

**Minutes of the
New Hanover County Planning Board
May 2, 2013**

The New Hanover County Planning Board met Thursday, May 2, 2013 at 6:00 p.m. in the Assembly Room of the Historic County Courthouse, Wilmington, NC to hold a public meeting.

Planning Board Present:

Richard Collier, Chairman
Dan Hilla, Vice Chairman
Andy Heath
Lisa Mesler
Anthony Prinz
David Weaver

Staff Present:

Chris O'Keefe, Planning & Inspections Director
Shawn Ralston, Planning Manager
Sam Burgess, Senior Planner
Nicole Dreibelbis, Current Planner
Sharon Huffman, Deputy County Attorney

Absent:

Tamara Murphy

Chairman Richard Collier opened the meeting by welcoming the audience to the public hearing.

Sam Burgess led the reciting of the *Pledge of Allegiance*.

Chairman Collier announced the text amendment would be considered first on the agenda and reviewed the procedures for the meeting.

Approval of the April 2013 Planning Board Meeting Minutes

Dan Hilla made a motion to approve the April Planning Board meeting minutes. David Weaver seconded the motion. The Planning Board voted 6-0 to approve the April 4, 2013 Planning Board meeting minutes.

Item 3: Text Amendment (A-412, 05/13)- Request by staff to amend Section 71-1(9) of the Zoning Ordinance to provide clarification as to who has the authority to approve an administrative approval and qualifying modifications.

Nicole Dreibelbis presented the staff presentation for the proposed text amendment. She explained the proposed amendment was the result of a recent case required to repeat the rezoning public hearing process based solely on a minor modification to the setbacks that were approved three months earlier.

Ms. Dreibelbis reported the proposed changes include the following:

- 1) In Section 71-1, a clarification of who can approve a minor administrative change. The title would be changed from Superintendent of Inspections to Zoning Administrator,

which would have no effect on the current process. When a request for an administrative approval is received, pertinent staff members review the proposed changes and ultimately, both the director and the zoning administrator sign off on the approval.

- 2) In Section 71-1(C), the term reduction would be changed to modification in order to allow a minor change in setbacks to be approved administratively whether it is a reduction or an increase with the clarification that the change not exceed 10%. Ms. Dreibelbis explained the ten percent threshold is consistent with other jurisdictions in the state of North Carolina that allow a slight modification in setbacks to be approved administratively.
- 3) Add Section 112-7: Administrative Review to clarify the administrative approval language is also applicable to rezonings, in addition to special use permits. Ms. Dreibelbis noted the ordinance is currently unclear about that issue.

Ms. Dreibelbis concluded the staff presentation, offering to answer questions from Planning Board members.

Chairman Collier asked for clarification that an administrative approval would not be valid if the change in setbacks exceeded ten (10%) percent.

Ms. Dreibelbis stated Chairman Collier was correct. If the change in setbacks exceeded the established ten (10%) percent threshold, the request would be required to go back through the public hearing process.

In response to an inquiry from Chairman Collier, Chris O'Keefe confirmed the text amendment was not a public hearing item; however, public comment was welcomed.

Chairman Collier asked if anyone from the public would like to speak in regard to the text amendment.

No one from the public provided any comments in regard to the proposed text amendment.

Chairman Collier then entertained a motion from the board.

Anthony Prinz made a motion to recommend the county commissioners approve the recommendation to Section 71 of the zoning amendment as proposed. Andy Heath seconded the motion. The Planning Board voted 6-0 to recommend approval of Text Amendment A-412.

Chairman Collier commented the text amendment would be beneficial in streamlining the process for future applicants. He explained that last month, a gentleman had to repeat the rezoning process because of an approximately one foot variance in his survey dimensions. He noted it seemed more prudent to have the Zoning Administrator handle that type of situation administratively rather than require the applicant to repeat the process of two additional public hearings, bringing people out unnecessarily, when the project was already approved other than a minor technicality.

Chairman Collier announced a short recess.

Chairman Collier brought the meeting back to order, apologizing to those in attendance for the delay in the public hearing for Item #1. He then announced the board would move forward with the public hearing for Item #2.

Item 2: Rezoning Request (Z-925, 05/13) - Request by Cindee Wolf, Design Solutions, on behalf of College Road Development Partners, LLC. To rezone 8.05 acres located at 2530, 2600, 2608, 2612, & 2616 North College Road from B-2 Highway Business and R-15 Residential to CUD(B-2) Conditional Use District B-2. The site is classified as Transition and Conservation Area according to the 2006 CAMA Land Use Plan. The subject properties are also located within the Wilmington/New Hanover County Comprehensive Greenway Plan.

Nicole Dreibelbis presented the staff summary and provided information pertaining to location, land classification, access, level of service and zoning. Ms. Dreibelbis also showed maps, aerials, video, and photographs of the property and the surrounding area.

The proposal is located in the northern portion of the County's jurisdiction and includes five parcels located on North College Road for a combined area of 8.05 acres. The subject properties included two land classifications, including Conservation Area and Transition. The Conservation area runs consistent with the flood lines and is proposed to remain in a vegetated state. All new development will be contained within the Transition area. The subject properties are currently split zoned B-2 Highway Business to a depth of 300 feet, as well as R-15 Residential in the rear portions. Residential uses are permitted within commercial districts by special use permit.

Original zoning in 1972 established approximately 1,900 feet of B-2 Highway Business District starting at the Murrayville Road intersection and running to the 2600 block of North College Road. 2608, 2612, and 2616 North College Road are also partially zoned as the result of a County Commissioner approval obtained on July 13, 1998.

The subject properties are situated within an existing commercial node. North of the proposal is Laney High School. South of the subject properties, at the corner of Long Ridge Drive and N. College Road, is an approved Dollar General store. Across the street, the zoning is also B-2 beginning at the Bavarian Lane intersection. The Bavarian Lane/North College Road intersection is zoned Conditional Use District Highway Business, subject to an approved master plan for Northside Baptist Church and the recent McDonalds, located at 2519 North College Road. Directly across North College Road from the subject properties the zoning transitions to R-15 Residential and is currently vacant property. 2619 North College Road is a pocket of Office and Institutional, housing a realty office and barber shop. East of the subject properties the zoning is R-15 Residential.

North College Road is an urban principal arterial roadway. The average daily trip count on North College Road, at the Long Ridge Drive intersection is 23,000 vehicles and is currently operating at a Level of Service F, meaning the traffic counts exceed the capacity of the roadway. The traffic impact worksheet prepared by the WMPO estimates that the proposed 123 unit apartment complex and 6,400 square feet of commercial space on the first floor will produce an AM peak hour of 93 trips and a PM peak hour of 182 trips. Therefore, a full traffic impact analysis (TIA) was required per Section 61.4 of the New Hanover County Zoning Ordinance. The TIA was submitted and approved and the applicant will be required to mitigate their proposal's impact on existing traffic with road improvements. Ms. Dreibelbis reported the applicant's traffic engineer and Tara Murphy of the WMPO were available to elaborate on the road improvement requirements.

