

Minutes

PLANNING BOARD AND BOARD OF COMMISSIONERS

Joint public hearing

7 p.m. Oct. 20, 2022

Town Hall Annex Board Meeting Room, 105 E. Corbin St.



Present

Town board: Mayor Jenn Weaver and commissioners Mark Bell, Robb English, Kathleen Ferguson, Matt Hughes and Evelyn Lloyd

Planning Board: Chair Chris Johnston, Vice Chair Frank Casadonte, Sherra Lawrence and Saru Salvi

Absent: Planning Board: Cassandra Chandler, Alyse Polly, Hooper Schultz, Jeff Scott and Scott Taylor

Staff: Planning and Economic Development Manager Shannan Campbell and Town Attorney Bob Hornik

1. Call to order and confirmation of quorum

Mayor Jenn Weaver called the meeting to order at 7:12 p.m. She explained the town board had reached quorum, but the Planning Board did not have quorum.

Town Attorney Bob Hornik explained statute only requires the town board to hold public hearings regarding zoning text or map amendments, though Hillsborough customarily holds quarterly joint public hearings with both the town board and Planning Board present. He clarified the Planning Board's function is to make recommendations to the town board. Hornik recommended proceeding with tonight's public hearing. He said without quorum for the Planning Board, at the end of tonight's meeting the town board could vote to continue the public hearing to the Planning Board's Nov. 17, 2022, meeting. At that meeting, the Planning Board members could hear anything further, make deliberations about recommendations to the town board and then close the public hearing.

When asked, Hornik confirmed the Planning Board members could close the public hearing at their Nov. 17, 2022, meeting without the town board members present. Hornik confirmed if the Planning Board does not have quorum at the November meeting the members would not be able to close the public hearing or make recommendations, and any time-sensitive projects would be delayed. Hornik said in that case the public hearing would be continued to the Dec. 15, 2022, Planning Board meeting.

When asked, Hornik confirmed that, without quorum, the Planning Board members should not take action on Item 3 to approve the Sept. 15, 2022, meeting minutes. He agreed tonight's agenda should be amended to remove Item 3.

2. Agenda changes and approval

Weaver summarized that Item 3 should be deferred.

Motion: Commissioner Kathleen Ferguson moved to approve the agenda with Item 3 removed.
Commissioner Mark Bell seconded.

Only town board members voted on this item.

Vote: 5-0.

3. Minute review and approval

Minutes from regular Planning Board meeting on Sept. 15, 2022

This item was not discussed due to lack of quorum for the Planning Board.

4. Open the public hearing

Weaver turned the meeting over to Planning Board Chair Chris Johnston.

Johnston declared the public hearing open.

5. Discussion

- A. Annexation and General Use Rezoning: 255 Orange Grove St. — Request from the Town of Hillsborough to annex approximately 19.5 acres, rezone approximately 6.62 acres from Agricultural/Residential to Limited Office and keep the remaining 12.88 acres zoned Agricultural/Residential (OC PIN 9874132066)

Planning and Economic Development Manager Shannan Campbell presented the staff report. She said the proposal is for a town-owned parcel. Displaying a map, Campbell said the Town of Hillsborough proposes annexing the full parcel and rezoning the portion on which Hillsborough's train station will be built. She said the parcel currently is zoned Agricultural/Residential, and the zoning needed to build the train station is Limited Office. She invited the applicant's representative to speak.

Johnston reminded the board members the rezoning would be a general use rezoning with all approved uses for Limited Office being allowed by right. Campbell agreed, noting no plan of development is required for general use rezonings.

Public Space and Sustainability Manager Stephanie Trueblood presented the application on the town's behalf. She explained it was important to move forward tonight because the town signed a funding agreement in 2020 to deliver the train station within 7 years. She said moving forward with the annexation and rezoning is important to keeping the project on schedule.

