



# Agenda

## Board of Commissioners Work Session with Joint WSAC Meeting

7:00 PM August 26, 2024

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

This meeting will be live streamed on the [Town of Hillsborough YouTube channel](#)

1. **Opening of the work session**
2. **Agenda changes and approval**
3. **Items for decision - consent agenda**
  - [A.](#) Miscellaneous budget amendments and transfers
  - [B.](#) Proclamation – Living Wage Day 2024
  - [C.](#) Unified Development Ordinance text amendments (staff-initiated):
    - Section 6.1 *Development Standards – Purpose and Intent*
    - Section 6.20.16 *Development Standards: Stormwater Management – Riparian Buffers*
  - [D.](#) Flood Damage Prevention Ordinance text amendment (staff initiated): Article 3, Section 3.C
    - *Establishment of Floodplain Development Permit*
4. **In-depth discussion and topics**
  - [A.](#) Water and Sewer Advisory Committee and Board of Commissioners Joint Meeting Agenda
  - [B.](#) Rezoning request for 128 W. Margaret Lane
5. **Committee updates and reports**
6. **Adjournment**

Interpreter services or special sound equipment for compliance with the Americans with Disabilities Act is available on request. If you are disabled and need assistance with reasonable accommodations, call the Town Clerk's Office at 919-296-9443 a minimum of one business day in advance of the meeting.

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## Agenda Abstract

### BOARD OF COMMISSIONERS

Meeting Date: Aug. 26, 2024  
Department: Administration  
Agenda Section: Consent  
Public hearing: No  
Date of public hearing: N/A

#### PRESENTER/INFORMATION CONTACT

Emily Bradford, Budget Director

#### ITEM TO BE CONSIDERED

**Subject:** Miscellaneous budget amendments and transfers

**Attachments:**

Budget Changes Report

**Summary:**

To adjust budget revenues and expenditures, where needed, due to changes that have occurred since budget adoption.

**Financial impacts:**

As indicated by each amendment.

**Staff recommendation and comments:**

To approve the attached list of budget amendments and transfers.

**Action requested:**

Consider approving budget amendments and transfers.

FY 2024-2025

TOWN OF HILLSBOROUGH  
BUDGET CHANGES REPORT

DATES: 08/26/2024 TO 08/26/2024

	<u>REFERENCE</u>	<u>CHANGE NUMBER</u>	<u>DATE</u>	<u>USER</u>	<u>ORIGINAL BUDGET</u>	<u>BUDGET CHANGE</u>	<u>AMENDED BUDGET</u>
GF	10-00-9990-5300-000 CONTINGENCY						
	Contingency To cover new agreement re: bill inserts/ne	45502	08/26/2024	JFernandez	450,000.00	-4,264.00	434,883.00
Gov. Body	10-10-4100-5300-145 MAINTENANCE - BUILDINGS						
	Move refrigerator repair to correct accoun	45500	08/26/2024	JFernandez	250.00	-2,216.00	499.00
Gov. Body	10-10-4100-5300-330 SUPPLIES - DEPARTMENTAL						
	Move refrigerator repair to correct accoun	45499	08/26/2024	JFernandez	400.00	2,216.00	2,616.00
Comms	10-10-4600-5300-451 C.S./PRINTING						
	To cover new agreement re: bill inserts/ne	45501	08/26/2024	JFernandez	2,900.00	4,264.00	7,164.00
Water Dist.	30-80-8140-5300-326 SUPPLIES - PATCH						
	To cover sidewalk replacement from main	45496	08/26/2024	JFernandez	4,000.00	2,000.00	6,000.00
Water Dist.	30-80-8140-5300-330 SUPPLIES - DEPARTMENTAL						
	To cover sidewalk replacement from main	45495	08/26/2024	JFernandez	120,000.00	-2,000.00	109,500.00
						<u>0.00</u>	



## Agenda Abstract

### BOARD OF COMMISSIONERS

Meeting Date: Aug. 26, 2024  
Department: Governing Body  
Agenda Section: Consent  
Public hearing: No  
Date of public hearing: N/A

#### PRESENTER/INFORMATION CONTACT

Mayor Mark Bell

#### ITEM TO BE CONSIDERED

**Subject:** Proclamation – Living Wage Day 2024

**Attachments:**

Proclamation

**Summary:**

In 2016, Orange County developed a certification program for employers who voluntarily agree to pay a living wage to their employees and promotes those employers to the community to build a base of engaged, informed consumers who support living-wage-certified businesses and nonprofits. The Town of Hillsborough is one of 260 employers who are certified in this program.

**Financial impacts:**

None.

**Staff recommendation and comments:**

None.

**Action requested:**

Approve proclamation declaring Labor Day, Sept. 2, 2024 as Living Wage Day in the Town of Hillsborough.



# PROCLAMATION

## Living Wage Day 2024

**WHEREAS**, chronic poverty is one of the biggest challenges to sustainable, diverse, and healthy communities; and

**WHEREAS**, the costs of housing, food, childcare, transportation, and healthcare have increased substantially since the federal minimum wage of \$7.25/hour was last raised in 2009; and

**WHEREAS**, North Carolina is one of just 16 states that have not adjusted its \$7.25/hour minimum wage, even for inflation, over the past 15 years; and

**WHEREAS**, the current living wage in Orange County is \$17.65 per hour, more than \$10/hour higher than the state and federal minimums; and

**WHEREAS**, many workers in Orange County earn less than living wages and are living in poverty despite full-time employment; and

**WHEREAS**, higher wages create more opportunities for those who work in Orange County to live here and enjoy shorter commutes that free up time for recreation, family, and community; and

**WHEREAS**, employers who pay their workers a living wage report substantially less turnover and absenteeism, better job performance, and more positive customer engagement; and

**WHEREAS**, Orange County Living Wage, a 501(c)3 charitable organization, currently has more than 260 employers on its directory who voluntarily pay a living wage and promotes them locally to build a base of engaged, informed consumers who support living-wage-certified businesses and nonprofits; and

**WHEREAS**, Labor Day is a national holiday in recognition of the contributions of workers to the economy and the broader community;

**NOW, THEREFORE**, I, Mark Bell, mayor of the Town of Hillsborough, a living-wage-certified employer, do hereby proclaim Labor Day, Sept. 2, 2024, as Living Wage Day and encourage consumers to support businesses paying their workers a living wage.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused this seal of the Town of Hillsborough to be affixed this 26<sup>th</sup> day of August in the year 2024.

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Mark Bell, Mayor  
Town of Hillsborough



## Agenda Abstract

### BOARD OF COMMISSIONERS

Meeting Date:	Aug. 26, 2024
Department:	Stormwater and Environmental Services
Agenda Section:	Consent
Public hearing:	Yes
Date of public hearing:	Aug. 15, 2024

#### PRESENTER/INFORMATION CONTACT

Terry Hackett, Stormwater and Environmental Services Manager

#### ITEM TO BE CONSIDERED

**Subject:** Unified Development Ordinance text amendments (staff-initiated):

- Section 6.1 *Development Standards – Purpose and Intent*
- Section 6.20.16 *Development Standards: Stormwater Management – Riparian Buffers*

#### Attachments:

1. Proposed text amendment to UDO section referenced above
2. Consistency Statement
3. Ordinance

#### Summary:

Stormwater and Environmental Services previously proposed text amendments to the following UDO sections:

- Section 3.10.3 *Variance – General Standards/Findings of Fact*
- Section 3.10.6 *Variance – Procedure*
- Section 6.20.16 *Stormwater Management – Riparian Buffers*

Those amendments were adopted by the town board on Feb. 12, 2024. Since that time, the NC Division of Water Resources has requested some minor revisions, which are shown in red in the attached amendment.

The Joint Public Hearing for this amendment was held on Aug. 15, 2024. No residents signed up to speak on the item, and the boards did not request any changes. After the hearing closed, the Planning Board unanimously recommended approval of the text amendment with a vote of 7-0. Minutes for the hearing will be posted on the town's website once they are approved by the Planning Board.

#### Comprehensive Sustainability Plan goals:

Environment and Natural Systems Goal 1: Employ an integrated ecosystem approach and stewardship mentality to protect, conserve, and restore critical environmental areas and natural systems.

Strategy: Develop and participate in programs that contribute to sustained ecological health of the environment and natural systems (delegated local authority from the state to enforce the Neuse Riparian Buffer Rules)

**Financial impacts:** None

**Staff recommendation and comments:** Staff recommends approval of the text amendment as written.

**Action requested:** Approve the text amendment as written.

## 6.1 PURPOSE AND INTENT

The general intent of this section is to provide standards for development to help ensure the safe and convenient development of land on sites and in locations adequate for the uses proposed. No Zoning Compliance Permit or Certificate of Occupancy shall be issued for uses of land, structures and/or buildings, or for a change in the use, unless the requirements of this Chapter are met. The standards set forth in this section are to be used in conjunction with the other sections of this Ordinance in the development of projects and submittal of site plans.

For the purpose of Section 6.20.16 Riparian Buffers, “development” includes any impact or use within the riparian buffer or outside the riparian buffer with hydrological impacts on the riparian buffer.

## 6.20 STORMWATER MANAGEMENT

### 6.20.16 RIPARIAN BUFFERS

#### 6.20.16.1 Purpose and Intent

In order to minimize sedimentation and pollution of surface waters within the planning jurisdiction, riparian buffers shall be provided along all surface waters identified in *Section 6.20.16.3, Applicability*. Undisturbed natural areas along surface waters act as a filter for sedimentation control and as a stabilizing agent for the banks of surface waters. In addition, these areas filter storm water run-off which may carry significant amounts of bacteria, excess nutrients and heavy metals into surface waters. The buffer areas, along with controls on impervious surfaces, provide a good measure of water quality protection for the Eno River.

