

**Note:**

*Colleton Crossing AIS* project plans were included with original agenda item for the November 25<sup>th</sup>, 2008).

Please let staff know if you'd like an additional set.

PHILIP  
POST  
&  
ASSOCIATES

510301T14  
ATTACHMENT B1

May 7, 2009  
#510301

Town of Carrboro  
Planning Department  
301 West Main Street  
Carrboro, NC 27510

Attn: Jeff Kleaveland

Re: Supplemental Information for Colleton Crossing

Jeff:

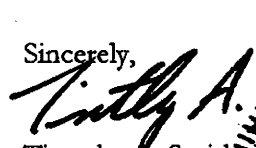
In response to the comments made at the Public Hearing for Colleton Crossing on February 24<sup>th</sup>, 2009 we have continued our efforts to communicate with the adjoining property owners with regard to the proposed private access road. The result of our effort is that we were unable to obtain the approval and acceptance from those property owners to accommodate the private access drive. The documentation of that correspondence is included with the attached submitted materials.

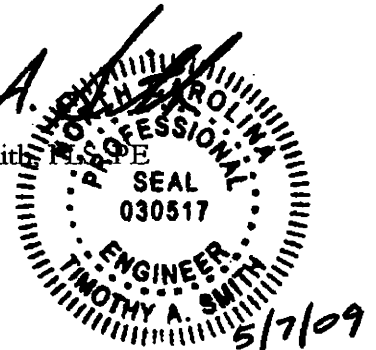
During the time since the last public hearing we have also continued our effort to respond positively to the previous requests to phase the project. The outcome of this process is a proposed Phasing Plan that addresses the concerns of the Town and neighbors and also provides a feasible arrangement for the developer. The details of this plan are included with the attached supplemental materials.

Finally, with regard to the proposed phasing and two other conditions of the project, we have attached three proposed additional developer conditions for the project. We respectfully ask that the Board of Aldermen consider them to be included with the approval of the Conditional Use Permit.

Please let me know if you have any questions or if you need any additional information at this time.

Sincerely,

  
Timothy A. Smith



CC: Jim Melville, MBI Development, LLC



STATE OF NORTH CAROLINA  
**DEPARTMENT OF TRANSPORTATION**

BEVERLY EAVES PERDUE  
GOVERNOR

EUGENE A. CONTI, Jr.  
SECRETARY

April 22, 2009

**ORANGE COUNTY**

Mr. Tim Smith, PE  
Phillip Post and Associates  
P. O. Box 2134  
Chapel Hill, NC 27515-2134

Subject: Proposed Colleton Crossing Subdivision  
Private Access Road Located on SR 2213, Tallyho Trail  
**Second Submittal**

Dear Mr. Smith,

Per your request this office has reviewed the revised sketch plan for the above subject signed and sealed on March 20, 2009.

The revised design is in reasonable conformance with the NCDOT Policy on Street and Driveway Access to North Carolina Highways and satisfactory for issuance of a driveway permit subject to Town of Carrboro approval and dedication of the necessary rights of way and/or easements.

Please note that private roads are ineligible for State maintenance. In addition, NCDOT will not be in a position to accept any proposed public subdivision streets within the Town Limits for State maintenance. The applicant is encouraged to discuss construction requirements and maintenance of the internal streets further with the Town of Carrboro.

Feel free to contact me if you have any questions.

Sincerely,

C. N. Edwards Jr., PE  
District Engineer

Cc: J. M. Mills, PE  
Roy Williford, Town of Carrboro  
Adena Messinger, Town of Carrboro

COLLETON CROSSING SUBDIVISION  
SUMMARY OF CORRESPONDENCE WITH ACCESS EASEMENT PROPERTY OWNERS.

March 11, 2009 (via email)

Tim,

Here's a summary of my conversation w/ the Hengevelds.

1) Thurs. morning, Feb 26, 2009: spoke w/ Dutch and inquired about his health. He said that Kay would be home from work around 5:00.

2) Thurs. approx 5:00PM Feb 26, 2009: Spoke w/ Kay and told her that I was sorry for any misunderstanding regarding the easement. I explained that we were asked by the Town of Carrboro to look into using the easement as a private road to the development. The use of this easement is still under discussion and no decisions have been made at this point. As for the meeting on Tues Feb. 24, 2009 with the aldermen, it was my understanding from the Town staff that we would only be talking about the completed application. The easement would be discussed when there was some solid information on it to discuss. I would talk to the adjoining neighbors when I had the information and facts to do so. I also explained to Kay that I was unhappy with the way the meeting went on Feb 24, 2009. I told her that I've been in business for 25 years and I've never treat my customers this way. The meeting just seemed to get out of control from the onset. At this time Kay said she did not want to speak or meet with me or any one from Philip Post & Assoc. She said that she wanted to hear from the Adena with the Town of Carrboro. I was a little confused by that but I honored her wish.

3) The following Monday, March 2, 2009, Tim Smith sent a survey of the legal easement and existing gravel path. There is reason to believe after hearing Kay's question to Mark Chilton at the Feb 24, 2009 meeting that she seems to think that the easement location is in the same location as the existing gravel path. The easement is actually in a separate location further away from her house than the existing gravel path.

Jim

March 18, 2009 (via email)

Jeff,

I wanted to update you on the neighbors Kay Hengeveld and Cathy Calvert. I have called each of them repeatedly. My first conversation with Kay ended with her saying she was waiting for a call from Adena and did not want to meet with me. My first call to Cathy was unreturned and was prior to the hearing.

Today, March 18, 2009, I called both of them at work to be sure that I spoke with them. Kay stated that she would not meet with us separately and would have to have Cathy present. I finally spoke with Cathy at work and she stated she would have to look at her schedule and may not be able to meet until after April 6th. She was just too busy.

I spoke with Tim and requested that he send the information to them regarding DOT's determination. It seems that is all they want to hear right now.

I would like it to go on record that I want to meet with them to show how we can preserve the large trees and not remove them, offer screening for each house and come to some settlement possibly monetary for moving the easement. This would be so much more beneficial to Cathy Calvert but again she will not find the time to talk with me. I do not appreciate her telling you and the Town that I'm not contacting her and will not discuss this with her. I think both sides of this need to be reflected in the record.

Thanks  
Jim Melville

March 21, 2009

Jim Melville met with Cathy Calvert and Kay Hengeveld at their properties to discuss the proposed private access drive on the easement. He gave them letters from Tim Smith with Philip Post & Associates, along with copies of an exhibit map. – *Tim Smith, Post & Associates*

April 16, 2009

MBI Development prepared an offer of purchase contract for Lot 10 Fox Meadow and submitted to Cathy Calvert on April 17, 2009. It is my understanding that the offer was not accepted. – *Tim Smith, Post & Associates*

PHILIP  
POST  
E  
ASSOCIATES

510301LT10  
ATTACHMENT B5

March 21, 2009  
#510301

Mrs. Kay Hengeveld  
1515 Tallyho Trail  
Chapel Hill, N.C. 27516

Re: Colleton Crossing ~ Proposed Private Access Drive

Dear Mrs. Hengeveld,

I am writing you with regard to the Colleton Subdivision project, and the proposed private access drive that crosses your property. I understand that you have spoken with Mr. Jim Melville since the last Board of Aldermen meeting on February 24<sup>th</sup> and you should have also received a copy of our plan that we sent to you in the mail as requested. Additionally, we would like to provide to you the following information regarding the proposed access drive and easement.

As indicated on our drawing, the proposed access drive and existing easement is in a different location and further away from your house than the existing old driveway. The proposed intent would that if the new access drive were built that this old driveway would be abandoned to protect you from any disturbance from use by vehicles. Also, at the time of construction Mr. Melville is willing to provide some additional landscape buffering to help screen the new road from your house. The new location would be buffered by the existing trees that are between your house and the proposed road, but there may be other areas along the edge of the power easement that can be planted for further screening. One other item that Mr. Melville would like for you to consider is the southwest corner piece of your property beyond the access easement location. This is somewhat an unusable piece of property, and if you are willing to agree to the construction of the access drive, he would like to offer you a cash settlement for the purchase of this piece of property. This would all be contingent upon approval by the Board of Aldermen.

Please let us know if you have any questions regarding this information or if we can provide you with any additional documents, plans, etc. I understand that you will be meeting with Mr. Melville this Saturday at your property, and I will check with him on Monday to see what your comments were.

Thank you very much for your consideration of this proposal.

Respectfully,

*Timothy A. Smith*  
Timothy A. Smith, PLS, PE



CC: Jeff Kleaveland, Town of Carrboro  
Jim Melville, MBI Development, LLC

PHILIP  
POST  
&  
ASSOCIATES

510301LT11  
ATTACHMENT B6

March 21, 2009  
#510301

Mrs. Cathy Calvert  
1215 Tallyho Trail  
Chapel Hill, N.C. 27516

Re: Colleton Crossing – Proposed Private Access Drive

Dear Mrs. Calvert,

I am writing you with regard to the Colleton Subdivision project, and the proposed private access drive that crosses your property. I understand that you have spoken recently with Mr. Jim Melville regarding the proposed access road and the impact to your property. Additionally, we would like to provide to you the following information regarding the proposed access drive and easement.

In order for our proposed design to meet NCDOT requirements, the alignment of the proposed drive will need shifted out of the access easement where it connects to Tallyho Trail. This connection point would be at the same location as the existing old drive that is currently not within the easement. (It is proposed intent that this old drive would be abandoned if the new drive is constructed.) At this intersection location, we would need your permission to relocate the 50 ft. wide access easement to align with the new drive. The relocation of the easement to accommodate this proposed alignment would have two direct benefits for your property. It would prevent the need to remove the existing trees that are within the easement at this location for the future utility connection, and it would also preserve the septic repair area that has been defined by the County Environmental Health Department. At the time of construction Mr. Melville is willing to provide some additional landscape buffering to help screen the new road from your house. The locations would be as determined to provide the most screening from your house.

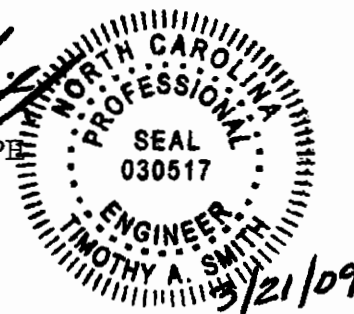
If you are willing to agree to the construction of the access drive, Mr. Melville would additionally like to offer you a cash settlement for the purchase of property needed to relocate the easement. This would all be contingent upon approval by the Board of Aldermen.

Please let us know if you have any questions regarding this information or if we can provide you with any additional documents, plans, etc. I understand that you will be meeting with Mr. Melville this Saturday at your property, and I will check with him on Monday to see what comments you may have.

Thank you very much for your consideration of this proposal.

Respectfully,

  
Timothy A. Smith, PLS, PE



CC: Jeff Kleaveland, Town of Carrboro  
Jim Melville, MBI Development, LLC

Subj: **Kaplan contract**  
Date: 4/16/2009 11:43:22 A.M. Eastern Daylight Time  
From: dmr@nbfirm.com  
To: melvilbldr@aol.com

Jim

I've attached a draft for your review. Note I took the liberty of reducing the purchase price by 6% representing the commission she is avoiding by not using realtors. Also, I checked and the Kaplans have not recorded a power of attorney so we should be dealing with them. Let me know what you think.

David M. Rooks  
Northen Blue, LLP  
P.O. Box 2208  
Chapel Hill, NC 27515  
919.968.4441 (telephone)  
919.942.6603 (telefax)

**U.S. TREASURY DEPARTMENT CIRCULAR 230 NOTICE:** Any tax advice contained in this communication, including attachments and enclosures, was not intended or written to be used and cannot be used (i) to avoid tax penalties or (ii) to promote, market, or recommend to another person any transaction or matter addressed in this communication. If you would like advice that can be used to avoid tax penalties, please contact us.

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AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (COMMERCIAL) B8

THIS AGREEMENT, including any and all addenda attached hereto ("Agreement"), is by and between MBI Development, LLC, a North Carolina limited liability company("Buyer"), and Herbert Kaplan and Sydonia Kaplan, a married couple ("Seller").

FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Terms and Definitions: The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) "Property": (Address) 8205 Huntsman Court, Chapel Hill, NC 27516

■ All □ A portion of the property in Deed Reference: Book 3824, Page No.43, Orange County; consisting of approximately 1.56 acres.

Plat Reference: Lot(s) 10, Block or Section Two, as shown on Plat Book or Slide 41 at Page(s) 166 Orange County.

together with all buildings and improvements thereon and all fixtures and appurtenances thereto and all personal property, if any, itemized on Exhibit A.

\$ 265,080.00 (b) "Purchase Price" shall mean the sum of Two Hundred Sixty Five Thousand Eighty and no 100 Dollars,

payable on the following terms:

\$ 1,500.00 (i) "Earnest Money" shall mean One Thousand Five Hundred and no 100 Dollars .

Upon this Agreement becoming a contract in accordance with Section 14, the Earnest Money shall be promptly deposited in escrow with Northern Blue, LLP to be applied as part payment of the Purchase Price of the Property at Closing, or disbursed as agreed upon under the provisions of Section 10 herein.

\$ N/A (ii) Proceeds of a new loan in the amount of \_\_\_\_\_ Dollars for a term of \_\_\_\_\_ years, at an interest rate not to exceed \_\_\_\_\_ % per annum with mortgage loan discount points not to exceed \_\_\_\_\_ % of the loan amount, or such other terms as may be set forth on Exhibit B. Buyer shall pay all costs associated with any such loan.

\$ N/A (iii) Delivery of a promissory note secured by a deed of trust, said promissory note in the amount of \_\_\_\_\_ Dollars being payable over \_\_\_\_\_ months in equal monthly installments of principal, together with accrued interest on the outstanding principal balance at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_ %) per annum, with the first principal payment beginning on the first day of the month next succeeding the date of Closing, or such other terms as may be set forth on Exhibit B. At any time, the promissory note may be prepaid in whole or in part without penalty and without further interest on the amounts prepaid from the date of such prepayment. (NOTE: In the event of Buyer's subsequent default upon a promissory note and deed of trust given hereunder, Seller's remedies may be limited to foreclosure of the Property. If the deed of trust given hereunder is subordinated to senior financing, the material terms of such financing must be set forth on Exhibit B. If such senior financing is subsequently foreclosed, the Seller may have no remedy to recover under the note.)

\$ N/A (iv) Assumption of that unpaid obligation of Seller secured by a deed of trust on the Property, such obligation having an outstanding principal balance of \$ \_\_\_\_\_ and evidenced by a note bearing interest at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_ %) per annum, or \_\_\_\_\_ Buyer shall pay all costs associated with any such assumption, including any assumption fee charged by the lender.

Buyer Initials \_\_\_\_\_ Seller Initials \_\_\_\_\_

\$263,580.00

(v) Cash, balance of Purchase Price, at Closing in the amount of Two Hundred Sixty Three Thousand Five Hundred Eighty and no 100 Dollars.

- (c) "Closing" shall mean the date and time of recording of the deed. Closing shall occur on or before thirty days from the date Buyer obtains all approvals necessary from public bodies and private individuals for Buyer to commence construction on Colleton Crossing as submitted to the Town of Carrboro.
- (d) "Contract Date" means the date this Agreement has been fully executed by both Buyer and Seller.
- (e) "Examination Period" shall mean the period beginning on the Contract Date and extending through thirty days from the date Buyer obtains all approvals necessary from public bodies and private individuals for Buyer to commence construction on Colleton Crossing as submitted to the Town of Carrboro.
- (g) "Seller's Notice Address" shall be as follows:  


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except as same may be changed pursuant to Section 12.

- (h) "Buyer's Notice Address" shall be as follows:

105 Morganscliff Court, Chapel Hill NC 27517 except as same may be changed pursuant to Section 12.

**Section 2. Sale of Property and Payment of Purchase Price:** Seller agrees to sell and Buyer agrees to buy the Property for the Purchase Price.

**Section 3. Proration of Expenses and Payment of Costs:** Seller and Buyer agree that all property taxes (on a calendar year basis), leases, rents, mortgage payments and utilities or any other assumed liabilities as detailed on attached Exhibit B, if any, shall be prorated as of the date of Closing. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Agreement, excise tax (revenue stamps), any deferred or rollback taxes, and other conveyance fees or taxes required by law. Buyer shall pay recording costs, costs of any title search, title insurance, survey, the cost of any inspections or investigations undertaken by Buyer under this Agreement. Each party shall pay its own attorney's fees.

**Section 4. Deliveries:** Seller agrees to use best efforts to deliver to Buyer as soon as reasonably possible after the Contract Date copies of all information relating to the Property in possession of or available to Seller, including but not limited to: title insurance policies, surveys and copies of all presently effective warranties or service contracts related to the Property. Seller authorizes (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; and (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys. If Buyer does not consummate the Closing for any reason other than Seller default, then Buyer shall return to Seller all materials delivered by Seller to Buyer pursuant to this Section 4 (or Section 7, if applicable), if any, and shall, upon Seller's request, provide to Seller copies of (subject to the ownership and copyright interests of the preparer thereof) any and all studies, reports, surveys and other information relating directly to the Property prepared by or at the request of Buyer, its employees and agents, and shall deliver to Seller, upon the release of the Earnest Money, copies of all of the foregoing without any warranty or representation by Buyer as to the contents, accuracy or correctness thereof.

**Section 5. Evidence of Title:** Seller agrees to convey fee simple marketable and insurable title to the Property free and clear of all liens, encumbrances and defects of title other than: (a) zoning ordinances affecting the Property, (b) Leases (if applicable) and (c) matters of record existing at the Contract Date that are not objected to by Buyer prior to the end of the Examination Period ("Permitted Exceptions"); provided that Seller shall be required to satisfy, at or prior to Closing, any encumbrances that may be satisfied by the payment of a fixed sum of money, such as deeds of trust, mortgages or statutory liens. Seller shall not enter into or record any instrument that affects the Property (or any personal property listed on Exhibit A) after the Contract Date without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.

**Section 6. Conditions:** This Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon fulfillment (or waiver by Buyer, whether explicit or implied) of the following conditions:

Buyer Initials MM \_\_\_\_\_ Seller Initials \_\_\_\_\_

(a) **New Loan:** The Buyer must be able to obtain the loan, if any, referenced in Section 1(b)(ii). Buyer must be able to obtain a firm commitment for this loan on or before N/A, effective through the date of Closing. Buyer agrees to use its best efforts to secure such commitment and to advise Seller immediately upon receipt of lender's decision. On or before the above date, Buyer has the right to terminate this Agreement for failure to obtain the loan referenced in Section 1(b)(ii) by delivering to Seller written notice of termination by the above date, *time being of the essence*. If Buyer delivers such notice, this Agreement shall be null and void and Earnest Money shall be refunded to Buyer. If Buyer fails to deliver such notice, then Buyer will be deemed to have waived the loan condition. Notwithstanding the foregoing, after the above date, Seller may request in writing from Buyer a copy of the commitment letter. If Buyer fails to provide Seller a copy of the commitment letter within five (5) days of receipt of Seller's request, then Seller may terminate this Agreement by written notice to Buyer at any time thereafter, provided Seller has not then received a copy of the commitment letter, and Buyer shall receive a return of Earnest Money.

(b) **Qualification for Financing:** If Buyer is to assume any indebtedness in connection with payment of the Purchase Price, Buyer agrees to use its best efforts to qualify for the assumption. Should Buyer fail to qualify, Buyer shall notify Seller in writing immediately upon lender's decision, whereupon this Agreement shall terminate, and Buyer shall receive a return of Earnest Money.

(c) **Title Examination:** After the Contract Date, Buyer shall, at Buyer's expense, cause a title examination to be made of the Property before the end of the Examination Period. In the event that such title examination shall show that Seller's title is not fee simple marketable and insurable, subject only to Permitted Exceptions, then Buyer shall promptly notify Seller in writing of all such title defects and exceptions, in no case later than the end of the Examination Period, and Seller shall have thirty (30) days to cure said noticed defects. If Seller does not cure the defects or objections within thirty (30) days of notice thereof, then Buyer may terminate this Agreement and receive a return of Earnest Money (notwithstanding that the Examination Period may have expired). If Buyer is to purchase title insurance, the insuring company must be licensed to do business in the state in which the Property is located. Title to the Property must be insurable at regular rates, subject only to standard exceptions and Permitted Exceptions.

(d) **Same Condition:** If the Property is not in substantially the same condition at Closing as of the date of the offer, reasonable wear and tear excepted, then the Buyer may (i) terminate this Agreement and receive a return of the Earnest Money or (ii) proceed to Closing whereupon Buyer shall be entitled to receive, in addition to the Property, any of the Seller's insurance proceeds payable on account of the damage or destruction applicable to the Property.

(e) **Inspections:** Buyer, its agents or representatives, at Buyer's expense and at reasonable times during normal business hours, shall have the right to enter upon the Property for the purpose of inspecting, examining, performing soil boring and other testing, conducting timber cruises, and surveying the Property. Buyer shall conduct all such on-site inspections, examinations, soil boring and other testing, timber cruises and surveying of the Property in a good and workmanlike manner, shall repair any damage to the Property caused by Buyer's entry and on-site inspections and shall conduct same in a manner that does not unreasonably interfere with Seller's or any tenant's use and enjoyment of the Property. In that respect, Buyer shall make reasonable efforts to undertake on-site inspections outside of the hours any tenant's business is open to the public and shall give prior notice to any tenants of any entry onto any tenant's portion of the Property for the purpose of conducting inspections. Upon Seller's request, Buyer shall provide to Seller evidence of general liability insurance. Buyer shall also have a right to review and inspect all contracts or other agreements affecting or related directly to the Property and shall be entitled to review such books and records of Seller that relate directly to the operation and maintenance of the Property, provided, however, that Buyer shall not disclose any information regarding this Property (or any tenant therein) unless required by law and the same shall be regarded as confidential, to any person, except to its attorneys, accountants, lenders and other professional advisors, in which case Buyer shall obtain their agreement to maintain such confidentiality. Buyer assumes all responsibility for the acts of itself, its agents or representatives in exercising its rights under this Section 6(e) and agrees to indemnify and hold Seller harmless from any damages resulting therefrom. This indemnification obligation of Buyer shall survive the Closing or earlier termination of this Agreement. Buyer shall, at Buyer's expense, promptly repair any damage to the Property caused by Buyer's entry and on-site inspections. Except as provided in Section 6(c) above, Buyer shall have from the Contract Date through the end of the Examination Period to perform the above inspections, examinations and testing. **IF BUYER CHOOSES NOT TO PURCHASE THE PROPERTY, FOR ANY REASON OR NO REASON, AND PROVIDES WRITTEN NOTICE TO SELLER THEREOF PRIOR TO THE EXPIRATION OF THE EXAMINATION PERIOD, THEN THIS AGREEMENT SHALL TERMINATE, AND BUYER SHALL RECEIVE A RETURN OF THE EARNEST MONEY.**

Section 7. Leases (Check one of the following, as applicable):

If this box is checked, Seller affirmatively represents and warrants that there are no Leases (as hereinafter defined) affecting the Property.

If this box is checked, Seller discloses that there are one or more leases affecting the Property (oral or written, recorded or not - "Leases") and the following provisions are hereby made a part of this Agreement.

Buyer Initials DM Seller Initials \_\_\_\_\_

(a) All Leases shall be itemized on Exhibit B;

(b) Seller shall deliver copies of any Leases to Buyer pursuant to Section 4 as if the Leases were listed therein;

(c) Seller represents and warrants that as of the Contract Date there are no current defaults (or any existing situation which, with the passage of time, or the giving of notice, or both, or at the election of either landlord or tenant could constitute a default) either by Seller, as landlord, or by any tenant under any Lease ("Lease Default"). In the event there is any Lease Default as of the Contract Date, Seller agrees to provide Buyer with a detailed description of the situation in accordance with Section 4. Seller agrees not to commit a Lease Default as Landlord after the Contract Date, and agrees further to notify Buyer immediately in the event a Lease Default arises or is claimed, asserted or threatened to be asserted by either Seller or a tenant under the Lease.

(d) In addition to the conditions provided in Section 6 of this Agreement, this Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon the assignment of Seller's interest in any Lease to Buyer in form and content acceptable to Buyer (with tenant's written consent and acknowledgement, if required under the Lease), and Seller agrees to use its best efforts to effect such assignment. Any assignment required under this Section 7 shall be required to be delivered at Closing by Seller in addition to those deliveries required under Section 11 of this Agreement.

(e) Seller agrees to deliver an assignment of any Lease at Closing, with any security deposits held by Seller under any Leases to be transferred or credited to Buyer at Closing. Seller also agrees to execute and deliver (and work diligently to obtain any tenant signatures necessary for same) any estoppel certificates and subordination, nondisturbance and attornment agreements in such form as Buyer may reasonably request.

**Section 8. Environmental:** Seller represents and warrants that it has no actual knowledge of the presence or disposal, except as in accordance with applicable law, within the buildings or on the Property of hazardous or toxic waste or substances, which are defined as those substances, materials, and wastes, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR Part 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302.4) and amendments thereto, or such substances, materials and wastes, which are or become regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a Hazardous Substance pursuant to Section 311 of the Clean Water Act of 1977 (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act of 1977 (33 U.S.C. §1317), (v) defined as a hazardous waste pursuant to Section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6903) or (vi) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601). Seller has no actual knowledge of any contamination of the Property from such substances as may have been disposed of or stored on neighboring tracts.

**Section 9. Risk of Loss/Damage/Repair:** Until Closing, the risk of loss or damage to the Property, except as otherwise provided herein, shall be borne by Seller. Except as to maintaining the Property in its same condition, Seller shall have no responsibility for the repair of the Property, including any improvements, unless the parties hereto agree in writing.

**Section 10. Earnest Money Disbursement:** In the event that any of the conditions hereto are not satisfied, or in the event of a breach of this Agreement by Seller, then the Earnest Money shall be returned to Buyer, but such return shall not affect any other remedies available to Buyer for such breach. In the event this offer is accepted and Buyer breaches this Agreement, then the Earnest Money shall be forfeited, but such forfeiture shall not affect any other remedies available to Seller for such breach. NOTE: In the event of a dispute between Seller and Buyer over the return or forfeiture of Earnest Money held in escrow by a licensed real estate broker, the broker is required by state law to retain said Earnest Money in its trust or escrow account until it has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction, or alternatively, the party holding the Earnest Money may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of N.C.G.S. §93A-12.

**Section 11. Closing:** At Closing, Seller shall deliver to Buyer a general warranty deed unless otherwise specified on Exhibit B and other documents customarily executed or delivered by a seller in similar transactions, including without limitation, a bill of sale for any personalty listed on Exhibit A, an owner's affidavit, lien waiver forms and a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act), and Buyer shall pay to Seller the Purchase Price. At Closing, the Earnest Money shall be applied as part of the Purchase Price. The Closing shall be held at the office of Buyer's attorney or such other place as the parties hereto may mutually agree. Possession shall be delivered at Closing, unless otherwise agreed herein.

