

**VERBATIM TRANSCRIPT FROM A  
BOARD OF ADJUSTMENT MEETING REGARDING  
THE ORANGE COUNTY JUSTICE FACILITY  
ON NOVEMBER 8, 2006**

**Note:** Transcript relates to Items #4 and #7 only.

**PRESENT:** Chair Bill Crowther, Al Hartkopf, Eric Oliver, Richard Silverman, and Barrie Wallace.

**STAFF:** Planning Director Margaret Hauth and Town Attorney Bob Hornik.

**PUBLIC:** Pam Jones, Emily Oakley, Ken Redfoot, David Taylor, Mike Hammersly, and Jim Parsley.

Mr. Crowther confirmed the presence of a quorum. Persons interested in speaking during the public hearing were sworn in by Margaret Hauth.

**ITEM #4: Special Exception Permit and Site Plan for Orange County to build a 38,000 square foot addition to the Courthouse at 106 E. Margaret Lane. The addition will exceed the Office Institutional height limit of 40', but will not exceed the height of the main building (70'). The application also includes the construction of a structure to house the farmers' market and improvements to River Park (TMBL 4.36.D.1,3,6,7)**

\*\*\*EXCERPT FROM TRANSCRIPT\*\*\*

Mr. Oliver So, you want me to seriously count 125 parking spaces that are in the middle of the woods out there adjacent to my house right now. That would get a lot closer to some sort of program that absolutely puts people in that parking lot as opposed to this parking lot. I can't count those 125 spaces right now.

Ms. Jones If I could say something. Commissioners have got money in the budget to fund the shuttle service, so this is not a concept. That park and ride lot was part of what we added as a grant to the Durham Tech campus, and that's been the vision all along is getting people to downtown Hillsborough. So if I'm giving you the illusion this is concept only I need to dispel that because it really is more solid than just a concept.

Mr. Crowther It needs to be real solid.

Ms. Jones Well, money in the budget for a shuttle service is pretty...you know how difficult it is to get money out of the County, so...

Mr. Hartkopf Yeah, I'm in the courthouse area on Mondays and Tuesdays, and you can't get in there anyway.

Mr. Redfoot I know that solid means different things...they have cleared the area out there, at Waterstone, so at least you know it's moving on.

Mr. Oliver I guess the question is, you say you're in negotiations, do you mean exclusivity for that park and ride lot?

Ms. Jones That is our lot.

Mr. Redfoot That is the County's park and ride lot.

Ms. Jones It's exclusively going to be used for people coming into the County campus.

Mr. Redfoot The shuttle goes only between that park and ride lot and downtown Hillsborough.

Ms. Jones The negotiation I'm referencing is with our employees...you negotiate first and tell them second. So, we're in the negotiation phase right now and trying to incentivize that idea and to help them understand why it's necessary. Because as you might expect, they're not exactly excited about them parking out there. So, we've had a number of meetings and by the end of the day...we're breaking ground in April or whenever we do this in the spring, the employees will be out there.

Mr. Oliver But that park and ride lot may be restricted access.

Ms. Jones Restricted access?

Mr. Oliver In order words, you've got a card to get in and a card to get out.

Ms. Jones No, because if I'm coming downtown to Hillsborough to court one day and I'm told on my ticket that that's where I'm going to be...

Mr. Oliver I guess that's where I was going is, what's to stop overflow from Durham Tech from parking in the park and ride lot and all of a sudden you don't have those space anymore.

Ms. Jones And vice versa. The park and ride lot people might be parking in Durham Tech's spaces.

Ms. Hauth Pam, could you speak to the schedule alignment so everybody could understand how Durham Tech's construction is going to fall in line with the construction schedule for this.

Ms. Jones Durham Tech is suppose to be open the first of 2008, and this is going to be open like in 2010, 2009 or 2010, so they are going to be open long before we are. We have taken some steps in the interim, too, to address the traffic. Probably the primary thing is the judge is going to schedule all those Monday-Tuesday big courts in Chapel Hill in the interim so you don't have as many vehicles that actually need to park. We've also rented the...finishing up negotiations with the church, the First Baptist Church, to lease their lot as well. So, we're trying to make some midstream adjustments, to. Hopefully we'll be able to get our own employees acclimated to parking off site in that period of time as well.

Mr. Oliver About that flow on that particular lot. Ken, can you address that?

Mr. Redfoot It's a good catch on your part, because basically what we're trying to do is make a dead end situation for security. Obviously, it happens that we have to get through these 28 spaces. We hadn't really thought about how to allocate these spaces, but the issue could be controlled if that was actually...if we could work with Pam to make that basically staff parking for example. And restrict folks...

