

MINUTES ADOPTED BY THE GREENVILLE PLANNING AND ZONING COMMISSION
May 16, 2017

The Greenville Planning and Zoning Commission met on the above date at 6:30 p.m. in Council Chambers of City Hall.

Mr. Terry King, Chair – *
Mr. Doug Schrade – * Ms. Chris Darden – *
Mr. Les Robinson – * Ms. Ann Bellis – *
Ms. Margaret Reid – X Mr. John Collins – X
Ms. Betsy Leech – * Mr. Anthony Herring – *
Mr. Michael Overton – * Mr. Ken Wilson – X
Mr. Hap Maxwell – *

The members present are denoted by an * and the members absent are denoted by an X.

VOTING MEMBERS: King, Bellis, Darden, Herring, Leech, Maxwell, Overton, Robinson and Schrade

PLANNING STAFF: Chantae Gooby, Planner II; Thomas Weitnauer, Chief Planner; Michael Dail, Lead Planner and Amy Nunez, Staff Support Specialist II

OTHERS PRESENT: Dave Holec, City Attorney; Ben Griffith, Director of Community Development; Scott Godefroy, Rik DiCesare, Civil Engineer III; City Engineer; Cathy Meyer, Civil Engineer II and Kelvin Thomas, Communication Technician

MINUTES: Motion made by Ms. Leech, seconded by Ms. Bellis, to accept the April 18, 2017 minutes as presented. Motion passed unanimously.

OLD BUSINESS

REZONINGS

ORDINANCE REQUESTED BY RT DEVELOPMENT, INCORPORATED TO REZONE 24.035 ACRES LOCATED WEST OF FROG LEVEL ROAD AND ADJACENT TO TABERNA SUBDIVISION FROM RA20 (RESIDENTIAL-AGRICULTURAL) TO R9S (RESIDENTIAL-SINGLE FAMILY [MEDIUM DENSITY])

Planner Chantae Gooby delineated the area considered for rezoning on a map, noting that the property is located in the southwest section of the City, specifically along Old Tar Road and adjacent to Taberna Subdivision. She then showed the preliminary plat for Barrington Fields, which was originally approved in 2004, with an alteration in 2005 to add phases to the subdivision. She noted the area included in Phase I, which is already under construction, and pointed out the Phase II section, which includes a number of scattered lots. Phase II of the subdivision is no longer vested and will require that portion of the subdivision to go through the

preliminary plat process again. Ms. Gooby noted the area is mainly vacant and single family. Since there is no anticipated change in density, a traffic report was not prepared.

Ms. Gooby stated the property is currently zoned RA20, which has a minimum of 10,000 square foot lots. Under the proposed R9S zoning, there is a minimum of 9,000 square foot lots, so there would be a minimal change in dimensional standards. There are, however, two other changes. The public street, or front, setback is different. It will be reduced by 5 feet, being 30 feet under the current zoning and 25 feet under the new zoning. The same is true of the rear setback, currently being 20 feet and being reduced to 15 feet.

Ms. Gooby stated the Future Land Use and Character Map recommends traditional neighborhood, medium-high density, transitioning into residential low-medium density. The requested R9S zoning is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map, and there is contiguous R9S zoning to the South.

In this case, spot zoning is relevant to the scattered lots she noted previously. Spot zoning is illegal if it's determined by the Court to be arbitrary. The burden is on the local government, as well as the applicant, to show reasonableness for why the rezoning is done in this manner.

To determine reasonableness, one must look at the size of the tracts. In this case, all are located within the subdivision and all are owned by the developer. The second factor concerns compatibility with the Land Use Plan. In this case, both the Land Use Plan and the Horizons Plan support the proposed zoning. A third factor which must be considered is the degree of change - how similar or how different are the current or proposed zoning. In this particular case, it is single-family to single-family, with lot size requirements being very similar. The bigger consideration is the setbacks and what that really means. These lots could have houses that are of similar size, but they could be closer to the street in the front or the back. The last factor to consider would be the harm or the benefit to the owners and the neighbors, specifically, whether it is different to a degree that it would be unacceptable to the people who have already bought in the subdivision.

Chairman King asked if there were any questions from the Commission. Hearing none, he opened the public hearing, inviting anyone wishing to speak in favor of the proposed rezoning to come forward.

Mike Baldwin stated he is representing RT Development. He stated that the President of RT Development is Rocky Russell, who is a local builder as well as a property manager. No matter how nicely you try to lay out a subdivision, you have some runt lots that are not the most desirable. The goal here is not to change any restrictive covenants or lot sizes, but they would like a reduction in the front street setback. Until Ms. Gooby mentioned it, Mr. Baldwin stated he didn't even realize there would be a reduction in the rear setback. The way houses are cut up now with porches and garages, there is no longer a straight front on houses now like there was in the 50's and 60's. He doubts the 5 foot change in setback will be noticeable to a person driving by. The R9S zoning is important for some of the scattered lots, but they are asking for the Phase

II portion of the subdivision to be zoned R9S as well. He noted that the adjacent Taberna Subdivision is already zoned R9S.

With regard to spot zoning, and the criteria explained by Ms. Gooby, Mr. Baldwin stated the following:

- Size and characteristics of area – the area where Ms. Gooby refers to spot zoning is relatively small
- Relation to Comprehensive Plan – this is in harmony with the land use character map
- Degree of change in uses between current and proposed zoning – this changes some setbacks and reduces lot size by 1,000 square feet, but these are already platted lots and there is no plan to change them
- Relative harm or benefit to the owners, the neighborhood and surrounding community – Mr. Baldwin stated he sees no harm, but that is up to the Commission's discretion

Mr. Baldwin stated he would be glad to answer any questions the Commission may have.

Hearing no one else wishing to speak in favor of the proposed rezoning, Chairman King invited anyone wishing to speak in opposition to come forward.

Mark Wichard, a resident of Taberna Subdivision who lives at 3000 Taberna Drive, stated he has lived in the community for approximately 40 years. Having lived in that area, the amount of traffic in that community is enormous compared to what it has been throughout the course of years. Rocky Russell is his next door neighbor and they were just recently discussing traffic, but he did not realize Mr. Russell was the developer for that section. On some afternoons, the traffic will back up to Red Oak Fire Department and it may take 25 minutes to make it to the intersection. The City and State have done zero in terms of the small country roads that handle the traffic flow in that area. Having been past Chairman and Vice-Chairman of the Pitt County Board of Education, Mr. Wichard said he can tell you the school traffic in that area is substantial, feeding the largest high school in the area. The County owns interest in the area in terms of developing a potential middle school site in the coming years. Until there is a clear understanding from the State on the impact of the by-pass in that area, it is unclear how the additional houses will impact traffic in the area. There is discussion about an exit spout off Davenport Farm Road, and that is within the City's jurisdiction. There is no stop light, and the 4-way stop signs have actually made traffic flow worse. Mr. Wichard respectfully asked that the zoning remain RA20 until a traffic study can be done in the area to determine additional impact.

Hearing no one else wishing to speak in opposition, Chairman King recognized Mr. Baldwin, who indicated he would like to add a final comment in rebuttal.

Mr. Baldwin stated the change from RA20 to R9S will not result in an increase in traffic.

Mr. Overton asked if the purpose of rezoning the scattered lots relates to their shape, and if doing the rezoning will result in any additional lots.

Mr. Baldwin stated the purpose for the rezoning is the scattered lots due to their shape, with many being corner lots, and stated no additional lots will be gained as a result of the rezoning. The change will be merely in the setback requirement.

Chairman King asked if anyone in opposition would like to offer further comment in rebuttal.

Mr. Wichard again asked that the property remain at RA20 until a traffic study can be done because the additional development in the area, when residents are already fighting cut-through traffic in their neighborhoods, will have an impact.

Chairman King closed the public hearing and asked if there was any further discussion from the Board.

Mr. Schrade stated he is sympathetic to the traffic concerns of the residents in the area, but the change in zoning will not result in an increase in the number of lots in the area. All of the lots referenced as spot zoning are weirdly shaped and will be tricky to build on, so it makes good sense to give them a little leeway.

Upon motion by Mr. Overton and second by Mr. Robinson, the Planning and Zoning Commission voted unanimously to recommend approval of the proposed rezoning, noting that it is consistent with the Comprehensive Plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters.

OTHER

REQUEST BY LCD ACQUISITIONS, LLC AND PATRICIA S. BOWEN ETAL FOR A SPECIAL USE PERMIT TO CONSTRUCT 16 TWO BEDROOM UNITS, 40 THREE BEDROOM UNITS AND 130 FOUR BEDROOM UNITS, TOTALING 178 UNITS WITH 656 BEDROOMS ON 26.0 ACRES OF LAND PURSUANT TO THE LAND USE INTENSITY DORMITORY RATING 67 STANDARDS

City Attorney Dave Holec stated this item is a little unusual for the Planning and Zoning Commission. Normally, the Planning and Zoning Commission acts in an advisory capacity, receiving public input on a zoning text or map amendment and subsequently making a recommendation to the City Council. In this case, because of the City's zoning ordinance, it is conferred upon the Planning and Zoning Commission the ability to make a decision on this special use permit. The Planning and Zoning Commission makes the decision as to whether or not the applicant is able to proceed with the development. This is a final decision, not an advisory recommendation.

Attorney Holec explained that a special use permit is a particular kind of land use which is allowed under ordinance provisions authorizing the Commission to issue the permit when it makes specific findings. It involves a three-step process:

- Read the ordinance and determine what findings must be met
- Examine the factual evidence presented during this hearing
- Decide whether the evidence enables the Commission to make the required findings

Attorney Holec stated when acting on special use permits, the Commission is acting in a quasi-judicial manner and must base its decision upon the evidence which is presented during this hearing. There are constitutional due process requirements, which include the ability to present the case. Normal timing limits will not apply. Due process also requires that there be no conflict and that commissioners are impartial decision makers.

Attorney Holec stated that by statute, impermissible violations of due process include, but are not limited to:

- a member having a fixed opinion prior to hearing the matter that is not susceptible to change
- undisclosed ex parte communications
- a close familial, business, or other associational relationship with an affected person
- or a financial interest in the outcome of the matter, whether the matter is reasonably likely to have a direct, substantive and readily identifiable financial impact on the member

Excepting the ex parte communication, Attorney Holec asked that any member of the board who had potential conflicts or bias mention that at the present time.

Mr. Overton stated he approached the City Attorney prior to the meeting, and would like the public to know, he is in commercial real estate and is the listing and selling broker of the Rael Development for student housing downtown. He will also be the leasing broker for the Sidewalk Development project on the corner of Reade Circle. Mr. Overton stated he does not have a financial interest in this project and he has never met the gentlemen involved, but wants to be sure there is no perceived conflict with his role, which is frankly as a competitor to these gentlemen.

Attorney Holec asked Mr. Overton if he will be able to make a non-biased decision in this matter based solely upon the information which is provided during this hearing.

Mr. Overton stated that he would.

Attorney Holec stated he also wanted to address the ex parte communications issue. That is contact with any of the Commission members by the applicant, those in opposition or any other person relating to this matter. It is required that such communication and its nature be disclosed at this time.

Ms. Leech stated she received a phone call and had a brief conversation. Quite frankly, she had thought this matter through prior to the call and there was nothing added or different as a result of that conversation that would have changed her mind either way. The nature of the conversation was to be able to postpone this matter until a later time.

Attorney Holec asked Ms. Leech if that conversation would have an impact on her ability to make an unbiased decision and if she could make her decision based solely on the information provided at this meeting.

Ms. Leech stated the conversation would not impact her ability to make an unbiased decision and she would be able to make her decision based solely on information provided tonight.

Ms. Darden stated she'd had a conversation related to the potential impact on the community.

Attorney Holec asked Ms. Darden if that conversation would have an impact on her ability to make an unbiased decision and if she could make her decision based solely on the information provided at this meeting.

Ms. Darden stated it would not impact her ability to make an unbiased decision based solely on information provided tonight. She then asked wouldn't a matter such as this normally be handled by the Board of Adjustment.

Attorney Holec stated every other special use permit is determined by the Board of Adjustment, but this is one that City Council has designated for the Planning and Zoning Commission to address. There are several reasons why, but it has been this way for quite awhile because it is very closely related to subdivisions, which are handled through Planning and Zoning.

Mr. Schrade stated he had contact in opposition to this matter from a competitor.

Attorney Holec asked Mr. Schrade if that conversation would have an impact on his ability to make an unbiased decision or impede his ability to make his decision based solely on the information provided at this meeting.

Mr. Schrade said it would not.

Mr. Maxwell stated he was also contacted by a competitor and told that person he would make his decision based solely on the information provided at the meeting.

Attorney Holec asked Mr. Maxwell if that conversation would have an impact on his ability to make an unbiased decision or impede his ability to make his decision based solely on the information provided at this meeting.

Mr. Maxwell responded no.

Mr. Herring disclosed that he was contacted by a competitor.

Attorney Holec asked Mr. Herring if that conversation would have an impact on his ability to make an unbiased decision or impede his ability to make his decision based solely on the information provided at this meeting.

Mr. Herring stated it would not.

Mr. Overton stated he was also contacted by a competitor with concerns about the project, not necessarily asking him to be in opposition, but expressing concerns.

Attorney Holec asked Mr. Overton if that conversation would have an impact on his ability to make an unbiased decision or impede his ability to make his decision based solely on the information provided at this meeting.

Mr. Overton stated it would not.

City Attorney Holec emphasized this is constitutional due process protection which is afforded to the applicant so it is very, very important that a decision be made solely upon whatever information or evidence is provided during this hearing, and that it not be impacted in any manner by any of those contacts. Those contacts should not have been made.

Mr. Holec stated the next issue is the evidence. The evidence the Commission is to rely upon is to be competent, material and substantial. He explained each of the three types:

- Competent Evidence – means evidence that is admissible before a local board. The strict rules of evidence applicable in a courtroom do not apply. It is permissible to demonstrate facts by using the most reliable and substantial evidence available.
- Material Evidence – means evidence which is pertinent to establishing the existence or non-existence of an issue in dispute.
- Substantial Evidence – means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion

By statute, Attorney Holec explained that competent evidence does not include the opinion testimony of lay witnesses to any of the following:

- The use of property in a particular way would affect the value of other property
- The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety
- Matters about which only expert testimony would generally be admissible under the rules of evidence

A decision by the Board on a required finding of fact cannot be based upon hearsay. Attorney Holec said that hearsay is a statement not made at the hearing that the proponent seeks to have admitted as evidence of the truth of the matter asserted in the statement. Examples of hearsay would include:

- A petition
- A letter or affidavit from a person not in attendance
- A statement by a person that another person is in favor/opposition to the matter

Attorney Holec further explained that a decision on a finding of fact cannot be based on the opinion testimony of a person who has too little experience or knowledge of the facts to form a

proper basis for the opinion. A lay person can give an opinion, but he must state facts to demonstrate the basis of the opinion specifically and not in just a general way.

