

MINUTES
PLANNING BOARD
August 21, 2007
7:00 PM, Town Barn

MEMBERS PRESENT: Chair Matthew Farrelly, Dan Barker, Tom Campanella, Kathleen Faherty, Neil Jones, Bryant Warren (arrived at 7:50 p.m.), Stephen Whitlow, and Elizabeth Woodman.

ABSENT: Dave Remington and Barrie Wallace, absences excused.

STAFF: Planning Director Margaret Hauth.

GUESTS: Jennifer Boroski.

ITEM #1: Call to Order and Confirmation of a Quorum.

Mr. Farrelly called the meeting to order at approximately 7:03 p.m. and confirmed a quorum of the Planning Board.

ITEM #2: Additions to the Agenda and Agenda Adjustments.

Ms. Hauth noted there was a request to table Item #8, and suggested that the Board hear that item earlier in the meeting. She stated the Board would also discuss tonight whether or not to elect a new Vice Chair, or to delay that to a later time. Ms. Hauth stated she also wanted to add a new item, Item #9A, which would be a discussion of a new text amendment regarding off-premises signage. There were no objections from the Board.

ITEM #8: Special Use Permit request from North Chatham Investment, LLC to develop the Little School on College Park Road (Lot 7 (4.97 acres) in Waterstone) as a daycare for 196 students with parking and outdoor play and instructional areas (part of TMBL 4.45..45).

Ms. Hauth stated they had a written request from Travis Blake, the applicant, to table consideration of the application for one month. She said it would be on the Board's September agenda.

MOTION: Ms. Faherty moved to table this issue for one month.

SECOND: Mr. Jones.

VOTE: Unanimous.

ADDITION: Election of Vice-Chair to replace Toby Vandemark.

Ms. Woodman nominated Neil Jones. Mr. Jones declined. Ms. Woodman nominated Mr. Campanella. Mr. Campanella declined.

Mr. Barker nominated Kate Faherty. Ms. Faherty accepted the nomination.

MOTION: Mr. Barker moved to elect Kathleen Faherty as Vice Chair of the Planning Board.

SECOND: Mr. Campanella.

VOTE: Unanimous.

ITEM #3: Approval of minutes of the June 19 and July 17, 2008 meetings.

The following corrections were offered: At one point Ms. Woodman was noted as Commissioner Woodman rather than Ms. Woodman; that in the July minutes Brian Lowen's name was misspelled in one of the motions; in the July minutes during the discussion prior to the vote on the volunteer, Mr. Farrelly should have been referred to

rather than Mr. Whitlow; and, in the July minutes on page 4 the word “lead” should have been “leed.”

MOTION: Mr. Barker moved to approve the minutes from June 19 and July 17, 2008 as amended.

SECOND: Ms. Woodman.

VOTE: Unanimous.

ITEM #4: Committee reports and updates.

- **Board of Adjustment** – Ms. Hauth indicated that the Board of Adjustment did not meet this past month since no applications had been received. She indicated they would be meeting in September.
- **Parks and Recreation Board** – Mr. Whitlow stated that the representatives from Tar Wheels were present at the meeting earlier this week to discuss the bike route plan as well as the location for future bike racks. He stated there was much discussion about whether bike lanes could ever be added to Churton Street as well as King Street. Mr. Whitlow said that Board was recommending directing traffic up Margaret Lane and Cameron Street to get people up the north end of Town, but indicated those would be bike routes and not bike lanes. He said they had also discussed extending the planned greenway along US 70 all the way down to St. Mary’s as a shared use lane.
- **Tourism** – Ms. Woodman said that they were looking at proposals to develop a new web site for Hillsborough to attract out-of-Town tourists, and would soon be conducting interviews of applicants.
- **Wayfinding** – Ms. Hauth stated that the Wayfinding Committee would be meeting next week.

ITEM #5: Request from citizens to work on Neighborhood Commercial Corridor zoning districts and Special Uses within that district to facilitate the construction of tennis courts.

Ms. Hauth said that in the packet she had included a piece of the Future Land Use Map, reminding the Board that in west Hillsborough they showed a Neighborhood Commercial Corridor, and the language described what sort of uses might go there. She said that Jennifer Boroski was present tonight, and it was Ms. Boroski and the Kennedy-Webb family who was asking the Board to look into this.

