

**MINUTES**  
**JOINT PUBLIC HEARING**  
**HILLSBOROUGH TOWN BOARD and PLANNING BOARD**

Thursday, January 17, 2008

7:00 PM in the Gordon Battle Courtroom of the New Orange County Courthouse

**BOARD OF COMMISSIONERS PRESENT:** Mayor Tom Stevens, Commissioners Frances Dancy, Mike Gering, L. Eric Hallman, and Brian Lowen.

**PLANNING BOARD MEMBERS PRESENT:** Dan Barker, Edna Ellis, Kate Faherty, Neil Jones, Dave Remington, Barrie Wallace, and Elizabeth Woodman.

**ABSENT:** Commissioner Evelyn Lloyd, absence excused.

**STAFF PRESENT:** Planning Director Margaret Hauth, Town Attorney Bob Hornik

**ITEM #1: Call to Order.**

Mayor Stevens called the public hearing to order at 7:04 p.m. He did not read the Public Charge but noted it would be followed. Mayor Stevens stated that because the Chair and Vice Chair of the Planning Board were not able to attend, he would serve as Chair of the meeting.

**ITEM #2: Rezoning Request from Kim Steffan to rezone 0.2 acres at 128 West Margaret Lane from Residential-20 to Office Institutional (TMBL 4.36.A.11).**

Ms. Hauth stated that the first newspaper notice for this meeting contained an error, in that it said the applicant was requesting rezoning to Central Commercial rather than Office Institutional. She said the notices sent to property owners had been corrected, and the applicant was aware of the notice failure but wished to proceed. She said no Protest Petition had been received. Ms. Hauth said the packet contained one email letter of support from a property owner in the notification area, the Martins.

Kim Steffan, speaking as the applicant, provided a handout and a slide presentation. She indicated the location via a Google Earth map, noting that everything around the property was already commercial or office use with the exception of the Payne's residential property to the west. Ms. Steffan said there was a new government building to the south, parking to the east, and to the north was Judith Hauser's law office.

Ms. Steffan said the house was built in 1952 and had vinyl siding. She said she would like to remove the vinyl siding and restore the wood siding underneath. Ms. Steffan stated the house was not historic and she did not want to falsely portray it as such. She displayed photos of the existing structure, a view of the construction across the street, and other commercial sites in the vicinity. Ms. Steffan said that the existing concrete area behind was sufficient for staff parking and should have enough space for employee and handicap spaces on site. She said that customer parking was available in the vicinity. Ms. Steffan indicated she was willing to extend the existing fence, if preferred, between this lot and the Payne's. She said she understood there might be concerns about how a future owner might use the property, and that was the reason she was requesting OI rather than Commercial. Ms. Steffan said the height restrictions in the R-20

zone allowed a 45' tall building but OI allowed only 40' tall. She acknowledged that any building would require Historic District Commission approval.

Ms. Ellis said regarding traffic into the alley parking lot, could it loop around this house and not access the alley. Ms. Steffan replied yes, there was room to do that.

Commissioner Gering stated the map she had displayed did not show the neighbors. Ms. Steffan said the map was actually a survey of the parking lot. Commissioner Gering asked was that the Town parking lot. Ms. Steffan responded that the alley was a Town lot and the next lot to the east was private.

Commissioner Hallman said they had to consider the list of permitted uses, not what Ms. Steffan intended to do.

Mr. Barker asked had Ms. Steffan talked with Judith Hauser about a cross access. Ms. Steffan replied she had, but Ms. Hauser was not willing to because she had trouble with people parking in her lot.

Mr. Barker asked how much grass would remain on that lot. Ms. Steffan referred to the scale drawing, which showed the house.

Ms. Woodman asked what the height of the fence was between this site and the Payne's. David Payne commented it was about five feet.

Ms. Woodman asked were there provisions for a sidewalk along the frontage. Ms. Steffan responded no, because it would not connect to anything.

Ms. Woodman asked if the ordinance required a sidewalk. Ms. Hauth replied only if enough changes were made to trigger a site plan review.

