used to supplement the well and there is no
1089 guarantee that 900 gallons per day will be used. How many gallons would you use, about 500
1090 gallons per day?

1091
1092 Claudia Harris: I doubt it would be that much.

1093
1094 Chad Abbott: Most residences with three to four bedrooms have 480 gallons which is what the
1095 state requires us to use for sizing adequate systems so while they may not use 400 gallons per
1096 day, they are required to have a drainage field as a safety factor that is built into all this stuff.

1097
1098 Claudia Harris: I did not get a letter announcing this meeting. I actually found out in an email
1099 from Tammy. I didn't know until tonight that you wanted to do daily breedings. I thought it was
1100 all boarding and I was really okay with the whole thing and I found it was 90 dogs which
1101 shocked me and found out that the dogs are going to be coming and going in one day changed
1102 things for me. Our neighborhood has faced a lot of hardships. We are very close to the dump
1103 and we have had to do this thing with the trucks from Chapel Hill, the freeway, the waste
1104 transfer site and we have all faced these things as a unit and this issue is different for us and I
1105 really hate it and it is splitting us and we have always been a really good unit fighting other
1106 things. Thank you very much.

1107
1108 Robert Long: Thank you all for being here at 9:50 p.m. This is a really important issue and it is
1109 very difficult to be here in that Cecil is a dear friend. We are so glad to have him back from
1110 Japan. As Claudia said we have always been a unit that worked together. This is really tricky
1111 and I am here on behalf of the five families who make up the Manor Hill Court Homeowner's
1112 Association. Mr. Stewart and I actually dressed alike tonight. I am a consultant and I, often
1113 right alongside what he does with acoustics, I do with building planning and I am working with
1114 him. I appreciated what he said about the benign impact to the south of this building but we had
1115 one of our homeowners who... Cecil, how far is Martha from where the fence will be from the
1116 dogs?

1117
1118 Cecil Griffin: At least 400 if not 500 feet.

1119
1120 Robert Long: Probably somewhere in that range of open land right to one of our homeowners.
1121 The rest of us live gradually and are rising so the sound, no matter what, up against the north
1122 side of the building will reflect off the dog area. To have Mr. Stewart say that, they live on large
1123 tree properties, I wonder if he actually went to our house. I question that so we are very
1124 concerned that we will have dog barking impact and the question is how do you mitigate it?
1125 What if it does happen? We are being told it won't happen but if it does happen does it mean

1126 they have to build berms? What can we do to protect ourselves at this planning date? I also
1127 want to on behalf... I think Claudia said it great and Kathy said it, we have all mustered together
1128 to protect this part of the northern Chapel Hill area from a lot of things. This is a beautiful
1129 building and I love all the green elements to it. I have to question, how much clearing there will
1130 have to be for the solar rays to get the maximum benefit facing south. There will not be a tree
1131 buffer there if the solar is going to work and we all know that is how solar works. I also want to
1132 say the Schmidt's are very nice people I am sure and want to contribute but your dream does
1133 not necessarily match with my dream. You are bringing your dream to my neighborhood. My
1134 neighborhood is where I have lived for 15 years and want to continue living for a lot longer. This
1135 is a large building in a small area and it will have 10 employees, we understand, which hasn't
1136 been mentioned. That is a business of sizable proportion. When we mention Spence's Farm
1137 and Emerson Waldorf School, they have both been there. Emerson Waldorf School has been
1138 there 25 years and Spence's Farm 30 years. Those are not like new intrusions into our
1139 neighborhood and I want Tammy and Drew to prosper and do what they want to do. I am just
1140 saying there are problems ahead. There are problems yet to discuss. I often run up and down
1141 Millhouse Road and I think Chad has, in all due respect, plans that don't show the topography. I
1142 wish before you make a decision that you could come to the site and actually understand the
1143 topographical issues we are talking about. It is not as flat and benign as it looks in plans.
1144 Please give it your best thought.

1145
1146 Dawn Brezina: Any more testimony?

1147
1148 Bob Hornik: Can we address some of the neighbor's issues?

1149
1150 Dawn Brezina: Yes.

1151
1152 Bob Hornik: I think Mr. Harvey has the receipt of having the receipt of sending the letter to Ms.
1153 Harris.

1154
1155 Robert Long: Our letter was delayed for a week and a half to two weeks and it finally got to the
1156 homeowner's association on Friday.

1157
1158 Michael Harvey: They were stamped by the Hillsborough Post Office on the 27th of April.

1159
1160 Bob Hornik: Perhaps Chad can talk to the board a little about Bruin Way and whether that was
1161 considered as a proposed access to the site.