**Section 12. Notices:** Unless otherwise provided herein, all notices and other communications which may be or are required to be

Buyer Initials                      Seller Initials                     

Page 4 of 6

given or made by any party to the other in connection herewith shall be in writing and shall be deemed to be received on the date delivered in person or deposited in the United States mail, registered or certified, return receipt requested; to the addresses set out in Section 1(g) as to Seller and in Section 1(h) as to Buyer, or at such other addresses as specified by written notice delivered in accordance herewith.

**Section 13. Entire Agreement:** This Agreement constitutes the sole and entire agreement among the parties hereto and no modification of this Agreement shall be binding unless in writing and signed by all parties hereto.

**Section 14. Enforceability:** This Agreement shall become a contract when a signed by both Buyer and Seller and such signing is communicated to both parties; it being expressly agreed that the notice described in Section 12 is not required for effective communication for the purposes of this Section 14. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives.

**Section 15. Adverse Information and Compliance with Laws:**

(a) **Seller Knowledge:** Seller has no actual knowledge of (i) condemnation(s) affecting or contemplated with respect to the Property; (ii) actions, suits or proceedings pending or threatened against the Property; (iii) changes contemplated in any applicable laws, ordinances or restrictions affecting the Property; or (iv) governmental special assessments, either pending or confirmed, for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, and no pending or confirmed owners' association special assessments, except as follows:

None

(Insert "None" or the identification of any matters relating to (i) through (iv) above, if any). Seller shall pay all owners' association assessments and all governmental assessments confirmed as of the time of Closing, if any, and Buyer shall take title subject to all pending assessments, if any, unless otherwise agreed as follows:

None

(b) **Compliance:** To Seller's actual knowledge, (i) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to or affecting the Property; (ii) performance of the Agreement will not result in the breach of, constitute any default under or result in the imposition of any lien or encumbrance upon the Property under any agreement or other instrument to which Seller is a party or by which Seller or the Property is bound; and (iii) there are no legal actions, suits or other legal or administrative proceedings pending or threatened against the Property, and Seller is not aware of any facts which might result in any such action, suit or other proceeding.

**Section 16. Survival of Representations and Warranties:** All representations, warranties, covenants and agreements made by the parties hereto shall survive the Closing and delivery of the deed. Seller shall, at or within six (6) months after the Closing, and without further consideration, execute, acknowledge and deliver to Buyer such other documents and instruments, and take such other action as Buyer may reasonably request or as may be necessary to more effectively transfer to Buyer the Property described herein in accordance with this Agreement.

**Section 17. Applicable Law:** This Agreement shall be construed under the laws of the state in which the Property is located. This form has only been approved for use in North Carolina.

**Section 18. Assignment:** This Agreement is freely assignable unless otherwise expressly provided on Exhibit B.

**Section 19. Tax-Deferred Exchange:** In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

**Section 20. Memorandum of Contract:** Upon request by either party, the parties hereto shall execute a memorandum of contract in recordable form setting forth such provisions hereof (other than the Purchase Price and other sums due) as either party may wish to incorporate. Such memorandum of contract shall contain a statement that it automatically terminates and the Property is released from any effect thereby as of a specific date to be stated in the memorandum (which specific date shall be no later than the date of Closing). The cost of recording such memorandum of contract shall be borne by the party requesting execution of same.

Buyer Initials AM Seller Initials \_\_\_\_\_  
Page 5 of 6

Section 21. Authority: Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement and such instruments as may be necessary to effectuate any transaction contemplated by this Agreement on behalf of the party for whom he or she signs and that his or her signature binds such party.

Section 22. Brokers: Except as expressly provided herein, Buyer and Seller agree to indemnify and hold each other harmless from any and all claims of brokers, consultants or real estate agents by, through or under the indemnifying party for fees or commissions arising out of the sale of the Property to Buyer. Buyer and Seller represent and warrant to each other that: (i) except as to the Brokers designated under Section 1(f) of this Agreement, they have not employed nor engaged any brokers, consultants or real estate agents to be involved in this transaction and (ii) that the compensation of the Brokers is established by and shall be governed by separate agreements entered into as amongst the Brokers, the Buyer and/or the Seller.

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

BUYER:

SELLER:

Individual

Individual

\_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Sydonia Kaplan  
Date: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Herbert Kaplan  
Date: \_\_\_\_\_

Business Entity

Business Entity

MBI Development, LLC

By: James G. Melville

\_\_\_\_\_  
(Name of Entity)  
By: \_\_\_\_\_

Name: JAMES G. MELVILLE

Name: \_\_\_\_\_

Title: President

Title: \_\_\_\_\_

Date: April 17 2009

Date: \_\_\_\_\_

The undersigned hereby acknowledges receipt of the Earnest Money set forth herein and agrees to hold said Earnest Money in accordance with the terms hereof.

Northen Blue, LLP

Date: \_\_\_\_\_

By: \_\_\_\_\_

Buyer Initials \_\_\_\_\_ Seller Initials \_\_\_\_\_

Exhibit B

1. Leases. There is currently a lease in effect for the property between Sellers and \_\_\_\_\_ dated \_\_\_\_\_ for term ending \_\_\_\_\_

2. Expiration of Offer. This shall expire 72 hours after its delivery to Sellers' representative.

A handwritten signature in black ink, appearing to be the initials 'J.M.' or similar, located below the second item of the list.

Colleton Crossing AIS – CUP Application  
Proposed additional Conditions by the Developer:

ATTACHMENT B15  
May 13, 2009

25. "That the developer shall phase the project into two (2) infrastructure phases as shown on the submitted Phasing Plan Exhibit and Building Permit schedule. Phase 1 shall include all infrastructure for the project and the platting of 19 market rate lots and 3 affordable lots. Phase 2 shall comprise the platting of the remaining 14 market rate lots and 3 affordable lots. The construction of all of the housing units shall be phased over a 2-1/2 year time period, with the release of a limited number of building permits to be made in six (6) month increments as set forth in the Building Permit schedule.
26. "That in addition to the provisions set forth in condition #21, the developer also provide a paved 5 ft. wide bicycle and pedestrian walkway along this easement to extend east to TallyHo Trail. The 5 ft. wide paved walkway shall be centered on the easement and installed within the 20 ft. wide gravel access route for emergency vehicles."
27. "That the developer shall improve the existing  $\pm$ 210 ft. Reynard Road stub-out west of the Colleton property to Town public street standards up to the intersection with Hound Court. The improvements shall consist of a 27 ft. B-B curb section with 5 ft. sidewalks on both side of the street. A stop sign shall be provided on the west side of the intersection of Hound Court and Reynard Road. Improvements shall be made subject to Construction Plan approval from the Town Manager."



NORTHEN BLUE, L.L.P.  
A LIMITED LIABILITY PARTNERSHIP  
ATTORNEYS AT LAW  
THE EXCHANGE AT MEADOWMONT  
1414 RALEIGH ROAD  
SUITE 435  
CHAPEL HILL, NORTH CAROLINA 27517

ATTACHMENT C1

JOHN A. NORTHEN  
J. WILLIAM BLUE, JR.  
DAVID M. ROOKS  
CHARLES H. THIBAUT  
CAROL J. HOLCOMB  
VICKI L. PARROTT  
EMILY C. WEATHERFORD  
STEPHANIE OSBORNE-RODGERS  
SAMANTHA HYATT CABE

MAILING ADDRESS:  
P. O. BOX 2208  
CHAPEL HILL, NC 27515-2208

TELEPHONE (919) 968-4441  
TELEFAX (919) 942-6603

E-MAIL: [dmr@nbfirm.com](mailto:dmr@nbfirm.com)

February 18, 2009

(Digitally transmitted to [brough@broughlawfirm.com](mailto:brough@broughlawfirm.com))

Mr. Michael Brough  
Town Attorney  
Town of Carrboro  
301 West Main Street  
Carrboro, NC 27510

Re: Colleton Crossing Private Access Easement

Dear Mike:

You asked for our opinion on whether the private access easement recorded at Book 482, Page 439 and shown on the plats recorded at Plat Book 39, Page 154 and Plat Book 41, Page 166 could be used as a private road serving all the property owners in the proposed Colleton Crossing development. I will assume your question goes to whether the proposed use by up to 39 lot owners is within the scope of the grant of easement. I believe that it is.

The scope of a grant of easement is controlled by the terms of the instrument if the grant is precise on the point. Absent a clear expression of the scope in the grant, courts "will interpret the scope and extent of the easement so as to effect a rational purpose and to effectuate the intention of the parties." WEBSTER'S REAL ESTATE LAW IN NORTH CAROLINA, 5<sup>th</sup> Edition, § 15-22 at 736 (Hetrick and McLaughlin ed., 1998). Among the factors the courts consider are the purpose for which the grant was made, the subject matter of the grant and the situation of the parties, and the courts tend to have an "elastic view" of what purposes were in the contemplation of the parties at the time of the grant. *Id.*

It is clear from the instrument in this case that the parties to the grant anticipated the easement would be used for vehicular access so the question becomes whether the parties anticipated the potential development of the Colleton tract which would increase its use from more than one owner. The history of the Colleton tract and the surrounding tracts is pertinent on this point. The Colleton tract was a single 31.51 acre tract at the time the easement was granted. The Colleton tract and the tracts immediately to the east and north were created in a partition of the Walker family land in 1961. The partition map shows an undefined roadway running across the tract to the east to the eastern line of the Colleton tract but nothing appears to have been done

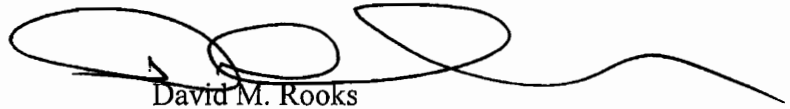
in the partition action to give the owner of the Colleton tract recorded access to a public right of way. This meant that a purchaser of the surrounding tracts that had been created in the Walker family partition action would take title to the tracts subject to the as yet unasserted claim of the owner of the Colleton tract for a way of necessity or an implied easement connecting the tract to a public road.

One assumes First Tallyhoe Corporation, which developed part of Fox Meadow subdivision, recognized this potential problem when it began acquiring tracts around the Colleton tract for its development and arranged for the grant of easement from the then owner of the tract immediately to the east of the Colleton tract in order to cut off any potential future claims for access by the owner of the Colleton tract. Given the facts that First Tallyhoe was in the business of creating lots at on surrounding property at the time it procured the easement and the width of the easement which is far more than would be required for a driveway, it is fair to say that a court would more likely than not find that the possible subsequent subdivision of the Colleton tract was in the contemplation of the parties at the time the easement was created.

Please call me if you have any questions.

Sincerely,

Northern Blue, LLP

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

David M. Rooks

DMR/

dc: Jeff Kleaveland  
Marty Roupe  
Tim Smith  
Jim Melville

**NORTHEN BLUE, L.L.P.**  
A LIMITED LIABILITY PARTNERSHIP  
ATTORNEYS AT LAW  
THE EXCHANGE AT MEADOWMONT  
1414 RALEIGH ROAD  
SUITE 435  
CHAPEL HILL, NORTH CAROLINA 27517

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April 11, 2007

Town Of Carrboro  
Planning Department

Re: Conditional Use Permit Application Presented By MBI Development Company, LLC  
For Colleton Crossing (31.606 acres, Tract No. 2, Plat Book 10, Page 6).

Dear Sir or Madam,

Our firm represents the applicant, MBI, with regard to the above-referenced application. We recently received a request from our clients' engineer, Philip Post, to provide the Town with an opinion concerning the existence of an easement to the property for the purpose of providing access and utilities to the subject property. To that end, we performed a title examination of the public records in Hillsborough, Orange County, NC.

A title examination of the subject property revealed the existence of a 50' easement from a public right of way (Tallyho Trail) to the subject property. The subject easement is shown in Plat Book 39, Page 154 and Plat Book 41, Page 166. Plat Book 39, Page 154 shows the easement as an apparent extension of Tallyho Trail (public). Plat Book 41, Page 166, identifies the easement as a "Pre-existing Access Easement". In addition, in the description of the size of the two lots upon which the easement is located (Lots 10 and 11, Section Two, Fox Meadow), it is stated that the lots contain "1.28 Ac. Excluding road RW" and "1.33 Ac. Exc. Road RW" (emphasis added). The easement is further described in Deed Book 482, Page 439.

Based on the results of my title examination of the public records and a review of Beechridge Development Company, LLC v. Laurence E. Dahners, et al, 350 N.C. 583, 516 S.E. 2d 592, it is my opinion that a court of law should support the finding that the easement in question can be used for a public waterline easement, a public emergency access easement and a private construction access easement.

Please let me know if you have any questions or comments concerning this opinion letter. I look forward to hearing from you soon.

Sincerely,  
Northern Blue, LLP

  
Charles H. Thibaut

NORTHEN BLUE, L.L.P.  
A LIMITED LIABILITY PARTNERSHIP  
ATTORNEYS AT LAW  
THE EXCHANGE AT MEADOWMONT  
1414 RALEIGH ROAD  
SUITE 435  
CHAPEL HILL, NORTH CAROLINA 27517

JOHN A. NORTHEN  
J. WILLIAM BLUE, JR.  
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TELEPHONE (919) 966-4441  
TELEFAX (919) 942-6603

E-MAIL: [dmr@nbfirm.com](mailto:dmr@nbfirm.com)

December 23, 2008

Jeff Kleaveland  
Carrboro Planning Department  
301 West Main Street  
Carrboro, NC 27510

Re: Colleton Crossing

Dear Jeff:

Jim Melville tells me he has been asked about the possibility of acquiring a lot in Fox Meadow subdivision on the eastern side of his property which he could use for road access to Colleton Crossing from Tallyho Trail. I do not think this would be possible without the approval of all the lot owners in Fox Meadow Run Subdivision.

The developer of Fox Meadow imposed restrictive covenants on each phase of the development by instruments recorded at Book 482, Page 435, Book 517, Page 541, Book 529, Page 335, Book 569, Page 389, Book 730, Page 547, Book 730, Page 553, and Book 760, Page 272, Orange County Registry. The covenants for each phase are identical to those of the previous phases and each them includes a provision that the property in the subdivision may not "in any way be used for other than strictly residential or agricultural purposes." The restrictions do not permit amendment by a majority or supermajority vote as one sometimes sees.

The North Carolina Supreme Court dealt with a similar fact situation in *Long et al v. Branham*, 271 NC 264, 156 S.E. 2d 235 (1967) where it held that covenants restricting a development to residential use preclude the use of a lot in the subdivision as a roadway to lots outside the development. I believe the logic the Court applied in *Long* would control in this case such that any lot owner in Fox Meadow could prevent the use of lot as a public road by suing to enforce the covenants.

This is different from the private access and utility easement the developers of Fox Meadow granted to a prior owner of a part of what is now proposed as Colleton Crossing because that easement was recorded prior to the restrictive covenants and as a result, takes precedence over the covenants.

NORTHERN BLUE, L.L.P.

I have enclosed a copy of the restrictive covenants and *Long v Branham* for your information.

Please call me if you have any questions.

Sincerely,

Northern Blue, LLP

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

David M. Rooks

DMR/ccn  
Enclosures

BEEMER, HADLER & WILLETT, P.A.  
ATTORNEYS AT LAW  
SUITE 800-B, FRANKLIN SQUARE  
1829 EAST FRANKLIN STREET  
CHAPEL HILL, NORTH CAROLINA 27514  
TELEPHONE (919) 929-0391  
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WAYNE R. HADLER  
CHRISTOPHER M. WILLETT

MAILING ADDRESS:  
P. O. DRAWER 3150  
CHAPEL HILL, NC 27515

CHARLES G. BEEMER  
RETIRED  
REX T. SAVERY, JR.  
RETIRED

February 24, 2009

Michael Brough  
Town Attorney  
Town of Carrboro  
301 W. Main Street  
Carrboro, NC 27510

Re: Conditional Use Permit Presented by MBI Development Company LLC for  
Colleton Crossing (31.606 acres, Tract No. 2, Plat Book 10, Page 6)

Dear Mr. Brough:

Our office provides legal representation to Sydonia Kaplan and Herbert Kaplan, owners of Lot 10, Section 2, Fox Meadow. MBI Development Company, LLC ("MBI") submitted a conditional use permit application that has relied upon the existence of a 50 foot public easement that traverses my clients' property for the benefit of Colleton Crossing. We understand that MBI has now proposed to construct a paved road and use this easement, which is recorded at Deed Book 482, Page 439 Orange County Registry, as a primary entrance into the Colleton Crossing.

I am in receipt of Mr. Thibaut's April 11, 2007 and Mr. Rooks' February 18, 2009 letters in support of MBI's conditional use permit application. Specifically, Mr. Thibaut opined that "a court of law should support the finding that the easement in question can be used for a public waterline easement, a public emergency access easement, and a private construction access easement." Mr. Rooks' letter provided that "a court would more likely than not to find that the possible subsequent subdivision of the Colleton tract was in the contemplation of the parties at the time that the easement was created" and that the easement could be used as a private road serving the 39 lot owners of Colleton Crossing.

As an initial aside, my clients were very disappointed that they have not received any communication from MBI about its new intended uses for this easement. The last conversation that my clients had with MBI was in 2006 and it solely concerned the use of the easement in question for utilities, as expressly provided for in the easement document.

Based upon our office's review of the relevant public records and caselaw, we do not believe that the easement in question can properly be used for a private construction access easement, a public emergency access easement, or as a primary access road into the Colleton tract. By its

terms, the easement was only granted for "ingress, egress, and for construction and maintenance of utilities on both sides of" the 50 foot line further described at Plat Book 39, Page 154. It is well established that a grantee may not increase the servitude of an easement by making greater use of the land than is contemplated in the easement document. See Webster's Real Estate Law in North Carolina § 15-21, 4<sup>th</sup> Edition (1994). First, the easement makes no reference to or mention of private construction or emergency access. When the language in an easement is clear and unambiguous, as with the attached document, courts may not insert additional uses the parties chose to omit. See *Weyerhauser Co. v. Carolina Power & Light Co.*, 257 NC 717 (1962). Second, even if the easement is ambiguous as to these uses on its face, a "grant of an easement in general terms is limited to a use which is reasonably necessary and convenient and *as little burdensome to the servient estate as possible for the use contemplated.*" See *Shingleton v. State*, 260 N.C. 451 (1963) (emphasis added). Although it is possible that some subdivision of the dominant tract was reasonably contemplated at the time of the granting of the easement, it is far from established that the intended scope of the easement accords with MBI's proposed uses. At the time of the granting of this easement, the Colleton tract consisted of only 1 dominant lot which was owned by First Tallyho Corporation, MBI's predecessor in interest. Under MBI's proposal, there will be 39 dominant lots to be served by the proposed emergency access easement, private construction access easement, and public access easement across my clients' property. MBI's proposed development includes lots that vary in approximate size between .10 and .35 acres. Conversely, my clients' lot is and has been at all times relevant to this matter, approximately 1.56 acres including the .23 acre easement. The adjacent lots to my clients' property are approximately 1.84 acres and 1.09 acres, respectively. MBI's proposed development is drastically denser than the surrounding development at the time of the granting of the easement and now.

In summary, MBI's proposed uses are outside the scope of the granting language in the easement and would be extremely burdensome to my clients. Thusly we believe that such uses would in all likelihood be prohibited, if my clients are forced to pursue a legal action for a declaratory judgment in this matter.

Please let me know if you have any questions about this matter or if I can be of assistance in any way.

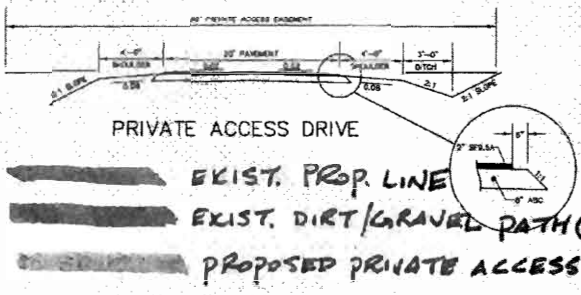
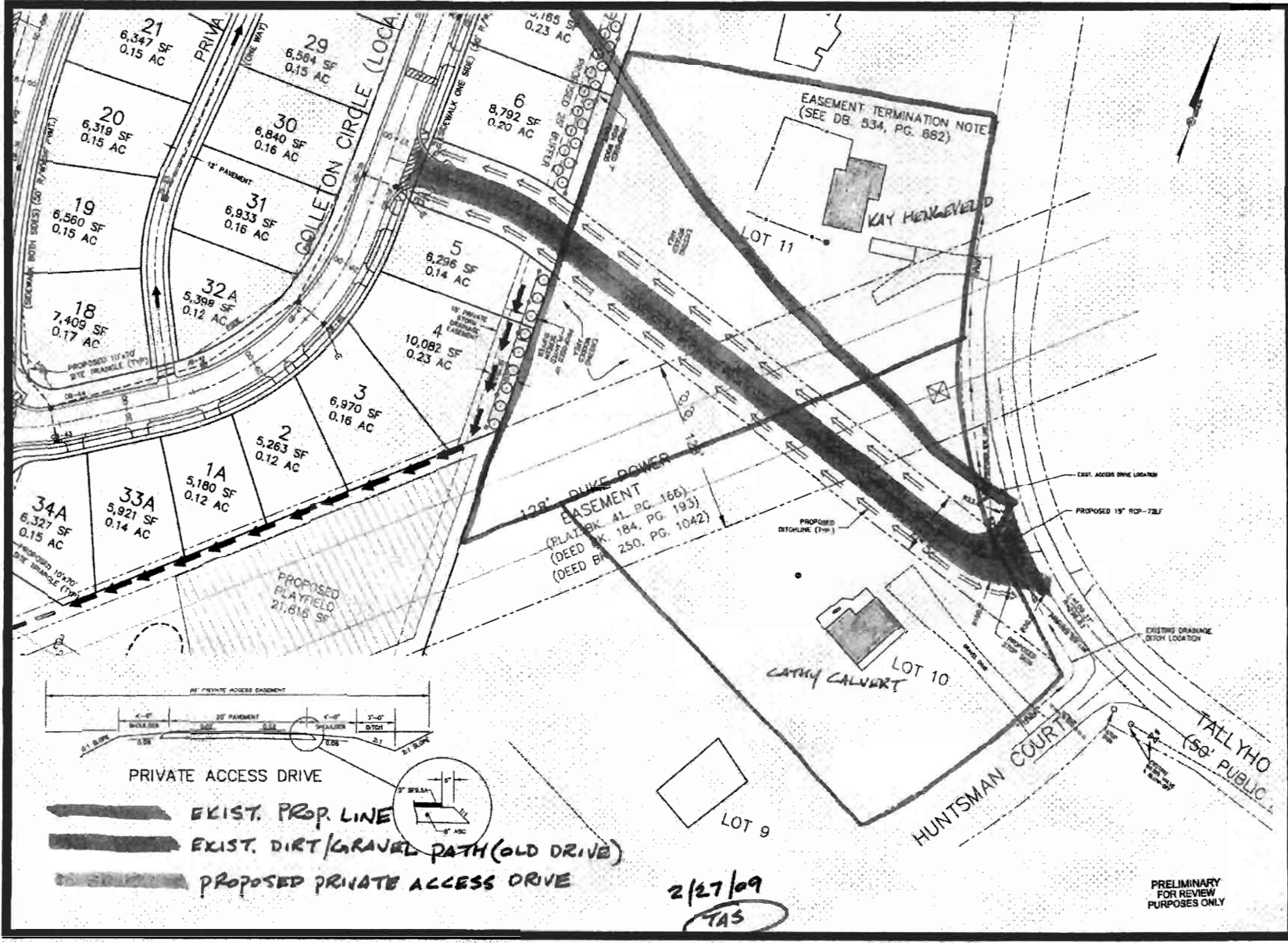
Respectfully yours,



Chris Willett

CC: Sydonia Kaplan & Herbert Kaplan  
Charles H. Thibaut & David M. Rooks, Northen Blue, LLP

ENCL



**PRIVATE ACCESS DRIVE**  
**EXIST. PROP. LINE**  
**EXIST. DIRT/GRAVEL PATH (OLD DRIVE)**  
**PROPOSED PRIVATE ACCESS DRIVE**

2/27/09  
TAS

PRELIMINARY FOR REVIEW PURPOSES ONLY

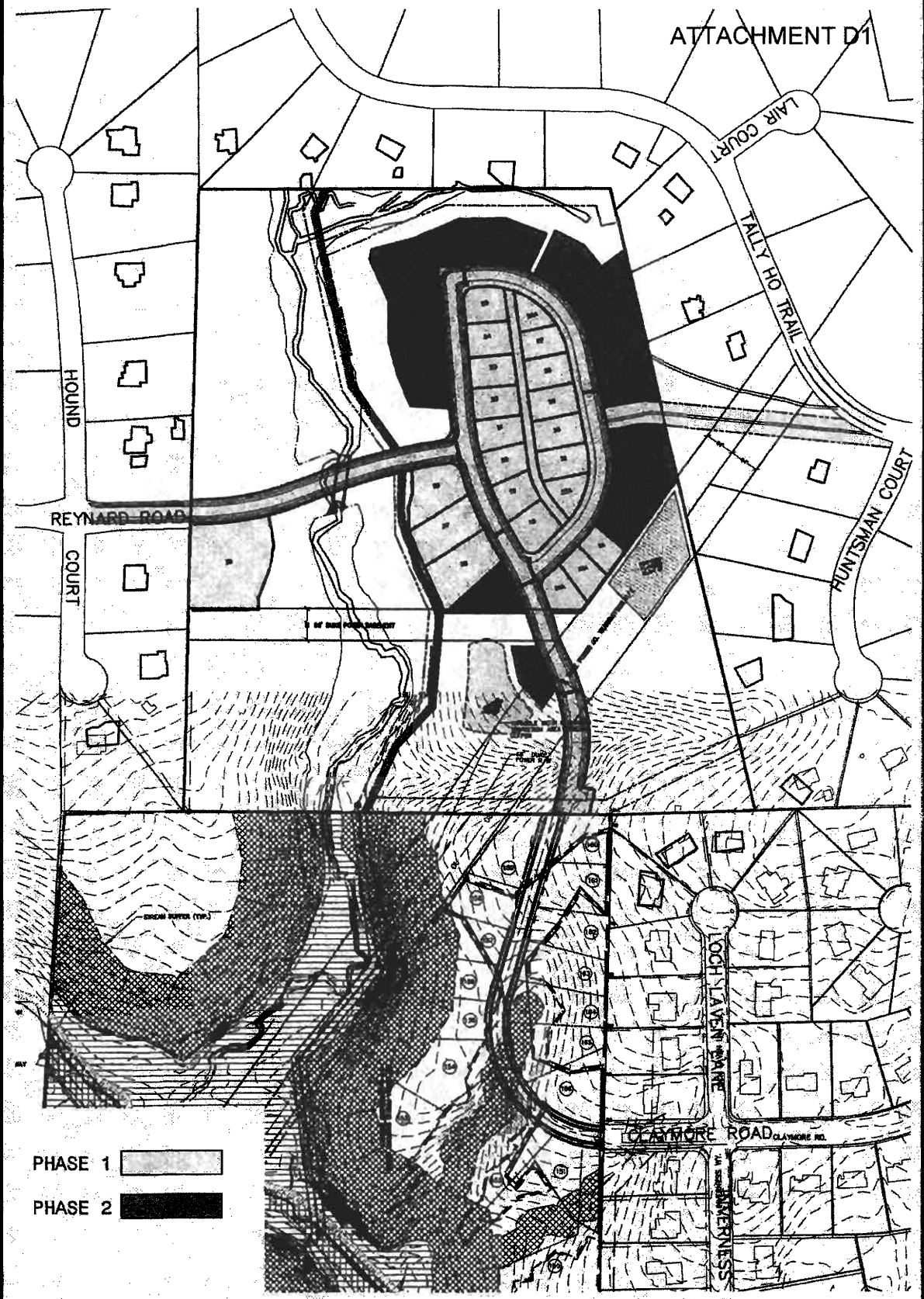
**PHILIP POST & ASSOCIATES**  
 4410 Parkway Dr., Ste. 200  
 Orange, VA 22953  
 (540) 220-1234  
 FAX: (540) 220-1235  
 www.philippost.com

**SKETCH PLAN**  
 COLLETON CROSSING  
 PROPOSED PRIVATE ACCESS DRIVE  
 TOWN OF GARDNER, ORANGE COUNTY, VA

PRELIMINARY FOR REVIEW PURPOSES ONLY

SHEET NO. 1  
 TOTAL SHEETS: 1





PHASE 1   
 PHASE 2

SHEET 1 OF 1	REVISIONS
DATE 5/6/09	
SCALE 1"=200'	
PROJECT NO. 510301	
DRAWING NO. 8801SK01	

**COLLETON CROSSING**

**PROPOSED PHASING PLAN**

TOWN OF CARRBORO      ORANGE COUNTY, NC

**PHILIP POST & ASSOCIATES**

ENGINEERS  
PLANNERS  
SURVEYORS

401 Providence Rd. #200  
Chapel Hill, NC 27514  
(919)928-1173  
493-2800 • 650-8862

Greensboro, NC  
(336)273-7711

## COLLETON CROSSING AIS PROPOSED PHASING PLAN ~ 39 LOTS

### LOTS/INFRASTRUCTURE PHASING\*

	<u>Market Lot</u>	<u>Affordable Lot</u>	<u>Total</u>
Phase 1	19	3	22
Phase 2	14	3	17

\*SEE ATTACHED EXHIBIT FOR PHASE LIMITS.