Attorney Holec stated if the evidence presented enables the Commission to make the required findings, then the Commission must grant the permit. Likewise, if the evidence does not allow the Commission to make the required findings, then the Commission must not make that finding or grant the permit.

Attorney Holec reviewed the required findings, noting that case law provides guidance on each of these items as to who has the burden of persuasion on each. On specific items 1, 2 and 4, the burden of persuasion is with the applicant, and for general requirements 3, 5 and 6, it is with the opponents:

- 1) Utility Service
- 2) Traffic
- 3) Health and Safety, Public Welfare and Nuisance or Hazard
- 4) Conditions and Specifications
- 5) Injury to Property or improvements
- 6) Location and Character

Attorney Holec stated that after the evidence is heard, the Board will make a determination on each of the required findings based upon that evidence. A majority vote is required to find in favor of the applicant on each finding. He stated he would review voting procedures after the hearing. He then reminded all present that any evidence presented or testimony given must be under oath due to the quasi-judicial nature of the hearing and asked that anyone present who expected to be heard come forward so that Ms. Nunez could administer the oath.

Lead Planner Michael Dail stated the request by LCD Acquisitions is for a special use permit to construct 16 two bedroom units, 40 three bedroom units and 130 four bedroom units, totaling 178 units with 656 bedrooms on 26.0 acres of land pursuant to the Land Use Intensity Dormitory Rating 67 standards. The proposed use is located along Charles Boulevard, north of Grace Church and south of Tucker Estates. The parcel is further identified as being a portion of tax parcel 09010 and it is located in the southeast quadrant of the City. He asked Ms. Nunez to distribute an updated Findings of Fact.

Mr. Dail then described the surrounding zoning and surrounding development:

- Surrounding Zoning:
 - North: RA20 (Residential Agricultural), R6S (Residential Single Family),
 - OR (Office Residential), R9S (Residential Single Family),
 - R15S (Residential Single Family)
 - South: RA20 (Residential Agricultural), CG (General Commercial)
 - East: OR (Office Residential), RA20 (Residential Agricultural)
 - West: CG (General Commercial), OR (Office Residential), RA20 (Residential Agricultural)
- Surrounding Development:
 - North: Single Family Residences (Tucker Estates Neighborhood)

- South: Grace Church
- East: Vacant, Single Family Residences (Tuckahoe and Meeting Place Neighborhoods)
- West: Tara Court, The Exchange, Select Bank, Burger King, East Carolina Carpet & Interior, Carolina East Family Medicine, Pirate Realty, Ark Consulting, Remax, Farm Bureau, Single Family Residence

Mr. Dail stated that the property is 26.0 acres in size and has 1,100 feet of frontage along Charles Boulevard. It is part of a larger 86 acre vacant tract. The applicant wishes to construct 57 two to six unit buildings containing a total of 16 two bedroom units, 40 three bedroom units and 130 four bedroom units, totaling 178 units with 656 bedrooms on the property. The applicant also proposes a clubhouse and active recreation area centrally located in the development and 666 parking spaces, with a stormwater detention facility to the east.

Mr. Dail stated notice was mailed to adjoining property owners on May 2, 2017 and notice of the public hearing was published in The Daily Reflector on May 1 and May 8, 2017.

Mr. Dail stated he had included a density comparison in the Findings of Fact to give an idea of what traditional multifamily would yield on the property. Traditional multifamily in R6 zoning allows 12-14 units per acre, therefore, the 26 acres could yield up to 364 three bedroom units with 1,092 bedrooms. This development option is permitted by right, and would not require a special use permit, nor would it be subject to conditions other than administrative site plan approval. The proposed development is for 178 units with 656 bedrooms, or a density of 6.8 units per acre, which is on the low end of the scale for a medium density residential use.

According to Mr. Dail, the primary reason the Land Use Intensity (LUI) Dormitory option is being requested is not to have an increased density. It is to have the ability to develop four bedroom units which can be occupied by more than three unrelated persons. Current City Code allows occupancy of no more than three unrelated persons in a dwelling unit, but the LUI Dormitory option does not restrict the number of bedrooms or occupants per dwelling unit.

Mr. Dail stressed this is not open-ended. The Commission is reviewing a specific dwelling plan for a specific number of bedrooms, as well as a specific layout of the site. Any major deviation would require another review by this Commission, if it is approved tonight.

Parking standards for a traditional multifamily development having 178 units would require a minimum of 374 parking spaces. For a LUI Dormitory development, 492 parking spaces would be required for the same number of units. This proposal includes 666 parking spaces.

Mr. Dail noted that the majority of the subject property is located within the Traditional Neighborhood Medium-High Density character type as designated by Horizons 2026: Greenville's Community Plan. Traditional Neighborhood Medium-High Density is a primarily residential area featuring a mix of higher density housing types ranging from multifamily, townhomes and small-lot single-family detached. They are typically located within a walkable distance to a neighborhood activity center, which in this case would be the Bells Fork

Commercial Center. Traditional neighborhoods should have a walkable street network of small blocks, a defined center and edges, and connections to surrounding development.

Mr. Dail stated it is important to note that a portion of this property along the southern boundary is located within the Meeting House Branch drainage area. The Future Land Use and Character map recommends potential conservation/open space (PCOS) along Meeting House Branch. The map is not meant to be dimensionally specific and may not correspond precisely with conditions on the ground. When considering development proposals, some areas classified as conservation/open space may be determined not to contain anticipated development limitations. In such cases, the future preferred land use should be based on adjacent Land Use Plan designations, contextual considerations and the general policies of the comprehensive plan.

In staff's opinion, the request is in compliance with Horizons 2026: Greenville's Community Plan and the Future Land Use and Character Map.

If the Commission finds the petition satisfies all required criteria, staff recommends the following conditions be included in the motion to approve:

- Occupancy shall be limited to one bed and one person per bedroom
- Outside recreation equipment shall be restricted to the designated recreation areas
- The owner/manager shall request East Carolina University (ECU) student transit service and shall cooperate fully with the University in the provision of such service. The project shall be designed to accommodate bus services interior to the development

Mr. Dail stated the proposed development has been reviewed by the City's Technical Review Committee. The Committee has determined the project generally meets all standards required for development. If approved by the Planning and Zoning Commission, the project must undergo an additional administrative site plan review process by the City's Technical Review Committee for final approval. A stormwater plan and an erosion control plan must also be reviewed prior to development by the City's Engineering Division within the Public Works Department. Site plan approval will be subject to any conditions imposed by the Planning and Zoning Commission as part of the special use permit approval.

As stated earlier by the City Attorney, Mr. Dail said a simple majority vote of a quorum of those members present and eligible to vote in favor of the request is required for each finding to approve the request. He noted that several of the required findings deal with technical standards. The technical standards of site development found in the City Code have been considered in reviewing the LUI development plan and the site generally meets all development requirements. Final site plan review will be conducted to finalize that all development standards are being met, if approved by the Planning and Zoning Commission. No development can occur at this property without a site plan, stormwater plan, erosion control plan and construction plan approvals, a building permit and NC Department of Transportation driveway permit approvals.

Mr. Dail reiterated that the plan before the Commission is a specific development plan and cannot be deviated from, particularly with regard to the number of units, bedrooms or parking spaces without coming back before this Commission if this plan is approved. Also, any conditions imposed by the Commission must be met.

Chairman King asked if the three conditions recommended by staff have been discussed with the applicant and are they in agreement with those.

Mr. Dail said he believes so. He noted that these conditions are essentially the same as what they've recommended for every other LUI prior to this one.

Ms. Leech stated that she believes there is a small discrepancy in the total number of units. She stated she comes up with 186 units and 672 bedrooms.

Mr. Dail reviewed the math and agreed that Ms. Leech is absolutely correct.

Mr. Shrade asked if a traffic study was done.

Mr. Dail replied that no traffic study had been done.

Ms. Darden asked why would a traffic study not be required.

Traffic Engineer Rik DiCesare stated a traffic analysis was performed for the rezoning itself and information relative to that was presented to the Planning and Zoning Commission before it was passed on to the City Council. He presented to the City Council last week on this matter, which led to them passing the rezoning. The information he will present tonight will be the same information, in part, and part will be somewhat newer.

Mr. DiCesare said much of what he's heard over recent weeks in the way of concerns by those in opposition to this project relates to traffic. Someone stated they hadn't seen anyone out there counting traffic. They wouldn't have seen anyone out there counting because the traffic count data came from an NC-Department of Transportation count station located just south of Turnbury Drive on Charles Boulevard. It is updated every two years, and data was extrapolated forward from the last count using 2% growth per year on Charles Boulevard.

Mr. DiCesare also noted there was a concern about the accuracy of the increase related to average daily trips (ADT). The difference between the previous zoning and the current zoning was defined as a 3% increase on Charles Boulevard. This increase reflected 50% of the future projected capacity of that road. Traffic is not really analyzed as much by average daily traffic as it is by peak hours – the commuter peaks. Mr. DiCesare stated he further extrapolated that data into 160 additional trips per hour. He explained that, based on the split with most of it going north, this is not a problem. Additionally, there is a continuous left turn lane there. This site plan provides a northbound right-turn lane going into the site, and that is one of the mitigations proposed. Traffic is analyzed during peak hours – 7:00 am to 9:00 am and 4:00 pm to 6:00 pm – because that is when traffic is heaviest.

Mr. DiCesare said he would like to explain why he feels this type of development is less impactful than one of normal density not related to students. The school – any school, but particularly a college – is seasonal in nature. Students are not in Greenville year-round. Traffic

counts are done while school is in session to avoid missing a significant block of traffic. The facility is on a current City bus route and there is already a bus stop at Tara Court, and he feels it will be used by anyone living in this development, whether they are students or not. There are provisions on this plan for an ECU stop internally within the development. These are two additional means of transportation for a large group that will be traveling during peak times. Not all student trips are peak-hour trips. Student trips will be spread out throughout the day and will utilize multiple means of transportation. That sums up the new information and all other numbers remain the same.

Ms. Leech asked how the number of cars used in dormitory situations compares to the number used in single-family developments.

Mr. DiCesare said it is less than a 1:1 ratio, based on experience with The Boundary. He stated the ratio is more like .2 or .3 times the number of beds.

Ms. Leech asked about access to Charles Boulevard from the development.

Mr. DiCesare said from the site itself, there is one access point opposite Tara Court. He noted that Charles Boulevard is a State road on which there are future plans. There has not been a final determination where signals may be added, but there is talk about one at Turnbury and possibly one at Tara Court and/or Hyde Drive. He said it is unlikely there will be a signal at all of those locations in the future.

Ms. Darden asked to clarify the trips per day for the existing versus proposed zoning.

Mr. DiCesare said 3,000 trips per day for the existing zoning and 4,500 for the proposed zoning.

Chairman King then declared the public hearing open.

Amanda Mann, who is a partner at the Raleigh offices of Troutman Sanders, stated she is speaking on behalf of the applicant. She plans to discuss what the project is and answer questions specific to the different standards set forth in Greenville's ordinance. They have a team of experts here to address questions. Traffic will be a component, and they will be discussing that again in the context of the overall site plan. She introduced Chris Fletcher, who is an executive with the developer and will be kicking off the presentation.

Chris Fletcher, with Landmark Properties, stated he appreciates the time taken to review their application. He is accompanied by a full team of experts including their civil engineer, land planner, attorney, appraiser, market experts, himself and an owner from the company. Mr. Fletcher began by giving the background of Landmark Properties, which is headquartered in Athens, Georgia. They are a fully integrated real estate company that specializes in acquisition, development, construction and management of student housing communities throughout the United States. Many of their past developments have come with endorsements and letters of support from community members because their projects bring student renters out of local single-family homes. They concentrate them in a way that improves relations with local

residents. They relieve rental pressures on market rate housing and redevelop sites that are frequently blighted with attractive architecture. Since they were founded in 2004, the company has developed or is under construction on nearly 25,000 beds. They currently manage over 17,000 beds between their own portfolio and third-party assets. Communities benefit from the maintenance, security and care of a sustainable and professional management company. As a result, they are regularly recognized as an industry leader and frequently receive accolades, such as the number one developer in student housing, which they have received each of the past two years. He then provided a listing of their projects throughout the country.

Mr. Fletcher said that brings him to The Retreat, which is why he is here today. He showed a map depicting the project location and another depicting surrounding zoning and uses. He also showed a site plan, noting a comment made by Chief Planner Thomas Weitnauer about the quality of the plan. He then distributed brochures showing pictures of some of their projects.

Mr. Fletcher stated this is a product they are really proud of. Landmark invented the cottage concept just over ten years ago. It is a concept they are constantly refining, but it is one that has been very successful because it offers high quality but affordable student housing in a safe environment designed to help students succeed.

Mr. Fletcher explained what defines Retreat living. The first most notable is the low-density, craftsman-style cottages shown on the site plan. They resemble single-family homes and townhomes. At a density of 6.85 units per acre, they are far less dense than a typical garden apartment complex which hosts 30-40 units per acre. These units are defined by walk-up entrances. There are no corridors in these projects, allowing residents to drive into the community, park in a surfaced lot and walk directly to their door. Although the word "dormitory" has been used several times, this phrase is a misleading standard. This request is exclusively about being able to add a fourth bedroom to some of the units. They are not proposing any double occupancy units. There will only be one resident per bedroom and every bedroom will have a private bathroom. Another defining characteristic of this site is high quality finishes. Interiors will have stainless steel appliances, granite countertops and wood flooring. The same extends to the exteriors, which are complemented with hardy panel, stone and brick siding. These projects are built to look good for decades. These units are large, with the average unit size approaching 1,800 square feet. Units are designed to attract a more mature student, graduate students and young professionals. These are people who want out of the higher density apartments and dorms and desire a more mature lifestyle, with larger units, significant open space and frequently more privacy. The Retreat features extensive open green space and extensive amenities. The clubhouse at this site will be roughly 10,000 square feet. The amenity space is located central to the project, which allows the buildings to be used as additional buffers to help insulate members of the community from any potential noise coming from the project. The lowest density units are oriented toward Charles Boulevard to give it a single-family neighborhood appearance from the street, and it will concentrate residents further from neighboring community members. To the north and east of the project, there will be a six foot tall vegetative berm with a six foot tall sound attenuating fence atop it to act as a visual and sound buffer from surrounding community members. A project like this does not currently exist

in the local market, and through a variety of market studies, they have repeatedly validated the need for more student housing in Greenville, particularly this type of student housing.