1162
1163 Chad Abbott: There were several issues brought up especially during the safety of the access.
1164 I tried to go into as much detail as possible and I even showed pictures. Bruin Trail is located
1165 just around that curve so I don't see how anybody would deem that as a safe condition since
1166 there is already an access at that location that isn't safe so while it might be a benefit for Mr.
1167 Kirschner to not have the driveway at this location doesn't mean it is a safe location because it
1168 already exists, especially if you want to increase traffic in that location. The horizontal land, you
1169 can see on our site plan. You can see the curvature of the road. You can see that Bruin Trail is
1170 located at the top of the page and you are on the inside of this horizontal curve. You can see
1171 from the picture, you can see all the way back to the point but if you were here you would not be
1172 able to see to the point you can see...

1173
1174 Mark Micol: Has that been brought up to the DOT? They recommend the use of

1175
1176 Chad Abbott: The Department of Transportation, we sent the plans to them, they had four
1177 comments. This pipe was shown here, it is not surveyed, just drawn in based on the concept
1178 but the actual drainage pipe for the picture I showed is in the right of way. We will either replace
1179 or maintain and extend that pipe. The other comment is that we provide the site... on the outer

1180 boundaries of the easement which we cannot do on the county's property because we had
1181 shown from the driveway which is typical.

1182
1183 Mark Micol: Specifically about Bruin?

1184
1185 Chad Abbott: They have not asked us to use Bruin Trail.

1186
1187 Mark Micol: What about the possibility of entry on the access road and exit on Bruin?

1188
1189 Chad Abbott: This easement on Bruin Trail is an easement; it is not part of this property. It is
1190 another easement to another property so we have not even looked at it but it is not a safe
1191 condition as opposed to this easement on this property.

1192
1193 Mark Micol: In terms of safety, the visibility could be out on Bruin Trail, good to the left and not
1194 good to the right. Is that correct?

1195
1196 Chad Abbott: It is inside of a horizontal curve so if you are looking across the shoulder either
1197 way. That is not ideal. It is easier to keep your traffic out in front of you. This is the best
1198 location without getting into the septic area...like you said this is bigger than what it shows
1199 there. It is just the best location.

1200
1201 Bob Hornik: From a safety perspective, in designing this, the location on the south where we
1202 are showing it, is better than the Bruin Trail location?

1203
1204 Chad Abbott: Yes. You can obtain longer sight distance from the location.

1205
1206 Tammy Purner: I go in and out of Bruin Trail every day because if I go to my right people come
1207 flying around that curve and they always cut the curve to the center so I have to really watch it
1208 so I can't see if they are coming so usually I turn the radio down and try to listen to see if there
1209 is a car. If the headlights are there I can see those. If I turn left and go north then I am really
1210 taking my life in my hands because I have to get going really fast out of my driveway and turn
1211 left so neither direction is adequate but I'm used to doing it and I do it several times a day. I
1212 would not recommend a lot of people coming in and out of that driveway, it is not safe.

1213
1214 Bob Hornik: Chad, what is the expected trip generation for this facility?

1215
1216 Chad Abbott: There is no exact kennel defined in the IGE generation map for a land use so I
1217 took a veterinarian facility with the same number of units, so a veterinarian facility would have
1218 90 units and applied it or it might have been based on square footage but it is a comparable and
1219 it was around 80 or 90 trips per day. Again, it is not a classification for kennels but that is what
1220 tripped....

1221
1222 Larry Wright: There was how many?

1223
1224 Chad Abbott: 80 to 90 per day.

1225
1226 Larry Wright: In DOT, it averages 16 trips per day that is in and out.

1227
1228 Chad Abbott: That is total trips. 45 in and 45 out.

1229
1230 Larry Wright: And it is 16 for a three bedroom house.

1231

1232 Chad Abbott: Related to a bunch of the issues with the acreage here, the number of residential
1233 units that could be placed on this property, being around 15 which is a conservative number
1234 based on the zoning.

1235
1236 Michael Harvey: Seven or six.

1237
1238 Chad Abbott: Seven or six based on the zoning. Okay, seven or six houses at four bedrooms
1239 each would be required to have a septic field or treatment for 500 gallons per house which
1240 would yield a system requirement larger than what we have proposed here. If this were
1241 developed as residential, you could easily surpass the impervious areas as well. We have a
1242 total of 70,000 square feet if you take everything into account including that road. If you were to
1243 take that road and extend it to the back of the property, you are almost doubling or tripling the
1244 length of that road plus seven houses at 2 or 3,000 square feet, you could easily reach the
1245 impervious limit of 15%.

1246
1247 Bob Hornik: Did you want to address the water quality?