### BUILDING PERMIT PHASING\*

	<u>Market Unit</u>	<u>Affordable Unit</u>	<u>Total</u>
Year 1-A	15	2	17
Year 1-B	4	1	5
Year 1 Total:			22
Year 2-A	5	1	6
Year 2-B	5	1	6
Year 2 Total:			12
Year 3-A	4	1	5
Year 3 Total:			5

\*BUILDING PERMIT PHASING IS BASED ON 6 MONTH TIME INCREMENTS OVER A 2.5 YEAR TIME PERIOD.

ATTACHMENT D3

N. HOUND CT.

LOT 90

PROPOSED STOP SIGN

PROPOSED 5' WIDE PUBLIC SIDEWALK

PROPOSED 10'x70' SITE TRIANGLES

(50' PUBLIC R/W)  
REYNARD ROAD

PROPT ENT'S

SOUTH HOUND COURT  
(50' PUBLIC R/W)

PROPOSED 27' WIDE CURB & GUTTER STREET

PROPOSED 5' WIDE PUBLIC SIDEWALK

PROPOSED ENTRY SIGN

20' SETBACK

BUFFER

LOT 91

PRELIMINARY FOR REVIEW PURPOSES ONLY

## STAFF REPORT

TO: Board of Aldermen

DATE: November 6<sup>th</sup>, 2008

PROJECT: Colleton Crossing AIS

APPLICANT  
And OWNERS: MBI Development, LLC  
Chapel Hill, NC

PURPOSE: To acquire a Conditional Use Permit allowing a major subdivision of the property located at 8400 & 8420 Reynard Road.

EXISTING ZONING: Rural Residential (RR)

TAX MAP NUMBERS: 7.23.C..28 & 28A

LOCATION: 8400 & 8420 Reynard Road.

TRACT SIZE: 31.6 acres (combined).

EXISTING LAND USE: Vacant

PROPOSED LAND USE: 26.100, Major subdivision consisting of the following uses:  
1.111, single family detached

SURROUNDING  
LAND USES: North: RR , single-family residential.  
South: R-20, vacant.  
West: RR, single-family residential.  
East: RR, single-family residential.

ZONING HISTORY: RR since 1988

## ANALYSIS

### **Background, Concept Plan Development**

#### Background

MBI Development, LLC as represented Phil Post and Associates, has submitted an application for the construction of a 39 dwelling unit subdivision located at 8400 & 8420 Reynard Road (Attachment C). The Conditional Use Permit, if approved, would allow the creation of 39 single-family-detached lots with associated infrastructure, including publicly dedicated streets. The subject properties are zoned Rural Residential (RR). It contains 31.6 acres and is listed on the Orange County Tax Map as numbers 7.23.C..28 & 28A. For a vicinity map, see the cover sheet of Attachment A.

The existing condition of the site is vacant with stands of mixed woods. An unnamed tributary to Bolin Creek crosses the property from north to south within an associated Town of Carrboro regulatory stream buffer. There are no FEMA floodplains on site. A Duke Power transmission line forks on the southern end of the property within easements.

#### Concept Plan Development

Before formal plans were submitted, the applicant prepared a concept plan as required by Section 15-50 of the LUO. The conceptual design ordinance requires the designer to consider primary, secondary constraints, site context, and several other parameters prior to locating structures or lots. The resultant design presented herein is much informed by this process.

### **Density, Affordable Housing, Size-restricted Units**

#### Density, Affordable Housing

The overall permissible density on the site is calculated using the adjusted gross density provisions of Section 15-182.3 Of the LUO. This method reduces the amount of total density permitted based upon the amount of certain site features such as steep slopes, rock formations, and utility easements. For Colleton Crossing AIS, this adjustment reduced the *gross area* by about four acres, yielding an allowable base density of 27 units.

Using the Residential Density Bonus provisions of Section 15-182.4, the applicant is permitted to build up to 150 % of the base density for the zoning district. Utilizing this provision, the maximum permissible density allowed is 41 units. The applicant is using this provision for a proposed density of 39 units, 6 of which are *affordable*. Because of this, 15.4% of the project's housing stock is *affordable* as defined in the LUO. In total, the development's land density is about .8 acres per unit.

Section 15-182.4 requires that the applicant provide assurance that these units will remain affordable, for this reason we require the applicant to identify and define the terms by which this agreement will be honored. To meet the requirements of the LUO a condition must be placed on the permit specifying that the *continued* affordability of the units (located on lots 1, 26, 32, 33, 34, & 35) must be specified in the Homeowner's

Association documents. These documents must be approved by the Town Attorney prior to construction plan approval. Because of this the following condition is recommended:

- The continued affordability of the units (located on lots 1, 26, 32, 33, 34, & 35) must be ensured through working directly with Orange Community Housing & Land Trust, in accordance with LUO Section 15-182.4.

Because the applicant is seeking six bonus units a condition must be placed on the permit stating that a 'certificate of occupancy' may not be issued until such time as a corresponding affordable unit (located on lots 1, 26, 32, 33, 34, & 35) is constructed and offered for sale or rent for an amount consistent with the language found in Section 15-182.4 of the Town of Carrboro Land Use Ordinance as represented by the following condition:

- Certificates of Occupancy for each of the six (6) bonus 'market-rate' units may not be issued until such time as a corresponding affordable unit (located on lots 1, 26, 32, 33, 34, & 35) is constructed and offered for sale or rent for an amount consistent with the language found in Section 15-182.4 of the Town of Carrboro Land Use Ordinance. The six bonus units are to be identified on the plans prior to construction plan approval and shall be identified on the final plat.

The applicant has met with Orange Community Housing and Land Trust (OCHLT) to discuss provisions for ensuring the long-term affordability (99 years) of these units and reached an agreement (Attachment D). OCHLT is seeking subsidy money to support an affordable price for the six units. In the event that this subsidy money is not secured and/or OCHLT is unable to market the units at the price authorized by the LUO, the developer will assume responsibility for assuring long term affordability of the units.

Town staff realizes that the lot designations for affordable units are subject to change. In such an instance, the applicant will need to submit the proposed changes to the Zoning Division for review. Should the changes be insignificant and, should the lot designations maintain compliance with the ordinance, staff will authorize such changes via an *insignificant deviation*.

#### Size-Restricted Units

Per Section 15-188(j) a residential development that provides at least 85% of the maximum number of affordable units available under 15-182.4 is not subject to the size restriction requirements of 15-188. Colleton Crossing meets this threshold (6 affordable units out of 7 possible) and is exempt from providing size-restricted units.

**CONCLUSION** – The project meets all the requirements of the Land Use Ordinance pertaining to density, affordable housing density bonus and size-restricted units, subject to the conditions mentioned above.

### **Connectivity, Streets, Traffic Calming**

#### **Connectivity**

In guiding Carrboro's growth, Town policy and ordinance supports the development of an interconnected matrix of public streets. Section 15-214 & 15-217 of the Land Use Ordinance (LUO) requires new subdivisions to tie into anticipated streets outside the development, thereby providing "connectivity" to the Town's public road system.

To this end, the Colleton Crossing AIS is extending Reynard road from the west; approximately 600 feet east to where it will tee with the proposed Middleton Drive. Middleton Drive stubs out to the southern property line. Please refer to the plans to assess the remaining public streets proposed (Attachment A).

#### **Streets**

All proposed streets, except for Colleton Circle, are built according to the public street standards of Article XIV of the LUO. Colleton Circle is built to the *Subcollector* standard where only a *Local* standard is required. In order to mitigate the possible higher traffic speeds this could create, they've included mid-block, a traffic calming device (speed table). The engineer wishes to do this for reasons involving the subsurface stormwater and utility alignments. The LUO does not prohibit this. The applicant will offer the streets for public dedication.

An alley serves the back of lots 18-32 and will remain private.

#### **Traffic Calming**

Two raised traffic calming speed tables are proposed; one on Colleton Circle and the other on the north end of Middleton Drive. An alternative to a speed table is a mid-block curb extension (also known as a "choker") which narrows the travel way for a short distance to accomplish the same purpose of slowing traffic. Staff would like the applicant to consider a choker for Middleton Drive and recommends the following condition.

- That, prior to construction plan approval, the applicant work with the Town Transportation planner to consider a traffic calming alternative to the speed table proposed for Middleton Drive, including but not limited to a mid-block curb extension (also known as a "choker").

Traffic calming on NCDOT roads (i.e. Reynard and Tallyho Trail) is currently not allowed.

CONCLUSION – The project meets all the requirements of the Land Use Ordinance pertaining to connectivity, streets, and traffic calming.

### **Traffic Analysis, Pedestrian/Bicycle Facilities, Transit, Parking**

#### **Traffic Analysis**

A transportation impact statement was prepared by the applicant (Attachment E). By this, the proposed 39 lots are expected to generate 390 trips per day. Until further connectivity improvements are made with surrounding properties, these trips will be directed to Rogers

Road via Reynard Road and Tally Ho Drive. These existing two-lane roads were built to NCDOT's rural subdivision standard and in general can carry around 1,900 cars per lane, per hour. This is equivalent to about 19,000 vehicles per day. Capacity is further refined by the number and placement of intersections, driveway cuts, and signals. The NCDOT subdivision manual does not look at volumes or trips generated when classifying subdivision roads. NCDOT roads within the Town's jurisdiction will be accepted as Town streets should NCDOT bringing them up to Town standards.

Because a driveway permit is required for the connection to Reynard Road the following condition is recommended:

- That prior to construction plan approval, the applicant receive a driveway permit from NCDOT.

#### Pedestrian/Bicycle Facilities

All of the Colleton Crossing streets, except for Colleton Circle, have 5' wide sidewalks on both sides of the street. Sidewalks stub out to property lines for future continuation. Accessibility ramps and striped crosswalks are provided at all street crossings.

Note that the plans set have a minor outstanding comment regarding the sidewalk detail that is addressed by the following condition.

- That, prior to Construction Plan approval, the sidewalk detail on the detail sheet is labeled and specifies that sidewalk thickness shall increase to a minimum of 6" thick where all driveways cross the sidewalk.

The proposed public greenway alignment, required per Section 15-196, traverses the property, roughly south to north, following the OWASA easement, with a turn near lot 36 terminating the greenway at Middleton Drive. Town staff has determined that this alignment is undesirable and recommends that the greenway trail be realigned to go behind lots 36-38 and tee into Reynard Road. In order to do this, the trail will have to ramp relatively steeply for a short section to meet the road grade. Because of this the following condition is recommended:

- That, prior to construction plan approval, the proposed greenway alignment from the southern property line be realigned to follow the OWASA easement behind lots 36 -38 so as to tee in to Reynard Road.

This location of the trail is roughly consistent with the alignment shown on the Town's Parks and Recreation Master Plan.

To the north of Reynard Road, the applicant does not wish to construct a greenway because the private lots along the northern property line does not allow for the greenway's continuation. In lieu of this they are providing a greenway easement which will allow for this extension if feasible in the future.



The Town's Greenway Master Plan identifies this segment of greenway to be constructed to a "Type III" standard which is a greenway section 8' wide (minimum) surfaced with crushed stone or pit gravel. It is recommended that it not exceed 3% in slope. Since the proposed alignment features a steep segment in excess of 3% and since an unpaved greenway does not function well for bikes with narrow tires, staff recommends a "Type IV" trail standard be required per the following recommendation.

- That, in the construction plans the greenway trails be designed to meet or exceed the specifications identified in the AASHTO Guide for the Development of Bicycle Facilities, and that the proposed greenway be constructed to the Type IV AASHTO standard.

In addition to the greenway trail, a hiking trail system provides ample pedestrian linkage from the residential areas to the open space and greenway.

#### Transit

Chapel Hill Transit has been notified of the proposed subdivision. Service to this area in the near future is not anticipated.

#### Parking

Per section 15-291 of the LUO, single family units must provide parking on their respective lots sufficient to accommodate two cars. The applicant has placed a note to this effect on the plans; however, staff still recommends the following condition:

- That the single family home lots, when developed have sufficient room to conveniently park two cars on a paved driveway, off of the street, without blocking the sidewalk. Garages may not be counted toward this requirement. This parking will be shown on individual plot plans during the building permit stage.

CONCLUSION – The project meets all the requirements of the Land Use Ordinance pertaining to connectivity traffic analysis, pedestrian/bicycle facilities, transit, and parking, subject to the conditions mentioned above.

### **Tree Protection, Street Trees, Landscape Plans, Screening and Shading**

#### Tree Protection

Large trees as defined by the LUO have a diameter of 18 inches or greater and are to be retained whenever possible (15-316). Since the site is mainly wooded, the layout requires removal of 41 trees of this minimum size or greater. Tree protection fencing has been provided at the clearing limits and for those trees specifically retained. Note that trees retained on private lots are subject to removal during home construction. As required, the applicant has provided the attached tree removal justification letter (Attachment F).

#### Street Trees

Section 15-315 of the LUO provides guidelines for the planting and retention of trees adjacent-to and within street R/W's where an offer of dedication has been made to the Town. All of Colleton Crossing's 79 proposed street trees are located outside the public

R/W and exceed the provisions of Section 15-315 (which requires street trees be spaced an interval of at least one tree per 100 feet). However, the street trees are not *irregularly* spaced as required by this ordinance. Additionally, the landscape plan satisfies the Town policy requiring 1/3<sup>rd</sup> of all trees be evergreen. Because of this the following condition is recommended:

- That, prior to construction plan approval the proposed street tree planting layout be revised to meet the spacing requirements of Section 15-315 of the LUO and that 1/3<sup>rd</sup> of the proposed street trees be evergreen.

None of the proposed trees are listed as Invasive Plant Species (Appendix E-17).

Because existing trees may be preserved during the construction process staff recommends that the proposed layout be considered only as a possible scheme and that the street tree requirement be revised as needed so that it may be field adjusted as conditions warrant. For these reasons, the following condition is recommended:

- That flexibility be allowed in the execution of the street tree planting plan (subject to the approval of public works and the planning department), such that the combination of existing and proposed trees along all publicly dedicated streets in Colleton Crossing meet the street tree requirements of Section 15-315 of the Land Use Ordinance.

Also, the Colleton Crossing AIS features eight bioretention cells and one water quality pond. Each is planted with wetland plants appropriate to the application. Bioretention plantings need to be able to withstand periods of drought while the water quality ponds feature plants that can withstand prolonged inundation. These plantings are further reviewed by the Town Engineer during construction plan review.

#### Screening

This project requires Type C screens adjacent to public right-of-ways. A Type C screen is composed of intermittent visual obstructions from the ground to a height of at least twenty feet). The applicant has satisfied this screening requirement. Though not required, along the eastern property line adjacent to lots 4 -8, the plans show a 10' "preserved vegetative buffer" to help mitigate some of the visual impact of the project for the adjacent land owners. Currently there are no specifications for the planting of this buffer other than the existing vegetation is to be "undisturbed". Because of this the following condition is recommended:

- That an undisturbed vegetative buffer of existing (or enhanced) native plantings, ten feet in width, be maintained along the eastern (rear) property line of lots 4 through 8. This buffer shall be disclosed on the final plat and referenced in the Homeowner Association documents. A landowner may remove existing vegetation in the buffer if it is: a) a noxious weed, b) sick or c) presents a significant hazard. If other vegetation is removed that does not fit these categories, replacement is required with new native plantings equivalent to a Type B screen.

CONCLUSION – The project meets all the requirements of the Land Use Ordinance pertaining to tree protection, street trees, landscaping, screening, and shading subject to the aforementioned condition.

### **Drainage, Water Quality, Grading, Erosion Control and Phasing**

#### **Drainage**

Section 15-263 of the LUO establishes stormwater management criteria that must be met for any project requiring a CUP. In particular the applicant must meet stormwater runoff standards with respect to water quality and quantity and must demonstrate that the project will not cause upstream or downstream damages to other properties. To address these requirements, the applicant has conducted a drainage study and submitted the required “Truth in Drainage” statement (Attachment G). This statement discloses to the Board of Aldermen the potential stormwater impacts of the project.

The Town Engineer (Sungate Design Group) has reviewed these materials and is satisfied with the majority of the work therein. An outstanding issue, however, pertains to the precise mapping the 100 year flood plain and the precise sizing of the box culverts that will be used to bridge the creek. Both can be determined only by a flood study which involves a computer modeling exercise using the Army Corp of Engineers HEC-RAS software. Because of this staff recommends the following conditions:

- That, prior to Construction Plan approval, a HEC-RAS flood study shall be provided to analyze the 100 year flood with backwater analysis for both the existing and proposed conditions;
- That, prior to Construction Plan approval, the proposed box culvert design shall be sized to provide for a “no-rise” condition for the 100 year backwater (at the property line of the project), as compared to the preconstruction conditions shown in the results of the HEC-RAS flood study.
- That, prior to Construction Plan approval, all design and details of the proposed box culvert shall meet the requirements of the Carrboro Land Use Ordinance and the associated Storm Drainage Design Manual and be approved by the Town of Carrboro’s Engineering Consultant, Sungate Design Group. Any substantial design changes will require the approval of the Board of Aldermen (with possible public hearing) per the provisions of 15-64 of the LUO.

Because the crossings of drainages stand to impact “Waters of the United States” and jurisdictional wetlands, though there are no Army Corp wetlands mapped on the site, state and federal permits are required. Because of this the following condition is recommended:

- That all state and federal 401 and 404 permits be obtained prior to construction plan approval if necessary.

### Water Quality

Excess stormwater generated by the new impervious surfaces (roads, sidewalks, roofs, etc) is to be collected by a configuration of conveyances (i.e catch basins, swales, etc.). These direct water into bioretention cells and a water quality pond each designed to remove 85% of Total Suspended Solids from the first inch of a storm event. Please note that the bioretention areas are *not* designed to hold water for an extended period as compared to the pond, which is designed to *detain* water.

In addition, relative to the Town satisfying state requirements pertaining to the National Pollutant Discharge Elimination System (NPDES) Phase II permit, the following conditions are required on the permit:

- That the applicant shall provide to the Zoning Division, prior to the recordation of the final plat for the project or before the release of a bond if some features are not yet in place at the time of the recording of the final plat, Mylar and digital as-builts for the stormwater features of the project. Digital as-builts shall be in DXF format and shall include a base map of the whole project and all separate plan sheets. As-built DXF files shall include all layers or tables containing storm drainage features. Storm drainage features will be clearly delineated in a data table. The data will be tied to horizontal controls.
- That the developer shall include detailed stormwater system maintenance plan, specifying responsible entity and schedule. The plan shall include scheduled maintenance activities for each unit in the development, (including cisterns, bioretention areas, swales, check dams, and irrigation pond), performance evaluation protocol, and frequency of self-reporting requirements (including a proposed self-reporting form) on maintenance and performance. The plan and supporting documentation shall be submitted to Town engineer and Environmental Planner for approval prior to construction plan approval. Upon approval, the plans shall be included in the homeowners' association documentation.

Note that the plans set have a minor outstanding comment associated with the NPDES program that is addressed by the following condition.

- That, prior to Construction Plan approval, the applicant provide on the plans details and notes for the Town's required casting for curb inlet hoods and manhole covers. This is the "fish" logo combined with the "Dump No Waste – Drains to Jordan Lake" slogan.

### Grading

Installation of the Colleton Crossing AIS road and stormwater systems requires a substantial amount of clearing and grading. Section 15-261 of the LUO, requires that to the extent practicable, all developments shall conform to the natural contours of the land and major, natural drainage ways shall remain undisturbed. The project appears generally to satisfy these criteria.

Stream Buffers

Per the LUO and the adopted “Stream Buffers of the Northern Transition Area” map, three Protective Stream Buffers are located on the Colleton Crossing site. One, a slope based buffer, protects the Bolin Creek tributary and the other two, sixty foot (total width) buffers, protect its tributaries. The slope buffer uses a formula to increase the buffer width as slopes become steeper. Note that two minor mapped stream buffers were declassified in the early stages of this project by the Town Engineer as they were associated with a remnant dirt road and did not satisfy the Town’s definition of a “stream”.

Erosion Control

Substantial site disturbance increases the importance of the Erosion Control plan. The grading plan must be competently executed during construction in order for the stormwater system to function properly. The Colleton Crossing AIS is proposing a system sediment basins and silt fences to manage erosion during construction. The Erosion Control Plan has been reviewed by Orange County Erosion Control.

Construction Entrances

The project has two construction entrances, one, the major entrance, from Reynard Road, the other, the minor entrance, from the existing driveway easement off of Tallyho Trail. The applicant states that the minor entrance will be used to first access the site and install required tree/silt fence and erosion control required for clearing. It would then be used for the initial clearing and grading of the site while the culvert crossing is being built on the Reynard Rd. extension. Attached is a letter from the applicant’s attorney regarding the easement’s legal viability for this use (Attachment H).

Once the culvert is installed, Reynard Rd. would become the primary construction entrance, and the easement would only be secondary as needed for smaller construction vehicles, etc.).

Phasing

The project is not phased.

CONCLUSION – The project meets all the requirements of the Land Use Ordinance pertaining to Drainage, Grading and Erosion Control and Phasing subject to the aforementioned conditions.

**Utilities, Fire Safety, Lighting and Refuse Collection**Utilities

The waterline, is looped through the development mainly within the street R/W. It taps into the existing waterline on Tallyho Trail via an existing driveway easement to the east. The extension will be within a proposed OWASA easement. The lines stub-out to the western and southern property lines within the proposed rights of way. .

Sewer service will be continued from the existing sewer stub-out from the UNC property to the south.

The water and sewer plans have been reviewed by OWASA and meet with their general approval. OWASA will review the plans in greater detail during construction plan review. Regarding electric, gas, telephone and cable television utilities, the applicant has submitted letters by the respective providers indicating that they can serve the development. Per Section 15-246 of the LUO, the plans specify that all electric, gas, telephone, and cable television lines are to be located underground in accordance with the specifications and policies of the respective utility companies.

The Public Works Department prefers to receive written confirmation from the electrical utility prior to construction plan approval. Because of this, staff recommends the following condition.

- That the developer provide a written statement from the electrical utility stating that electric service can be provided to all locations shown on the construction plans prior to the approval of the construction plans;

#### Fire Safety

Twelve fire hydrants are proposed to serve the development. They are located within the public R/W and are spaced such that every building will be no more than 500 feet from a hydrant (Section 15-249). The plans meet this requirement.

Fire flow calculations and building-sprinkler design (as required) must be submitted and approved by the Town Engineer and Fire Department prior to construction plan approval. A condition to this effect shall be entered onto the permit.

- That fire flow calculations and building-sprinkler design (as required) must be submitted and approved by the Town Engineer and Town Fire Department prior to construction plan approval.

#### Emergency Access

The property can be accessed via the driveway easement to the east which connects the property to Tallyho Trail. This would prevent emergency vehicles from having to proceed along the entire length of Tallyho Trail, to Reynard Road in order to access the property. The easement has been researched by the applicant's attorney who has provided a letter stating (among other things) that it can be used for emergency access (Attachment H). Since this driveway is not mean to serve as the subdivision's primary or secondary entrance, staff recommends a collapsible bollard (or equivalent) be installed to prevent use. Further, it is the staff's recommendation that emergency access along this easement be curtailed once the Middletown Drive subcollector is extended to connect through the UNC property to the south. In light of this the following condition is recommended:

- That the existing driveway access easement that ties the property to Tallyho Trail to the east, serve as a temporary emergency access route and that, if necessary it is improved sufficiently to satisfy the emergency access needs of the Town of Carrboro Fire Department. Further, that a collapsible bollard (or equivalent) satisfactory to the Fire Department, be installed on the subject property at the beginning of the easement to prevent everyday use of this driveway. Use of this

driveway easement for emergency access will end once the Middletown Drive subcollector is continued and subsequently interconnected to an existing street to the south (via the UNC property identified on the Town's GIS system as 1500 Claymore Road).

### Lighting

On November 15<sup>th</sup>, 2005, the Board of Aldermen adopted a resolution allowing residents in Annexation Areas A & B to pursue and exemption from the street lighting policy per the following requirements:

1. A valid petition for exemption from the street lighting policy must be signed by 66% of the property owners with frontage on a particular street within a particular subdivision; and
2. Any street that elects not to receive lighting will receive lighting in the future if 66% of the property owners with frontage on that street or within that particular subdivision request it from the Town.

