

Minutes
HISTORIC DISTRICT COMMISSION
February 7, 2007

MEMBERS PRESENT: Chair Jessica Dockery, Vice Chair Max Preston, Barbara Church, John MacAulay, Will Moye, Mark Rhoades, and Suzanne Vergara.

ABSENT: Barbara Church

STAFF: Stephanie Trueblood.

WITNESSES: Kelly Farkas, Sam Brockwell, George Horton, Jim Parker, Cathleen Turner, Susan Frankenberg, Sally Boericke, Neil Demarchi, Tom Crabtree, Chris Wachholz, Dana McDonald, John Snipes, and Mike Dodson.

ITEM #1: Call to order and confirmation of quorum.

Ms. Dockery called the meeting to order at 7:03 p.m., and Ms. Trueblood called the roll and confirmed the quorum.

ITEM #2: Reading of the Commission's Mission Statement and process introduction.

Ms. Dockery read the Commission's Mission Statement and provided information on the Commission's processes.

ITEM #3: Additions to the agenda and agenda adjustments.

Ms. Trueblood said regarding Item #4, those minutes were not yet ready for consideration but would be on the agenda in March. She said regarding Item #8, she had received a call from the Bellevue Development developer who requested that the application be tabled until the March meeting to allow them time to appear before the Planning Board. Ms. Trueblood said it may be necessary to consider Item #7 prior to Item #6, but for now they could keep the order the same.

ITEM #4: Approval of minutes from the January 3, 2007 meeting.

Consideration of the minutes was deferred to the March meeting.

ITEM #5: Continuation of Application for a Certificate of Appropriateness for Harrell Sign Company to install a 25.8 square foot sign made of wood to the east-facing wall of 114 West King Street (Tax ID 4.30.A.12)

Ms. Dockery swore in Kelly Farkas and Stephanie Trueblood. Ms. Trueblood said that there was an even mix of contributing and noncontributing structures in the vicinity, noting that most of the noncontributing structures were designated that way due to façade replacements. She said this structure was a one-story commercial building with a brick veneer façade. Ms. Trueblood said the applicant was proposing to hang a 25.8 square foot, non-illuminated wood sign on the side of the building. She said the sign complied with sign limits in terms of size, but added that she believed the ordinance requirements was crafted with the thought that most of the wall signs in the central commercial business would be placed on the front façade near entryways. Ms.

Trueblood said this sign was larger than many reviewed in the past, but the length of the wall was longer than the facades that faced the streets.

Ms. Trueblood said she had received two comments from neighbors. She said John and Alice Sealy expressed that they were opposed to the sign because they believed it was incongruent based on size and location in the downtown. Ms. Trueblood said they believed the commercial element should be minimized, and that most of the signs downtown were unique and related to the architecture on the front façade of the building. She said the Sealy's did not believe large billboard signs should be allowed on the side of the building, and added that the exposed brick wall would be a good spot for public art.

Ms. Trueblood stated that Susan Frankenberg was opposed to the size and location of the sign because it was out of scale with other signs in the downtown, and believed the Zoning Ordinance size regulations were written assuming that signs in the commercial district would be placed at entryways.

Ms. Trueblood said the standards that applied were C for exterior materials, D for texture of materials, and O for appurtenant features and the guidelines that applied are signage.

Mr. Preston confirmed that the current ordinance did allow this size and type of sign. He asked were there other signs on the front or sides of buildings that were of this size. Ms. Trueblood said there may be such signs, but every sign was determined based on the façade it was placed on, which was 3% of the façade. She said most of the signs in the downtown were either on the front or back of the buildings, or, at an entryway. Ms. Trueblood said this application was unique in that it requested a sign on the side of a building that was quite long.

Mr. Preston asked how this sign compared to the one on the corner of the Sinclair Station. Ms. Trueblood said she did not remember the exact size, but it was a long sign as well. Ms. Vergara read from the Commission's guidelines for new signage, which included that it should be consistent with traditional locations for signage, that it should be designed and located so that it did not conceal historic architectural features, that it should not be larger than necessary to identify the property served, and that it should be designed to compliment the architecture of the building.

Ms. Farkas stated that they had requested the sign be placed on that wall because there was a tree that blocked the majority of the "sign band" area on the front of the building.

Ms. Dockery asked if the letters on the wooden sign would be vinyl. Ms. Farkas said the only vinyl would be the smaller lettering for individual offices.

Mr. Rhoades asked what the true dimensions were of the sign. Ms. Farkas said 39" tall, 95 1/2" wide, and 1 1/2" thick. Mr. Rhoades asked was there a possibility to put a post

down the front with a more traditional sign, stating he thought the businesses were entitled to market themselves and if they had no ability to do so in front the building then it made sense to allow the sign on the side. He wondered if all opportunities to place a sign towards the front of the property had been explored. Ms. Trueblood said there were actually two small hanging signs that had been placed on the building now, and she had not determined if they were temporary signs or not.

Ms. Dockery suggested placing the sign on the sign and front of the awning. She said it would be a smaller sign but very noticeable. Mr. Rhoades said the tree presented a big problem. Mr. Preston said the Tree Board had reviewed this and indicated they did not want the tree removed. Ms. Dockery said she did not have a problem with placing the sign on the side of the building, but the size was problematic for her. She said if the sign was 1 to 1 ½ feet tall and 4 feet wide it would still be very visible. Ms. Vergara said the “billboard” size was what she was opposed to, noting that half of the size proposed would fit the purpose.

