

**MINUTES**  
**JOINT PUBLIC HEARING**  
**HILLSBOROUGH TOWN BOARD and PLANNING BOARD**  
Monday, June 5, 2006  
7:00 PM, Hillsborough Town Barn

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

**PLANNING BOARD MEMBERS PRESENT:** Chair Matthew Farrelly, Jim Boericke, Edna Ellis, Neil Jones, Paul Newton, Eric Oliver, Dave Remington, Toby Vandemark, and Barrie Wallace.

**STAFF PRESENT:** Town Manager Eric Peterson, Assistant Town Manager/Public Works Director Demetric Potts, Planning Director Margaret Hauth, Town Engineer/Utilities Director Kenny Keel, and Police Chief Clarence Birkhead.

**ITEM #1: Call public hearing to order.**  
Chair Matthew Farrelly called the meeting to order.

**ITEM #2: Annexation/Zoning/Master Plan request for Old 86 Commons** to annex 11.26 acres on the west side of Old NC 86 and request Entranceway Special Use Zoning. A Master Plan has been submitted for the site proposing 3 office buildings of 24,000 sf; 17,000 sf; and 4,000 sf (TMBL 4.49.A.2, 2e). Special Use Permits will be required before any building is constructed.

Planning Director Margaret Hauth stated that because this was a quasi-judicial process, all speakers must be sworn in. She provided a brief summary of item and the materials submitted by the applicant.

Mr. Farrelly asked if the applicant wanted to speak. Ms. Hauth responded that typically the applicant would be given the opportunity to state his case and then we would call on the speakers who had signed up.

Responding to a statement from Commissioner Ellis, Ms. Hauth noted that large-scale plans were signed and prepared by an engineer. Commissioner Ellis asked if this was the only review plan that the Board would receive. Ms. Hauth said yes, because if the Board were to approve the rezoning and Master Plan, it did not entitle the applicant to do anything, other than to install the infrastructure. She said the applicant would still need to come back and obtain a Special Use Permit for any of the individual buildings before they could actually receive any building permits. Ms. Hauth said at that point we would see detailed construction drawings.

Edna Ellis asked if approval on this would give them a destined right to proceed. Ms. Hauth said this would only mean they were compliant with the Master Plan. She said before proceeding with a Special Use Permit applicant, this process gave the applicant the opportunity to discover if the general concept was acceptable to the Town, which was the purpose of the Master Plan.

Mr. Farrelly began calling on speakers, beginning with the applicant. He reminded each speaker to swear in by raising their right hand and reading the statement provided at the podium, and to print and write their name on the list provided.

Sheila Pierce, the Applicant, said they had requested the annexation of the 11.62 acres and the rezoning to a Special Use district. She said they had submitted a Master Plan, and there was not Special Use Permit associated with this request. Ms. Pierce said they had an identified user, DeWitt Health Care Services, who's due diligence protocol required that zoning be in place before they start funding the process.

Ms. Pierce said they had tried to provide as much information as possible in the materials submitted. She said this property have 1,300 feet of road frontage, much of which overlooked Cates Creek. Ms. Pierce said she planned, if approval was granted, to produce a professional office-based high quality development, which she said would be sensitive to the environmental features of the property. She said this project promised to bring new and high-quality jobs to the community, increase the commercial tax base, and without demanding the Town's resources.

Tony Whitaker, Civil Consultants, Inc., said the site was 1,300 feet long by a few hundred feet deep on a very important corridor entering Hillsborough, a fact of which they were well aware. He explained some of the features of the site, including old home sites and the location of the higher points and lower areas by Cates Creek.

Mr. Whitaker said the creek was environmentally sensitive and important, and their plans sought to preserve that stream buffer, preserve the floodway, and make limited intrusion into the flood fringe area as allowed to facilitate construction of the buildings and parking. He displayed a drawing of the site and pointed out particular features, explaining layout, lines of sight, and service areas for dumpsters and HVAC units.

Mr. Whitaker noted that the planned users of this property were traditionally low-water users, which was important for the Town. He said the floor area ratio was quite low at about 10%, and the total impervious area was also quite low at about 35%. Mr. Whitaker noted they had submitted a traffic study even though it was not required at this point, so that any issues regarding traffic could be addressed early on. He noted that NC Department of Transportation had already approved the site for the driveways, noting they were considered to be a safe condition for people entering or exiting the site. Mr. Whitaker added they were providing a sidewalk along Old Highway 86, and a stormwater impact analysis that the Town's consulting engineers had given their seal of approval.

Ms. Ellis said regarding the recombination of property for this site, she had researched that issue and found that the previous owner had requested that the property be sold as three individual lots and not be recombined. She asked Mr. Whitaker to explain the recombination of these lots.

Mr. Whitaker said they had not accomplished a recombination as shown on the plat, noting they were proposing to take two existing lots and to appropriately recombine to ultimately create three lots, consistent with the Town's subdivision ordinance and State law. He said he was not sure of the history Ms. Ellis had mentioned, but during the survey that was conducted nothing had been identified that would preclude them from their plans.

Ms. Ellis said regarding the right-of-way, the plans were showing a variable right-of-way on Old Highway 86 of 50 feet, but the sidewalks was not indicated. She said if there was a sidewalk to be indicated, she believed it would be within the State's right-of-way, since 50 feet was needed measured from the centerline of the roadway. Ms. Ellis stated that Waterstone required an additional 50 feet of right-of-way for a total of 100 feet. She said she had found a 1997 chart from NCDOT that stated they had an existing 100-foot of right-of-way.

Ms. Ellis said taking that into account it would appear that the sidewalk would be in the roadway. She said a sidewalk should be at least five feet wide, so she had a problem with the design. She said she was also concerned because the street between the buildings had not been indicated on the plat, and asked was it an alley, one-way, two lanes, or something else. Mr. Whitaker responded he believed he had indicated that street on the plat.

Ms. Ellis stated her other concern was that the existing neighborhood not be disturbed anymore than necessary, and asked if the buildings could be moved to the back of the property to less any impact on the neighbors. She stated that regarding the parking, that if a problem developed with people prowling that lot at night, it would be impossible for the Police to patrol it. She said the parking lot needed to be closer to the street to allow the Police to see it. Ms. Ellis stated the sidewalk looked like it was in a curve.

Mr. Whitaker said it was conventional practice to place a sidewalk in the NCDOT right-of-way, as far away from the edge of the pavement as practical. He said that was what they had done, and was showing it as being predominately against the edge of the 50-foot right-of-way from the centerline of Old Highway 86. Mr. Whitaker said there was one point over the creek where the shoulder was narrow, and if they were to put the sidewalk at the edge of the right-of-way it would be in the creek. So, he said, in keeping with minimizing stream impacts, it was prudent in that one location to pull the sidewalk closer to the roadway and then curve back.

Ms. Ellis said she did not believe the NCDOT would approve having that portion of the sidewalk that close, and it should not be near the ditch because she believed people would use it as a walking/biking trail. She said she believed there was a trail planned to follow Cate's Creek.

Ms. Hawth said the planned trail would be located within the buffer and not in the public right-of-way

Mr. Whitaker stated they would keep an open mind when discussing these issues, noting the next step in the process would be to come before the Planning Board for consultation and review of things that might need to be adjusted, and then responding. He said then they would do the same before the Board of Commissioners.

Mr. Whitaker noted that the plans indicated a common driveway, which would be a private, common two-lane roadway, expanding to three lanes at the roadway to allow for one incoming and two outgoing lanes. He said it would be protected by restrictive covenants regarding its use and maintenance.

Ms. Ellis said that Mr. Chuck Edwards had provided recommendations, but they had not been provided for this meeting. She said Mr. Edwards had indicated that when Old 86 was widened that it would have a median, and there would be a right-in/right-out entranceway similar to that at Oakdale Village.

Mr. Whitaker said they were aware of that, noting it was an existing condition that they would work with. He said when the roadway was eventually widened, there would not be median break at this location that would force that entrance to be a right-in/right-out only, adding the applicant was well aware of that and accepted it.

Ms. Ellis said the chart of expected employees indicated 70 for Lot 1, Lot 2 had 60, and Lot 3 would have 20. She said if you did not know who would be occupying these buildings, how did you estimate the number of employees.

Ms. Ellis said the peak traffic entering Lot 1 where you have 70 employees indicated a peak of 53. Again, she said, with Lot 2 you show 50 employees but a peak of 40, and for Lot 3 you show 20 employees but a peak of 15. She asked what the rationale was for that.