Mr. Fletcher stated a defining feature of Retreat living will be the extensive amenity packages. In addition to the clubhouse, they will offer computer labs, study rooms, a resort-style pool area, a movie theater, tanning beds, a golf simulator and the list goes on. He then showed slides illustrating the architecture, green space and community amenities in some of their past projects.

Ms. Darden noted the need to correct the arithmetic in the number of units.

Mr. Dail said their documentation says there are 16 two bedroom units, which in fact there are 8 two bedroom units.

Mr. Overton said the book based on the site plan, it appears the project will be mostly duplexes, but in the brochure it appears to be more single-family style homes. He asked what is most representative of the project.

Mr. Fletcher stated there are photos of all the buildings later in the presentation. Many look like single family units but are actually duplexes with one door on the front and another on the side.

Chairman King asked how their studies determined there was a need for more student housing in Greenville.

Mr. Fletcher stated that was more a study for their internal purposes, but they do have a market expert present tonight and will be able to address those types of questions. Mr. Fletcher said their current estimated cost for the project is around \$55 million so that incentivizes them to be sure they understand the demand. This is a project they have done several times across the country so they have their own internal proprietary market study.

Ms. Mann stated they would now like to have their experts address each of the findings required by the City's ordinance. With regard to utility services, "The Planning and Zoning Commission must find that the use has existing or proposed utility services which are adequate for the population densities as proposed."

Mike Baldwin stated he's had the privilege, since last July, to work with the Landmark team doing surveying and engineering services. This site is served by public water and sewer. There is water on the west side of Charles Boulevard they will be tying into that has an adequate supply for not only potable water, but for a sprinkler system as well. All of the units will have sprinklers. Normally in a multifamily setting, one and two bedroom units do not require sprinklers, but Landmark goes to the extra expense of providing sprinklers in all units. Sewer is currently at the back of Meeting House subdivision. Part of the construction process will be extending that sewer up from its current location to the site. Mr. Baldwin stated there are letters on hand from the Greenville Utilities Commission stating they have adequate capacity to serve the water, sewer and electric needs of the site. He noted Mr. DiCesare did a good job of addressing the traffic situation. One of his first tasks when joining this team was to meet with

Mr. DiCesare and Steve Hamilton, with NC- DOT's Traffic Engineering office to review the project in detail. Their request for a deceleration lane has been addressed, as well as allowing for some extra right-of-way width along Charles Boulevard. At peak hours, any major thoroughfare in Greenville will look busy, but if you look at traffic spread over a day's time, there is only a 4% increase for this tract. The density allowed in this LUI is 1.5 million square feet of floor area, but they are only using 331,000 square feet, or 20% of what is allowed. The open space requirements are exceeded. As Mr. Dail mentioned, in normal multifamily zoning, you see 12-14 units per acre. This project is 6.8 units per acre. The project exceeds parking space requirements, basically allowing one space per bed. They have met with the pastor at Grace Church and the church has given a letter of support on the rezoning as well as this LUI. Mr. Baldwin stated with these comments, he has addressed the utility and traffic requirements.

Ms. Mann stated she would like to read into the record the specific traffic condition they were addressing. "The Planning and Zoning Commission must find that the use is properly located in relation to arterial and collector streets and is designed so as to provide direct access without creating traffic which exceeds acceptable capacity as determined by the city engineer on streets in adjacent areas outside the development." She asked if Mr. DiCesare would like to add anything.

Mr. DiCesare said he feels he has offered everything he had, and had tried to answer some of the questions previously raised in this process. He restated that someone had asked about a traffic analysis for this project and that the one done was for the related rezoning. As the site plan process moves forward, if certain thresholds on traffic are met, the City has the right to ask for a traffic analysis. The whole point of a traffic report relative to a site plan is to define any mitigation that needs to be done. When he and Mr. Baldwin met with the State, it was discussed that with only one access point to Charles, the only mitigation required would be the deceleration, or right turn lane, northbound into the site. The only possibility of anything else would be a traffic signal, and like he said earlier, the State is considering another signal along that corridor at one of the intersections mentioned before. With a traffic report for a rezoning, you will often hear Ms. Gooby (City Planner) say that one was not prepared because the traffic impact is either negligible or less than the existing zoning. That doesn't mean that he, as the traffic engineer, did not crunch the numbers. He did, in order to give her that opinion. But if it appears the traffic will be impactful, the next level of traffic analysis is that the City has the right to ask for an actual Traffic Impact Assessment (TIA) at the time the site plan is reviewed. He currently does not think that will be required for this site because the potential mitigation has been identified both through the City and the State.

Ms. Mann stated she would next ask Mr. Fletcher to address the third required finding in the City's ordinance, which is Health and Safety, Public Welfare, Nuisance or Hazard. It reads: "The Planning and Zoning Commission must find that the use (i) will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, (ii) will not be detrimental to the public welfare, and (iii) will not constitute a nuisance or hazard, if located and developed according to the plan as submitted and approved." There are a variety of sub-criteria that come up under this and Mr. Fletcher will address those.

Mr. Fletcher stated they believe The Retreat at Greenville will satisfy the required conditions because the density of the proposed project is materially lower than surrounding developments. The cottage construction of The Retreat blends in with surrounding single-family neighborhoods and provides a visually pleasing transition to the higher-density multifamily in the area. The Retreat is a unique and attractive product type and will have one of the most extensive amenity packages on the market. The clubhouse alone will be over 10,000 square feet. In addition to extensive open green space, the project will feature a resort-style swimming pool and volleyball court.

Mr. Fletcher stated that Landmark's proactive approach to management and security, as well as design elements incorporated into the project, will ensure a harmonious relationship with the community. The project fronts on Charles Boulevard, which has more than enough capacity to absorb the daily trips that will result. Further, this proposal is in conformance with the City's Comprehensive Land Use Plan. He then showed an illustration of how The Retreat will look from Tucker Estates, a year from now and five years from now, noting that Tucker Estates will be over 1,000 feet away from The Retreat's closest building.

Mr. Fletcher noted that a defining characteristic of Landmark's approach to student housing is on-site management. They are one of the largest student housing operators in the country and, as a result, their communities benefit from the maintenance, security and care of a professional and sustainable management company. Their management services include:

- 24-hour concierge service that ensures community rules are fully enforced and that resident needs are quickly addressed
- Regulations that limit the colors and styles of drapes, lights and furniture than can be seen on balconies, porches or through resident's windows
- Fully-staffed on-site management team during daytime hours, tasked with providing resident services, fielding maintenance requests and coordinating resident events
- A year-round residence life program requires that on-site staff host at least two activities each month at the property which are focused in one of four key areas – philanthropy, academics, wellness and community
- Property managers live on-site, providing an additional layer of support to ensure prompt attention is provided to any issues that may arise, particularly after normal business hours
- Staff of 3-4 maintenance personnel ensure proper upkeep and presentation of the property by providing quick response to maintenance requests submitted during business hours as well as after-hours emergency maintenance services
- A dedicated liaison to the University and/or community is able to proactively address concerns before they become problems

As a parallel to that, Landmark is very focused on security. Their lease agreements restrict residential gathering hours and outline management's enforcement of community rules and regulations. All gatherings of 10 or more guests must be registered with on-site management and are closely supervised at all times. A three-strikes policy means that residents are warned, fined and then evicted for violations of community policies. The residential life program encourages residents to know their neighbors and appreciate their community, which helps to reduce rule violations and improves safety within the facility. Landmark provides a unit to a security officer

to live on-site rent-free, ensuring residents are not infringing on the rights of others, which creates a feeling of safety and security for residents and neighbors alike. Landmark provides an answering service which forwards calls to on-site managers and on-site security to ensure quick after-hours responses to any security or other policy violations. Electronic access keys significantly improve resident security, working much like modern hotel key systems that require use up to five times before residents can access their bedrooms. There is also video surveillance at exterior points of entry, gates and amenity areas.

Mr. Fletcher stated the third key piece is Landmark's sound management, which employs numerous sound management strategies to ensure harmony with the surrounding community. Some of these strategies include:

- Common area amenity space has been located in, and oriented toward, the center of the project
- Leases include a clause prohibiting tenants from locating speakers or playing music outside and on their balconies or porches
- A 6 ft. sound attenuating fence will sit atop a 6 ft. vegetated berm along the northern and eastern boundaries of the project to provide both a visual and sound buffer to residents of Tucker Estates and Tuckahoe
- Buildings have been oriented so that there are no balconies above the berm and fence that face Tucker Estates along the property line
- The lowest density units and buildings have been concentrated at the front of the site along Charles Boulevard, thus concentrating residents farthest away from Tara Condominiums
- Residents of Tucker Estates will be provided with a direct line of communication to Landmark's corporate office so that noise concerns can be addressed immediately, and a similar offer has been extended to the residents of Tara Condominiums
- Landmark's proactive approach to management and security further ensure their projects work in harmony with the broader community

Ms. Mann addressed the finding on Conditions and Specifications, which reads: "the Planning and Zoning Commission must find that the use meets all required conditions and specifications," noting someone else from their engineering team will be back to address that more specifically, but she wanted to reiterate that in terms of compliance, Landmark meets or exceeds all requirements.

Mr. Baldwin stated one of the issues on everyone's mind in dealing with development now is the stormwater concern in Greenville. The City has just adopted a policy for developers to attenuate the 25-year storm in certain watersheds, and Meeting House Branch is one of those. Landmark will be providing 25-year storm attenuation.

Mr. Baldwin stated that multifamily developments are always encouraged along thoroughfares for the ease of getting on and off the site. With regard to fire suppression, every building unit will have a sprinkler system, which exceeds the requirement. Extensive landscaping and green space has been planned on the site. There is much more green in the plan for landscaping and green space, than gray for parking lots and brown for rooftops. Parking provisions are in excess of the requirement, as is recreation.

Mr. Baldwin stated the only area that is below requirements is the density, as noted in Mr. Dail's report earlier. There could be many more bedrooms under traditional R6 zoning, but the real elephant in the room is the four unrelated persons per unit which is the reason for the LUI request as it throws this into a dormitory-type use. Mr. Baldwin stated from the maps and illustrations, he believes this project is far from what would be classified as a dormitory.

Ms. Mann stated since conditions are currently being addressed, she wanted to note they are fine with the first two that were recommended earlier by Mr. Dail. They are fine with the third as well, but with regard to the actual text, they are certainly willing to work with the university, but ask that they would also be permitted to offer a private shuttle option as they do on some of their other projects for a comparable level of service.

Chairman King asked if someone could address that from the City.

Mr. Dail said that condition was typical of what is used to address LUI requests within the City. Any change would be up to the Commission's discretion.

Mr. Fletcher said he recognizes this is a low probability, but just in case they negotiate with ECU, who says they are willing to provide a bus service, but it will cost \$1 million annually, the wording of that condition leaves them with a metaphorical gun to the head. It would be helpful if they had the option to provide a private shuttle, as long as they guarantee a similar level of service.

Chairman King said he thought he'd seen in a previous presentation that Landmark had already had discussion with ECU.

Mr. Fletcher stated they have, but the costs are not yet determined.

Chairman King stated he was presented earlier that there is bus service to the development across the street.

Mr. Fletcher said that is correct. They are located in proximity to the bus line and have requested formally to be added to the bus line.

Ms. Mann stated in regard to injury to property or improvements, "the Planning and Zoning Commission must find that the use will not injure, by value or otherwise, adjoining or abutting property or public improvements in the neighborhood or in the alternative, that the use is a public necessity." She asked Paul Cuomo, with Coastal Carolina Group Inc., who are general real estate appraisers and consultants, to make a brief presentations and answer questions.

Mr. Cuomo said his firm specializes in general real estate appraisal. That is all they do. They do not broker, develop or sell anything. They have nothing to do with anyone involved in the project, nor do they have any financial interest in the project or any future interest in the project. Mr. Cuomo stated he did a pretty intensive study of the history of the properties, and pretty much everything within the corridor, particularly the adjoining properties. The corridor has multiple

uses within it, and these uses appear to have been in harmony over a long period of time, without any of them overshadowing or competing with one another. He looked at what sales were in the neighborhood and what categories they fell into.

Mr. Cuomo conducted a study of each of the areas surrounding this property, starting with Tara Condominiums. The average days on market at Tara is somewhere between 101 and 109 over the past three years, and there have been approximately 35 sales. They were exposed to the market through a broker or real estate agent. He did not use “by owner” or REO sales, because they are not exposed to the market. REO, or Real Estate Owned, is a term which describes a class of property owned by a lender. Tara is selling at about 95% of fair market value, meaning that 1,100 – 1,900 square feet units are selling for about \$62 per square foot.

Mr. Cuomo stated Tucker has had approximately 81 sales over the past three years, covering all phases of Tucker and not just what adjoins this project. The average square feet was around 2,500 with the sales price per square foot being between \$93.73 and \$105, or around 95% of fair market value. The average median price was \$240,587, with the highest sales price being \$419,000. Tucker is a very robust and healthy neighborhood in terms of sales.

For commercial areas, Mr. Cuomo stated he concentrated on properties within about 100 yards of the subject property because there is an immense amount of commercial property in that area. There have been 7 sales of offices in the past three years ranging from 2,684 to 5,700 square feet, with the most recent being Dr. Karen Shaw’s dental office. Prices are ranging from \$104-\$150 per square foot, which is about 97% of market.

Mr. Cuomo said he uses a service called RealCap Analytics that analyzes the market for projects like this one in similar sized developments in similar towns with similar demographics on a regional basis, such as Virginia down to Louisiana, and they are showing market at 92%. One of the more recent sales here was \$9,013,500, which was Campus Pointe. The trend average over the last five years has been somewhere between \$30,000 and \$100,000 per bedroom. The main thing is the proposed overlay of the development employs a lot of caution to cause it to be in harmony with surrounding uses. Sales are the best indicator of the future. Past development, past projects and match pairings represent the best judgment to use for where something is headed in the future.