1248
1249 Chad Abbott: Back to the septic issue. Septic fields are sized using safety factors which are
1250 implemented, not by me but chosen by the State, by the county health department. This septic
1251 system has been appropriately sized and marked in field as deemed appropriate. I know there
1252 are concerns about the pond below and the ground contamination. I have already explained the
1253 treatment of the dog waste so if this were developed with residential houses, which are allowed
1254 without a special use permit, if one of those house septic systems failed, they don't have a
1255 meter on them so all of these issues can be compared easily to a residential development, and
1256 the water washing over the drain field, the water is not per say washing over the drain field as if
1257 you can look at the topography. The water is kind of concentrated coming towards our parking
1258 area. It won't wash across our drain field.

1259
1260 Bob Hornik: Chad, describe the topography of the land, where are the high spots and low spots
1261 and the cuts where drainage goes.

1262
1263 Chad Abbott: The topography slopes from the pond this way and gathers here and crosses the
1264 pipe to the other side of the road. The larger drainage area coming from the park area is from
1265 here. See the dashed line, it will come through here where we will have a pipe and it will
1266 continue down which bypasses our septic system. It is not going across our septic system. I
1267 know Mr. Kirschner alluded to washing across the drain field. There are no issues with water
1268 flowing across the drain field. That is where all the water....then there is a ditch along this road
1269 that brings the water down through the property and comes here as well so there are many
1270 places and sources that contribute to any increased levels.

1271
1272 Bob Hornik: The applicants this evening have talked about building a berm generally running
1273 east to west along the northern property line which will not eliminate noise moving northward. It
1274 will be one more barrier or buffering device that we have proposed at this point to put along that
1275 line so that will address it to some extent some of the concerns.

1276
1277 Larry Wright: Very early on with Mr. Harvey's opening remarks, he said that the permit would
1278 be one of the applicant's, Mr. and Mrs. Griffin are to the north and should they no longer live
1279 there, the whole business would cease.

1280
1281 Michael Harvey: There is a note on the site plan, sheet C1 that reads as follows: "The 150 foot
1282 required setback for section 565.A2B is not warranted at this property line as the owners are on
1283 the application. The owners and other parties on the application are aware that if the SUP is
1284 tied to the property and it is binding only to the parties involved. Should the contiguous change

1285 ownership, the SUP would become null and void unless sold to another party listed on the
1286 application.”

1287
1288 Larry Wright: If it was sold to his daughter and son-in-law, this operation would still be able to
1289 go on?

1290
1291 Michael Harvey: Yes, because the intent is if it is controlled as part of the kennel operation and
1292 it is maintained by the owner/operator of the kennel, then the condition is still valid but if I bought
1293 it and I wasn't part of the kennel operation, then they are no longer complying with the
1294 ordinance and have two choices, make it conform or shut it down.

1295
1296 Larry Wright: My concern is that it would turn into a gray field in the unfortunate event that
1297 something happened to the Griffin's.

1298
1299 Mark Micol: They would have to come before the board again to get a new SUP?

1300
1301 Michael Harvey: Ms. Ayer has talked about modifying, if we get to that point, a condition. We
1302 can go over that at an appropriate venue but I think there is language that we can massage that
1303 condition and still stipulate whoever runs that kennel has to own that property but we want to
1304 provide that they hear their options in order to address the sale of that parcel if it is not to
1305 someone associated with the kennel.

1306
1307 James Carter: Counsel, do you agree with that?

1308
1309 Sahana Ayer: Yes, and I discussed it with Michael so if for some reason the Griffin's no longer
1310 own the property then whoever purchases the land has to comply with the SUP.

1311
1312 Bob Hornik: As a practical matter, I haven't spoken to Sahana about this but I think the idea is
1313 that Mr. Griffin or whoever his successor might be entitled to his property would also have to be
1314 an owner/operator of the kennel so that if somewhere down the line... if Ms. Purner and her
1315 husband inherit the Griffin property, later they can sell that property and the kennel as long as
1316 they sell it together.

1317
1318 Michael Harvey: The recommended condition reads: "As denoted on the site plan, if the
1319 ownership of the northern contiguous property is sold or otherwise fallout of ownership from any
1320 individual connected with the ownership and/or operation of the kennel facility, the kennel facility
1321 shall be forced to cease and the approved SUP shall be become null and void." What Sahana
1322 had suggested is that the applicant shall have an appropriate amount of time to come back to
1323 the Board of Adjustment and revise the site plan to bring it into compliance with the 150 foot
1324 setback, so there are a couple different options.