Mr. Barker asked who owned the slope between this lot and the alley parking lot. Robbin Taylor-Hall stated it had not been surveyed, but she expected the riprap was the Town's.

Mr. Barker asked how far from the house was the parking lots. Ms. Steffan replied it was 13.26' from the house to the fence.

Jim Boericke, of 153 West Margaret Lane, said that a law office was not all bad, but rezoning was not the way to go. He said it did not qualify under the minimum lot size, noting it was only about 9,000 square feet when 10,000 was required. Mr. Boericke said a Type 2 screen was required between residential property and OI, and this lot was just too small. He said he was opposed, adding this was not the appropriate way to grant the small business use of the property.

David Payne, the immediate neighbor to the west at 134 West Margaret Lane, stated their main objection was that their mud porch was 30" from the driveway. He said they would be looking right in their kitchen window. Mr. Payne said they objected to the vehicle traffic and the

proximity of the driveway. He said there was a natural boundary on West Margaret Lane between residential and commercial, formed by the alley.

Susan Frankenberg said that she had not received the notice for this meeting, although she owned property directly across the street. She said her property was rezoned well before she bought it and it was surrounded by commercial uses. She said she objected to the rezoning based on the size of the lot. Ms. Frankenberg said there was a need for a boundary from commercial uses and this house was a good one. She said she did not want a domino effect, and felt strongly that the property should not be rezoned.

Commissioner Hallman asked with the notification problem in mind, was it okay to close the public hearing. Town Attorney Bob Hornik responded yes.

Ms. Wallace asked was a rezoning the only option. Ms. Hauth replied yes, unless the applicant intended to live there and run it as a home occupation.

Upon a motion by Commissioner Gering, seconded by Commissioner Hallman, the Board moved to close the public hearing on this issue. The motion was adopted unanimously.

**ITEM #3: Rezoning and Special Use Permit request from Leland Little LLC to rezone 2.5 acres at the northwest corner of Cornerstone Court and NC 86 from Limited Office to Entranceway Special Use. The application also includes a Special Use Permit to construct a 9,683 square foot building for office, auction, and storage with 68 parking spaces (part of TMBL 4.40.A.8t).**

Mayor Stevens swore in Ms. Hauth, and she provided a short introduction to this item. She stated speakers would need to be sworn in before speaking. Ms. Hauth said that NC 86 frontage north of I-85 was down-zoned to Limited Office a number of years ago to encourage property owners to take advantage of the special use rezoning district and voluntarily bring in plans under the special use district to ensure high quality development within the Entranceway Corridor to the Town.

Ms. Hauth said the application was substantially complete, but they were waiting for one written review by an outside agency. She said the applicant was asking for a few waivers on the site, noting that the property was a part of the Cornerstone Park subdivision. Ms. Hauth said when that subdivision was approved in the 1990's, a stormwater plan was approved along with it, and the applicant was asking that that stormwater plan be deemed as appropriate and sufficient and that they not be required to submit a new plan under the Phase 2 stormwater rules.

Ms. Hauth said the application also did not include sidewalks along the adjacent roadways due to pending road construction projects and the nature of development in the area. She said a detailed Environmental Protection Plan had not been submitted because the site was partially developed in the 1990's.

Ms. Hauth said the landscaping plan in her opinion was creative, noting there was a requirement for screening between the curbing and the road right-of-way and rather than creating a long row

of trees, the applicant had placed them in groups and staggered them to allow some visibility onto the site but also meet the ordinance requirements. She said the building was somewhat utilitarian in nature, but it was not visible from the road.

Ms. Hauth said this site brought up a transportation issue, in that the Town was aware from NCDOT that there would be some changes to access on Valley Forge Road if the Elizabeth Brady Road was constructed. She said this site provided an opportunity for a cross-connection from Valley Forge Road to Cornerstone Court, which the plans did not indicate but may need to be discussed at some future time.