Mr. Moyer said he had a problem with the orientation in addition to the size of the sign. He said the Commission had suggested at the last meeting that the sign be smaller, but the applicant had not taken that suggestion. Mr. Moyer said regarding the orientation, he believed the property could be identified from the front even with the existing tree.

Ms. Vergara agreed, adding that in addition a sign could be placed in the window, noting that in winter the tree would not have leaves. Ms. Dockery added that L-bracket signs were also common in the downtown.

Mr. Preston said he was not comfortable with the size of the sign, but was also not comfortable with the fact that they were discussing something that the applicant had the right under the ordinance to do. He said the Commission had in the past talked about signs on the sides of buildings, and had described it as being available space. Ms. Trueblood commented that the zoning ordinance did not specifically speak to the location of signs, and that compatibility with that was something the Commission had to determine based on the guidelines. She said interpretation of the design guidelines was what the Commission had to use to form its findings of fact.

Mr. MacAulay stated that the Commission had allowed a very large vertical sign on the side of the Gateway Building. He said that he had no problem with the sign, noting the business owner was entitled to it. Mr. MacAulay said the one substantive comment made at the last hearing regarded the material, and the applicant had addressed that issue. He said he had no reason to deny the application.

Mr. Preston asked if the applicant would consider a smaller sign and be happy with it, while making others who wanted a smaller sign happy as well. Ms. Farkas said a smaller sign would mean smaller text, and they now were dealing with just over a 3” text. She said from that standpoint, it would not be acceptable.

- MOTION:** **Mr. MacAulay** moved to find as fact that the Harrell Sign Company application is in substantial compliance with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to standards C, D, and O.
- SECOND:** **Mr. Preston.**
- VOTE:** Unanimously approved.
- MOTION:** **Mr. MacAulay** moved to approve the application as submitted.
- SECOND:** **Mr. Preston.**
- VOTE:** Approved 4-2, with Ms. Vergara and Mr. Moye voting Nay.

ITEM #6: Continuation of Application for a Certificate of Appropriateness for Telesis Construction Management to demolish the existing building and construct a 409 space parking deck, a 23,454 square foot library, a 46,716 square foot office building, and make site improvements at 137. W. Margaret Lane (Tax ID 4.36.E.5)

Ms. Dockery swore in Jim Parker with Summit Engineering, George Horton, the developer representing Telesis Construction Management, and Sam Brockwell, the project architect. Ms. Trueblood said this building was the old Southern States warehouse building, which was a one-story concrete block building that dated to 1948 and was previously used as a farmer supply store. She said the applicant proposed to demolish the existing building and construct a 490-space parking deck, a two-story, 23,454 square foot public library, and a 46,716 square foot office building. Ms. Trueblood said there were also site changes and landscaping changes involved in this application.

Ms. Trueblood said she had received only one formal comment, from Elizabeth Matheson at 173 West Margaret Lane, who said that she was delighted that Weaver Street and the library would be in the downtown. She said Ms. Matheson said that the library would have such a presence because it was so massive, and if the setback from Margaret Lane were not larger than proposed then it would set everything off scale.

Ms. Trueblood said the standards that applied were A – T, and nearly all guidelines for new construction applied.

Mr. Preston asked what the specific setback was that Ms. Matheson was referring to. Ms. Trueblood said she was referring to the 10-foot proposed setback on the plans plus the additional setback from moving the road out. Ms. Trueblood said the total setback was 19 feet.

Mr. Parker said there were several comments that came out of the January meeting. He said one was the setback along Margaret Lane, one was attempting to give the entrance to the library a non-road appearance, and another was the perspective of the parking structure from Churton Street. Mr. Parker said at the special meeting two weeks ago they had tried to address those issues. He said they had increased the setback from

Margaret Lane to 19 feet to include additional plantings on both sides of the sidewalk, which was double what was originally proposed.

Mr. Parker said tonight they had an improved rendering of what the parking structure would look like from Churton Street, and believed it would answer the concerns previously offered. He said they had also tried to soften the façade of the parking structure as well. Mr. Parker said regarding the discussion on the flat roofline, they had some new pictures to display. He said they also had a picture of the top of the library that spoke to comment about making the library distinctive from the office building.

Mr. Parker provided a PowerPoint presentation that began with pictures of existing buildings and pointed out distinctive features, including rooflines. He then displayed “before and after” pictures of the library and Margaret Lane. Mr. Parker then exhibited a new rendering of the site, noting they believed it to be more realistic than previous renderings. He displayed pictures before and after the clearing of the site from different angles. Mr. Parker commented that vertical struts had been added to the façade of the parking structure to soften its appearance. He commented that the trees in the front depicted in the slides were depicted at year one of planting, and then displayed a slide that depicted plantings at year three.

Mr. Parker exhibited a slide that was from the perspective of Margaret Lane looking down the drive. He said they were amenable to what the Commission wanted to see on the top of the library, adding they believed that the banding shown on the slide brought that together.

Mr. Preston said they had talked previously about the appearance of the drive, and asked if something different would be done. Mr. Parker responded that they intended that the first 20 feet of the drive into the parking area, which was a substantial entrance feature, would have pavement markings in the asphalt to differentiate it from a road.