Trueblood explained only part of the 20-acre parcel is needed for the train station. She said the train station might not require the entire 6-acre portion the town is requesting to rezone. She said for simplicity's sake the town requests rezoning the largest possible space that might be needed for the train station. She said the zoning could be reconfigured in 2023 after the town board works on the site's master plan. Trueblood said the larger part of the site would remain zoned Agricultural/Residential. She said the town requests the smaller portion, which will be used for the train station, town offices and a park and ride lot, be rezoned Limited Office. She said additional future uses could involve additional rezonings.

Ferguson expressed excitement about the train station project moving forward.

Johnston invited members of the public to speak.

Resident Gary Miller said he was in favor of the annexation and rezoning, anticipating mass transit would be a part of North Carolina's future.

There were no other comments for this item.

B. General Use Rezoning: 1700 N.C. 86 South — To rezone the Owl's Woods tract from Limited Office to High Intensity Commercial (OC PIN 9874429362)

Campbell presented the staff report. She said the board members saw a different rezoning request for the same parcel earlier this year. She said the applicant proposes rezoning the approximately 15-acre property from Limited Office to High Intensity Commercial. Campbell said the general use rezoning includes no development plan, and any use allowed in the High Intensity Commercial zoning district would be allowed by right. Johnston called the board members' attention to details on pages 22 and 23 of the agenda packet.

Johnston invited the applicant to speak.

William Wirt of Summit Design and Engineering spoke on behalf of the applicant. Wirt summarized the application. He said rezoning the property to High Intensity Commercial would allow uses to be built there that the town has expressed interest in seeing, such as restaurants, flex space and healthcare. Wirt displayed a map of the area, pointing out the site's location and a creek and sewer easement running through the property. He noted the zoning of surrounding areas. Wirt displayed an older conceptual site rendering, acknowledging it shows a more intense development plan than is practical given the site's topographical challenges. He said the concept illustrates several key points that still could apply to the site, including building layouts and a thoroughfare running through the site. He said the site's topography, including a creek and sewer buffers, would preserve its natural benefits and diversify the site. Wirt displayed a current zoning map. He said the uses allowed in the High Intensity Commercial zoning district would fit well with uses surrounding the area and with the town's Comprehensive Plan, which calls for retail services on the site.

Wirt summarized the rezoning would align the property with the town's Future Land Use Plan and with the Hillsborough Vision 2030; would be in line with the surrounding area's development patterns and zoning; would provide services the town desires; and would add to surrounding property values. He added the site's topographical challenges would prevent sprawl on the site and preserve the site's natural benefits.

Ferguson thanked Wirt and expressed excitement about the proposed project.

Planning Board member Saru Salvi expressed concern about traffic the proposed project could generate. When asked, Campbell said traffic would be evaluated after the applicant submitted a site plan. Campbell said the matter before the board members tonight was a high-level land use question about whether the requested uses are appropriate for the site.

Johnston observed the site's topography would require significant grading. Wirt agreed and said the displayed concept plan illustrated the maximum possible development for the site. When asked, Wirt said the amount of development shown on the concept plan is not feasible, adding it was drawn some time ago. Wirt said he showed the plan to illustrate a few key points. When asked, he explained rezoning to the High Intensity Commercial zoning district would allow more diverse services, make the property more marketable and align it with similar uses in the surrounding area.

When asked, Campbell confirmed a preliminary study indicated a traffic circle or another traffic control device might be needed at the nearby intersection of U.S. 70A and N.C. 86. She said there are not yet plans developed for the traffic circle.

When asked, Campbell clarified that a previous applicant, who proposed rezoning the property to the Multi-Family zoning district, was considering building a private greenway trail system on the site.

When asked, Wirt described possible differences between the displayed concept plan and what feasibly could be built. He said most buildings would move closer to N.C. 86, and the thoroughfare probably would not be as deep.

Salvi asked if the developers could preserve trees and greenery along U.S. 70A to screen the development. Wirt agreed and noted the town has landscape buffer requirements that require that.