Mr. Whitaker said the number of employees and the number of peak hour traffic trips estimated was educated guesses. He said this was a Master Plan, and was not intended to be a specific plan with specific buildings or users. Mr. Whitaker said this was about getting the property annexed, and getting it ready for development within the Town. He said rezoning came with annexation by law, and by ordinance a Master Plan was required for the rezoning in this particular rezoning district. Mr. Whitaker said that was why they were present tonight, not to talk about specific uses because they did not yet know what they would be.

Mr. Whitaker said they did have one user waiting for the applicant to get past the Master Plan stage so that they could commit their funds to the Special Use Permit process. He said we were not yet at that point, so tonight they were talking about development parameters for this site to give the Town enough comfort to annex and rezone the property and to approve this Master Plan.

Ms. Ellis said on the Master Plan, it was stated the property would be a combination use. She asked what that meant.

Mr. Whitaker responded an example would be a medical office that had offices set up for different doctor groups that were complimentary to each other. For instance, he said, one might be a general practitioner, one might be for X rays, or one might be an optometrist who also sold eyeglasses which was a retail use but would be an accessory retail use. He said that accessory retail use was called a combination use.

Ms. Ellis said they had also listed an accessory use, and asked was that part of the combination use. Mr. Whitaker said the term combination use came from the Town's ordinance, and he was not aware of the background of that term.

Mr. Oliver said three buildings were planned on Lots 1 and 2 with the possibility that the buildings would split. He asked under what circumstances they envisioned that those buildings might split and to where they would split. For example, he said, would they be 20 feet apart, would they move backwards or forwards, or how would the Master Plan change if they decided to split them.

Mr. Whitaker responded that the most likely scenario was for the two building masses to continue to be building masses, and then each one of them might split into two smaller buildings within the same footprint zone. He said they would be no closer to the street and not any further back. Mr. Whitaker said there was flexibility written into the language, because they wanted to place parameters and boundaries around what could be done so that there was a clear understanding, but not burden the Town with them coming back for each small change.

Mr. Whitaker said he envisioned the same building mass and in the same footprint area, which may be split into two buildings closely spaced on one lot.

Commissioner Gering said the information provided indicated that certain criteria and components may not meet the presumptive requirements of the use. Mr. Whitaker said the entranceway special use district had certain requirements, and if those requirements were met it was presumed that you met the intent of that district. He said the Town Board had the authority to waive certain of those requirements if in their judgment it was justified.

Mr. Whitaker said one way that this planned development did not meet the presumptive requirement was that smaller building at the south end of the site did not meet the 50 foot setback, noting it was shown at 40 feet in an effort to pull that building as much as possible off the most sensitive area in the rear of the property to provide additional buffer. He said they believed that was a reasonable thing for the Town Board to approve that varied from the presumptive requirements but was a good thing to do nonetheless.

Mr. Whitaker said the other difference to the presumptive requirements was the requirement for a 20-acre minimum lot size. He said this project was 11.2 acres, similar to what the Town had approved further north in the same district on a lot less than 20 acres. Mr. Whitaker said they believed it was appropriate for the Town to consider this lot in the same light.

Commissioner Gering said regarding the allowable uses, did they intend that any subset of those potential uses, including a drive-through bank, would be on this property. Mr. Whitaker said he did not see this as a primary site for a bank, although it could be. He said it had not been programmed as such, and none of the building masses were intended to portray a bank. He said a bank was not the most likely use.

Commissioner Gering asked what was their interest in having a bank on the list. Mr. Whitaker responded to keep the flexibility that it might happen.

Mr. Oliver said the building heights of all three buildings had been identified as 40 feet. He asked how many stories that would be. Mr. Whitaker responded that the buildings were intended to be primarily single-story, but up to 25% of the floor area for each building could be on a second level. He said the possibility of approach the 40-foot height was low, and would most likely be around 32 feet for a second story.

Commissioner Gering asked if Mr. Whitaker had read the County's review. Mr. Whitaker noted he had. Commissioner Gering said one of their recommendations concerned lighting, noting the County had suggested that lighting could be ultra-traditional open four to six-sided lights. Mr. Whitaker said he was not exactly sure what was meant by that, noting he believed it was describing a lantern-type light on a post that cast light out. He said they had proposed standard shoebox lighting with the proper controls to cut off baffles that would not permit light to travel back, and managing the height and flow. He said they also would have a flat lens so that you would not see the light protruding down.

Commissioner Gering said the Cornwallis Hills residents had expressed concern about the HVAC. He asked how those would be shielded. Mr. Whitaker replied that the HVAC units would be placed on the ground, which would have either shrubbery or some other barrier to shield it.

Commissioner Gering asked if Mr. Whitaker knew any of the Cornwallis Hills property owners. Mr. Whitaker said he had meet with them on December 15 of last year, and had met with the Homeowners Association at one of its regular meeting and at a second meeting on January 28 of this year at one of the neighbor's home. He said it was important to them to consult with the neighbors, noting he had roots in that neighborhood and it was important to him to understand their concerns and respond to them. He said it was their intent to be good neighbors.

Responding to a comment by Barrie Wallace, Mr. Whitaker said the County had made a comment regarding the sediment pond location, which they were inferring because they had not yet shown a sediment pond location on the plans. He said the County inferred it would be down or against the creek and when it rained, and you would really want to be doing good erosion control at that time, the creek would be flooding and the sediment pond would not be working. He said that was not the situation that would be proposed, noting the pond would not be placed in such a low-lying area. He said those details would be worked out prior to the construction phase.

Ms. Wallace asked which lot the County was referring to. Mr. Whitaker responded Lot 2. Ms. Wallace asked where they might propose to put the sediment pond. Mr. Whitaker responded it was proposed to be in the general location of the stormwater management pond, but that was a construction detail that would be decided much later on,

Ms. Wallace stated that the County did not allow building in the floodplain. Mr. Whitaker said the National Flood Insurance Program, administered by FEMA, had certain guidelines regarding what could or could not be done in floodplains. He said what had been established was that a floodplain where water would most likely flow to in a 100-year storm or a 50 year-storm, that some the fringe areas of that flooding area could be encouraged upon safely and reasonably without much impact on the flooding levels of the creek.

He said the National Flood Insurance Program had established something called a floodway, which was a subset of the floodplain, which was a strip of land that you must not encroach upon except in extraordinary conditions, but you could encroach in the fringe area with minimal impact on flooding. He said that was a nation-wide standard, and that was what they were proposing for this site. Mr. Whitaker said some jurisdictions adopt more strict standards, which Orange County had done, but the Town had not. He said it was an entirely safe and common practice to do this if the guidelines were followed, and they would be here.

Commissioner Hallman said the Town was interested in adopting the Neuse River buffer rules, and asked if Mr. Whitaker was familiar with those rules and how would they impact this development. Mr. Whitaker responded he was aware of those rules, and there were two phases to them. He said one was the stream buffers that had been in place in Hillsborough for some time, and those stream buffers would be honored.

Commissioner Hallman said the Upper Neuse River rules, if adopted, would extend those stream buffers to 100 feet, although Ms. Hauth was indicating that was not the case.

Mr. Whitaker stated that the second phase of the rules had to do with nutrient loading, trying to protect the quality of the water. He said that was not currently in effect for the Town, but may be in the future. He said if they were build a stormwater management pond that meet Town regulations and Neuse regulations at this time, they would not have to do water quality controls, meaning a wet pond. Mr. Whitaker said if they were to do it two years from now, they would most likely have to have a wet pond. He said at the time the Special Use Permit was applied for, the prevailing rules at that time would be applied.

Commissioner Hallman said the Board may ask that they meet the future standards. Mr. Whitaker said that was understood.

Commissioner Lloyd asked what problems they believed they might cause to the people living nearby, such as refuse trucks coming during nighttime hours, HVAC noise, light pollution, or any other change to their environment. She said for instance, Mr. Whitaker had said earlier that light would not shine upwards. Mr. Whitaker said that was correct. He said they had taken steps and shown many kinds of protections to the western property line that could be reasonable

provided. He said there may be variations that could be discussed, but he believed they were provided good buffers and providing re-vegetation in a healthy manner of those buffers that were cleared, which was not even half of the buffer width. He said they were putting limitations on lighting as well.

Mr. Whitaker said they believed the uses were neighborhood-compatible. He said there would not be much if any activity at night. He said there may also be an occasional dumpster truck, and it would be heard just as you would hear an airplane flying over.

Commissioner Lloyd related a situation where a neighbor of a church had come almost to the point of suing because the noise coming from the church's HVAC system. She said she did not want to see that happen to any resident of the Town. Commissioner Lloyd said that in the near future these same residents would feel the effects of the Waterstone development, so she did not want to add any further problems.