1325
1326 Sahana Ayer: In any event, if two different people own the properties, then they would not be
1327 complying with 150 foot setback and that makes the SUP null and void. At that point, they have
1328 the option to have to come back before the Board to see if they can modify the SUP and bring
1329 into compliance.

1330
1331 Larry Wright: Or else they are connected with the ownership of the enterprise?

1332
1333 Sahana Ayer: Yes.

1334
1335 David Blankfard: Mr. Abbott, was a hydrogeology study required for this?

1336
1337 Chad Abbott: We met with Terry Hackett...

1338

1339 David Blankfard: We have this low lying pond, would that material decaying in that pond affect
1340 Mr. Kirschner's water quality?

1341
1342 Chad Abbott: As it exists now, any time leaves gather there or trees fall there, they take up
1343 nitrogen as they grow and turn back into soil and release nitrogen back into whatever they are
1344 in. If they are in water, they will elevate the level of nitrogen in this pond. That process could
1345 cause problems but the quality of the water and I know he doesn't like the fact, the quality of the
1346 water coming from this site will be held to what the EPA has mandated to Orange County and
1347 the state through the NPDES permit and you have to adhere to those and if you don't you get
1348 fined. I can't be there to make sure everything works when it rains but if a problem occurs, the
1349 same as anybody else, you get fined. You are supposed to have design controls in place.
1350 Once it gathers in that low lying area that he says is part of his pond, we can't control what
1351 happens when it gathers there, it sits and could turn back into whatever, I can't control that.

1352
1353 Cecil Griffin: The vast majority of the water coming through there comes off county property not
1354 ours. We have no control of the quality of water coming off county property.

1355
1356 Bob Hornik: I don't want to belabor the point. We have been here three hours and heard all the
1357 testimony. The application seeks approval of a lower density than some of the other uses, that
1358 this property could be an innovated environmental proposal, solar panel, cisterns, as given in
1359 the name Green View Lodge, one of the ideas was to try to be ecology environmentally
1360 conscious in the way the property is used and the way the facility will be operated. You have
1361 heard Mr. Abbott, Mr. Wheeler and Mr. Stewart provide their expert testimony on the various
1362 design issues, noise issues, and property value issues. The evidence shows to the Board that
1363 we comply with the specific standards for the proposed kennel use. We comply with the general
1364 standards of the UDO for the type of development we propose for the property. We understand
1365 the neighbors are not happy with some aspects of the proposal. What they have offered is
1366 speculation and fears about what might occur if the property is allowed to develop as proposed
1367 by my clients. I think this Board knows that speculation, fears, concerns, isn't enough to rise to
1368 the level of component evidence to support denial of the application. There have been a few
1369 questions about water quality, drainage issues, and stormwater issues. In order to get our
1370 permits, after the SUP is approved we still have to comply with requirements of Erosion and Soil
1371 Control, we have to meet all the stormwater standards for the site. There are still more review
1372 and codes that have to be met before we build and operate a site. When it is all said and done,
1373 I suggest to the board that the board can and should make the findings required by the zoning
1374 ordinance. Testimony for the board is the use will maintain the value of contiguous property.
1375 Testimony characterizes the use promotes the public health, safety and welfare and that the use
1376 is in harmony with the area and consistent with the Comprehensive Plan for Orange County and
1377 for the rural buffer district. We ask the board to approve the special use permit. I know that Mr.
1378 Harvey has prepared some proposed conditions attached to it. My clients are not opposed to
1379 any of those conditions. We have also expressed that a condition voluntarily that we put some
1380 kind of berm along the boundary line behind the dog play area to muffle some of the sound that
1381 might be generated along that direction. For all those reasons, I ask the board to act tonight to
1382 approve the application.

1383
1384 Dawn Brezina: Does this complete the testimony for tonight?

1385
1386 Michael Harvey: I have a few housekeeping items. As we do with every special use permit,
1387 staff provides you with the necessary script. This allows staff to provide you locations and
1388 evidence on standards we feel we can respond to and obviously giving you the heads up on
1389 what you, as the Board, will have to do. We always recommend conditions in case you approve
1390 a project.