Mr. Cuomo stated he looks at elements of highest and best use.

- Is the project physically possible? Yes, it is supported by engineering and site design
- It is legally permissible? Yes, it is zoned appropriately
- Is it financially feasible? Yes, there is a willing investor to provide the needed capital
- Is the site maximally productive? Yes, everything included in the proposed use will make the property maximally productive

In his scope of work, Mr. Cuomo said he determined that the development, as proposed, would have no injury to the adjoining properties.

Mr. Overton stated he is in a similar business to Mr. Cuomo, who talks about trends, but he feels the trend in this area is that most of the student housing complexes are moving toward downtown, rather than away from downtown. Also, when doing comps in the area, this product really doesn't compare to single family or multifamily, except for The Landing, which is across the street. He asked how the values used in Mr. Cuomo's presentation correlate to the project being discussed.

Mr. Cuomo said he studied the value based on the comparable pool that is out there of other properties, much like you would study the comparison of a house. The importance of the values given is to show that the market is healthy and robust, and will not be harmed by this project. The market has been studied, which is the best indicator of how the market will perform in the future.

Chairman King asked again how their studies determined there was a need for more student housing in Greenville.

Ms. Mann stated they do have a marketing expert here tonight, but candidly, that is not one of the conditions here tonight. This is not a referendum on student housing. The condition being addressed with the appraisal is injuring, by value or otherwise, the adjoining or abutting property or public improvements in the neighborhood. That is a more narrow standard than the question he is asking.

Chairman King said his question relates to the use as a public necessity.

Ms. Mann stated that is an alternate consideration and they are not arguing that as a condition.

Mr. Overton stated that goes back to what was just said. Does the use affect what is around it? He would be willing to argue that the Campus Pointe neighbors are not particularly happy about it being completely vacant as that could have a negative effect on their property.

Ms. Mann referred back to the direct wording of the finding, reading as "will not injure, by value or otherwise, adjoining or abutting property or public improvements in the neighborhood". That is very specific.

Mr. Overton said he was being very specific is well. If this project, and he hopes that it won't, was to take the direction of Campus Pointe, then it cannot be argued that it would not have a negative effect on property values around it.

Ms. Mann stated they have the person here who can address that, although they had planned to use that in their rebuttal section. She said she would like to reiterate for the record that this is not one of the specific conditions.

Chairman King stated the Commission has been presented with facts that they have to approve in the alternative. He asked are they not approving the alternative as well.

Attorney Holec read aloud the required finding. “The Planning and Zoning Commission must find that the use will not injure, by value or otherwise, adjoining or abutting property or public improvements in the neighborhood or in the alternative, that the use is a public necessity.” This means the applicant can establish either condition. They can establish the first and do not have to go to the public necessity, but it is fair game. If the Commission wants to hear about the public necessity, they may do so.

Chairman King asked Mr. Cuomo how he defined adjoining properties.

Mr. Cuomo stated it was those properties that are around the subject property, such as Tara, Tucker, the commercial office, the special use property and the church.

Chairman King asked if he is making a difference between adjoining and abutting.

Mr. Cuomo stated he is correct.

Mr. Fletcher stated since this is very similar to single family and townhome style units, in the event a point is reached 10-20 years down the road where student housing is no longer fashionable, these projects would convert very well to single family and townhome units. He feels it is very unlikely that a project built to these quality standards and with this ease of convertibility would experience issues with occupancy.

Mr. Robinson said the primary concern, at least in this market, is that it appears student housing comes in – for example, North Campus Crossing, which was a very nice facility, with security guards and a gated community – and students flock to it in the beginning, but now it is in bankruptcy. That seems to be a pattern in this area. He asked about the average term of initial ownership with this project. How many people that are involved in the project now will still be there 4-5 years down the road?

Mr. Fletcher said several years ago, when they were a younger start-up company, they would sell projects not long after stabilization. A little over two years ago, they closed on a large joint venture with a group that underwrites much, much longer hold periods – some as much as 75 years. This project would fall into that bucket, where they would literally underwrite a 75 year hold. While that is not an exact guarantee of the length of their ownership of the project, it informs the types of materials they use in building the project and means they are looking at a long-term success with the project.

Mr. Robinson asked about their history of ownership with previous projects.

Mr. Fletcher said with their current portfolio, 5 years is about average, but note that is a reflection of their earlier days of selling projects once they were stable.

Mitch Malcom, one of the original principal owners of the company, said they have had sales. It has been a seller’s market, but he still owns some properties they built 10-12 years ago. There is a range. Some properties are held a couple years then sold, and others are held much longer.

Nathan Young, a partner with the market research firm Vogt Strategic Insights (VSI), offered a brief background of their company, which was founded in 2002. Over the past 10 years, they have averaged performing 600 market analyses per year and they deal with the full spectrum of multifamily residential from affordable housing all the way up to high-end, luxury rental. Student-specific housing represents about a 10% share of their overall volume.

Mr. Young stated they initially did a scan of the Greenville housing market back in February of this year. During that analysis, they surveyed 26 different projects, which had an overall occupancy rate of 93.6%. This did include the Captain's Quarters project, and excluding that, the occupancy rate increases to 97.5%. That 97.5% over 25 projects represents roughly 5,700 units, so this was a fairly comprehensive survey of the market. In looking at the closest 11 competitors, based on proximity and those with a high share of students, the overall occupancy was 98.2%. That 98.2% does exclude the Captain's Quarter development. As a framework for what these occupancy rates mean, Mr. Young stated they would generally consider 93%+ to be a stable market, 95%+ to be a healthy market and 97%+ to be a tight market.

Mr. Young stated they also looked at trends at ECU. University-operated housing for the fall 2016 term was 97.9% occupied. Their total enrollment increased by 2,972 students, or 11.4%, from 2007 to 2016. This translates to an annual increase of about 1.3%.

Mr. Young said he would like to touch briefly on the Captain's Quarter project, which is unique, and why it is such an outlier to the data set. They had a number of challenges to their success:

- Limited desirability as student housing
- Inferior location/lack of community services
- Consumer patterns had not been established
- Lack of identity

Mr. Young stated while VSI did not study this property specifically, it is highly unlikely that they would have recommended the number of beds that were developed at that site. Their recommendation would be to redevelop the property as a general occupancy development.

To address the question of demand for student housing in Greenville, Mr. Young said they looked at overall enrollment at ECU of 29,550, as projected for 2018. They arrived at this number by applying a 2% increase to 2016 data. By subtracting those students that are part time (6,737) and the on-campus housing capacity (5,784), there are 17,029 students left who will likely be living off campus in 2018.

The project's capture rate is determined by taking the number of proposed beds (656) and dividing by the overall demand estimate (17,029) to get a capture rate of 3.9%. Generally in this industry, capture rates between 5% and 8% are considered acceptable, so below 5% is excellent for this development. It is also important to consider the penetration rate. This is done by taking the number of proposed beds (656) and adding those planned elsewhere in the market (1,826), which brings the total to 2,482 beds. Dividing that total by the 17,029 students expected to be living off campus, the result is a 14.6% overall planned and under construction market

penetration rate. Generally, in this industry, penetration rates under and up to 30% are considered acceptable. Looking at the data conservatively and considering projects that have been introduced into the market over the past 5 years (since 2013), the penetration rate adjusts to roughly 24%, which is still an acceptable rate.

Ms. Leech asked how many of the students are actually commuters that come from neighboring counties and how many are distance learners. She feels that is a large part of the student population and those are not people who need housing at all. Additionally, there is a fair number of graduate students, including medical students, dental students and PhD nursing students that are commuters or who are doing placements out in surrounding counties, so those people are not necessarily here in the community, although they are counted as a part of the student population. She questioned how that data impacts Mr. Young's analysis.

Mr. Young stated when they were doing detail analysis, that was not part of the scope of their analysis, but having acceptable capture rates going as high as 8% would consider some of those things.

Ms. Leech asked how that would impact the numbers the Commission is seeing.

Mr. Young stated it would obviously reduce the 17,029 support base, but he feels confident if those numbers were reduced out of the total, the capture rate would still calculate out below 8%.

Mr. Maxwell stated ECU is not a traditional university in its population. When his daughter was looking at schools, they went to Appalachian, which has an 18-23 year old population, but ECU has a huge range of student ages. He knows that well because he lives next to the University and sees many students in their 30's, 40's and 50's.

Mr. Young stated they asked those questions in gathering comparative data and were actually surprised at the number of graduate students who were living in off campus student housing.

Ms. Leech observed that a part of that assumption is looking at a national approach to marketing rather at Greenville specifically.

Mr. Young conceded that is true, but said they are applying national statistics, but they are also analyzing Greenville's specific market conditions, occupancy rates in existing developments and the competition. As he said earlier, most of the data set was 95%-98% occupied. He arrived in Greenville early this morning and drove around to see what those occupancy rates are now. Several of those developments were already 98% pre-leased for fall, and two were already 100% pre-leased.

Ms. Leech asked if he is considering projects under construction that will be competitors, and if they are considering the numbers of students those projects will be absorbing.

Mr. Young said yes, that is where the penetration calculation discussed earlier comes in. That resulted in a penetration rate of 14.6%, and going off national statistics, penetration rates up to 30% are deemed acceptable.

Mr. Schrade asked, with regard to the planned projected supply, did they take into account all the projects currently in the pipeline.

Mr. Young said they considered all student housing developments that are in the pipeline.

Mr. Robinson asked if they have a list of the properties they surveyed.

Mr. Young stated he does and can supply them to Commission members; however, he doesn't have it prepared to show now.

Ms. Darden asked what those projects were.

Mr. Young stated there were a total of 26, and read them off as follows: Madison Apartments, The Pointe at Wimbledon, The Bellamy, Pirates Place Townhomes, The Landing, University Suites, University Park, 33 East, University Manor, Copper Beech Townhomes, The Province, Waterford Place, Campus Pointe, University Terrace Condominiums, The Heritage at Arlington, Sunchase at East Carolina, Riverwalk Townhomes, The District at the River, Campus Towers, The Boundary at West End, Meridian Park, The Reserve at Waterford Place, First Street Place Apartments, Lakeside Apartments, Captain's Quarters and The Berkeley at Medford Pointe.

Mr. Robinson asked which had the lowest occupancy rates.

Mr. Young stated Captain's Quarters was the lowest, followed by University Terrace Condominiums, which were built in 1998. There are 29 units with 4 vacant, so they are 86.6% occupied. Next would be University Suites at 91.8% occupied. There are several in the 94%-95% range.

Ms. Darden asked if he got his figures from the leasing managers.

Mr. Young stated that was correct.

Mr. Schrade said the Commission has questioned whether those numbers are accurate. Obviously, the leasing managers want their numbers to look good. He asked how accuracy is determined.

Mr. Young stated they use a triangulation approach. Someone will go in and say they are conducting a market analysis in the area and can they ask a few questions about the property. There is about a 50% success rate in getting someone cooperative. Sometimes it is necessary to contact a corporate office. In places reporting particularly high occupancy rates, they will go in as potential renters, with several people on their staff making calls to the same property. Mr. Young stated he went as a potential renter to two of the properties he visited this morning. In

both cases, he was told the projects are fully leased for the fall term. Those two were The Landing and The Boundary at West End.

Mr. Schrade said Mr. Young mentioned earlier that some of his data was not including Captain's Quarters. He asked what happens to the data if they are included.

Mr. Young stated if Captain's Quarters were included, it would bring the penetration rate to about 28%, which is much higher, but still within acceptable levels.

Mr. Maxwell stated there was an article in the paper recently about Captain's Quarters and saying there is a group considering a \$5 million investment there to get it fully occupied again. Between that, and all the new development that is underway, he would calculate that at about 3,000 beds. That is a concern for many people in town, particularly with this project adding nearly 700 more.

Mr. Young said he doesn't know what their marketing plan might be, but it would take a skilled operator to manage Captain's Quarters, given its locational deficiencies. That is a big hinderance for it to operate as a student housing development.

Ms. Darden asked if Mr. Young expected all the beds in their development to be occupied by students.

Mr. Young said they are assuming that most will be occupied by students.

Ms. Leech said one of the things she has not heard is what students will be charged for these units. She wonders if the uniqueness of the student population may have been an issue for some of the developments that were not at full occupancy. This is somewhat of a low income region as a whole. She asked if these units will be in line with the charges for other units that are available within the City.

Mr. Fletcher said yes. He said that is one of the things he feels is cool and unique about their product. There has been much discussion recently about whether to limit student housing, specifically within the urban core, and that is a conversation they've heard in other markets as well. Often there is a rebellion against that, where student housing ends up taking over the downtown core. More importantly, construction costs to build a 5-7 story project are very expensive. The cost of land for building in downtown is much more expensive than when you are converting agricultural land. The product Landmark is offering are larger units that are at least as high quality as anything you would find downtown or under construction. Their target rents are \$150 per month, per bed below what the Class A projects in the downtown core are charging. If you add that up over 12 months over 4 years, that is a pretty meaningful dollar amount. When student housing is restricted to a downtown core, it forces a financial obligation onto a lot of students. Landmark builds a lot of in-fill, higher density projects that command higher rents, but at the same time, they are in markets where they are building an in-fill type project and a Retreat-style project because they serve very different renter bases at very different price points. More often than not, the students coming to these projects are not coming from the

student housing downtown. They are coming out of single family homes. Bringing the students out of those, often helps to stabilize those neighborhoods from a rent perspective.

Mr. Herring asked how many jobs will this create.

Mr. Fletcher said on an ongoing basis, their Retreat-style projects typically create anywhere from 12-18 jobs. There will be many more during the construction phase – potentially several hundred.

Mr. Herring asked if parents are typically paying for this, or if students are paying their own bills.

Mr. Fletcher said it is a combination of both.

Mr. Herring expressed concern about the saturation of apartments throughout Greenville, and in particular a complex north of the river that is almost empty.

Mr. Fletcher said he feels competition in the market helps to keep rates more affordable.

Ms. Bellis asked about the occupancy rate for Copper Beech, and what percentage of that is students.

Mr. Young stated it has 98.4% occupancy, with 97% being students based on data gathered in February.

Mr. Herring said he would not want to see another situation with a bankruptcy. When properties are deserted, vandalism takes place. That hurts the local economy.