The board members had no further questions. Johnston asked for comment from members of the public.

Leland Little addressed the board members, noting he owns the property across the street from the site. Little said he generally was in favor of rezoning the property for the purposes of development. He said he would like to hear the mind of the town board regarding its vision for the property and this area.

Weaver summarized there was a general hope among town board members that the parcel would be developed commercially. She noted the owner had been having trouble developing the property commercially, and she described the previous application earlier this year regarding rezoning the property to the Multi-Family zoning district. Weaver said the town board ultimately denied that request. Weaver said her sense is the applicants are requesting the current rezoning because the higher-intensity zoning district would make the property more marketable. Bell and Ferguson agreed. Ferguson said during the previous application flex space was identified as a potential use for the site.

Little noted the allowed uses for the High Intensity Commercial zoning district include single-family dwellings and accessory dwellings. Campbell clarified only one single-family dwelling and accessory dwelling could be built by right. She said a developer would have to go through the special use permit process to subdivide and build a housing development, for example. Campbell clarified the town allows single-family dwellings in almost all zoning districts because many districts have pre-existing single-family dwellings.

Miller addressed the board, noting he lives in the nearby Fiori Hill neighborhood. He expressed concern with the intensity of the uses allowed in the High Intensity Commercial zoning district. He said noise and light pollution could result from those uses, such as from an all-night gas station. Miller noted any use allowed for the High Intensity Commercial zoning district would be allowed by right. He pointed out two nearby residential areas, Fiori Hill and the Eno Haven Apartments. He said a thoroughfare connecting to U.S. 70A could be problematic given the area's terrain. Miller noted the property could be subdivided, with each new owner having access to the full list of High Intensity Commercial uses.

Mark O'Neal of Pickett Sprouse Real Estate addressed the board members. O'Neal said during the previous application to rezone this property the applicants learned the Planning Board members saw the lot's existing zoning district as limiting. He said the applicants are trying to make the property more marketable. O'Neal said the requested zoning and its uses would be consistent with surrounding properties' zoning districts and uses. He said the town's Comprehensive Plan also calls for retail services in this area.

When asked, applicant Mark Trustin declined to speak and said O'Neal and Wirt had done a good job representing the application.

Matt Epstein addressed the board members, noting he lives in the Fiori Hill neighborhood. He said retail is important to Hillsborough, but he expressed concern the rezoning would be too extreme a step. Epstein said the board members should consider every possible use that would be allowed by right on the rezoned property. He said if the board members are comfortable with the most intense allowed use, and that use fits

the town's Comprehensive Plan for the area, the rezoning should proceed. However, if the most intense allowed use does not seem like a good idea for that area, he said the board members should not allow the rezoning. Epstein said rezonings should only proceed to correct a zoning mistake or if the conditions for the original zoning have changed. He questioned the applicant's argument that rezoning the property would align it with surrounding uses, which he said are not clearly consistent with the uses allowed in High Intensity Commercial zoning districts. Epstein said a smaller rezoning step could be taken to allow less-intense development than the requested zoning district.

There were no further comments for this item.

C. General Use Rezoning and Future Land Use Plan Amendment: 1220 N.C. 57 — To rezone from Business Park to Office and Institutional (OC PIN 9875075617)

Campbell presented the staff report. She clarified no annexation is associated with this application. She said although the approximately 5-acre property is disconnected from the main part of town, it was previously annex into the town and zoned. She said the property is adjacent to the Eno River Academy. The applicant requests to amend the Future Land Use Plan and rezone the land from Business Park to Office and Institutional. She displayed a map and photographs of the property, pointing out its location on an area map.

Johnston referred the board members to information on pages 33 and 34 of the agenda packet. He invited the applicant to speak.