The Neuse River Basin Nutrient Sensitive Waters Management Strategy riparian buffer protection rules (Neuse Rules) of 15A NCAC 02B .0714, apply to all lands within the Town of Hillsborough’s planning jurisdiction. For the purpose of Section 6.20.16 Riparian Buffers, “development” includes any impact or use within the riparian buffer or outside the riparian buffer with hydrological impacts on the riparian buffer. Wherever standards of the Neuse Rules and the standards listed in this ordinance differ, the more restrictive provisions shall apply.

#### 6.20.16.2 Delegated Authority

The ~~North Carolina Environmental Management Commission~~ North Carolina Division of Water Resources (NCDWR) has jurisdiction to the exclusion of the Planning Director or designee to implement the requirements of the State’s program for the following types of activities:

- 6.20.16.2.a** Activities undertaken by the State.
- 6.20.16.2.b** Activities undertaken by the United States.
- 6.20.16.2.c** Activities undertaken by multiple jurisdictions.
- 6.20.16.2.d** Activities undertaken by local units of government; and
- 6.20.16.2.e** Forestry Operations

### 6.20.16.3 Applicability

A riparian buffer shall be established directly adjacent to surface waters (i.e. intermittent streams, perennial streams, lakes and ponds) identified by any of the following means:

**6.20.16.3.a** Surface water shown as solid blue or purple lines or as broken blue or purple lines on the most recent version of USGS Quadrangle maps.

**6.20.16.3.b** Surface water shown in the ~~most recent~~ published version of the Orange County Soil Survey; or

**6.20.16.3.c** A surface water identified in a field determination made by Hillsborough staff trained in surface water identification through the North Carolina ~~Department of Environmental Quality (NCDEQ)~~ Division of Water Resources (NCDWR). ~~Disputes pertaining to water feature decisions by staff shall be filed directly to the Director of NCDEQ. If a party disputes the presence of a subject feature, then a request should be made to Hillsborough staff to conduct a field evaluation.~~

### 6.20.16.4 Exemption Based upon an On-site Determination

When a landowner or other affected party including ~~NCDEQ-NCDWR~~ believes that the maps inaccurately depict surface waters, they may request an On-site determination conducted by Hillsborough staff who has successfully completed the ~~NCDEQ's~~ NCDWR's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by ~~NCDEQ NCDWR~~. Any disputes over on-site determinations shall be referred to the Director of ~~NCDEQ-NCDWR~~ in writing. A determination of the Director of ~~NCDEQ-NCDWR~~ as to the accuracy or application of the maps is subject to review as provided in articles 3 and 4 of G.S. 150B. Surface waters that appear on the maps shall not be subject to *Section 6.20.16, Riparian Buffers* ~~is-if~~ a site evaluation reveals any of the following cases:

**6.20.16.4.a** Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 02B .0101, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.

**6.20.16.4.b** Ephemeral streams.

**6.20.16.4.c** The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond.

**6.20.16.4.d** Ditches or other man-made water conveyances, other than modified natural streams.

### 6.20.16.5 Exemption when Existing Uses are Present and Ongoing

*Section 6.20.16, Riparian Buffers* does not apply to portions of the riparian buffer where a use is considered existing and ongoing according in accordance with 15A NCAC 02B .0714 (6) (a). A use is considered existing if it was present within the riparian buffer as of July 22, 1997. Existing uses shall include, but not be limited to, agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site



sanitary sewage systems. Only the portion of the riparian buffer that contains the footprint of the existing use is exempt from *Section 6.20.16, Riparian Buffers*.

#### **6.20.16.6 Calculations for Width of Riparian Buffers**

A buffer of fifty (50) feet in width as defined in *Section 6.20.16.7* is required on all sides of the surface water as identified in *Section 6.20.16.3, Applicability*. For streams within the PW and PWCA zoning districts (see *Section 4.5, Other Zoning Districts*), the width of the stream is calculated as outlined in *Section 4.5.3.8.d, Calculating Width of Riparian Buffer*.

#### **6.20.16.7 Zones of the Riparian Buffer**

**6.20.16.7.a** Zone 1 shall consist of a vegetated area that is undisturbed except for uses provided for in sections 6.20.16.8, ~~Permitted Uses within Riparian Buffers~~ and 6.20.16.11, *Stormwater Runoff Through the Riparian Buffer*. The location of Zone 1 shall be as follows:

- (i) For intermittent and perennial streams, Zone 1 shall begin at the most landward limit of the top of bank or the rooted herbaceous vegetation and extend landward a distance of 30 feet on all sides of the stream, measured horizontally on a line perpendicular to the stream (where an intermittent or perennial stream begins or ends, including when it goes underground, enters or exits a culvert, or enters or exits a wetland, the required distance shall be measured as a radius around the beginning or the end).
- (ii) For ponds, lakes and reservoirs, Zone 1 shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to the surface water.

**6.20.16.7.b** Zone 2 shall consist of a stable, vegetated area that is undisturbed except for activities and uses provided for in sections 6.20.16.8, ~~Permitted Uses within Riparian Buffers~~ and 6.20.16.11, *Stormwater Runoff Through the Riparian Buffer*. Grading and revegetating Zone 2 is allowed provided that the health of the vegetation in Zone 1 is not compromised. Zone 2 shall begin at the outer edge of Zone 1 and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones 1 and 2 shall be 50 feet on all sides of the surface water.

#### **6.20.16.8 ~~Permitted Uses Within Riparian Buffers~~**

Uses within the riparian buffer, or outside the riparian buffer with hydrological impacts on the riparian buffer, shall be designated as deemed allowable, allowable upon authorization, allowable with mitigation upon authorization, ~~allowable with exception~~ or prohibited. Potential new uses shall have the following requirements.

**6.20.16.8.a Deemed Allowable.** Uses designated as deemed allowable in *Table 6.20.16.8*, ~~Permitted Uses within Riparian Buffers~~ and 6.20.16.11, *Stormwater Runoff Through the Riparian Buffer* may occur within the riparian buffer. Deemed allowable uses shall be designed, constructed and maintained to minimize vegetation and soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance

activities. In addition, deemed allowable uses shall meet all requirements listed in *Table 6.20.16.8, ~~Permitted-Uses within Riparian Buffers~~* for the specific use.

- 6.20.16.8.b Allowable Upon Authorization.** Uses designated as allowable upon authorization in *Table 6.20.16.8, ~~Permitted-Uses within Riparian Buffers~~* and *6.20.16.11, ~~Stormwater Runoff Through the Riparian Buffer~~* require a written Authorization Certificate for impacts within the riparian buffer pursuant to *Section 6.20.16.9, Basis for “No Practical Alternatives”* and *Section 6.20.16.10, Written Authorization Required*.
- 6.20.16.8.c Allowable with Mitigation Upon Authorization.** Uses designated as allowable with mitigation upon authorization in *Table 6.20.16.8, ~~Permitted-Uses within Riparian Buffers~~* require a written Authorization Certificate for impacts within the riparian buffer pursuant to *Section 6.20.16.9, Basis for “No Practical Alternatives”* and *Section, 6.20.16.10, ~~Written Authorization Required~~*. In addition, an appropriate mitigation strategy is required pursuant to *Section 6.20.16.12, Mitigation*.
- 6.20.16.8.d Prohibited.** Uses designated as prohibited in *Table 6.20.16.8, ~~Permitted-Uses within Riparian Buffers~~* may not proceed within the riparian buffer unless a variance is granted by the North Carolina Environmental Management Commission pursuant to 15A NCAC 02B .0226. Mitigation may be required as a condition of variance approval.

**Table 6.20.16.8 ~~Permitted~~ Uses within Riparian Buffers**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
<u>a) Airport Facilities</u>				
<u>i) Vegetation removal activities necessary to comply with Federal Aviation Administration requirements (e.g., line of sight requirements) provided the disturbed areas are stabilized and revegetated</u>	X			
<u>ii) Airport facilities that impact equal to or less than one-third of an acre of riparian buffer</u>		X		
<u>iii) Airport facilities that impact greater than one third of an acre of riparian buffer</u>			X	
<u>a)b) Archaeological activities</u>				
<u>b)c) Bridges:</u>				
<u>i) Impact equal to or less than one-tenth of an acre of riparian buffer</u>	X			
<u>ii) Impact greater than one-tenth of an acre of riparian buffer</u>		X		
<u>e)d) Dam maintenance activities:</u>				
<u>i) Dam maintenance activities that do not cause additional riparian buffer disturbance beyond the footprint of the existing dam</u>	X			
<u>ii) Dam maintenance activities that do cause additional riparian buffer disturbance beyond the footprint of the existing dam</u>		X		
<u>e)e) Drainage of a pond subject to Section 6.20.16.3, Applicability provided that a new riparian buffer is established by natural regeneration or planting, within 50 feet of any stream which naturally forms or is constructed within the drained pond area. Drained ponds shall be allowed to naturalize for a minimum of six months from completion of the draining activity before a stream determination is conducted pursuant to Section 6.20.16.3.c.</u>	X			
<u>e)f) Fences:</u>				
<u>i) Fencing livestock out of surface waters</u>	X			
<u>ii) Installation does not result in removal of trees from Zone 1</u>	X			
<u>iii) Installation results in removal of trees from Zone 1</u>		X		