Mr. MacAulay said since there would be controlled access to the garage, would there be an attendant inside a shed at the entrance. Mr. Parker said it an automated system would be located further inside the deck, and therefore not seen from the entrance.

Mr. Moye asked for further comments on the vertical dividers on the parking structure. Mr. Brockwell, the project architect, said that from Churton Street you would see openings much like windows. He said from Margaret Lane you would not see them, but would see one bay into the deck. Mr. Brockwell said you might be able to see a small portion from the elevator shaft and the first column, but not from that point on.

Ms. Dockery asked to see the renderings of the library, and asked the commission for comments. Mr. Preston said he believed the new rendering was an improvement, noting the massing was now broken up and was more desirable. He said he believed it was not consistent with the County buildings across the street.

Ms. Dockery swore in Cathleen Turner, Susan Frankenberg, and Sally Boericke. Ms. Turner said regarding the library, she would have preferred to see a design that was more contemporary to our architectural era, which was possible to do under the guidelines. However, she said, the design was in keeping with other existing County buildings, which was fine. Ms. Turner said she believed in terms of size, scale and massing, they needed to be conscientious. She said she believed the original design dealt with that more successfully than the one presented tonight, because of the verticality overwhelming the residential area. Ms. Turner said that needed to be balanced and reconciled.

Ms. Frankenberg said her primary concern was with the setback, noting the first plan was better than the current one. She said she minded be told that because the buildings on Churton Street go to the sidewalk that it was appropriate to consider that for this building. Ms. Frankenberg said she was disappointed that so little effort had been made to set it back, noting its proximity to residential areas. She said this structure was still offensively close to the street.

Ms. Boericke said she preferred the rendering of the library from the previous meeting.

Mr. Preston said the setback from where they had started two meetings ago had been improved. He said the vegetation was considerably improved, and the proposed paving for the entrance to the parking structure would be of considerable benefit. Mr. Preston commented that the raising of the windows on the parking structure and the raising of the tier above did work, and gave it an improved appearance. He said it fit better with the Gateway Center. Mr. Parker said along the front and side of the deck along the lower half, there were some additional vertical brick columns that broke up the front façade, adding they looked like archways. Mr. Preston said that was helpful.

Mr. Parker said they understood the concern regarding the setback and that it was a transition area because of the residential component. He said the original rendering showing the setback at 10 feet was in keeping with streetscape buildings with sidewalks along the front. Mr. Parker said they have no doubled that space from the original plan. He said they could not go back any further because there was no additional room from a Fire Code standpoint between the two buildings and between the deck to go back another further. He said they were on the right-of-way on Nash/Cobb Streets.

Ms. Dockery asked for other comments regarding the library. Mr. Rhoades agreed that the original drawing was more attractive, noting the banding created the illusion that the building was shorter than it was. Ms. Dockery said that put them back to the last meeting when they had concerns that the applicant was addressing, and asked had those concerns been met.

Mr. Preston said a number of things had been presented in an improved perspective. He said what they had been given was two ways of looking at the project, and this one looked better. He said the other question as to setback was answered, based on the lack of space to move it further back.

Mr. MacAulay agreed that there was no way to do more than what had been done, and the applicant had made the best of the situation. He said he was comfortable with that. Referring to one of the slides, Mr. MacAulay asked if it was possible to extend the landscape screening to the front of the parking garage. Mr. Parker responded that the trees were along the property line and along the edge of the parking, and then the two trees in the foreground were in the island with parking spaces behind them.

Mr. Moye stated that the changes made to the parking deck had an impact on how they looked at the library and how the whole site came together, and said he believed it was much more complimentary and more aesthetically pleasing.

Mr. Rhoades said seeing the pictures from the different perspectives was helpful, particularly in regards to the vegetation. He said they had wanted to see some alternatives, and agreed that what had been presented the first time did look better than the alternative. Mr. Rhoades said some of the changes made to the parking deck were an improvement, but he believed they were trying to fit too much into a small space. He said at the same time, even though he did not find the entire project aesthetically pleasing, they were getting to a subjective level. Mr. Rhoades said the guidelines gave them only so much wiggle room in terms of how they could judge the project.

Ms. Trueblood said for the record, the Town needed to receive a current, finished site plan. She said the one now on record did not match the current proposal. Ms. Trueblood said the Commission could vote on this tonight as long as the changes made to the site plan were each specifically listed in the motion.

Responding to a comment about the location of the vertical struts on the parking structure, Mr. Parker said they were on the first bay on the far right, and wrapped around the side. He said on the lower, larger opening and wrapped around the front side were the larger brick fenestrations. He said they had not planned to put the vertical struts at the far end because that could only be seen from the woods, but it could be done. Mr. Preston commented that adding that would shorten the appearance of the building and break it up. Ms. Dockery said given the length, adding those new details would be preferable. A brief discussion ensued regard the exact changes that had been made to the site plan, and what was now being proposed.

Cathleen Turner asked if the extra bay added to the parking structure add parking spaces and was the same added symmetrically to the other side, and therefore allowing the width of the structure to be narrowed. She said the southern elevation was more critical than was being acknowledged. Ms. Turner said she wanted to something more solid that showed them how pedestrians would be directed from West Margaret Lane down to the river, which was very important to those who lived along the banks of the Eno River.