Mr. Whitaker said the Special Use Permit process would delve into those specifics and give the Town the opportunity to make sure that the public health, safety and welfare were preserved.

Mr. Farrelly asked if Mr. Whitaker envisioned any of the uses to have nighttime hours at all. Mr. Whitaker responded potentially. He said if a medical facility with an urgent care service were located there, he believed the community would want some nighttime hours, although those hours would be limited.

Mr. Farrelly said he believed the neighbors were going to request a wall be built to minimize those types of issues. Mr. Whitaker said they did not like the idea of a wall as it had been described for many reasons. He said the Homeowners Association was asking for an eight-foot high brick solid wall along the entire common property line between the project and the neighborhood with no openings. Mr. Whitaker said first of all, the wall could not be built in the stream buffer and creek areas. He said it also was not the neighborly thing to do.

Ms. Pierce, the applicant, said she felt that such a wall would not give the appearance that they believed was wanted to people coming into the Town. She said an eight-foot wall, regardless of what it was built of, was to her unfriendly and gave the impression that there was some problem. She said a vegetation buffer was much more friendly and much more in tune with the natural look of the property. Ms. Pierce said they were trying to preserve the green look and green space, and a wall would destroy that look.

Ms. Pierce said she believed a wall was counter-productive to what the neighbors were asking for as far as security, noting it provided an opportunity to walk around the wall and hide and blocking view. She said she believed a vegetation buffer would ultimately be a better sound barrier and a better visual barrier because it would ultimately be higher.

Ms. Pierce said she wanted this to be a win-win situation and was open to conversation regarding this, but she did not believe a brick wall was in everyone's interest. She said she understood the

concerns behind the request, but that was a drastic step to take before you knew whether you even had a problem.

Mr. Oliver said there was a fork of land that went out to Bonaparte Drive and he had two questions about it. He said first it was set up for a temporary forced main, and asked why a temporary forced main had to be used. He also asked what they would do with that access to Bonaparte Drive if they every planned to use that access, noting he was also like to hear what the neighbors thought about that.

Ms. Pierce said initially the neighbors had brought up whether or not they wanted there to be some kind of pedestrian or bikeway located there, and the members they had spoken to did not. So, she said, their plans were indicating that the area be kept natural.

Mr. Whitaker said if a brick wall were placed there, that where the topography changed the wall would meander down and up again as the land shifted, so it would appear taller in some places and shorter in others. He said a brick wall would artificially be imposing itself on the natural topography, and aesthetically was a reason not to erect it.

Mr. Whitaker said the small fork of land was a leftover piece that had been recombined with the parcel years ago, and it did touch Bonaparte Drive. He said they had immediately seen it as a pedestrian connection to Bonaparte Drive, but neighbors did not want that.

Mr. Whitaker apologized to the neighbors because he had originally told them that the small fork of land would not be disturbed, but an issue had come up regarding sanitary sewer service for this project that required them to disturb that land. He said small 10-foot wide strip would need to be used to construct a temporary sewer line to connect to the sewer on Bonaparte Drive, because the Cate's Creek Outfall was not yet built. Mr. Whitaker said until it was built, they needed to install a temporary pump and a temporary small diameter force main, both of which would later be abandoned, connected to the sewer on Bonaparte Drive. He said the area disturbed could be replaced, since this was not a long-term utility.

Ms. Ellis said she was in agreement with the neighbors regarding the placement of a brick wall, in order to cut down on noise and improve safety. She said the parking lot could not be seen from the street, and someone could easily travel through the shrubbery into the neighborhood.

Mr. Jones said vegetation was a seasonal thing. He asked if they had considered a combination of both the wall and the vegetation to get the buffer you were looking for. Also, he said, look at it as a good neighbor to give neighbors privacy, so why not provide the brick wall or provide both. Mr. Whitaker said they had thought about that, noting the natural vegetation would thin out in winter. He said the vegetation they were proposing was evergreen, upright hollies.

Mr. Whitaker said you could be both, that is a wall and a substantial evergreen screen. But, he said, if you were doing a wall to prevent passage through it, then the vegetation would be different.

Commissioner Hallman said as part of the Master Plan application would they see some signage and design standards. Mr. Whitaker said they had not planned on doing that, noting that at this point they did not have enough knowledge of the users, and they wanted the signage to match the buildings in terms of architectural style. He said the Special Use Permit process was the time to get into those kinds of details.

Commissioner Hallman said they wanted to have some consistency across the entire site. Mr. Whitaker agreed, noting that these buildings could be developed separately with separate Special Use Permits, so the first one that came would have the burden of establishing the architectural style for the rest. He said that heavy review would be accomplished by the first Special Use Permit.

Mr. Newton said regarding the fence and wall, good fences made good neighbors. He said it was obviously important to residents of Cornwallis Hills to have some sort of boundary. Mr. Newton suggested that when they come before the Planning Board that they make an earnest effort to address the wall. Mr. Whitaker said he agreed that good fences made good neighbors, but he did not believe that an eight-foot wall was a good fence. He said they would address that issue when it came before the Planning Board.

Commissioner Gering said the Town was in the process of completing plans for the Churton Street corridor, which included this property. He requested that even though it was not yet codified, that Mr. Whitaker read it and provide the Board some feedback about what it might mean to him, and whether or not he would have trouble complying with those guidelines. Mr. Whitaker agreed to do so.

Ms. Ellis said she wanted to get back to the issue of recombining the lots, because what was shown on this plat was not the same as a recombination she had found on file at the courthouse that was prepared in 2004. She said it showed the property recombined, yet it did not look the same as what had been provided by the applicant.

Mr. Whitaker said what was currently on record as the lot configuration was proposed to be changed, so it would not be expected for the ultimate lot lines to match what was currently on record.

Mr. Farrelly said they would now begin to call on members of the public who had signed up to speak. He reminded speakers that they would need to swear in and print and write their names before commenting.

Vic Knight was sworn in. He said he is the Manager of Old 86 Commons LLC, a family-formed limited liability corporation, said he and the family were in support of the applicant's request. He said they had a great deal of interest in positively moving towards an eventually approval for the medical facility. Ms. Ellis asked if Mr. Knight had a share in the LLC. Mr. Knight responded he owned a 1% interest, the minimum legal requirement to be the Manager.

Cheryl Pochinski was sworn in. She is a resident of 106 Pointe Place in Cornwallis Hills, said the development of the property behind their homes would destroy the homes of our feathered friends and other “critters.” She said her main concern was increased crime, which came with growth and expansion. Ms. Pochinski said during her tenure as a Security Monitor in Chapel Hill, she had found that the highest risk areas for crime were behind buildings and in isolated parking lots. She said she could only image the possibilities of what could happen on the semi-secluded strip of land that adjoined their backyards.

Ms. Pochinski said compounding the problem was their location between two major interstates. She said living in such proximity to those two roadways made it an ideal meeting place for undesirables to go about performing bad deeds behind buildings and in parking lots with easy escape routes on either interstate.

Ms. Pochinski said speaking of undesirables, there were 81 registered sex offenders living in Orange County. She said 23 were in Hillsborough, 24 in Chapel Hill, and the other 47 living throughout the County. She said Durham County had 241. Ms. Pochinski asked how easy would it be for any of those 322 individuals in just these two counties to sit inside their cars in the parking lots planned for this development and observe them through their windows or watch their children play in their yards. She said how long before they reach out to what appeared to be easy prey that was close by, again with easy escape routes in either direction.

Ms. Pochinski asked that the Board help maintain the excellent quality of life they currently enjoyed in Cornwallis Hills, while preserving the integrity and charge of Hillsborough.

Margo Pinkerton was sworn in. She said before moving to Hillsborough she had been the president of a 32 bi-state regional planning commission, and was also secretary of her state association of planning commissions. She said she provided that information so that the Board would know she spoke with some experience.

Ms. Pinkerton said she was appalled when she saw Master Plan application, noting it was inconsistent with County regulations. She said while they were asking for annexation, it was not yet annexed nor was there any guarantee that it would be. Ms. Pinkerton said the Master Plan contained vague wording, and tonight she had heard the applicant use such words as envision, probably, intended and maybe, which she said was nebulous for a major proposal.

Ms. Pinkerton said the Master Plan contained many loopholes. She noted that the County’s regulations regarding wetlands were more stringent than the Town’s, noting the Town required a 50-foot buffer, whereas the County required the buffer from the 100-year floodplain mark. She said if you looked at the plat it was a huge difference in the amount of space the developers had to work with. She asked had the appropriate EPA 404 Permit request been filed as yet, determining that it had not been.