Mr. Fletcher said competition encourages investment. If he were a property owner and knew no competing student housing project would come down the pipeline, there would be no incentive to repair roofs, upgrade countertops or install a new security system. One of the biggest things Landmark sells as a product type is safety and security. Minimizing competition coming in discourages existing owners from investing to make their properties more attractive.

Ms. Mann stated that the final finding which must be considered deals with location and character. “The Planning and Zoning Commission must find that the location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Land Use Plan of the City of Greenville and its extraterritorial jurisdiction.” City staff has said across multiple hearings that the project is in compliance.

Mr. Fletcher stated that the Land Use Intensity Dormitory application and site plan have been reviewed by the City’s Technical Review Committee. The Committee has determined the proposed project generally meets all standards required for development. The proposal complements existing surrounding uses, as evidenced by a letter of support from Grace Church,

located to the south of the project, and a letter of support representing over 100 home owners in Tucker Estates, which is located to the north and is the area most directly impacted by the proposal. Mr. Fletcher stated they have worked closely with the pastor of Grace Church over the past eleven months and they plan to work together to construct a pathway that will facilitate students moving between the two sites. Likewise, they invested about four months working with homeowners in Tucker Estates, which resulted in a number of modifications to the original plan to satisfy some of their concerns. The proposal is less dense than either The Landing or Tara Court as it will result in the construction of only 55% of the units, or 67% of the beds, that would otherwise be permitted by right. He then showed illustrations of the types of buildings that would be located on their site. Mr. Fletcher stated they are really excited about this product and they believe it will fill an important piece of market demand. He stated they hope the Commission will consider the project on its merits rather than the concerns of its competitors.

Ms. Mann cited authority from Professor David Owens at the School of Government. When new policies are being set, as with a zoning text amendment or rezoning, the law is designed to ensure there is wide public notice and opportunity to comment. On the other hand, when the policy is already set out in the ordinance being applied to an individual case, the legal requirement shifts to a focus on a fair and impartial hearing on the merits of the case. The purpose is really to gather legally sufficient evidence to establish sufficient facts to apply the ordinance. If you canvas the current appellant law with respect to the issuance of special use permits and other quasi-judicial considerations, the language of these cases speaks to speculation and generalized fears. It is not really appropriate in terms of actual evidentiary considerations. She feels the process was echoed properly in the zoning phase of this process by a council member who said “it’s not really for the government at this point to pick winners or losers outside of the impartial consideration of those factors.”

Ms. Mann stated that speculative concerns with regard to competition are really not appropriate when thinking about the health and welfare of the entire community, rather than one or two local developers. She said she would be remiss at this point not to mention, and raise their objection for record purposes, to what she considers the extraordinary ex parte efforts here, as were indicated at the beginning of this hearing. Candidly, in a little over a decade of doing this type work, she said she has never seen anything quite like that. She said her team would have loved to have one on one conversations with Commission members as well, but they was strictly instructed not to make those contacts because it would be improper.

Ms. Mann offered a quote that came from the Third Circuit Court of Appeals back in 2015, as a pretty start reminder that a really aggressive campaign to use land use proceedings as a vehicle to gain a competitive advantage really can collide, to some degree, with anti-trust and other considerations. She feels it is important at this point to think about what this is, and what it isn’t. This is not a referendum on student housing. She said she is aware the town is about to embark on a pretty serious study of everything discussed here tonight; however, this application was filed many months ago under the current iteration of the ordinance, so that is what it must be reviewed under. The primary purpose of this process, as set forth in the City’s ordinance, is “to encourage innovations in residential development so that the growing demands of population may be met while ensuring the livability of the developments.” This project clearly offers that

with the unique nature of the proposed development. Based on the expert testimony of a handful of individuals who've spoken previously, she respectfully requested on behalf of the applicant that the Planning and Zoning Commission issue the special use permit for this limited consideration tonight.

Ms. Bellis stated this is a beautiful development, as proposed, and she doesn't feel anyone on the Commission has any criticism about the project. But for those who look every day at what they perceive to be a deteriorating situation with student housing, there is concern that there will be over-development.

Ms. Mann stated they respectfully understand that. She hopes the next process the City is undertaking will cast significant light on that, but reiterated that this particular project is being considered under the ordinance currently in place. This is not the broader issue that is coming, but a very limited question on the fourth bedroom issue.

Chairman King asked if anyone else would like to speak on behalf of the project.

Jon Day stated he was speaking on behalf of the sellers, the Taft, Scheller, and Joyner family that owns the land. They are under contract to sell 26 acres to LCD Acquisitions, LLC and they look forward to the future development of The Retreat. The sellers feel that the high quality residential development with the mixture of single family homes, duplexes that look like single family homes and townhomes will be well received in the market. There are plenty of students coming to ECU and enrollment is anticipated to grow to 31,000 people. He feels they will all find a place to rent. The family supports this project 100%. They have worked four months with Tucker Estates to work out a very complex agreement that was friendly to both Tucker Estates and the neighborhood. Mr. Day offered a letter of support from Tucker Estates residents that he wished to enter into the record

Jule White, a resident of Tucker Estates living at 3906 Cantata Drive, said his house backs directly up to the field. The presentations tonight reminded him of all the things Tucker residents went through with the development team and property owners. They worked diligently with the residents to address every concern. He does not mean this was a negotiation. The residents explained their concerns categorically and the developers addressed every one of those concerns to the neighborhood's satisfaction. He stated he stands in support of this project and is a representative of the neighborhood. He, Christian Porter, Jeff Aldridge and Bill Lee were appointed by the neighborhood to work with the developers and sellers, and to speak for the neighborhood.

Mr. Maxwell asked Mr. White about the issue of run-off due to impervious surfaces. He said he was aware there had been some flooding in Tucker Estates. He asked if that was addressed in their discussions with the developers.

Mr. White stated they did discuss everything. They are satisfied that the City's process will address that because they are very strenuous with stormwater run-off. There is a map that should be in the Commissioner's packages that shows a very large area for holding water for drainage

purposes. The standards are pretty stringent. He said he is also a developer and knows those standards will slow down the flow before it is introduced into the system.

Hearing no one else wishing to speak in favor, Chairman King invited persons wishing to speak in opposition to do so.

Tom Taft, 3301 Starhill Farm Road in Greenville, stated he is present in opposition to this special use permit. He provided Commissioners with packets of information, including letters from adjoining property owners and others having an interest in the matter, editorials and an article from The Daily Reflector, as well as projected growth information at the University.

Mr. Taft stated he would like to point out a few matters that are important as a matter of correction on issues associated with occupancy in Greenville. One of the representatives for the applicant said he spoke with the manager of The Boundary today and was told there was a surprising number of young professionals living there. He is the owner of The Boundary, and Mike McCarty, who is the Development Officer for The Boundary, is present as well. Mr. McCarty has daily contact with the project and Mr. Taft stated that he personally has weekly contact with The Boundary. To their knowledge, there are no young professionals living in that project. All of the residents are either students at ECU or Pitt Community College (PCC).

Mr. Taft stated the projection given for growth at ECU, as he read from afar, was 1.8% per year. The information he received from the Chancellor's office on May 15, which is included in the package he provided, is that the annual growth in enrollment of physical bodies on campus is 300-400 students, which amounts to 1.1%-1.2%. That is about a 50% deficiency.

Mr. Taft said someone on the applicant's team pointed out the pre-leasing numbers for a number of dedicated student housing projects and, if he heard correctly, they said several were fully leased for the fall and maybe one that was at 97%, leaving the impression that the fall lease-up was almost unanimously 100%. He read out the figures he received on April 20:

The Boundary = 100%	Captain's Quarters = 30%
33 East = 78%	Pirate's Place Townhomes = 50%
The Bellamy = 55%	The Province = 97%
Campus Towers = 79.9%	Sunchase = 97%
Copper Beech = 68.5%	University Suites = 51.8%
First Street Place = 53.6%	The Davis = 51.8%
The Landing = 93.6%	University Park = 79.3%

This equates to a market average on April 20 for fall occupancy this year of 66.4%.

Mr. Taft said the discussion of the number of units coming forward over the next 24 months needs to be further clarified. He won't say the information presented wasn't correct, but as he understands it, The Gather project, which is on the former Pugh's site, is about 400-410 beds. The Sidewalk project is approximately 400-410 beds. The Proximity project, which is another of his projects on Tenth Street, is 609 beds. This comes to roughly 1,400 beds. The Tenth Street project down where the old Colonial Heights Apartments were located is another 500-600 beds.

If you add the nearly 700 beds from the subject property, the number grows to upwards of 2,500 beds. It is uncertain whether the 1,300 beds at the North Campus Crossing project, which he thinks is now called Captain's Quarters, will become another student housing project. But there is information in the packet he presented to Commissioners that reflects a group out of Virginia that has it under contract, and their purpose or intent would be to resurrect it or promote it as a student housing project. They are prepared, if they close, to invest \$5 million in it. If this happens, those 1,300 additional beds will bring the total to around 3,800 this fall.

Mr. Taft stated he is also hearing these additional beds do not make a difference to the criteria for tonight's decision. He feels that is incorrect. He feels the Commission is in line to determine the concept of being detrimental to the public welfare, which is one of the third group of criteria, and that this Commission is able to make a sound decision based on evidence presented tonight. It does have a detrimental impact on the public welfare if there is too much of this type of product in the marketplace, causing it to result in excessive vacancies and negative financial impact on the units. If Commission members believe, from the evidence presented, that too much student housing has a detrimental effect on the public welfare, then that criteria would fail and, in his opinion, the application for a special use permit would fail.

As a citizen and stakeholder, Mr. Taft said he is concerned about a number of policy considerations associated with this special use application and its related issues to the appropriateness and impact of student housing remote from the ECU campus by more than 2.5 miles. Overwhelming national trends are for student housing to be as close to campus as possible, if not immediately adjacent. It reduces traffic, parking shortages, improves retention rates, graduation rates and grades. It also generates a richer university experience of being part of the campus as opposed to being bused and then leaving campus after class and not coming back.

Mr. Taft feels Campus Edge, or projects that are closer to campus, promote a richer university life with more emphasis on education and less on partying. He feels this also relates to the issue of public welfare. There are significant questions of over-supply and the impact of additional student housing on existing, remote projects containing more than 7,000 beds that ultimately lead to significant vacancies, as well as financially stressed and failed projects, which can have a negative impact on public safety and public health and welfare. That is for the Commission to decide, based on evidence heard.

When a project such as North Campus Crossing – now Captain's Quarters – fails, declares bankruptcy and is foreclosed, crime rates significantly increase, maintenance and upkeep suffers dramatically and projects end up deteriorating and even becoming slums. Mr. Taft stated he is able to impart this information to the Commission based on his own personal knowledge of riding out and looking at some of the projects that are suffering significant vacancy problems. Crime rates soar, projects become blighted eyesores, garbage collects, adjoining neighborhoods suffer reduction in property values and a host of other public health and safety issues arise. There is not an appraiser here that is telling the Commission what the past experience is on a project. The look is to the future of these projects. Projects that go into financial stress and become run down have increasing crime rates and vacancies will have an impact on adjoining

properties. Over-supply and soaring vacancies result in aggressive marketing that becomes cutthroat and poaches or bleeds off tenants to the newer projects located closer to campus, creating conditions that are negative to the health, safety and public welfare of the project itself, adjoining neighborhoods and properties in the larger community of Greenville. The bankruptcy at North Campus Crossing has already given Greenville a bad financial reputation among major national financial institutions. This negatively affects the general public welfare of the greater community.

Mr. Taft stated he had dinner recently with Rich Martinez, who is the Vice-President of Multifamily Production and Sales for Freddie Mac – Federal National Mortgage Association – who held the mortgage on half of North Campus Crossing. Mr. Taft said the conversation that he heard, suggests that one bankruptcy or one failed project has significant financial impact on Greenville’s national reputation. He hates to think what impact more than one would have, and urged the Commission to think about that and what detriment it would be to the public welfare.

Mr. Taft encouraged the Commission to look carefully at the statutory requirements for the special use permit, just as counsel for the applicant has suggested. Referencing the required findings of fact, particularly with regard to Health and Safety, Public Welfare, Nuisance or Hazard, Mr. Taft read “The Planning and Zoning Commission must find that the use (i) will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, (ii) will not be detrimental to the public welfare, and (iii) will not constitute a nuisance or hazard, if located and developed according to the plan as submitted and approved. Such health and safety, public welfare and nuisance or hazard considerations include but are not limited to the following...” and it goes on to state a number of specific factors. In other words, Mr. Taft said there is guidance from those items, but Commission members are able to consider other matters that, in their judgment, constitute impacts on such matters as the public welfare and what may be detrimental. He respectfully suggests that the evidence which will be heard tonight and that has been heard from himself and other witnesses, along with the documents submitted, support a finding that nearly every one or many of these considerations are not met or are adversely offended by the facts, especially the one dealing with the public welfare.

Mr. Taft said he would also like to direct the Commission’s attention to the finding which relates to injury to property or improvements. He believes the testimony tonight makes it evident that such a permit would injure, by value or otherwise – not just monetary value – abutting property. He said he thinks the Commission will hear specific testimony to support that, and they will also find in the package that has been submitted opinion evidence of that.

Mr. Taft said they have also submitted a letter, both in the package distributed earlier and by email, from an adjoining property owner, who is the Plant Manager of Hyster Yale, which is the 4th or 5th largest employer in Pitt County. Mr. Taft said he would like to read a couple items from that letter listing items the writer feels are in violation of the criteria before the Commission. Mr. Pascarelli says in his letter:

- the health and safety of the community will be compromised
- there will be demand on infrastructure resources for which the City is not prepared

- there will be an increase of crime, particularly when the students are absent for nearly three months during the summer retreat and more drunk driving during the months in school

Mr. Taft stated he knows from personal experience that a huge number of students will not be present during the summer months. They will leave their televisions, stereos and lots of their clothing, and it will become a magnet for break-ins and theft, based on what he's seen at his and other projects.

Additional production of nuisances such as trash, noise and pets that are not properly supervised is important, but one thing that has been overlooked entirely is that there is no preparation being made to provide for safe pedestrian traffic crossing from The Landing, where there are 888 beds immediately across five lanes of Charles Boulevard. He feels the Commission can take both judicial notice and common sense notice that those 888 beds are going to be interested in what is going on across the street in those 700 beds and vice versa. At this point, there is no discussion about a pedestrian crossing, an overfly or an underground tunnel and he feels this poses an incredible risk to the public safety to know those kids are going to be drinking and crossing all five lanes of that road at night.