Ms. Frankenberg agreed that this was a much-improved project, but believed that the photos were misleading because of its size. She wanted to know exactly how long this

parking deck was, noting it appeared to be the size of a four-story football field. Ms. Frankenberg said she believed the trees shown in the photos were also misleading, in that the trees shown as existing she did not believe were there. She said the size of the parking structure was overwhelming, and asked that the Commission take into consideration the sheer mass of the structure.

Mr. MacAulay said it had been suggested that the struts be added to the far end of the structure, and asked if that was acceptable. Mr. Parker said that it was.

Mr. Preston asked had they talked about any kind of landscaping on the backside of the parking area that would affect the appearance of the structure from the river. Mr. Parker stated that in the back of the structure and along the west required a Type 1 screen, which was opaque, which was in effect a living fence. Mr. Preston said then that would be between the deck and the river. Mr. Parker said no, it would be between the back of the deck and the adjacent property going west, and along the back of the offices going west. Mr. Preston said he was asking about the view from the river. Mr. Parker said there would be plantings along the deck in islands and along the side, noting there were woods on the other side of the waterway. He said there was no requirement other than for parking screening in the ordinance.

Mr. Preston said he was concerned about the aesthetic view of people viewing this structure from the river. He said he wanted to give it the “best foot forward” to answer at least some those concerns. Mr. Parker said that was 20 feet or more above the river, so you would be looking up at the structure. He said with all the foliage in the summer you would likely not see it, but may be able to view it in the winter. Mr. Preston said he was not trying to obscure the view, but was trying to enhance a portion of the view.

Mr. Parker restated their position, in that they had tried to balance the mass. He said from a visual standpoint, the deck at any point would not appear to be any larger than the Gateway Center or the office building. Mr. Parker said the massing was in concert with the surrounding buildings.

Ms. Trueblood acknowledged that parking was not in the purview of this Commission, but that massing and scale were in the purview of the HDC.

Mr. MacAulay said he continued to have problems with the openings on the parking deck. He said in the Zoning Ordinance it said “proportional openings should be consistent with other openings in the vicinity.” Mr. MacAulay said he did not believe the design had gotten to that point. He said this could be made to look like a building with parking spots inside, which many cities had.

Mr. Preston said he was not sure that they were dealing with the type of building described by Mr. MacAulay. He said it seemed to him that the relief they got by being able to view through the structure and see vegetation was an affect that was more important than having it look like a building.

Mr. Rhoades asked how tall were the sides of each deck, noting he assumed you would be able to see the vehicles. Mr. Parker said by code you had to have a 42" high barrier above the parking surface. He said they had 10', 8" from floor to floor. Mr. Parker said the openings were less than 5 feet wide so were somewhat in keeping with windows throughout the historic district.

Ms. Dockery suggested that since there were still questions regarding the parking deck, perhaps the Commission could vote on all other aspects of the project and consider the parking deck after the Board of Adjustment had made its recommendation. Ms. Trueblood said the Zoning Ordinance required that the Board of Adjustment consider an application based on that Zoning Ordinance. She said right now this application met the conditions regarding parking as set out by the ordinance.

Mr. Preston said the Commission had been told at the last meeting, and he had no reason to doubt it, that to lessen the number of spaces would lessen the cost feasibility of building the parking deck. Mr. MacAulay said then the parking ordinance was a non-issue.

Ms. Dockery swore in Leeann Brown. Ms. Brown said she practiced law and had been involved in this project. She said the Board of Adjustment was not empowered to make changes to the ordinance, and could not grant variances to change the required number of parking spaces. Ms. Brown said the Board of Adjustment could only vote this project up or down based on whether it compiled with the ordinance as it was currently written.

Mr. MacAulay said then we were clear that the ordinance with respect to the number of parking spaces was a moot point, and that for this to be a viable project the deck had to have that many spaces. Mr. Parker said that was accurate.

Mr. MacAulay said then the only thing they could deal with was what it looked like from the outside. Ms. Dockery said they could talk about the massing. Mr. Preston said that had already been discussed, and he believed the only concern remaining was Mr. Rhoades concern regarding something more for the back side.

George Horton said he had taken the concern about creating a façade like a building, and went on the Internet and looked at one building in Virginia that was on a main street and owned by the city. He said a parking deck had been created inside the building. Mr. Horton said that project had cost \$30,000 per parking space, whereas these spaces would cost about a third of that. Mr. Horton said if they created that environment it would not be financially feasible. He said if they did not have the parking deck, then they did not have the County facility.

Ms. Dockery noted the changes discussed that should be noting in the motion to approve:

- Regarding the library, use the design as submitted at the special meeting of January 24, 2007, with the setback as submitted, which was 19 feet with the plantings as listed
- The entranceway into the parking area and the alley into the parking deck should be 20 feet of patterned asphalt. Specifications to be submitted at a later meeting.
- The parking deck designs as submitted at the February 7, 2007 meeting with 3-D model that showed crenellation between the bays, especially in the first and last bay which were the flat bays
- Brick piers and square arches on the east elevation as shown in slide 18,
- New landscaping and screening with the retraction of the pedestrian path on the wet side.
- The exterior light changes from the January 24th meeting.
- A roof extension on the second bay of the parking deck.

Mr. Moyer asked what type of lighting would be used inside the deck. Mr. Parker responded it would generally be high-pressure sodium lighting to provide enough lighting for secure areas.