Responding to several comments by Ms. Ellis, Ms. Hauth said that all the uses in the Entranceway predated the Entranceway Special Use District and could be construed as a reason why the Town implemented an Entranceway Special Use District, to not see more uses like that. She said in terms of stormwater, there was a detention facility right there that was styled for the development of this property, and flowed from there into another pond and then into Cates Creek. She said so, there were two stops on the way before it entered the water body, and at the time it was designed it met the Town's ordinances in place at that time. She asked that the applicant address the stormwater issue in more detail during their presentation.

Tracy Parrott with Summit Consulting was sworn in. He introduced Leland Little, Chad Abbott, Jim Parker, and Alan Pytcher, and provided some details of the business, how it had grown, and what it contributed to the community. Mr. Parrott said this was a home-grown business and was unique, adding they wanted to develop a new gallery building. He stated their traffic generation would be during off-peak hours, generally on Saturdays and Sundays. Mr. Parrott said the new building would also provide space for community events, that it was a convenient and prominent locale, and that it complied with the Strategic Growth Plan. He added that this business was beneficial to the Town.

Chad Abbott was sworn in. He displayed photos as he walked the Board through details of the site:

- The property was already rough graded – 4% slope.
- Utilities already exist (water, sewer, electrical, and stormwater).
- No environmental sensitive areas on the site.
- Steep slope to the west would not be disturbed.
- Adjacent properties had similar uses.
- Brick and block facades, which was better than adjacent metal buildings.
- Closest structure is 67' on adjacent parcel.
- Proposing a 10,000 square feet of building space, with 68 parking spaces and accessible spaces and ramps.
- Proposing 42% impervious surface – 50% district limit.
- Building height was well below what was required at 26.85 feet.
- Driveway would be 24 feet wide.
- Sight distance would be at least 350 feet looking towards Cornerstone, and coming from the intersection of NC 86 and Cornerstone the sight distance would be roughly 150 feet.

- Dumpster pad and recycling center would be provided.
- Stormwater – displayed photo of the existing pond. Collects run-off from this site to a facility and routed to a detention pond for slow release into Cates Creek.
- Grouping and staggering of trees on the right-of-way were more natural and more attractive to the site.
- Would request that they not be required to build a sidewalk along NC 86 because the widening project would remove it. Nothing else on Cornerstone generates foot traffic and none have sidewalks, so they would like to skip it.
- Two loading spaces were required. They were showing adequate loading space that was smaller to match the trucks common with this use.
- Stormwater facility was sized to accept 17 cubic feet per second (cfs) from their site; they were at 9-10 cfs. Volume was adequate.
- Increased the landscaping to 3 feet on center rather than 2 feet on center to allow for their success.

Mr. Parrott stated it was clear this was not traditional retail, adding they hoped to begin construction in the summer/fall. He said the builder identified was a Green builder, and those aspects would be incorporated into their plans. He said this was a good project for Hillsborough, and the unique aspects of the Town and this business complimented each other.

Ms. Faherty said the plan was very attractive, but asked had they considered landscaping that was more drought tolerant, especially on a non-shaded site like this that would not be built on for some time. Mr. Parrott said they would be happy to look at that, adding they had counted on the shade canopy providing some protection, and that the evergreens would compliment the other species of plants.

Mr. Remington asked why they had chosen barberry shrubs, and asked if they had long spikes. Mr. Parrott said they might be a different variety, noting they had gone by the plant list in the ordinance and would consider whatever was appropriate.

Mr. Barker said the requirement was to keep the exterior lights to ½ footcandle at the property line, but plans showed much more than that. Mr. Parrott agreed that needed adjustment. He said they had initially had higher poles and the revision was made later to drop the height of those poles, so the plans needed adjustment. He said they would meet the ½ footcandle limit.

Ms. Ellis asked about the drive coming to NC 86 from the former steakhouse. Mr. Parrott stated they were not on the former steakhouse site, and there was no drive onto NC 86. He said this project would not impact the old steakhouse site at all. Ms. Ellis commented that they needed a left-turn lane into Cornerstone as well as turning lanes to the left at the turn in. Mr. Parrott said there was a northbound left-turn lane and a right-turn lane for southbound traffic. Ms. Ellis said that NC 86 needed to be widened for bicycles.