The proposal is a CUD (B-2) Conditional Use Highway Business to accommodate a mix of commercial and residential uses, including a one hundred twenty three (123) unit apartment complex and 6,400 square feet of commercial space on the first floor. Uses proposed in the commercial portion of the structure will be limited to uses permitted by right in a B-1 Business District. The apartments will be a combination of one and two bedroom units. The applicant is proposing sixty-one (61) one bedroom units and sixty-two (62) two bedroom units. The applicant is also adding two hundred sixty-two (262) parking spaces total for both uses, consistent with Section 81-1 of the zoning ordinance.

Ms. Dreibelbis reported the conditional use zoning request required two board actions – Rezoning and Special Use Permit Findings. She stated the proposal is inconsistent with the intent of locating a dwelling unit or units in a B-1 or B-2 District and may have been more compatible as an Exceptional Design Zoning District. However, the proposal includes construction of an external sidewalk fronting North College Road, connecting internal sidewalks to adjacent services. Further, the minimal impact on traffic, compliance with additional restrictions imposed on residential uses within a commercial district, and limiting development to an area classified as Transition is consistent with the 2006 CAMA Land Use Plan, stated intent of Conditional Use Districts and permissible residential development within a commercial district standard. Therefore, staff recommended approval.

Ms. Dreibelbis reported in regard to the Special Use Permit request, staff suggests that findings are positive; however, would propose the following conditions be placed on the conditional use rezoning permit which the petitioner/property owner must agree to for the permit to be valid:

1. All improvements recommended in the final WMPO approval must be installed for the Conditional Use Permit to be valid;
2. Extension of pedestrian connections to the undeveloped outparcel at both access points;

3. Tract A remain undeveloped and the applicant shall supplement the existing vegetation in accordance with the buffer requirements of Section 62.1-4;
4. Work in coordination with the CFPUA to determine if a recorded utility access easement is necessary to maintain water and sewer connections; and
5. A fire hydrant layout and sprinkling plan be approved by County Fire Services.

Chairman Collier thanked Ms. Dreibelbis and asked if board members had questions for staff.

Vice Chair Hilla commented the proposed plan reflected a four-story building and asked how building height was determined in a conditional use district.

Ms. Dreibelbis stated in a B-2 district adjacent to another B-2 district, there would not be any guidelines to follow in regard to building height. If the proposal was immediately adjacent to a residential district, the setbacks would be calculated based on the height of the structure.

In response to a question from Vice Chair Hilla regarding limitations on building height, Ms. Dreibelbis explained the maximum building height would be forty feet, except that buildings located within the Urban and Transition area and fronting along a collector, minor arterial or principal arterial may exceed forty feet provided their floor area ratio does not exceed one.

David Weaver asked in regard to Ms. Dreibelbis' comment about the Exceptional Design Zoning District, if he was correct in assuming there would be additional requirements on the development if the proposal was for an exceptional design zoning district. He also asked if this type of residential use was permitted by Special Use Permit in a B-2 district, noting he didn't see it specified in the Table of Permitted Uses that over 100 apartment units are permitted by special use.

Ms. Dreibelbis stated that would be the reason staff was suggesting it may not necessarily be the intent of the special use permit to allow a residential dwelling to be located in a commercial district. In previous cases, the special use permit has been applied for small business owners that located their business on the first floor and held their residence above that business.

Mr. Weaver then stated the proposal almost seemed to be an illegal use of the special use permit process when this type of residential development is not even permitted by special use in a B-2 district.

Shawn Ralston explained Section 72-38 of the zoning ordinance allows for residential uses within commercial districts and also sets out the standards. In the B-1 or B-2 commercial districts, one of the requirements is that the residential use be part of a mixed-use development.

Mr. Weaver thanked Ms. Ralston for clarifying the appropriateness of the special use permit request for an apartment complex in a B-2 district.

Anthony Prinz referred to recommended condition #3 that Tract A remain undeveloped and the applicant supplement existing vegetation in accordance with the buffer requirements and asked staff to point out the location of Tract A on the map.

Chairman Collier suggested Cindee Wolf may provide that information if that was agreeable to Mr. Prinz, noting Tract A may wrap around the side and rear of the property. He then opened the public hearing and recognized the applicant.

Cindee Wolf, of Design Solutions, LLC, spoke on behalf of the applicant. She noted it is an unusual situation with a strip of B-2 zoning across the front of the property, houses located on the properties that are nonconforming in the B-2 district, and the rear of the property is residential. They would like to provide a good buffer between the proposal and residential lots on Long Ridge Road. She explained a park is a permitted use in B-2 and works for that purpose.

In regard to Mr. Weaver's question, Ms. Wolf stated from 1998 – 2002, mixed-use developments were proposed because they were innovative opportunities to have possibly diverse, but very compatible uses in the same place. She explained the special provision allowing that type of development by special use is located near the back of the ordinance.

Ms. Wolf stated demographic studies suggest that aging, empty-nester, and single-person households will dominate America's future, which adds up to the potential for more innovative housing demand. This location seemed a unique opportunity for housing for small families with kids, with a middle school and high school within walking distance. The facilities at the schools also offer recreation opportunities. She reported the proposed project is an upscale type of apartment building, consisting of four stories with elevators. The concept is a single building with a mixture of compatible neighborhood commercial uses located in the front of the building, such as a sub shop, a coffee shop, dry cleaners, etc. that the residents of the 123 units would find easy to use, but would also be open to people passing by.

Ms. Wolf stated a traffic impact analysis had been done and some road improvements have been recommended. The applicant is in agreement with those findings. The existing vegetation around the tract was their means of making sure it would be preserved by creating Tract A as a perpetual park and recreation area. Staff's recommended condition that Tract A never be developed and vegetation be supplemented to meet the full buffer requirements protects those residential houses to the rear of the proposal. The County's policies for growth and development encourage safe and affordable housing. Infill of vacant properties near services, jobs, and easy traffic circulation to other points in the county is an excellent opportunity for good economic development and increased tax base. She stated the applicant believes the project meets those criteria and presents a sensible density with an attractive design.

Ms. Wolf reported as part of the conditions of the special use, there are sidewalks internally, over to the park area, and along the entire frontage. The floor area ratio for Tract B is .8, but the floor area ratio is approximately .6 for the whole project. She presented a conceptual plan of the building, pointing out the nicer materials and architectural features. She also noted there is an interior courtyard for the building. Ms. Wolf stated the applicant agreed with the findings

provided by staff and agreed with the recommended conditions. She offered to answer questions and acknowledged Dan Cumbo was also present to answer traffic impact related questions.