**Table 6.20.16.8 ~~Permitted~~ Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
<u>f)g)</u> Fertilizer application:				
i) One-time fertilizer application at agronomic rates in the riparian buffer to establish replanted vegetation. No runoff from this one-time application in the riparian buffer is allowed in the surface water	X			
ii) Ongoing fertilizer application				X
<u>h)</u> Forest harvesting – see 15A NCAC 02B .0612				
<u>g)l)</u> Grading only in Zone 2 provided that the health of existing vegetation in Zone 1 is not compromised, <i>Section 6.20.16.11, Stormwater Through the Riparian Buffer</i> is complied with, and disturbed areas are stabilized and revegetated		X		
<u>h)j)</u> Greenways, trails, sidewalks or linear pedestrian/bicycle transportation systems:				
i) In Zone 2 provided that no built-upon area is added within the riparian buffer	X			
ii) In Zone 1 provided that no built-upon area is added within the riparian buffer and the installation does not result in the removal of tree(s)	X			
iii) When built-upon area is added to the riparian buffer, equal to or less than 10 feet wide with two foot wide shoulders. Shall be located outside Zone 1 unless there is no practical alternative		X		
iv) When built-upon area is added to the riparian buffer, greater than 10 feet wide with two foot wide shoulders. Shall be located outside Zone 1 unless there is no practical alternative			X	
<u>i)k)</u> Historic preservation	X			
<u>j)l)</u> New Landfills as defined by NC G.S. 130A-290				X
<u>m)</u> <u>Maintenance access on modified natural streams or canals: a grassed travelway on one side of the waterbody when less impacting alternatives are not practical. The width and specifications of the travelway shall be only that needed for equipment access and operation. The travelway shall be located to maximize stream shading.</u>		X		

**Table 6.20.16.8 Permitted-Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
<u>k)n</u> Mining activities:				
i) Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements in sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> are established adjacent to any relocated channels		X		
ii) Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements in sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> are not established			X	
iii) Wastewater or mining dewatering wells with approved NPDES permit	X			
<u>h)o</u> On-site sanitary sewage systems - new ones that use ground absorption				X
<u>m)p</u> Pedestrian access trails and associated steps leading to a surface water, dock, canoe or kayak access, fishing pier, boat ramp or other water dependent structure:				
i) Equal to or less than six feet wide that does not result in the removal of tree(s) within the riparian buffer and does not result in the addition of built-upon area to the riparian buffer	X			
ii) Equal to or less than six feet wide that results in the removal of tree(s) or the addition of built-upon area to the riparian buffer		X		
iii) Greater than six feet wide			X	
<u>n)g</u> Playground equipment:				
i) Playground equipment on single-family lots provided that installation and use does not result in removal of vegetation	X			
ii) Playground equipment on single-family lots where installation or use results in the removal of vegetation		X		
iii) Playground equipment installed on lands other than single-family lots		X		
<u>e)r</u> Ponds created or modified by impounding streams subject to riparian buffers pursuant to Section 6.20.16.3, <i>Applicability</i> and not used as stormwater control measures (SCMs):				
i) New ponds provided that a riparian buffer that meets the requirements of sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> is established adjacent to the pond		X		
ii) New ponds where a riparian buffer that meets the requirements of sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> is NOT established adjacent to the pond			X	

**Table 6.20.16.8 ~~Permitted~~ Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
<u>p)s</u> ) Protection of existing structures and facilities when this requires additional disturbance to the riparian buffer		X		
<u>q)t</u> ) Public Safety - Publicly owned spaces where it has been determined by the head of the local law enforcement agency with jurisdiction over that area that the riparian buffers pose a risk to public safety. The head of the local law enforcement agency shall notify the local government with land use jurisdiction over the publicly owned space and the Division of Water Resources of any such determination in writing	X			
<u>r)u</u> ) Removal of previous fill or debris provided that <i>Section 6.20.16.11, Stormwater Runoff Through the Riparian Buffer</i> is complied with and any vegetation removed is restored		X		
<u>s)v</u> ) Residential Properties: Where application of this Rule would preclude construction or expansion of a single-family residence and necessary infrastructure, the single-family residence may encroach in the buffer if all of the following conditions are met: (1) the residence is set back the maximum feasible distance from the top of the bank, rooted herbaceous vegetation, normal high-water level, or normal water level, whichever is applicable, on the existing lot; (2) the residence is designed to minimize encroachment into the riparian buffer; (3) the residence complies with <i>Section 6.20.16.11, Stormwater Runoff Through the Riparian Buffer</i> ; and (4) if the residence will be served by an on-site wastewater system, no part of the septic tank or drainfield may encroach into the riparian buffer:				
i) The residence or necessary infrastructure only impact Zone 2		X		
ii) The residence or necessary infrastructure impact Zone 1			X	
iii) Impacts other than the residence or necessary infrastructure			X	
<u>t)w</u> ) Restoration or enhancement (wetland, stream) as defined in 33 CFR Part 332 available free of charge on the internet at: <a href="http://water.epa.gov/lawsregs/guidance/wetlands/wetlandsmitigation_index.cfm">http://water.epa.gov/lawsregs/guidance/wetlands/wetlandsmitigation_index.cfm</a> :				
i) Wetland or stream restoration is part of a compensatory mitigation bank, nutrient offset bank, or the In Lieu Fee program	X			
ii) Wetland or stream restoration other than those listed above		X		

**Table 6.20.16.8 ~~Permitted~~ Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
w)x) Road, driveway or railroad - impacts other than perpendicular crossings of streams and other surface waters subject to this Rule			X	
v)y) Road, driveway or railroad - perpendicular crossings of streams and other surface waters subject to this Rule				
i) Impact equal to or less than one-tenth of an acre of riparian buffer	X			
ii) Impact greater than one-tenth of an acre but equal to or less than one-third of an acre of riparian buffer		X		
iii) Impact greater than one-third of an acre of riparian buffer			X	
iv) Driveway crossings in a residential subdivision that cumulatively impact equal to or less than one-third of an acre of riparian buffer		X		
v) Driveway crossings in a residential subdivision that cumulatively impact greater than one-third of an acre of riparian buffer			X	
vi) Farm roads and forest roads that are exempt from permitting from the U.S. Army Corps of Engineers per Section 404(f) of the Federal Clean Water Act	X			
w)z) Road relocation of existing private access roads associated with public road projects where necessary for public safety:				
i) Less than or equal to 2,500 square feet of riparian buffer impact		X		
ii) Greater than 2,500 square feet of riparian buffer impact			X	
x)aa) Scientific studies and stream gauging	X			
y)bb) Slatted uncovered decks, including steps and support posts, which are associated with a dwelling, provided that it meets the requirements of sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> and:				
i) Installation does not result in removal of vegetation in Zone 1		X		
ii) Installation results in removal of vegetation in Zone 1			X	
z)cc) Stormwater Control Measure (SCM) as defined in 15A NCAC 02H .1002:				
i) In Zone 2 if <i>Section 6.20.16.11, Stormwater Runoff Through the Riparian Buffer</i> is complied with		X		
ii) Installation results in removal of vegetation in Zone 1			X	

**Table 6.20.16.8 ~~Permitted~~ Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
<del>aa)</del> dd) Streambank or shoreline stabilization		X		
<del>bb)</del> ee) Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions and replanted with comparable vegetation within two months of when construction is complete. Tree planting may occur during the dormant season. At the end of five years, any restored wooded riparian buffer shall comply with the restoration criteria in 15A NCAC 02B .0295:				
i) Less than or equal to 2,500 square feet of riparian buffer disturbance	X			
ii) Greater than 2,500 square feet of riparian buffer disturbance		X		
iii) Associated with culvert installation or bridge construction or replacement		X		
<del>cc)</del> ff) Temporary sediment and erosion control devices provided that the disturbed area is restored to preconstruction topographic and hydrologic conditions and replanted with comparable vegetation within two months of when construction is complete. Tree planting may occur during the dormant season. At the end of five years, any restored wooded riparian buffer shall comply with the restoration criteria in 15A NCAC 02B .0295:				
i) In Zone 2 provided that ground cover is established within the timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone 1 is not compromised, and that discharge is released in accordance with <i>Section 6.20.16.11, Stormwater Runoff Through the Riparian Buffer</i>	X			
ii) In Zones 1 and 2 to control impacts associated with uses identified in this table or uses that have received an Authorization Certificate with Exception provided that sediment and erosion control for upland areas is addressed outside the riparian buffer		X		
iii) In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Clean Water Act	X			
<del>dd)</del> gg) Utility Lines - Streambank stabilization for the protection of publicly owned utility lines (not including new line installation):				
i) Less than 150 feet of streambank disturbance	X			
ii) Greater than 150 feet of streambank disturbance		X		



**Table 6.20.16.8 ~~Permitted~~ Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
<u>ee)hh)</u> Utility – Sewer lines – Sanitary Sewer Overflows:				
i) Emergency sanitary sewer overflow response activities, provided that the disturbed area within the riparian buffer outside of the existing utility line maintenance corridor is the minimum necessary to respond to the emergency overflow, is restored to pre-construction topographic and hydrologic conditions, and is replanted with comparable vegetation (e.g. grass with grass, hardwoods with hardwoods) within two months of when disturbance is complete	X			
ii) Emergency sanitary sewer overflow response activities that do not meet the listing above. For any new proposed permanent impacts that are not a "Deemed Allowable" activity, an application for an Authorization Certificate shall be submitted to the Authority no later than 30 calendar days of conclusion of the emergency response activities		X		
<u>ff)jj)</u> Utility - Sewer Lines – Vegetation maintenance activities that remove forest vegetation from existing sewer utility right of ways (not including new line installation) outside of the existing utility line maintenance corridor:				
i) Zone 2 impacts	X			
ii) Zone 1 impacts: For lines that have not been maintained, the vegetation can be mowed, cut or otherwise maintained without disturbance to the soil structure for a maintenance corridor that is equal to or less than 30 feet wide	X			
iii) Zone 1 impacts other than those listed above		X		
<u>gg)jj)</u> Utility - Sewer Lines –Replacement/Rehabilitation of existing sewer lines within, or adjacent to, an existing right of way but outside of an existing utility line maintenance corridor provided that comparable vegetation (e.g. grass with grass, hardwoods with hardwoods) is allowed to regenerate in disturbed riparian buffers outside of the permanent maintenance corridor and riparian buffers outside of the permanent maintenance corridor are not maintained:				
i) Permanent maintenance corridor equal to or less than 30 feet wide provided there is no grading and/or grubbing within 10 feet of the top of bank when the sewer line is parallel to the stream	X			
ii) Grading and/or grubbing within 10 feet of the top of bank when the sewer line is parallel to the stream and permanent maintenance corridor equal to or less than 30 feet wide		X		