MOTION: **Mr. Preston** moved to find as fact that the Telesis Construction Management application is in substantial compliance with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and Standards A – T, particularly C, Exterior, and substantially all guidelines for new construction.

SECOND: **Mr. MacAulay.**

VOTE: Approved 5-1, with Ms. Dockery voting Nay.

MOTION: **Mr. Preston** moved to approve the application with the following modifications:

- Regarding the library, use the design as submitted at the special meeting of January 24, 2007, with the setback as submitted, which was 19 feet with the plantings as listed
- The entranceway into the parking area and the alley into the parking deck should be 20 feet of patterned asphalt. Specifications to be submitted at a later meeting.
- The parking deck designs as submitted at the February 7, 2007 meeting with 3-D model that showed crenellation between the bays, especially in the first and last bay which were the flat bays
- Brick piers and square arches on the east elevation as shown in slide 18,
- New landscaping and screening with the retraction of the pedestrian path on the west side.
- The exterior light changes from the January 24th meeting.
- A roof extension on the second bay of the parking deck.

SECOND: **Mr. Rhoades.**

VOTE: Approved 5-1, with Ms. Dockery voting Nay.

ITEM #7: Continuation of Application for a Certificate of Appropriateness for Tom Crabtree to clear necessary trees and fill site with soil, brick, and block at the southeast corner of West Queen Street and North Occoneechee Street (TMBL 4.29.D.1)

Ms. Dockery swore in Tom Crabtree, Neil Demarchi, and Chris Wachholz. Ms. Trueblood said the proposed work on this vacant lot included filling the site with clean soil, brick and concrete block to provide a path for possible future development. She said grading and clearing and adding soil would disturb .8 acres of the 3.11-acre site, rather than the 1.8 acres noted previously. Ms. Trueblood stated that the reduction in disturbance provided a natural existing buffer of 70 feet along the east property line. As requested at the January meeting, she said that all trees that were 12" and larger had been located and depicted on the new site plan. Ms. Trueblood said the majority of the material cleared to make room for the fill would be kept on site, and Orange County had approved the Erosion Control permit.

Ms. Trueblood said she had received an email from Richard Bradford who owned 215 North Occoneechee Street, who had expressed his and his wife's full support of Mr. Crabtree's plans to develop the property. She said the standards that applied were E for landscaping and R for ground cover or paving, and the guidelines that applied were site features and plantings.

Mr. Preston asked if Ms. Trueblood had compared the new site plan with the site itself. Ms. Trueblood responded she had visited the site.

Mr. Crabtree said he had originally contracted with Summit Engineering to perform the work because of other fill that had been done in the area that was inappropriately done. He said his original plans stated he would clear cut, but wanted it understood that had never been his intention and that was an error. Mr. Crabtree said it was his intention to improve the area so that potentially houses could be built there.

Mr. Moye asked why not wait until there were specific plans for houses before the area was cleared. Mr. Crabtree said the hole in the ground was so deep it would take some time to complete the job, and he wanted to prepare the land for eventual homes.

Mr. Preston said, as it now stood it was not an attractive area, so from that point of view this work would be an enhancement. He said he was pleased that the large trees would remain.

Mr. MacAulay said it appeared that 22 trees would be removed. Mr. Crabtree replied that was approximately correct. Mr. MacAulay said that would mean only about 14 trees were being saved, so it was still not a good situation from his perspective. He said the guidelines in Section 6 stated that whenever a mature tree or hedge was removed, the character of the district is diminished. Mr. MacAulay said it appeared to him that some large significant trees were being removed, and he did not believe that was consistent with the guidelines.

Mr. Preston said he must have misunderstood what was being presented, because he had not come to that conclusion. Mr. MacAulay pointed out on the site plan the area that was not to be disturbed. Mr. Preston said his concern was with the area to be disturbed. Mr. Crabtree pointed out the trees that were slated to be removed and those to be left undisturbed.

Ms. Vergara asked was there a way to fill the site without removing the trees. Mr. Crabtree said no, because it would leave no room for houses and construction would kill nearby trees. He said if this was a flat lot, then the trees would have to be cut down to build a house. Mr. MacAulay disagreed; noting the same guideline he just mentioned would come into play. Mr. Crabtree said there was a new house being built on Tryon Street on a lot that had two of the largest trees in Hillsborough. He asked was it approved with the site plan for those trees to be removed. Mr. MacAulay said he did not know.

Ms. Trueblood said there had been many times in the past where trees had been approved to come down in order for development to take place in the historic district. However, she said, there were guidelines in place so that the Commission could apply its opinion and knowledge in these situations to come up with the most sympathetic solutions.

Mr. Parker said this plan was a compromise, and pointed out the number of trees that would be saved and the slope that would eventually revegetate or be replanted, allowing for an additional buffer. He said what had been sacrificed by the applicant was that he was not getting as flat a lot as possible, that this was a give and take. Mr. Parker said they had minimized the clearing to the point where a house or houses could be built on the flat part of the site.

Mr. Moye said if there were more specific intentions about building homes then that would give the Commission the ability to decide which trees had to come down. Ms. Dockery said in this situation, in order to grade it for construction, the trees would have to come down.