Ms. Hauth called attention to the center of the map where there was a large uninterrupted block. She said the area in question was across from the Village Diner and Larry’s Bar, and was the empty lot next to the Kennedy apartments. Ms. Hauth said the Kennedy family had an interest in using that lot as tennis courts that would be both available for them to use as a business to provide lessons, but also available for use to the general public. She said the property was zoned Residential, and the part where the apartments were was designated to remain Residential but the part that was the back half of the larger piece noted in brown on the map was designated as part of that Commercial Corridor district. Ms. Hauth said since that district did not yet exist, this Board would be able to craft it in a way to allow recreational facilities, either for profit or not-for-profit, or they could designate something else as a special use so that the family could apply under special use circumstances and with the understanding that a Special Use Permit would likely have a greater chance of success than just a commercial rezoning in a residential neighborhood.

Ms. Hauth stated that Ms. Boroski and members of the family were very interested in being allowed to teach tennis lessons, and could speak to the need for such courts for lessons on a regular basis. She said they had a particular timeframe in mind for next spring, which was aggressive, and she had suggested to them that the first step was to appear before this Board. Ms. Hauth stated she had indicated such a request would likely be rolled into the ordinance rewrite process, which would take some time.

Jennifer Boroski talked briefly regarding why they were requesting the Board consider this now rather than putting it through the normal process. She spoke of the lack of tennis courts and the scarcity of available tennis lessons. Ms. Boroski stated the plan was to build three courts and allow tennis instruction as well as public play.

Mr. Farrelly asked if the plan was to provide lighting for night use. Ms. Boroski stated ideally, yes. She said there were some homes nearby, but she did not know how much they would be affected, adding the lights would be shut off at 10 p.m. each night.

Mr. Farrelly asked Ms. Hauth to repeat the information regarding the options. Ms. Hauth did so. Mr. Farrelly said then the Board would have to define what was allowed within the Neighborhood Commercial corridor, and then within that set up a special use process. Ms. Hauth said or, the Board could look at General Commercial and say it was okay. She said there were several different ways it could be done, noting the question was do they do that now or do that later. Mr. Farrelly asked was there a difference between the non-profit and for-profit. Ms. Hauth said to the general public, probably not, in terms of the impact to the neighborhood. Mr. Farrelly asked did it have an affect in terms of the process. Ms. Hauth responded that was for the Board to decide. She said presently the ordinance did not call for a difference in the two.

Ms. Boroski stated there was a non-profit group called DOCTA, the Durham-Orange County Tennis Association, who were interested in working with them. She said the fact that the Kennedy's wanted to donate this property for these courts was huge, and she would hate not accepting it simply because of the number of people interested in tennis, or even the people they hoped to get interested in tennis. She said this was a great opportunity to provide a great recreational outlet for all ages.

Mr. Farrelly asked about the Collins house right beside this lot. Ms. Boroski stated that Donna Webb had spoken to Ms. Collins who had indicated her support of the project. Responding to a comment regarding the availability to the public, Ms. Boroski stated the reason they were requesting three courts was because that would give them at least two to conduct lessons, with a third always open to the public on a first-come, first-served basis. She stated they had no plans to charge a fee for use of the public court, noting any revenue would come from the lessons of which the Pro would receive a certain percentage with the remainder of the revenue being used for upkeep and taxes.

Ms. Hauth stated that such a request was very unusual, noting the only remotely similar application was the public-private partnership for the Triangle Sportsplex. She said it was very rare to get a private request for some sort of recreational facility that was not one you could very easily charge for its use.

Ms. Boroski stated the Kennedy family would likely retain ownership of the property and the tennis courts. She said what needed to be worked out was how to manage the business

itself. Ms. Boroski stated there would be some small parking provided for four to seven cars off of Jones Street.

Mr. Whitlow asked would the Town allow cars to back out onto Jones Street. Ms. Hauth said not usually, and that would have to be sorted out when crafting the standards. She said it would be up to the owners to make it work.

Ms. Woodman said then the Board could specify what recreational facilities would be allowed if they were to broaden the commercial corridor. Ms. Hauth stated that would be done in the standards to be established that the facility had to meet. She said she would prefer not to have to list each and every permitted recreation use in the Permitted Use table in the ordinance.