Chairman Collier asked if anyone else would like to speak in favor of the proposal. Seeing none, he asked for questions from the board.

Chairman Collier then opened the opposition portion of the public hearing.

Margaret Ball stated she was not opposed to the project, but she was very concerned about the traffic problem in the area and would like to hear more about the traffic improvements.

Clyde Harris stated he was also concerned about the traffic, noting the real problem was morning rush hour traffic and after school traffic. He commented it takes his daughter an hour to cross the street to drop off her children at school at Trask and Laney and return home when the weather is bad. He was also interested in the proposed traffic improvements and would like to see congestion alleviated at the schools. He also felt it should be taken into consideration that traffic currently exceeds the design capacity of College Road.

Chairman Collier closed the public hearing and asked the traffic engineer, Dan Cumbo, to present the traffic improvements proposed for the project.

Dan Cumbo, of Davenport Transportation Consulting, reviewed the required traffic improvements for the proposal.

1. North College Road at Proposed North Access:
 - Extend the two-way left turn lane to tie into the existing dedicated left turn lane at the intersection of New Village Way.
 - Provide a left turn lane with 100 feet of storage and appropriate taper into the site.
 - Provide one lane for exiting traffic.
 - Provide a 100' internal protected stem.

2. North College Road at Proposed South Access:
 - Extend the two-way left turn lane to tie into existing two-way left turn lane to the north on North College Road.
 - Restripe the outer northbound lane, currently striped as right turn lane, to a through lane.
 - Provide a right turn lane with 100 feet of storage and appropriate taper into the site.
 - Provide a left turn lane with 100 feet of storage and appropriate taper into the site.
 - Provide two lanes for exiting traffic, one left turn lane and one right turn lane.
 - Provide a 100' internal protected stem.

3. North College Road at Murrayville Road/ Bavarian Lane:

- If not already existing at the time this development is constructed, extend the southbound left turn lane and tie into the two-way left turn lane. This will provide full storage for that left turn lane.
- If not already existing at the time this development is constructed, modify traffic signal operations to eight phases and remove split side phasing.

In response to Chairman Collier's question, Mr. Cumbo explained the proposal would eliminate the concrete island and extend the southbound left turn lane to the two-way left turn lane, resulting in unlimited left turn storage for the southbound movement on College Road. The traffic signal would also be improved. The A.M. traffic counts reflected a slightly longer delay than the afternoon traffic counts. Mr. Cumbo also said he was not aware of a traffic signal being proposed at Long Ridge Drive.

Vice Chair Hilla stated he had some experience in that area because his three children attended Laney High School. He noted during school hours a deputy normally assists with traffic at the intersection a little further south where the telephone facility is located. He asked if Mr. Cumbo anticipated a deputy would also be needed at the two locations accessing College Road.

Mr. Cumbo indicated he didn't anticipate the need for a traffic deputy at those two locations.

Andy Heath inquired if the entrance to the school on the left side of the plan was used for bus access or student drop-off.

Cindee Wolf stated she was unsure how that entrance was used, but didn't believe it was the bus access.

Vice Chair Hilla stated the entrance is used to access student parking and buses use the next entrance.

Ms. Ball commented a deputy is at the intersection every morning to slow down traffic and help trucks exit the AT&T parking lot. She expressed concern about how traffic from the apartment complex would cross North College Road. In her opinion, the entire section of College Road should be widened to four lanes before any more development is allowed. Traffic has doubled with the addition of the North campus of Cape Fear Community College and there is no exit or entrance from I-140, which would have alleviated a lot of the problems. The speed limit has been decreased by ten miles per hour due to the number of accidents along that portion of North College Road. She noted at least one accident per week occurs in that area.

Mr. Harris reinforced Ms. Ball's statements, noting continued future growth of the community college will also increase the traffic. College Road needs improvements all the way to Blue Clay Road, but the real congestion is around the two schools. In regard to the extension of the left turn lane to Laney High School, traffic backs up almost to the Laney entrance with a deputy directing traffic, tying up a lane, which isn't helpful for traffic flow. Congestion before and after school and during rush hour is extremely heavy from Murrayville Road past the school.

Chairman Collier referred to Mr. Harris' earlier comments in regard to traffic backing up on North College Road when making a left turn onto Murrayville Road, and pointed out the proposed traffic improvements should improve that situation.

Mr. Harris agreed, but noted ultimately four lanes are needed in that area because traffic will continue to increase due to the growth of the community college.

Vice Chair Hilla commented Tract A is labeled as a private park area on the site plan and asked for clarification on whether it was only available to residents of the apartment complex.

Ms. Wolf stated they hadn't fleshed out the details of the park area yet, but it would be a continuation of the school grounds for all intents and purposes. The area will be perpetually under conservation easement, but there isn't any intention to fence or gate it.

Mr. Prinz stated it also appeared there would be a boardwalk bridge providing a physical connection from the apartment complex through the park to the school.

Ms. Wolf responded Mr. Prinz was correct that a bridge would be constructed to access the leisure area across the drainage area, in addition to the sidewalk along the front of the property.

Chairman Collier asked if any consideration had been given to extending the piping outside the right-of-way and eliminating the second bridge.

Ms. Wolf stated that may possibly be a consideration, but she hadn't dealt with the engineering yet. She reported the owner had engaged an engineer to review those types of options.

Chairman Collier asked if the dumpster could be relocated to the other side of the site plan in the rear of the property.

Ms. Wolf stated they were agreeable to a condition requiring the relocation of the dumpster pad to the other side of the site plan in the rear of the property.

Ms. Wolf reported all of the residences located on the site were currently vacant and noted a tree survey had been conducted and there appeared to be no significant trees within the development area. She stated there would be a wet pond for stormwater due to the soil type and all development had been kept out of the floodplain.

Mr. Heath asked about the required width of the sidewalk along the frontage, listed as five feet on the site plan, and inquired about the standard sidewalk width in the Comprehensive Greenway Plan.

Ms. Dreibelbis explained the Comprehensive Greenway Plan in that area calls for a multi-use path to be located on the opposite side of the road. Staff is satisfied with the sidewalks along the frontage at a width of five feet.

In response to an inquiry from Ms. Wolf, Ms. Dreibelbis clarified one of the conditions recommended is the extension of the sidewalks in two locations.

Chairman Collier stated the condition related to sidewalks is valid as pointed out by Ms. Dreibelbis and recommended the applicant work out the details with staff.