1391
1392

1393 Michael Harvey reviewed the findings of fact. The planning staff does not offer any suggested
1394 findings or recommendations because this has to be based on the sworn testimony that has
1395 been offered this evening. We do provide you with a list of recommended conditions if you
1396 choose to issue the permit. We will stipulate that we have not received any information that
1397 would establish grounds for making a negative finding on the general standards.
1398

1399 Michael Harvey reviewed the conditions. There was some discussion about having the
1400 acoustical engineer provide documentation at the building permit level that the building would
1401 address noise issues. We didn't put that in there but that is something the board may want to
1402 consider.
1403

1404 Bob Hornik: We are willing to have Mr. Stewart provide a report that verified the acoustic issues
1405 are addressed in the building design.
1406

1407 Michael Harvey: I would like the board to add to recommendation 7 "or the application shall
1408 have 90 days to bring the property into compliance with the established 150 foot setback
1409 requirement".
1410

1411 Larry Wright: Is 90 days realistic to bring it before the board?
1412

1413 Michael Harvey: 90 days is realistic to get the application in... a condition about building the
1414 northern berm...
1415

1416 Bob Hornik: Along the northern boundary line in the vicinity of the outdoor play area.
1417

1418 Michael Harvey: I would suggest that is something that the Board of Adjustment is interesting in
1419 adhering to that the condition reads as follows: recommendation 8, "A berm shall be erected
1420 along the northern property line consistent with county regulations with respect to the
1421 maintenance of required landscaping in the area to address potential noise issues offsite".
1422 Chad will have to submit it as part of the landscape site plan. Once you close the public hearing
1423 Mr. Hornik cannot speak to you. No one can speak to you so if you have any questions, you
1424 need to ask them. The attorney is here representing the Board of Adjustment in this instance
1425 but obviously you can't ask me or Mr. Hornik or any other individual any questions once you
1426 start deliberation. Once the hearing is closed you cannot accept additional testimony.
1427

1428 Larry Wright: If we choose to go this way and we add a condition that on the acoustic
1429 conditions so we would ask for a report to verify that acoustic conditions are addressed in the
1430 building design in compliance or within....I don't know how we would do this if we...
1431

1432 David Blankford: That is the problem for me and the reasons I say that is because I am not an
1433 acoustical engineer. What I am guessing would occur is that the applicant's expert would
1434 provide a document indicating that the building design meets established acceptable practices
1435 for the abatement of extraneous noise.
1436

1437 Larry Wright: We heard this same... can I refer to another application?
1438

1439 Michael Harvey: Sure.
1440

1441 Larry Wright: We heard this same expert witness talk about building materials, etc. and how it
1442 mitigated and abated noise and I just can't figure out how he did that. It was very effective
1443 testimony. I don't know how you would word that.
1444

1445 Michael Harvey: Without telling you how to word the condition, recognizing limitations we have
1446 as a staff because we don't have an audiologist on staff. Maybe the condition is that the

1447 acoustical engineer provides documentation signifying that the materials used in the
1448 construction of the building will muffle the sound as directed by the Board of Adjustment and
1449 provide for reduction in the sound level of the barking dogs in the internal building.
1450

1451 Sahana Ayer: In the other application, the gentleman gave testimony that there was an attic
1452 area that wasn't properly insulated or there wasn't enough padding and he suggested extra
1453 padding to muffle the noise. I think that was a condition we put in the SUP. I guess we can say
1454 if they comply with the requirements of the noise ordinance. I think that should cover
1455 everything. The materials and everything else is at their discretion, what they use, as long as
1456 the noise does not exceed the decibel level permitted.
1457

1458 Dawn Brezina: Any other questions?
1459

1460 The public hearing portion was closed at 10:30 pm.
1461

1462 Dawn Brezina: Is there further comment among the members of this committee?
1463

1464 Sahana Ayers: We can just do a motion affirming staff's recommendation.
1465

1466 Dawn Brezina: Everything that staff has recommended?
1467
1468

1469 FINDINGS OF THE ORANGE COUNTY PLANNING STAFF
1470 PERTAINING TO REQUEST SUBMITTED BY SAMUEL AND CAROLYN GRIFFIN
1471 AND TAMMY AND ANDREW PURNER
1472 REQUESTING A CLASS B SPECIAL USE PERMIT TO ALLOW FOR A
1473 CLASS II KENNEL
1474 FOR A PARCEL OF PROPERTY LOCATED OFF OF MILLHOUSE ROAD
1475 (PIN 9871-61-5733)
1476

1477 Special Uses must comply with general and specific standards as set forth in Article 5.
1478

1479 Section 5.3.2 (A) (2) requires written findings certifying compliance with the following:
1480

- 1481 (1) The use will maintain or promote the public health, safety and general welfare, if located
1482 where proposed and developed and operated according to the plan as submitted;
1483
- 1484 (2) The use will maintain or enhance the value of contiguous property (unless the use is a
1485 public necessity, in which case the use need not maintain or enhance the value of
1486 contiguous property); and
1487
- 1488 (3) The location and character of the use, if developed according to the plan submitted, will
1489 be in harmony with the area in which it is to be located and the use is in compliance with
1490 the plan for the physical development of the County as embodied in these regulations or
1491 in the Comprehensive Plan, or portion thereof, adopted by the Board of County
1492 Commissioners;