Mr. Taft said there are a number of other matters that can be brought to the attention of the Commission. They are important, but he feels he has said enough because it is important to hear from some of the other people who have opinions about this. He offered to answer any questions.

Mr. Robinson clarified that Mr. Taft had said he contacted the Chancellor's office for enrollment information.

Mr. Taft confirmed that he did, and said that information is in the packet he provided. It is an estimate, but there have been a lot of numbers discussed and he felt it was better to try to have precise numbers for tonight.

Mr. Schrade said there is obviously a big discrepancy between the two numbers on vacancy rates. He asked how Mr. Taft received his numbers.

Mr. Taft stated his numbers are the fall pre-lease numbers for this year, which he got by calling all the other projects. He feels the projects are very willing to give him accurate numbers and he provides them with his accurate numbers. He said they do vacancy studies 4-5 times per year and find that the numbers are very accurate. He would point out that when the occupancy numbers were mentioned for all apartments in Greenville, that is an important number but it's not particularly important in terms of dedicated student housing because dedicated student housing is limited to a much smaller cohort or group of apartments than the total group. A number of market rate projects were mentioned that really have nothing to do with student occupancy.

Ms. Darden asked if Meridian Park is student housing.

Mr. Taft stated that is market rate housing.

Chairman King asked Mr. Taft to recap the projects that he has in Greenville.

Mr. Taft said in terms of student housing, they own The Boundary, which is adjacent to campus, and The Proximity, which is under construction now on Tenth Street beside Krispy Kreme and across the street from the new student union. They also own a number of market rate projects in town.

Anna Soto stated she is the General Manager of 33 East Apartments, which are located on Tenth Street, and she has been at that complex, and therefore in the Greenville student housing market, for 12 years. She has been through the good, the bad and the ugly, and is now fortunate again to see the good. Their all-time low was 68% occupancy for 1,056 beds, which occurred between 2010 and 2012 when there was a large influx of student housing being built and not enough students to go around. In 2012, 33 East was purchased by a company that asked what was needed to turn the property around. That company had the resources to help rebrand the property and occupancy improved. Adding 2,400 beds to this market now when there are already significant vacancies such as at Captain's Quarters, will lead to corporate owners decreasing rates. Decreased rates will lead to less desirable clientele, and that clientele will bring in less desirable guests. This leads to a higher crime rate. She is a personal witness to that and is here to make a passionate plea for the Greenville community that the Commission not approve another student housing project with such an overly saturated market.

Mr. Overton asked what the current occupancy rate is for 33 East, and the rate for the fall leasing season.

Ms. Soto said it is currently 94.4% and 83.4% for the fall season. She stated they are 15% behind last year, and in fact, the entire market is 15% behind last year.

Mr. Robinson asked about the basis for that opinion.

Ms. Soto stated all of the student housing complexes share that data amongst themselves on a weekly basis. They communicate about current occupancy numbers as well as pre-lease numbers and they keep up with historical data so they can determine market behavior.

Ms. Darden asked if Ms. Soto was a member of Greenville Area Property Manager's Association noting that they have that information and can provide true and accurate data.

Ms. Soto stated she is not a member this year.

Mr. Schrade asked what percentage of the beds at 33 East are leased to students.

Ms. Soto said, per Fair Housing Laws, they must lease to anyone their property appeals to. Their property is strictly a four bedroom, four bathroom floor plan and it is not typical that young professionals or older want to live with three other roommates, so most of their residents are students.

Mr. Robinson asked during the period of time between 2010 and 2012 when occupancy was down, did Ms. Soto notice an increase or decrease in calls for service from the Police Department. He asked if she would say, with her years of experience, that there is a correlation between occupancy increases or decreases and calls for Police service.

Ms. Soto assured Mr. Robinson there was a large increase in calls during that time. Greater vacancy increases the number of calls and greater occupancy decreases the number.

Jeffrey Otis stated he is from The Landing, representing Pierce Education Properties. Many people have discussed occupancy and how it is becoming an issue. There will be a small variance in numbers depending on the time of reporting. He said he believed Ms. Bellis had asked last time there was a meeting on this issue about how many purpose built student housing units were in the market. There are 13 purpose-built student housing properties in the market and the current weighted market average as of yesterday was 90.23% which is indicative of a distressed market. The weighted market average for 2015-2016 as of May 18, 2016 was 93.53%. The market is 3.3% behind in current occupancy compared to this same time last year. The market has gone from a stable market to a distressed market in just one year. This does not take into account the 876 beds of Captain's Quarters Phase II that are sitting vacant and not on the market, but if those were included, occupancy would drop to 85.07% occupancy for purpose-built student housing. There is a delivery of 1,800 additional student beds expecting in August 2018, which according to Mr. Taft, is going to be much more than that. This will continue to tip the scales of an already distressed market. Mr. Overton mentioned at a previous meeting whether there was an opportunity to impose a moratorium on student housing. It is his understanding that an amendment would need to be made for that to happen. Mr. Otis said he knows this is not the proper time or place, but strongly urged that a moratorium be considered and discussed at the appropriate level. There is an over-saturation problem in the market and there should be a moratorium in place at least until the market is able to absorb the excess. The current over-supply will cause loss of value to existing properties, potential foreclosures, reduced property tax bases and increased crime in properties that will begin to struggle with occupancy. Owners will be forced to drop rental rates with decreasing property value, which will lead to unfavorable criminal activity. The outlying purpose-built student properties that are already struggling in the market will be at risk for eventually becoming tax credit and Section 8 housing making it a risk to public health, public safety and public welfare.

Mr. Otis stated that Landmark has done a good job painting a picture of this property that is managed and designed differently, but the management plan that they have with on-site officers, on-site managers and resident service events are all things that every property in the market already offers; there is nothing new. The student housing industry refers to the design of this project as cottage-style. As highlighted in the staff report, this project is much lower in intensity than typical apartment buildings and produces a site plan environment more like a single family neighborhood occupied by student renters. He suggested Commission members picture what their life would be like in their neighborhood if all the houses were rented to students. The cottage-style product has consistently produced adverse effects within development and surrounding areas which include traffic, visible and audible activity, safety, security and trash.

Cottage-style developments produce substantially more visitors and vehicle related traffic because the product becomes a subdivision of party houses attracting significantly more guests than apartment development and he doubts that was taken into consideration in the project traffic studies.

Regarding visible and audible activity, Mr. Otis stated the design encourages outdoor activities and gatherings around the cottages which spread out activity, noise and trash impacts. While the noise nuisance will be everywhere, the design does not have high density buildings like apartments do to serve as a buffer for the noise generated at the units, the pool and the clubhouse. The combination of additional visitors and more prolific parties will always lead to a greater number of incidents and greater safety and security concerns in cottage style developments. It is also more difficult to control guest access to units where visitors have direct front door access from the street on the ground floor of these units. It is much more difficult for the units to be monitored and controlled when dispersed at such low density over a very large site. As neighborhood property owners, The Landing is always concerned with the design and function of nearby properties and projects, particularly those that elevate security issues. As Mr. Taft pointed out, if another student property is built across the street from The Landing, people will be crossing 5 lanes of congested traffic across Charles Boulevard to see what's going on.

Mr. Otis noted that trash collection is always a problem at cottage-style developments as projects typically have one or more central dumpsters, none of which ever seem convenient for the residents. As a result, residents leave trash out in the open, which attracts rodents and other wildlife, causing health issues.

ECU Transit was mentioned. Mr. Otis said a property around that size would have to be willing to pay around \$120,000 annually for that service run to and from their property. They said if they were unable to get the contract with ECU, they would provide a private shuttle service. ECU does not allow private shuttle services. They would not be allowed to drop off on campus, but rather would have to drop off on Tenth Street or some other drop-off location that is not on ECU property which would leave students crossing major roads. Mr. Otis encouraged Commissioners to vote no on the special use permit.

Mike McCarty, Vice-President of Development for Taft Development Group, said he has been a resident of Greenville since 1995. He has built a little over 2,000 doors of multifamily housing throughout eastern North Carolina and they have about 1,200 apartment units under construction throughout the Carolinas, mostly market-rate housing. His co-worker, Dustin, does their low-income housing platform and they work together on market-rate housing. The Boundary was his first project as student housing as a project manager, and The Proximity is his next one. More as a citizen of Greenville than anything else, he was heavily involved in the Horizons 2026 planning. As work was going on for the plan, he attended many community input sessions and was really looking at that as a framework for the community as it grows because he has a vested interest here.

Mr. McCarty stated that one of the criteria being addressed tonight is the conformance with the Future Land Use and Character Map within Horizons 2026. Throughout all the planning

sessions, they came up with some criteria he feels is valuable, but has not been discussed yet. Section 5.1.5 of the Horizons 2026 plan, in the Creating Complete Neighborhoods section, addresses the disinvestment at multi-housing complexes. It says “the City will mitigate the disinvestment in multifamily housing complexes that is occurring on the edges of the City through the land use vision identified in the Future Land Use and Character Map. These multifamily complexes historically served as student housing. As newer, higher quality student housing is being developed closer to the ECU campus, disinvestment is occurring at a few multifamily complexes on the City’s edge due to increased vacancy rates, lack of amenities and distance to campus. The Future Land Use and Character Map and this policy encourage these areas to redevelop to other more appropriate uses, such as commercial or office centers, with existing buildings either eventually replaced or retrofitted to the NC commercial building code. Future multifamily developments should be developed in areas supported by transit service, proximate to needed services, employment areas and the ECU campus, and are walkable and designed with community amenities.”

Out of that text, which Mr. McCarty stated is from is from the Horizons 2026 plan, came an action item which was a priority implementation action. This is why people went to these community input meetings. It says, on page 176 of the Horizons Plan, that “a handful of multifamily apartment complexes on the periphery of the City have the potential to face disinvestment due to overdevelopment. The impact of these properties can extend beyond property lines and a strategy to tackle the issue should be developed before the full effect of disinvestment hits.” Mr. McCarty stated there are already action plans to address all of this. When looking at conformance to the Future Land Use and Character Map and the text of Horizons 2026, he doesn’t feel the criteria is being met. There has been much discussion on how these developments impact public health, safety and welfare, but looking at The Boundary with a walk score of 84, The Proximity with a walk score of 83 and then looking at this site – and he used the Grace Church address as the closest address for the walk score – the walk score is 58. There is a great diminishment in value of the walkability and connectivity of these student complexes. Where should students be? Everyone remembers the tragedy last year of the student between 33 East and Copper Beech who has hit and killed by a car on Tenth Street, a similar 5 lane road. Since that tragedy, the community has reacted and a new traffic light has been installed to avoid having a reoccurrence with another pedestrian fatality. That exact same situation is on the verge of happening again on Charles Boulevard, yet it is not being addressed within this context. He respectfully asked that members of the Commission decline this request for a special use permit.

Ernest Bell stated he is from Tara Condominiums. When they had a meeting with Landmark, they were told by Landmark that The Retreat student housing project was going to be marketed to upscale students, not your average student. So they are marketing to wealthy parents who are able to pay the price for these bedrooms. Traffic is going to be greatly increased. It is already extremely difficult to make a left turn out of Tara Condominiums. Adding another entrance and exit directly across the street from Tara, no one living in either complex will be able to make a lefthand turn. As was mentioned before, these are students, and most like to party. There is a complex on the western side and there may be a complex on the eastern side of Charles Boulevard. They are going to party with each other. They will get there either by driving across

the street or by walking across the street. When they go home after partying, there will be intoxicated drivers and intoxicated pedestrians. There are almost no sidewalks on Charles Boulevard and visibility there is poor for seeing pedestrians. They are building a buffer to help shield noise from Tucker Estates, but nothing to help shield the noise directly across the street. They have made all kinds of concessions for Tucker Estates. Mr. Bell stated he was told today by a resident of Tucker Estates that the property owner amended the deeds so that any future developer has to build in accordance with Tucker's requests. The berm is going up because Tucker didn't want to hear the noise which they already complain about from The Landing. The crime will increase during ECU summer breaks because there will be empty apartments ready for picking. He encouraged the Commission to say no to this special use permit.

Mr. Ben Bankard, a resident of Tara Court, said that he opposes the special use permit. He stated that residents are in favor of developing the property, but are not in favor of having the property used to construct high-use, multifamily, student dormitory housing for all the reasons previously stated. He noted that he was in agreement with the editorial that The Daily Reflector published on the matter and felt the reporter had done a good job with extensive research. He asked that the Commission examine another student housing project, North Campus Crossing, which had recently experienced setbacks. Mr. Bankard stated that there are not any streetlights or bike lanes in the area, but he feels that students will be inclined to walk or bike because there are restaurants, bars, grocery stores, a Laundromat and an ABC Store all within walking distance. He stated that he is in favor of medium-density family housing and expressed concern about the possibility the students in the proposed development might not fit under the bell-shaped curve. Perhaps they will have early morning classes, come home during the day to walk the dog and leave their afternoon class to go to the library so they end up coming and going at peak hours. He is concerned that traffic and parking will be an issue. He said he hopes the Commission will deny this requires for student dormitory-style housing.

Hearing no one else wishing to speak in opposition to the requested special use permit, Chairman King asked if anyone wished to speak in rebuttal.

Mr. Fletcher stated that the two residents who spoke in opposition of the request are residents of Tara Court and members of the neighborhood's Home Owner's Association (HOA). Mr. Fletcher stated that they had been working with the HOA to find solutions for egress into and out of the neighborhood, and although it is not possible to satisfy everyone, he feels that the fact that only two residents came out to speak in opposition is a testament to the work that they have put in to reach out to the residents in that area. Mr. Fletcher noted that the second group that spoke in opposition are competing commercial property owners. Mr. Fletcher addressed concerns made by a representative from The Landing, who stated that the market is declining, and provided information showing an increase in rent at The Landing of \$158 since 2012, averaging 6.1% a year. Mr. Fletcher stated that The Boundary has increased rent by an average of \$124 per bedroom since 2014, for an average of 6.6% a year. For competing developers to stand here and say they are struggling it doesn't add up when Mr. Taft is doubling down on his Proximity project. It is currently a vacant lot. It is not too late to change his plans if things are at such a tipping point. When Landmark was here for their rezoning, Mr. Taft was here for an annexation on a multifamily project 1.5 miles further from campus. For a man and a company concerned

about the strength of the student housing and multifamily markets, not only is he doubling down, he is trebling down. Mr. Fletcher provided information from Axiom Metrics, a national database that indicated a high percentage of occupancy for four-bedroom housing projects in Greenville. Mr. Fletcher asked that the Commission consider the request based on its merits and allow healthy competition in the market.