However, staff has determined that this policy only applies to existing subdivisions. For reference, see the attached minutes from this meeting (Attachment I).

As proposed, street lights are spaced evenly throughout the development. Street lights are not regulated by the Land Use Ordinance; instead, they fall under existing Town policy pertaining to public R/W's. Public Works reviews plans for compliance with this policy and finds the plans acceptable. The plans include notes that the new street lights are to be full cutoff fixtures compliant with the Town standard but include a detail for a decorative fixture. The Town will assume no additional costs associate with fixtures other than those equivalent to the Town standard. Because of this the following condition is recommended:

- That, if the applicant chooses street lighting fixtures that deviate from the Town standard, they willingly assume all costs above and beyond those associated with this standard. Furthermore, any such deviation will not be allowed without the expressed approval from the Town's Public Works Department.

### Refuse Collection

The project's waste arrangements have been reviewed by both Public Works and Orange County. The Town and County will provide trash and recycling collection services for the development while the County will be involved in managing construction waste.

The single family homes will utilize roll-out containers. Waste management during construction requires from the County an approved Solid Waste Management Plan as well as a permit.

**CONCLUSION** – The project meets all the requirements of the Land Use Ordinance pertaining to utilities, fire safety, lighting, and refuse collection, subject to the inclusion of the three aforementioned conditions regarding fire hydrants, fire flow and building sprinklers.

## **Open Space, Recreation**

### **Open Space**

Per the provisions of 15-198, every residential development is required to set aside at least 40% of the total area of the development in permanent open space. If the project is providing affordable housing, Section 15-182.4(c) allows the developer to make reductions in the open space requirement equal to twice the land area consumed by the affordable units, up to a maximum reduction of 4%. Because the Colleton Crossing AIS provides about 64% open space, it does not need to use this reduction.

Note that during the concept plan phase of the project, primary and secondary conservation areas as defined by 15-198 are identified and prioritized for protection prior to the locating of the building envelope. For this reason, the Bolin Creek tributary and its surrounding steep provide the largest area of contiguous open space for the proposal.

### **Recreation**

The proposed mix of single family homes and townhomes combine to require 405.21 recreation points, per Section 15-196 of the LUO. The applicant far exceeds this amount by providing hiking trails, a greenway trail, a play structure and a playfield area [as required by Section 15-198(d)]. The playfield is located within the Duke Power easement in the southeastern quadrant of the site; the topography of this location suggests that additional grading may be necessary to improve its suitability as a playfield. Duke Power must approve any such grading since it is within their easement.

As required per 15-196-f, 5% of the amenities must be suitable for children under the age of 12; the applicant exceeds this requirement with the proposed play structure.

**CONCLUSION** – The project meets all the requirements of the Land Use Ordinance pertaining to Open Space and Recreation.

## **Architectural Standards, CAPS,**

### **Architectural Standards**

Per the requirements of Section 15-177, subdivisions containing four or more units are required to demonstrate compliance to the architectural design guidelines contained therein. The applicant may choose from one of two design guidelines; 1) Vernacular Architectural Standards or, 2) Alternative Architectural Standards. The applicant has chosen the latter approach.

The Alternative Architectural Standards requires the subdivision address specific design goals with regards to landscape, site, context, and building design. The applicant has addressed this requirement by providing an illustrated narrative statement and typical elevations (Attachment J). Staff concludes that from the materials provided, that the provisions of this section have been addressed.



CAPS

Per Article IV, Part 4 of the LUO, the applicant must receive the required Certificate(s) of Adequacy of Public School Facilities (CAPS) from the Chapel Hill Carrboro City Schools District prior to construction plan approval. Because of this the following condition is recommended:

- That the applicant receive(s) CAPs from the Chapel Hill Carrboro City Schools District pursuant to Article IV, Part 4 of the Land Use Ordinance, prior to construction plan approval.

CONCLUSION – The project meets all the requirements of the Land Use Ordinance pertaining to Architectural Standards, CAPS and Courtesy Review.

MiscellaneousAdvisory Boards Courtesy Review

The project was brought before the Joint Advisory Board's on April 5<sup>th</sup>, 2007. Attached are the applicant's responses to each of the Board's that provided comment on the project (Planning Board, Environmental Advisory Board &, Transportation Advisory Board). The applicant's responses follow the recommendations in Courier typeface (Attachment K).

Advisory Board's Joint Review

The project was presented before the Joint Advisory Board's on November 6<sup>th</sup>, 2008 for formal review of the project. Their summary recommendations are forthcoming.

Subdivision and Street Names

Since the street name "Colleton" Circle sounds very much like the existing county street name "Collington" and because the street name "Middleton" is already in use in the county the following condition is recommended:

- That the street names of the subdivision are revised as necessary to meet the addressing requirements of the Town GIS specialist.

Citizen Letters

Various letters from neighbors and citizens regarding concerns about the project have been received throughout the review process. See Attachments L for reference.

Voluntary Annexation

The property has already been annexed.

Neighborhood Information Meeting

A Neighborhood Information Meeting was held in the Wexford Community building on March 26, 2007. Twenty two neighbors were in attendance. Traffic, Connector roads, density and, visual impacts were some of the matters discussed. An additional Neighborhood Information Meeting was held on November 19<sup>th</sup>, 2008.

### STAFF RECOMMENDATIONS:

Town staff recommends that the Board of Aldermen open the Colleton Crossing AIS Conditional Use Permit public hearing. Staff recommends that the Board consider the issuing the permit subject to the conditions below:

1. The continued affordability of the units (located on lots 1, 26, 32, 33, 34, & 35) must be ensured through working directly with Orange Community Housing & Land Trust, in accordance with LUO Section 15-182.4.
2. Certificates of Occupancy for each of the six (6) bonus 'market-rate' units may not be issued until such time as a corresponding affordable unit (located on lots 1, 26, 32, 33, 34, & 35) is constructed and offered for sale or rent for an amount consistent with the language found in Section 15-182.4 of the Town of Carrboro Land Use Ordinance. The six bonus units are to be identified on the plans prior to construction plan approval and shall be identified on the final plat.
3. That, prior to construction plan approval, the applicant work with the Town Transportation planner to consider a traffic calming alternative to the speed table proposed for Middleton Drive, including but not limited to a mid-block curb extension (also known as a "choker).
4. That prior to construction plan approval, the applicant receive a driveway permit from NCDOT.
5. That, prior to Construction Plan approval, the sidewalk detail on the detail sheet is labeled and specifies that sidewalk thickness shall increase to a minimum of 6" thick where all driveways cross the sidewalk.
6. That, prior to construction plan approval, the proposed greenway alignment from the southern property line be realigned to follow the OWASA easement behind lots 36 -38 so as to tee in to Reynard Road.
7. That, in the construction plans the greenway trails be designed to meet or exceed the specifications identified in the AASHTO Guide for the Development of Bicycle Facilities, and that the proposed greenway be constructed to the Type IV AASHTO standard.
8. That the single family home lots, when developed have sufficient room to conveniently park two cars on a paved driveway, off of the street, without blocking the sidewalk. Garages may not be counted toward this requirement. This parking will be shown on individual plot plans during the building permit stage.
9. That, prior to construction plan approval the proposed street tree planting layout be revised to meet the spacing requirements of Section 15-315 of the LUO and that 1/3<sup>rd</sup> of the proposed street trees be evergreen.
10. That flexibility be allowed in the execution of the street tree planting plan (subject to the approval of public works and the planning department), such that the combination of existing and proposed trees along all publicly dedicated streets in Colleton Crossing meet the street tree requirements of Section 15-315 of the Land Use Ordinance.
11. That a 10', undisturbed vegetative buffer of existing (or enhanced) native plantings be maintained along the eastern (rear) property line of lots 4 through 8. This buffer shall be disclosed on the final plat and referenced in the Homeowner Association documents. A landowner may remove existing vegetation in the buffer if it is: a) a

- noxious weed, b) sick or c) presents a significant hazard. If other vegetation is removed that does not fit these categories, replacement is required with new native plantings equivalent to a Type B screen.
12. That, prior to Construction Plan approval, a HEC-RAS flood study shall be provided to analyze the 100 year flood with backwater analysis for both the existing and proposed conditions;
  13. That, prior to Construction Plan approval, the proposed box culvert design shall be sized to provide for a “no-rise” condition for the 100 year backwater (at the property line of the project), as compared to the preconstruction conditions shown in the results of the HEC-RAS flood study.
  14. That, prior to Construction Plan approval, all design and details of the proposed box culvert shall meet the requirements of the Carrboro Land Use Ordinance and the associated Storm Drainage Design Manual and be approved by the Town of Carrboro’s Engineering Consultant, Sungate Design Group. Any substantial design changes will require the approval of the Board of Aldermen (with possible public hearing) per the provisions of 15-64 of the LUO.
  15. That all state and federal 401 and 404 permits be obtained prior to construction plan approval if necessary.
  16. That the applicant shall provide to the Zoning Division, prior to the recordation of the final plat for the project or before the release of a bond if some features are not yet in place at the time of the recording of the final plat, Mylar and digital as-builts for the stormwater features of the project. Digital as-builts shall be in DXF format and shall include a base map of the whole project and all separate plan sheets. As-built DXF files shall include all layers or tables containing storm drainage features. Storm drainage features will be clearly delineated in a data table. The data will be tied to horizontal controls.
  17. That the developer shall include detailed stormwater system maintenance plan, specifying responsible entity and schedule. The plan shall include scheduled maintenance activities for each unit in the development, (including cisterns, bioretention areas, swales, check dams, and irrigation pond), performance evaluation protocol, and frequency of self-reporting requirements (including a proposed self-reporting form) on maintenance and performance. The plan and supporting documentation shall be submitted to Town engineer and Environmental Planner for approval prior to construction plan approval. Upon approval, the plans shall be included in the homeowners’ association documentation.
  18. That, prior to Construction Plan approval, the applicant provide on the plans details and notes for the Town’s required casting for curb inlet hoods and manhole covers. This is the “fish” logo combined with the “Dump No Waste – Drains to Jordan Lake” slogan.
  19. That the developer provide a written statement from the electrical utility stating that electric service can be provided to all locations shown on the construction plans prior to the approval of the construction plans;
  20. That fire flow calculations and building-sprinkler design (as required) must be submitted and approved by the Town Engineer and Town Fire Department prior to construction plan approval.
  21. That the existing driveway access easement that ties the property to Tallyho Trail to the east, serve as a temporary emergency access route and that, if necessary it is

improved sufficiently to satisfy the emergency access needs of the Town of Carrboro Fire Department. Further, that a collapsible bollard (or equivalent) satisfactory to the Fire Department, be installed on the subject property at the beginning of the easement to prevent everyday use of this driveway. Use of this driveway easement for emergency access will end once the Middletown Drive subcollector is continued and subsequently interconnected to an existing street to the south (via the UNC property identified on the Town's GIS system as 1500 Claymore Road).

22. That, if the applicant chooses street lighting fixtures that deviate from the Town standard, they willingly assume all costs above and beyond those associated with this standard. Furthermore, any such deviation will not be allowed without the expressed approval from the Town's Public Works Department.
23. That the applicant receive(s) CAPs from the Chapel Hill Carrboro City Schools District pursuant to Article IV, Part 4 of the Land Use Ordinance, prior to construction plan approval.
24. That the street names of the subdivision are revised as necessary to meet the addressing requirements of the Town GIS specialist.

A public hearing of the Carrboro Board of Aldermen was held on Tuesday, November 25, 2008 at 7:30 p.m. in the Town Hall Board Room.

Present and presiding:

Mayor Pro Tem	John Herrera
Aldermen	Joal Hall Broun (arrived at 7:43 p.m.)
	Dan Coleman
	Randee Haven-O'Donnell
	Lydia Lavelle
Town Manager	Steven E. Stewart
Town Attorney	Michael B. Brough
Town Clerk	Sarah C. Williamson

Absent:

Mayor	Mark Chilton
Alderman	Jacquelyn Gist

**PUBLIC HEARING ON A CONDITIONAL USE PERMIT REQUEST FOR THE COLLETON CROSSING ARCHITECTURALLY INTEGRATED SUBDIVISION**

MBI Development as represented by Phil Post and Associates, has submitted an application for the construction of a 39 dwelling unit subdivision located at 8400 & 8420 Reynard Road. The Conditional Use Permit, if approved, would allow the creation of 39 single-family (6 affordable) lots with associated infrastructure, including publicly dedicated streets. The public hearing will be opened but the Board is not expected to make a decision on the permit until the meeting is continued in January or later.

Mike Brough asked that copies of all emails, letters and correspondence received regarding this matter be made available to the applicant, and that any emails received outside of the public hearing should not be considered as evidence on which the Board would base its decision.

Alderman Lavelle stated that she lives in a development adjacent to the proposed development and wanted to clarify that there was no conflict of interest with her voting on this project.

Mike Brough confirmed that there was no conflict of interest.

[Alderman Broun arrived at the meeting.]

Jeff Kleaveland, one of the town's planners, was sworn in and made the presentation.

Alderman Coleman asked about the use of a bridge or bottomless culvert to expand the floodplain, and asked if the clearing of trees to install BMP's within the stream buffer or floodplain would lead to unintended sedimentation during peak rain events.

Alderman Broun asked if the homeowners will be responsible for insuring that the BMP's do not breed mosquitoes.

Tim Smith with Phil Post and Associates was sworn in. He stated that they had conducted a neighborhood meeting to address concerns, that they had done a full traffic study of the neighborhood ref. connectivity, access and traffic. He stated that the easement on the east side of the property will be an emergency access and that they have discussed the possibility of providing a pedestrian access. He stated that they working to ensure that additional flooding will not occur onto the Hodges' property and as a result of this proposed development. He stated that they have done a full flood study to show that there will be no further impact to the Hodges'

## ATTACHMENT F2

property, that they will investigate the option of having a bottomless arch type culvert. He stated that they will have 12-foot lighting fixtures with cutoff shields to prevent light from spilling upward. They are proposing greenway trail to the north and would like to follow the master plan as far as construction of the trail with a Type 3 trail. He stated that they are agreeable to all staff recommendations with the exception of the trail. They would like to construct a Type 3 trail, not Type 4. Also, he stated that the developer will add trees to the buffer.

Andrew Topp, a traffic engineer, was sworn in. He stated that they had done a traffic impact analysis for this site and presented the results of that analysis. He stated that the general results of the study were that the current roads will accommodate the increased traffic from this development.

Alderman Haven-O'Donnell asked about the number of school bus trips going into this development.

Danny Goodman, a certified appraiser, was sworn in. He stated that he had looked at homes in the vicinity of the proposed development and stated that the proposed development will be an asset to the current neighborhood. He stated that he feels this development will have a positive impact on the neighborhood and tax base.

Bob Melville, a resident of 1000 Dairyland Road, and brother of Jim Melville, was sworn in. He stated that the Board has a clear vision and rational process to move toward that vision. He stated that this a very important development and they are dedicated to building a development the community will be proud of. That they are very proud of the type of homes Melville Builders constructs, and feels that the town will be very proud of this development.

Alena Callimanis, a resident of 1004 Camden Lane was sworn in. She showed a video of children walking on Sterling Bridge and Claymore Road, and the steep slopes. She stated that it took her 4 minutes to drive from Reynard to High School Road, 1 minute 25 seconds to drive. This means that the new connection to Claymore would only save approximately 1 ½ minutes. She stated that the impervious runoff is getting to be an extremely urgent issue with Bolin Creek, they would be destroying forest area in an environmentally sensitive area. It would eliminate the burden of the cost of an expensive connector road, connectivity in this case is not providing car time value, suggested constructing bikeways and walking paths, stated that the board has sited children/community safety issues when denying the Jones Ferry Road project, road infrastructure is not in place in Claymore, and Tallyho cannot sustain added traffic burden. She asked that the development be kept smaller than proposed.

Drew Narayan, a resident of 1801 Claymore was sworn in. He stated that he feels like the previous proposal underestimated the traffic impact—that the total increase in traffic on Claymore and Sterling Bridge will be 950 trips per day and that Claymore and Sterling Bridge cannot handle increased traffic. He stated there is high pedestrian traffic with no sidewalks, and that safety concerns are real. In addition, there are environmental concerns. Most of Colleton Crossing and Carolina Commons is within the Friends of Bolin Creek proposed preserve. The current plan also does not continue the greenway north of Reynard. To reduce congestion, maintain safety and protect the environment, the number of homes in Colleton Crossing should be restricted to only require one connection. In order to promote connectivity between the neighborhood, pedestrian and bicycle connections should be built to connect Colleton Crossing, Carolina Commons and the Highlands.

Anthony Volpe, a resident of 1706 Claymore Road, was sworn in. He stated that there are environmental issues that have not been fully addressed, that there are real traffic concerns, and safety concerns. He asked that the Board limit the density of the proposed development and not have a connector road and that pedestrian and bicycle connections be created between the neighborhood.

Wayne Hodges, a resident of 1315 Tallyho Trail, was sworn in. He stated that is existing flooding along the Bolin Creek tributary and pointed out specific properties being impacted by the flooding. He stated that there is a smaller stream that flows behind his property. He showed pictures of flooding on his property that occurred

### ATTACHMENT F3

during Tropical Storm Hanna and flooding on the Colleton property upstream of Reynard Road. He stated that the extension of Reynard Road requires crossing of the tributary and the developer is proposing a box culvert rather than a bridge to cross the stream. All adjacent Fox Meadow residents have wells and septic systems—there is no OWASA service available. The home at lot 35 has a history of drainage problems and is currently surrounded by French drains and recently experienced septic problems. The box culvert will constrain the floodplain and cause flooding upstream of the culvert, will not allow for efficient sediment transport, restricts wildlife corridors, and will be clearing of many feet of stream buffer. He suggested that a bridge be constructed across the floodplain or that a bottomless arch culvert be constructed to span the floodplain.

Brian Kuhlman, a resident of 1009 Tallyho Trail, was sworn in. He expressed concern about the connectivity plan – does not feel this plan is in compliance with the land use ordinance. He suggested a second access road to the south. Carrboro cannot put in traffic calming devices or make repairs to these roads. Tallyho should be considered a collector road with sidewalks and bikeways. He stated his desire that Colleton Crossing be a phased development.

Richard Goldberg, a resident of 1075 Brace, was sworn in. He expressed concern about public safety issues. He reminded the Board about the Hanna Ridge (Pacifica) safety concerns. He referenced a memo from Mike Brough, the Carrboro Town Attorney, dated June 10, 1999 answering the question of whether a development permit could be denied if the Board finds that the street as it currently exists presents a danger to the public. The answer was: As a general principle, ...the greater the hazard, and the clearer the evidence is that that a safety problem exists, the more density might be restricted below that which is otherwise permissible under the ordinance. Hanna Ridge and Pacifica were required to build a sidewalk along Hanna Street and the cost of that sidewalk was split between the developer and the town. The safety problem for Tallyho Trail is magnified from that of Hanna Street because of the length of Tallyho. Solutions would be to build sidewalks on Tallyho Trail at a cost of approximately \$1 million, or reduce number of units in the development. Twelve to fifteen units would be appropriate.

Caramie Brantley, a resident of Tallyho Trail, was sworn in. She spoke about compatibility and buffers. The development is surrounded on three sides by the existing Fox Meadow development. Sharp contrasts exist between the two neighborhoods – small vs. large lots, bare lots vs. wooded lots, and expensive homes vs. moderately-priced homes. She pointed out land use ordinance compatibility provisions. A solution would be to create a 50-foot undisturbed vegetative buffer to existing properties, adhere to land use ordinance buffers in primary and secondary conservation areas. The larger buffers could help prevent flooding and possible property damage due to flooding or septic tank failures by providing more permeable surface. She suggested building a bridge or bottomless arch culvert to span floodplain, limit development to only 15 units, provide sidewalks, and create 50-foot undisturbed buffer between Colleton lots to existing Fox Meadow properties.

Kay Hengeveld, a resident of 1515 Tallyho Trail, was sworn in. She stated that they have a problem with using the easement for emergency access and temporary construction access, and feels that it will devalue their problem and will be a burden on the easement and will show a lack of stewardship of the land and safety concerns. Traffic problems on Tallyho are real and severe, there is a speeding problem on Tallyho and there has been a problem for a long time. She feels the easement should only be used to bring in utilities. She feels that the fire substation should be built as soon as possible. Colleton should have another access into their development.

Neal Kaplan, a resident of 1215 Tallyho Trail, was sworn in. He stated that he agreed with his neighbors' comments.

Cathy Calvert, a resident of 1215 Tallyho Trail, was sworn in. She expressed concern about the easement access being proposed that crosses Huntsman Court being used for construction and maintenance since it is located right beside a home. She proposed that the development include residential sprinklers in the homes. She stated

#### ATTACHMENT F4

that would eliminate the need for the emergency access. She stated that insurance companies offer discounts for sprinkled homes.

Suzanne Allen, a resident of 8217 Huntsman Court, was sworn in. She stated that she agreed to her neighbors' comments particularly about the traffic. She stated that she is a frequent walker on Tallyho Trail and has been literally run off the road a number of times. She spoke in support of a lower density development with a phased approach. She stated that there is no guarantee that the UNC connection will happen, and that there have been stub-outs in Fox Meadow for 20+ years and no connections have been made. She also expressed concern about the traffic study.

Laura van Sant, a resident of 8207 Reynard Road, was sworn in. She asked that the Board consider an amendment to the ordinance so as not to require Colleton Crossing to have street lights. In addition, she requested an environmental assessment be done of the soils.

Adie Narayan, a resident of 1801 Claymore, was sworn in. She expressed concern about pedestrian safety. She stated that the children have to walk in the street because there are no sidewalks. She also asked that Colleton Crossing be limited to 15 houses.

Marc Desormear, a resident of Claymore was sworn in. He stated that this development screams moderation. He asked if the current roads are adequate to accommodate the traffic, asked what the objective of this development is, and asked that the Board take under consideration the concerns of the Tallyho and Highlands developments. He asked for smaller density and asked to have only an emergency and pedestrian connection.

Mari Weiss, a resident of the Highlands, was sworn in. She stated that she did not feel the appraiser took into account the diminution of their neighborhood and lack of privacy by opening up Claymore. She asked that the quality of their lives not be diminished for the sake of a builder.

Dorothy Wright, a resident of 8211 Huntsman, was sworn in. She asked if service vehicle trips had been considered in the traffic counts.

Marty Roupe, the town's Zoning Administrator, was sworn in. He clarified the location of the easement.

Tim Smith stated that the easement is platted and what is constructed will have to be within that easement.

Kathryn Thomas, a resident of 1415 Tallyho Trail, was sworn. She stated that she agreed with her neighbors in Fox Meadow. She stated that there are no stop signs between Rogers Road and Reynard Road and nothing to slow traffic down. She stated that there will be additional traffic and the likelihood of accidents will increase. She stated her concern about how this development will impact the ground water in this area. In addition, she stated concern that the impervious surfaces created in Colleton will affect the water quality in their wells.

Imran Shah, a resident of 8405 Sterling Bridge Road, was sworn in. He stated that he agreed with Tallyho and Fox Meadow residents, expressed concern about the safety of his children, stated that additional traffic study data is needed. He stated that neither Tallyho nor Sterling Bridge can have traffic calming.

Christine Westfall with Orange Community Housing and Land Trust was sworn in. She spoke in support of the affordable housing component. She stated that Melville Builders have agreed to construct six affordable single-family, green built homes in Colleton Crossing. She stated that the developer will be selling these homes to the Land Trust for \$130,000.

Steven Peck, a resident of Fox Meadow, was sworn in. He stated that he agreed with the residents of Fox Meadow. He also stated concern about traffic, the size, scope, and phasing of this project. He stated that buses pick up children at the intersection of Reynard and Hound Court and there is a sight distance problem at this



intersection. He stated that connectivity is a real problem in this area, and spoke in favor of access between neighborhoods. He stated that this is a good development it just has to be built the right way.

Jeff Linker, a resident of 1803 Claymore Road, was sworn in. He expressed concern about the additional traffic and the safety of his children. He asked that four-way stop signs be put in at the very least.

Sharon Cook, a resident of 1610 Claymore Road, was sworn in. She stated that if traffic is increased, children will not be able to walk to school safely. She expressed concern about the lack of preserved land, and asked that pedestrian and bicycle connections be made a priority.

Bob Kirshner was sworn in. He spoke in support of the homes in Colleton Crossing being sprinkled and asked the developer to consider installing sprinklers. He stated that there are insurance savings as a result of having sprinklers installed.

David Rooks, the applicant's attorney, was sworn in and addressed the easement. He stated that he would provide the staff a copy of the grant of easement.

Adena Messinger, the town's Transportation Planner, affirmed, and spoke to the reason for asking for the Type 4 trail.

Mr. Stewart pointed out that public safety access includes medical calls in addition to police and fire calls.

The Board requested that the town staff respond to the following requests for information:

1. Is the applicant willing to phase the project to limit the amount of development prior to construction of an eastern access point?
2. When the connection is made to Claymore, can the town require traffic calming measures on Claymore, and if NCDOT is not cooperative with that, can the town require the developer to bond for those traffic calming measures?
3. Can the town require the developer to construct both the sewer line and greenway trail to the northern property line?
4. That the EAB and Environmental Planner comment on whether (from an environmental standpoint) there is a preference for a Type III trail type.
5. That the staff comment on whether the town can require a larger buffer on the Colleton property.
6. That a map of school bus stops be provided, including the times of pickups and drop offs.
7. The date of the last update to the floodplain maps be provided.
8. That the staff determine the procedure for having stop signs installed in the existing neighborhood (regardless of whether Colleton is approved).
9. That cost estimates for maintenance of Type III and Type IV trails be provided by staff.
10. That the town provide a list of properties not connected to OWASA water and sewer.
11. That the applicant consider more integrated recreation to avoid street crossings.
12. Have the Town Attorney review the easement document.
13. Have the applicant respond as to their willingness to install sprinklers.
14. Explore the topic of mosquito control associated with BMP's.
15. Does the clearing of trees to install BMP's within the stream buffer (or floodplain) lead to unintended sedimentation during peak rain events?
16. Provide pictures of Carrboro examples of box culverts and bottomless box culverts.
17. Provide information regarding how the project might affect water recharge rates/areas. Provide information about the location of septic systems in the vicinity of the project's northern property line.
18. If the adjoining roads are still state maintained at the time of certificate of occupancy, can request a bond from the developer to cover the future cost of traffic calming.