Ms. Pinkerton asked why it was so important that the property be annexed, which would mean that the Town would have to provide utilities. She said the Town’s water was already overtaxed, and many of the residents feel that the drinking quality of the water was already questionable.

She wondered who would pay for these utilities, noting most likely it was raise all of their taxes, and for what purpose. She said that area was a wonderful green space, with a good portion of it in the 100-year floodplain.

Ms. Pinkerton said some neighbors were concerned about the lack of proper notification for the last hearing, and it made it appear as if “someone was trying to push something through.” She said they wanted to be assured that this would not happen again, and that ample notice would be given so that all interested parties could attend and participate.

Ms. Pinkerton then address the Master Plan paragraph by paragraph, noting that her statements were supported by many of the residents in Cornwallis Hills. Regarding the first paragraph, she quoted, “The buildings will be designed to blend with the existing businesses to the north... .” She asked what buildings that statement referred to, noting that statement was too nebulous. Continuing the quote, she read “appearance controls will be enforced through restrictive covenants to be established... .” She asked when would they be established, and who would approve them and would the neighbors be notified well in advance. She read “landscape standards,” and asked when would they be presented.

Regarding the second paragraph, Ms. Pinkerton said the requested zoning district had already been addressed, but it concerned her and others that the conversation tonight had assumed that annexation was a fait accompli, which she found to be inappropriate. Ms. Pinkerton said regarding the entranceway special use zoning, she was concerned that in the future when this road went from a two-lane to a four-lane road and divided, where would people coming from the south turn around. She said she believed people would have to turn around at the entrance to Cornwallis Hills, and the questioned the sensitivity of that.

Ms. Pinkerton quoted “...special emphasis on professional office and medical office users.” She said there was not definitive usage, and asked what if the intended use changed and would neighbors be notified. She asked what else would that loophole allow, and who would approve it. Ms. Pinkerton said flexibility for extended office hours was mentioned, but it had not been defined. She said she and others believed that professional offices in most medical facilities did not need extended business hours. Ms. Pinkerton said if urgent care was provided, then the issue of sirens and other noises was an issue.

Ms. Pinkerton said the Master Plan stated there would be no unusual levels of impact, and asked what was considered unusual for a project planned to abut a residential neighborhood. She asked who would determine what was unacceptable, and by what benchmark.

Ms. Pinkerton said the Town and County required one parking space per three hundred square feet of building. She said that would make 137 parking spaces for the two main buildings, and yet the applicants were proposing about 50 extra parking spaces. She asked why the inconsistency.

Ms. Pinkerton said there was no effective barrier planned between the commercial and residential areas. She said they had concerns about the vermin associated with waste generation

and with construction. She said in the original plans the dumpsters were placed far too close to the property line, but that had since been corrected.

Ms. Pinkerton said safety had been addressed previously by a speaker. She said trees being planted would not prevent their children from traveling through the greenery and being at danger from cars speeding in the parking lot or accosted by others. She said it was common knowledge that parking lots could attract undesirables.

Ms. Pinkerton said noise issues had been brought up as well. She said without a brick barrier those issues would remain. She said copperheads during construction brought up safety concerns, noting when you disturb land the animals had to go elsewhere. Ms. Pinkerton asked how would the developer deal with felled trees and the resultant stumps.

Regarding lighting, Ms. Pinkerton said 30-foot poles had been mentioned and it was noted that Cornwallis Hills was higher than the proposed development. She said that was only true for a part of Cornwallis Hills. Ms. Pinkerton said the elevation map showed that some of the abutters were approximately 20 feet below some of the higher places in the proposed development. She said that made a 30-foot lamp pole actually 50 feet for those residences.

In the third paragraph, Ms. Pinkerton quoted “fully preserve and integrate much of the existing vegetation...” She said that was too vague, and asked what was meant by integrate? She said regarding the drainageway within the buffer zone, there was a small stream that was very close to that drainageway. She said that would impact the water that went into the watershed that flowed into the Neuse River Basin.

Ms. Pinkerton wording regarding the river said it “follows horizontally along Old NC 86” and she did not understand that. She asked for an explanation.

Mr. Whitaker said if you look at the plan and the way it was oriented, there was a stretch by the creek adjacent to the right-of-way, and it was shown horizontally on this plan. Ms. Pinkerton said then he meant parallel. Mr. Whitaker said it was parallel but it was horizontal as well.

Ms. Pinkerton said regarding preserving existing trees, the County regulations mandated a buffer of 40 to 50 feet for small lots, but must be non-land disturbing and which may not be cut and replanted. She said that was a concern when the County regulations clearly say no cutting within the buffer.

Ms. Pinkerton said in paragraph four they were talking about reducing the 50-foot buffer to 25 feet because of paving concerns. She said either it was a buffer or it wasn't, and it was troublesome to the residents. She said either the regulations were in place or they weren't. She said why have regulations if we continue to chip away at them.

Ms. Pinkerton said another phrase used in the Master Plan was “to the extent practical the existing vegetation would be left undisturbed. She said that was a major loophole, and asked

who would deem it practical, who would monitor it, and would abutters be notified well in advance.

Ms. Pinkerton said that replanting the buffer zone was not a legal option, yet the developers were proposing that they cut down and replant. She said if they were given permission to do this, what kind of trees would they replant, how closely would they be replanted, and no one was addressing the fact that it takes trees a long time to grow.

Ms. Pinkerton said the noise issue would not be addressed by a few trees. She said a study was conducted recently regarding noise reduction in residential areas, and the best reduction was a brick wall or a stone wall, and they were proposing a brick wall. She said there would be additional noise by the very fact that they would have to cut down trees to construct the buildings, so that noise buffer would be lost between Old 86 and the neighborhood. She said it would bring increased traffic as well, so it was a double-edged sword.

Ms. Pinkerton asked about the 10% of floor area ratio to the site. She asked was it 10% of the entire site or only the area not covered by the 100-year floodplain. She said the same could be asked about the impervious surface at 35%.

Ms. Pinkerton asked what was meant by "level spreaders." Mr. Whitaker said in the Neuse buffer requirements there was a requirement that stormwater runoff must enter through the stream buffer in a diffused manner, not in a concentrated. He said level spreaders were a recognized and common device to accomplish that.

Ms. Pinkerton asked what would prevent the construction dirt from going through that. Mr. Whitaker said level spreaders were typically built at the end of construction when the site was stabilized so that did not happen.

Ms. Pinkerton asked what about during construction to prevent pollution of the stream. Mr. Whitaker stated that was a construction technique that he would be happy to explain if the Board wanted to take the time tonight. Ms. Pinkerton said she did not need to know tonight, but she believed the residents of Cornwallis Road and the entire Town would want to hear the answer to that.

Commissioner Lloyd asked if Ms. Pinkerton was an abutting property owner. Ms. Pinkerton responded no, but she had a friend who was. Commissioner Lloyd asked if Ms. Pinkerton lived in Cornwallis Hills. Ms. Pinkerton replied yes, on Lafayette Drive.

Ms. Pinkerton asked why it was so necessary to place this development here. She asked what was wrong with a green space access. She said there were many vacant spaces in Town, and she believed the Town should concentrate on filling those before allowing new development. She said she and others would like to see proof that this development would increase the commercial tax base within a large demand on Town resources.

Ms. Pinkerton said she believed the traffic impact figures were taken from the Waterstone figures, and it also seemed to be too much for a two-lane road. She said the statement that “this development will integrate with other developments along Churton Street” was verbiage that was too vague. She said there were not many good arguments for something of this nature to be built here, but there were many other uses for this land, including parks and other activities. Ms. Pinkerton said regarding lighting, Duke Energy did have some approved lighting, and they would not like to see mercury vapor lights or sodium vapor lights.

In summary, Ms. Pinkerton stated they had grave concerns regarding safety, environmental impacts, privacy, noise, and traffic. She seemed this proposal was too loose and too fraught with loopholes to be responsibly approved. Ms. Pinkerton asked the Town to put a hold on this development until the Town’s Strategic Growth Plan was put in place.

Gayane Chambless, a resident of Cornwallis Hills, said she was a the Community Watch chairperson and a member of the Board of the Homeowners Association. She said she was in favor of increasing our economic base while no taxing our limited resources, but she had concerns that she would express from the viewpoint of Community Watch. Ms. Chambless described the issues that Cornwallis Hills had gone through over the last several years that had resulted in a Community Watch being formed. She noted trespassing, vandalism, stop signs and street signs being stolen, drug deals, and young adults from other neighborhoods arrested in their neighborhood on alcohol charges, weapons violations, and possession drug paraphernalia.