1493
1494 In addition, the Board shall make findings certifying that the application is complaint with the following
1495 specific standards:
1496

- 1497 (1) Specific standards for the submission of Special Use Permit applications as outlined
1498 within Section(s) 5.6.5 of the UDO,
- 1499 (2) Applicable provisions of Article 3 (Dimensional Requirements) and Article 6 (Application
1500 of Dimensional Requirements) of the Ordinance.
- 1501 (3) Section 5.3.2 (B) relating to the method and adequacy of the provision of:
 - 1502 1. Sewage disposal facilities,
 - 1503 2. The adequacy of police, fire, and rescue squad protection,
 - 1504 3. The adequacy of vehicular access to the site and traffic conditions around the site,
1505 and
 - 1506 4. Other specific standards as set forth within the UDO.
- 1507
1508 (4) Specific regulations governing the development of individual Special Uses as set forth in
1509 Article 5, specifically Section 5.6.5 *Class II Kennels* of the UDO.
1510

1511
1512 Listed below are the findings of the Orange County Planning Department regarding the application in
1513 question. The findings have been presented by Article and requirement to assist the Board of Adjustment
1514 in its deliberations.
1515
1516
1517
1518
1519
1520
1521
1522
1523
1524
1525
1526

1527
1528
1529

ARTICLE 2.7.3 - APPLICATION COMPONENTS ("Yes" indicates compliance; "No" indicates non-compliance)

FINDINGS <u>Ordinance Requirements</u>	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
2.7.3 (A) 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 (Attachment 1) has been submitted.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.7.3 (B) (1) A full and accurate description of the proposed use	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	A complete application narrative containing the required information (Attachment 1) has been submitted.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.7.3 (B) (2) The name(s) and addressed of the owners of the property involved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The application and site plan (Attachment 1) contain the required information	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.7.3 (B) (3) Relevant information needed to show compliance with the general and specific standards governing the special use.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Attachment 1 (narrative and site plan) contains relevant information Attachment 3 contains staff reports denoting the approval of the proposal	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.7.3 (B) (4) - 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 Summit Engineers were submitted	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.7.3 (B) (5) - preliminary subdivision plat	<input type="checkbox"/> Not Applicable	The project does not involve a preliminary subdivision. As a result a preliminary plat is not required	<input type="checkbox"/> Not Applicable
2.7.3 (B) (6) – a list of all property owners within 500 feet	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The application package contains the required information	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.7.3 (B) (7) – elevations of the proposed structure	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The application package contains the required information	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2.7.3 (B) (8) Ten (10) copies of the Environmental Assessment and/or Environmental Impact Statement, if required, by the Orange County Environmental Impact Ordinance.	<input type="checkbox"/> 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 type="checkbox"/> Not Applicable

1530

1531 **ARTICLE 2.7.3 - APPLICATION COMPONENTS** ("Yes" indicates compliance; "No" indicates non-compliance)

1532	Section 2.7.3 (B) (9) Method of disposal of trees, limbs, and stumps associated with the permitted activity	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The site plan contains a note indicating that all land clearing material(s) will be disposed of in accordance with the Orange County Solid Waste Management Ordinance in a manner other than burning.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Section 2.7.3 (B) (10) Statement from the applicant indicating the anticipated development schedule for the project	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The application package (Attachment 1) contains the required information	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Section 2.7.3 (B) (11) – Statement from the applicant is justification of any request for vesting of the project	<input type="checkbox"/> Not Applicable	The project does not involve a request for the vesting of the proposed site plan. As a result, no statement is required	<input type="checkbox"/> Not Applicable

1533
1534

1535
1536
1537

ARTICLE 3 - 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 3 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 Rural Buffer (RB). The standards for the AR district are set forth in Section 3.3 of the UDO and are as follows:			
a) Minimum lot area per use 87,120 sq. ft. (i.e. 2 acres)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	According to the application and site plan (Attachment 1) the property is 15 acres (653,400 sq. ft.) in area	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b) Minimum lot width - 150 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	According to the site plan (Attachment 1) there is approximately 567 feet of road frontage along Millhouse Road	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
c) Required front setback - 40 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	According to the site plan (Attachment 1) the kennel building is approximately 423 feet from the front property line (i.e. Millhouse Road)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
d) Required side and rear setbacks - 20 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	According to the site plan (Attachment 1) the kennel building is approximately: <ul style="list-style-type: none"> • 150 feet from the southern property line (i.e. Orange County Property) • 30 feet from the northern property line (i.e. Griffin property) and • 150 feet from the western property line (the exercise yard) 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
e) Maximum building height - 25 ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	According to the site plan (Attachment 1) the kennel building complies with the height limit for the district	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