MOTION WAS MADE BY JOAL HALL BROUN AND SECONDED BY DAN COLEMAN TO CONTINUE THIS PUBLIC HEARING TO JANUARY 27, 2009. VOTE: AFFIRMATIVE FIVE, ABSENT TWO (CHILTON, GIST)

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**SUMMARY SHEET OF STAFF AND ADVISORY BOARD  
RECOMMENDATIONS  
CONDITIONAL USE PERMIT FOR COLLETON CROSSING AIS**

**STAFF RECOMMENDATIONS**

<p><i>Staff Recommendations (w/ Advisory Board support where applicable):</i></p>	<p><i>Explanation: Staff recommendations, primarily related to LUO compliance, are represented by #s 1-6 below. If an advisory board voted to support the staff recommendation, then such board is noted after staff in the left-hand column.</i></p>
<p align="center"><b>Recommended by</b></p>	<p align="center"><b>Recommendations</b></p>
<p>Staff, TAB, PB, EAB</p>	<p>1. The continued affordability of the units (located on lots 1, 26, 32, 33, 34, &amp; 35) must be ensured through working directly with Orange Community Housing &amp; Land Trust, in accordance with LUO Section 15-182.4.</p>
<p>Staff, TAB, PB, EAB</p>	<p>2. Certificates of Occupancy for each of the six (6) bonus 'market-rate' units may not be issued until such time as a corresponding affordable unit (located on lots 1, 26, 32, 33, 34, &amp; 35) is constructed and offered for sale or rent for an amount consistent with the language found in Section 15-182.4 of the Town of Carrboro Land Use Ordinance. The six bonus units are to be identified on the plans prior to construction plan approval and shall be identified on the final plat.</p>
<p>Staff, TAB, PB, EAB</p>	<p>3. That, prior to construction plan approval, the applicant work with the Town Transportation planner to consider a traffic calming alternative to the speed table proposed for Middleton Drive, including but not limited to a mid-block curb extension (also known as a "choker).</p>
<p>Staff, TAB, PB, EAB</p>	<p>4. That prior to construction plan approval, the applicant receive a driveway permit from NCDOT.</p>
<p>Staff, TAB, PB, EAB</p>	<p>5. That prior to Construction Plan approval, the sidewalk detail on the detail sheet is labeled and specifies that sidewalk thickness shall increase to a minimum of 6" thick where all driveways cross the sidewalk.</p>
<p>Staff, TAB, PB, EAB</p>	<p>6. That, prior to construction plan approval, the proposed greenway alignment from the southern property line be realigned to follow the OWASA easement behind lots 36 -38 so as to tee in to Reynard Road.</p>

Staff, TAB, PB, EAB	7. That, in the construction plans the greenway trails be designed to meet or exceed the specifications identified in the AASHTO Guide for the Development of Bicycle Facilities, and that the proposed greenway be constructed to the Type IV AASHTO standard.
Staff, TAB, PB, EAB	8. That the single family home lots, when developed have sufficient room to conveniently park two cars on a paved driveway, off of the street, without blocking the sidewalk. Garages may not be counted toward this requirement. This parking will be shown on individual plot plans during the building permit stage.
Staff, TAB, PB, EAB	9. That, prior to construction plan approval the proposed street tree planting layout be revised to meet the spacing requirements of Section 15-315 of the LUO and that 1/3 <sup>rd</sup> of the proposed street trees be evergreen.
Staff, TAB, PB, EAB	10. That flexibility be allowed in the execution of the street tree planting plan (subject to the approval of public works and the planning department), such that the combination of existing and proposed trees along all publicly dedicated streets in Colleton Crossing meet the street tree requirements of Section 15-315 of the Land Use Ordinance.
Staff, TAB, PB, EAB	11. <del>(Condition replaced by New Condition #28, below) That a 10', undisturbed vegetative buffer of existing (or enhanced) native plantings be maintained along the eastern (rear) property line of lots 4 through 8. This buffer shall be disclosed on the final plat and referenced in the Homeowner Association documents. A landowner may remove existing vegetation in the buffer if it is: a) a noxious weed, b) sick or c) presents a significant hazard. If other vegetation is removed that does not fit these categories, replacement is required with new native plantings equivalent to a Type B screen.</del>
Staff, TAB, PB, EAB	12. <i>(Reworded Condition)</i> That, prior to Construction Plan approval, a HEC-RAS flood study shall be approved by the Town Engineer analyzing the 100 year flood and including a backwater analysis for both the existing and proposed conditions.
Staff, TAB, PB, EAB	13. <i>(Reword this condition, if a bottomless arch culvert is approved)</i> That, prior to Construction Plan approval, the proposed box culvert design shall be sized to provide for a "no-rise" condition for the 100 year backwater (at the property line of the project), as compared to the preconstruction conditions shown in the results of the HEC-RAS flood study.

<p>Staff, TAB, PB, EAB</p>	<p>14. <i>(Reword this condition, if a bottomless arch culvert is approved)</i> That, prior to Construction Plan approval, all design and details of the proposed box culvert shall meet the requirements of the Carrboro Land Use Ordinance and the associated Storm Drainage Design Manual and be approved by the Town of Carrboro’s Engineering Consultant, Sungate Design Group. Any substantial design changes will require the approval of the Board of Aldermen (with possible public hearing) per the provisions of 15-64 of the LUO.</p>
<p>Staff, TAB, PB, EAB</p>	<p>15. That all state and federal 401 and 404 permits be obtained prior to construction plan approval if necessary.</p>
<p>Staff, TAB, PB, EAB</p>	<p>16. That the applicant shall provide to the Zoning Division, prior to the recordation of the final plat for the project or before the release of a bond if some features are not yet in place at the time of the recording of the final plat, Mylar and digital as-builts for the stormwater features of the project. Digital as-builts shall be in DXF format and shall include a base map of the whole project and all separate plan sheets. As-built DXF files shall include all layers or tables containing storm drainage features. Storm drainage features will be clearly delineated in a data table. The data will be tied to horizontal controls.</p>
<p>Staff, TAB, PB, EAB</p>	<p>17. That the developer shall include detailed stormwater system maintenance plan, specifying responsible entity and schedule. The plan shall include scheduled maintenance activities for each unit in the development, (including cisterns, bioretention areas, swales, check dams, and irrigation pond), performance evaluation protocol, and frequency of self-reporting requirements (including a proposed self-reporting form) on maintenance and performance. The plan and supporting documentation shall be submitted to Town engineer and Environmental Planner for approval prior to construction plan approval. Upon approval, the plans shall be included in the homeowners’ association documentation.</p>
<p>Staff, TAB, PB, EAB</p>	<p>18. That, prior to Construction Plan approval, the applicant provide on the plans details and notes for the Town’s required casting for curb inlet hoods and manhole covers. This is the “fish” logo combined with the “Dump No Waste – Drains to Jordan Lake” slogan.</p>
<p>Staff, TAB, PB, EAB</p>	<p>19. That the developer provide a written statement from the electrical utility stating that electric service can be provided to all locations shown on the construction plans prior to the approval of the construction plans;</p>

Staff, TAB, PB, EAB	20. That fire flow calculations and building-sprinkler design (as required) must be submitted and approved by the Town Engineer and Town Fire Department prior to construction plan approval.
Staff, TAB, PB, EAB	21. That the existing driveway access easement that ties the property to Tallyho Trail to the east, serve as a temporary emergency access route and that, if necessary it is improved sufficiently to satisfy the emergency access needs of the Town of Carrboro Fire Department. Further, that a collapsible bollard (or equivalent) satisfactory to the Fire Department, be installed on the subject property at the beginning of the easement to prevent everyday use of this driveway. Use of this driveway easement for emergency access will end once the Middletown Drive subcollector is continued and subsequently interconnected to an existing street to the south (via the UNC property identified on the Town’s GIS system as 1500 Claymore Road).
Staff, TAB, PB, EAB	22. That, if the applicant chooses street lighting fixtures that deviate from the Town standard, they willingly assume all costs above and beyond those associated with this standard. Furthermore, any such deviation will not be allowed without the expressed approval from the Town’s Public Works Department.
Staff, TAB, PB, EAB	23. That the applicant receive(s) CAPs from the Chapel Hill Carrboro City Schools District pursuant to Article IV, Part 4 of the Land Use Ordinance, prior to construction plan approval.
Staff, TAB, PB, EAB	24. That the street names of the subdivision are revised as necessary to meet the addressing requirements of the Town GIS specialist.
New Staff Condition	25. That, in an effort to reduce environmental impact to the stream, a bottomless arch culvert is used to cross the creek, instead of the proposed box culvert.
New Staff Condition	26. That bioretention cell #7 (adjacent to Lot 39) is relocated entirely out of the stream buffer and onto Lot 39.
New Staff Condition	27. That, prior to construction plan approval, the grading on Lot 17 is sufficiently revised to save the existing 40” poplar tree in the immediate vicinity.
New Staff Condition	28. That a vegetative easement of 25’ is provided adjacent to the eastern property line to be located behind lots 4 through 8. The total effect of this easement will be to provide the equivalent of a Type B, semi-opaque buffer. This requirement may be met with a combination of existing and proposed vegetation. Prior to construction drawing approval, the applicant will be required prepare a planting guide for the easement, to be reviewed by Town staff.
New Staff Condition	29. That the Tot lot now shown as adjacent to the stormwater quality detention pond be relocated to its former position south of the playfield in the interest of safety.

New Staff Condition	30. That the new homes are each provided with fire suppression sprinklers in homes installed to specifications that accord with the local and standards enforced by the Town of Carrboro Fire Department. Accordingly, in the construction plans, the number of fire hydrants may be reduced per the Fire Department's recommendations.
New Staff Condition	31. That the applicant extend the proposed Reynard Road improvements offsite to approximately 180 lineal feet west up to its intersection with Hound Court. Prior to construction plan approval, plans for the additional roadway extension will be required for review.
<b>ADVISORY BOARD COMMENTS / RECOMMENDATIONS</b>	
<b>Additional Advisory Board Comments &amp; Recommendations:</b>	<i>Explanation: Comments and recommendations solely from advisory boards follow. If a comment involves legal interpretation, then the applicable LUO (ordinance) are noted parenthetically. Otherwise, the Board may wish to consider comments in the context of public health, safety, or welfare findings. Staff generally does not endorse nor refute comments from advisory boards.</i>
<b>Recommended by</b>	<b>Recommendations</b>
AC	No comments.
NTAAC	No comments.
PB	1. The Planning Board recommends a phased development in which 15 units are permitted so long as Reynard is the only access in and 24 additional units are permitted when the connection south is made and pedestrian bike and vehicular safety improvements are made to bring the connecting roads to town standards to support the increased traffic. The cost of the improvements to be shared by the developer.
PB	2. That a 25 foot wide planted buffer providing the equivalent of a Type A screen be provided along the eastern boundary of Colleton Crossing where the home lots back up to existing lots in the Tallyho subdivision.

<p>EAB</p>	<p>1. This area cannot be developed to its maximum density with large, single family homes without permanently damaging or destroying the numerous environmental features on site. Either reduce the lot density or investigate alternate forms of housing such as co-housing which may allow your desired density but with a much smaller physical and environmental footprint.</p>
<p>EAB</p>	<p>2. Reduce the built upon footprint to keep all disturbances from home lots <b>and</b> associated stormwater management practices outside of the following primary conservation areas from the Town of Carrboro's natural constraints maps: streams and floodplains, required stream buffers (marked Carrboro and primary conservation in Colleton plans), steep slopes, and hardwoods. In particular, allow for a 100ft buffer between new home lots and the primary conservation areas associated with the stream and hardwoods to the north and the stream, steep slopes and hardwoods to the west, per Article IV., Section 15-50 (f) of the Land Use Ordinances (LUOs). This will allow room for stormwater management practices without disturbances to these primary conservation areas.</p>
<p>EAB</p>	<p>3. Thoroughly investigate how existing low-lying septic fields to the north may be impacted by hydrologic changes due to construction and development. Again, if additional stormwater management practices are necessary between the planned home lots and the northern tributary, plan to leave space for them outside of the required stream buffers.</p>

EAB	<p>4. Continue to pursue a road connection through the existing private easement on the east portion of the property. Consider trying to purchase one of the adjoining homes. This connection has the least environmental impact based on reduced land disturbance, eased congestion and distance traveled (i.e. reduced carbon emissions) to exit the development. If this fails, pursue a road connection to the south through the northeast portion of the UNC land to Claymore Road. This is the next best connection environmentally based on the types of land disturbed and distance traveled to exit the development. Cross the Bolin Creek tributary and connect to Reynard Road only as a last resort.</p>
EAB	<p>5. If you do end up crossing the Bolin Creek tributary to connect to Reynard Road, follow the design recommendations outlined in “Stream Restoration: A Natural Channel Design Handbook”, Section 8.3 Stream Crossings, pgs 49-50. (This is put out by the North Carolina Stream Restoration Institute. If feasible, use a bridge or arch culvert to minimize floodplain restrictions. If a culvert must be used, use floodplain culverts.</p>
EAB	<p>6. To minimize the fragmentation of open space and the negative environmental impacts of bringing sewer and other infrastructure across the tributary to Bolin Creek, remove lot 39 (unless that lot will be served with on-site wastewater treatment). Group all lots and associated infrastructure east of the tributary to Bolin Creek.</p>
EAB	<p>7. Work with the NC Green Building Initiative and/or hire a LEED certified professional to use as many green building techniques as possible in your plans (for example: low impact design and development, resource efficiency, energy efficiency, water conservation, indoor environmental quality, homeowner education, etc.).</p>



EAB	8. Provide at least 50 feet of buffer in its natural, forested state between lots to the east in the existing neighborhood and any new home lots being built. To ensure that buffers remain in their natural state, designate them as jointly owned open space rather than including them in privately owned lots.
EAB	9. Plan for and show greenway connections on all future plans. Town of Carrboro Plans show a greenway along the length of the main Bolin Creek tributary that eventually connects to the Bolin Creek Greenway.
TAB	1. That condition #21 of the staff report includes a provision that the existing driveway access easement also serve as a public bicycle and pedestrian access route and that it is improved with a hard surface to facilitate those uses.s
TAB	2. That Middleton Road, which extends to the southern border of the property from Reynard Rd. and which serves a vital role in connectivity, is constructed as shown on the plans.
TAB	3. The tot lot is currently shown in a remote and topographically challenging location, underneath transmission lines and requiring street crossings to access the lot. As we recommended at the concept plan review (April 5,2007), we again recommend that the tot lot be centrally located.
TAB	4. Because of the public health and safety impacts to the residents of the existing surrounding neighborhoods, the Transportation Advisory Board recommends that the Board of Aldermen consider having the developers of Colleton Crossing and Carolina Commons pay for construction of sidewalks on Claymore and Sterling Bridge Roads.

Responses to Board of Aldermen follow-up items  
Colleton Crossing AIS Conditional Use Permit

<b>Matters discussed during 11/25/08 public hearing:</b>	<b>Action/Question:</b>	<b>Contact Person</b>
1. Project phasing as a way to mitigate traffic impact?	<i>We have investigated the possibility of Phasing the project and have determined that for various reasons this is not feasible. The infrastructure and utilities do not lend themselves to phasing. The internal road &amp; utilities are a loop and cannot be half constructed. There is also only one stormwater pond BMP for the site which is located at the far end of the road extension stub required by the Town. This section of road would need to be built. Therefore, all the utilities and infrastructure would need to be built, and phasing of the lots at that expense would kill the project.</i>	Applicant response
2. Traffic Calming on Claymore, can Town require?	Claymore is a NCDOT maintained road and physical traffic calming measures are not allowed. In the future, if Claymore is taken over by the Town, traffic calming could be considered. Under this scenario it is reasonable to consider a condition that may require the applicant provide a bond for future traffic calming improvements on Claymore in a dollar amount proportional to the traffic calming needs generated by the development. See Attachment I, for the Town Attorney's position on the matter. Note that a traffic/cost study is advised prior to requesting such a bond.	Adena, NCDOT, Brough
3. Can the applicant be required to extend the sewer service to the northern property line?	OWASA is responsible for managing the orderly growth of the Town's utility system and is satisfied with the utility arrangement proposed by the applicant. The possibility of further extension of the sewer to the north is reserved by an OWASA easement. See Attachments M for OWASA's position on the matter.	Jeff, OWASA, Brough
4. Type III versus Type IV trail; what are the EAB's and Environmental Planner's position on the subject.	<ol style="list-style-type: none"> <li>1. The EAB recommends that the applicant follow greenway trail guidelines as presented in the Town's Recreation and Parks Master Plan (RPMP), to include: <ol style="list-style-type: none"> <li>a. A Type IV design to accommodate moderate to high recreation and transportation use from the southern property line to Reynard Road.</li> </ol> </li> <li>2. The Environmental Planner recommends a Type IV facility for the following reasons: <ol style="list-style-type: none"> <li>a. Lower maintenance costs and requirements given use requirements, topography and potential for flood/runoff events and;</li> <li>b. Enhances bike and pedestrian connectivity for both local and longer trips as both "skinny tire" and "fat tire" bikes can be accommodated in all weather.</li> </ol> </li> </ol>	Randy and Adena

## ATTACHMENT H2

5. Is the applicant willing to provide a wider vegetated buffer along the eastern property line?	<i>We are proposing to increase this buffer to a width of 25 ft. and install plantings and/or a fence to screen the adjoining properties. A proposed detail of this design will be submitted to the Town prior to the continuation of the public hearing on Jan. 27<sup>th</sup>.</i>	<i>Applicant response</i>
6. School Bus information.	See Attachment G	Adena, Carrboro/Chapel Hill School District
7. When was the FEMA flood plain last updated?	The FEMA maps were last updated in February 2007. There are no FEMA mapped floodplains on the site. The applicant has prepared a HEC/RAS study to determine the location of the 100 year flood for the site. It is currently under review by the Town Engineer.	Jeff and Marty
8. Stop signs in existing neighborhoods.	NCDOT can install stop signs if conditions warrant. NCDOT has agreed to do operations assessment of Tally Ho, Claymore and Sterling Bridge. This includes stop signs warrants, looking at sight distances, signage, speed limits and whether they could do some vegetation management. They will be following up with staff regarding their recommendations after they complete their work. The report is not yet available.	Adena
9. Maintenance Costs for Trails	See Attachment H	Randy Dodd
10. Water and Sewer Service.	See Attachments K through M	Roy Williford, OWASA
11. Tot lot and Playfield	<i>The original plan had both the tot-lot and the play field on the east side of the property, on and adjacent to the Duke Energy easement. With the change in the affordable lot layout, we moved the tot-lot to the west (opposite) side of the street to bring it to a more accessible location within easy access from the sidewalk. We think this is a better location even though it is on the opposite side of the street. There will be a dedicated cross-walk at this location, integrated with a traffic "choker" street design. However, we are agreeable to either location and leave it up to the Town to choose the preferred location.</i>	<i>Applicant response</i>
12. Easement Document.	The Town Attorney states that the Town accepts the information and title opinion from qualified attorneys at face value. If some other party wishes to challenge their finding, they may do so in a court of law. It is not the Town's responsibility to decide title issues.	Jeff, Brough
13. Is the applicant willing to provide fire suppression sprinklers in the new homes?	<i>We have agreed to install sprinkler systems for the proposed residential buildings, and have discussed this with the fire Marshall.</i>	Applicant.

ATTACHMENT H3

<p>14. Mosquitoes</p>	<p>The NCDWQ BMP manual which the Town uses has been developed to minimize the creation of favourable mosquito habitat. Most BMPs are required to drain after rain quickly enough to preclude conditions required for mosquitos to reproduce. BMPs with permanent pools do not provide optimal mosquito breeding habitat since there are generally predatory biota (insects, amphibians, fish) that control larva. The best habitat for mosquito reproduction is small ephemeral locations like puddles that remain for more than several days, buckets, gutters that don't completely drain, etc.</p>	<p>Randy</p>
<p>15. Does the clearing of trees to install BMP's within the stream buffer (or floodplain) lead to unintended sedimentation during peak rain events.</p>	<p>The proposed side slope of the BMPs is 3:1, which is the maximum slope allowable in the NCDWQ BMP manual. If properly installed and seeded, this slope should be stable. During installation the Town would seek sediment and erosion control oversight from Orange County. After installation, the HOA would be responsible for maintenance and the Town would periodically inspect.</p>	<p>Sungate, Randy</p>
<p>16. Provide comparative pictures for Box and Bottomless Box culverts.</p>	<p>See Attachment J. Note: Those structures considered more environmentally friendly maintain, more closely, the existing functionality of the creek.</p>	<p>Public Works</p>
<p>17. Well water recharge/Septic System failure.</p>	<p>Groundwater recharge will likely be decreased for the portion of the site which is mass graded which generally results in compacted soils and lower infiltration rates. See Attachment K-2 for a map regarding septic failure.</p>	<p>Randy Dodd</p>

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PHILIP

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ASSOCIATES

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January 22, 2009

#510301

Town of Carrboro  
Board of Aldermen  
301 West Main Street  
Carrboro, NC 27510

Re: Colleton Crossing- Applicant Response to Phasing Request

Alderman Coleman, the Planning Board and others have asked if MBI Development could phase the Colleton Crossing project, so that the development of some lots could be deferred pending completion of connecting roadways to other developments. Phasing would be feasible if the infrastructure for the development and its costs could be broken into components that match lot phase lines. This is not possible in Colleton Crossing because of the shape and contours of the land, the access points for the water and sewer extensions and the relatively small number of lots.

The major infrastructure components for Colleton Crossing are roads, storm water facilities and the extension of exterior water and sewer lines to the property and the installation of the lines serving individual lots. The most expensive component of the infrastructure will be the extension of Reynard Road across the creek to Colleton circle. This infrastructure work will be required no matter how many lots are developed. The cost of extending the water line eastward from Tallyho Trail and the sewer main up from the south would also be the same no matter the number of lots. This would also include the cost of extending the water lines across the tract from east to west. Also, to meet the stormwater requirements for the project the large detention/water quality pond that is designed to serve the entire property would have to be built in its entirety. This would also be cost prohibitive in a phased project.

The most cost effective way to install subsurface infrastructure and roads in a new development is to combine all of the activities in one set of excavation and grading contract(s) so the work can be done in sequence starting with rough grading. It is significantly more expensive to break the work into components and deferring some of the components until later. The sewer line will be extended from the west and the water line will be extended from the east meaning infrastructure will be extended from both sides of the tract no matter the number of lots approved. Phasing the development would

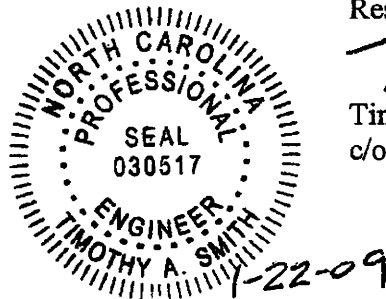
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force MBI Development to choose between installing all infrastructure now with no assurance as to when or if it could go forward with the second phase or deferring those parts of the infrastructure that do not have to be built to serve the first phase. This creates several problems for MBI Development. First, development lenders, particularly in the current environment, require a clear nexus between the amount of the loan and the value of the finished product and there might not be enough value in a completed initial phase to support the loan.

Also, lenders are not interested in financing current infrastructure costs for a phase to be completed at an indefinite date in the future, if ever and may be reluctant to make any loan if it does not see enough value in the first phase. Second, the incremental cost of completing infrastructure in phases would necessarily increase MBI Development's cost per lot and the ultimate cost of the housing. Finally, it would also force MBI Development to defer the affordable housing lots to the second phase because it could not afford to sell lots at or below cost as it must do on the affordable lots in the first phase of the development. We therefore respectfully request that a Phasing condition not be imposed on the approval of this project.



Respectfully,

Timothy A. Smith, P.E.  
c/o Jim Melville, MBI Development

**PHILIP  
POST  
&  
ASSOCIATES**

January 22, 2009  
#510301

Town of Carrboro  
Board of Aldermen  
301 West Main Street  
Carrboro, NC 27510

Re: Colleton Crossing- Sprinkler Systems

We have been asked to assess the feasibility of a new feature that we understand is desired (but not required under local law)—that is, the installation of sprinkler systems in the planned homes at Colleton Crossing. Regrettably, after careful consideration, we have concluded that this proposed option is not feasible.

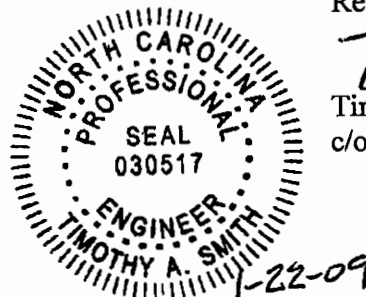
At a time when market conditions are demanding smaller—and more affordable—homes, I am exploring ways to reduce the price point of the Colleton Crossing homes without sacrificing our long-standing commitment to quality. The ideal market for these homes, as well as the homes in the planned adjoining developments, comprises home buyers who want to live in Carrboro, but find it difficult to afford quality homes there—university faculty, public school teachers, other public servants and other hard-working people who can make a vital contribution to the town's future.

Unfortunately, adding discretionary features like sprinkler systems will increase the price of these homes without enhancing their marketability, especially under projected market conditions. Based on the estimates I have obtained from local fire sprinkler contractors, the cost impact of installing sprinkler systems is: 1) \$5,000 to \$6,000 per house for the market rate homes and 2) \$3,500 to \$4,000 per house for the affordable homes. If prospective buyers are unwilling to pay that much more for a new home—a likely scenario if comparable homes lack this feature—our homes will not be competitive.

The incremental cost is even more prohibitive for the affordable homes. In the aggregate, the cost of the six units would be increased by \$21,000 to \$24,000. This cost increase, coupled with any delay in selling the homes (with the corresponding rise in carrying costs) could seriously strain our ability to ensure their subsidy. Ultimately, we fear that it could trigger a tipping point at which the Land Trust could not purchase the units, precisely the kind of unintended result that we would like to avoid. We therefore respectfully request that the proposed condition to sprinkler the homes be removed from the recommendations for this project.

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Respectfully,  
*Timothy A. Smith*  
Timothy A. Smith, P.E.  
c/o Jim Melville, MBI Development

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PHILIP

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POST

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ASSOCIATES

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January 22, 2009  
#510301

Town of Carrboro  
Board of Aldermen  
301 West Main Street  
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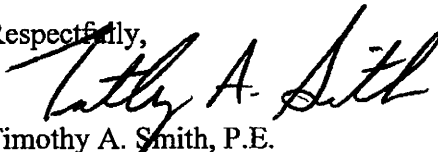
Re: Colleton Crossing- Applicant Response to Additional Sewer Extension

During the review and discussion of the proposed Colleton Crossing Subdivision project, the topic of an additional sewer extension to the north has been mentioned to be investigated. Along with the response received by the Town from OWASA, we would also like to offer the following on behalf of the applicant, MBI Development.

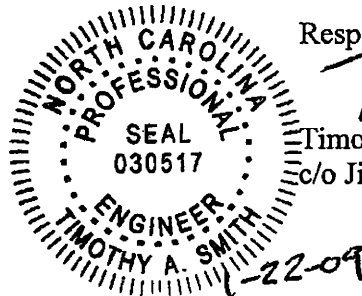
During the review and approval of the plans to date by OWASA, we worked diligently to investigate the future needs of service for the surrounding properties. In conjunction with the direction given by OWASA, we have designed the proposed water and sewer main extensions for the Colleton project to meet their standard policy. We have also shown additional sewer easements to be dedicated to OWASA which will allow expansion of the system as needed in the future. This is also standard policy with OWASA and we have met these conditions 100%. Please refer to the responses given by OWASA as shown in attachments M-1 and M-2. To impose further sewer improvements beyond this standard policy and precedence is unacceptable by the developer.