Ms. Woodman said she had two concerns, one of which was the noise. She asked if the neighbors on Jones Street were set back enough that the noise would not be an issue. Ms. Boroski stated the part of the property where the courts would be was next to a large hill that would at the least buffer half of the noise, along with the natural buffer of the trees and shrubs. She said the other half of the noise would be some distance from anyone across the street. Ms. Boroski said there would be the repetition of the balls being hit, as well as the voices of those coaching and playing, but was unsure of what that impact might be.

Ms. Woodman asked if any trees would need to be removed. Ms. Boroski stated no, that the lot used to be playground. She said the one tree near the edge of Jones Street would not need to be removed. Ms. Woodman asked if they would be putting down impervious surface, or would the surface be clay. Ms. Boroski stated they would be putting down a hard surface that was a form of concrete, noting it was the same surface used at Orange High School.

Mr. Barker stated he kept going back to how to create a process for this. Ms. Hauth stated she would be able to do that. She said if the Board wanted to go forward with this, she would need to know did they also want to create a new zoning district, or were they comfortable with putting this as a special use in either General Commercial or Neighborhood Business, or possibly even a special use in Residential.

Responding to a question regarding whether something like this would be allowed at a church, Ms. Hauth stated it would have to be an accessory to the church, which was normally parking. She said she knew of no churches with tennis courts.

Mr. Whitlow stated if Ms. Hauth worked up something for the Neighborhood Business zone, then the applicant could apply to rezone that property and submit a Special Use Permit request at the same time. Ms. Hauth stated that was correct, noting there would be a series of text amendments that would need to be crafted for this unless the Board decided to wrap it into one of the existing zoning districts. Mr. Whitlow stated then the same thing could be accomplished by adding it into the R-20 zoning. Ms. Hauth responded they could craft Special Use Permit requirements for for-profit recreational facilities, and then pick whatever zoning district or districts that it would be allowed in. She said if they did it that way, especially if they used the current zoning district, then keep in mind whether or not they wanted to encourage people to take what might be vacant lots in existing neighborhoods and convert them to for-profit recreational facilities. Ms. Hauth said if they set up a new zoning district and this request had to be packaged as a rezoning request and a

Special Use Permit, then they would have to consider if that parcel was appropriate to be zoned that way, and did that use meet the standards of that Special Use Permit. She said that was taking it to a higher standard, and was in some ways less likely to lead them somewhere they did not want to go.

Ms. Hauth stated there were not a lot of vacant lots in neighborhoods but there were some, and this request was for a reasonably innocuous tennis court. She said the Board should think of other things that could be proposed for that location, although she did not believe something like a go-cart track would ever be proposed.

Mr. Barker stated that a 501(c)(3) corporation was a nicer path to do that kind of operation, but it would likely have to be the property owner making the request. Ms. Hauth stated that would be tying the property owners' hands on who they could lease the land to. She said if the non-profit was the owner then the Town would not get the financial benefit of having them in the Town. Ms. Hauth stated the language could be crafted to allow a non-profit or a for-profit facility.

Mr. Whitlow said it sounded as if people generally believed this was a good idea, but it also sounded like attaching it to the Neighborhood Business district would add a certain layer of protection for potential future projects. Ms. Hauth agreed. She stated they already had defined uses under the Neighborhood Business district, with about 12 defined uses. Ms. Hauth stated they could wrap it into the Neighborhood Business zone because that would trigger a rezoning.

Mr. Farrelly asked had Ms. Hauth suggested this use be included in the Commercial Corridor. Ms. Hauth stated that was a Land Use Plan designation which did not necessarily mean a zoning district. She said the Board could say that Neighborhood Business was consistent with this definition of Neighborhood Commercial Corridor, and because a parcel was designated Neighborhood Commercial Corridor in the Land Use Plan made it that much easier for a property to owner who had that designation to seek the Neighborhood Business rezoning.

Mr. Farrelly said then the steps would be that they could add for-profit recreational facilities to the Neighborhood Business permitted uses. He said the applicant could then apply for a rezoning for that lot, and then to get the business established they would have to come forward with a Special Use Permit request. Ms. Hauth stated yes, noting the rezoning and Special Use Permit would have to come forward together. She said the Board could also set it up as permitted by right, which would be done through staff approval.