Anthony Prinz commented the traffic issues in the area can't be solved by this project because a four-lane highway is really needed in the area. He also stated the high school needed to be able to accommodate their vehicle queues onsite, noting it is a common problem throughout the county and the state. He indicated the proposed improvements for this scale of project are over and above in his opinion, explaining the additional improvements would be required of a Wal-Mart type of development. Mr. Prinz said he was ready to make a motion.

Ms. Ball asked the applicant to explain where the entrances to the proposal are located along College Road.

Ms. Wolf pointed out on the map where the entrances to the proposed project would be located.

Ms. Ball commented the traffic backs up in the turn lane all the way to the light at Murrayville Road in the mornings and the same problem is seen at the entrance to the Northchase subdivision as well.

Chairman Collier explained the board understood Ms. Ball's concerns and took them to heart. He stated the proposed project can't solve all of the problems; however, the proposed traffic improvements from Murrayville to the school will make a significant improvement. He commented if developers are held to the same standard, improvements would be made over time.

Ms. Ball stated she hoped the development would be put on hold until the traffic improvements could be made.

Chairman Collier stated understanding of Ms. Ball's concerns, but noted it would require state funding to four-lane the roadway.

Mr. Weaver stated he wished the traffic issue could be fixed in the area. In regard to Section 72-38 of the zoning ordinance, he asked for a clarification of the definition of mixed-use development. He noted it was his understanding based on Section 54.1 that a mixed-use development was defined as an EDZD and he didn't see anything in the Table of Permitted Uses that allows apartments as a special use within a B-2 district. Mr. Weaver stated for those reasons, he didn't know if it was the right zoning vehicle to get approval for the project.

Mr. O'Keefe explained as pointed out earlier by Ms. Dreibelbis perhaps EDZD would be the best way to accomplish the goal of the proposal. Staff will continue to promote that ordinance; however, they do feel this is an avenue that can be used to accomplish the proposed development. The Exceptional Use Design District isn't where mixed-use development would be defined. Mixed-use isn't defined in the definition section of the ordinance, but it is a common term in planning used to describe a mix of residential, commercial, office and institutional, etc.

uses. Mixed-use is a broad and widely used term. In terms of high density, this particular situation perhaps goes beyond the intent of the section that allows residential to be mixed with B-2 uses, but it is a policy, and there is plenty of other policy support in the CAMA Land Use Plan adopted in 2006. He noted it is still one of the primary goals of staff to promote mixed-use in urbanizing areas where public facilities are available.

Mr. Weaver stated in his opinion the proposal is a great development, is nicely laid out with amenities and the pedestrian paths are excellent. He doesn't deny that it meets the policy, but he doesn't see where apartments are permitted with a special use permit in a B-2 district in the zoning ordinance and apartments are not listed in the Table of Permitted Uses with a special use permit in B-2. Mr. Weaver stated it is a very nice development despite the traffic impacts, but he wondered if the technical legality of the proposal couldn't be questioned.

Ms. Wolf pointed out that Section 72-38 was created and intended for this type of mixed-use project in the same building, noting the uses are limited to B-1 uses even though it must be in a B-2 district because of height limitations. She commented that the table of permitted uses section of the zoning ordinance might need to be tweaked to clarify the issue.

Mr. Weaver commented it would also be beneficial to have a definition of "mixed-use" in the ordinance.

Anthony Prinz made a motion to recommend to the Board of Commissioners that they adopt the rezoning from B-2 Highway Business and R-15 Residential to Conditional Use B-2 for the subject parcels. Dan Hilla seconded the motion. The Planning Board voted 6-0 to recommend approval of Rezoning Request Z-925 from B-2 Highway Business and R-15 Residential to Conditional Use District B-2.

Anthony Prinz then made a motion to recommend the Board of Commissioners grant the subject property a special use permit subject to the conditions identified as numbers 1-5 in the staff report, with the addition of condition number 6 to relocate the dumpster as discussed in the public hearing. Dan Hilla seconded the motion.

The Planning Board voted 6-0 to recommend the Board of Commissioners grant the special use permit subject to the following six conditions:

1. All improvements recommended in the final WMPO approval must be installed for the Conditional Use Permit to be valid;
2. Extension of pedestrian connections to the undeveloped outparcel at both access points;
3. Tract A remain undeveloped and the applicant shall supplement the existing vegetation in accordance with the buffer requirements of Section 62.1-4;
4. Work in coordination with the CFPUA to determine if a recorded utility access easement is necessary to maintain water and sewer connections; and
5. A fire hydrant layout and sprinkling plan be approved by County Fire Services; and
6. Relocate the dumpster to the left side of the site plan in the rear of the property.

Item 1: Special Use Permit Request (S-613, 04/13) - Request by Porters Neck Home Owners Association to obtain a special use permit to establish a parking area to accommodate an existing community boating facility. The property is located within an R-20S, Residential District at 8543 Bald Eagle Lane. This site is classified as Watershed Resource Protection according to the 2006 CAMA Land Use Plan. The proposal is located within the Porters Neck Small Area Plan and Wilmington/New Hanover County Comprehensive Greenway Plan. This item was continued from the April 4, 2013 Planning Board meeting.

Chris O'Keefe stated if it was agreeable to the planning board, the petitioner would like to make a brief request before the public hearing.

Chairman Collier polled the board, which was agreeable to Mr. Currin's request to briefly address the board.

Banks Currin, the petitioner, stated he had been a resident of Porters Neck for nine years and during that period had been involved with the maintenance and management of the boat ramp. He had thought it would be determined today whether they may obtain a special use permit, but it appeared that a legal issue had been raised by the staff.

Mr. O'Keefe stated some evidence had been received earlier that day which gave staff pause to revisit one of the items. He noted that information was forwarded to the Planning Board.

Mr. Currin commented he was not an attorney and was definitely not a zoning attorney, as he had spent his life as a tax practitioner. He stated in regard to the issue raised, it almost seemed ludicrous that every one of the 500 residents of Porters Neck must have a deed to the boat ramp area in order for them to obtain a special use permit for the parking area. Mr. Currin requested another continuance of the item in order to have the opportunity to communicate with legal counsel and obtain an understanding of the issue and that requirement.

Chairman Collier stated in light of the continuance last month and the presence of several area residents, he felt the board should proceed with hearing the case unless other board members objected. He explained Mr. Currin would also be given the opportunity to make that decision following the public hearing. Hearing no objection from the board, he recognized staff.

Nicole Dreibelbis presented the staff summary and provided information pertaining to location, land classification, access, level of service and zoning. Ms. Dreibelbis also showed maps, aerials, video, and photographs of the property and the surrounding area.

The proposal is located in the northern portion of the County's jurisdiction in an area identified as Watershed Resource Protection. The Watershed Resource Protection area occurs along tidal creeks and is defined as the area located within ½ mile of the One Hundred Year Floodplain for those creeks.