We therefore respectfully request that an additional sewer extension condition not be imposed on the approval of this project.

Respectfully,



Timothy A. Smith, P.E.  
c/o Jim Melville, MBI Development



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Responses to Board of Aldermen and Citizen Inquiries made *prior* to the Colleton Crossing AIS Conditional Use Permit Public Hearing.

<b>Information/Inquiries requested and arising before the 11/25/08 public hearing:</b>	<b>Response</b>	<b>Staff Contact</b>
1. Sidewalks on NCDOT roads?	NCDOT does not allow at-grade sidewalks to be built along NCDOT roads unless they are behind the ditch (which typically requires a 60' R/W), or, if they are located behind curb and gutter (which would replace the existing ditch).	Adena, George Seiz
2. Water quality devices in the Stream buffer.	The Detention Basin slope and bioretention areas 1, 7, & 8, encroach into the stream buffer. This is not prohibited by the ordinance and has been allowed in other projects (e.g. Claremont, Winmore).	Jeff
3. Duke Power's position on playfield in their easement.	Duke has provided written permission that allows the arrangement proposed on the CUP plans.	Jeff
4. NCDOT, Sidewalks and the developer.	NCDOT will allow developers to build and pay for installation of sidewalks along NCDOT maintained roads. This would be done through a third party agreement, where the Town would be the third party and would ultimately assume responsibility for maintaining the sidewalk (see also, #1 above).	Adena
5. Cost of bringing Reynard and Tallyho Trail to Town standards.	Bringing these roads to Town standards does not mean changing the pavement width or road section but pertains to the construction and condition of the existing road bed. Public Works has provided cost estimates for a sidewalk upgrade.	George Seiz
6. Explanation of Condition 14 allowing revisions to box culvert sizing.	This condition is directly tied to the following two conditions which require the applicant perform a flood study (HEC/RAS) to determine the location of the 100 year flood plain. The results of the study, though it is not expected, might require the resizing of the proposed box culvert. If the design is sufficiently different, it reminds the applicant and the public that the Board of Aldermen will be asked to approve of the change.	Jeff
7. Explanation of last sentence from Tree Removal letter.	The last sentence of this letter refers to the required Landscape trees that will be installed during construction and not existing trees.	Jeff

8. Traffic Burden sharing, The Highlands subdivision.	The applicant has prepared a traffic impact assessment (November 21, 2008), which provides intersection traffic counts that give a picture of the existing traffic distribution of vehicles using Tally Ho, Claymore and Sterling Bridge, during the AM and PM peaks. The TIA also forecasts what the trip distribution would be for several different future scenarios including: <ul style="list-style-type: none"> <li>• 2010 volumes without the proposed subdivision</li> <li>• 2010 volumes with the proposed subdivision but without the connection via Carolina Commons</li> <li>• 2010 volumes with the proposed subdivision and with the connection via Carolina Commons</li> </ul>	Adena
9. Box culvert, environmental impacts versus, bottomless arch culvert or, bridge.	The EAB and Environmental Planner recommend an alternative to the proposed box culvert including but not limited to a bridge, an arch culvert or, "floodplain culverts".	Randy Dodd
10. Use of temporary access easement as a primary construction entrance. Is this possible?	<i>According to our attorney, David Rooks, the conditions of the easement allow for the use as a construction easement.</i>	<i>Applicant response</i>
11. Are steep slopes from the BMPs located within the stream buffer a concern?	<i>The slopes of the BMP's that are within the stream buffers are 3:1 slopes and will be stabilized and vegetated. They will not create any conditions that will be a detriment to the buffer.</i>	<i>Applicant response</i>
12. Lot 39. It seems to fragment open space and result in a bioretention cell into the stream buffer. Is removal or relocation possible?	<i>The bio-retention cell on Lot 39 has been moved entirely out of the stream buffer and onto Lot 39. The stream buffer in this location will now remain entirely intact.</i>	<i>Applicant response</i>
13. Project impact on low lying septic fields to the north (relative to failure and impacts on tributaries)	See Attachments regarding sewer and septic issues in the area.	Roy Williford
14. Impact of grading on large tree of lot 17; is it possible to save tree?	<i>The proposed grading at this location is minimal, and can be further adjusted to the benefit of the future health of the 40 in. Poplar tree. This tree can and is proposed to be saved.</i>	<i>Applicant response</i>



school bus stop

AM: between 7:00 - 8:15

PM: between 2:30 - 4:00



## TOWN OF CARRBORO

NORTH CAROLINA

## TRANSMITTAL

## PLANNING DEPARTMENT

DELIVERED VIA:  HAND  MAIL  FAX  EMAIL

**To:** Environmental Advisory Board

**Via:** Roy Williford, Planning Director  
Patricia McGuire, Planning Administrator

**From:** Randy Dodd, Environmental Planner

**cc:** Jeff Kleaveland, Zoning Specialist  
Martin Roupe, Zoning Administrator  
Adena Messinger, Transportation Planner  
Will Hines, Sungate Engineering

**Date:** January 13, 2008

**Subject:** Greenway Trail Type for Colleton Crossing

Pursuant to the public hearing on November 28, the purpose of this memo is to present greenways recommendations for Colleton Crossing. Where construction plan (CP) review is mentioned, CUP approval is assumed. I generally defer to others as to appropriate timing (CUP vs. CP) for incorporation of recommendations.

**Background**

1. The applicant has proposed the same alignment and facility (Type III) running north/south along the unnamed tributary through the property as shown in the Recreation and Parks Master Plan (RPMP) posted on the Town's web site at <http://www.townofcarrboro.org/Townwide/PDFs/RecParkCompMstPlan.pdf>.
2. A Type III facility is described by the features shown in Table 1. A Type IV facility is presented also for comparison. Detailed descriptions of facility types are provided on pages in the RPMP.

**Table 1: Type III and Type IV Trail Comparison**

<b>Facility Feature</b>	<b>Type III</b>	<b>Type IV</b>
Finish surface (emerging/innovative surfaces being explored by Greenways Commission and staff).	Generally aggregate (see page 40 of RPMP) These surfaces are susceptible to wash during flooding	Generally paving with asphalt or concrete. Concrete may be preferable in flood prone areas.
Width	6-10 feet, usually 8' minimum	10 feet typical (can be wider with useable shoulders or more than two lanes)
Subgrade/subbase	Generally recommended	Required
Use	Low/moderate recreation and transportation; do not accommodate most wheelchairs; may have limitations when wet	Moderate/high recreation and transportation; limited during floods
Landscape Location	Upland/non-flood prone	Includes flood-prone areas
Topography	<3% slope; Side slopes > 5% require edging	Generally <10%

3. Selected other recommendation in the RPMP include:

“Grades should be contoured to avoid steep topography where feasible. Grades should be no steeper than 5% (3% when developing unpaved facilities). Should topography exhibit steeper slopes, the use of switchbacks should be employed to maintain a maximum slope of 10% (8% when developing ADA compliant facilities). Steps should be installed where switchbacks are not feasible. Grade should undulate gently, provide natural drainage and eliminate tiring monotonous segments.”

“Alignment should follow the existing topography and maintain shallow gentle curves. Avoid long straight segments and sharp angular turns over 50 degrees. Take advantage of natural drainage features to minimize the need for major drainage modifications.”

“All Type IV Trails should be designed and laid out in accordance with the “Guide for the Development of Bicycle Facilities” (AASHTO) and the “Bicycle Facilities Planning and Design Guidelines” (NCDOT).

It should be noted that it is not possible to satisfy some of the above recommendations on this site without modification to the current plan. For example, the applicant has looked at AASHTO requirements which allow for higher grades; the most difficult grade in the current plan is up the fill slope approaching Reynard Road. Staff has recommended during CUP review that this particular section be carefully looked at during the construction plan phase to maximize useability.

## Recommendations

- 1) In response to the Board of Aldermen inquiry, a **Type IV facility (that accomodates sewer line maintenance needs) is recommended** for the following reasons
  - a. A Type IV facility is likely to have lower maintenance costs and requirements given the use requirements, site topography and potential for runoff/flood impacts.
  - b. A Type IV facility would enhance bike and pedestrian connectivity for both short local trips and longer trips and recreational outings. An environmental benefit for the community-at-large would be lower motor vehicle reliance, when both “skinny tire” and “fat tire” bikes can be readily accommodated in all weather.

If projected transportation and recreation uses and neighborhood preferences suggest that a Type III facility is preferable, a requirement should be that such a facility be approved only if the easement is entirely located outside of the Special Flood Hazard Area determined from the flood study, due to maintenance demands and the probability of erosion impacts on the stream.

Related recommendations, beyond the Type selection are also provided below.

- 2) **It is desirable to maintain the alignment along the sewer easement to avoid additional forest clearing.** The decision as to whether to use an alignment to the south of lots or to the east of lot is primarily a transportation decision which I defer to others.
- 3) The decision to **dedicate a greenway easement along the sewer easement north of the proposed Reynard extension to the property line, but defer construction on this section,** to provide an option but not a commitment to this corridor is endorsed.
- 4) **The greenway easement should be increased to the same width (30') as the sewer easement** to increase flexibility in final corridor alignment during the construction phase
- 5) Since much of the proposed alignment is within designated stream buffers, it is recommended that **the Town, applicant, and OWASA follow draft provisions in the Water Quality Buffer ordinance** during the construction phase.
- 6) It is further and specifically recommended that the parties mentioned in #5 agree to
  - a. Put in and **rigorously supervise compliance with tree protection fencing during construction of the sewer line and greenway;** this fencing should not automatically be assumed to be the full 30' easement width for the entire corridor. The cleared corridor should be limited during construction to allow for reasonable construction vehicle access, for example with occasional turnouts.
  - b. **Minimize tree removal while maintaining reasonable maintenance vehicle access** for the permanently maintained corridor. Replant trees if warranted after construction.
  - c. **Consider State Division of Water Quality requirements,** including BMPs for non-perpendicular stream buffer crossing in the draft Jordan Lake rules
  - d. **Carefully design and grade the sewer and greenway installations to maximize diffuse flow** through the stream buffer.
- 7) **All requirements in the RPMP** (including, but not necessarily limited to those mentioned above) **should be used as a guide** by all parties during the construction plan phase.

- 8) While not specifically an environmental recommendation, **amenities** such as benches, railings, signage, bollards, and trash receptacles **should also be considered during construction plan approval.**

**MEMORANDUM**

Memorandum to: Carrboro Mayor and Board of Aldermen

From: Mike Brough

Subject: Colleton Crossing Traffic Issues

Date: November 29, 2008

This memorandum responds to questions raised by Aldermen Coleman and Haven-O'Donnell regarding the extent to which the advice I gave regarding Hannah Street and the then proposed Hannah Ridge development applies to the Colleton Crossing subdivision.

While I do not have in front of me the memorandum I prepared at that time, I did see in a recent email an excerpt from that memo, and the gist of what I said then still applies. As the Board is well aware, one of the bases upon which the Board may deny an application for a CUP is that "if completed as proposed ... the development, more probably than not, ...will materially endanger the public health or safety." Such a finding must be supported by (as the courts say) competent, material, and substantial evidence in the whole record. It seems to me that the condition of the existing roadway network that serves a proposed development would be relevant to the Board's determination on this issue. However, exactly what type of evidence a court will accept as being "competent" on this issue is difficult to glean from the existing case law, which is not a model of consistency. For example, in the Barnes street case, we argued successfully in the trial court that non-expert testimony from residents of the neighborhood, together with statistical evidence about the increase in traffic, was sufficient to support the Board's decision. We cited cases in support of that proposition, but the appellant has cited cases which it believes supports the view that the evidence was insufficient. It remains to be seen what the Court of Appeals will do with that issue.

In the Hannah Street situation, I believe I also addressed the fact, relevant to the current proposal, that the testimony about the current state of the supporting road network did not present an "all or nothing" proposition. In other words, the Board cannot deny all opportunity to develop a tract that is served by a road that is not ideal, but if the evidence warrants, the Board might conclude that it would be inconsistent with public safety for a tract to be developed at the maximum density allowable under the Land Use Ordinance unless or until conditions change to reduce the public safety hazard posed by development at the higher density level. That is in essence what happened in the Hannah Street situation, where the Board concluded that the requested density should not be allowed until a sidewalk was constructed. The same principle is applicable with respect to Colleton Crossing, but this begs the question of exactly what type of evidence must be present to warrant such a conclusion.

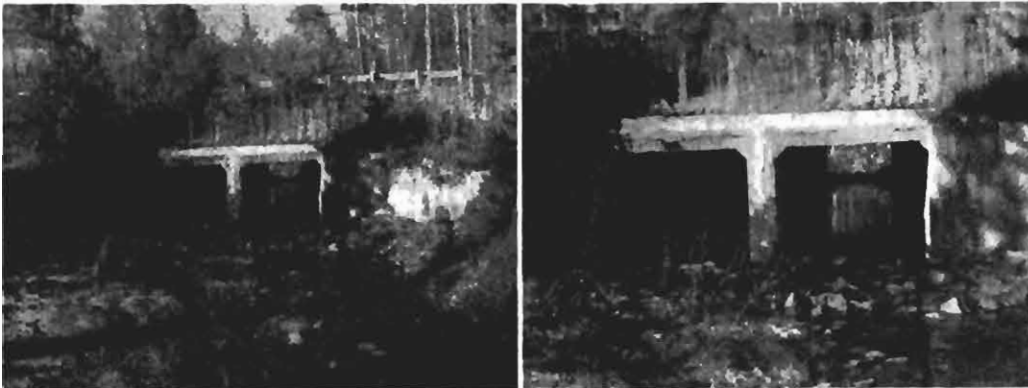
In this regard, one other matter should be addressed. In the Barnes Street case, the permit was not denied, but issued subject to a condition limiting the Barnes Street access to emergency use only. The validity of the condition has been challenged, but at least it was possible to understand



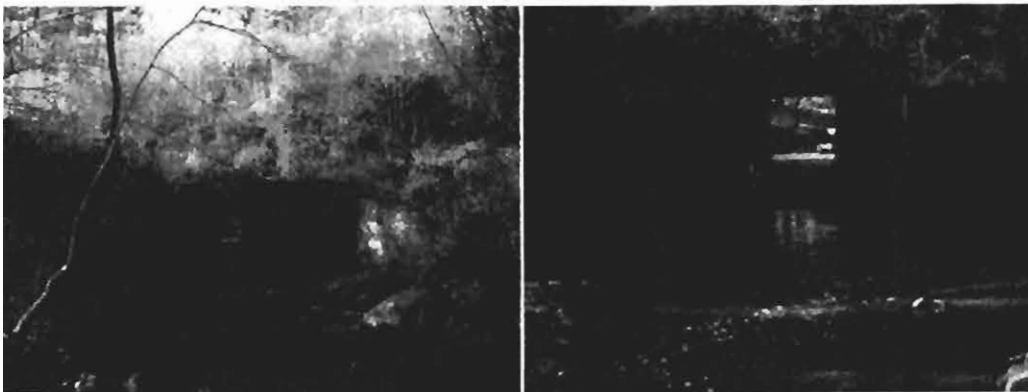
how the condition would operate without requiring a complete revision of the site plan. Similarly, in the Hannah Street situation, the sidewalk condition did not affect the site plan, only the timing of the development. In contrast, in the Colleton Crossing situation, a condition limiting the density to some fraction of the proposed number of units (as has been proposed by some speakers) would not be possible without a substantial revision of the site plan. This means that such a condition could not be unilaterally imposed, since the Board cannot require the applicant to submit a completely different site plan than the one proposed. However, a condition limiting the number of lots for which final plat approval could be granted until the southern connection (through the Carolina Commons property) is made would be possible without modifying the existing site plan. Of course, I am not suggesting that such a condition be imposed or offering an opinion as to whether such a condition would be sustained. I merely point out that there are limitations on what conditions can accomplish.

In summary, I do believe that the condition of the road network that would serve Colleton Crossing is relevant to the Board's decision on the application. There is already evidence in the record on this issue, with possibly more to come since the hearing remains open. Whether the evidence is sufficient to sustain the Board's decision, one way or the other, should that decision be challenged, is always difficult to predict. Therefore, I recommend that the Board continue to hear and evaluate all the evidence, and based on that evidence, make its own judgment as to whether the permit should be issued, with or without conditions, or denied.

## Comparative Culvert Design



Bottomless Box Culvert (Carrboro, Turtleback crossing)



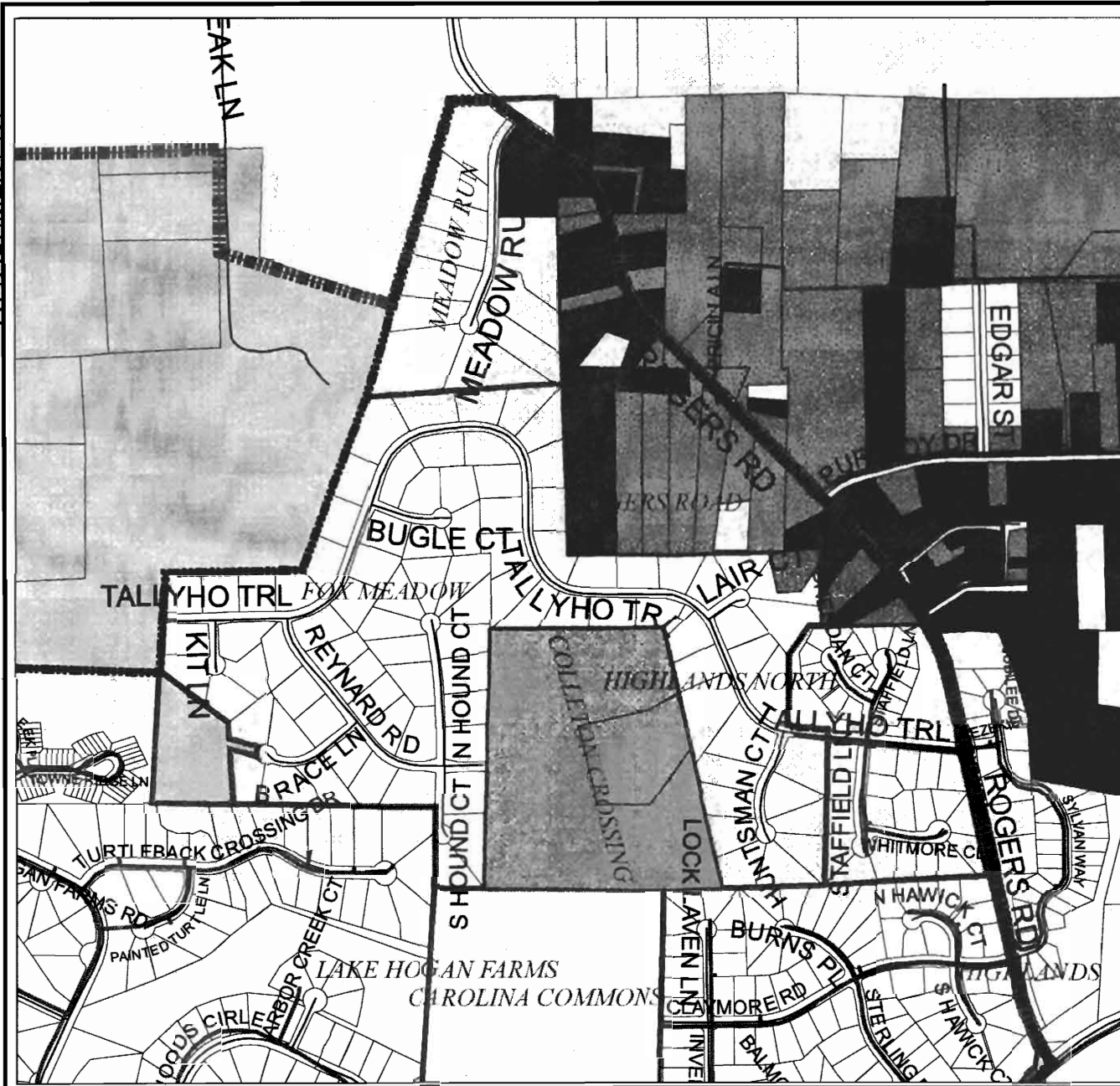
Box Culvert with bottom (Carrboro, Estes Drive)



Bottomless Arch Culvert  
(NCSU campus, Rocky Branch Stream)



Floodplain Culverts (NCSU, Rocky Branch Stream)



# OWASA Water Rogers Rd Area



## Legend

-  City Limits
-  Planning Jurisdiction
-  Properties
-  Current County Water Line Customers
-  Water Available Parcels
-  Colleton
-  Neighborhoods

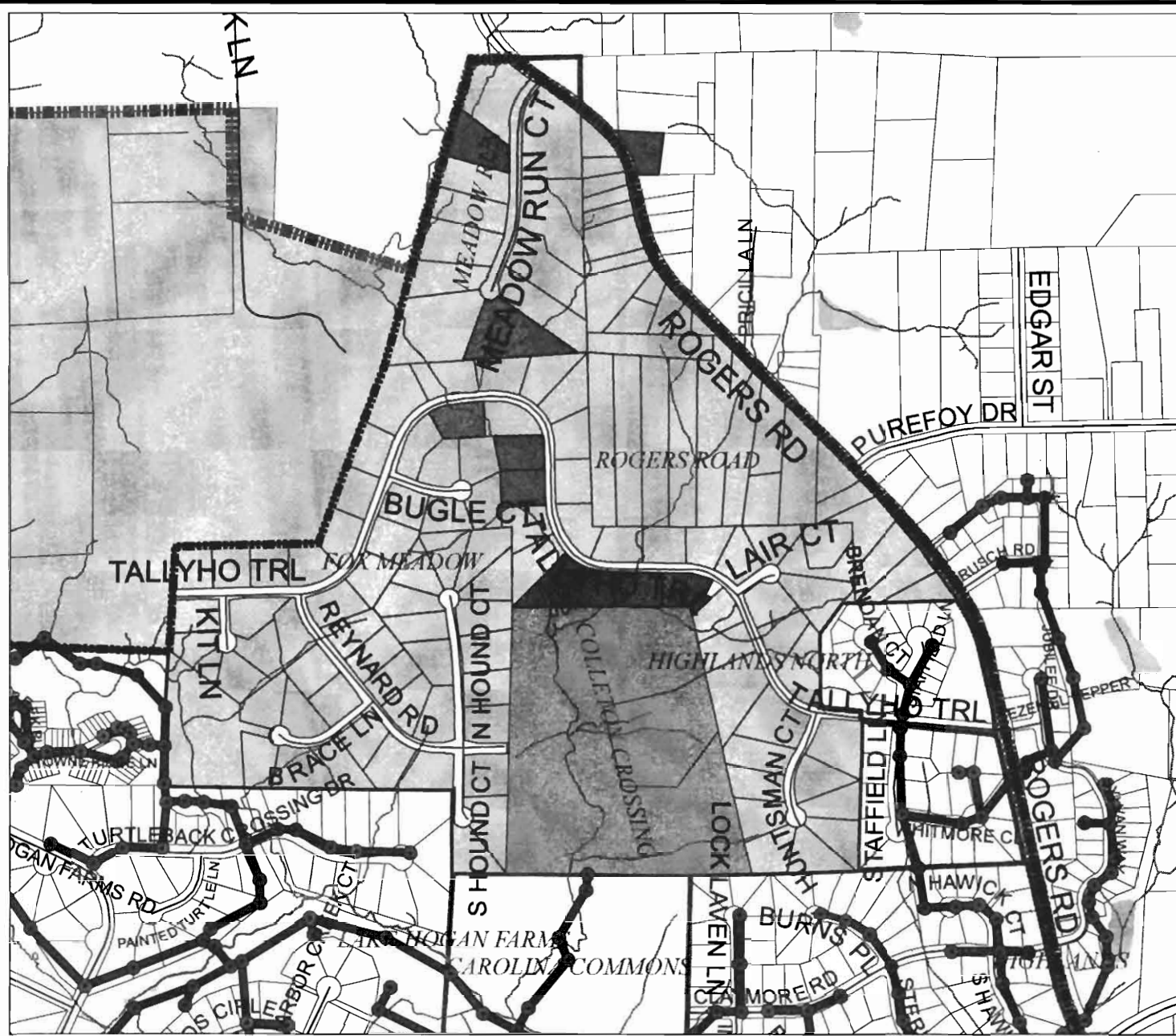
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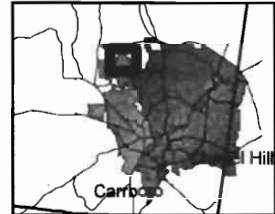


TOWN OF CARRBORO  
301 W. Main St.  
Carrboro, NC 27510

Printed Sep 22, 2006



# Sewer or Septic Carrboro Rogers Rd Area



## Legend

- City Limits
- Manholes
- Gravity Sewer Mains
- Planning Jurisdiction
- Septic repaired
- Properties
- Colleton
- Septic-Carrboro
- Neighborhoods

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**TOWN OF CARRBORO**  
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**Existing and Proposed Sewer:  
Rogers Road and Surrounding Area**

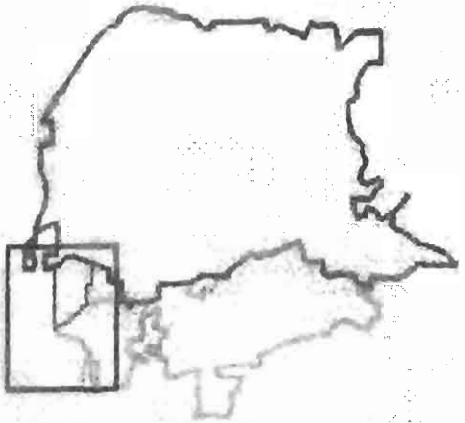
**Sewer Extension Cost Estimates**

Concept A	\$3,110,400
Concept B	\$2,721,600
Concept C	\$1,393,200
Concepts A+C	\$4,503,600
Concepts B+C	\$4,082,400

**Legend**

-  OWASA\_Proposed\_Sewer
-  GravitySewerMains
-  Chapel Hill Town Limits
-  Proposed Landfill Gas Pipe Routing
-  Rogers Road Study Area

**Area of Focus**



**From:** Nick Parker [NParker@owasa.org] **ATTACHMENT P1**  
**Sent:** Wednesday, January 14, 2009 5:16 PM  
**To:** Todd Spencer; Jeff Kleaveland  
**Subject:** RE: Colleton Crossing

Todd- Thanks for sharing the information and for the call back. This subject was the reason for my call.

Jeff – The answer to your question is yes, we would allow a dry line to exist within the collection system. But, I expect we would need to include our field staff to discuss the specific details of the Colleton project. Let me add that any extension of the public sanitary sewer system will require the developer to go through the same process (plan submittal/review/approval/State permits & ATC/Construction Permit) that any other developer would face. We reviewed the preliminary drawings for Colleton Crossing.