Mr. Taylor We've been talking...the 28 spaces that are located down here are really designated for Sheriff's Department vehicles because...the patrol vehicles, the muster room where they gather in the mornings, is here. They come out a door that is located here under a covered walkway. They come out through a pedestrian gate and their cars would all be located right in this area. Now, whether there would be a sign or exactly how they would be designated we haven't discussed yet. But that was the concept, basically, that the Sheriff's Department would all be located right in these areas here. Public would really take the spaces right in front, and then the 17 spaces in here would be designated to judges, District Attorney, Clerk of Court, potentially jury spaces. We really left it to the discretion of the County, but the space inside of the gated area would be specifically reserved for specific members of the judiciary.

Mr. Redfoot Short of that would actually...we would actually lose parking, because you would have to come in and be able to sort of turn around in that dead end. So, you know, it was a maximization of parking in the most efficient layout and trying to control that with the utilization of parking for staff. And, hopefully that is an acceptable response but that was the way it was planned.

Mr. Hartkopf Ken, what you've just explained, then, takes...I can take the Sheriff's cars out of the mix because they typically park in this lot that's right behind the Sheriff or maybe just a couple of them right here close to the Sheriff.

Mr. Taylor Well, the Sheriff's Office is not going to be there any longer.

Mr. Hartkopf I'm talking about the current site. The current site is they're parking in that area outlined in brown. Now, they're moving into that lot with 28 spaces, so in essence what we've done is taken this entire lot with all of its parking and knocked it down to 39 spaces available to the general public, 35 plus 4 handicaps.

Mr. Taylor These will turn back into...the District Attorney's Office is going to move into the existing Sheriff's Department, so they'll take some of these spaces here, and then...again, I'm not sure about....

Ms. Hauth Does the D.A. really need 40 parking spaces?

Mr. Redfoot No. This is where we get into sort of the going back and back part. The only assigned spaces that we've discussed were those particular ones, and everything else is opened to everybody.

Ms. Hauth                    So that was just the colors in the blocks, for a method of how you do the math. No really an assignment but a method of doing the math.

Mr. Redfoot                 We wanted to come to you tonight and open up...basically just show you...when you run the math this is what you get. And so, then we work from there.

Mr. Hartkopf                That's pretty much my concern. I have one concern that's not really our purview. You guys are creatively dealing with the solar gain from the curtain walls?

Mr. Redfoot                 Oh, yes.

Mr. Crowther                Keep in mind that this is still the public hearing session of our deliberations, so we are not going to make a decision in this portion of our meeting. We're simply asking questions. So, I wanted to ask if there's any more questions that need to be raised.

Mr. Silverman              The height limit issue...did you all explain how that came to be as far as the request?

Mr. Taylor                    Our request for it? Sure. Early on, we analyzed the existing courthouse. It was built in a time when HVAC systems were much more rudimentary, should I say? And, the existing courthouse...I've given some of the floor elevations over here. You'll note that there's only 12 feet from the ground floor to the first floor and 12 foot, 6 inches from the first floor to the second floor. In a modern building with the duct work that runs and the heat recovery systems, there's a lot of duct work, a lot of cable thread, and all that kind of stuff. So, our addition...we've kept the first floor even all the way through the building. The Clerk of Court's area will align with the first floor. We have sunken the Sheriff's Department by two feet to gain some...instead of 12 feet it would now be 14 feet which is much more of a modern floor to floor height. And, we will have an interior ramp up here...the courtrooms in our building will be about 18" higher than the existing second floor of the existing building. Beyond that, it really became to be, honest, a lesson in geometry. Given the heights of...the floor to floor heights and the decision to use a hipped roof on the front of the building, it really put our building up.

Mr. Taylor                    In terms of the historical development of the project for the process, there was early on being basically having to use the Zoning Ordinance...we actually approached and showed a series of elevations that basically did not have a roof, and across the board it was seen as a bad thing. So as soon as that was said we had no option but to start working towards a way to work an exception out so that we would have an appropriately scaled and appropriately proportioned addition to this existing building. And that's really why we are where we are. The roof really pulls it up over the Ordinance. Also, we're utilizing dormers on this side of the building to bring natural light into the courtrooms above, which was an addition benefit actually to the hipped roof.

Mr. Taylor            So the roof is about 51 feet instead of 40, but that was twofold. There was the modern construction methods and then it came down to the historic....trying to be sensitive to the historic structure.

