

**MINUTES  
TOWN OF PITTSBORO  
PLANNING BOARD REGULAR MEETING  
MONDAY, FEBRUARY 6, 2012, 7:00 PM**

**ATTENDANCE:** Kenneth Hoyle, Karl Shaffer, John Clifford, Raeford Bland, Shannon Plummer, Alfreda Alston.

**STAFF:** Stuart Bass, Planning Director, Ileana Platon, Administrative Support Specialist, Paul Messick, Town Attorney.

**A. CALL TO ORDER:** Chairman Hoyle called the meeting to order at 7:00 PM

Chairman Hoyle asked for a moment of silence. He then asked that all electronic devices be turned off while the meeting is taking place, in particular any video recording due to offensive comments made at the last commissioner's meeting.

**B. APPROVAL OF MINUTES: JANUARY 4, 2012**

**Mr. Hoyle** made motion to approve the minutes for January 4, 2012. **Ms. Alston** seconded the motion. **Approved unanimously.**

**D. OLD BUSINESS:**

**1. SPECIAL USE PERMIT 2011-02 – Haw River Christian Academy - School**

**Mr. Bass** began by saying that this topic is a continuation from last month's meeting. A special use permit 2011-02 for the Haw River Christian Academy and its proposed location at 50 West Salisbury Street and stated that The Board of Commissioners referred this item back to the planning board for further consideration and second review at their January 9<sup>th</sup> meeting. He advised the board that there has been some small changes, specifically, on the entrance sign which has been removed and the angles of the parking spaces. Included in the packages distributed to the board is an e-mail of approval from the Fire Department on these modifications. There is also a memo from the Police Chief with his results upon his review of the proposal. Along with the site plans there are two resolutions for the Planning Board's review and consideration. Resolution A would approve the Special Use Permit, with a set of conditions that incorporates the findings previously suggested. Resolution B would deny the Special Use Permit. The Planning Board can move to recommend the approval or adoption of Resolution A, as it stands or of Resolution B, as it stands. Alternatively the board may modify either resolution in some matter by adding, amending, or removing a condition by offering their own recommendations and conclusions. In response the applicant can modify the site plan or proposal based on Planning Board recommendations prior to submission to the Town Board of Commissioners. The Town Board will have another public hearing on Monday, February 13, 2012 at 7:00 PM. Staff recommends that the

Board forward a favorable recommendation for the adoption of Resolution A to the Town Board of Commissioners.

**Mr. Hoyle** announced it could all be reviewed now that they have reports from the Police Department in regards to the traffic and a report from the Fire Department. In addition, there is an up to scale site plan. The Fire Marshall's report is fine. He does not have an issue with the police report but does find it interesting that the Police Chief and the officers based their studies on enrollment of 60 students as they were informed instead of the enrollment projection of 150 students. That is a great concern due to the traffic.

**Mr. Plummer** addressed the concern to Mr. Robinson, the Academy's Principal, and asked if in the event their enrollment increases and the town staff considers that the traffic would become an issue, would they accept the condition of staggering their start time?

**Mr. Robinson** responded that they are willing to do that. Right now teachers facilitate and control the flow of traffic. It is part of their responsibility and will continue to do so. Although they currently have 60 students, they have less than 40 cars due to car pooling. There are two half day programs where about 40 % of the students leave at 12:30PM. The total number of cars flowing through the location would be about 30 not 60, but of course those numbers would increase as enrollment increases.

**Mr. Plummer** was satisfied with his answer. He continued by addressing the letter from the Chief of Police and their interview with Pittsboro Baptist Church in which they stated that they have over 100 students in their preschool program. He was not aware of the amount and asked if anyone on the board knew. They have been in operation for 10 years and he has never heard of any complaints regarding traffic. He explained that the difference between Pittsboro Baptist and the Haw River Christian academy is that they are actually going to cue up the cars on site. Pittsboro Baptist's parking lot is across the street and children and parents have to use the cross walk.

**Mr. Robinson** added that based upon the traffic engineer's analysis even when they have 150 students they will have the capacity to accommodate all of those cars in the parking lot. The likelihood of that is slim to none due to their two half day programs. The State Transportation Department's requirement is 350 feet and they will be well over 400 feet, providing over 100 feet of additional stacking.

**Mr. Plummer** acknowledged that if the study is all true they will have a better traffic pattern than Pittsboro Baptist Church.