The proposed parking facility located at 8543 Bald Eagle Lane would accommodate the existing boating facility located at 8540 Bald Eagle Lane, which was permitted as part of the Porters Neck subdivision and was established prior to

the adoption of regulations governing community boating facilities in October 1992.

The subject property is located in an R-20S zoning designation, which is residential. A community boating facility is permitted by a special use permit. All development in the area is currently residential. Bald Eagle Lane is zoned R-20S. Regulations of this district are designed to accommodate residential opportunities for those who desire ex-urban and a low density lifestyle. West of the site, the zoning transitions to R-20, also a low-density residential district.

The route of access is Porters Neck Road to Bald Eagle Lane. Per a June 2012 study, the average daily trips (ADT) along the Bald Eagle Lane/Porters Neck Road intersection is 500 trips; therefore, the volume to capacity ratio produces a Level of Service of A. The applicant provided a traffic impact worksheet, which estimates the boat dock and marina facility use produces an AM peak hour of 1 trip and a PM peak of 2 trips.

Current parking is limited to six spaces. A Cape Fear Public Utility Authority pump station is located in the rear of the property. A fifteen foot access will be preserved to allow CFPUA access to the pump station. The proposed parking lot will remain in a natural state and a 100% opaque buffer from adjacent residential properties will be provided. The applicant is further proposing to limit hours of operation to daylight only and restricted access will be enforced with a locked gate.

Ms. Dreibelbis stated based on the information received late that afternoon, staff had concerns recommending approval or denial of the case. If the applicant can provide documentation to satisfy the ordinance requirements indicating limited access in a recorded matter, the findings could be positive; therefore, staff supported the applicant's request for a continuance in order to obtain that documentation and satisfy the ordinance requirements.

Chairman Collier opened the public hearing and recognized the applicant.

Banks Currin stated he understood the board's position. In his opinion, there is only one issue – public safety. He explained the very difficult process boaters must go through to launch their boats by backing their trailers down a ramp the length of a football field. Locating the proposed parking facility directly across the street from the ramp would allow boaters to line up their vehicles and back their trailers straight across the street, making that process easier. Boaters could leave their trailers down on the pad on the boat ramp and wouldn't need to back the trailer again down the ramp to pick up their boat. The proposal would actually get vehicles with boat trailers off Bald Eagle Lane by creating additional parking spaces so that those parking illegally won't have to do so. He offered to answer questions relative to the details of the proposal.

Dick Kuhn spoke in support of the proposal, noting he performs maintenance at the boating facility. He stated the additional parking is needed on the lot they currently own because only six vehicles can be parked on the boat ramp property. He pointed out there are 500 homes inside the

community gate and another 250 homes outside the gate, which belong to Porters Neck Plantation. He noted it seemed a crime to have a facility that can only be used by six people for six hours per day because boats can only be launched at high tide due to dredging restrictions. The proposed parking area would allow an additional 6-8 people to utilize the boating facility and reduce illegal parking on Bald Eagle Lane. He added that 42 people on Bald Eagle Lane also have a deeded right to use the boating facility, but not a deeded right to the land. Some live nearby and take their vehicles/trailers home. Mr. Kuhn commented the proposed parking lot would make the facility more accessible to everyone, not just a select few.

Harold Burton, a resident of 402 Wild Dune Circle for twelve years, stated he used the boat ramp quite frequently. Unfortunately, because the water wasn't deep enough to launch his boat, he moved it to Pender County. As a result, New Hanover County no longer collects taxes on his boat. He has owned four boats since then and the taxes for those boats go to other counties because he doesn't have access at that facility. He was formerly the president of the Porters Neck Country Club and during that time, one hundred boats were parked in the parking area of the maintenance facility. Today, approximately twenty boats are in that parking area. Eighty boats have disappeared because they can't get access to the boating facility. He noted they also pay taxes for deep water access, but don't have deep water or access. Mr. Burton does use the boat ramp to launch his kayak approximately forty times per year. He has never seen any other traffic on the road and doesn't see a traffic problem on Bald Eagle Lane. He has used the boat ramp, taken his vehicle back home, and then walked back to the ramp many times, doubling the traffic going back and forth because of lack of access. He commented that situation happens on weekends and on the 3-4 holidays in the summer. It is not a big imposition for people to give up a little bit of time to walk back to the ramp from their home. It is also not an imposition for the people on Bald Eagle Lane to have six extra cars parked in a facility across from the boat ramp. Mr. Burton stated he would like for the board to give the request consideration. As a licensed captain for thirty years, he spends a lot of time on the water. He pointed out there are not enough boat launch facilities in New Hanover County. Residents must go to Wrightsville Beach or Scotts Hill to launch their boats. The nearest public facility is 15 miles away in Pender County. He estimated that 150 of the 500 homeowners are boaters.

Joe McIntosh, a resident of Porters Neck on Futch Creek, spoke in support, stating he probably uses the ramp more than anyone else to launch his kayak three times per week in season and it isn't crowded. He is friends with everyone there and doesn't understand the objection to the parking access across the road. Mr. McIntosh pointed out the homeowner residing next to the property doesn't have any objection to it and the property on the other side contains only trees. He noted someone picks up trash and maintains the area, the parking lot is locked at night, there is no noise, and no cars or boats are parked overnight. He doesn't understand how the proposal would result in more traffic. He also commented it would seem to be a safer alternative and would make the boat ramp easier to use by the residents.

Ginny Thompson, a resident inside the gates at Porters Neck, stated she is not a boater, but she has been to the boat ramp and the proposed parking facility and was impressed that the facilities were not unsightly. From the perspective of a homeowner, the setback is so deep you don't see the cars parked when you are driving up and down the street. Ms. Thompson felt it would be more beneficial to have vehicles parked on that lot than parked on Bald Eagle Lane.

Chairman Collier opened the opposition portion of the public hearing.

Julia Worth, of 8040 Bald Eagle Lane, spoke in opposition, stating she is on the board of the Porters Neck Quality of Life Association, a volunteer association of homeowners residing on Bald Eagle Lane and the eastern portion of Futch Creek Road. She pointed out these are two different residential neighborhoods with similar names that are completely unrelated legally. The Porters Neck Homeowners Association represents homeowners within the gated community. Some property owners on the west side of Bald Eagle Lane in the original Porters Neck subdivision do have deeded access easements to use the boat ramp and the picnic area. An example of the easement granted by the original developer, Champ Davis, was included in the Planning Board packet. In the early 1990's, the developer of Porters Neck Homeowners Association bought two access easements to provide water access for the country club residents subject to the easements in place since the 1950's.