Nick Parker  
**Orange Water and Sewer Authority**  
400 Jones Ferry Road  
Carrboro, NC 27510  
Office: (919) 537-4201  
Email: [nparker@owasa.org](mailto:nparker@owasa.org)

---

**From:** Todd Spencer  
**Sent:** Wednesday, January 14, 2009 2:27 PM  
**To:** JKleaveland@ci.carrboro.nc.us  
**Cc:** Nick Parker  
**Subject:** RE: Colleton Crossing

Hi Jeff,

Hope you are doing well and Happy New Year! Nick forwarded your email regarding Colleton Crossing to me for comment..... so I'll give you my thoughts....

Whenever OWASA approves public water and sewer main extensions for new developments, we require that the developer meet our policy requirements among which are appropriate easements for all of our utilities. In addition, we do require that easements be reserved for the orderly expansion of the public sewer system to upstream and 'unsewered' properties. This is a standard requirement and we often will require this. However, we do not require that a new main be installed within these easements to upstream properties.

That is not to say, that Carrboro could not require installation of a pipeline if it wanted to make it a Town requirement. That would be your call, I suppose. In light of the recent annexation of those areas upstream, this may be one way the Town has of furthering objective of providing and extending services to newly annexed residents. Still, OWASA would not require new 'dry' lines to be installed. The only issue for us would be *'would we really want to have 'dry' sewer lines installed and inactive'*. Technically,

I would be concerned over gaskets, seals, or other problems over a period of time...also I am not sure whether or not we would be actively maintaining (tv-ing, inspecting, etc.) or even keeping the easement cleared as we normally do with our in-service sewer pipes. So there would be some concern over dry pipe being installed but not activated. Not saying it could not be done, but we would need to understand our need for maintain any such pipe and easement.


ATTACHMENT P2

Your other statement, until such time that OWASA condemns an easement across private property for further extension.... I do not understand why we would do this, since ostensibly, we would already have easements in place for the future extension of sewers in this development. As a matter of record, we have very rarely used eminent domain to condemn for sewer easements.....typically these are provided (as I note above) as a condition of approval of the water and sewer utilities for new developments. So it is unlikely we would position ourselves to need to condemn.

Thanks, call if you want to discuss in more detail.

Todd Spencer, P.E.  
Engineering Manager - System Development  
Orange Water and Sewer Authority  
400 Jones Ferry Road, P.O. Box 366  
Carrboro, N.C. 27510  
919-968-4421, ext. 244  
919-968-4464 (fax)  
email to : [Tspencer@owasa.org](mailto:Tspencer@owasa.org)



 *Go Green! Print this email only when necessary.*

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**From:** Jeff Kleaveland [mailto:[JKleaveland@ci.carrboro.nc.us](mailto:JKleaveland@ci.carrboro.nc.us)]  
**Sent:** Wednesday, January 14, 2009 12:13 PM  
**To:** Nick Parker  
**Subject:** RE: Colleton Crossing

Nick,

Here's a question for you.

Let's say, hypothetically, that the Aldermen required the applicant to extend the line north of the road, where it would be basically unused until such time that OWASA condemns an easement across private property for further extension, would OWASA allow such a dry line to exist?

JK

NOVEMBER 17 2008  
DANNY GOODWIN APPRAISALS  
2121 GUESS ROAD  
DURHAM NC 27705

MBI DEVELOPMENT, LLC  
PO BOX 2684  
CHAPEL HILL NC 27515

Dear Mr. Melville:

I have examined the subject proposed subdivision, Colleton Crossing, to determine the estimated impact on the surrounding communities, The Highlands and Fox Meadow as of the current date. These are the closest subdivisions to the subject proposed development.

In The Highlands I found and examined five sales in MLS from \$372500.00 to \$515000.00 from 8/14/08 to 11/6/08. These were built from 1989 through 2003. I found three single family homes on the market from \$570000 to \$599000. All were 2401 square feet to 3700 square feet. The sites were approximately .5 of an acre in size.

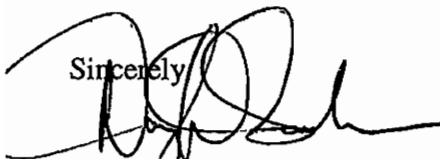
In the Meadows I looked at three sales in MLS from 3/28/07 to 12/14/07. These sales ranged from \$263500.00/1412 square feet to \$517500/3051 square feet. The lots were all .92 acres.

I then examined the subject SD . The subject SD contains 39 lots with 6 set aside for affordable homes. The remainder will be \$500000.00 to \$800000.00 homes consisting of 2500 square feet and up. The SD is just west of the intersection of Huntsman Court and Tallyho Drive. These homes will be high quality homes utilizing energy efficient building methods and materials. There is an existing OWASA easement from Tally Ho which would be of no negative consequence. The traffic generated from 39 sites would be minimal impact but could be confirmed by a qualified engineering study. The subject will be served by city water and sewer. The SD is similar to Winmore which is a \$350 to \$850 SD which is SE and close.

After examining the existing homes through the MLS sales and " on the market units" I do not see any negative affect on this area from the proposed subdivision. Any questions regarding construction traffic can be answered by the developer. The integrity of the existing area will be preserved by the developer. This is change but a change for the better in my opinion.

I have been appraising, selling and listing property since 1972. I have operated my own appraisal business for the last twelve years.

Sincerely



Danny D Goodwin  
NC Certified Residential Real Estate Appraiser



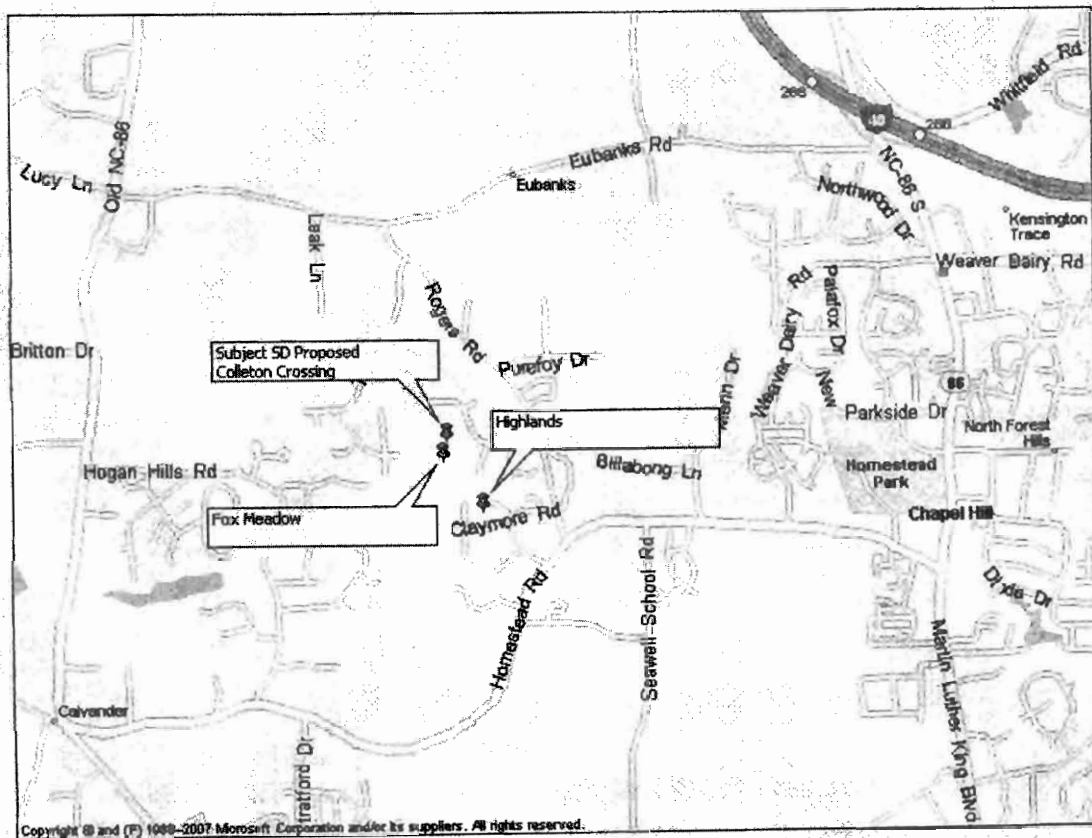


# Site Map

# ATTACHMENT Q2

Client	MBR			
Property Address	Colleton Crossing			
City	Chapel Hill	County	State	Zip Code
Lender	NA/ Jim Melville			

Subject and surrounding property





**PHASE I ENVIRONMENTAL SITE ASSESSMENT**

**COLLETON CROSSING  
TALLY HO TRAIL AND REYNARD ROAD  
CARRBORO, NORTH CAROLINA 27510**

**ECS PROJECT NO. 06-15277**

**FOR**

**MBI DEVELOPMENT LLC**

**SEPTEMBER 26, 2007**

## 1.0 EXECUTIVE SUMMARY

ECS Carolinas, LLP (ECS) was contracted by MBI Development, LLC to perform an ASTM Standard E-1527-05, Phase I Environmental Site Assessment (ESA) on the approximate 31.51-acre site located at the eastern end of Reynard Road in Carrboro, Orange County, North Carolina. Any exceptions to or deletions from this practice are described in Section 2.3 of this report.

The subject property is located in a residential area of Carrboro, North Carolina and consists of two contiguous parcels totaling approximately 31.51 acres that, according to information reviewed on the Orange County Online GIS database, have been assigned Parcel Identification Numbers (PIN) 9870-32-4695 and 9870-42-0557. MBI Development, LLC is listed as the current property owner. Currently, the site consists mainly of undeveloped woodlands with the exception of a few recently cleared areas located in the northeastern portion of the property and two power line easements that intersect in the southern portion of the property. Based on a review of available historical aerial photographs, a portion of the subject property appears to have been developed with a single-family residence from at least 1969 to 1991. The single-family residence appears to have been demolished sometime since 1991 and the area where it was previously located has been cleared.

ECS personnel conducted an unaccompanied field reconnaissance on September 14, 2007. The weather at the time of the reconnaissance was approximately 85 degrees Fahrenheit and sunny. Observations were made from a walking reconnaissance around the perimeter boundary and along several transects through the subject property. The northeastern portion of the property had several recently cleared areas around what appeared to be an old home site. Remnants of a building including concrete and brick were observed in the northeastern portion of the property along with several piles of vegetative debris. One pole-mounted transformer was also observed on the northeastern portion of the property. Two streams were observed on the subject property. One stream was located in the western portion of the property and the other stream was located in the northern portion of the subject property. Several piles of shingles were observed throughout the property. An apparently empty 550-gallon aboveground storage tank was observed in a stream bed located in the southwestern portion of the subject property along with two piles of household and automotive debris. Portions of the property were cleared and graded prior to the site reconnaissance. Therefore, ECS personnel did not observe natural soils *in situ* throughout the entire property. Stressed vegetation, stained soils and/or evidence of underground storage tanks may have been obscured as a result.

Surface run-off from the subject property is expected to flow generally to the west into an unnamed tributary located in western portion of the property and ultimately south into Bolin Creek.

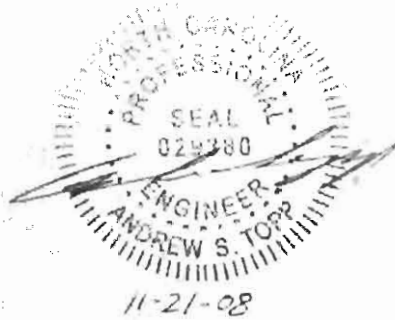
Duke Energy provides electricity to properties in the surrounding vicinity. Public utilities of water and sewer are currently not provided to the subject property or vicinity by the Town of Carrboro or the Orange County Water and Sewer Authority. ECS personnel did not observe evidence of a drinking water well on the property during the site reconnaissance. However, because a residence was apparently previously located on the property, ECS assumes that a drinking water well is/was located on the property.

A search of state and federal databases was performed by Environmental Data Resources (EDR) to determine if the subject property or properties within ASTM specified search radiuses are listed on the environmental regulatory agency databases. One listing was identified in the regulatory environmental database search, and was not considered to be a recognized environmental condition for the subject property.

Previously, ECS was asked to perform wetland delineation services and a geotechnical study and subsurface exploration on the property. The results of these surveys will be reported under separate headings to MBI Development, LLC.

As documented and qualified in this report, this assessment has not revealed evidence of recognized environmental conditions on the subject property. As such, at this time, ECS does not recommend performance of a Phase II ESA. However, ECS recommends that an asbestos survey be conducted on the shingle piles observed on the property prior to disposal at a local municipal solid waste landfill. Additionally, if planned development activities could possibly impact onsite surface water bodies or wetlands located on the subject property, ECS recommends that the appropriate permits and certifications be obtained prior to impacting onsite surface waters. Additionally, ECS recommends that the on-site well, if present and not planned for future use, be properly abandoned by a State of North Carolina Certified Well Contractor. Finally, if UST's are discovered during clearing or construction activities, ECS recommends that the tanks should be removed properly and further assessments should be performed.

This Executive Summary is an integral part of this Phase I Environmental Site Assessment report and ECS recommends that the report be read in its entirety.



Martin/Alexiou/Bryson, PLLC  
 Transportation Planning  
 Traffic Engineering

## MEMORANDUM

To: Jim Melville, MBI Development  
 From: Andrew Topp, PE, PTOE, Martin/Alexiou/Bryson, PLLC  
 Date: November 21, 2008  
 Subject: Proposed Colleton Crossing Subdivision – Traffic Impact Assessment (TIA)

### **Project Background**

Colleton Crossing Subdivision is proposed near Rogers Road in northern Carrboro, North Carolina (Figure 1). The project site is located on Reynard Road near Tallyho Trail (Figure 2). The proposed development will have two (2) access points. The western access point is made by extending Reynard Road to the development. A second access point to the south will access Claymore Road when the small single-family portion of Carolina Commons is built. The Colleton Crossing subdivision is proposed for 39 single-family dwelling units. This assessment is being required by the Town of Carrboro to quantify the current traffic on local residential streets and to determine what impact the proposed development would have on these streets.

In addition, once a portion of Carolina Commons is constructed to the south of the proposed development (Figure 3), the Town has asked to evaluate the type of impact the proposed development would have after that connection to Claymore Road is made. Only the small single-family portion of Carolina Commons was included in the TIA surrounding the connection. A more comprehensive study of Carolina Commons and the surrounding area will be submitted at a later date as part of site plan submittal for that project.

Construction of this project is proposed to be completed by 2010. Analyses were conducted for the morning and afternoon peak hours of travel (7:00-9:00 A.M. and 4:00-6:00 P.M.) to determine the impact of the proposed development during the peak hour conditions.

### **Existing (2008) Conditions**

Access to Colleton Crossing is via Tallyho Trail then Reynard Road coming from Rogers Road. Access to the small single-family section of Carolina Commons is via Claymore Road and/or Sterling Bridge Road. These are subdivision roads with posted 25 miles per hour (mph) speed limits and no Annual Average Daily Traffic (AADT) available from NCDOT.

Homestead Road and Rogers Road are two-lane collector roads bordering the neighborhoods. Rogers Road has a NCDOT AADT of 2,300 vehicles per day (vpd) with a posted speed limit of 40 mph. Homestead Road has a NCDOT AADT of 7,300 vpd with a posted speed limit of 35 mph.

Martin/Alexiou/Bryson, PLLC collected the A.M. and P.M. peak hour intersection turning movement counts analyzed in this TIA in November 2008. Table 1 summarizes the schedule used

to obtain the turning movement data. A detailed summary of traffic counts can be found in Appendix B.

Table 1 Weekday Peak Period Turning Movement Count Schedule

Intersection	Time of Data Collection	Date of Count
Rogers Road and Tallyho Trail (unsignalized)	7:00 A.M. – 9:00 A.M. 4:00 P.M. – 6:00 P.M.	Wednesday November 19, 2008
Rogers Road and Claymore Road (unsignalized)	7:00 A.M. – 9:00 A.M. 4:00 P.M. – 6:00 P.M.	Wednesday November 19, 2008
Homestead Road and Sterling Bridge Road (unsignalized)	7:00 A.M. – 9:00 A.M. 4:00 P.M. – 6:00 P.M.	Wednesday November 12, 2008

The existing conditions are shown in Figure 4, and the existing peak hour turning movement volumes are shown in Figure 5.

### **Background Growth**

Based on annual traffic surveys conducted by the North Carolina Department of Transportation (NCDOT), growth along Rogers Road has been minimal between 1999 and 2007; however, to maintain a conservative approach, an annual growth rate of 3% was applied to the existing peak hour volumes on the major roadways to reflect growth in the area. The residential streets are not expected to grow since the existing neighborhoods are fully built out. This growth rate should account for other approved developments were found within the study area of this development. See Figure 6 for No-Build (2010) peak hour turning movement volumes.

### **Traffic Generation**

Based on the corresponding trip generation code included in the *ITE Trip Generation Manual, 8<sup>th</sup> Edition*, the proposed Colleton Crossing Subdivision is projected to generate 437 daily trips including 37 A.M. peak hour site trips (9 entering, 28 exiting) and 45 P.M. peak hour site trips (28 entering, 17 exiting).

The following table summarizes the estimated daily and peak hour trips to be generated by the Colleton Crossing Subdivision. To be conservative, no trip reductions were taken for transit, TDM, etc.

Table 2: Trip Generation (vehicle trips)

A.M. Peak Hour Total Trips						
ITE Land Use Code	USE	Units	ITE MANUAL RATES			
			ADT	Enter	Exit	Total
210	Colleton Crossing - Single Family Detached Housing	39 units	437	9	28	37
<i>Land Use Total Trips</i>			437	9	28	37
P.M. Peak Hour Total Trips						
ITE Land Use Code	USE	Units	ITE MANUAL RATES			
			ADT	Enter	Exit	Total
210	Colleton Crossing - Single Family Detached Housing	39 units	437	28	17	45
<i>Land Use Totals</i>			437	28	17	45

### **Trip Distribution**

The site-generated trips were then distributed based on existing traffic patterns to the future year roadway network. Thirty-five percent (35%) of the site traffic would originate from and be destined to areas north of the project site via Rogers Road, thirty-two percent (32%) to areas south/west of the project site via Homestead Road, and thirty-three percent (33%) to areas east of the project site via Homestead Road.

Figure 7 illustrates the distribution for Colleton Crossing without the Carolina Commons connection and Figure 8 shows the A.M. and P.M. peak hour volumes according to this distribution. It should be noted that all of the site traffic must use Tallyho Trail and Rogers Road to travel to the surrounding communities.

Figure 9 illustrates the distribution for Colleton Crossing with the connection to Carolina Commons. Figure 10 shows the A.M. and P.M. peak hour volumes of Colleton Crossing according to this distribution along with traffic from the small single-family section of Carolina Commons and the diversion some existing traffic to utilize this new connection. It should be noted that once the Carolina Commons roadway link is in place, site traffic generated by the new Carolina Commons Homes (~17 units) would use Claymore Road and Sterling Bridge Road. In addition, some residents living at the end of Tallyho Trail will themselves opt to use Claymore Road and Sterling Bridge Road to access Rogers Road and Homestead Road. The specific shift in traffic was estimated using the shortest path. Figure 11 shows the Carolina Commons traffic, and Figure 12 shows the Tallyho Trail diverted traffic.

### **Build (2010) Conditions**

The Build (2010) Conditions without Carolina Commons account for the No-Build (2010) volumes discussed previously along with the addition of the site trips illustrated in Figure 8 for Colleton Crossing. Figure 121 illustrates the Build (2010) volumes without Carolina Commons. The Build (2010) Conditions with Carolina Commons account for the No-Build (2010) volumes discussed previously along with the addition of the site trips for Colleton Crossing, Carolina Commons, and any diverted traffic link trips. Figure 14 illustrates the Build (2010) volumes with Carolina Commons.

### Traffic Impacts

According to the analysis, the intersections shown in Table 3 are projected to operate at good Levels of Service (LOS B) during both the A.M. peak hour and the P.M. peak hour in the Existing, No-Build (2010), Build (2010) without Carolina Commons, and Build (2010) with Carolina Commons conditions.

Table 3: Level-of-Service Results

Intersection	Traffic Control	Existing (2008)		No-Build (2010)		Build w/o Carolina Commons (2010)		Build w/ Carolina Commons (2010)	
		A.M.	P.M.	A.M.	P.M.	A.M.	P.M.	A.M.	P.M.
Rogers Road and Tallyho Trail	unsignalized	(WB-B)	(WB-B)	(WB-B)	(WB-B)	(WB-B)	(WB-B)	(WB-B)	(WB-B)
Rogers Road and Claymore Road	unsignalized	(WB-B)	(WB-B)	(WB-B)	(WB-B)	(WB-B)	(WB-B)	(WB-B)	(WB-B)
Homestead Road and Sterling Bridge Road	unsignalized	(EB-B)	(EB-B)	(EB-B)	(EB-B)	(EB-B)	(EB-B)	(EB-B)	(EB-B)

LEGEND: (XX-X) = worst approach LOS

### Neighborhood Roadways and Access

Access to Colleton Crossing and the small single-family section of Carolina Commons is via standard subdivision roads, Reynard Road, Tallyho Trail, Claymore Road, and Sterling Bridge Road. These subdivision roads are typically narrower, approximately 18-feet to 20-feet in width, have slower speeds, posted 25 miles per hour (mph) speed limit, and have less traffic than the collector roads such as Rogers Roads and Homestead Road. The narrow roads create a traffic calming effect on drivers, but allow enough room for vehicles to pass, even when encountering school buses. In addition, the neighborhoods are heavily wooded, thereby creating a closed-in effect on the drivers. These roads typically have pedestrian activity on them, but adequate shoulders are provided for pedestrians when oncoming vehicles are approaching, if needed. At the Rogers Road and Tallyho Trail intersection, there are existing sidewalks on the east side of Rogers Road.

Emergency crews can expect approximately three minutes of additional travel time from Rogers Road to the Colleton Crossing Subdivision. Field observations revealed adequate sight distances at the Rogers Road and Tallyho Trail intersection. Once the connection to the small single-family section of Carolina Commons is made on Claymore Road, travel time is reduced to only one and a half minutes from Rogers Road. The intersection of Claymore Road and Rogers Road also has adequate sight distance.

### Conclusions

In summary, the proposed Colleton Crossing Subdivision, projected to open in 2010 near Rogers Road in the northern Carrboro area is not expected to have any significant negative impacts on the surrounding roadway network. Without the Carolina Commons link in place, the site's projected 37 A.M. and 45 P.M. trips will use Tallyho Trail. With the Carolina Commons link in place, the site's traffic will predominately use Claymore Road to access Rogers Road and Sterling Bridge Road to access Homestead Road. Even with the addition of this site, Carolina Commons, and the diverted trip from Tallyho Trail, all intersections are expected to continue to operate at a Level of Service B.



WHEREAS, the applicant's mother will co-sign for the loan.

NOW THEREFORE THE CARRBORO MAYOR AND BOARD OF ALDERMEN RESOLVE:

Section 1. The applicant has met the requirements for the loan under the RLF Program and at the time of signing the loan documents, he will have in hand all necessary permits from the Zoning Division and Management Services Department to operate the business in the Town of Carrboro.

Section 2. The Town Manager is authorized to have the attorney's office prepare all necessary documents and issue a loan in the amount of \$18,000 at an interest rate of 8% for a term of six (6) years. The collateral for the loan will be a first security position on the business property and the personal signatures of the applicant and his mother, Mrs. Gloria Ramsey.

Section 3. This resolution shall become effective upon adoption.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 15th day of November, 2005:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Alex Zaffron, Michael Nelson

Noes: None

Absent or Excused: None

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY MARK CHILTON TO ADOPT THE ORDINANCE ENTITLED, "AN ORDINANCE AMENDING FY'2005-06 BUDGET ORDINANCE." VOTE: AFFIRMATIVE ALL

\*\*\*\*\*

**AMENDMENT TO THE TOWN'S STREET LIGHTING POLICY FOR NORTHEAST ANNEXATION AREAS A AND B**

Pursuant to the motion passed by the Board on January 25, 2005, staff has developed this procedure "to allow residents in Annexation Areas A & B the opportunity to decline installation of street lights." The town staff proposed an addendum to the official town street lighting policy that will apply *only* to these two newly annexed areas.

George Seiz, the town's Public Works Director, made the presentation.

Sharon Cook, a resident of Claymore Road, requested that a super majority be used for residents to opt out of street lights, and requested that unique constraints, such as 100+ year old trees, be considered before street lights are installed, and asked whether a street is a block or an entire street.

Charlie Buckner, a resident of Fox Meadow, stated that Tallyho Trail extends through two subdivisions and suggested that the residents of each subdivision should be allowed to decide whether to opt out of street lights.

Laura Van Sant, a resident of Raynard Road, suggested that the Town not require more than two-thirds of the residents to sign a petition to opt out of street lights.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman Mark Chilton.

A RESOLUTION APPROVING AN ADDENDUM  
TO THE TOWN'S STREET LIGHTING POLICY  
Resolution No. 41/2005-06

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for the public to consider modifications to existing policies; and

WHEREAS, the Board has specifically instructed staff to develop a way for the soon-to-be annexed areas north of Homestead Road and west of Rogers Road to decline street lighting; and

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO:

Section 1. The Board of Aldermen approves the proposed addendum to the Town's Street Lighting Policy, and that:

- a. A valid petition for exemption from the street lighting policy must be signed by 66% of the property owners with frontage on a particular street within a particular subdivision; and
- b. Any street that elects not to receive lighting will receive lighting in the future if 66% of the property owners with frontage on that street or within that particular subdivision request it from the Town.

Section 2. The Board of Aldermen confirms that this addendum shall apply *only* to Northeast Annexation Areas A and B (with an effective annexation date of January 31, 2006).

Section 3. This resolution shall become effective upon adoption.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 15th day of November, 2005:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Alex Zaffron, Michael Nelson

Noes: None

Absent or Excused: None

\*\*\*\*\*

**APPOINTMENTS TO THE TRIANGLE TRANSIT AUTHORITY TASK FORCE**

The Board of Aldermen on October 11 endorsed the formation of a work group to address providing TTA service to downtown Carrboro. The town staff recommended that the Board of Aldermen identify a Board member to serve on the work group and adopt a resolution making the appointments.

The following resolution was introduced by Alderman Jacquelyn Gist and duly seconded by Alderman Joal Hall Broun.

A RESOLUTION MAKING APPOINTMENTS TO THE TTA WORK GROUP  
Resolution No. 45/2005-06

# ATTACHMENT U1

December 2, 2008

Dear Planning Board Members,

Thank you for the opportunity to voice my concerns over the Colleton Crossing Conditional Use Permit. My chief concern with the permit is the effect it will have on the Highlands community. At the Board of Alderman meeting on November 25, the applicant testified that there would be substantial increased traffic through the Highlands community caused by Colleton Crossing, Carolina Commons and Tally Ho residents. The increased traffic will be detrimental to the safety of residents of Claymore and Sterling Bridge.