**Table 6.20.16.8 ~~Permitted~~-Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
iii) Permanent maintenance corridor greater than 30 feet wide. For impacts other than perpendicular crossings, mitigation is only required for Zone 1 impacts. For perpendicular crossings that disturb equal to or less than 40 linear feet, no mitigation is required. For perpendicular crossings that disturb greater than 40 linear feet, mitigation is only required for Zone 1 impacts			X	
<del>hh)kk)</del> Utility - Sewer Lines – New Line Construction/Installation Activities – Perpendicular crossings of streams and other surface waters subject to <i>Section 6.20.16</i> , or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to <i>Section 6.20.16</i> , provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor:				
i) Construction corridor of less than or equal to 40 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide	X			
ii) Construction corridor of greater than 40 linear feet wide and less than or equal to 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide		X		
iii) Construction corridor of greater than 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide			X	
iv) Permanent maintenance corridor greater than 30 feet wide. For impacts other than perpendicular crossings, mitigation is only required for Zone 1 impacts. For perpendicular crossings that disturb equal to or less than 40 linear feet, no mitigation is required. For perpendicular crossings that disturb greater than 40 linear feet, mitigation is only required for Zone 1 impacts			X	
<del>ii)ll)</del> Utility - Sewer Lines – New Line Construction/Installation Activities – Impacts other than perpendicular crossings provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor:				
i) Zone 2 impacts	X			
ii) Zone 1 impacts to less than 2,500 square feet when impacts are solely the result of tying into an existing utility line and when grubbing or grading within 10 feet immediately adjacent to the surface water is avoided		X		
iii) Zone 1 impacts other than those listed above			X	

**Table 6.20.16.8 ~~Permitted~~ Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
<p><del>jj</del>mm) Utility - Non-sewer Underground Lines – Vegetation maintenance activities that remove forest vegetation from existing utility right of ways (not including new line installation) outside of the existing utility line maintenance corridor:</p>				
i) Zone 2 impacts	X			
ii) Zone 1 impacts: For lines that have not been maintained, the vegetation can be mowed, cut or otherwise maintained without disturbance to the soil structure for a maintenance corridor that is equal to or less than 30 feet wide	X			
iii) Zone 1 impacts other than those listed above		X		
<p><del>kk</del>nn) Utility – Non-Sewer Underground Lines – Perpendicular crossings of streams and other surface waters subject to <i>Section 6.20.16</i>, or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to <i>Section 6.20.16</i>, provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor:</p>				
i) Construction corridor of less than or equal to 50 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide	X			
ii) Construction corridor of greater than 50 linear feet wide and less than or equal to 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide		X		
iii) Construction corridor of greater than 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide			X	
iv) Permanent maintenance corridor that is greater than 30 linear feet wide (mitigation is required only for Zone 1 impacts)			X	
<p><del>ll</del>oo) Utility – Non-Sewer Underground Lines – Impacts other than perpendicular crossings provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor:</p>				
i) Zone 2 impacts	X			
ii) Zone 1 impacts to less than 2,500 square feet when impacts are solely the result of tying into an existing utility line and when grubbing or grading within 10 feet immediately adjacent to the surface water is avoided		X		
iii) Zone 1 impacts other than those listed above			X	

**Table 6.20.16.8 ~~Permitted~~ Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
<u>mm)pp)</u> Utilities – Non-sewer aerial lines - Perpendicular crossings of streams and other surface waters subject to <i>Section 6.20.16</i> , or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to <i>Section 6.20.16</i> :				
i) Disturb equal to or less than 150 linear feet wide of riparian buffer provided that a minimum zone of 10 feet wide immediately adjacent to the waterbody is managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed, that no land grubbing or grading is conducted in Zone 1, and that poles or aerial infrastructure are not installed within 10 feet of a waterbody	X			
ii) Disturb greater than 150 linear feet wide of riparian buffer		X		
<u>nn)qq)</u> Utilities – Non-sewer Aerial Lines - Impacts other than perpendicular crossings of streams and other surface waters subject to this <i>Section 6.20.16</i> , or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to this <i>Section 6.20.16</i> :				
i) Impacts in Zone 2 only	X			
ii) Impacts in Zone 1 provided that a minimum zone of 10 feet wide immediately adjacent to the waterbody is managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed, that no land grubbing or grading is conducted in Zone 1, and that poles or aerial infrastructure are not installed within 10 feet of a waterbody		X		
<u>oo)rr)</u> Vegetation management:				
i) Emergency fire control measures provided that topography is restored	X			
ii) Periodic mowing and harvesting of plant products only in Zone 2	X			
iii) Placement of mulch ring around restoration plantings for a period of five years from the date of planting	X			
iv) Planting non-invasive vegetation to enhance the riparian buffer	X			
v) Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised	X			
vi) Removal of individual trees, branches or limbs which are in danger of causing damage to dwellings, existing utility lines, other structures or human life, or are imminently endangering stability of the streambank provided that the stumps are left or ground in place without causing additional land disturbance	X			

**Table 6.20.16.8 Permitted-Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
vii) Removal of individual trees that are dead, diseased or damaged	X			
viii) Removal of poison ivy, oak or sumac. Removal can include application of pesticides within the riparian buffer if the pesticides are certified by EPA for use in or near aquatic sites and are applied in accordance with the manufacturer's instructions. If removal is significant, then the riparian buffer shall be replanted with non-invasive species		X		
ix) Removal of understory nuisance vegetation as defined in: Smith, Cherri L. 2008. Invasive Plants of North Carolina. Dept. of Transportation. Raleigh, NC. Removal can include application of pesticides within the riparian buffer if the pesticides are certified by EPA for use in or near aquatic sites and are applied in accordance with the manufacturer's instructions. If removal is significant then the riparian buffer shall be replanted with non-invasive species		X		
x) Removal of woody vegetation in Zone 1 provided that <i>Section 6.20.16.11, Stormwater Runoff Through the Riparian Buffer</i> is complied with			X	
<u>pp)ss</u> Vehicle access roads and boat ramps (excluding parking areas) leading to surface water, docks, fishing piers, and other water dependent activities:				
i) Single vehicular access road and boat ramp to the surface water but not crossing the surface water that are restricted to the minimum width practicable not to exceed 15 feet wide		X		
ii) Vehicular access roads and boat ramps to the surface water but not crossing the surface water that are restricted to the minimum width practicable and exceed 15 feet wide			X	
<u>qq)tt</u> Water dependent structures (except for boat ramps) as defined in 15A NCAC 02B .0202		X		
<u>rr)uu</u> Water supply reservoirs:				
i) New reservoirs provided that a riparian buffer that meets the requirements of sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> is established adjacent to the reservoir		X		
ii) New reservoirs where a riparian buffer that meets the requirements of sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> is NOT established adjacent to the reservoir			X	
<u>ss)vv</u> Water wells	X			
<u>tt)ww</u> Wildlife passage structures		X		

#### **6.20.16.9 Basis for “No Practical Alternatives”**

Where written authorization is required in *Section 6.20.16.8, ~~Permitted~~ Uses Within Riparian Buffers*, the applicant must demonstrate “no practical alternatives.” The determination of “no practical alternatives” will be made by the Planning Director or designee based upon the following:

- 6.20.16.9.a** The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality.
- 6.20.16.9.b** The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality.
- 6.20.16.9.c** Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.

#### **6.20.16.10 Written Authorization Required**

Where written authorization is required in *Section 6.20.16.8, ~~Permitted~~ Uses Within Riparian Buffers*, proposed impacts to the riparian buffer may not commence until written authorization is provided by the Planning Director or designee. Use authorization may include conditions specific to the proposed activity. Unauthorized impacts to riparian buffers are subject to enforcement penalties as outlined in *Section 8, Enforcement*.

Prior to any land disturbing activity within a designated riparian buffer, the property owner shall provide written notification of the location and nature of the proposed use to the Planning Director or designee for review. Written notification must include the following:

- 6.20.16.9.a** The name, address and phone number of the applicant.
- 6.20.16.9.b** The nature of the activity to be conducted by the applicant.
- 6.20.16.9.c** The location of the activity.
- 6.20.16.9.d** A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in the riparian buffers associated with the activity, and the extent of the riparian buffers on the land; and
- 6.20.16.9.e** An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality.
- 6.20.16.9.f** Plans for any best management practices proposed to be used to control the impacts associated with the activity.

#### **6.20.16.11 Stormwater Runoff Through the Riparian Buffer**

**6.20.16.11.a** Stormwater runoff into the riparian buffer shall meet dispersed flow as defined in 15A NCAC 02H .1002 except as otherwise described in this section. Drainage conveyances include drainage ditches, roadside ditches, and stormwater conveyances.

The following stormwater conveyances through the riparian buffer are either deemed allowable or allowable upon authorization, as defined in *Section 6.20.16.8, ~~Permitted~~ Uses within Riparian Buffers*, provided that they do not

erode through the riparian buffer and do not cause erosion to the receiving waterbody. Stormwater conveyances through the riparian buffer that are not listed below ~~shall be allowable with exception as defined in Section 6.20.16.8.e; Allowable with Exception are not allowable.~~

**6.20.16.11.b** The following are deemed allowable as defined in *Section 6.20.16.8.a, Deemed Allowable*:

- i. New drainage conveyances from a Primary SCM, as defined in 15A NCAC 02H .1002, when the Primary SCM is designed to treat the drainage area to the conveyance and that comply with a stormwater management plan reviewed and approved under a state stormwater program or a state-approved local government stormwater program; and
- ii. New stormwater flow to existing drainage conveyances provided that the addition of new flow does not result in the need to alter the conveyance.