Ms. Hauth said she got the sense from the Kennedy family that tennis courts were what they wanted to do, and if that was not allowed then they would likely do nothing and leave it zoned residential. She said they did not necessarily want the property rezoned for some other purpose.

Mr. Farrelly suggested that the Board allow Ms. Hauth to work on language to put this in the Neighborhood Business district as a permitted use with a special use permit. In response to a question regarding other permitted uses in that district, Ms. Hauth replied small retail less than 10,000 feet, small offices of less than 10,000 square feet, beauty shop, coffee shop with a special use permit, and other innocuous uses. She said one of the

requirements for that district was that the use was supposed to front on at least a collector road. Ms. Hauth said one of the strange things in the definition, although she did not think it applied to any parcels zoned Neighborhood Business, was that it was really meant to service residents in the immediate vicinity and not necessarily draw people into the neighborhood. She said that was the intent of the district when it was written in 1986, and that likely needed to be changed during the ordinance rewrite.

Mr. Farrelly said he did not believe three courts would draw a large number of people into a neighborhood.

The Board agreed by consensus to have Ms. Hauth craft language for a recreation for profit in the Neighborhood Business district with the use of an SUP.

ITEM #6: Annexation request from Wesley and Patricia Cook for 7.85 acres with access to Tuscarora Drive and US 70 A East which is currently zoned R-20 and approved for development as Riverbend II subdivision.

Mr. Farrelly commented that at the public hearing no comments were received. Ms. Hauth stated that the Cooks were not seeking a rezoning, the development plan was already approved, that the road was paved and the sidewalks were in, and they were getting very near the final plat stage which was why they were bringing forward their annexation request. Ms. Hauth stated it was a condition of subdivision approval that the applicants seek annexation. She added that this would mean that the Town would have twelve in-Town customers rather than out-of-Town customers, and the Town would be providing trash pickup and collecting taxes.

Ms. Hauth said given the size of these lots, it was likely that at least for a while these lots would pay for themselves because the planned homes would not be cheap. She said they should be well over the \$250,000 mark which would generate enough tax revenue to pay for themselves. Bryant Warren arrived at 7:50 p.m.

MOTION: Mr. Barker moved to recommended approval of the annexation request.

SECOND: Mr. Warren.

VOTE: Unanimous.

ITEM #7: Rezoning Request from Nathan Parker to rezone .59 acres at 516 Revere Road from R-20 to General Commercial (TMBL 4.13.A.15).

Ms. Hauth stated that at the public hearing a neighbor was opposed, indicating a desire to know what the development plan was for the property. She said there was no development plan other than to make it more marketable and to sell it with some other surrounding property that was zoned General Commercial. Ms. Hauth said they did have a protest petition from a property owner but she was too far away to qualify to trigger the Town Board majority vote.

Ms. Woodman asked would this rezoning be consistent with the Cornelius Street Corridor Plan. Ms. Hauth responded yes, because they had used the corridor map in that plan to pick which parcels should go into the commercial corridor and which should not, and this one was included.

Ms. Faherty stated the big issue with mass and traffic was that people could now come in and out of the Lunsford's from the back. She said that was a real problem, and asked was it possible that there could be a stipulation that all entrances and exits to the property

would be from Cornelius Street and not from Revere. Ms. Hawth stated that if this parcel developed by itself, its only access was to Revere so it would have to have a driveway. She said if it combined with some surrounding properties then she was sure that would be a point of discussion. She added that was not a condition that could be placed on a rezoning.

Mr. Campanella asked was there any indication that people were thinking of combining properties. Ms. Hawth said it was her understanding that this property owner and the two that owned the property marked in red that fronted Cornelius had spoken about that and would be willing to deal with a single buyer if their price was met. She said it was unfortunate that they had not yet written the zoning district that they intended to apply to the US 70 corridor.

Mr. Farrelly asked if someone expressed an interest in these lots and talked with the owners of the parcels marked in red at the front and came up with a concrete proposal, that might provide more motivation for this Board. But now, he said, it was nebulous, noting the applicant was asking for the rezoning just because he believed it would make it more marketable. Mr. Farrelly stated it did not strike him as very compelling, especially in the present market environment as well as the concerns expressed about generating traffic on Revere.