Mr. Robinson noted that there are wide discrepancies between the numbers that Mr. Fletcher has provided regarding the increase in student enrollment and the rental percentages, and the numbers provided by Mr. Taft and a rental manager who had spoken earlier, who has had 12 years of experience in the industry. He stated that he feels that those two factors affect supply and demand, especially when there are three properties being developed at the same time. The rental manager said that she had received her information from the Greenville Area Property Managers Association. He understands that the requestors have a financial interest in the project and that he feels that the discrepancy may be due to the requestor's interests. Mr. Robinson asked that they explain the discrepancy since he feels that these factors affect supply and demand, and whether or not the property is being over-built, like North Campus Crossing and like the 33 East project, which is finally coming back up to where it should be.

Mr. Schrade stated that the representative from 33 East had said that their numbers were about 90%.

Ms. Darden asked if the numbers are national or specific to the community.

Mr. Fletcher stated that the numbers were taken from Axiom Metrics, which a national database.

Ms. Darden said that the numbers are not accurate for Greenville.

Mr. Fletcher stated that Axiom tracks numbers with a monthly phone call or site visit at the property level in every city. Mr. Fletcher stated that he would be surprised if Mr. Taft did not have a subscription to Axiom Metrics because it is a helpful resource. They do not have an incentive to overstate rent and occupancy because they have the option of not moving forward with this \$55 million investment. Their incentive is to make sure that their numbers are accurate.

Mr. Robinson said that was why he'd asked for the average period time a first owner owns these properties, noting that it seems that newer properties have higher numbers because students are drawn to newer properties. Once the newness wears off, students find other places and the rent comes down. Mr. Robinson compared it to owning a golf course and asked, on average, how many owners this type of property goes through before it starts making a profit. He stated he is concerned that the property does well initially then the owners sell it and move to another project. A few years later, the project becomes another North Campus Crossing - a blight, not occupied and a magnet for crime. Mr. Robinson stated that he feels that the community shares his concerns and that is why he is asking his questions.

Mr. Fletcher stated that they have never built projects that have gone back to the bank. He stated that the properties that they continue to own display strong occupancy and strong rent growth.

They frequently look back to analyze projects that they have sold, years after the fact. A good example would be a similar retreat-style project that they are developing at another location because their first project in that area has experienced a 6% rent growth, year after year. Mr. Fletcher stated that strong occupancy and strong rent growth is the norm for their projects. He addressed the difference in pre-leasing numbers and the information that Mr. Taft had provided, stating that it was a little bit of sleight of hand because the main focus has been occupancy percentage. Mr. Fletcher stated that in student housing, move-ins and move-outs happen in a very narrow window, and pre-leasing will happen over a span of 10-12 months. Their nationwide portfolio reflects a pre-leasing percentage in the mid-60% range, so to look at a pre-leasing rate in May, when students are still 2-3 months away from moving in for the academic year, it is not unusual to see a market with pre-leasing in the mid-60% range. Mr. Fletcher feels their numbers will be significantly stronger in three months.

Mr. Robinson asked that Mr. Fletcher address the comments made by the young lady who manages 33 East and give his take on what happened to that property.

Mr. Fletcher said that he did not want speculate on what might have happened. He said that it could have been management transition or the possibility that the product type or layout fell out of favor. He stated that she had mentioned a 94% occupancy rate for 33 East, which had been built 17 years ago, and he cited percentages for other projects: Copper Beech – 99%, Sun Chase – 100%, The Bellamy – 92% and The Boundary – 100%. Mr. Fletcher stated that based on the bedroom counts, this is a tight market.

Mr. Robinson said that there seemed to be a wide difference between the numbers that they are providing about Copper Beech and the numbers those provided by the lady from 33 East – about a 30% difference.

Ms. Mann asked if there was evidence on that point and stated that she did not see it.

Mr. Robinson stated that he believed it was based on numbers she got from the Greenville Area Property Manager's Association and her own 12 years of experience.

Mr. Fletcher said the numbers he had shown are from Axiom Metrics, the number that was referenced from VSI was from their own study and they have their own internal number that comes from their internal market studies. He said they have 3 verifiable data points that indicate a strong occupancy of that project, but he cannot speak for the source of her information.

Ms. Bellis asked if the information in the first column on the chart shown by Mr. Fletcher reflects the number of bedrooms in a project.

Mr. Fletcher stated that it does, and said that 33 East exclusively has 4 bedrooms.

Ms. Bellis asked if units are restricted to three bedrooms in Greenville. What is the legal maximum number of bedrooms a project can have.

Attorney Holec stated that it depends on the use. He reminded the Commission that this is a Special Use that allows four bedrooms, so it is acceptable.

Ms. Bellis asked if the other 4-bedroom projects in Greenville obtained a Special Use Permit.

Attorney Holec stated that the other projects had obtained Special Use Permits from the Board of Adjustment. He stated that dormitory-style projects are only allowed in specific zones and those requests are directed to the Board of Adjustment, while Land Use Intensity items are directed to the Planning & Zoning Commission.

Mr. Schrade asked if additional units could be added to the project at a later time since it was not being built to capacity.

Mr. Fletcher answered that he was correct.

Mr. Schrade noted that a special use permit would not be required if they changed the project to 3-bedroom units, so the question is not whether or not they can build there, but whether or not 4-bedroom units will be allowed.

Mr. Fletcher answered that he was correct and if they were to build to maximum density, they could build 1,092 bedrooms in contrast to the proposed 656 bedrooms.

Mr. Schrade stated that, as a builder, he is impressed with the project, but he realizes that there are concerns about student housing. He asked if the Commission's decision should be based on what the project will do to student housing around the city, or should it be based on the actual project itself.

Attorney Holec stated that the use is permitted upon receipt of a special use permit. As far as the other properties, or where they may potentially be located, that is not the issue that the Commission is being asked to consider tonight. That issue is related to potentially changing the zoning ordinance and it is being considered by the City Council. The City Council has decided to have a larger public input process on that matter and look at the potential for having a study connected with that issue. As far as how this impacts the market and whether or not other student housing projects should be developed, that is not the issue in front of the Commission. The Commission should examine what the required findings are as far as the evidence that has been presented in connection with this request. There has been testimony that relates to health, safety and welfare. Attorney Holec noted that letters had been provided and that relates to hearsay, so the Commission will have to sift through that. If the Commission denies this request based on the findings, they will need to state what evidence is the basis for the denial.

Mr. Schrade asked if "will not be detrimental to public welfare" could be construed to mean that the project will not drop the rates of other properties, which may cause them to collapse.

Attorney Holec stated that the Commission can listen to that argument. He does not believe that they should consider such a potential impact on other developments. The Commission should

consider the impact caused by this particular property and this particular use. The Commission can consider the life of this use, how long it will stay, noise and public safety. Those are things that they will have to refer to the evidence to determine if it is sufficient. Attorney Holec stated that it is a use that is permitted by the ordinance and so the Commission is not looking at its impact on other uses that are to be established.

Mr. Robinson asked if the special use permit applicant bears the burden of producing competent material and substantial evidence that it will not have an adverse effect.

Attorney Holec stated that was not correct. Instead, on that particular finding, the burden of persuasion is on those that are opposed to the applicant's request.

Ms. Bellis asked who would need to approve the applicant's request for three-bedroom units in the event this request is not approved.

Attorney Holec stated that a three-bedroom request would not have to be approved by any board or commission. That is allowable, so the request would be directed to staff for review and approval.

Ms. Bellis feels the Commission has been backed into a corner to either approve a four bedroom plan with 600+ beds, or not approve it and then the applicant can put in 1,000+ beds.

Attorney Holec stated that was a possible option.

Mr. Robinson asked for clarity on who bears the burden of persuasion for the criteria relating to health and safety.

Attorney Holec stated that the burden of persuasion falls on those that are opposed to the request.

Mr. Robinson asked if the burden for "will not be detrimental to public welfare" would be on the applicant.

Attorney Holec stated that the burden of persuasion for general requirements is on those in opposition to the request, so that would apply to the whole of the third required finding.

Ms. Darden wondered if loss of employment would be considered public welfare.

Ms. Leech asked how the opposition would establish that it was not.

Attorney Holec stated the Commission's decision is whether or not that finding has been met. The burden of persuasion that the finding has not been met is determined based upon weighing the evidence.

Ms. Leech stated she likes the look of the proposed development and feels it is really a beautiful plan. She wished that she could have enjoyed something comparable when she was a student,

but she was required to live in a dormitory. But she is concerned that there is so much discrepancy in the numbers and feels that better information is needed in order to make a good planning decision on this issue. She stated the Commission asked for that type of better information as recently as a couple months prior, not just for this project, but for all similar projects that come before this Commission. The goal, she would think, is for each project to be successful and for the Commission to provide constructive feedback so that applicants could make informed decisions. Ms. Leech stated she feels there should be more study and better information before going forward because this will be a sticking point for the board.

Chairman King stated they are still in the public hearing phase and asked if Attorney Holec had anything additional to add.

Attorney Holec stated that he did not.

Ms. Mann stated that the standard that the board is held to is an evidentiary consideration and candidly, the opposition did not meet the burden that Attorney Holec just discussed. She stated that most of the evidence had been personal opinions. She addressed the editorial that had been presented as an opinion piece which would not be properly considered as the evidentiary requirement that is in the ordinance. Ms. Mann stated that what the opposition had provided was opinion-based and that is not appropriate under quasi-judicial standards. She acknowledged that opinion is more properly considered with what the City Council considered and for what the Commission reviewed initially with respect to the rezoning, which the City Council approved unanimously last week.

Ms. Mann stated that she reviewed the documents that were provided to the Commission and she found intense speculation, as evidenced by phrases such as “in all likelihood” which is not really fact based. She further stated that letters from other developers, which were presented along with other hearsay testimony, refer to email to Planning & Zoning, which was improper, in her opinion, since that was an ex parte communication from Pierce Education Properties. If there is concern about projects staying local, this is an entity represented out of San Diego. There is also an email where Pierce apparently emailed Calvin Mercer directly, who forwarded it to the developer. Again, Pierce is a development group out of San Diego, and they were not here tonight to substantiate the numbers that are in their email.

Ms. Mann said there is an email to Fred Price from Michael White with Plum Creek Capital out of Orange County, and two letters from Cambridge Capital. Ms. Mann said she hopes at this point that the Commission can see this for what it is, which is really a last ditch effort by members of the development community to prevent one more project that is going to happen before an anticipated very strong study process that will hopefully address some of these questions and discrepancies that the community has in a properly public forum that brings members of the development community and people from the university system, and that is going to pull in all of the resources needed to get to the answer, and hopefully a text amendment that properly deals with these concerns in future speculative situations.

This request is an application that is vested under the current iteration of the ordinance, so any kind of delay here is immaterial because a new ordinance down the line is not going to apply. Ms. Mann stated they are asking for a vote tonight. They are happy to be here and want to be good corporate citizens. She feels they have presented extensive, credentialed experts tonight nationally sourced data from a neutral perspective. The Commission has six very specific criteria to deal with, with respect to some of the other commentary. City staff has said multiple times at multiple hearings that the project is in compliance, and again, Ms. Mann said it is their feeling that was echoed strongly last week by the position that the City Council took after a somewhat contentious hearing situation.

Ms. Mann said they do not believe this particular vote is properly a referendum on student housing. We think that the process that the City Council is carefully tailoring over the course of the next few months is the proper forum for that discussion, but we don't think that it is proper here tonight. I was going to ask Attorney Holec to reiterate the standards here that the vote is supposed to be under – the evidence, not opinion. I don't know if he needs to say anything else at this point, but I feel that we have made our case and we look forward to being in Greenville.

Jack Taft, who stated he is one of the owners of the subject property at 3180 Charles Boulevard, stated that his mother's immediate family is here as is a member of his dad's family. When his mother's family approached him 3-4 years ago saying they wanted to put something of good quality on this property, they selected The Retreat because they believed it was the best thing for the community. He said he hoped he could have the Commission's support tonight. He stated he would like to rebut statements by The Landing and Mr. Bell because he has lived at 3180 Charles Boulevard for 50 years. He has had no trouble with The Landing, with noise or anything of that nature. The same is true of his Tara neighbors. Living between the two, he wanted to share his opinion.

Chairman King invited further rebuttal testimony in favor of the request. Hearing none, he invited rebuttal testimony from those in opposition.

Tom Taft referred to a presentation slide on the screen regarding location and character of various student housing facilities, stating he would point out what he believes to be absolute fact and not opinion. It follows up on what the City Council has said – that the total number of student beds in their estimate is 7,530. The testimony heard tonight, which is unimpeached and unchallenged, is that there are 400 beds under construction on the Pugh site called The Gather, 410 beds under construction at The Sidewalk site, 609 beds under construction at The Proximity, either 400 or 500 beds at The College View project and the 700 beds that they are asking you to approve tonight amounts to 2,600 beds. The 1,300 beds that are not occupied at North Campus Crossing will make a total of 3,900 beds. The math is if you divide 3,900 by 7,530, there is more than a 50% increase in new beds coming on line in the next 24 months. He feels that will be detrimental to the public interest and the public welfare. With all due respect to what Attorney Holec has said and Ms. Mann has said, Mr. Taft said he feels that is sufficient evidence for the Commission to make a decision that they have not overcome "detrimental to public welfare". Additionally, and this one is unimpeachable as well, they have not dealt with the public safety issue of pedestrian crossings between The Landing, with 888 students. Mr. Taft said he believes

The Landing is 70% female and his understanding from around the country is that cottage projects more often than not are male. There will be people back and forth all the time. Whatever that number is, people are going to be dealing with a safety issue that is not addressed here. Mr. Taft said he feels that is a basis to deny this special use permit. Those two items absolutely meet the criteria and are not hearsay. They are not an opinion, but are absolute fact based on numbers that are known to be true.

Mr. Taft said if Attorney Holec said that it is his opinion that the effects of too many beds on the public welfare is not sufficient to affect the public welfare or the definition of public welfare, then he disagrees. Public welfare is a very general statement and opinions will differ on its definition. Mr. Taft contended that, if it is the Commission's opinion that doubling the amount of beds in student housing in the next 24 months is going to have a bad effect on the community, then the Commission has the basis to hold that it will be a detriment to the public welfare if they approve this petition.