**6.20.16.11.c** The following are allowable upon authorization as defined in *Section 6.20.16.8.b, Allowable Upon Authorization*:

- i. New drainage conveyances from a Primary SCM as defined in 15A NCAC 02H .1002 when the Primary SCM is provided to treat the drainage area to the conveyance but are not required to be approved under a state stormwater program or a state-approved local government stormwater program;
- ii. New drainage conveyances when the drainage area to the conveyance is demonstrated via approved nutrient calculation methodologies to meet the nutrient loading goal of 2.2 pounds per acre per year of Nitrogen (N) and 0.33 pounds per acre per year of Phosphorus (P);
- iii. New drainage conveyances when the flow rate of the conveyance is less than 0.5 cubic feet per second during the peak flow from the 0.75 inch per hour storm;
- iv. New stormwater runoff that has been treated through a level spreader-filter strip that complies with 15A NCAC 02H .1059;
- v. Realignment of existing drainage conveyances applicable to publicly funded and maintained linear transportation facilities when retaining or improving the design dimensions provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations;
- vi. Realignment of existing drainage conveyances retaining or improving the design dimensions provided that the size of the drainage area and the percent built-upon area within the drainage area remain the same;
- vii. New or altered drainage conveyances applicable to publicly funded and maintained linear transportation facilities provided that SCMs, or BMPs from the NCDOT Stormwater Best Management Practices Toolbox, are employed;
- viii. New drainage conveyances applicable to publicly funded and maintained linear transportation facilities that do not provide a stormwater

management facility due to topography constraints provided other measures are employed to protect downstream water quality to the maximum extent practical; and

- ix. New drainage conveyances where the drainage area to the conveyance has no new built-upon area as defined in 15A NCAC 02H .1002 and the conveyance is necessary for bypass of existing drainage only.

#### **6.20.16.12 Mitigation**

Where mitigation is required pursuant to the permitted uses listed in *Section 6.20.16.8, ~~Permitted-Uses Within Riparian Buffers~~* and *Table 6.20.16.8, ~~Permitted-Uses within Riparian Buffers~~*, mitigation shall follow the standards set out in the state's consolidated Riparian Buffer Mitigation Rule, 15A NCAC 02B .0295.

#### **6.20.16.13 Riparian Buffer and Minimum Lot Requirements**

The riparian buffer may be used in meeting the required minimum lot areas set forth in the Ordinance.



**HILLSBOROUGH BOARD OF COMMISSIONERS**  
**Consistency Statement per Section 160D-605(a)**

**Text Amendment Request from: Staff – Stormwater and Environmental Services**  
**Aug. 26, 2024**

The Hillsborough Board of Commissioners has received and reviewed the application from town Stormwater and Environmental Services staff to amend the Hillsborough Unified Development Ordinance as follows:

*Amend UDO §6.1 (Development Standards – Purpose and Intent) and §6.20.16 (Development Standards – Stormwater Management – Riparian Buffers) to conform with requested revisions from the Division of Water Resources of the North Carolina Department of Environmental Quality.*

The Hillsborough Board of Commissioners has determined the proposed action **is/is not** consistent with the Town of Hillsborough’s Comprehensive Sustainability Plan (CSP) for the following reason(s):

1. The amendments are consistent with the *Environment and Natural Systems* chapter goal to “Employ an integrated ecosystem approach and stewardship mentality to protect, conserve, and restore critical environmental areas and natural systems.”

Strategy: Develop and participate in programs that contribute to sustained ecological health of the environment and natural systems.

The foregoing consistency statement having been submitted to a vote, received the following vote and was duly adopted this 26<sup>th</sup> day of August in the year 2024.

Ayes:

Noes:

Absent or excused:

---

Sarah E. Kimrey, Town Clerk



# ORDINANCE

## Amending the Hillsborough Unified Development Ordinance

### Sections 6.I & 6.20.16

The Hillsborough Board of Commissioners ordains the following amendments:

- Section 1.** The amendments to UDO Section 6.1, *Development Standards – Purpose and Intent* and Section 6.20.16, *Development Standards – Stormwater Management – Riparian Buffers* as attached hereto.
- Section 2.** All provisions of any town ordinance in conflict with this ordinance are repealed.
- Section 3.** This ordinance shall become effective upon adoption.

The foregoing ordinance having been submitted to a vote, received the following vote and was duly adopted this 26th day of August in the year 2024.

Ayes:

Noes:

Absent or excused:

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Sarah E. Kimrey, Town Clerk

## 6.1 PURPOSE AND INTENT

The general intent of this section is to provide standards for development to help ensure the safe and convenient development of land on sites and in locations adequate for the uses proposed. No Zoning Compliance Permit or Certificate of Occupancy shall be issued for uses of land, structures and/or buildings, or for a change in the use, unless the requirements of this Chapter are met. The standards set forth in this section are to be used in conjunction with the other sections of this Ordinance in the development of projects and submittal of site plans.

For the purpose of *Section 6.20.16 Riparian Buffers*, “development” includes any impact or use within the riparian buffer or outside the riparian buffer with hydrological impacts on the riparian buffer.

## 6.20 STORMWATER MANAGEMENT

### 6.20.16 RIPARIAN BUFFERS

#### 6.20.16.1 Purpose and Intent

In order to minimize sedimentation and pollution of surface waters within the planning jurisdiction, riparian buffers shall be provided along all surface waters identified in *Section 6.20.16.3, Applicability*. Undisturbed natural areas along surface waters act as a filter for sedimentation control and as a stabilizing agent for the banks of surface waters. In addition, these areas filter storm water run-off which may carry significant amounts of bacteria, excess nutrients and heavy metals into surface waters. The buffer areas, along with controls on impervious surfaces, provide a good measure of water quality protection for the Eno River.

The Neuse River Basin Nutrient Sensitive Waters Management Strategy riparian buffer protection rules (Neuse Rules) of 15A NCAC 02B .0714, apply to all lands within the Town of Hillsborough’s planning jurisdiction. For the purpose of *Section 6.20.16 Riparian Buffers*, “development” includes any impact or use within the riparian buffer or outside the riparian buffer with hydrological impacts on the riparian buffer. Wherever standards of the Neuse Rules and the standards listed in this ordinance differ, the more restrictive provisions shall apply.

#### 6.20.16.2 Delegated Authority

The North Carolina Division of Water Resources (NCDWR) has jurisdiction to the exclusion of the Planning Director or designee to implement the requirements of the State’s program for the following types of activities:

- 6.20.16.2.a Activities undertaken by the State.
- 6.20.16.2.b Activities undertaken by the United States.
- 6.20.16.2.c Activities undertaken by multiple jurisdictions.
- 6.20.16.2.d Activities undertaken by local units of government; and
- 6.20.16.2.e Forestry Operations

#### 6.20.16.3 Applicability

A riparian buffer shall be established directly adjacent to surface waters (i.e. intermittent streams, perennial streams, lakes and ponds) identified by any of the following means:

- 6.20.16.3.a Surface water shown as solid blue or purple lines or as broken blue or purple lines on the most recent version of USGS Quadrangle maps.
- 6.20.16.3.b Surface water shown in the published version of the Orange County Soil Survey; or

**6.20.16.3.c** A surface water identified in a field determination made by Hillsborough staff trained in surface water identification through the North Carolina Division of Water Resources (NCDWR). If a party disputes the presence of a subject feature, then a request should be made to Hillsborough staff to conduct a field evaluation.

#### **6.20.16.4 Exemption Based upon an On-site Determination**

When a landowner or other affected party including NCDWR believes that the maps inaccurately depict surface waters, they may request an On-site determination conducted by Hillsborough staff who has successfully completed the NCDWR's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by NCDWR. Any disputes over on-site determinations shall be referred to the Director of NCDWR in writing. A determination of the Director of NCDWR as to the accuracy or application of the maps is subject to review as provided in articles 3 and 4 of G.S. 150B. Surface waters that appear on the maps shall not be subject to *Section 6.20.16, Riparian Buffers* if a site evaluation reveals any of the following cases:

**6.20.16.4.a** Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 02B .0101, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.

**6.20.16.4.b** Ephemeral streams.

**6.20.16.4.c** The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond.

**6.20.16.4.d** Ditches or other man-made water conveyances, other than modified natural streams.

#### **6.20.16.5 Exemption when Existing Uses are Present and Ongoing**

*Section 6.20.16, Riparian Buffers* does not apply to portions of the riparian buffer where a use is considered existing and ongoing according in accordance with 15A NCAC 02B .0714 (6) (a). A use is considered existing if it was present within the riparian buffer as of July 22, 1997. Existing uses shall include, but not be limited to, agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems. Only the portion of the riparian buffer that contains the footprint of the existing use is exempt from *Section 6.20.16, Riparian Buffers*.

#### **6.20.16.6 Calculations for Width of Riparian Buffers**

A buffer of fifty (50) feet in width as defined in *Section 6.20.16.7* is required on all sides of the surface water as identified in *Section 6.20.16.3, Applicability*. For streams within the PW and PWCA zoning districts (see *Section 4.5, Other Zoning Districts*), the width of the stream is calculated as outlined in *Section 4.5.3.8.d, Calculating Width of Riparian Buffer*.

#### **6.20.16.7 Zones of the Riparian Buffer**

**6.20.16.7.a** Zone 1 shall consist of a vegetated area that is undisturbed except for uses provided for in sections *6.20.16.8, Uses within Riparian Buffers* and *6.20.16.11, Stormwater Runoff Through the Riparian Buffer*. The location of Zone 1 shall be as follows:

- (i) For intermittent and perennial streams, Zone 1 shall begin at the most landward limit of the top of bank or the rooted herbaceous vegetation and extend landward a distance of 30 feet on all sides of the stream, measured horizontally on a line perpendicular to the stream (where an intermittent or perennial stream begins or

ends, including when it goes underground, enters or exits a culvert, or enters or exits a wetland, the required distance shall be measured as a radius around the beginning or the end).