1538
1539

1540
1541

RATIO STANDARDS (ARTICLE 3 CONTINUED)

FINDINGS	Planning Staff Recommending Findings:	EVIDENCE SUBMITTED TO SUPPORT FINDINGS	Board of Adjustment Findings:
a) Floor Area Ratio - .088 sq. ft. or 60,229 sq. ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	According to the site plan (Attachment 1) the proposed floor area for the site shall only be 10,100 sq.ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b) Maximum gross land area	<input type="checkbox"/> Not applicable	Not applicable – This proposed project is not subject to the maximum gross land area requirement as detailed within Section 3.3 of the UDO	<input type="checkbox"/> Not Applicable
c) Livability Space Ratio	<input type="checkbox"/> Not applicable	Not applicable – This proposed project is not subject to the Livability Space Ratio as detailed within Section 3.3 of the UDO	<input type="checkbox"/> Not Applicable
d) Recreation Space - .028 or 19,164 sq.ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	According to the site plan there is approximately 674,284 sq. ft. of property left in open space/recreation space on the property as defined within Article 10 of the UDO	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
e) Required minimum open space ratio - .84 or 574,920 sq.ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	According to the site plan (Attachment 1) the proposed open space, as defined within Article 10 of the UDO, for the site shall be 674,284 sq.ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
e) Required minimum pedestrian/landscape ratio - .21 or 143,730 sq.ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	According to the site plan (Attachment 1) the proposed pedestrian/landscape ratio, as defined within Article 10 of the UDO, for the site shall be 661,519 sq.ft.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

1542
1543

1544
1545
1546
1547

ARTICLE 5.3.2 (B) - 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:
Section 5.3.2 (B) requires the applicant to address the following:			
1) 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 Orange County Health 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 UDO	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2) Method and adequacy of police, fire and rescue squad protection.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The New Hope 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. As detailed within Attachment 3 all applicable public safety agencies have approved the project	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3) 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 an existing access easement onto Millhouse Road. NC DOT will need to review in order to determine if 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

1548
1549

1550
1551
1552
1553

ARTICLE 5.6.5 - 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 5.3.2 of the UDO, 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 5.6.5 of the UDO:</p>			
<p>Section 5.6.5 (A) (1) (a)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The submitted site plan (Attachment 1) 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 5.6.5 (A) (1) (b)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The submitted site plan (attachment 1) provides all essential information as required</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 5.6.5 (A) (2) (a)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The submitted site plan (attachment 1) provides all essential information as required</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>			
<p>Section 5.6.5 (A) (2) (b)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The submitted site plan (attachment 1) provides all essential information as required.</p> <p>As the applicant owns the northern property the 150 foot setback does not apply to this property line.</p> <p>The site plan contains a note indicating that if this northern property is sold, or is no longer owned/controlled by the operator of the kennel, then the kennel use shall be abandoned.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>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</p>			

1554

1555
1556
1557

ARTICLE 5.6.5 - SPECIFIC STANDARDS FOR A CLASS II KENNEL
(“Yes” indicates compliance; “No” indicates non-compliance) (continued)

<p>Section 5.6.5 (A) (2) (c)</p> <p>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</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The submitted site plan (attachment 1) provides all essential information as required.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Section 5.6.5 (A) (2) (d)</p> <p>d) The site plan shows parking, access areas and screening devices for buildings and animal boarding facilities</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The submitted site plan (attachment 1) provides all essential information as required.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Section 5.6.5 (A) (2) (e)</p> <p>e) The site plan shall be reviewed by the Orange County Animal Services Department, and found in conformance with the Animal Control Ordinance.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>As detailed within Attachment 3, the site plan has been tentatively reviewed and deemed appropriate by Animal Control.</p> <p>The applicant will be required to apply for and obtain a permit from Orange County Animal Health in addition to the Special Use Permit.</p> <p>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</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Section 5.6.5 (A) (2) (f)</p> <p>f) Building plans for all kennel facilities shall be reviewed and approved by the Orange County Animal Services Department prior to issuance of any building permits.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>The renderings and floor plan have been reviewed by Animal Services.</p> <p>The applicant cannot make an application for final approval until the SUP is issued.</p> <p>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</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

1558

1559
1560
1561

ARTICLE 5.6.5 - SPECIFIC STANDARDS FOR A CLASS II KENNEL
(“Yes” indicates compliance; “No” indicates non-compliance) (continued)

Section 5.6.5 (A) (2) (g)

Yes No

The applicant has indicated on the site plan (Attachment 1) that there will be a sign on the property adhering to this condition

Yes No

g) 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 the UDO

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 5.6.5 (A) (2) (h)

Yes No

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

Yes No

h) A Class II Kennel Permit shall be obtained from Orange County Animal Services 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

1562
1563
1564
1565
1566
1567

MOTION made by Larry Wright to agree to staff’s recommendations on the application beginning on page 88 through page 96 Seconded by Mark Micol.