Neil Demarchi, a resident of West Queen Street and owner of the vacant lot immediately to the left of this lot, said he applauded Mr. Crabtree's efforts to take into account the nature of the gorge, which was not categorized as a stream. He said water did flow through this gorge from his lot, and asked with such a steep slope how did you clear the surface and not fill in the gorge with was a natural wonder. Mr. Parker replied that they would modify the Erosion Control Plan that had been approved by staking a line and flagging it so that no clearing went beyond that line. Mr. Demarchi requested that Mr. Crabtree exercise due diligence and not include asphalt in his fill material.

Mr. Crabtree said that was the reason he had contracted with Summit Engineering, so that if a house were eventually placed on that site that it would be done correctly. He said his concerns were the same as Mr. DeMarchi's.

Chris Wachholz said his concern was the value of his lot and his plan in the next year to reconstruct a 1938 log home on the vacant lot that was L-shaped, noting it had already been approved. He said the plan that had been put forward was acceptable, and believed that if the buffer was 70 feet the vista would not be significantly affected, and therefore his lot would not be adversely affected. Mr. Parker said they would comply with the 70-foot buffer.

Mr. MacAulay asked how they could comply if they planned to put in a tapered lateral channel along that area. Mr. Parker said that channel was no longer on the site plan, adding they would leave the existing natural channel untouched. Responding to comments regarding the slope, Mr. Parker explained where the natural, steep slope was located in relation to the natural channel and how water would flow to it.

Mr. Moye said there were cases where the Commission had approved the removal of trees in order for development to take place, and failed to see what the development was here. He said they were talking only about the prospect of houses, with no firm plans. Otherwise, he said, they would be allowing the removal of mature trees without construction plans in place. Mr. Rhoades agreed, noting he did not see the rationale and how it would satisfy the guideline previous noted by Mr. MacAulay.

Mr. Moye said they did have to acknowledge that there were property owner rights that had to be observed, and suggested that in the absence of any specific development plans that the discussion be tabled. He said there were too many unknowns at this point.

Mr. Preston said fills were done periodically in Town. He asked did the Commission have any control over the filling of areas irrespective of the tree issue. Ms. Trueblood said yes, as far as the design guidelines and standards. She said the quote from Mr. MacAulay earlier came from the left side of page 44, which did not constitute guidelines. Rather, she said, they were considerations that the Commission could take, and could not be used to maintain rulings. Ms. Trueblood said the statements on the right side of the page on page 45, particularly no. 1, "Retain and preserve site features and plantings that contribute to the overall historic character of the district, of a district property, or the district" was a guideline that could be cited when approving or denying a project.

Mr. MacAulay said no. 2 specifically said "It is not appropriate to substantially alter the topography of a district site by excavating, grading, or filling." Ms. Trueblood said that guideline could be used in their rulings.

Mr. Parker said in the Town's Zoning Ordinance, the setbacks in this case were greatly being increased on a lot that could be subdivided. He said he believed that was a great compromise. Mr. Parker said he understood the Commission would like to see plans for what would be built in the future on this site, but there may never be anything built there. He said in any case, if it were one or two homes the extent of what needed to be done to achieve that amounted to what he was requesting. Mr. Parker said there was

such a severe slope it would be difficult to build even one house. He said the zoning was residential, and the intent was to move towards that. Mr. Parker said when such plans were made, they would come back before the Commission, but it would be hard to sell a lot or even begin to build a house if the requested fill and grading were not done.

Mr. Crabtree said he believed it was also important to note that he had hired a professional to do those changes and to make sure they were done correctly, which he did not believe had happened in the other places. He echoed Mr. Parker's observation that they had made a very good compromise regarding the 70-foot buffer. Mr. Crabtree said he did not want to be forced to make a decision now about what the property would be used for in the future, or if he would ever develop it. He said he did want to get it improved to the point that if he did decide to develop it that it would be ready for that. Mr. Parker said he did not believe he would damage anything by doing that.

Ms. Dockery swore in Dana MacDonald. Ms. MacDonald, property owner of 44 West Queen Street, was curious what the lot would look like once the filling and grading was completed. She asked would there be landscaping so grass would cover it during the interim period. Mr. Parker said ground cover would be added to stabilize it, noting it would be seeded and strawed for grass.

Responding to a question regarding how long all of the work would take, Mr. Parker said he believed the work would take about three months from start to finish. He noted that was a conservative estimate.

Mr. Preston said he had a number of conflicting concerns. He said they had a responsibility to maintain the historical character of the area, and then there was the owner's serious underlying interest in their property.

Mr. Preston said there should be some way that people could do things with their property that meet private desires. He said at the same time there might be some way to achieve a compromise where the people could meet all of those objectives. Mr. Preston said he was trying to decide how some fill could occur and then be planted with trees, then some more fill occur with possibly transplanted trees.

Ms. Dockery asked if the large 30" trees on the slope that was at issue for the Commission.

Ms. Trueblood said each individual Commissioner had to decide how to define the word "historic" and that was why they voted and why the majority ruled. She said there was no one-way to look at what was historic in Hillsborough and what contributed as an historic feature.

Ms. Dockery said then they should be asking how old the trees were.

Mr. Rhoades said when looking at no. 9 in the guidelines, it appears they should protect mature trees from damage. He said he believed what they had to decide was if these trees were significant site features and if they were, were we comfortable with them being removed without any real plan of what might be developed on the site. Mr. Rhoades said if there were tangible plans for the site, then some of those trees might be able to be saved.