- (ii) For ponds, lakes and reservoirs, Zone 1 shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to the surface water.

**6.20.16.7.b** Zone 2 shall consist of a stable, vegetated area that is undisturbed except for activities and uses provided for in sections 6.20.16.8, *Uses within Riparian Buffers* and 6.20.16.11, *Stormwater Runoff Through the Riparian Buffer*. Grading and revegetating Zone 2 is allowed provided that the health of the vegetation in Zone 1 is not compromised. Zone 2 shall begin at the outer edge of Zone 1 and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones 1 and 2 shall be 50 feet on all sides of the surface water.

### **6.20.16.8 Uses Within Riparian Buffers**

Uses within the riparian buffer, or outside the riparian buffer with hydrological impacts on the riparian buffer, shall be designated as deemed allowable, allowable upon authorization, allowable with mitigation upon authorization, or prohibited. Potential new uses shall have the following requirements.

- 6.20.16.8.a Deemed Allowable.** Uses designated as deemed allowable in *Table 6.20.16.8, Uses within Riparian Buffers* and 6.20.16.11, *Stormwater Runoff Through the Riparian Buffer* may occur within the riparian buffer. Deemed allowable uses shall be designed, constructed and maintained to minimize vegetation and soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities. In addition, deemed allowable uses shall meet all requirements listed in *Table 6.20.16.8, Uses within Riparian Buffers* for the specific use.
- 6.20.16.8.b Allowable Upon Authorization.** Uses designated as allowable upon authorization in *Table 6.20.16.8, Uses within Riparian Buffers* and 6.20.16.11, *Stormwater Runoff Through the Riparian Buffer* require a written Authorization Certificate for impacts within the riparian buffer pursuant to *Section 6.20.16.9, Basis for "No Practical Alternatives"* and *Section 6.20.16.10, Written Authorization Required*.
- 6.20.16.8.c Allowable with Mitigation Upon Authorization.** Uses designated as allowable with mitigation upon authorization in *Table 6.20.16.8, Uses within Riparian Buffers* require a written Authorization Certificate for impacts within the riparian buffer pursuant to *Section 6.20.16.9, Basis for "No Practical Alternatives"* and *Section 6.20.16.10, Written Authorization Required*. In addition, an appropriate mitigation strategy is required pursuant to *Section 6.20.16.12, Mitigation*.
- 6.20.16.8.d Prohibited.** Uses designated as prohibited in *Table 6.20.16.8, Uses within Riparian Buffers* may not proceed within the riparian buffer unless a variance is granted by the North Carolina Environmental Management Commission pursuant to 15A NCAC 02B .0226. Mitigation may be required as a condition of variance approval.

**Table 6.20.16.8 Uses within Riparian Buffers**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
a) Airport Facilities				
i) Vegetation removal activities necessary to comply with Federal Aviation Administration requirements ( <i>e.g.</i> , line of sight requirements) provided the disturbed areas are stabilized and revegetated	X			
ii) Airport facilities that impact equal to or less than one-third of an acre of riparian buffer		X		
iii) Airport facilities that impact greater than one third of an acre of riparian buffer			X	
b) Archaeological activities				
c) Bridges:				
i) Impact equal to or less than one-tenth of an acre of riparian buffer	X			
ii) Impact greater than one-tenth of an acre of riparian buffer		X		
d) Dam maintenance activities:				
i) Dam maintenance activities that do not cause additional riparian buffer disturbance beyond the footprint of the existing dam	X			
ii) Dam maintenance activities that do cause additional riparian buffer disturbance beyond the footprint of the existing dam		X		
e) Drainage of a pond subject to <i>Section 6.20.16.3, Applicability</i> provided that a new riparian buffer is established by natural regeneration or planting, within 50 feet of any stream which naturally forms or is constructed within the drained pond area. Drained ponds shall be allowed to naturalize for a minimum of six months from completion of the draining activity before a stream determination is conducted pursuant to <i>Section 6.20.16.3.c</i> .	X			
f) Fences:				
i) Fencing livestock out of surface waters	X			
ii) Installation does not result in removal of trees from Zone 1	X			
iii) Installation results in removal of trees from Zone 1		X		

**Table 6.20.16.8 Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
g) Fertilizer application:				
i) One-time fertilizer application at agronomic rates in the riparian buffer to establish replanted vegetation. No runoff from this one-time application in the riparian buffer is allowed in the surface water	X			
ii) Ongoing fertilizer application				X
h) Forest harvesting – see 15A NCAC 02B .0612				
i) Grading only in Zone 2 provided that the health of existing vegetation in Zone 1 is not compromised, <i>Section 6.20.16.11, Stormwater Through the Riparian Buffer</i> is complied with, and disturbed areas are stabilized and revegetated		X		
j) Greenways, trails, sidewalks or linear pedestrian/bicycle transportation systems:				
i) In Zone 2 provided that no built-upon area is added within the riparian buffer	X			
ii) In Zone 1 provided that no built-upon area is added within the riparian buffer and the installation does not result in the removal of tree(s)	X			
iii) When built-upon area is added to the riparian buffer, equal to or less than 10 feet wide with two foot wide shoulders. Shall be located outside Zone 1 unless there is no practical alternative		X		
iv) When built-upon area is added to the riparian buffer, greater than 10 feet wide with two foot wide shoulders. Shall be located outside Zone 1 unless there is no practical alternative			X	
k) Historic preservation	X			
l) New Landfills as defined by NC G.S. 130A-290				X
m) Maintenance access on modified natural streams or canals: a grassed travelway on one side of the waterbody when less impacting alternatives are not practical. The width and specifications of the travelway shall be only that needed for equipment access and operation. The travelway shall be located to maximize stream shading.		X		

**Table 6.20.16.8 Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
n) Mining activities:				
i) Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements in sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> are established adjacent to any relocated channels		X		
ii) Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements in sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> are not established			X	
iii) Wastewater or mining dewatering wells with approved NPDES permit	X			
o) On-site sanitary sewage systems - new ones that use ground absorption				
p) Pedestrian access trails and associated steps leading to a surface water, dock, canoe or kayak access, fishing pier, boat ramp or other water dependent structure:				
i) Equal to or less than six feet wide that does not result in the removal of tree(s) within the riparian buffer and does not result in the addition of built-upon area to the riparian buffer	X			
ii) Equal to or less than six feet wide that results in the removal of tree(s) or the addition of built-upon area to the riparian buffer		X		
iii) Greater than six feet wide			X	
q) Playground equipment:				
i) Playground equipment on single-family lots provided that installation and use does not result in removal of vegetation	X			
ii) Playground equipment on single-family lots where installation or use results in the removal of vegetation		X		
iii) Playground equipment installed on lands other than single-family lots		X		
r) Ponds created or modified by impounding streams subject to riparian buffers pursuant to Section 6.20.16.3, <i>Applicability</i> and not used as stormwater control measures (SCMs):				
i) New ponds provided that a riparian buffer that meets the requirements of sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> is established adjacent to the pond		X		
ii) New ponds where a riparian buffer that meets the requirements of sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> is NOT established adjacent to the pond			X	



**Table 6.20.16.8 Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
s) Protection of existing structures and facilities when this requires additional disturbance to the riparian buffer		X		
t) Public Safety - Publicly owned spaces where it has been determined by the head of the local law enforcement agency with jurisdiction over that area that the riparian buffers pose a risk to public safety. The head of the local law enforcement agency shall notify the local government with land use jurisdiction over the publicly owned space and the Division of Water Resources of any such determination in writing	X			
u) Removal of previous fill or debris provided that <i>Section 6.20.16.11, Stormwater Runoff Through the Riparian Buffer</i> is complied with and any vegetation removed is restored		X		
v) Residential Properties: Where application of this Rule would preclude construction or expansion of a single-family residence and necessary infrastructure, the single-family residence may encroach in the buffer if all of the following conditions are met: (1) the residence is set back the maximum feasible distance from the top of the bank, rooted herbaceous vegetation, normal high-water level, or normal water level, whichever is applicable, on the existing lot; (2) the residence is designed to minimize encroachment into the riparian buffer; (3) the residence complies with <i>Section 6.20.16.11, Stormwater Runoff Through the Riparian Buffer</i> ; and (4) if the residence will be served by an on-site wastewater system, no part of the septic tank or drainfield may encroach into the riparian buffer:				
i) The residence or necessary infrastructure only impact Zone 2		X		
ii) The residence or necessary infrastructure impact Zone 1			X	
iii) Impacts other than the residence or necessary infrastructure			X	
w) Restoration or enhancement (wetland, stream) as defined in 33 CFR Part 332 available free of charge on the internet at: <a href="http://water.epa.gov/lawsregs/guidance/wetlands/wetlandsmitigation_index.cfm">http://water.epa.gov/lawsregs/guidance/wetlands/wetlandsmitigation_index.cfm</a> :				
i) Wetland or stream restoration is part of a compensatory mitigation bank, nutrient offset bank, or the In Lieu Fee program	X			
ii) Wetland or stream restoration other than those listed above		X		