VOTE: Unanimous

1568
1569
1570
1571
1572

SECTION 5.3.2 (A)(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 Section 5.3.2 (A) (2), the Board of Adjustment shall also consider the following general conditions before the application for a Special Use can be approved:

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

1573
1574
1575
1576
1577
1578
1579
1580
1581
1582
1583
1584
1585

Dawn Brezina: In accordance with the Section 5.3.2 we shall consider the following general conditions for this special use to be approved. I know we have a list of special conditions. It might be easiest to put them into one.

MOTION made by Mark Micol to find in the affirmative on Article 5.3.2 (A) (2) Section 1 that the use will maintain or promote the health, safety and general welfare if located as proposed based on this project providing the community with a state of the art green facility that can be used by surrounding rural residents without forcing them to travel long distances, that the project incorporates best management practices for storm water control, energy conservation, and sustainable use of non-depleting renewable energy sources. Seconded by David Blankfard.

VOTE: Unanimous

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

1586
1587
1588
1589
1590
1591
1592

MOTION made by Larry Wright to vote in the affirmative on ordinance requirement Section 5.3.2 (A) (2), Section 2 concerning the value of property and contiguous property relative to the applications parcel based on Mr. Michael Wheeler's Impact Analysis on pages 20-60 of the packet and his written summary and the seal of his expertise. Seconded by Mark Micol.

VOTE: Unanimous

1593

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

1594

1595

1596

1597

1598

1599

1600

1601

1602

1603

MOTION made by Larry Wright to vote in the affirmative on ordinance requirement Section 5.3.2 (A) (2), Section 3 on page 97 of the application that the conformance is in harmony with the 2030 Comprehensive Plan and according to staff's early opening statements on page 5 and 6. Staff outlines that it does meet the Unified Development Ordinance compliant with that and the Unified Development Ordinance and that conforms to the 2030 Comprehensive Plan. In Exhibit 1 talking about the rural buffer and the land use categories and these are objectives that come right from the Comprehensive Plan. Seconded by David Blankfard.

VOTE: Unanimous

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 revised 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 Services for compliance with any and all applicable animal control regulations in accordance with the UDO,
- (2) That the Orange County Fire Marshal'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,
- (4) 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.
- (5) That the applicant shall submit the approved site plan to NC DOT for review and comment. In the event it is determined that the applicant is required to apply for, and receive a, driveway permit from NC DOT to allow for the project to be developed, the applicant shall submit all necessary applications as required by NC DOT within one hundred eighty (180) days from the issuance of the SUP and provide planning staff with a copy of the issued permit,
- (6) That prior to the commencement of land disturbing activity the applicant shall submit all necessary stormwater and erosion control applications to the Orange County Erosion Control Department. These applications shall be submitted within one hundred eighty (180) days from the issuance of the SUP.
- (7) As denoted on the approved site plan, if the ownership of the northern contiguous property be sold or otherwise fall out of ownership from any individual connected with the ownership and/or operation of the kennel facility, the kennel facility shall be forced to cease and the approved SUP shall become null and void.

1604
1605
1606
1607
1608
1609
1610
1611

MOTION made by David Blankford to accept staff's recommended conditions numbers 1 through 7 with the edits as follows. Condition number 1, *"that an acoustic report will be submitted with the building construction building permit. That the building is constructed with mitigating noise materials that will meet the county ordinances."* Added to the end of condition 7, *"or the applicant or subsequent owner shall have 90 days to submit an application to bring compliance within the 150 foot setback should the property be sold"*. Add item 8, *"A berm shall be constructed on the northern boundary line of the proposed project to mitigate any potential noise"*

1612 *issue and adhere to the Orange County Ordinances referencing the Landscape Construction*
1613 *Ordinance.”* Seconded by James Carter.

1614 **VOTE:** Unanimous

1615

1616 **MOTION** made by David Blankfard to approve the Special Use Permit with the recommended
1617 conditions. Seconded by James Carter.

1618 **VOTE:** Unanimous

1619

1620

1621 **AGENDA ITEM 6: ADJOURNMENT**

1622 The meeting was adjourned at approximately 10:45 pm.

1623

1624

1625

1626 Tina Owen, Minutes Preparer