Mr. Parker said because of the severity of the slope and the amount of fill that was needed, the site had to be cleared just to get it up to street level and make it stable. He said to save the trees; you would have to build even more slopes, which would be unacceptable. Mr. Parker said with due respect, they requested that the Commission vote on this tonight so they could move on. He said they had made every effort to compromise as much as possible on the buffer and the number of trees to be saved, and would appreciate a positive vote.

MOTION: **Ms. Vergara** moved to find as fact that the Tom Crabtree application is in keeping with the overall character of the district and does comply with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and Standards E for landscaping and R for ground cover or paving, and the guidelines for site features and plantings, and because the applicant compromised from original application to save a number of trees on the property.

SECOND: **Mr. Preston.**

VOTE: The finding of fact tied by a vote 3-3, with Ms. Dockery, Ms. Vergara, and Mr. Preston voting Yea, and Mr. MacAulay, Mr. Moye and Mr. Rhoades voting Nay.

Due to the tie on the findings of fact the item was continued until the March meeting.

ITEM #8: **Application for a Certificate of Appropriateness for Bellevue Development LLC to pave an existing parking lot, add striping for 75 parking spaces, and add landscaping improvements and screen at the parking area located on South Nash Street beside the church (TMBL 4.35.H.10)**

The Commission agreed by consensus to table this application.

ITEM #9: **Application for a Certificate of Appropriateness for John Snipes to construct a 14' by 20' rear deck and install a 10' x 20' prefabricated outbuilding with wood siding in the rear yard at 113 N. Hassel Street (TMBL 4.29.E.13)**

Ms. Dockery swore in John Snipes and Mike Dodson. Ms. Trueblood said the house in question was considered non-contributing. She said the architectural inventory listed the house as a 1950's one-story side-gabled, four-bay frame minimal traditional cottage with plan siding. Ms. Trueblood said it was renovated in 2004, and was presently being re-inventoried. She said in 2004 the rear roof was turned into a saltbox, two front dormers were added, and the aluminum siding was replaced with vinyl siding. Ms. Trueblood said at some point a full-length front porch was added. She said new plans

were submitted due to a zoning discrepancy, showing the proposed deck had been shifted four feet from the north property line in order to meet zoning setbacks. Ms. Trueblood said the new plans also show the location of a planned hot tub on the deck.

Ms. Trueblood said this application had two parts. First, she said, the applicant recently installed a prefabricated shed in the backyard without a Certificate of Appropriateness because he was unaware he needed one, so that had been added to this application. She said that outbuilding had wood siding, was 10' x 20' and 11' tall, and had a shingled roof and wood doors. Ms. Trueblood said the second part of the application was for the deck on the rear of the house.

Ms. Trueblood said some neighbors had contacted her to ask questions, but no formal comments had been offered. She said the standards that applied were C for materials, D for texture, F for architectural details, G for roof shape and proportion, J for proportion of width and height of openings, and P for structural soundness. She said the design guidelines that applied were outbuildings and decks.

Mr. Preston said the outbuilding was visible, and believed the exterior of the building at a distance looked good. He said the only thing of concern to him was that the runners were just sitting on concrete blocks, and that was not attractive. Mr. Preston asked if there were plans for a more permanent foundation. Mr. Snipes responded that the concrete blocks were for leveling purposes.

Mr. Rhoades asked if any landscaping around the outbuilding was planned. Mr. Snipes replied no, that the area would be grassed.

Ms. Dockery said she believed it needed to be moved over so that it was not visible from the street. Mr. MacAulay said he had driven by the house and had to look hard to see the building, noting there was a significant tree as well as shrubbery present that made it difficult to see the outbuilding.

Regarding the deck, Ms. Dockery asked if there were plans to paint it. Mr. Snipes said he would prefer to leave it natural, although it was possible he would stain it as some point to seal it.

Mr. Preston asked if the deck was all wood, including the handrails. Mr. Snipes responded yes. Mr. Moye asked if there were plans to landscape around the hot tub to obscure it from the neighbors. Mr. Snipes said they had talked about placing some latticework on that side as a privacy shield, which he would prefer. Ms. Trueblood noted that if Mr. Snipes were to add latticework or anything else he would have to get approval from this Commission.

Mr. Snipes stated that there was no rear entry to the house, and he had tentative plans to place a door where the rear windows were located to give them direct access to the deck. He said there was a temporary fence on the front of the porch that allowed the dogs to access the back without coming through the house. Mr. Snipes said he

wondered what the possibility would be to add a permanent fence that matched the house. Ms. Vergara said she believed that would set a precedent, because she did not know of anyone who had fencing on their front porch.

Mr. MacAulay asked if it could be considered a porch rail. Ms. Vergara said it did not look like a porch rail, it looked like a fence. Ms. Trueblood said staff as a minor work had approved the fencing but that did not include the piece on the porch, which she understood to be temporary until a back door was placed on the house. She strongly cautioned against setting a precedent for fences on front porches. Ms. Vergara agreed there might be other solutions, such as porch railings.

Mr. MacAulay said the regulations would allow Mr. Snipes to build a four-foot wooden wall that could be approved at the staff level, if he chooses, since it would be behind the front line of the house. Ms. Trueblood said the current temporary fence was in front of the front line of the house. She said in terms of a permanent feature, it would have to be considered as being in the front of the front line of the house and reviewed by the HDC.