Ms. Chambless said they had worked hard to clean it up, and it was now a peaceful residential neighborhood that they wanted to keep that way. She said their concern was trespassers being able to enter the neighborhood from this property. Ms. Chambless said having the parking lots in the rear of the site would allow covert activities to take place. She said unfortunately, we do not have enough police to address all the concerns that Hillsborough residents have. Ms. Chambless said unless the Town was going to increase the number of police officers, they were concerned about annexing that property into the Town limits and taxing police department with they already had so little manpower.

Ms. Chambless said light pollution was an issue, as well as noise pollution. She said she hoped that the Board would also consider questions regarding the Economic Development District. She asked why was it put into place and why were the specific restrictions addressed. Ms. Chambless said another question was why should we allow new development when we had buildings standing vacant. She asked could this development proposal not wait until the Strategic Growth Plan was finalized.

Ms. Chambless said there had been a request for an urgent care facility north of Town off of Highway 70. She asked why the interested tenant was not looking in that area if they truly wanted to serve Hillsborough.

Ms. Chambless said she sincerely hoped that the annexation would not go forward. But, if the Board did grant the annexation, she requested that an eight-foot brick wall be erected along the length of the property and up the sides at least 10 feet to help address safety issues.

Mr. Oliver said regarding the fork of land that jutted out, what would her recommendation be. Ms. Chambless said she was not a developer or an architect, and did not have a recommendation.

Mr. Oliver said she was recommending an eight-foot wall to go from one point to another point, and asked what did she suggest doing with that fork of land. Ms. Chambless responded that she wanted to ensure that Cornwallis Hills was protected, and did not know how to answer that question.

Will Anderson, of 116 Pointe Place, echoed all of the statements previously made by his neighbors. He said he had many concerns with the wildlife disturbance, and the continuous developments happening throughout the Town, including this one. Mr. Anderson said what most disturbed him was the safety of his family. He described how young adults who were not members of the neighborhood traveled from NC 86 and through his property to access the neighborhood. Mr. Anderson said they generally exit in the same manner. He said certainly with the size of this development and the number of parking spaces, that concern was heightened.

Mr. Anderson said another issue of great concern was flooding around and on his property. He said it was ruining his backyard, creating gulleys and holes. He distributed photos of his backyard after a flooding incident, pointing out how close the water comes to his home. Mr. Anderson asked if the structure that was proposed closest to his property would worsen the flooding he was experiencing.

Mr. Oliver said since most of Mr. Andersons backyard was in the stream buffer, then the brick wall that had been suggested would not be able to be built there. He said he would assume that even his house was within the 100-year floodplain. Mr. Oliver wondered exactly where people expected an eight-foot wall to be built, asking where it would start and stop. Mr. Anderson stated that he personally liked the idea of a brick wall, but understood that it would not come to his area.

Mr. Oliver said he did not think a wall would help him at all. Mr. Anderson said the problem they had now with trespassers was coming from homes along Old 86 and the young people that lived there. He said his biggest concern was if the development was built, that it would encourage loiterers and trespassers who would then access the neighborhood through his yard. Mr. Anderson said to him, the way to stop that was not to put the development there. He said the young people who trespassed now he could control with the help of the Police.

Mayor Stevens asked if trespassing was a daytime problem or a nighttime problem, or both. Mr. Anderson said it was a little both depending on the season. He said during the fall when the creek was lower it was more common.

Commissioner Lowen said the pictures Mr. Anderson had shared were quite alarming. He asked when they were taken. Mr. Anderson said they were taken about 3 years ago, but every time they got an substantial rain of a day or longer, that same situation occurred.

Commissioner Lowen said then he had a serious problem whether the development happened or not. Mr. Anderson said yes, and over time he was going to have to address it in some way. He said his main concern was if the development would force more water onto his property.

George Higgins, President of the Cornwallis Hills Homeowners Association, publicly affirmed the Board's commitment to its members, particularly those who would be directly impacted by this development. He said they supported the testimony heard thus far and that would continue to be heard.

Mr. Oliver asked Mr. Higgins to describe exactly what they wanted with the eight foot fence. Mr. Higgins said that Jo Soulier would address that when she speaks.

Emily Ander, 108 Point Place, and an employee of the Triangle Land Conservancy, stated that her yard floods each time they experienced a substantial rain. She said that indicated it was not a good idea to build in the floodplain, so why build more. Ms. Ander said she believed only the higher ground should be developed.

Ms. Ander said by honoring only a 50 foot buffer, you really were not accomplishing any protection that was above and beyond what was required. She suggested a 100-foot buffer on either side was more appropriate. Ms. Ander said if the Board decided to annex this property, she asked that they at least uphold the Orange County standards.

Jo Soulier, owner of adjoining property at 112 Point Place and a resident of Cornwallis Hills, stated that this project should not be annexed into the Town. She said that Waterstone would not be built until Old 86 was widened. She said this project would depend on the Cornwallis Hills water tank to supplement them until then, and they already had poor water pressure.

Ms. Soulier said the lift station nearby had never worked, and the sewer frequently overflowed. She said she could only imagine the problems with one positioned further down into the floodplain. Ms. Soulier said if that temporary system failed, the Town would be liable for the pollution caused to the water supply. She said the developer had spoken about connecting onto the Cornwallis Hills sewer, but the residents were not interested in any form of ingress whatsoever.

Ms. Soulier said the third building should not be built, noting it was only 5,000 square feet, which was double the size of some of the homes in Cornwallis Hills. She said the County had recommended against that as well. She asked if the developer's need to make money supercede common sense.

Ms. Soulier used the posted map to explain where the resident's preferred for the brick wall to be built. She said they did not object to the project, only to what it might attract to their backyards. Ms. Soulier said the project was too grandiose for this piece of land, and it did not meet the 20-acre restriction. She added that the parking was larger than what was needed.

Ms. Soulier said that 35% impervious surface had been mentioned previously. She noted that 35% was of the entire lot, not of the buildable lot. Ms. Soulier said regarding the traffic analysis, it stated that 50% of the traffic to this development would come from the north. She commented there was already too much traffic in Town.

Ms. Soulier said regarding the note on the Master Plan map referred to the fact that some plans may not meet presumptive requirements. She remarked that the developers would cram whatever they wanted through and the Board was supposed to approve it as is. Ms. Soulier said she believed that language was a loophole. Ms. Soulier said the County had regulations in place for a reason, and annexation would allow the developers to bypass much of that. She said that should not be allowed.

Ms. Soulier said with all that being said, if the Board went ahead and annexed it anyway, she asked them to scale the project down. She said if it worked the work the developer said it would, that might be okay, but asked what would happen if the development was sold to someone else? Ms. Soulier said that much of the wording was too vague and there were too many loopholes. She asked that the Board wait to make a decision until the Strategic Growth Plan was in place, and then decide if we really needed this office space.

Ms. Soulier commented that the plan called for wall-mounted security lighting. She said she had visited Churton Grove Center who had such lights mounted in the rear, and it was like daylight all night. Ms. Soulier said that was not a good thing for the neighbors.

Al Soulier, a resident of Patriot Place and owner of property on Pointe Place, noted that every point he had wanted to emphasize had already been commented on. He said the most important points to him were the trespass issue, with people not of their neighborhood using their property to cross into the area. He said they were at a crossroads of two major interstates, with exacerbated their trespass issues. Mr. Soulier said another issue was the easy access this development would promote if there were no wall erected.

Mr. Soulier said the placement of the parking lot shields it from view, particularly from the Police who would be patrolling in the area. He mentioned the number of children who lived in the neighborhood, as well as the presence of a day care center that would potentially be only a few steps away from a shielded parking lot. Mr. Soulier said the neighborhood needed to be sealed off from easy access from this development, adding his support for an eight-foot brick wall. He said noise was a concern, noting the HVAC and dumpster service. He said that privacy and lighting were issues, noting that even if the lighting were aimed down you would still have reflection off the buildings and cars that might be in the lot at night. Mr. Soulier said this light would be directed into the kitchens and bedrooms at the back of their homes.

Cindy Mihake, a resident of Point Place, said if trees were to be planted as a buffer, why not just place a brick wall there instead. She said a brick wall was a good idea and becoming more common. She said if they ever sold their property they wanted to make sure it was still a nice, safe place to live.

Mr. Oliver said a neighbor had mentioned a drainageway that overflowed. He noted he was not sure a brick wall could be built across a drainageway, but it was possible to plant trees. Ms. Mihake wondered if there was a way to build a wall that was not flush with the ground, or that had “weep holes” similar to a house to allow water to run through.