Laura Loehr addressed the board members. She said she would like to build an indoor pickleball facility on the property. Loehr said the facility would not be large and would fit well on the lot. She said she hopes to bring America's fastest growing sport to Hillsborough. Loehr said there are few such facilities in North Carolina and thus the facility would become a destination, with people traveling to play on an indoor court. She said she hopes to build a facility similar to one in Leland, N.C. Loehr said the requested zoning would overlap with that of the adjacent Eno River Academy, noting the school has a gym. She said the project would fall under the "recreational facilities" use.

Ferguson said she has visited the Leland, N.C., pickleball facility. Loehr said her facility would be nearly identical to the Leland facility. Ferguson expressed excitement about the proposed project.

Loehr added although pickleball is played at the Orange County Sportsplex, the balls and surfaces used there are different, resulting in slower play. When asked, she said she plans six courts. She said she had not finalized the facility's hours of operation but anticipated it being open from 8 a.m. to 9 p.m.

When asked, Loehr said she had been looking for a site for about six months. She said Hillsborough would be a good location because it would attract people from Durham, Chapel Hill, Mebane and Burlington.

When asked, Loehr said pickleball tournaments ideally need at least eight courts. She said she wants to bring professional players to the facility for exhibition and clinics, noting former professional pickleball player Noah Sariban was with her tonight.

Weaver asked Campbell what water and sewer impacts rezoning the property would have, noting the rezoning would allow any use allowed by right in the Office and Institutional zoning district. Weaver also noted the town is nearly finished crafting its Comprehensive Sustainability Plan. She asked Campbell what the best practice would be regarding amending the Future Land Use Plan so close to completing the Comprehensive Sustainability Plan.

Campbell said she reached out to Utilities Director Marie Strandwitz, who reported the projected water and sewer use for the pickleball facility would not be much more than for a single-family home. When asked, Loehr confirmed the facility probably would have one shower each for men and women. Campbell said the proposed use would not strain the town's water and sewer capacity, any other uses permitted in the district would have to be evaluated as to whether or not the town could serve them based on available sewer capacity.

Campbell said rezoning from Business Park to Office and Institutional would not constitute a large difference. She said the Office and Institutional zoning district might be more appropriate given what is on the parcel. She briefly described the parcel. When asked, she said Eno River Academy's land is zoned Business Park.

Salvi said she is not opposed to pickleball but is concerned the land could be used for any use allowed by right in the Office and Institutional zoning district. She worried the land could be sold and a more water-intense use built. Salvi asked if the town had a way to stop the land being developed for other uses if water and sewer capacity becomes a concern for the site.

Campbell said the town would evaluate the water and sewer usage when the site plan was submitted. Campbell said the town could determine water and sewer could not be extended if capacity is not available. When asked, Campbell confirmed Eno River Academy has water and sewer service. She pointed out a sewer line on the property.

Salvi said she felt uneasy about the site's water and sewer impacts and whether upgrades would be needed.

When asked, Campbell said this parcel is not part of any discussions about potential de-annexation of town property.

Johnston invited members of the public to speak.

Sariban addressed the board in support of the pickleball facility. He said he played professionally from 2017 to 2020 and now teaches pickleball. Sariban said he also is a physical therapist and noted the sport's health benefits. He said the sport's popularity is growing quickly, and people have few options for playing indoors on the correct surface in winter. He said there are no such facilities nearby, and people would come to Hillsborough from far away to play pickleball at the facility. Sariban said those people also would eat at Hillsborough's restaurants while in the area.

When asked, Sariban said the space could be used for other events, but those events probably would be related to pickleball, such as professional exhibitions. He explained tennis uses the same surface as pickleball but is played on a larger court.

Salvi expressed concern that a large tournament would attract too many cars for the site. Sariban explained the facility would be too small for a tournament. He said typical tournaments use between 14 and 50 courts, as opposed to the proposed facility's 6 courts.

There were no further comments for this item.