Mr. Otis restated that he represents The Landing and Pierce Education Properties and said, with all due respect to Ms. Leech, he wanted to say there will always be a discrepancy in numbers unless everyone pulls from the same data on the same day at the same time. To Landmark, who said The Landing increased its rent by \$150, that is true, but they also underwent a \$3 million renovation to make sure they were up to par with the market for the new development. He said he believes that Mr. Schrade built the garage on The Landing's property several years ago. They've also put in faux wood flooring, stainless steel appliances and all new furniture to stay up to par with the market. Landmark was saying that, as a portfolio, 60% pre-leasing in May is not a problem. As a portfolio, it is not, but in a market like Greenville, it is. Greenville has a very early to lease market, whereas many others are late to lease. The Landing starts pre-leasing in September and October and by the end of December, they were over 50%. In other markets, such as The Connection, which is another of their properties in Huntsville, Texas, they do not start leasing until April, May or June but will sign 300-500 leases in the last 30-45 days of the leasing term. So the market as a whole, pre-leasing for Fall 2017 as of yesterday's numbers, which were provided by property managers and leasing managers of all the student housing properties in this market, is 76.31%. Mr. Otis acknowledged that differs from what Ms. Soto said – she said it was 15% behind – but according to his data based on when they received their data last year, the market as a whole is 11.44% behind. The Davis, formerly known as University Manor, is 37% behind where they were at this time last year. University Suites is 12.7% behind where they were at this time last year. 33 East is 11.6% behind, Pirates Place is 21.13% behind, Campus Pointe is 27% behind, Copper Beech is 19% behind and First Street Place is 26.15% behind where they were at this time last year. That shows that there are 876 beds not being considered in these market surveys and the market is that far behind because of the oversaturation.

Mr. Robinson asked where Mr. Otis' numbers came from – what is their basis.

Mr. Otis stated they are the numbers that are reported to for pre-leasing by the leasing and rental managers of the student housing properties here in the Greenville market.

Mr. Robinson asked if that was the same group that was referenced earlier by Ms. Darden.

Mr. Otis stated she was referring to the Greenville Property Manager's Association. Some of the properties are members of this group. The Landing is a member, but there is a market survey email chain shared by the properties within the market because we all need these numbers.

Mr. Robinson asked if that is the data Mr. Otis typically relies upon from year to year for formulating The Landing's event strategies.

Mr. Otis replied that it is.

Mr. Robinson asked how long Mr. Otis has been in the business.

Mr. Otis stated he has been at The Landing since 2012.

Mr. Robinson asked if he deems the data he provided to the Commission to be reliable data in terms of using it for this community in event strategies.

Mr. Otis stated he does, and to build on that point, he said he monitors the data monthly, weekly and daily. Several properties have been up for sale recently and have gone through acquisitions. If there were a difference in occupancy, it would be reported with the new owners coming in, but at the same time, if they are reporting occupancy and it doesn't change when the new owner takes over, obviously, they were reporting correct numbers.

Mr. Robinson asked if he finds that data to be reliable and credible for his purposes in formulating his opinions.

Mr. Otis said he does. He then continued his comments on pre-lease occupancy, stating that because the market as a whole is currently occupied at 90% going in to next year, it does not look good for the market. The properties he mentioned earlier that were so far behind will drop their rental rates which will attract a less desirable clientele, thereby becoming an issue of public health and public safety.

Hearing no one else wishing to offer rebuttal testimony for the opposing side, Chairman King closed the public hearing and asked Attorney Holec to review voting procedures.

Attorney Holec stated he would review the voting procedure and reminded the Commission that what they are looking at is the required findings under the ordinance. The Commission is to determine whether the applicant has met the required findings in order to get the special use permit. The Chair will read the title of each of the six required findings, beginning with "Utility Service" and will state that by silence – by not saying anything – that counts as an affirmative vote. When the Chair says "Utility Service", if the Commission determines that it has been met, then say nothing. However, if any one member says that they would like to vote on that particular issue, then the Chair will go across the dais and ask each member what his or her vote is – yes, the applicant has met it, or no, the applicant has not met it. If there is a majority on any

of those required findings, then those who voted “no” will have to state the basis for their determination. As an example, Attorney Holec stated they would say something like “We do not feel that they have met the utility service based upon the fact that Greenville Utilities Commission has stated that there is no water service at that site.” Each member that voted “no” is going to have to do that, and give the rationale behind it. He reminded the Commission that their decision is reviewable by Superior Court and they will look at the basis of the decision.

If there is an affirmative vote for all of the findings, then the Commission will adopt a motion to adopt the findings of fact, and the next step would be to vote to issue the permit with conditions. If any finding of fact is not approved, then the request is denied. In that case, the Commission will still go through all of the findings so that the decision for each of them is on the record. He asked if there were any questions?

Mr. Robinson asked how the third finding will be handled.

Attorney Holec stated it is all one item.

Chairman King said if there were no more questions, the Commission is ready to proceed.

Mr. Overton asked if it was time to vote, or if there would be a comment period where Commission members could discuss things amongst themselves.

Attorney Holec stated they could have discussion if desired.

Chairman King said they would start a discussion and called on Mr. Overton to begin.

Mr. Overton stated the proposed project is beautiful. The question is whether or not to allow four bedrooms.

Attorney Holec advised that the Commission is voting on the project which has, as a component, the four bedrooms.

Mr. Herring stated he felt they were put in a forced position to make a legal decision that belonged to someone else.

Ms. Leech stated she was unclear with Council’s intent on a motion on April 10, 2017 to direct Staff to come up with a proposal to better identify areas near ECU’s main campus that are more appropriate for development and maintenance of dormitory style housing and bring back to Council direction for a potential zoning ordinance amendment.

Attorney Holec stated that Council did make this direction and Staff did comply with providing the requested information. Council decided they were not ready to proceed with the recommendation brought by Staff at this time. Council requested a public input process to be implemented, to look at potential vendors to conduct a study, and to report back to Council in

June on the potential vendors and then to commence implementation of the public input process. No definitive action has taken place by Council and it is unknown what decision Council will make.

Mr. Maxwell stated that the two proposals brought to Council both eliminated the Land Use Intensity classification.

Attorney Holec confirmed that this was a potential action that staff proposed to Council to consider but that action has not been taken. The existing request is allowed under current ordinance provisions with an approval of a special use permit if all required findings are met.

Mr. Robinson inquired about the information on enrollment at ECU. Mr. Fletcher showed the slide which demonstrated the ECU enrollment information and advised that this was derived from a national database compiled from information submitted by each university on a standard form.

Chairman King read the required findings.

1. Utility service. Silence.

Approved.

2. Traffic. Ms. Darden requested a vote.

In favor: Overton, Bellis, Robinson, Schrade.

Opposed: Herring, Maxwell, Darden, Leech.

Vote tied 4-4.

Chairman King broke the tie voting in favor.

Approved (5-4).

3. Health and Safety, Public Welfare, Nuisance or Hazard. Ms. Darden requested a vote.

In favor: Overton, Bellis, Schrade.

Opposed: Herring, Maxwell, Robinson, Darden, Leech.

Disapproved (3-5).

Attorney Holec asked Chairman King for his vote for the record only.

Chairman King stated his vote is in favor.

4. Conditions and Specifications. Silence.

Approved.

5. Injury to Property or Improvements. Silence.

Approved.

6. Location and Character. Silence.

Approved.

Attorney Holec stated that each member who voted no on Required Finding #3 needs to state the basis for the decision of their negative vote.

Chairman King asked each of the members who voted no on Required Finding #3 to state the basis of their no vote, with responses as follows:

- Herring – Based on the number of beds, and I assume these individuals are going to have cars. And of course you already know that we have traffic problems in Greenville. I see, a traffic problem.
- Maxwell – There are no sidewalks out that way, walkability issues. There are no bike lanes out that way. Students, a lot of them like to ride their bikes or walk to class. It's a fair distance from campus which I think is a detriment and there aren't any pedestrian crossings at a five lane road.
- Robinson – Listening to all the evidence, a lot of people on both sides have opinions but I do look at the discrepancy of the numbers. I think, Mr. Taft produces some numbers and used it and apparently, according to the materials. James Hopf, the Chief of Staff of ECU, provided data to him which I give more credibility to because of the source of the data. Then my opinion is based upon the young lady who'd been in the business 12 years and says she relies upon certain information. She's been in the business, I think that, when you have somebody in this community that does it for a living and does it that long and says she relies upon this data to formulate certain things as does the other gentleman. I don't recall his name. But at the Landing they said they continually rely upon this data. Their numbers are substantially different than the numbers offered by the petitioners. When you look at that plus the new developments that are in the works now. I think the units were around 24 or 25 hundred without the ones being proposed now and knowing we got the issue across the river, what used to be North Campus Crossing. The numbers are going to outpace each other. That's why I find, I recognize the opinions on both sides what they like or don't like. But I find the discrepancy in the numbers that carry my opinion.
- Darden – I've got the same concern. The numbers, I'm concerned about the numbers. For health and safety, I'm concerned about the area. You've got a five lane road with traffic pattern and no sidewalks. You got students directly across the street. Students, we know what students do. They have parties and I can see a crowd of them going across the street having pool parties whatever kind of party and there's just not a good area there for it being in that location where you already got students housing there. And then it's gonna be right across the street. It would be perfect maybe if they were on the same side so they wouldn't have to across the street. It happens down 10th Street right there where 10th Street almost intersects with Greenville Boulevard. They put the white lines there to let cars know that people are crossing and that's five lanes. You know several people got hit in the area and you know it those are not students. You do have some students done there though. That's where 33 East is and they add another traffic light. So it's just not safe.
- Robinson – I would also point out in the materials Mr. Taft supplied to us, Mr. Hopf the Chief of Staff indicated that a growing number of the numbers representative which are

decreasing lower than the petitioner submitted are online which means they're not coming here. That is also the basis of my concern.

- Leech – I could probably reiterate exactly what everyone else said but I too value the experience of people who have been working professionals in the area and their feedback with regards to the actual numbers they're obtaining. But we all, a lot of our students have the experience with a lot of our housing having turned over, not just this year or last year but over the past ten years or so and it has nothing to do with whose competitive with whomever. It has to do with the kind of students that we deal with. It has to do with the fact they we have students who maybe are sometimes unpredictable themselves in terms of whether they are going to be in school for two years or going to be in school for eight years or whether they're going to be living someplace else. We are a unique campus in the sense that we have a lot of students who are commuters, they're online students. And in order for us to make good planning decisions and to help people to be successful in whatever business they choose to be in, we have to be trying to get that information so that it can make it a successful venture. But I do also have concerns that we know that this, the timing also is particularly bad for something new at that particular intersection where we are currently looking at a major major major major redevelopment of that road on Fire Tower Road. It happened that I was driving down there last week and I was backed up almost all the way to the next stop light going through and taking twenty minutes or more just to be able to move a little inch here and a little inch there. We have a problem in Greenville and it's not these folks fault or anybody else's fault but we have a problem that we don't plan well. If we plan well people will come and we will make it possible for people to be successful. But, the fact is that we have to deal with the fact that we haven't planned things as well as we would like to and that makes it possible for people to be unsuccessful. If they are unsuccessful and things deteriorate, it does impact the rest of the community around.

Following advice from the Attorney Holec on next steps in the procedure, Chairman King stated because there is a finding of fact that has not been met, the request has been denied. He advised those present that this decision of the Planning and Zoning Commission is appealable to Superior Court.

NEW BUSINESS

PRELIMINARY PLATS

REQUEST BY LCD ACQUISITIONS, LLC AND PATRICIA S. BOWEN ETAL FOR A PRELIMINARY PLAT ENTITLED "THE RETREAT". THE SUBJECT PROPERTY IS LOCATED EAST OF CHARLES BOULEVARD, NORTH OF GRACE CHURCH AND SOUTH OF TUCKER ESTATES SUBDIVISION AND IS FURTHER IDENTIFIED AS A PORTION OF TAX PARCEL 09010. THE PRELIMINARY PLAT CONSISTS OF ONE 26.0 ACRE LOT.

Mike Baldwin, representing LCD Acquisitions, LLC and Patricia S. Bowen, et al., stated that they would like to withdraw the request for the approval of the preliminary plat entitled "The

Retreat". City Attorney Holec advised that it may be better to table this matter rather than accept a withdrawal.

Motion was made by Ms. Leech, seconded by Ms. Darden, to table the request for approval of the preliminary plat. Chairman King noted that the request was to withdraw not to table and asked Mr. Baldwin if he wanted it tabled. Mr. Baldwin stated that tabling the matter was acceptable. The motion to table was approved unanimously.

OTHER

REPORT ON DORMITORY-STYLE STUDENT HOUSING

Chief Planner Thomas Weitnauer stated that, during its March meeting, the Planning and Zoning Commission meeting approved a motion to have a study done regarding the occupancy rate of large apartment complexes. With staff's presentation to the City Council at their last meeting, the Council also recognized the need for such a report and authorized the staff to pursue a real estate marketing firm to conduct a study and report back to Council in June, as well as to begin implementation of a public input process. Mr. Weitnauer stated this study would address the Planning and Zoning Commission's March request because there would be definitive numbers for a specific snapshot in time. Details of the public input process are yet to be determined, but the City Council has said they want to engage the Planning and Zoning Commission as part of that effort.

Chairman King asked if Mr. Weitnauer has any insight on where the numbers come from. He has heard many variations.

Mr. Weitnauer stated he has repeatedly told his staff and superiors there is a need to go to professionals. A typical planner might do this a couple times throughout their career, but should not undertake it themselves if they are not qualified. As a member of the Institute of Certified Planners, planners are supposed to tell their employers when they are not qualified for a particular assignment. When millions of dollars are involved in supply and demand, such as for something as important as student housing, there should be a professional firm engaged, but not one that is linked to any local projects. The City of Auburn and Auburn University hired a professional to do a front-end study then invited them back a few years later to do a follow-up. It served them pretty well.

With no further business, Mr. Maxwell made a motion to adjourn, seconded by Mr. Robinson. Motion passed unanimously. Meeting adjourned at 11:20 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Thomas Weitnauer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Thomas Weitnauer
Interim Director of Community Development