Mr. Redfoot         If we were here and we were showing you something like a flat roof, you'd probably tell us to go to the Historic District Commission.

Mr. Taylor            Somebody said it looked very much like the North Carolina Legislature Building, that very flat, cut off roof, and nobody liked that next to this federalist building.

Ms. Haut             So the way the Ordinance was crafted was to say that you've got a building that is existingly nonconforming due to height, which obviously, the people know this building well exceeds the height. Then, you can build an addition to that building that may exceed the main height but can't exceed the highest point. So, we call it a roof element, so therefore this building could have been taller, but in no case could it have been taller than the top of the cupola which was the way the language was crafted.

                              Before we have the opportunity to close the public hearing, do you guys want to brag on your HVAC system just a little bit? Do you want to tell them how interestingly you're going to do that?

Mr. Oliver            How about the other one, the one that went under the parking lot.

Mr. Redfoot         The underground. Yeah, we could do that, but I don't like to brag.

Mike Hammersly    As you all know, in order to do a good development these days you need to be very careful or very sensitive about stormwater management. And as Margaret mentioned what you don't want to do, especially...this is somewhat an urban situation, so what you don't want to do is go into a park like this and go in and cut trees down that have been there for years and years, and put in a device out there. So, we said, what can we do? So, let's look at putting it under the parking area that we've got to build anyway for parking. Let's utilize that for our requirements to reduce or keep the runoff at predevelopment rates and to do water quality treatments by infiltration. And, we've done this same kind of system on projects over at the University, UNC at Chapel Hill, and it's very successful in an urban setting. And, it's really utilizing an area for more than one function. You're parking on it but you're also doing your stormwater management under it. You're not having to clear existing areas, especially when they have very significant trees, in order to build a stormwater structure. So, that's what their approach is and that's why we're doing it.

Mr. Oliver            And you got Mr. Benedict to sign off on it.

Mr. Hammersley    Yes, sir.

Mr. Oliver            And it's not going to settle.

Mr. Hammersley No, once you...because its gravel wash stone, it won't settle more. It will actually be better than many compacted material because it will compact itself as stone does over time. They have not had any issues with that. The other point I think was mentioned earlier...we are also going to take an alternate for an underground stormwater tank as well to collect roof water with the idea of using it to flush toilets. It's a good idea because what it does it takes a quantity of it out of the system for treatment and you reuse it avoiding using treated water for that. So, you know we use it in school systems as well. It was a very good way to be sensitive in a lot of different ways. It's sort of our approach, anyway.

Mr. Redfoot What Margaret was alluding to on the HVAC system was the use of geothermal. We're proposing drilling wells in that open lawn area, basically in the park area, and then utilizing geothermal for the HVAC system. We have that in place already in the Town Operations Center in Chapel Hill, so we'll be using the same sort of system here.

Mr. Oliver Has the County Commissioners signed off on this, or do they still have to review?

Mr. Redfoot We've taken it in front of them many times, and I'm sure we've got to take it back again.

Mr. Oliver I just want to congratulate ya'll on dealing with the stormwater the way you're doing it. That happens to be a pet personal peeve of mine, that we don't appropriately incentivize builders...the County doesn't even incentivize the County to deal creatively with stormwater. They simply quote the impervious surface regulations and then iksnay on everything else. So, good for you for working on that and coming up with something creative.

Mr. Crowther There is someone else here who wants to speak on this topic. Did you come to speak? This is a public hearing so you are welcome to speak. But before we close the public hearing you probably need to know that we may, if we get in our discussion, we may have a question.

Mr. Redfoot So we shouldn't go home.

Mr. Crowther Yeah, and I think it would be helpful to leave somebody here.

Mr. Redfoot No, we'll be here.

Mr. Crowther I wanted to make sure if you were here to speak to this topic, I wanted to make sure everyone in the room got a chance to talk.

Jim Parsley I came to listen and find out what this is about, and I'm very impressed. It seems to be a well put proposal and project. The question about the HVAC brought up to me that there is a good bit of noise out of that area now from the cooling tower or whatever was in that area. Will this project do anything to reduce that?

Mr. Redfoot It eliminates it. Basically, one of the big advantages of a geothermal system is the elimination of those fans...the noisy exterior fans. Most everything is taken care of with pumps located inside the building, so basically water is moved by a pumping system through the earth and then recycled back into the building. So, it's all done with pumps and water moving through underground pipes.

Mr. Crowther Okay? Did that help? If there are no more questions for the public hearing portion, and seeing none, I'll close the public hearing.