Ms. Worth stated the Porters Neck Quality of Life Association felt the special use permit application had serious problems; therefore, they would ask the board to reject the application. They contended the site plan was not realistic and the petitioner had not met any of the four required criteria. She explained the site plan shows six combination vehicle/trailer spaces, but the narrative states eight combination vehicle/trailer spaces. The narrative calls for the parking lot to remain unpaved, which means it will be difficult to mark and limit parking to six or eight vehicles, leading to use of the property as an angled parking lot and resulting in trailers partially obstructing the CFPUA access easement. They felt that would be a significant problem. She commented it would be nearly impossible to turn a large trailer around in the parking lot while a CFPUA vehicle was there servicing the pump station. Lastly, the existing gate is set back twenty-two feet from the edge of the road, which doesn't provide enough off-road space to get out and unlock the gate to access the parking lot. That problem would also exist when exiting the lot and locking the gate. Ms. Worth reported she had spoken with Allen Hancock of NCDOT and he had stated he would like the gate set back 100 feet from the edge of the right-of-way. She felt Mr. Hancock should visit the site and make that determination.

Ms. Worth also addressed the Findings of Fact. The primary safety concern is the traffic on Bald Eagle Lane because the site is located in a valley with limited visibility and speeding problems exist in both directions. Current use of the ramp already causes traffic blockages along the street and the proposal will increase that issue with two driveways being used for the facilities. In regard to zoning ordinance conditions, the petitioner clearly doesn't have the access easement required by the current zoning ordinance. She understood if the boat ramp was grandfathered in, but didn't want a grandfathered use expanded upon there. Relative to property values, the properties located to the north and south of the proposal stand to be harmed by converting the site to a parking lot for boats and trailers. Ms. Worth stated common sense would tell you no one wants to live next door to a boat trailer parking lot. The CFPUA pumping station is not relative to that issue. Regarding plan compliance, the 1989 Small Area Plan for Porters Neck specifically states on pages 31, 44 and 45 the need for "public" water access in the area, and the CAMA Land Use Plan also states the need for "public" water access in the area, but this proposal is clearly aimed only at private water access. Concerning neighborhood preservation, the CAMA Land Use Plan specifically calls for preserving the character of the area's existing residential neighborhoods and quality of life. Expanding the use of a boat access area used almost wholly by

people outside the existing neighborhood is clearly in defiance of that plan. Ms. Worth also reported current existing problems with the effective enforcement of the rules and proposed rules for use of the boat ramp and parking area. The applicant has given no indication how they will control possession and use of keys to the locked gate. They have admitted privately to other residents they have lost control of those keys. They have not said how they will enforce the limited dawn to dusk access or how overnight parking and long term boat storage will be prevented. The applicant hasn't stated how they will keep/maintain the access to the pump station, which is a couple of hundred yards away from the waterway. When there is a problem with the pump station, CFPUA will need immediate access to the site without calling a tow truck to move a trailer parked illegally. Ms. Worth also expressed concern about how the applicant would prevent illegal parking on the roadside. She noted some people call the Sheriff's Department quite frequently. The Sheriff issues tickets if they aren't busy, but it doesn't seem to prevent people from illegally parking on the roadside. She suggested a shuttle system be developed. Ms. Worth stated the original developer had made wonderful promises of water access, but it was manifestly clear that the boat facility could never be what the residents want it to be. She stated the water is too shallow and CAMA will not allow it to be dredged. Too few parking spaces are available even if the request was approved. CAMA will not allow an expansion of the ramp, which is too narrow for most drivers to navigate. The parking and access areas should be paved, but CAMA won't allow that either. She stated this is not a reasonable place for a community boating facility for a neighborhood of 500+ homes and there is certainly no reason to try to expand it. The situation is the fault of the original developer and the proposal will not correct those problems. The residents of Bald Eagle Lane should not have to suffer the consequences of empty promises made by the developer. Ms. Worth stated for those reasons and because the applicant had not submitted a workable site plan nor met the four requirements, they requested the special use permit request be denied. She recognized the neighborhood residents who were present and asked them to stand. She then asked if it was appropriate to address the easement issue at that time.

Chairman Collier stated he would like to give others the opportunity to speak during the remaining three minutes of the opposition portion of the hearing, but Ms. Worth could provide additional information during the five minute rebuttal period.

James Wicker spoke in opposition, stating he resided immediately across the street from the proposed parking lot adjacent to the boat landing. He built a home there in 2005 because it was a limited boatslip area. Bald Eagle Lane was there prior to Porters Neck. He understood why the Porters Neck developer promoted the boat ramp access as a benefit of the lots and houses in the development, but was concerned the developer had failed to explain the boat ramp area could be used only a few hours each day at high tide to launch boats. He stated dredging wouldn't help because the water goes so far away, only canoes, kayaks, and a few small boats can be launched. He felt the boating facility had been over-capacitized and expansion of the facility would be very dangerous. Mr. Wicker also stated he is a realtor and believes the proposed facility would devalue his property and the other adjacent properties. He didn't feel the applicant had thought the use through or considered how the pump station would prohibit vehicle turn-arounds.

Robert Brown of 1801 Futch Creek Road also spoke in opposition, stating he represented himself and Conrad Lowman, a resident of Bald Eagle Lane. He submitted a revised copy of a letter of

opposition from Mr. Lowman sent earlier that day. Mr. Brown read a statement that the Porters Neck Homeowners Association has failed repeatedly to follow its own accepted requirements of its original permit. It has a long history of not enforcing rules on its members. The association has now requested permission to use land zoned R-20S to park vehicles and boat trailers, a use that would have numerous negative impacts on the surrounding neighborhood. They purchased land in a subdivision knowing it was zoned for residential use only and was protected by the neighborhood covenants and restrictions from use as a parking lot. He stated the Planning Board is in place to protect land use from destroying neighborhoods and bypassing county regulations designed to protect its residents. He stated approval of the request would set precedent for future equally inappropriate and ill thought through requests. He commented Porters Neck once a small development is now a very large one trying to impose its wants on our small neighborhood. He noted although approval of the request would likely increase the value of the petitioner's property, it would likely decrease their property. Mr. Brown stated the Porters Neck Homeowners Association request was a clear example of greed in the name of need. He asked the board to do the right thing and reject their permit request. He also pointed out that R-20S has a meaning, giving the special use permit approval would essentially take a ½ acre single family residential zoning situation and turn it into commercial property.

Chairman Collier opened the rebuttal period.

Banks Currin acknowledged the delay due to the concerns expressed by Cape Fear Public Utility Authority staff and reported they had met with CFPUA staff to learn how to mark the spaces and what their requirements for access were. He noted CFPUA was very cooperative. In regard to the issue of the largest trailers not being able to turn, he stated the largest boat that could be launched at the boating facility is a 20' boat. For that reason, the parking demonstration used a trailer for a 20' boat. He was interested to learn they may need a 100' gate setback on the 300' deep lot. He had not noticed seen any gates set back 100' at any of the residences on Bald Eagle Lane. Mr. Currin stated the homeowners association writes rules and enforces rules by fines. They first give a homeowner a warning and then issue a fine. He commented he wasn't aware they were responsible for policing illegal parking on Bald Eagle Lane. He felt it would be a state criminal issue, not an issue for an HOA to address.