Mr. Oliver said he wanted to know exactly what she was asking for so that the Board would protect the neighbors interests. Ms. Mihake said residents asking for a brick wall was clear, and was not sure why that did not answer Mr. Oliver’s question. She said Mr. Oliver had asked where the residents wanted the wall to be, and she believed the buffer area planned for new trees was the likely place. She added it might be possible to use a combination of a brick wall and trees to lessen the harshness of what a brick wall might look like to some.

Ms. Ellis asked which drainageway Mr. Oliver was speaking of in regards to the brick wall. She asked how wide a space was it. Ms. Mihake said she could not respond to the spacing.

Mr. Farrelly noted those issues would have to be worked out with the right people to provide guidance, specifically engineers. He noted we had reached the end of the citizen comment period.

Mr. Whitaker said he would like to solicit comments and guidance from the Boards about how to focus their efforts to respond to all of the concerns expressed tonight. He said they were real concerns that affected quality of life. However, he asked that people not disproportionately assign responsibility for some of those issues to this project. He said let’s talk about the valid parts of these issues that were attributable or appropriate to this project. Mr. Whitaker said he did not believe it was appropriate to talk about people who might stop in who were traveling through the State to commit some crime in Hillsborough and then leave. He said they just wanted to give an honest treatment to the issue, and if we were not careful we would pass the honesty mark and get into dishonest territory.

Mr. Whitaker said in their meetings with Cornwallis Hills residents, they had been hopeful that some of these issues would have come to light at this time, and he was disappointed that they had not. He said they had tried to resolve some of these points with the neighbors prior to tonight’s meeting, and for whatever reason that did not happen. He stated they wanted to be good neighbors, were open for discussion, wanted an honest treatment of the real issues this project should address, and did not want to waste anyone’s time with big picture, socio-economic demographic issues that they could not solve.

Mr. Whitaker said there were many points he wanted to respond to that deserved an honest answer, although there was no time tonight. He asked what were the most important issues that they should put their effort into.

Mr. Farrelly said there were issues they would like for them to address prior to coming before the Planning Board, and asked for a thoughtful response on the major items. He stated he did not want issues talked about tonight, such as crime, to be pushed aside. Mr. Farrelly said he understood there were things Mr. Whitaker could not change, such as the nearby highways that

might make it easy for people to access the neighborhood, noting that might not be a realistic concern for the development to address, but it was a sincere concern for the neighbors. He asked Mr. Whitaker to come back with ideas that would address the heart of those concerns.

Mr. Farrelly said issues such as the County's remarks regarding the floodplain boundaries should be responded to, as well as the Town's inter-growth and the viability of the project. He said the concern expressed regarding "why here and why not somewhere else" should be address, since there were other properties that were suitable. Mr. Farrelly said whether it was a wall of something else, there were other innovative solutions that should be addressed.

Mr. Farrelly said the hours of operation and the anticipated uses should be articulated, particularly regarding the urgent care facility and the questions around that such as operating hours and expected flow, or other disturbances. He said worst case scenarios were the types of things the neighbors would want to be aware of.

Mr. Whitaker said they did not set about to create a package of loopholes to get this project approved, noting that was not their mission. He said they had set about to meet the ordinance, and to bring something good to Hillsborough and do it in a way that made planning sense. Mr. Whitaker said they wanted to follow the steps to get the Master Plan set up and allow reasonable flexibility for that, and then to live by it. He said all of that was subject to proper public notice and proper public debate, which would be true for any subsequent Special Use Permit for this property, no matter what happened in the process they were engaged in now.

Mr. Whitaker said there were multiple levels of protections, and they were doing the prudent first step and did not want to have second-step issues placed into the first step that make it doomed to failure from the beginning. He said the process was sequential and they would be happy to discuss details at the appropriate time. He reminded everyone they were at the beginning of the process, and were trying to plan how the site would develop, not to detail and specify every aspect of the development.

Mayor Stevens said he would like to see this discussion left open, noting that issues of safety were a concern as well as the floodplain, and these were issues that it was the Boards' responsibility to look into. He said there were also questions regarding the effects on the commercial tax base as well as the economic development impact. Mayor Stevens suggested that the discussion be continued.

Ms. Hauth asked if they wanted to continue the discussion to a date specific, noting there was another hearing in July then another in October. She asked did they want to leave it open to see how long it took to respond to the questions, which would trigger new notices.

Commissioner Hallman asked what the July agenda looked like. Ms. Hauth responded it was beginning to fill up. She said if this issue were continued to the July hearing, it would be put ahead of anything new that might come in before the deadline.

Upon a motion by Commissioner Lowen, seconded by Commissioner Gering, it was decided that this issue would be included on the agenda for the July public hearing, scheduled for Tuesday, July 25. The vote was unanimous.

Mr. Farrelly called for a short 3-minute break before beginning the next item of business.

**ITEM #3: Zoning Ordinance Text amendment** to create “outlet sales” as a defined and permitted use within the General Industrial and Light Industrial districts.

Ms. Hauth noted the Town had received a letter from Vietri regarding the proposed expansion of their operation on Elizabeth Brady Road to have a routinely opened outlet sales facility, which the ordinance had not envisioned. She said that had prompted the request for an amendment to the General Industrial and Light Industrial zoning districts to create the use of outlet sales. She noted that the proposed definition would be “ancillary sales by manufacturing or distribution uses of products manufactured and distributed on the same parcel. Outlet sales may not exceed 10% of the building space on the parcel, and the parking spaces shall be provided by the outlet sales area using the same formula as retail and be conveniently located to the sales entrance.”

Ms. Hauth said that was slightly different from the flex spaces they currently had, and it made sure that people who wanted to have some sort of outlet were already dealing with the exact same product on their property.

Commissioner Lloyd said she was in favor of this, but asked was there anything that we could get in trouble with if we adopted this. Ms. Hauth said she not that she could envision. She noted that if a company such as PHE, Inc. wanted to set up a retail outlet that would be an adult use, and would have to go through the standard process for that because what they were selling would qualify differently within the process.

Commissioner Lloyd said then this would be safe. Ms. Hauth said it would not preclude PHE from trying, but they would have to go through a Conditional Use process to do that, making it harder.

Mayor Stevens said from Ms. Hauth’s professional perspective, were there particular issues that the Board should be looking at. Ms. Hauth said the reason you would not want to do something simple like disallow retail sales in the general industrial district is that historically you keep retail out of your industrial areas because ideally they were better suited for industrial uses. She said this would put a cap on the amount and would require that whatever was being sold was also was being dealt with on the property.

Mayor Stevens asked would this still be a Conditional Use. Ms. Hauth said it would be a Use by Right, and she imagined that in most cases people would renovate their existing building, so it may not be reviewed by the Board of Adjustment. She said if they proposed an addition to the property it would be subject to review by the Board of Adjustment.

Commissioner Gering asked if the establishment next to Southern Seasons could take advantage of this. Ms. Hauth said it could.

Commissioner Hallman wondered about the 10%. Ms. Hauth said that was to provide a reasonable size that was not large. She noted that Vietri was not planning to be anywhere near the 10% range with their building. She said many of their industrial operations were 58,000 square feet and larger, so 10% was a good sized retail store as compared to some of the smaller stores around the Town.

Commissioner Gering asked if Ms. Hauth was comfortable with the vagueness of the word “conveniently” in the definition. Ms. Hauth said they would look at that when it came before the Planning Board and see if that was sufficient or needed to be changed. Commissioner Gering said being as specific as possible was one way of staying out of trouble.

Ms. Ellis said at one time they had discussed flex space, and asked if these were free-standing buildings, noting there was flex space all over Town and she did not want to see small outlets everywhere. She asked if one of those small flex spaces happened to have a manufacturing shop, would they also be allowed to have an outlet store. Ms. Hauth responded that under the conditions of flex space they were already eligible to do that, and named some specific spaces.

Ms. Ellis said she would not like to see that all over Town, noting she did not like the word “flex.” Ms. Hauth reminder her that this would be only in the General Industrial and Light Industrial zoning districts. She said much of the flex space was in the High Intensity Commercial district..

Jeff Black of Vietri, Inc., said one of the important things to them was their brand, and they had worked hard to protect that for 23 years. He said the outlet store would allow them to control the sale of their retired product, noting they had experienced a lot of success with bi-annual warehouse sales. He said they would appreciate the Boards’ consideration.

**ITEM #4: Zoning Ordinance Text amendment** to amend the definition of “junk car” to coincide with the Town Code definition.