**ITEM #5: Close public hearing and open regular meeting.**  
Mr. Crowther closed the public hearing and opened the regular meeting.

**ITEM #7: Consideration of Special Exception Permit and Site Plan for Orange County Justice Facility expansion.**

Ms. Hauth It would probably be wise for the Board to vote separately on the Special Exception Permit and the Site Plan review.

Mr. Crowther I agree.

Ms. Hauth And on the back side of the page is the findings that you're looking at. You actually have the one through six.

Mr. Crowther Let's consider the Special Exception Permit first. Do we have to conclude that all six items are pertinent to this exception, is that right?

Ms. Hauth Yes. Eric, you got a motion or...

Mr. Oliver I haven't signed it. I don't want to speak for Barrie, but she and I are both part of the Planning Board that actually added this, or proposed this to the Town Board where they added this to the Ordinance, or whatever. And, we specifically had this building in mind, this project in mind. And, I guess Margaret identified maybe two other buildings in the Town that this would apply to. I think they're both churches. So, I've got to say from my point of view this meets all six.

Mr. Crowther Is that a motion for approval?

Mr. Oliver No, I'm just commenting.

Mr. Crowther Any other discussion?

Mr. Hartkopf Because this is a civic building, I see a good reason to add an exception on the height limit, but I would see this as a precedent. It could be applied to a commercial project.

Mr. Crowther So do you have a motion?

**MOTION:** Mr. Hartkopf moved to grant the Special Exemption Permit for the Justice Facility based on its compliance with Section 3.8(f). Mr. Oliver seconded.

**VOTE:** Unanimous.

Mr. Crowther The Special Exception passes. Now we need to look at Site Plan approval.

Mr. Hartkopf Do you want to put a motion on the table and then debate it, or do you want comments first.

Mr. Crowther This is a pretty big project. Let me ask for comments first.

Mr. Hartkopf I'm not satisfied with the amount of available parking, and the plan thereof. Maybe it's a lack of understanding on my part, but I think I understand that there will be some shifting of the D.A. parking that will be available at some point in time, other parking that will be available at another point in time, all surrounding the existing Sheriff's office. But the net loss of parking spaces was kind of staggering. I'm prepared to listen to and give thoughtful consideration to linkage to approval of this with an agreement by the County regarding an alignment with the construction with the park and ride lot that will in essence...I want to say this if I sound harsh...in essence permit a minimum of employees parking in this area. I mean, this is a justice complex and here to serve the public. And the public is really losing a lot of places to park their horse and buggies.

Mr. Crowther Then what you're looking for is evidence that that 125 spaces is actually a done deal?

Mr. Hartkopf I think that some serious linkage between that being a done deal and some internal processes being published by the County that say not only was it going to be but it was going to be used. It's going to be used in this fashion...in this fairly rigorous fashion...that it's going to be done. Because it's clear that if everybody shows up for work one day, then nobody gets to go to court. Now, that's public school math for you. That's what it looks like to me. If everybody shows up for work and they park here, nobody else can park.

Mr. Crowther Then the evidence you've received so far is not sufficient. Is that what you're saying?

Mr. Hartkopf Not really. I would like to see a process document regarding employee parking and park and ride facility use to provide some formal linkage between what's going to happen out at Waterstone at the park and ride lot and this here.

Mr. Crowther But you're willing to do that as a contingency for approval?

Mr. Hartkopf Yes, sir. It's a bit of a stretch. I realize we need to upgrade our facilities. The County sounds like they have something in mind and would work with the architect. There seems to be alignment with future growth of the Durham Tech complex. The park and ride lot will actually be done before this, but I think the complication of that alignment through a process document that talks about how employees are going to get to work, that would... I think I

would be comfortable with that. Does that make sense to everybody? Not that you agree, but that it makes sense.

Ms. Wallace Did we hear how many employees would be required to park out there? Do we know?

Mr. Crowther Required to?

Ms. Wallace Well, yes.

Mr. Crowther We haven't actually got any written evidence.

Ms. Wallace Do you even have a number of how many employees you think will be parking out there? Do you know that?

Ms. Jones We've not talked about specific numbers of employees. What we have talked about is giving up to 2 spaces per department at the discretion of the department head. So, if the department head, for example, has an employee who needs to go for a doctor's appointment that day, the shuttle may not run within, you know, 10 minutes of the appointment. So, they could park that day at the building. But there would be 2 spaces per department. And there were 10 departments in that building, so that would essentially be 20 spaces.