Dick Kuhn reiterated their commitment to no overnight parking, limited parking between dusk and dawn only, total use of the parking area for Cape Fear Public Utility Authority whenever needed, along with a 15' right-of-way for CFPUA access. He noted 70 feet from their fence to where the vehicles will be parked is open area, in which to turn a trailer around. Markers and signage will identify parking spaces and state that vehicles parked overnight will be towed. There will be a 12' lane on each side to park vehicles, leaving 15 feet in the middle for CFPUA, and a 10' buffer on both sides for residential. The turn-around area is 70' x 40'. He stated the Porters Neck Homeowners Association has a list of every person that had a key or has a key to the gate and everyone pays a key deposit, which is not returned until the key is returned.

During opposition rebuttal, Julia Worth stated the definition of a community boating facility in the current ordinance states that everybody that has a right to use the facility must also have an access easement in their deed. She commented that is not the case with the Porters Neck Homeowners Association now. She felt that requirement is valid and should remain in the zoning

ordinance. Ms. Worth stated she did not want to cast aspersions on the management of the Porters Neck Homeowners Association because she has never known them to be anything other than even handed, fair, and above board. She also acknowledged there are some homeowners associations that can be petty, spiteful, and mean and can retaliate against homeowners if they don't like the way they keep their lawn, etc. She noted one way to do that is to change the locks on the community boating facility.

Ms. Worth felt that leaving the requirement for a deeded access easement in the zoning ordinance was a valid requirement simply as a consumer protection measure.

Robert Brown stated during rebuttal the proposed parking area would increase risk to residents of Porters Neck, the original Plantation in a number of ways. He noted that Bald Eagle Lane and Futch Creek Drive are narrow and are used by many for biking and walking. He noted vehicles towing boats currently cross the center line forcing oncoming vehicles off to the side and run pedestrians off the road so there are safety problems now. He noted the proposed use would enable trailers and boats to be backed down across Bald Eagle Lane near an area where it intersects Futch Creek Road and there is a curve preventing them from viewing oncoming traffic. He expressed concern about that situation putting the residents and their children at risk if the proposal was approved.

James Wicker commented Porters Neck is a nice community. These folks have a boating facility they can utilize. It needs to remain as it is, but there is no reason to amplify the problem with people crossing the street back and forth with boat trailers. You may as well put a traffic light there during peak season for an hour or two at high tide because everyone will be coming in at the same time. He stated people coming from both directions will have difficulty because it is hilly in that area.

Carl Samet stated he was with the Porters Neck Quality of Life Association and was in the process of building a house on Bald Eagle Lane. He addressed Mr. Burton's concern about the disappearing tax base and pointed out that correlation is not causation and the fact that there are fewer boats in Porters Neck Plantation may or may not be due to the utilization of the boat ramp. He noted there have been other economic factors over the past few years that may have affected people's use of boating equipment.

Chairman Collier closed the public hearing portion of the meeting and asked for questions from the board members.

Anthony Prinz asked County Attorney Sharon Huffman to provide information regarding the deeds for the property.

County Attorney Sharon Huffman reported the section of the ordinance being used by the petitioner to request that they be allowed to use a residential lot as a parking facility to support the boating facility is Section 72-37 and there are five requirements to be met. One of them, Subsection 4, says the right to the use of the facility must be conferred by an easement appurtenant to the residential project it is intended to serve. She had made a suggestion to staff earlier that in her review of the application, she did not see documentation of that requirement.

Ms. Huffman stated she was not suggesting in any way that the Porters Neck folks should not have the ability to use that facility. She is looking at the ordinance and the requirements and the fact that they have come forth with a special use permit application that requires them to show the Planning Board substantial evidence that they have met the requirements of the ordinance. One of the requirements is that there be a recorded document showing an easement appurtenant. They may not even need a special use permit to be able to use that lot. They may truly have some vested interest or grandfathered interest that allows them to use that lot. Ms. Huffman stated she did not know, had not investigated it, and had not been asked for an opinion on that issue. She noted they may perhaps choose to go that route sometime other than this evening. She was not suggesting that they do or they don't. She commented she was only suggesting to staff and the board that in her mind there is a question whether the applicant has shown substantial evidence that they can meet the requirements. Ms. Huffman stated that during her review of the application just before the meeting, she realized the deed to the homeowners association in her opinion does not give an easement appurtenant. When she arrived at the meeting, she asked to review the homeowners association covenants, which were not included in her package. She reviewed the covenants and determined in her mind there was not sufficient language in the covenant to create an easement appurtenant for the use by that lot of the facility. Ms. Huffman commented some other lawyer may disagree and say that there is sufficient evidence. It might also be possible that that document could be amended. The better way would be to amend the covenants rather than to amend all of the deeds. It could be a deed or covenant that is recorded. It could be that the covenant could be amended to get sufficient language in it. She explained the board was there tonight on their special use permit application which requires the applicant present substantial evidence to meet each of the requirements and one of those requirements is that they meet all the required conditions of the ordinance. Maybe they can, but we are in a situation that if the special use permit is approved by the Planning Board and the County Commissioners, we may well be in a lawsuit. If that is where we are, she didn't know that sufficient documentation had been presented so far to meet the ordinance requirement.

Chairman Collier asked Ms. Huffman to clarify whether the fact that the boating facility was established well before 1992 when the provision came into the code grandfathered it in or only grandfathered in the actual one lot with the community boating facility on it.

Assistant County Attorney Huffman stated as she said before, we are not here to decide whether they have a vested right or a grandfathered right. They may; I don't know. We are here to decide on their request for a special use permit to turn a residential lot into a parking lot, which is a different issue.

Chairman Collier acknowledged understanding of the issue, noting he wasn't challenging Ms. Huffman's comments. He was seeking clarification on the existing situation. He inquired who owns the lot with the pump station.

Ms. Huffman stated it was her understanding the Porters Neck Homeowners Association owns the lot with the pump station. She commented they may have a vested interest in that lot to park cars on it, but she doesn't know. She explained they aren't asking anyone to decide that issue; they are only asking for a special use permit.

Anthony Prinz asked if anyone knew how many homes the pump station serves.

Wanda Canada, president of the Porters Neck Quality of Life Association, stated the pumping station was put in to serve only the Porters Neck Golf and Country Club within the gates. She noted if at some point in the far distant future sewer lines are installed on Bald Eagle Lane, it might serve their street. The street is on well and septic.