Ms. Hauth said the primary change here would to amend the zoning definition to refer to the Town code definition so the possibility of them being independently amended was removed. She said they wanted to provide an opportunity for the people contacted over the years regarding potential junk car violations on their property to comment, noting she had notified them plus homeowner associations about the potential text amendment.

Ms. Hauth said the Town Code definition currently stated that if your vehicle exhibited any of the four criteria then it was considered junk, and noted the four criteria. She said currently they had approximately 47 cars that met that definition because there was no current tag and inspection on the car, and the vehicles look as if they otherwise could be operational.

Ms. Hauth noted many people believed this was a revenue generator. She said they had considered that, and realized that the intent of the ordinance was to prohibit unsightliness, and not necessarily to prohibit a reasonably well-maintained car from remaining in a driveway regarding of whether the State and the Town was receiving revenue for it.

Ms. Hauth said to that end, they were proposing an amendment to the definition of a junk car so that a vehicle had to exhibit two or more of the criteria, rather than one. She said she believed this definition would allow them to experience a higher compliance rate and still meet the intent of the ordinance.

Ms. Wallace asked if you could have only one vehicle that fit the definition. Ms. Hauth said you could have only one.

Mr. Jones asked how we monitored that. Ms. Hauth said the Zoning Enforcement Officer would track this on a spreadsheet database to keep up with people who had been cleared of violations by documenting compliance and others who had not.

Kathleen Yarborough, representing the Hillsborough Heights Neighborhood Association, said that junk cars were an issue in her neighborhood, noting they were working hard towards revitalization. She said where there were houses with junk cars the neighboring houses could not be sold, even if they were in pristine condition because of the perception. She added that unfortunately, perception was reality.

Ms. Yarborough said this was a real property value and quality of life issue. She said the other issue was that there were many drivers in the area without insurance, and why encourage it by lowering the barrier. She said this would have a direct impact on her neighborhood, adding they were attempting to improve their neighborhood and that was a hard battle.

Mr. Farrelly asked if Ms. Yarborough had specific comments about the proposed text amendment. Ms. Yarborough said they would like to see a stricter definition so that there was increased enforcement. She said she new that taxed resources, but this affected their quality of life and the overall quality of the neighborhood. She said they wanted the ordinance to support that.

**ITEM #5: Zoning Ordinance Text amendment** to Section 3.8, special exception permits for building heights.

Ms. Hauth said a letter had been received from Orange County detailing this text amendment and how it would impact the Courthouse expansion. She said the zoning ordinance currently allowed what they called “special exceptions” permits for additions to buildings already in setbacks and also some special exceptions for height limitations. She said this text amendment would expand the scope of those special exception permits to allow additional height variances for buildings that were built prior to the zoning ordinance that already exceeded the height limitation, and then come forward for conditions that would possible meet or exceed the height of the existing building but not all of its roof elements.

Ms. Hawth said in the context of the Courthouse, you had a roof element that was at one height and then you have a significant roof element, being a cupola, that was 20 or so taller than the addition that may exceed the main building height but not the height of the roof element. She said one provision that might be added to this would be that a few of these buildings would be located in the Historic District, and the Historic District did have design guidelines that spoke to building height as an addition to a main building.

Ms. Hawth said there was often the question of who went first, the Board of Adjustment or the Historic District Commission when there was a building that was reviewed by both. She said it might be reasonable to in this case to say that the Historic District Commission should review the project first to determine whether an addition that was going to exceed the height of a portion of the main building was architecturally and historically appropriate before the factual issue was determined by the Board of Adjustment. She added that the Historic District standard would be the harder standard to get by.

Mr. Oliver asked how many buildings besides the new Courthouse would qualify for this exception. Ms. Hawth said the Justice Facility Building and the Whitted Building. She said other properties that may qualify were this building and a couple of churches in the Historic District.

David Taylor, of Corley Redfoot Zack, Architects, and representing the County, stated that he would let the letter from the County suffice as far as what was being requested. He said that this was a very limited text amendment that would have little effect, and did not believe that the Historic District Commission should have to sign off on this project before it came to the Board of Adjustment.

Mr. Oliver said the Courthouse addition would have some difficulty, noting the land was lower and may slope lower than the current Courthouse. Mr. Taylor said yes, it places. Mr. Oliver said the measurements were taken from ground level, and asked if they would run into any special problems where they were trying to reach the same height that they were at but it made them go five feet taller because of the slope. He asked if that would be worked out with this text amendment.

Mr. Taylor said the standard this was based on was Section 3.8(f)(2), which stated "The total height of the addition including any roof elements does not exceed the height of the maximum height including any roof elements of the original, non-conforming building." He said in other words, they would not go any higher than the existing cupola with the roof or any roof elements on the addition.

Mr. Oliver said then if the existing roof element was at 60 feet, and if the land was seven feet lower, then you would have to go to 67 feet to line up with the existing cupola if you added an additional cupola. Mr. Taylor said the question was whether we were talking about absolute height or relative height. He said if the existing roof element was 60 feet off the ground, then to architecturally match it may require the extra seven feet of height.

Mr. Taylor said first of all you had to look at all four sides of the building, and always take the worst case. He said as far as he knew there was not a seven-foot difference that would come into play with this property.

Mr. Oliver said he did not want to adjust the ordinance, and then realize they did not adjust it as much as was needed. Mr. Taylor said he understood that, and the County was willing to work within the parameters of the wording.

**ITEM #6: Close Public Hearings, Adjourn Joint Planning Meeting, Convene Town Board Meeting**

Upon a motion by Commissioner Hallman, seconded by Commissioner Lowen, Items 3, 4, and 5 and the Joint Public Hearing were closed. The vote was unanimous.

**ITEM #7: Provide direction to staff** regarding July meeting schedule.

**ITEM #8: Budget Workshop**

Mayor Stevens convened the Budget Workshop, and called on the Town Manager to make introductory comments.

Town Manager Eric Peterson called attention to the sheet entitled “Adjustments to Proposed FY07 General Fund Expenditures,” and asked the Board to make sure that it accurately reflected the changes that the Board wanted to see in the budget, regarding cuts and deferments as well as additions the Board wanted to make. He said one item of note was a request that \$6,000 from the Margaret Lane Cemetery budget be used for videotaping of an oral history by the Cemetery Committee.

Commissioner Hallman asked if those funds would come from the Tourism Board’s budget. Assistant Town Manager/Public Works Director Demetric Potts stated they had missed the grant cycle deadline for the Tourism Board and wanted to make sure that there was some funding available for this, and were asking that the Board funds for this.

Commissioner Gering said the Tourism Board did not have many funds, and there were many more needs than they could support. He said had the funding request been received on time he believed it would have been difficult to approve.

Commissioner Lloyd asked if the \$6,000 request were approved did that mean they would have to cut something else. Commissioner Lowen said we didn’t have to.

Mr. Potts said there were about five individuals who were quite elderly that they wanted to get an oral history from, and suggested it would be easier for the individuals to videotape the interviews.

Commissioner Lloyd asked didn't we already have videotape on hand. Mr. Potts responded he did not.

Commissioner Gering said the Margaret Lane Cemetery Committee had made great strides, and they had drawn on the resources of the Tourism Board. He said he did not feel that this was such a large amount, and did not see the need to cut something from the budget if the request was granted.

Mr. Peterson said if this was something the Board wanted to fund, another option would be to reduce its Contingency Fund. Commissioner Lloyd said she did not want to consider doing that. She asked if there was any other option. Mr. Peterson said to either fund it or not fund it.

Commissioner Lloyd said it was not that she did not want to fund it, but there were many needs that we just did not have the money for.

Commissioner Hallman asked what the Board wanted to accomplish tonight. He said he would prefer that Commissioner Dancy be present when final decisions were made on the budget. He asked what the Manager needed tonight. Mr. Peterson said in order for the staff to bring a budget ordinance before the Board for its consideration, he would ask that the Board look at the list provided on the adjustment sheet and say yes or no to what was listed. He said then he could recalculate everything and create a budget ordinance or options for budget ordinances for consideration.

Mr. Peterson said the second item was the tax rate, although it did not have to be set tonight. He said we could move the rate either up or down, and have the staff bring back several different budget ordinances with six different tax rates for consideration. He said if the Board was okay on the expense side, then they could bring back options based on varying tax rate increases.

Commissioner Lloyd said in the materials mentioned a Cemetery grant match of \$5,960, and that the cost of markers was half of what was expected. She asked what markers the material was referring to. Mr. Potts said there were no markers out there at this time.

Commissioner Lloyd asked did this refer to the slave cemetery markers. Mr. Potts said they had conducted a survey of the cemetery and determined the foot and head of each grave. He said the Cemetery Committee wanted to put permanent markers down to identify that.