Ms. Woodman asked about the finishes on the building. Mr. Parrott said it was a combination of split textured masonry concrete block on the lower façade, and the wall that faced Cornerstone would be brick. He said along the frontage that faced NC 86, the building would be a

combination of the split concrete block along the bottom with a mix of brick masonry and textured concrete panels. Mr. Parrott said the building itself would be steel framed.

Ms. Woodman said regarding watering of the landscaping, had they considered a cistern for watering or other recycling options. Mr. Parrott said they would look at that as they move into the construction phase.

Mr. Barker asked how the stormwater facility would be different under today's requirements. Mr. Parrot said the requirement for nutrient/nitrogen removal through sand filters or bioretention was different now. Mr. Barker asked had they compared the price difference. Mr. Parrott stated not yet.

Ms. Ellis asked who was responsible for the maintenance of the stormwater ponds. Mr. Parrott said he was unsure, but it likely would be the owner or a property owners association.

Mayor Stevens asked were there alternatives for sidewalk construction. Mr. Hornik responded the Town's ordinance was tough on sidewalks and those requirements were under review. He said if they wanted sidewalks later on when the road was reconstructed it was easier to get a sidewalk from NCDOT if it was already there rather than after the construction project came through. Mr. Hornik said if they waited until after the construction project to put in the sidewalk, the Town would have to pay for it.

Mr. Parrott said DOT's policy was that it was automatic if it was a replacement, and it was negotiated if it was not already there. Mr. Hornik stated it was important to be conscious of unintended consequences. Commissioner Hallman said because that project was not fully funded, he doubted that NCDOT would add features.

Jess Peter was sworn in. He said he was speaking in support of the project, noting it was a clean industry, it was well established and becoming a leader, it would not contribute to pollution, that it would bring more people to Hillsborough to shop in its stores, and that it would expand the tax base. He said Mr. Little had contributed to the museum and to the Burwell School, and had made his current site available for community activities. Mr. Peter stated the Town needed to keep Mr. Little in Town.

Susan Frankenberg was sworn in. She said this was an orderly, clean, quiet, and well-run business, and that it brought in people without necessarily bringing traffic downtown unless they wanted to shop there. She said she strongly supported the project.

Craufurd Goodwin was sworn in. He stated he was an "auction junkie," and Mr. Little was the best he had come across and they were extraordinarily lucky to have him. He said he had initially thought the moving was tragic, and was pleased Mr. Little wanted to stay in Hillsborough. Mr. Goodwin asked the Town to do what was needed to keep him in Town.

Mike Troy was sworn in. He said it was sad that they had to build a sidewalk so it could be destroyed and built again. He said Mr. Little was a special user applying for a special use. He

added that Mr. Little's kindness and generosity to this community was well-documented, and that he would always carry his fair weight.

Dennis Bouchet was sworn in. He said he was an antique dealer, and Mr. Little's business had enhanced his business and increased his sales. He said he would very much like Mr. Little to stay in Hillsborough and was very much in favor of the project.

Bryant Warren was sworn in. He said this project would be a great asset to the Town, but as Chair of the Parks and Recreation Board he did believe that NC 86 needed sidewalks. He said it may be some time before NCDOT stated its road construction, and if anyone built on either side of this site they would also be required to put in a sidewalk.

Cyrus Hogue was sworn in. He said he believed you could use sidewalk assessments, such as that seen in other cities and towns, in that the property owners would be assessed along the street so that sidewalks could be built when it was appropriate to do so. He said that would be a possible solution, and there may be other ways that it could be done.

Ms. Wallace agreed that sidewalks were needed on NC 86.

Upon a motion by Commissioner Hallman, seconded by Commissioner Dancy, the Board moved to close the public hearing. The motion was adopted unanimously.