**Ms. Alston** asked what the time frame to reach the goal of 150 students.

**Mr. Robinson** responded that they have a tentative agreement with the owner of the property to be there for ten years. They expect to reach their maximum enrollment within the fourth year. By then they will have enough kids in the upper grades that those students will have to move off the campus and will have to look for another location for their middle/high school grade levels. They will be vastly under the 150 enrollment number by then and will start to build up again.

**Mr. Clifford** asked if the traffic study done was based on the 60 or 150 students.

**Mr. Robinson's** response was that the study was based on 150 students and the stacking that was needed for the 150 students is in the report. It was exceeded by close to 100 feet.

**Chairman Hoyle** stated that what concerns him is that the traffic report was primarily done with regards to the confinement of the school.

**Mr. Robinson** proceeded to share information that may help alleviate some concern in regards that Hillsboro Street has been repeatedly mentioned as one of the busiest and dangerous streets in the

state. He shared information from the North Carolina Department of Transportation Traffic Engineering Accident Analysis System on intersections and 25 counties with the most traffic accidents on information in Hillsboro Street and Salisbury Street. At the intersection of Hillsboro and Salisbury, during a three year period between January 1, 2009 and December 31, 2011 there were five accidents. Those five accidents consisted of four backing into other cars, which means they were probably parked. One was a rear end slow down stop. The accidents occurred in February, April, June, September and November. Two accidents occurred on Saturday which would be taken out of the equation. None of those accidents occurred during the school's drop off or pick up times of 8-9 am and 2-3 pm. In the intersections of Hillsboro-Thompson and Thompson-Hanks there was a total of nine accidents within that three year period. One accident was the cause on an angle, one was caused by an animal, one was backing up, three were rear ends and two were side swaps, meaning they were trying to pass each other. Out of all of those accidents only one resulted in an injury. Two were on Saturdays and one on Sunday so one full third of those accidents were on days that schools are not operational. One accident did occur during the time of 8-9 pm none occurred during 2-3 pm. Calculating about nine thousand cars that drive thru those streets every day and multiplying them by 365 days times the three year span this information is based on and the fourteen accidents, then remove the ones that occurred on the weekends and look at the ones that did happen during the school drop off and pick up times The results are three accidents and several thousand of occurrences, the likelihood of having an accident on those street is minimal.

**Mr. Shaffer** reminded the Board that for the same reason given at the last meeting he intends to recuse himself from the vote. He wanted to re inform the board and staff that under the planning board Article 13, Section 7, Item D he can declare himself with having interest in the matter under consideration and abstain from voting, also the members declaring interest may dissipate in the discussion on the matter prior to the voting, therefore he was stating his intention of doing that unless there is a need.

**Mr. Hoyle** asked if Mr. Messick if he had clarification on this.

**Mr. Messick** asked Mr. Shaffer's interest on the matter under consideration.

**Mr. Shaffer** explained that about a year ago he did gratis work for the Haw River Christian Academy and received a gift in gratitude for that work.

**Mr. Messick** response to Mr. Shaffer was that he may have a conflict of interest with regards to the issue because he may not be impartial as results of some favor that was done to him in the past. Was this intended to cover an interest in the subject matter which is being discussed? Was he an owner or part owner or would financially be affected in any way by the outcome of this decision? Therefore there is no interest on the subject matter here. If a member recuses himself from the vote then why participate?

**Mr. Shaffer** understood Mr. Messick's interpretation but is just following the ordinances, and asked if there is a conflict of interest there that he should be aware which he can't find.

**Mr. Messick** replied that he probably does not have a financial conflict of interest, unless he has some continuous relationship and asked if what he did for them would prejudice his view on this matter one way or another?

**Mr. Shaffer** said that in his opinion it doesn't but he does not want his opinion to make the call.

**Mr. Messick** claimed that it is his call and does not believe he should recuse therefore he should participate and vote.

**Mr. Hoyle** then asked for the opinion of the board regarding Mr. Shaffer's request. Unanimously they replied that they had no problem with Mr. Shaffer participation and voting on the matter.