Now, I'm assuming that there might be a little bit of latitude left for the County Manager, or one sign or some signage for County Commissioners. I need to really reinforce that...that the County is serious about the employee parking. We've had discussions all along, trying to bring employees along as well so that they would understand why it was necessary. The park and ride lot at Durham Tech...I can't tell you how positive that is. That is in the grant from the State and they have to do it. So that 125 spaces was actually added to...as an alternate to the bid, for Durham Tech for our park and ride lot. So that part is absolute. It's been getting it nailed down...the number of employees who would actually park there.

Ms. Wallace How many spaces will you have at the church?

Ms. Jones Depending on who you believe, they said we would have between 40 and 45.

Ms. Wallace They would lease their entire lot to you?

Ms. Jones I think they're going to maintain one row up close to the church for church visitors and staff.

Ms. Wallace Will employees need special permission to park there?

Ms. Jones The way we plan to look at that is to be able to have 20 employees and the jurors park there by permit only. And they would have a permit hang tag on the window because otherwise you will have people just parking everywhere. But that in tandem with the reduced number of people actually parking there because the other court is in Chapel Hill should facilitate that.

Ms. Hauth And that agreement is for during construction only.

Ms. Jones. Yes.

Mr. Hartkopf That's exactly the kind of process documents that I'm looking for.

Mr. Oliver I'm willing to embrace the park and ride lot, although I'd like to see something that somehow you're going to reserve that for...I just see the Durham Tech overflow taking up the park and ride lot eventually. You know, that's just the way things happen. And, Durham Tech is not going to be close, real close to the retail part. It's going to be on the other side of the street, etc. so depending on that they're going to take it over.

Mr. Redfoot You have the plan for Waterstone? Well, the good thing is that the park and ride lot physically is off to the right. Even you commented that it was out in the woods, so it was rather remote.

Mr. Oliver But, if Durham Tech overflows they'll overflow there before they overflow across the street into the retail, I think.

Mr. Crowther Margaret, there was another study that would be under review over the next few months.

Ms. Hauth Right, just that the stormwater calculations have not been reviewed by the engineers so if there was a motion, that needs to be a condition of approval. I don't know if this is the appropriate location to mention this, but we've all seen at various times when we've tried to apply the Ordinance that our parking standard is not what we would call a national standard. Usually parking standards are based strictly on the square footage and don't usually then add in a provision for employees. Ours takes that national standard and plus adds in employees. So, in almost every circumstance with the exception of doctors' offices, medical facilities, our ordinance generally exceeds what would be a normal parking calculation.

Mr. Hornik With that being said, you still have to deal with the Ordinance. And frankly I think the only way we can stretch to say that this plan meets our standard is by conditioning it on the Durham Tech space or other space being available to make up the difference.

Mr. Oliver Or other County policies.

Mr. Hornik When I say the Durham Tech space I assuming there will be a County program put into place that says our employees are somehow...we're going to make sure that these spaces get used by the people who are going to be using this complex. And I think that is the only way that we can try to make this square peg fit in a round hole.

Mr. Silverman Are all those agreements in place? The agreements between the County and Durham Tech?

Ms. Jones We have a Conditional Use Permit.

Ms. Hauth                   And the funding for the park and ride is separate. It's CMAQ funding that is, you know, separate, and the parking for the Durham Tech site was calculated in advance and that was an add-on. So, to go to Eric's question, there should be sufficient parking at Durham Tech's campus for themselves before they begin to reach... I realize that events and so forth can always...can always grow a little bit. Those 125 spaces were not counted towards Durham Tech's requirement.

Mr. Oliver                   I think what we're getting down to is we'd like to see...I mean we've got an architectural narrative that explains everything to do with the architecture. We sure would like a parking narrative that says, okay, this is how we're doing it. This is the commitments we've got here. This is the plan we've got. We're going to implement this and our employees are going to be...you know, this number going to be put out there and we're going to have vans that go at this time during...this many times during the day or whatever it is.

And with that, as Bob said, I think we could feel comfortable to say, yes, we're going to embrace a remote park and ride lot as meeting the standard for a complex, if you will, at an in-Town complex.

Mr. Hornik                   You could make the condition something like...if they...it's got to be that kind of documentation unless or until such time as the County can demonstrate that there is other parking closer by or whatever that is available to accommodate the need of this complex. Because, who knows, maybe some day in the future the County would erect a parking garage or something like that.

Mr. Hartkopf                So, I guess the question in my mind is do we conditionally approve it or do we wait for a parking narrative or a parking process.

\*\*\*END EXCERPT PORTION\*\*\*