**ITEM #4: Zoning Ordinance Text Amendment to amend Section 25 and 5.27 to delete the prohibition of outside storage for vehicle restoration businesses and provide standards to allow outside storage.**

Ms. Hauth stated this was a privately-sponsored Zoning Ordinance text amendment from the owner of the Vintage Auto Shop on Allison Street, and was an amendment to revoke Section 25 of the Zoning Ordinance and Section 5.27 and to amend the standards for outside storage. She said this was a vehicle restoration business, and the definition of that business under the current ordinance prohibited outside storage. Ms. Hauth said the applicant was asking that that provision be removed to allow outside storage at vehicle restoration businesses in the Town.

Mr. Hornik said that the proposed text amendment did add more specific language about storage of vehicles and vehicle parts. So, he said, it was only clarifying to some extent the language already in the ordinance.

John Rigsbee, owner of Vintage Auto Shop, said his business was not a junk yard and he did not sell parts of the vehicles, adding that everything that was on site would be restored or used to restore another vehicle. He said that storage was not allowed when permitted but when it was zoned GI, storage would be allowed, adding they would like the two to match. Mr. Rigsbee said all the cars were 1972 or older, and that his clientele were out of Town and many times out of State. He said on many occasions his clients came into Town and stayed overnight, visiting local restaurants and generally bringing additional revenue into the Town. Mr. Rigsbee said he planned a combination of fencing and landscaping, and would appreciate any consideration the Town could give him.

Mr. Barker asked what he had done to get into compliance. Mr. Rigsbee said he had been moving vehicles and had obtained storage containers for parts. He said he was currently looking at fencing for security and screening.

Alex Gold, owner of the Hillsborough Business Center, asked that the Board not delete the outside storage prohibition. He said the current operation was an eyesore and detrimental to his business. Mr. Gold said a fence was not sufficient due to the topography, and that this site was very visible from the Business Center. He displayed and explained several photos of the existing fence and existing conditions in and around the site. Mr. Gold said it was difficult when you were dealing with neighbors, and he was trying to be cordial. He admitted that he was the one who had lodged the complaint.

Upon a motion by Commissioner Hallman, seconded by Commissioner Gering, the Board moved to close the public hearing. The motion was adopted unanimously.

**ITEM #5: Zoning Ordinance Text Amendment to amend freestanding sign requirements in Section 8.**

Ms. Hauth stated this text amendment would implement some of the recommendations from the Churton Street Corridor Plan to reduce both the height and size of freestanding signs in non-residential districts. She said the agenda packet contained the ordinance section with the language to be removed crossed out and the new language added in *italics* so that you could compare what was being proposed.

Ms. Hauth stated the proposal was for signs to begin at 20 square feet rather than 32 square feet, and step up from there to 32 square feet and 50 square feet, with 75 square feet being the largest permitted. She said the proposal would also limit the height of freestanding signs to 7 feet rather than the recommended 5 feet in order to allow for landscaping under the signs.

Ms. Hauth stated the Planning Board had asked how many signs on Churton Street would actually comply with the new guidelines, and she had determined there were 3 that were lower than 10 feet: at Dr. John Marshal's office, at the carwash, and at Casa Iberra.

Ms. Hauth said the new guidelines would require that freestanding signs not be mounted on poles but be mounted on a base that was at least half the width of the sign, so if a sign were 8 feet wide its base must be at least 4 feet wide. She said they had also amended the section regarding the grandfathering in of existing signs to establish a phase-out process for existing signs.

Responding to a comment by a Planning Board member, Ms. Hauth stated she had done some research on what neighboring communities required. She said that Carrboro had the exact same standard that Hillsborough currently had, that Chapel Hill was much more restrictive, and other jurisdictions, such as Graham, Apex and Cary, were in the same range. Ms. Hauth said she had not found any neighboring jurisdictions that allowed anything larger than 75 square feet of sign.

In response to a question asking if anyone had 400 feet of road frontage, Ms. Hauth stated that the most likely ones would be Larry King Chevrolet and the Ford dealership.

One Board member wondered if capping the size at 50 square feet would lead to a more realistically shaped sign.