**Mr. Shaffer** brought up an issue which had been bounced around by the Town Board and Planning Board in dealing with the site plan. On one of the last town meetings when this matter was on the table Mr. Terry, the Town Manager, informed the board of this clause in the rules concerning the review of site plans which is under Section 5.3.2, Section J on page 35. The last sentence states "the zoning enforcement officer is authorized to require more or less information" specified in Section 15.3, preparation of plan. What was discussed in that meeting and obvious to him was that all of the intents of the applicant were made clear, even though there were some deficiencies at one town board meeting that the site plan was missing this of that. Just want to make it clear that any minor deficiencies should not figure in the picture whether they should approve or disapprove with the assumption that Mr. Bass noted those with the applicant when it occurred.

**Mr. Hoyle** added that what he meant was to not take the site plan and pick it apart, leave that up to the planner, such as the lightning which he can't determine where the lights are on the site plan. The other thing is that he can't determine where the solid waste dumpster will be located and is a viable type situation. If that is considered as a minor then he does not have any problems.

**Mr. Shaffer** explained that is not exactly what he was trying to say. They should not have reviewed the site plan. He does not think they should deny it because there was something that was not present the first time it was submitted. To his best understanding every deficiency that was noted either by us or the Town Board was compiled by the applicant.

**Mr. Raeford** suggested to create a list of the deficiencies to be corrected and move on.

**Mr. Plummer** added that some of those deficiencies are addressed in the 17 provisions for approval under resolution A.

**Mr. Shaffer** explained that the Planning Board as well as the Town Board have the authority should either approve it to add any clauses there that are required and that can be at any step of the way assuming before they start construction or renovation of the property. **Mr. Messick** then added that resolution A does provide for a detail site plan to be submitted if it is necessary prior to a building permit being issued.

**Mr. Shaffer** said they are still dealing with a conceptual issue here. Should they entertain this as a viable use of that property iron out any minor details with the conditions on the approval?

**Mr. Plummer** then addressed the board by stating that in the letter Mr. Messick originally wrote to the commissioners and graciously forwarded to the Planning Board provides a really good guideline of how they should proceed. The first thing to be done is to determine if this is a complete site plan, then go to finding and addressing the facts. He believes they have a staff recommendation that says it is a complete site plan. It would then be up to the board to decide something different if they don't agree with Mr. Bass. If they do agree then the site plan is complete. Items like the location of the dumpsters does not signify an incomplete site plan. He asked the fellow board members if they think the site plan is complete.

**Mr. Raeford** responded that it fits the description that was discussed, to move on and if any issues are found they can be added and fixed. There may be some that are not seen yet but believes they can proceed with the site plan.

**Mr. Hoyle** asked about the sewage ratio, the borrow line in term for a school on sewage and is that available.

**Mr. Bass** said that they use the guidelines that the State provides for uses. Based on a school without a kitchen or gym it is ten gallons per student, this is below what the City's commercial threshold is of 3,600 gallons per day.

**Mr. Plummer** then asked Mr. Robinson if they would ever construct a kitchen at the school and his answer was absolutely not. **Mr. Plummer** believes they should decide if the site plan is complete and move forward to the facts and findings. He suggested is to take each item one by one.

**Mr. Hoyle** began with *(A) Public Health and Safety* and stated that in regards to what was submitted by the Police Chief, the traffic study prepared for the property and the traffic accident survey provided by Mr. Robinson, those are facts, anything else would be considered as opinions and suggested they go with the facts.

**Mr. Hoyle made motion to vote on (A) Public Health and Safety. Approved unanimously**

**Mr. Hoyle** continued to *(B) Injure the Value of Adjoining Property* and stated there have been many dialogs, comments and e-mails from the public and their opinions but he has not seen any direct proof of it. No real estate agent or appraiser has come forward to claim that the school will devalue any adjoining properties. **Mr. Plummer** was asked by **Mr. Shaffer** to repeat a comment made in a prior meeting. **Mr. Plummer** proceeded by stating that he has had his Brokers license for fourteen years. It has been continuously repeated to him thru his career that empty buildings are always detrimental to property values and the longer they are empty the more detrimental they are to adjoining properties. He has never been told that a school is detrimental to adjoining property values. He would also like to point out, it is a quos introduced for process and that is why it has to go thru a special use permit process. There is many business that are allowed under a C-4 zoning, these business are an automobile parking lot or repair shop, broadcasting studio, public utilities, transportation terminals. A retail business would be more desirable but any of these businesses can be permitted under a C-4 zoning by right and they would not have to go thru this process. Would that be more harmful to the neighborhood property value than a school? It would help if a certified appraiser gives their professional opinion.