Commissioner Hallman said he wanted to advocate for including funds for the Police dog. Commissioner Lloyd said her only concern had been whether or not a new Police vehicle would be needed for the K-9 unit.

Mayor Stevens asked had we completed the discussion regarding the cemetery. Mr. Peterson asked if we could go down the list provided in sequence so that the Board could provide him direction on each. He said the Police traffic grant match, the Police K-9/Drug Dog and the special appropriation for the Church Street signage were the three items that had been added. He

said the cuts and deferments were listed as well, and asked for any changes the Board might want to see made.

Commissioner Hallman asked if the money put aside for the Library was still in the budget. Mr. Peterson said it was.

Mayor Stevens said then the Cemetery funds would be another addition. Mr. Peterson said he had been made aware that the cost of the markers was half of what was expected, so he had taken those funds out of the budget. He said it had been included in the original draft, but was removed when additional cuts were made to address the deficit. Now, he said, the Margaret Lane Cemetery Committee was asking that those funds remain to pay for the cost of the oral history.

Mayor Stevens asked if they needed the entire \$6,000 for the video. Mr. Potts said the Cemetery Committee did not know at this time what the cost would be.

Commissioner Hallman said regarding the Senior Planner, if we had the money and we started working now to hire, when could we reasonably expect someone to be hired. Mr. Peterson said most likely we could have someone on board in September.

Commissioner Hallman asked if waiting until November 1 was a problem. Ms. Hauth responded there was some benefit to waiting to bring someone in until November or December because that was traditionally a slower time. She said that would allow them to spend more time getting the new hire up to speed so that when the workload increased, they could deal with it. She said she had no problem with delaying that hire until November 1.

Mr. Peterson said that date could be adjusted a few weeks either way if necessary without any hardship to the Town.

Mayor Stevens said if necessary we could contract help between now and then. Mr. Peterson said that was correct.

Mayor Stevens said regarding the cemetery, he had some concerns about the delay of the archeology report, and he did not know how the oral history would play into that. He added that we were really tight on funds.

Commissioner Hallman said he believed we were talking about rerouting the Riverwalk so that it would not impact the cemetery, so it was not imperative that we do that right away.

Mr. Peterson said if the Board was interested in adding the funds for the oral history, the Board could wait until more information was known and then if it were compelling enough then funds could be transferred from Contingency. He said the Board did not have to make a decision tonight.

Mayor Stevens said he was more comfortable with that. Mr. Peterson said Mr. Potts could let the Cemetery Board know that the Board wanted to see a more specific proposal before funding was considered.

Commissioner Lowen said he would agree with that. He said \$6,000 seemed like a lot of money for an oral history. He said he could take his video camera and sit down and interview five people with very little expense, and wondered where that number had come from. He said that \$6,000 was a lot of money for what was being planned.

Commissioner Lloyd asked Chief Birkhead how soon would he get the K-9 once it was funded. Police Chief Clarence Birkhead responded they would begin the process in June, noting they had a trainer who had K-9's available. He said once a K-9 was selected, it would take a few weeks in order to complete the training.

Commissioner Lowen asked if the new K-9 would be alternated with the one we currently had. Or, he said, would we need to outfit another vehicle. Chief Birkhead said they would outfit one of their current vehicles, noting they had a kennel that could be added to an existing vehicle.

Mayor Stevens he believed the Board needed to discuss the tax rate increase. Mr. Peterson reiterated that the rate did not have to be narrowed down to one tonight, but if two or three could be identified, then he would prepare alternate budget ordinances for the Board's consideration.

Referring to his memorandum, Mr. Peterson said regarding the suggested scenarios he did not think scenarios number one or two were the best choice, noting they were the most unrealistic. He said that scenarios number five and six were financially excessive. He said that scenarios number three and four were the most viable and practical given the picture the Financial Plan was currently painting.

Mayor Stevens said that scenarios number 3 and 4 were the most financially responsible, and four and five were the ones that kept our fund balance at a policy level.

Commissioner Hallman asked if we needed to add in the additions. Mr. Peterson said they had already been taken into account, including all cuts and deferments.

Mr. Peterson said traditionally in the General Fund, our condition is generally better than what was predicted. He said he expected that to be the case again this year. For that reason, Mr. Peterson, he did not believe we needed to raise the tax rate drastically as scenarios five and six would do.

Commissioner Hallman pointed out that if we used the fund balance percentage as our metric, the difference between scenarios three and four was negligible in 2007 and only 3% in 2008. He said you would not see any real impact until 2009.

Mr. Peterson noted that just because money was budgeted, did not mean that we always spend it, noting that they tried to be reasonable about that. He said the one thing that was hard to forecast

was the unexpected issues. He said those unexpected issues were the reason he had continued to bump up the contingency appropriation in out years to take that into account.

Commissioner Hallman said he was impressed that the difference between the budgeted and actual estimates were so close. He complimented the Manager, stating he had been right on the mark. Mr. Peterson said most of the credit went to the departments, but he appreciated the comment.

Mayor Stevens said contingency had been at least \$100,000. Mr. Peterson said State law said the maximum you could have in a contingency fund was 5%, so we were well below that. He said we could actually have over \$300,000, but keeping it at around \$100,000 was a good fiscal restraint for us. Mr. Peterson said he had lowered it to \$75,000 this year because things were so tight.

Commissioner Hallman said it was clear to him that a 5.4% tax rate increase, or scenario number three, was the most obvious choice.

Commissioner Lowen asked if the Manager wanted direction from the Board as to what to bring back for the next meeting. Mr. Peterson said one, either one scenario or a couple of scenarios.

Commissioner Lowen said Commissioner Dancy had not had an opportunity to study this since she was out of Town. Mr. Peterson said that was correct, but she was expected back on June 12. Commissioner Lowen asked if the Manager could prepare budget ordinances using scenarios three and four so the Board could discuss them and choose. He said that would give Commissioner Dancy the respect of looking at two different options.

Commissioner Lloyd said she preferred scenario three. Commissioner Lowen agreed.

Commissioner Lloyd asked Mr. Peterson if we would be in good shape regarding fund balance using scenario number three. Mr. Peterson said from a financial standpoint either scenario number three or four would be fine. He said he believed we would be okay with the lower tax rate suggested by scenario number three.

Commissioner Gering said it would be a major help if we could convince the State to refund the funds that were confiscated from municipalities in 2002.

Commissioner Lowen suggested making a formal request for the return of those funds from the State.

Commissioner Gering said he believed it amounted to about \$107,000 for the Town. Mr. Peterson said that was about right. Commissioner Gering said they were discussing a tax rate increase of 5.4%, 2 cents of which could be accounted for by return of that \$107,000 by the State.

Commissioner Lowen said the County had already made that request, and the Town should do it as well.

Upon a motion by Commissioner Gering, seconded by Commissioner Lowen, the staff was authorized to draft a letter to be sent to the State requesting a return of the funds in question. The vote was unanimous.

Mayor Stevens said at this point we had eliminated consideration of scenarios five and six, as well as one and two. So, he said, it appeared we were asking the Manager to bring back budget ordinances for consideration based on scenarios three and four.

Mr. Peterson stated that it was always their target to adopt the budget as earlier as possible so that they could move on to other things, but it was the Board's budget and if there were other issues or ideas that the Board would like staff to explore, he was happy to do that.

Commissioner Lowen asked how much the sidewalk project for Nash Street would cost. He said he was referring to the unfortunately incident last week where a pedestrian was struck and killed. He asked if we tried to move up the construction of that sidewalk project, what effect would that have on the budget? Mr. Peterson said he believed that \$68,000 was the projected debt service, and if the Board wanted the staff to make a more specific, refined estimate, we could conduct a preliminary feasibility study. He said he believed the full estimated cost would be less than \$500,000 unless there were overruns.

Commissioner Hallman said the debt service would add another penny to the tax rate increase. Mr. Peterson said they could determine what the study would cost and report back to the Board. He said these types of projects were difficult to estimate because of the curb and drainage and other issues.

Commissioner Lowen said the incident was unfortunate, and he had recently realized just what a heavy amount of traffic used that roadway particularly in the morning and afternoon, as well as he many pedestrians. He said it was amazing to him that no one else had been killed on that street, noting that one person killed was too many. Mr. Peterson said he would report back to the Board when he had additional information.

## **MOTION TO ADJOURN**

Upon a motion by Commissioner Lloyd, seconded by Commissioner Lowen, the meeting was adjourned by a unanimous vote.

Respectfully submitted,

Donna F. Armbrister, CMC  
Town Clerk

Margaret Hauth, AICP  
Planning Director