Commissioner Gering stated he had been interested in sign ordinance revisions for some time, and that it had been extraordinarily difficult to get even this far in that process. He said it was unlikely that once it was amended, that it would be amended again for quite some time. Commissioner Gering asked the Planning Board to give this serious consideration, noting this might be last time for some time to come that they would have a chance to modify it and make it tighter. Ms. Hauth said they were getting ready to start the ordinance rewrite, so they could do this now and then look at it in more detail as they proceeded through the rewrite. Commissioner Gering stated they had held off making amendments for this long because they had not wanted to tell businesses to change their signs but once.

Upon a motion by Commissioner Hallman, seconded by Commissioner Gering, the Board moved to close the public hearing. The motion was adopted unanimously.

**ITEM #6: Zoning Ordinance Text Amendment to add a Multi-Family Special Use zoning district to Section 2 and relevant standards to Section 4.**

Ms. Hauth stated this would add a new zoning district to the Zoning Ordinance, in light of two possible multi-family projects that wanted to have the special use option. She said this would create the Multi-Family special use district which would allow the developer to apply for one of the Town's attached housing or multi-family housing types and then meet the requirements for the multi-family district. But, she said, if you needed some special consideration, because it was a special use you could ask for something different during the review process. Ms. Hauth said the most common use she would expect the Board to see a request for would be a density increase.

Mr. Hornik said he and Ms. Hauth had discussed how simple or complex to make this amendment, and had opted to make it a simple method. He said if an application came before the Town Board and the Town Board did not like it, they would not have to worry about the details but simply deny the rezoning.

Ms. Hauth stated that all the things that would normally go along with every type of Special Use Permit would go along with this type of Special Use Permit as well. She said that this would simply be another option. Ms. Hauth stated this was a separate zoning district, and someone would have to apply to become Multi-Family. She noted they had not established a minimum lot size for this district.

Upon a motion by Commissioner Hallman, seconded by Commissioner Dancy, the Board moved to close the public hearing. The motion was adopted unanimously.

**ITEM #7: Zoning Ordinance Text Amendment to amend the site plan and conditional use requirements to create a tiered system whereby smaller plans are reviewed by staff or a staff committee and larger plans become conditional uses. Amendments are proposed in Sections 3.4.1, 4, 5, and 21.**

Ms. Hauth stated the reason for this series of amendments was to change how they reviewed site plans. She said it would set up a tiered system whereby the first tier would be that site plans of a certain size could be reviewed by a single Planning staff person; the second tier would be a group of staff from a variety of departments which could include the Fire Marshal, the Town Engineer, and others; and, the third tier would be to say that regardless of what the use was, if the size of the building or disturbed area gets to a certain size or intensity, that use automatically became a Conditional Use within that district.

Ms. Hauth said they were also proposing that places of worship and schools, which were routinely allowed in residential districts, would become a Conditional Use, regardless of their size. She said they had found that it was difficult to review a commercial site plan, which was essentially what a church or a school was, when the zoning was residential and there was not a requirement for parking or screening or other things that tended to be in the ordinance and based on zoning and not on the use of the property. Ms. Hauth said it could become very disruptive, especially in a neighborhood which was where such uses tended to locate, to not have the proper controls in place to actually protect the residents of that neighborhood.

Mr. Hornik emphasized that whether it was a staff review or a staff committee review, the same standards applied. He said the only difference was they were establishing thresholds for smaller impact site plans.

Ms. Hauth said that if an applicant disagreed with the staff person or the staff committee, they had the opportunity to appeal to the Board of Adjustment to resolve the issue.

Mr. Hornik said the point was to streamline the process for things that should be easy, and to give the higher level of review to those site plans that should have it.

Upon a motion by Commissioner Dancy, seconded by Commissioner Hallman, the Board moved to close the public hearing. The motion was adopted unanimously.

**ADJOURN**

Upon a motion by Commissioner Dancy, seconded by Commissioner Hallman, the Board moved to adjourn the meeting at 9:19 p.m. The motion was adopted unanimously.

Respectfully submitted,

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Margaret A. Hauth, Secretary