In response **Mr. Robinson** advised that they have contacted three commercial property appraisers in the last week and half and spent \$15, 000.00. To spend additional funds on another appraisal is something they can't afford to do.

**Mr. Plummer** suggested to just get an opinion letter.

**Mr. Robinson** advised the appraisers are reluctant to do that. He also informed that in a meeting with Mr. Terry and Mr. Bass last Friday, he was told by Mr. Terry that if the town requested any more appraisals it should be paid by the town in consideration of the funds already spent by the school.

**Mr. Hoyle made a motion to vote on (B) Injure the value of Adjoining Property. Approved unanimously.**

**Mr. Hoyle** announce the next topic *(C) Will Be In Harmony with the Area it is Located.*

**Mr. Bland** addressed the floor by reminding the different variety of business that are or have been located in the area. Trying to decide what is in harmony may be ridiculous.

In this eclectic town is quite fashionable to be out of harmony. It is all based on opinion not facts.

**Mr. Hoyle asked if they are all in agreement with the staff recommendations on and made a motion to vote on (C) Will Be In Harmony With The Area it is Located . Approved unanimously.**

Next on the list is *(D) Conformity with the Land Use Plan (2001 land use plan)*

**Mr. Plummer** stated this was an interesting point. They are in the process of writing a new land use development plan but have to refer to the one that will be disposed of in six months to a year.

**Mr. Shaffer** added that the clear answer to that is no but the rules do allow for special uses in that zone. A letter was received from a property owner stating it is clearly a violation of the plan. It is agreed that the plan is a general guiding document not a sacred factor. He believes is it in agreement with the intent of the plan and rules that it supports the plan. **Mr. Plummer** added that they can find themselves in a catch twenty-two because it is permitted in C-4 zoning. **Mr. Hoyle** agreed that they have to go with the recommendation from the staff. It does conform with the Land Use Plan of 2001.

**Mr. Hoyle** mad a motion to vote on *(D) Conformity with the Land Use Plan.*

**Approved unanimously**

**Mr. Hoyle** stated they have come down to the point of voting on the resolutions. One is approving or recommending approval with the stipulations. The other is recommending to the Commissioners denial.

**Mr. Shaffer** made motion to approve stipulation A with the contingency or stipulation of the documents provided by staff. **Ms. Alston** seconded. **Vote was taken. Approved unanimously.**

At this time **Mr. Robinson** asked to take the floor and expressed that there has been negative information circulating thru billboards, chat lists, u-tubes. In behalf of Haw River Christian Academy he would like to apologize to the Board and would like to assure that no member of their staff, students or families had anything to do with this and either promoted or condoned it. They want to be good neighbors and a part of a viable downtown area.

**Mr. Hoyle** thanked Mr. Robinson an also wanted to apologize on the fact that this project was started in August and has been kicked around back and forth and finally it has come to almost a resolution. There is one more hurdle to jump. He also wanted to make Mr. Robinson and the entire attendees aware that there is a sex offender within one block of the school, this information is public record.

## 2. TEXT AMENDMENT – ELECTRONIC GAMING OPERATIONS

**Mr. Hoyle** asked if there was any reason for tattoo parlor, studio and body piercing going into C-2 just as a permitted use without having being a special use?

**Mr. Bass** responded that it is a fairly common business practice these days.

**Mr. Shaffer** expressed that he has no familiarity with electronic gaming and asked if it was a common practice too?

**Mr. Bass** explained that it is becoming very common and **Mr. Hoyle** added that is as fast growing as McDonald's was twelve years ago. **Mr. Bass** explained that the reason he brought it up is because he has been getting inquiries about it. A C-2 zone was chosen because it is the broadest commercial business district.

**Mr. Shaffer** asked Mr. Bass in comparison to other towns what is the typical zoning requirements for a tattoo parlor and the response was usually a permitted used by right.

**Mr. Hoyle** asked if he had contacted Carrboro since they just came up with a new ruling in regards to electronic gaming. Mr. Bass said he looked at their ruling and its nothing similar but he did look at Creedmoor's and they had a pretty involved set of rules. He made some changes and removed some things from the last document presented to the Board and combined a couple of conditions.

**Mr. Clifford** felt the original document was acceptable and agrees on some items that were extracted or condensed. He asked why he had removed Section E (*any computer gaming use shall be established as an accessory use with existing commercial building and can't exceed more than 10% of the floor area*) does that mean they can place any amount of gaming machines in? Mr. Bass response was yes and it would be based on the size of the building. The parking standard was also removed.