**Table 6.20.16.8 Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
x) Road, driveway or railroad - impacts other than perpendicular crossings of streams and other surface waters subject to this Rule			X	
y) Road, driveway or railroad - perpendicular crossings of streams and other surface waters subject to this Rule				
i) Impact equal to or less than one-tenth of an acre of riparian buffer	X			
ii) Impact greater than one-tenth of an acre but equal to or less than one-third of an acre of riparian buffer		X		
iii) Impact greater than one-third of an acre of riparian buffer			X	
iv) Driveway crossings in a residential subdivision that cumulatively impact equal to or less than one-third of an acre of riparian buffer		X		
v) Driveway crossings in a residential subdivision that cumulatively impact greater than one-third of an acre of riparian buffer			X	
vi) Farm roads and forest roads that are exempt from permitting from the U.S. Army Corps of Engineers per Section 404(f) of the Federal Clean Water Act	X			
z) Road relocation of existing private access roads associated with public road projects where necessary for public safety:				
i) Less than or equal to 2,500 square feet of riparian buffer impact		X		
ii) Greater than 2,500 square feet of riparian buffer impact			X	
aa) Scientific studies and stream gauging	X			
bb) Slatted uncovered decks, including steps and support posts, which are associated with a dwelling, provided that it meets the requirements of sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> and:				
i) Installation does not result in removal of vegetation in Zone 1		X		
ii) Installation results in removal of vegetation in Zone 1			X	
cc) Stormwater Control Measure (SCM) as defined in 15A NCAC 02H .1002:				
i) In Zone 2 if <i>Section 6.20.16.11, Stormwater Runoff Through the Riparian Buffer</i> is complied with		X		
ii) Installation results in removal of vegetation in Zone 1			X	

**Table 6.20.16.8 Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
dd) Streambank or shoreline stabilization		X		
ee) Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions and replanted with comparable vegetation within two months of when construction is complete. Tree planting may occur during the dormant season. At the end of five years, any restored wooded riparian buffer shall comply with the restoration criteria in 15A NCAC 02B .0295:				
i) Less than or equal to 2,500 square feet of riparian buffer disturbance	X			
ii) Greater than 2,500 square feet of riparian buffer disturbance		X		
iii) Associated with culvert installation or bridge construction or replacement		X		
ff) Temporary sediment and erosion control devices provided that the disturbed area is restored to preconstruction topographic and hydrologic conditions and replanted with comparable vegetation within two months of when construction is complete. Tree planting may occur during the dormant season. At the end of five years, any restored wooded riparian buffer shall comply with the restoration criteria in 15A NCAC 02B .0295:				
i) In Zone 2 provided that ground cover is established within the timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone 1 is not compromised, and that discharge is released in accordance with <i>Section 6.20.16.11, Stormwater Runoff Through the Riparian Buffer</i>	X			
ii) In Zones 1 and 2 to control impacts associated with uses identified in this table or uses that have received an Authorization Certificate with Exception provided that sediment and erosion control for upland areas is addressed outside the riparian buffer		X		
iii) In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Clean Water Act	X			
gg) Utility Lines - Streambank stabilization for the protection of publicly owned utility lines (not including new line installation):				
i) Less than 150 feet of streambank disturbance	X			
ii) Greater than 150 feet of streambank disturbance		X		

**Table 6.20.16.8 Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
hh) Utility – Sewer lines – Sanitary Sewer Overflows:				
i) Emergency sanitary sewer overflow response activities, provided that the disturbed area within the riparian buffer outside of the existing utility line maintenance corridor is the minimum necessary to respond to the emergency overflow, is restored to pre-construction topographic and hydrologic conditions, and is replanted with comparable vegetation (e.g. grass with grass, hardwoods with hardwoods) within two months of when disturbance is complete	X			
ii) Emergency sanitary sewer overflow response activities that do not meet the listing above. For any new proposed permanent impacts that are not a "Deemed Allowable" activity, an application for an Authorization Certificate shall be submitted to the Authority no later than 30 calendar days of conclusion of the emergency response activities		X		
ii) Utility - Sewer Lines – Vegetation maintenance activities that remove forest vegetation from existing sewer utility right of ways (not including new line installation) outside of the existing utility line maintenance corridor:				
i) Zone 2 impacts	X			
ii) Zone 1 impacts: For lines that have not been maintained, the vegetation can be mowed, cut or otherwise maintained without disturbance to the soil structure for a maintenance corridor that is equal to or less than 30 feet wide	X			
iii) Zone 1 impacts other than those listed above		X		
jj) Utility - Sewer Lines –Replacement/Rehabilitation of existing sewer lines within, or adjacent to, an existing right of way but outside of an existing utility line maintenance corridor provided that comparable vegetation (e.g. grass with grass, hardwoods with hardwoods) is allowed to regenerate in disturbed riparian buffers outside of the permanent maintenance corridor and riparian buffers outside of the permanent maintenance corridor are not maintained:				
i) Permanent maintenance corridor equal to or less than 30 feet wide provided there is no grading and/or grubbing within 10 feet of the top of bank when the sewer line is parallel to the stream	X			
ii) Grading and/or grubbing within 10 feet of the top of bank when the sewer line is parallel to the stream and permanent maintenance corridor equal to or less than 30 feet wide		X		

**Table 6.20.16.8 Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
iii) Permanent maintenance corridor greater than 30 feet wide. For impacts other than perpendicular crossings, mitigation is only required for Zone 1 impacts. For perpendicular crossings that disturb equal to or less than 40 linear feet, no mitigation is required. For perpendicular crossings that disturb greater than 40 linear feet, mitigation is only required for Zone 1 impacts			X	
kk) Utility - Sewer Lines – New Line Construction/Installation Activities – Perpendicular crossings of streams and other surface waters subject to <i>Section 6.20.16</i> , or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to <i>Section 6.20.16</i> , provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor:				
i) Construction corridor of less than or equal to 40 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide	X			
ii) Construction corridor of greater than 40 linear feet wide and less than or equal to 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide		X		
iii) Construction corridor of greater than 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide			X	
iv) Permanent maintenance corridor greater than 30 feet wide. For impacts other than perpendicular crossings, mitigation is only required for Zone 1 impacts. For perpendicular crossings that disturb equal to or less than 40 linear feet, no mitigation is required. For perpendicular crossings that disturb greater than 40 linear feet, mitigation is only required for Zone 1 impacts			X	
ll) Utility - Sewer Lines – New Line Construction/Installation Activities – Impacts other than perpendicular crossings provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor:				
i) Zone 2 impacts	X			
ii) Zone 1 impacts to less than 2,500 square feet when impacts are solely the result of tying into an existing utility line and when grubbing or grading within 10 feet immediately adjacent to the surface water is avoided		X		
iii) Zone 1 impacts other than those listed above			X	

**Table 6.20.16.8 Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
mm) Utility - Non-sewer Underground Lines – Vegetation maintenance activities that remove forest vegetation from existing utility right of ways (not including new line installation) outside of the existing utility line maintenance corridor:				
i) Zone 2 impacts	X			
ii) Zone 1 impacts: For lines that have not been maintained, the vegetation can be mowed, cut or otherwise maintained without disturbance to the soil structure for a maintenance corridor that is equal to or less than 30 feet wide	X			
iii) Zone 1 impacts other than those listed above		X		
nn) Utility – Non-Sewer Underground Lines – Perpendicular crossings of streams and other surface waters subject to <i>Section 6.20.16</i> , or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to <i>Section 6.20.16</i> , provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor:				
i) Construction corridor of less than or equal to 50 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide	X			
ii) Construction corridor of greater than 50 linear feet wide and less than or equal to 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide		X		
iii) Construction corridor of greater than 150 linear feet wide and a permanent maintenance corridor that is equal to or less than 30 feet wide			X	
iv) Permanent maintenance corridor that is greater than 30 linear feet wide (mitigation is required only for Zone 1 impacts)			X	
oo) Utility – Non-Sewer Underground Lines – Impacts other than perpendicular crossings provided that vegetation is allowed to regenerate in disturbed areas outside of the permanent maintenance corridor:				
i) Zone 2 impacts	X			
ii) Zone 1 impacts to less than 2,500 square feet when impacts are solely the result of tying into an existing utility line and when grubbing or grading within 10 feet immediately adjacent to the surface water is avoided		X		
iii) Zone 1 impacts other than those listed above			X	

**Table 6.20.16.8 Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
pp) Utilities – Non-sewer aerial lines - Perpendicular crossings of streams and other surface waters subject to <i>Section 6.20.16</i> , or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to <i>Section 6.20.16</i> :				
i) Disturb equal to or less than 150 linear feet wide of riparian buffer provided that a minimum zone of 10 feet wide immediately adjacent to the waterbody is managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed, that no land grubbing or grading is conducted in Zone 1, and that poles or aerial infrastructure are not installed within 10 feet of a waterbody	X			
ii) Disturb greater than 150 linear feet wide of riparian buffer		X		
qq) Utilities – Non-sewer Aerial Lines - Impacts other than perpendicular crossings of streams and other surface waters subject to this <i>Section 6.20.16</i> , or perpendicular entry into the riparian buffer that does not cross a stream or other surface water subject to this <i>Section 6.20.16</i> :				
i) Impacts in Zone 2 only	X			
ii) Impacts in Zone 1 provided that a minimum zone of 10 feet wide immediately adjacent to the waterbody is managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed, that no land grubbing or grading is conducted in Zone 1, and that poles or aerial infrastructure are not installed within 10 feet of a waterbody		X		
rr) Vegetation management:				
i) Emergency fire control measures provided that topography is restored	X			
ii) Periodic mowing and harvesting of plant products only in Zone 2	X			
iii) Placement of mulch ring around restoration plantings for a period of five years from the date of planting	X			
iv) Planting non-invasive vegetation to enhance the riparian buffer	X			
v) Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised	X			
vi) Removal of individual trees, branches or limbs which are in danger of causing damage to dwellings, existing utility lines, other structures or human life, or are imminently endangering stability of the streambank provided that the stumps are left or ground in place without causing additional land disturbance	X			