Mr. Snipes said if the section of fence could not stay on the porch, could that section of fence be removed and a section of porch railing be installed. Ms. Vergara said that would have to come back to the Commission for consideration. Mr. Snipes said he would like the option of having a four-foot rail rather than a four-foot wall. Ms. Vergara said something typical for a front porch would be more acceptable, such as a railing.

Mr. Snipes asked exactly what was meant by the front line of the house. Ms. Trueblood replied it was essentially the façade of the house. Ms. Trueblood said the fence in question was in front of the façade to the last column on the front of the house. Mr. Snipes said he was fine with taking that temporary fence down after the deck was completed, and he would then come back to the Commission to propose a permanent solution.

MOTION: Mr. MacAulay moved to find as fact that the John Snipes/Mike Dodson application is in keeping with the overall character of the district and complies with all relevant standards of evaluation based on the discussions of the application and the standards of evaluation in Section 21.6.3 of the zoning ordinance, and adherence to Standards C for materials, D for texture, F for architectural details, G for roof shape and proportion, J for proportion of width and height of openings, and P for structural soundness, as well as design guidelines for outbuildings and decks.

SECOND: Ms. Vergara.

VOTE: Unanimously approved.

MOTION: Mr. MacAulay moved to approve the application as submitted.

SECOND: Ms. Vergara.

VOTE: Unanimously approved.

ITEM #10: Staff update.

Ms. Trueblood said all Commission members had not taken the Oath of Office, and it had to be done by March. She said those members needed to make an appointment with Town Clerk Donna Armbrister to take the Oath and sign the form.

Ms. Trueblood said regarding additional minor works items, she had sent out a revised list in December. She asked was there any feedback from the Commissioners, and when did they want to put it on the agenda for a vote. Ms. Vergara said she would like to vote on it now. Ms. Trueblood said she had only one issue with the list, and that was where it said "Construction of new patios made of wood, stone, or brick that are located behind the front line of the house." She said she had thought the Commission wanted to place a size restriction on that. Several Commissioners commented the discussion had centered on a limit of 144 square feet. Ms. Trueblood determined that the Commissioners agreed to have that size limit added.

MOTION: Ms. Vergara moved to approve the Minor Works List, amended to include a size limit on patios of 144 square feet.

SECOND: Mr. MacAulay.

VOTE: Unanimously approved.

Ms. Trueblood noted that the amended Minor Works List would now be a part of the design guidelines, on page 70, to be applied next month with new applicants.

Ms. Trueblood said she needed to make a correction and then update the Commission on the Indulge Salon and Spa at Sinclair Station. She said she had previously told the Commission in January that Ms. Paisley had passed around a color chip at the September meeting. Actually, she said what was passed around were material chips. When asked about color at that original meeting, she said, Ms. Paisley had pointed to an item in the room, which was a poster showing the Churton Street Corridor emblem, and said it would be reddish-orange. Ms. Trueblood said she had recently met with Ms. Paisley and had been told that she did not know the exact color of the sign when she attending that September meeting, but assumed that anything in the red-orange range would be okay since it was not specified in the conditions of approval and since the HDC had not asked to see a color chip or for any further information on the color.

Ms. Trueblood said Ms. Paisley had said that replacing the sign at this pint would cost over \$600, and could not simply be repainted because the color had been blasted onto the sign. She said Ms. Paisley wanted to keep the sign as is. Ms. Trueblood said her interpretation as staff in this case was that Ms. Paisley was in the right, and the HDC did not have the grounds to ask her to remove the sign or to come back before the Commission for another COA. She said it was her opinion that although Ms. Paisley alluded to a color, reddish-orange, at the initial meeting no color chip was requested and no comments were made at that time about the inappropriateness of orange. Ms. Trueblood said she believed that if Ms. Paisley were denied a COA for the sign that she would have grounds for an appeal. She said in the future if a question existed in the minds of HDC members about a certain color, that a color chip should be requested

before the approval. Ms. Trueblood said normally color was handled as a minor work by staff, and she always collected a color chip for the property file. Unfortunately, she said, that was not done in this situation, and in future they needed to make sure the color choice was clear. Ms. Trueblood said in her opinion, Ms. Paisley should not be questioned further about this sign. She said the conditions on her approval did not include a specific color.

Mr. Preston said he agreed with that assessment. Ms. Dockery agreed as well, stating that Ms. Paisley had pointed to the poster. Ms. Vergara recalled that Ms. Paisley had said at that time that it was similar to the color on the poster, but was not exactly like it. Ms. Vergara said we needed to be more specific in the future with demanding an exact color chip.

Ms. Trueblood said the HDC had a vacancy on the board. She said that Kenneth Trivette was a registered senior level architect who lived at 306 Weston Street, and was interested in applying. Ms. Trueblood distributed his resume, and indicated he would likely attend the HDC's next meeting.

Ms. Trueblood said the last item was the new Code of Ethics for Commissioners and staff, and passed around copies. She suggested the HDC might want to adopt them as their Code of Ethics to go along with their Rules of Procedure at the next meeting.

ITEM #11: Adjourn.

Ms. Dockery adjourned the meeting at 10:35 p.m.

Respectfully submitted,

Stephanie Trueblood, Secretary