Chairman Collier commented there are approximately 500 homes served within the gates of Porters Neck Golf and Country Club.

Andy Heath asked if the required 100% opaque buffer could be accomplished in ten feet as shown on the proposed plan.

Shawn Ralston stated that is a very good question. The onus would be on the applicant to show that could be met. Typically twenty feet is required for the 100% opacity so it would be difficult, but it would be a requirement of the applicant to show during the commercial site plan review that the 100% opacity will be met.

Dan Hilla asked Ms. Huffman to clarify if at this point the applicant has shown substantial evidence of that easement in order for the board to grant the special use permit.

Ms. Huffman stated in her opinion based on what she has seen that has been submitted to the Planning Department that evidence is not included in the application and it is very questionable whether they have met that particular requirement of the ordinance to get a special use permit.

Chairman Collier informed the applicant, Banks Currin, it would be difficult for the Planning Board to vote for or against the request for a special use permit because they don't have enough information. He explained they depend on the county attorney and their staff to provide guidance on this type of easement situation. He noted there was no way to resolve the issue during the meeting.

Chairman Collier then informed Mr. Currin he had the option to proceed with the item, continue the item, or withdraw the item from consideration.

Sharon Huffman suggested if the applicant requested the item be continued, it would be continued to a date certain to allow the applicant to provide additional documentation, whether it be some document that hasn't yet been provided or a document that is amended and then provided to meet the requirements of the ordinance.

David Weaver asked if the item could be approved or disapproved with the condition that they provide adequate proof that satisfies Ms. Huffman's concerns that the ordinance requirement has been met.

Ms. Huffman commented it would be okay if the board was considering approving the request with the condition that the applicant provide additional documentation that the request met the

ordinance requirement before the item was forwarded for consideration by the commissioners. She wasn't sure how great that idea would be though.

Anthony Prinz stated in regard to Finding #1, he was concerned about whether it was a good idea to park large vehicles in front of a pumping station that serves 500 homes. He stated the opinion that would not be in the best interest of public safety. He noted the previous discussion about how difficult it is to back large vehicles with boat trailers down to the water and the entertainment provided by watching people try to do that. He felt the same problems would be encountered with people trying to parallel park those same vehicles with trailers on this small piece of property. He stated in his opinion the intent for this piece of property was clearly for use as a pumping station and that only.

David Weaver stated he would probably disagree with Mr. Prinz on that issue, noting the Cape Fear Public Utility Authority apparently hasn't raised any objections to the proposed use outside of making sure they can continue to get access. He commented it sounded like the CFPUA has a fairly large area around the pump station to pull emergency vehicles into to service the pump station.

Mr. Prinz stated understanding of Mr. Weaver's disagreement, but also noted there was mention of a 70' x 40' turnaround in which a tractor trailer could be turned around. He commented the laws of physics wouldn't allow that to happen because it's smaller than a typical residential cul-de-sac.

Chairman Collier asked Mr. Currin how he would like to proceed. He stated another site plan would need to be submitted to address all concerns. Personally, in terms of enjoyment of the facility and being able to put boats in there, Chairman Collier stated he wasn't sure he had a major objection to the request, but there is enough concern around the edges that keep the board from wholeheartedly supporting the request.

Banks Currin stated it is the recommendation of the planning staff that there are several conditions that would have to be met, including CAMA, the lock on the gate, etc. Mr. Currin stated if the deed/easement requirement issue and the revised site plan could be made conditions of the permit, they would like to proceed with an up or down vote by the Planning Board.

In response to David Weaver, Chairman Collier clarified the concerns about the math of the dimensions on the proposed site plan.

David Weaver made a motion to recommend approval of Special Use Permit S-613. Dan Hilla seconded the motion.

During discussion, Anthony Prinz stated he did not support approval of the special use permit because it did not meet Finding #1 because it had been clearly demonstrated that there are parking issues there currently. They are unable to handle those parking issues with the current mechanisms they have so the Sheriff's Department has to respond. He felt the same problem would exist once the special use permit was issued and the area was opened up to boat parking. For that reason, he would be voting against it.

Mr. Weaver stated in response to Mr. Prinz's concerns, it is the Sheriff's responsibility to enforce the law in regard to the current illegal parking on Bald Eagle Lane. He commented the proposed off-street parking should help reduce the illegal parking on the road and the off-street parking would be enforced by the Porters Neck Homeowners Association.

Mr. Prinz commented he was sure their homeowner covenants would dictate that on-street parking is not allowed because that is a requirement of NC DOT.

The Planning Board voted to deny the motion to approve Special Use Permit S-613 by a vote of 2-4. (David Weaver and Dan Hilla voted in favor of approval. Richard Collier, Andy Heath, Anthony Prinz, and Lisa Mesler voted against approval of the motion).

Chairman Collier thanked the applicant and the residents in attendance for their patience regarding the delay of the public hearing.

Mr. O'Keefe clarified that Special Use Permit Request S-613 would move forward for consideration by the Board of County Commissioners at their next meeting unless the petitioner requested the item be removed from the agenda.

Technical Review Committee Report (April)

Sam Burgess reported the County's Technical Review Committee met once in April. One project was reviewed.

Woodlake at Lords Creek (Performance Plan)

Woodlake subdivision is located in the southern portion of the unincorporated area of the County, more specifically between Ocean Forest Lakes and Lords Creek subdivisions. The project was re- approved in May, 2009 for 246 lots with private roads, water, and sewer.

The developer for Woodlake requested that TRC consider a pavement width reduction on Champlain Drive from 32' to 20' with a 2' valley curb while retaining the same right-of-width. According to the developer, the purpose of the road width reduction proposal was to change the status of the road from a collector to a local road. The original design of the project displayed the road stubbing at the western project boundary with a potential future extension to River Road. With environmental constraints affecting/prohibiting the future extension to River Road, the collector road was no longer necessary.

In a vote of 4-0, the TRC approved the developer's request. Gates, obstructions, and parking along Champlain Road were to be avoided for emergency service delivery.

Mr. Burgess announced the TRC would meet on May 8, 2013 to discuss a conceptual site plan known as Scotts Hill Village, consisting of 226 lots, located near the New Hanover County/Pender County line.

Chris O'Keefe announced that Current Planner, Nicole Dreibelbis, would be leaving New Hanover County the following week to accept the position of Senior Planner with the City of Greensboro. He commented while she would be greatly missed, it was a great opportunity for her and staff wished her well. Mr. O'Keefe thanked Ms. Dreibelbis for her work for New Hanover County.

Chairman Collier also thanked Ms. Dreibelbis on behalf of the Planning Board and wished her well, noting he had finally learned to pronounce her name correctly. He stated he felt she had done a very good job.

Chairman Collier adjourned the meeting at 9:00 p.m.