- D. Text amendment to the Unified Development Ordinance: Section 6.5.7 — To exclude train stations from buffer requirements

Campbell presented the staff report. She said staff found an issue while planning the future railroad station near the intersection of Orange Grove Road and Churton Street. Campbell said the ordinance requires a 100-foot buffer from railroads and interstates to protect businesses and residents from noise. She said the buffer is not necessary for the train station and its related walkways, parking and platforms. Campbell said a text amendment is needed to exclude the train station from the buffer requirement.

When asked, Campbell explained the ordinance requires buffers from railroads to protect residents and businesses from noise. She said there is no expectation for a train station to be quiet when a train goes by, noting it would be awkward to have the train station's platform and parking 100 feet from the rail line.

There were no further comments for this item.

E. Text amendment to the Unified Development Ordinance: Section 6.7.5 — To change requirements for "Fenestration"

Campbell presented the staff report. She said Section 6 of the ordinance regarding development standards was rewritten several years ago to require buildings to be more pedestrian-oriented, and those changes included fenestration and glass requirements. She said staff has run into issues enforcing these requirements for uses like warehouses and flex space that do not need a lot of glass, particularly when back walls face woods or when the ordinance requires windows in bathrooms and storage spaces. Campbell said staff has modified the requirements to reduce the amount of required glass and to clarify spandrel glass or faux glass options available for developers.

Commissioner Matt Hughes, Ferguson and Campbell discussed the ABC Store on Old N.C. 86 as an example of a building that had difficulty meeting the ordinance's glass requirements. Campbell added staff had heard feedback from flex spaces and other businesses on Meadowlands Drive that back up to wooded buffers but were required to have glass on their rear walls.

There were no further comments for this item from the board members or the public.

6. Close the public hearing

When asked, Hornik confirmed the town board should vote to close its portion of tonight's public hearing and to continue the Planning Board's portion of the public hearing to the Planning Board's next regular meeting on Nov. 17, 2022.

Motion: Ferguson moved to close the public hearing for the town board and continue the public hearing for the Planning Board to the Nov. 17, 2022, Planning Board meeting. Bell seconded.

When asked, Hornik confirmed the town would not need to republish public notice because the hearing was already advertised and would continue from tonight. Hornik confirmed the public still could speak at the hearing when the Planning Board meets again in November.

Only town board members voted on this item.

Vote: 5-0.

7. Updates

A. Board of Adjustment

Campbell noted Planning Board member and Board of Adjustment liaison Hooper Schultz was absent tonight. There were no updates for this item.

B. Parks and Recreation Board

Campbell noted Planning Board member and Parks and Recreation Board liaison Alyse Polly was absent tonight. There were no updates for this item.

C. Staff

Campbell said at the regular Oct. 10, 2022, town board meeting the town board approved the conditional zoning process, which will allow developers to present more details of what they plan to build. She said in the coming months she expects to see more conditional zoning applications and fewer general use rezoning applications. When asked, Campbell and Hornik explained developers tend to prefer conditional zoning processes because they provide the town board and Planning Board members with more certainty and development details, resulting in more approvals.

Hornik explained for general use rezonings the standard is the suitability of each allowed use. He said for general use rezonings such as those presented tonight, board members should vote to deny a rezoning if they feel strongly that an allowed use is inappropriate, even if the applicant's intended use is acceptable. He said the conditional zoning process would let applicants propose specific uses to the exclusion of other uses. Campbell agreed conditional zoning is more of a negotiation.

8. Adjournment

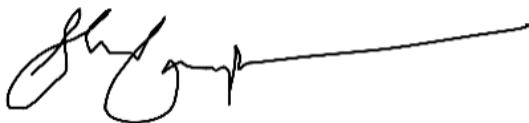
Motion: Ferguson moved to adjourn. Hughes seconded.

Only town board members voted on this item.

Vote: 5-0.

Johnston adjourned the joint public hearing at 8:25 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Shannan Campbell', with a long horizontal line extending to the right.

Shannan Campbell
Planning and Economic Development Manager
Staff support to the Planning Board

Planning Board Approved: November 17, 2022