Mr. Whitlow agreed, noting it might be different if all the properties in red were involved. He said it was possible that if there was no cohesive plan that rezoning the property would just make matters worse.

Mr. Farrelly said to him it did feel as if it were creeping into what was otherwise residential. He asked Ms. Hawth to clarify what they should be considering when looking at a rezoning request such as this. Ms. Hawth stated in the material she had listed the intent of a General Commercial zone and the criteria. She said those criteria did not mention anything about adjacent zoned land being residential, but this one would be at least on one side as well as across the street. Ms. Hawth said the Board could decide that the corridor plan spoke to design standards and many other things that were not yet in place and that it felt premature to rezone without a development plan.

Mr. Farrelly said given what was going on with the US 70 corridor this request did not feel compelling. He said people had complained, had wanted to protest, and it seemed not the right time to do this.

Mr. Whitlow said if the property was rezoned General Commercial and the three properties were lumped together, then the owners could then come in and put up a building that would completely face US 70. He said if you were driving up Nash Street you would be faced with the "ugly" side of that building. Ms. Hawth said that was possible. Mr. Whitlow stated the Board of Adjustment could deal with a driveway issue, but not require a nice façade. Ms. Hawth said at this point they could not say that because there was no design standard that tied back to the US 70 plan. She said they had not yet gotten that far in the implementation documents.

Mr. Warren suggested tabling this request until the zoning plan was written for the US 70 corridor. Ms. Hawth stated that would be a long time from now.

Mr. Farrelly stated if the application was rejected, the applicant was only out the fee. Ms. Hauth stated that fee was \$300. She stated that if the intention of the Board was to recommend denial, it would be helpful to detail the specific reasons to help her craft the findings that the Town Board would need to make.

MOTION: **Mr. Campanella** moved to recommend denial of the rezoning request due to the fact that the design aspects and recommendations from the Cornelius Street Plan were not yet in place, that without a development plan it seemed like encroachment into a residential area, that traffic concerns raised by the neighbor could not be addressed with General Purpose rezoning, that the Zoning Ordinance spoke to adjacent uses, and that the parcel was adjacent to residential.

SECOND: **Mr. Barker.**

VOTE: Unanimous.

ITEM #9A: Sign Request from Orange High School.

Ms. Hauth said that this was an off-premises sign request, noting that Orange High wanted to put at the corner of Orange High School Road and US 70 a sign where they would promote the school. Ms. Hauth stated they had received a formal request from the School Board, and if it required a text amendment they requested that the Town develop one. She said she had wanted to provide this Board with the preliminary design for the sign to see if they could find an exemption for it.

Mr. Campanella asked if this request tapped into a much larger issue and would set a precedent. Ms. Hauth stated off-premises signs were a much larger issue and it would set precedents. She said allowing an off-premises sign was a very slippery slope. Mr. Campanella asked if such signs could be stipulated just for schools. Ms. Hauth said if they were going to allow this to happen, they would have to be very careful about how and why.

Mr. Campanella stated he liked the spirit of the sign but had concerns about setting a precedent as well as the design of the sign. He said the sign appeared “clunky and amateurish.” Ms. Hauth said she believed some design changes would be acceptable, noting what was important was whether the concept was acceptable. If the answer was yes, she said, then they could work with the school on the design. Ms. Hauth said she did not believe the Board would want to allow a changeable message board, but would rather have a permanent sign.

Ms. Hauth said the height of nine feet was taller than what the Town now allowed, in that freestanding signs were supposed to be seven feet.

Mr. Jones asked what would prevent a private property owner from posting such signs on their property on behalf of the school. Ms. Hauth stated the Board would need to determine that each school was allowed one sign.

Ms. Faherty commented that Orange High School had become invisible, in that it could not be seen from any direction. She said it was hidden by trees and foliage and even when you get to the turn-in it was not obvious. She suggested having a sign that said “Orange High School” with an arrow. Ms. Hauth commented that if it were a directional sign it would not be on the board’s agenda.

Ms. Faherty noted the sign was proposed as double-sided, so they would want to have the sign identical on both sides. Ms. Hauth agreed.