**Mr. Clifford** stressed that they should determine limits on these establishments now instead of every time somebody applies for a permit.

**Mr. Bland** questioned the matter on the number of feet these establishments need to be located from churches, schools, etc. and Mr. Bass explained 500 feet the common requirements on other municipalities.

**Mr. Clifford** then questioned why Section C, the two year compliance was removed, he thought the idea was to allow them to be in compliance and would like to have it included back in the document.

**Mr. Shaffer** went back to section E and asked if this was a parallel requirement that is seen in other jurisdictions and if it can be restricted and Mr. Bass responded that is was the same in other jurisdictions and can't be restricted.

**Mr. Hoyle** asked the board for their agreement to include section C. A mutual agreement was reached.

**Motion made by Ms. Alston to approve the general list as complied with the inclusion of section C. Mr. Plummer seconded. Approve unanimously.**

**Mr. Hoyle** continued to the Tattoo Parlor situation, there is no write up on the subject it was just included as a permitted use. It was asked if the board needed to vote on it and **Mr. Bass** said no but he would like to include it in since he has been getting inquiries on it. In response to Mr. Shaffer's question they are considered ordinance changes and that is why they require a public hearing. First it would go to the Town Board for review and if approved they will call for a hearing. **Vote was taken, all in favor.**

**Motion made by Mr. Hoyle that Tattoo Parlors will come up for discussion later or will go as one of the uses. Approve unanimously.**

## **E. BOARD MEMBER CONCERNS**

**Mr. Hoyle** welcomed Mr. Plummer as an appointed member of the Board.

**Mr. Plummer's** concern was that since he has been on the Board as an alternate member and what they have gone through with the special use process he does not feel that the process has to be streamlined, he does see the reason for having to go through a detail process but there needs to be some clarification at the beginning of the process for the applicant. A list of guidelines would be helpful therefore before the applicant applies for a special use license they can review the list. He

can't see a reason why there can be something like that in regards to special use permits. Is there anything that can be implemented as a Planning Board, or work in conjunction with the Town Staff or the Commissioners to clarify the process?

**Mr. Messick** was asked for his input, he said that Chapter 5 of the Zoning Ordinance does deal with specific special uses and has specific ones for certain criteria's as the ones talked about and would be included in this gaming operation. For purposes of an applicant it does advise what they need to have. Not as much as they may end up having to produce but it does tell them some things. There is a category for education or academic institutions and it does require certain minimum amount of information. This is what Mr. Bass was recommending for gaming establishments, the more sections A.B.C then the applicant knows what he has to comply with. If you don't have those sections and sort of wing it you are subject to be accused as arbitrary. It may be worthwhile to go thru the list and see what may not be appropriate any longer. Those are the kinds of things that the land development plan is supposed to be dealing with and the Planning Board should have an opinion on it. On the subject of Public Hearings, it probably does not make good sense to have a public hearing before the information is produced, it is better to have a public hearing at the end of the process.

**Mr. Hoyle** agrees with Mr. Messick, specifically the situation brought up on a previous case. All of the guidelines were delineated and many of them were skipped, missed or abused without delineating specific ones such as the property was not marked as being re zoning as it should, the adjacent property owners were not notified 15 days in advance, therefore that pushed everything back. The rules and regulation were there but they were not being followed. Applicants coming in for a special use permit should be handed out the requirements and advised that this is what has to be done, then is up to the applicant to submit all in detail without going back and forth. The Board needs to review conditional use and special use and define the difference, there are many things on that ordinance that just don't go together.

**Mr. Bland** concern was if the county had decided to ignore non conforming signs or perhaps the county might want to deal with them. He can't figure out where the Town stands on that. He has citizens come up and ask about signs. The Board tries to give them an answer but no one knows how to deal with it.

**Mr. Hoyle** claimed that the town has a good sign regulation that was reviewed, what Mr. Bland may be talking about is enforcement or selective enforcement.

**Mr. Bland** agreed. It appears to outsiders there is favorable treatment. Someone is going to show up and be upset, it would be appropriate for us to be prepared.

**Next Planning Board meeting scheduled for Monday March 5, 2012.**

#### **F. ADJOURNMENT:**

**Chairman Hoyle asked for motion to adjourn. Mr. Clifford made motion to adjourn, Ms. Alston seconded. Meeting adjourned at 8:11 PM.**