This is one of the reasons that the current Land Use Ordinance prohibits such a connection. Below is an excerpt from the Carrboro Land Use Ordinance Article XIV: Streets and Sidewalks, Section 15-214: Coordinating with Surrounding Streets:

Subject to subsection 15-217(a), subcollector, local, and minor residential streets shall connect with all surrounding streets to permit safe, convenient movement of traffic between residential neighborhoods and to facilitate access to neighborhoods by emergency and other service vehicles. The connections shall be created in such a way that they do not encourage the use of such streets by substantial through traffic. (AMENDED 09/16/97; 05/06/03)

Estimates discussed at the meeting exceeded 1,000 additional trips a day on Claymore and Sterling Bridge Roads. The roads are built to specifications which account for 200-800 trips per day. To accommodate the increased traffic, according to the Land Use Ordinance, they would need to be 34 feet wide with sidewalks and bike lanes on each side. Currently both roads are 20 feet wide without sidewalks or bike lanes.

There was also much testimony regarding how 39 houses in Colleton Crossing would require two exits. However, the proposed connector through Carolina Commons would impact the Highlands more significantly than Tally Ho residents would be impacted if there was just one exit via Tally Ho. This is illustrated below based on the assumption that each house adds 10 trips per day.

	Impact to Tally Ho (increased number of trips per day)	Impact to the Highlands (increased number of trips per day)
Option 1: No development <ul style="list-style-type: none"> <li>• Colleton – 0 houses</li> <li>• UNC – 0 house</li> </ul>	0	0
Option 2: Limited development <ul style="list-style-type: none"> <li>• Colleton – 15 houses</li> <li>• UNC – 15 house</li> <li>• No connector</li> </ul>	150	150
Option 3: Full development, 1 exit <ul style="list-style-type: none"> <li>• Colleton – 39 houses</li> <li>• UNC – 15 house</li> <li>• No connector</li> </ul>	390	150
Option 4: Full development, 2 exits <ul style="list-style-type: none"> <li>• Colleton – 39 houses</li> <li>• UNC – 15 house</li> <li>• Connector</li> </ul>	0	940 (Assumes all Colleton Crossing, Carolina Commons and 40 Fox Meadow homes exit to the South as it will be shorter)

Based on these scenarios, I would recommend limiting the impact on both Tally Ho and the Highlands, by reducing the number of houses to 15 and only require one exit via Reynard Road.

Again, I appreciate the chance to express my views and pray that you take into account the safety concerns of the surrounding communities when you make your recommendation to the Board of Aldermen.

Respectfully yours,

Drew Narayan, 1801 Claymore Rd.

**From:** Roy M. Williford      ATTACHMENT U2  
**Sent:** Thursday, December 04, 2008 9:06 AM  
**To:** Martin Roupe; Jeff Kleaveland; Patricia J. McGuire  
**Subject:** FW: Planning Board Discussion of Colleton Crossing

FYI, one more time for Colleton Crossing Comments,  
Thanks,  
Roy

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**From:** Kevin Williams [mailto:kpwbio@nc.rr.com]  
**Sent:** Thursday, December 04, 2008 8:35 AM  
**To:** Roy M. Williford  
**Cc:** Thelma Paylor  
**Subject:** Planning Board Discussion of Colleton Crossing

To Roy Williford Planning Director:

Please include our written comments in the discussion and public record for the Planning Board Discussion of Colleton Crossing tonight.

1. There is still no new fire station for our area 2 1/2 years after annexation of the Highlands and surrounding neighborhoods – how can new housing be added without this being in place?
2. Construction traffic – will this all be coming along Claymore in the Highlands if connector is built? This seems an eminent threat to our and our children's safety.

Thanks,

Kevin and Melanie Williams  
8326 Burns Pl (The Highlands)

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Town of Carrboro, NC Website - <http://www.townofcarrboro.org>

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

(cont)

**From:** Roy M. Williford ATTACHMENT U3  
**Sent:** Wednesday, December 03, 2008 10:20 AM  
**To:** Patricia J. McGuire; Jeff Kleaveland; Adena  
Messinger; Martin Roupe  
**Subject:** FW: Planning Board Meeting, December 4, 2008

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**From:** Mari Weiss [mailto:dramamamamari@yahoo.com]  
**Sent:** Wednesday, December 03, 2008 10:15 AM  
**To:** Thelma Paylor; Roy M. Williford  
**Subject:** Planning Board Meeting, December 4, 2008

PLEASE INCLUDE THE FOLLOWING LETTER IN THE RECORD BEFORE THE  
PLANNING BOARD REGARDING THE MEETING OF DECEMBER 4, 2008

December 3, 2008

Dear Planning Board,

This is a followup to the many opinions and protestations regarding connecting Claymore to the road from Colleton Crossing that were expressed before the Board of Aldermen of Carrboro on Wednesday, November 26th.

In weighing the presentation by the Builder, and all the concerns of the dozens of homeowners that spoke, I would like to propose an alternate plan.

I have carefully walked and observed the housing tract known as Camden Place on various days at various times. It does not appear to have the amount of foot traffic or automobile traffic that The Highlands does. In addition, it has curbs on both sides of a wider street, and a sidewalk running the length of the tract.

If the stub-in were to connect to Camden Place instead of Claymore in The Highlands, it would be a direct route right onto Homestead Road, with traffic that wanted to exit onto Rogers Road continuing to use Tallyho, thereby creating a more equitably split of the traffic pattern.

However, I cannot stress strongly enough that no road should be created from Colleton Crossing southward through our lovely woods and green space. This will create an eco-hazard of unknown proportion.

ATTACHMENT U4

Also, if all of the homeowners are overruled and a road is built, why would Merville Builders not be the person to pay for that road? I frankly refuse as a taxpayer to pay for a road that benefits no one but the builder of a landlocked property. Also, it should be the burden of the builder, if The Highlands is chosen as the tract of connectivity, rather than Camden Place, to put in curbs and gutters and a sidewalk along Claymore and Sterling Bridge, as that is how our children walk to and from school, and six school buses per day pickup and drop of children.

I also have a question about the "Connectivity" factor that kept coming up at the meeting of the Board of Aldermen on November 26th. I fail to see the benefit of connecting neighborhoods for car traffic. First of all, there is the "accountability" factor. Unless someone is lost, the only people traveling on Claymore or Sterling Bridge into our neighborhood are people that live here, visit here, or do some sort of work here, such as gardeners, workmen, and delivery people. I have twice, myself, followed speeding teenagers to their destination in The Highlands and had a conversation with them regarding safe driving.

I can see the benefit of connectivity for walking trails and bike paths, especially for the children that walk from school to Fox Meadows.

Lastly -- and I really cannot stress this strongly enough -- how can it be justified that an unbuilt, landlocked piece of property be improved with green space, a tot lot, and "paved" walking trails and a bike path, for houses that will sell in the \$800,000 range, when such a development not only costs The Highlands the ONLY green space it has, but makes it bear the burden of the ingress and egress of that development, and creates dangerous situations on our roads for the homeowners and their children?

Children that live and play in th Highlands have a learned expectation about the traffic and safe areas for play. People that have bought homes in the Highlands had an expectation of what the tract looked like, the privacy, the traffic flow. We as a development will be forced to seek legal counsel to protect our development if the "annexation" of Claymore is approved by the City. It infringes on our safety, our land value, and the topography of the area when we purchased our homes.

I am sure if UNC was aware of how vehemently The Highlands Homeowners oppose this Claymore connection it would have an impact. To destroy the quality of our lives so that more tax revenue is received by the City serves no one.

Thank you for your courtesy and attention to my concerns.

December 2, 2008

Dear Planning Board:

Thank for your careful consideration of the Colleton Crossing Proposal. As you have heard at the public hearing, there is significant concern that the 39 unit proposal will **adversely affect the safety** of your current constituents. Specifically, the proposal for the connector through the UNC property would result in about **1000 vehicular trips** per day on Claymore Road. Claymore Road was designed to handle HALF that traffic and is currently subconnector status, with no sidewalks, no buffers, no curbs, no shoulders, minimal visibility, no four way stops signs, no speed bumps. Importantly, we use this road for heavy pedestrian and bicycle traffic to connect through our neighborhood, as well as to adjacent neighborhoods.

**We have two major school bus stops on Claymore with up to SIX stops per school-day all at DIFFERENT TIMES with nearly 100 children in our neighborhood.** The children leave the bus and walk on the road to their homes. Additionally, our neighborhood is a designated “walk zone” for Chapel Hill High School – no buses are provided and our students must walk. Once traffic increases to 1000 trips per day, where will the children walk?

**There are multiple concrete concerns regarding safety:**

**1. The proposal would directly violate the Town of Carrboro’s mission statement**

Quoting from the Town of Carrboro website: **“The Town of Carrboro is known for its well-managed growth, commitment to resident input, cultural diversity, activities for everyone, economic base of locally-owned small business, and walkability for residents and visitors.”** Voting in favor of this proposal would NOT be a commitment to resident input, as all the neighboring communities directly impacted by Colleton Crossing have vociferously and strongly displayed their opposition to this proposal. I am hopeful the Board will uphold the Town’s commitment to “resident input” as a critical part of this decision.

Also, the Colleton Crossing proposal would **eliminate the walkability** of our neighborhood and to adjacent neighborhoods. Due to the 1000 trips per day, the safety of our children is our highest concern. According to NC Safe Kids “From 1999-2002, 82 children age 14 and under died as a result of pedestrian-related injuries (1.22 per 100,000). Additionally, 521 children age 14 and under were hospitalized as a result of pedestrian injury, which is equal to 7.76 children per 100,000. In 2002, an additional 3,449 child pedestrian injuries (202.59 per 100,000) are estimated to have occurred but not been admitted to a hospital. Pedestrian injuries in 2002 are estimated to have cost more than \$2.8 million in hospital charges”.

The concerns for our children’s safety are real. Therefore, if the proposal is approved, we will no longer use our street to walk or bike due to the dangers. This would absolutely contradict the mission statement for the Town. Our neighborhood would no longer be walkable, in order to provide vehicular connections (rather than pedestrian connections) for a new development.

**2. The proposal would directly oppose the multiple North Carolina Department of Transportation (NCDOT) pedestrian safety initiatives. These include the Safe Routes to School (SRTS) Program that encourages schools to participate in a Walk to School initiative, the Walkable Communities in North Carolina Initiative, and the Walkable Road Show program.** According to the NCDOT website, “National Walk to School events occur each October as part of an international effort that encourages students to walk or bike to school. Last year, 40 countries participated in the event. In the United States, 2,756 schools from all 50 states participated, including fifty-three North Carolina schools. A Walk to School event is a fun way for communities to take a first step towards changing community culture and creating an environment that is more inviting for everyone, young and old, to walk and bike.” These initiatives are in accordance with the Town’s mission for walkability. The proposal eliminates our ability to walk or bike to school, due to traffic dangers.

**3. The proposal would be inconsistent with prior Board decisions.** In the past, the Board wisely held that **citizen safety was a higher value** than other important values, such as high density housing, affordability, and connectivity. Although these are important values, the safety of current citizens must NOT be jeopardized in order to achieve them. In the past, the Board voted to permit pedestrian/bike access (with emergency access) ONLY until road conditions could be made safe. Safety is achieved when the roads are given sidewalks, curbs, stop signs, and speed bumps.

I applaud the Board’s interest in exploring stop signs for our neighborhood. However, that will NOT be enough to mitigate the risks. Stop signs do not solve the problem of having NO PLACE ELSE TO WALK. Additionally, pedestrian research shows that stop signs have NOT been shown to significantly reduce the risk of injury. Other traffic calming measures are needed.

I applaud the Board’s interest in exploring alternative ways to pay for sidewalks, speed bumps, etc for Claymore Road (since Claymore is a DOT road and therefore the Town cannot alter them). However, my concern is who will take responsibility for the upkeep of these safety measures? What happens when the sidewalks need repair or the speed bumps become damaged? It is critical for clear delineation of responsibility of the safety measures on Claymore Road to ensure long-term safety.

**4. The Traffic Assessment provided by the developer is based on erroneous assumptions.** The report stated that “These roads typically have pedestrian activity on them, but adequate shoulders are provided for pedestrians when oncoming vehicles are approaching, if needed.” This was given as evidence of road safety. However, the truth is that Claymore has NO SHOULDERS for pedestrians. Most “shoulders” are edges of ravines, steep drainage sites, or covered with old growth trees. The conclusions of the Traffic Report lack credibility.

**5. The proposal is inconsistent with the values and efforts made by UNC in promoting pedestrian safety.** UNC sponsors excellent pedestrian safety organizations, such as the Pedestrian and Bicycle Information Center within the University of North



Carolina Highway Safety Research Center, as well as the UNC Injury Prevention Research Center. I am hopeful that our community's commitment in providing national and international training and research in pedestrian safety translates into local efforts. I am hopeful that our community will fight to ensure that we are kept safe during University development.

**6. The proposal risks excess costs resulting from pedestrian injury, which mitigates the gain from increased tax revenue.** The National Safety Council (NSC) estimates that the comprehensive cost of each person killed in a traffic crash to be \$3,840,000 (2005 dollars) The NSC also estimates the average economic nonfatal injury cost per person involved in a motor vehicle crash to be \$52,900 (2005 dollars).

I am extremely concerned that the Colleton Crossing proposal would endanger the lives of your youngest constituents due to its undeniable increase in traffic on a road that has no safety features. Of even greater concern is that there is no one who can make our road safe enough to handle this increase in traffic. Please vote consistent with our Town's mission – value your residents' input, ensure that our neighborhoods are walkable, and fight for the safety of your youngest constituents. Please help us keep our children safe – do not allow them to be endangered for this proposal – help us truly be forward thinking in preventing injury and death to our children.

**I support limiting the development to 15 homes with no connector road through UNC to Claymore. This is the safest option available. This plan will uphold the Town's values, ensure citizen safety, and promote "well-managed growth".**

Thank you for your time,

Sincerely,  
Aditee Narayan

1801 Claymore Road

12/4/08

Attention: Carrboro Planning Board

Regarding: Colleton Crossing

From: John Norton  
1610 Skye Dr.

Dear Members of the Board;

My neighbors encouraged me to attend the last Carrboro BOA meeting on November 25<sup>th</sup>. At the meeting a traffic engineer hired by the developer of Colleton Crossing presented his report which gave a projection of the impact of a connector road to Claymore Rd. in the Highlands. I was surprised that he said not only would the Highlands get all the traffic from Colleton Crossing but also additional traffic from the neighborhoods at the end of Tally Ho trail.

I respectfully ask for your consideration in preventing the Highlands from taking on this additional traffic. As a 10 year resident of the Highlands I have a real concern about doubling the amount of traffic in the neighborhood and diminishing the quality of life for an established neighborhood. I see no benefit from this connector road to the Highlands. Claymore Rd. and Sterling Bridge are narrow roads with no sidewalks or street lights. This works very well for the current amount of traffic and is enjoyed by the residents.

I would hope rather than wait for the problem to arise that you will be proactive I would suggest consideration of

1. No connector road. This would increase traffic on Tally Ho but only the traffic from the 37 new homes vs. a connector road would mean more traffic not only from the new homes but more from existing homes. Most of the homes on Tally Ho appear to be set back further than the homes on Sterling Bridge and Claymore which would mean less of an impact on existing homes.
2. Develop and build a master road plan before a house is built which might include a direct route to Homestead Rd. Looking at a map it seems eventually the UNC property will connect to many of the stub outs in the area which will have a lower impact on many existing neighborhoods vs. asking one neighborhood to take all the impact. This would also accomplish the goal of connectivity.

Your help in keeping the Highlands a quiet neighborhood that Carrboro can be proud of is greatly appreciated.

Sincerely,

John A. Norton

December 4, 2008

Planning board members,

You have heard the many concerns and suggestions from the neighbors adjacent to Colleton Crossing. You have heard why our roads are inadequate for additional vehicle traffic and pose a safety hazard for our pedestrians. You have heard that we object to our quiet neighborhood streets becoming a vehicular highway which would significantly and negatively impact our quality of life. You have heard that this project is in an environmentally sensitive area unsuited for the size of the current proposal. So far, these appear to have been ignored. The standard for connectivity and density that the board is trying to force onto our neighborhood is not right for this development. You cannot just blindly apply standards that would be fine downtown to this recently annexed area. I might also remind you that citizens in this area were against annexation by Carrboro from the start. This is exactly why the residents did not want to be a part of Carrboro. So now that we are a part of Carrboro are you just going to ignore us completely?

Colleton Crossing needs to be limited to minimize the impact to the surrounding communities. Limiting the development to require only a single access at Reynard accomplishes that goal. This preserves the quality of life and environmental factors as much as possible. This area has recently added many houses in Winmore, Claremont and the soon to be developed adjacent UNC property. Are you really going to ruin our existing neighborhoods by allowing too many houses to be built in Colleton when you have numerous new houses in the area already?

Ignoring this would be an act of neglect on the part of the town and a slap in the face to hundreds of Carrboro taxpayers who already feel like they get too little for their financial support to the town.

Thank you for your consideration,

Michael Adler  
Deborah Adler  
1900 N Hawick Ct.  
The Highlands

# Health Effects of EMF and High Voltage Power Lines

## Studies Cited-

- 2009 British Columbia Centre for Disease Control
- 2005 Oxford University
- 2002 California Health Services "EMF Project"

Not long ago many people, including well-informed researchers, would have characterized the existing epidemiological studies as a muddle—some finding a health risk, others finding nothing at all. But when the data are pulled together, a different picture emerges: a clear and consistent pattern of significant risks for average exposures above 4 mG.

*Scientific American ( quoting Microwave News )  
September 2000*

**Every major study since 2000 has found a significant relationship between EMF caused by high voltage power lines and various diseases....**

The California EMF project, a 9 year 7 million dollar study concluded..

Magnetic Fields from High Voltage Power lines **likely cause** childhood and adult leukemia, adult brain cancer, spontaneous abortions ( miscarriages) and ALG ( Lou Gehrig's disease)

They **possibly cause** childhood brain cancer, male and female breast cancer, Alzheimer's disease, depression leading to suicide, and heart problems

PROBABILITY EMF CAUSES SPECIFIC DISEASE

Childhood Leukemia	58% to 94%
Adult Brain Cancer	50% to 97%
Spontaneous Abortions	50% to 92%
ALS	60% to 65%
Adult Leukemia	44% to 89%
Suicide	44% to 51%
Heart Disease	28% to 45%
Breast Cancer	19% to 55%
Alzheimer's Disease	14% to 43%
Childhood Brain Cancer	10% to 48%

EVEN THOUGH THE INCIDENCE OF ALL THESE DISEASES (EXCEPT MISCARRIAGES) IS LOW, THE CALIFORNIA DEPARTMENT CONCLUDES EMF REPRESENTS A SIGNIFICANT HEALTH RISK.



**According to a 1997 British Medical  
Journal report using the same  
methodology second hand smoke  
has a 24% chance of causing lung  
cancer.**

A 2005 British study found that children whose birth address was within 200 meters of an overhead power line had a 70% increased risk of leukemia. Children living 200 to 600 meters away from power lines had a 20% increased risk.

Research by Dr. De Kun- Li reported in the January 2002 issue of Epidemiology studied people living within 25 metres of a power line and compared them with others in the same area outside the 25-metre boundary. It found that more than one in seven pregnant women with homes near cables had miscarried, compared to one in 29 living further away.

Of men and women living close to electricity lines, 27 per cent said they had suffered from depression compared to 13 percent further away.

Sixty-three per cent of those within 25 metres reported regular headaches compared to 39 per cent of those outside that distance. Insomnia and dietary problems were reported to be around 50 per cent higher near the power lines.

The results came from the first detailed look at the health of those living near a high voltage supply in the UK for 20 years.

**Dr. Paul Vailleneuve of the University of Ottawa finds in a study published in February 2002 that those who were exposed to a moderate 6mG of magnetic fields increased by a factor of 12 their odds of developing an aggressive brain tumor know as glioblastoma multiforme.**

U-19

ATTACHMENT U19  
600 meters from  
increase in childhood

200 meters from power line - 70% increase in childhood leukemia

25 meters - 500% increase in miscarriage

EXPOSURE VIOLATES BASIC  
HUMAN RIGHTS IN EU

# Colleton Crossing

## Public health risks

BASED ON OXFORD UNIVERSITY 2005 STUDY

BASED ON OXFORD UNIVERSITY 2005 STUDY

Wisconsin, Minnesota, California, and Washington all have restrictions on the proximity of high voltage power lines to residential areas.

In June 2004, a California administrative law judge found that potential health hazards of PG&E transmission lines justified moving them away from inhabited areas.

Connecticut laws now require all real estate sales of a property with 150 yards of power lines include a material facts statement of health risks of EMF and the depression of property values from power lines.

In 2004 several countries in the European Union issued a mandate following the example of Spain, where the judiciary has ruled that exposure to EMF emissions is an infringement of an individual's human rights leading to hundreds of masts and pylons being removed from residential areas.

In 2008 The British Columbian provincial government purchased back all of the homes within the "danger zone" of a new power line.

In light of this information, Colleton Crossing presents several challenges:

- 1- The entire proposed neighborhood is within the area where average exposure would likely exceed 4mG. The developer should be required to disclose that on sales contracts as material fact.
- 2- No homes should be built within 150 meters of the high voltage lines located in the southeast corner of the property, leaving at most 15 units.
- 3- The fundamental precepts of environmental justice dictate that we not allow the Orange County Land Trust units to be built in the area closest to the power lines, a potential health hazard.
- 4- The potential legal liability for this public health risk should be born by the developer, not the citizens. If allowed to proceed as submitted, the developer should be required to post a bond in the amount of 1.5 million dollars\*.

\* average wrongful death award in 2007 according to a Princeton University study.

**Sarah Williamson**

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**From:** Peterson, Todd [Peterson@unch.unc.edu]  
**Sent:** Thursday, May 14, 2009 5:07 PM  
**To:** zzDept. Mail - Town Clerk  
**Subject:** Public Hearings: Colleton Crossing and Carolina Commons

I write to remind the Board and the Planning staff that my family, like many, has lived in the (involuntarily annexed) Highlands neighborhood for more than 20 years – and that our strong opinion is that any connection to Claymore Road is undesirable. If connected against our wishes, for obvious traffic/pedestrian/cyclist safety reasons, any connection must be preceded by the construction of curbs and sidewalks along the entire length of Sterling Bridge Road and Claymore Road without any cost to the Highlands property owners.

Todd L. Peterson  
Jan C. Diamond  
8404 Sterling Bridge Road  
Chapel Hill, NC 27516



Friends of Bolin Creek  
Comments on Colleton Crossing  
November 25, 2008

Dear Mayor and Board of Aldermen:

A major tributary of Bolin Creek runs through the proposed development of Colleton Crossing. This project is located within the Conservation Map adopted by Carrboro in 2005. Although this map has no legal authority, it defines areas suitable for conservation. Given the pristine character of this section of the Bolin Creek watershed, we are concerned that the proposed plans include a connection with Reynard Road forcing a stream crossing of Bolin Creek. Such a crossing is by definition damaging. We would like to be reassured that no other way can be found for the developer to make a reasonable use of his property.

If the Board decides to grant the permit, which we oppose, we recommend the following changes in the permit conditions:

(1) Use a bridge or a bottomless arch culvert to span the existing floodplain.

The developer currently proposes using a box culvert to cross the tributary. Box culverts constrain the floodplain, which results in erosion both upstream of the culvert due to saturated soils and downstream of the culvert due to accelerated flow rates. They also do not allow for efficient sediment transport and restrict wildlife corridors.

Furthermore, the plans indicate that if a box culvert is used all trees will be cleared and earth will be graded for the entire width of the stream buffer at the crossing (over 100 feet). It is possible that many linear feet of stream buffer would be cleared. A bridge that spans the floodplain or a bottomless arch culvert that spans the floodplain would alleviate these problems. Two such span bridges were required to connect Winmore to Carolina Commons across a much smaller tributary creek. A similar span bridge should be required in the Colleton Crossing Subdivision.

(2) Remove all stormwater detention and retention ponds and associated grading from the stream buffer.

Putting storm water controls within a buffer removes the vegetative cover. If the Board grants the right to a developer of a difficult lot previously thought unbuildable, we feel the Board needs to ensure that in exchange the protection of Bolin Creek is assured. One third to one half of the stormwater detention pond and its associated grading are located in the stream buffer. Assuming the scale provided is correct, this means disturbing 280 linear feet of the stream buffer for the construction of the stormwater detention pond. It would appear that the pond would cause a 35% slope of fill dirt from the edge of its dam spillway to the OWASA Sewer Easement/Dedication for North South Greenway, all of which is located within the stream buffer. We are very concerned about the potential for run-off into the Creek given this situation

Installation of a string of retention ponds was required in the nearby Winmore Subdivision. A significant portion of the woodland buffer along Bolin Creek and a tributary was removed to construct these retention ponds. Heavy rains on numerous occasions caused the retention ponds to overflow and permit large quantities of sediment to wash into the tributary and creek. It is likely that removal of the woodland buffer to construct the retention ponds resulted in far more run-off into the creek than would have occurred if the woodland buffer had been left intact. We urge you not to make the same mistake in Colleton Crossing.

Respectfully,

Dave Otto and Julie McClintock, CoChairs  
Friends of Bolin Creek

# TOWN OF CARRBORO



## CONDITIONAL OR SPECIAL USE PERMIT WORKSHEET

**I. COMPLETENESS OF APPLICATION**

- The application is complete
- The application is incomplete

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**II. COMPLIANCE WITH THE ORDINANCE REQUIREMENTS**

- The application complies with all applicable requirements of the Land Use Ordinance
- The application is not in compliance with all applicable requirements of the Land Use Ordinance for the following reasons:

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**III. CONSIDERATION OF PROPOSED CONDITIONS**

*(\*Note: Please clarify for staff, where applicable, whether any discussion points are to be included as Permit Conditions. Informal agreements or understandings are not necessarily binding.\*)*

If the application is granted, the permit shall be issued subject to the following conditions:

1. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Development Review Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance.
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.

**IV. GRANTING THE APPLICATION**

- The application is granted, subject to the conditions agreed upon under Section III of this worksheet.**

**V. DENYING THE APPLICATION**

- The application is denied because it is incomplete for the reasons set forth above in Section 1.**
- The application is denied because it fails to comply with the Ordinance requirements set forth above in Section II.**
- The application is denied because, if completed as proposed, the development more probably than not:**

**1. Will materially endanger the public health or safety for the following reasons:**

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**2. Will substantially injure the value of adjoining or abutting property for the following reasons:**

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**3. Will not be in harmony with the area in which it is to be located for the following reasons:**

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**4. Will not be in general conformity with the Land Use Plan, Thoroughfare Plan, or other plans officially adopted by the Board of Aldermen for the following reasons:**

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