Ms. Hauth said what she needed from the Board was whether or not they wanted her to begin crafting a text amendment and work with the school to get the sign more in line with the Board's expectations.

After some discussion, the Board agreed by consensus to the following: to try to limit such signs to public schools only; to limit such signs to one per school; that natural materials were to be used, such as wood; that vinyl lettering was acceptable; that such signs were to be unlighted; that such signs were to be mounted out of the right-of-way; that there be no changeable messages; and that such signs have a seven foot height limit. They also agreed by consensus to allow Ms. Hauth to work with the high school regarding bringing the proposed sign into compliance.

ITEM #9: Request from Town Board to create special use permit process event centers/public use buildings either within residential districts or as a special zoning district.

Ms. Hauth stated this was clearly for the Colonial Inn, noting that in January when the Board had heard the rezoning request, part of the reason the rezoning request was withdrawn was because there was some willingness to entertain the concept of some sort of special use rezoning that would allow the owner to do some or all of what he wanted to do on that property. Ms. Hauth stated there was some chance that the property would be sold, and all of these issues could well disappear. She said the Town Board wanted this Board to make a recommendation for its October hearing.

Mr. Campanella asked what the upshot was of the discussion regarding special event centers with the Webb property. Ms. Hauth stated they had specified that they could have "x" number of events each year and that they did not have to provide their parking on-site. She said once the neighbors did the math they had decided it would be very cumbersome on their daily lives and had opposed it.

Ms. Hauth stated she had listed out some of the uses the owner had mentioned previously in the meeting with the Town Board, noting that these types of historic structures that were used for public uses generally had some kind of commercial zoning. She said they could say that it created some sort of special use that was allowed in the Central Commercial zone, so that it was a rezoning and a Special Use Permit together. Or, she said, they could stay with the R-20 zone and create a long list of criteria so that it was really only available to certain properties. Ms. Hauth said in this case, rezoning it to Central Commercial did make it more restrictive because that zoning did require it to be close to the core of Town and it would prohibit someone from rezoning such properties like the Webb House or what use to be Hillsborough House Inn or similar properties.

Mr. Farrelly suggested starting with the Central Commercial so it would be more restrictive as far as an events center. He said that whole concept appeared to him to be more commercial in nature.

Ms. Hauth said she had several questions she wanted some direction on tonight. First, she said, was this a case where the Board wanted her to craft some language and bring it back to them. Or, she said, was there any interest in the Board previewing it a few weeks before the meeting. Or, she said, was there a small group that might want to meet once or twice prior to the next meeting to hammer out the language.

Mr. Whitlow asked if they did use the Central Commercial zoning, were there other properties that it could apply to other than the Colonial Inn. Ms. Hauth responded it would depend on how the standards were drafted for an events center. For instance, she said, if they required that such centers provide parking on-site, that would push everyone out because the Colonial Inn could not put all of its parking on-site. She said she could not say it would not be available to other properties, but the language could be very narrowly crafted.

Ms. Hauth stated she was hearing that the Board had a preference for a rezoning and a special use permit option rather than just a special use permit option, which would then throw it open to a broader population of lots. There was general agreement from the Board.

Ms. Hauth said she was assuming they would want some provision for parking on the property, and some documentation of where the parking would come from but not necessarily requiring that it all be on the parcel. There was general agreement from the Board.

Ms. Hauth stated when looking at the range of uses, she had asked herself how open was this structure and all of its services to the general public. She asked was it a structure where anyone could get a meal and visit the bar, or did you have to be a guest to do that, or, did you have to be part of an event to be seated for a meal. In other words, she said, was it an events center, or was it an events center that was a restaurant. Ms. Hauth said that mattered because it would change the activity level on the property.

After some discussion, the Board agreed by consensus not to restrict access to guests; the limit applicability to other sites; and, to consider square footage maximums and minimums. The Board also agreed to have Ms. Hauth craft some language and provide it to the Board as soon as possible prior to the public hearing so that they could provide comments.

ITEM #10: Adjourn.

Upon a motion by Ms. Woodman, seconded by Ms Faherty, the Board moved to adjourn the hearing. The vote was unanimous. The meeting was adjourned at 8:42 p.m.

Respectfully submitted,



Margaret A. Hauth, Secretary