**Table 6.20.16.8 Uses within Riparian Buffers (continued)**

Riparian Buffer Use/Activity	Deemed Allowable	Allowable Upon Authorization	Allowable with Mitigation Upon Authorization	Prohibited
vii) Removal of individual trees that are dead, diseased or damaged	X			
viii) Removal of poison ivy, oak or sumac. Removal can include application of pesticides within the riparian buffer if the pesticides are certified by EPA for use in or near aquatic sites and are applied in accordance with the manufacturer's instructions. If removal is significant, then the riparian buffer shall be replanted with non-invasive species		X		
ix) Removal of understory nuisance vegetation as defined in: Smith, Cherri L. 2008. Invasive Plants of North Carolina. Dept. of Transportation. Raleigh, NC. Removal can include application of pesticides within the riparian buffer if the pesticides are certified by EPA for use in or near aquatic sites and are applied in accordance with the manufacturer's instructions. If removal is significant then the riparian buffer shall be replanted with non-invasive species		X		
x) Removal of woody vegetation in Zone 1 provided that <i>Section 6.20.16.11, Stormwater Runoff Through the Riparian Buffer</i> is complied with			X	
ss) Vehicle access roads and boat ramps (excluding parking areas) leading to surface water, docks, fishing piers, and other water dependent activities:				
i) Single vehicular access road and boat ramp to the surface water but not crossing the surface water that are restricted to the minimum width practicable not to exceed 15 feet wide		X		
ii) Vehicular access roads and boat ramps to the surface water but not crossing the surface water that are restricted to the minimum width practicable and exceed 15 feet wide			X	
tt) Water dependent structures (except for boat ramps) as defined in 15A NCAC 02B .0202		X		
uu) Water supply reservoirs:				
i) New reservoirs provided that a riparian buffer that meets the requirements of sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> is established adjacent to the reservoir		X		
ii) New reservoirs where a riparian buffer that meets the requirements of sections 6.20.16.7, <i>Zones of the Riparian Buffer</i> and 6.20.16.11, <i>Stormwater Runoff Through the Riparian Buffer</i> is NOT established adjacent to the reservoir			X	
vv) Water wells	X			
ww) Wildlife passage structures		X		



### **6.20.16.9 Basis for “No Practical Alternatives”**

Where written authorization is required in *Section 6.20.16.8, Uses Within Riparian Buffers*, the applicant must demonstrate “no practical alternatives.” The determination of “no practical alternatives” will be made by the Planning Director or designee based upon the following:

- 6.20.16.9.a** The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality.
- 6.20.16.9.b** The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality.
- 6.20.16.9.c** Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.

### **6.20.16.10 Written Authorization Required**

Where written authorization is required in *Section 6.20.16.8, Uses Within Riparian Buffers*, proposed impacts to the riparian buffer may not commence until written authorization is provided by the Planning Director or designee. Use authorization may include conditions specific to the proposed activity. Unauthorized impacts to riparian buffers are subject to enforcement penalties as outlined in *Section 8, Enforcement*.

Prior to any land disturbing activity within a designated riparian buffer, the property owner shall provide written notification of the location and nature of the proposed use to the Planning Director or designee for review. Written notification must include the following:

- 6.20.16.9.a** The name, address and phone number of the applicant.
- 6.20.16.9.b** The nature of the activity to be conducted by the applicant.
- 6.20.16.9.c** The location of the activity.
- 6.20.16.9.d** A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in the riparian buffers associated with the activity, and the extent of the riparian buffers on the land; and
- 6.20.16.9.e** An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality.
- 6.20.16.9.f** Plans for any best management practices proposed to be used to control the impacts associated with the activity.

### **6.20.16.11 Stormwater Runoff Through the Riparian Buffer**

**6.20.16.11.a** Stormwater runoff into the riparian buffer shall meet dispersed flow as defined in 15A NCAC 02H .1002 except as otherwise described in this section. Drainage conveyances include drainage ditches, roadside ditches, and stormwater conveyances.

The following stormwater conveyances through the riparian buffer are either deemed allowable or allowable upon authorization, as defined in *Section 6.20.16.8, Uses within Riparian Buffers*, provided that they do not erode through the riparian buffer and do not cause erosion to the receiving waterbody. Stormwater conveyances through the riparian buffer that are not listed below are not allowable.

**6.20.16.11.b** The following are deemed allowable as defined in *Section 6.20.16.8.a, Deemed Allowable*:

- i. New drainage conveyances from a Primary SCM, as defined in 15A NCAC 02H .1002, when the Primary SCM is designed to treat the drainage area to the conveyance and that comply with a stormwater management plan reviewed and approved under a state stormwater program or a state-approved local government stormwater program; and
- ii. New stormwater flow to existing drainage conveyances provided that the addition of new flow does not result in the need to alter the conveyance.

**6.20.16.11.c** The following are allowable upon authorization as defined in *Section 6.20.16.8.b, Allowable Upon Authorization*:

- i. New drainage conveyances from a Primary SCM as defined in 15A NCAC 02H .1002 when the Primary SCM is provided to treat the drainage area to the conveyance but are not required to be approved under a state stormwater program or a state-approved local government stormwater program;
- ii. New drainage conveyances when the drainage area to the conveyance is demonstrated via approved nutrient calculation methodologies to meet the nutrient loading goal of 2.2 pounds per acre per year of Nitrogen (N) and 0.33 pounds per acre per year of Phosphorus (P);
- iii. New drainage conveyances when the flow rate of the conveyance is less than 0.5 cubic feet per second during the peak flow from the 0.75 inch per hour storm;
- iv. New stormwater runoff that has been treated through a level spreader-filter strip that complies with 15A NCAC 02H .1059;
- v. Realignment of existing drainage conveyances applicable to publicly funded and maintained linear transportation facilities when retaining or improving the design dimensions provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations;
- vi. Realignment of existing drainage conveyances retaining or improving the design dimensions provided that the size of the drainage area and the percent built-upon area within the drainage area remain the same;
- vii. New or altered drainage conveyances applicable to publicly funded and maintained linear transportation facilities provided that SCMs, or BMPs from the NCDOT Stormwater Best Management Practices Toolbox, are employed;
- viii. New drainage conveyances applicable to publicly funded and maintained linear transportation facilities that do not provide a stormwater management facility due to topography constraints provided other measures are employed to protect downstream water quality to the maximum extent practical; and

- ix. New drainage conveyances where the drainage area to the conveyance has no new built-upon area as defined in 15A NCAC 02H .1002 and the conveyance is necessary for bypass of existing drainage only.

**6.20.16.12 Mitigation**

Where mitigation is required pursuant to the permitted uses listed in *Section 6.20.16.8, Uses Within Riparian Buffers* and *Table 6.20.16.8, Uses within Riparian Buffers*, mitigation shall follow the standards set out in the state's consolidated Riparian Buffer Mitigation Rule, 15A NCAC 02B .0295.

**6.20.16.13 Riparian Buffer and Minimum Lot Requirements**

The riparian buffer may be used in meeting the required minimum lot areas set forth in the Ordinance.



## Agenda Abstract

### BOARD OF COMMISSIONERS

Meeting Date:	Aug. 26, 2024
Department:	Planning and Economic Development Division
Agenda Section:	Consent
Public hearing:	Yes
Date of public hearing:	Aug. 15, 2024

#### PRESENTER/INFORMATION CONTACT

Tom King, Senior Planner

#### ITEM TO BE CONSIDERED

**Subject:** Flood Damage Prevention Ordinance text amendment (staff initiated): Article 3, Section 3.C  
– *Establishment of Floodplain Development Permit*

#### Attachments:

1. Article 3, Section 3.C with proposed amendments
2. Consistency Statement
3. Ordinance

#### Summary:

The town's Flood Damage Prevention Ordinance (FDPO) was likely adopted in 1981. Amendments were made in February 2007 to reference new Federal Emergency Management Agency (FEMA) flood maps and incorporate federal model FDPO revisions. Staff suggested amending the ordinance further to prohibit development from Special Flood Hazard Areas excepting certain public uses (e.g., greenways, utilities). This amendment was adopted in June 2007. A 2015 resident-initiated amendment allowed uses to include a certain type of fencing. The ordinance was last amended in 2017 to reference new flood map panels and incorporate federal model FDPO revisions.

Staff believes the current language in subsection 3.C regarding allowed development should be broadened to allow additional uses such as agriculture, horticulture and private utility connections. These uses will be required to obtain floodplain development permits and comply with applicable FDPO requirements.

The proposed amendments comply with NCGS 143-215.54, which states local governments may allow certain uses in flood hazard areas without a permit. A copy of the proposed amendment language was shared with NC Department of Safety, Emergency Management staff, in May 2024. No issues were raised.

The Joint Public Hearing for this item was held on Aug. 15, 2024. No residents signed up to speak on this item, and the boards did not request any revisions. After the public hearing closed, the Planning Board unanimously recommended approval of the amendment (vote 7-0). The minutes from the Aug. 15 hearing/meeting will be available online once the Planning Board approves the minutes at its next meeting.

#### Comprehensive Sustainability Plan goals:

Town Government & Public Services Goal 2: Adopt local laws, regulations & policies that help to achieve sustainable & equitable outcomes.

#### Financial impacts:

None

**Staff recommendation and comments:**

Approve the amendment to the Flood Damage Prevention Ordinance.

**Action requested:**

Approve the amendment to the Flood Damage Prevention Ordinance.

1 **3.C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**  
 2

3 In general, no development ~~or development activity~~ is allowed in the Special Flood Hazard  
 4 Areas unless one or more of the following are met. However, the following development  
 5 activities may be permitted provided the activity and any related structures, including  
 6 accessory/appurtenant structures and equipment, comply with all applicable provisions of this  
 7 and other federal, state, and local ordinances; and receive a Floodplain Development Permit in  
 8 accordance with the provisions of Article 4.B:  
 9

10 ~~3.C.1. The site has an approved, valid site specific development plan triggering a vested right~~  
 11 ~~and the plan was approved prior to the effective date of this ordinance.~~  
 12

13 ~~3.C.2.1 The development is for~~ Construction of public or private roads, greenways, pedestrian  
 14 crossings (e.g., footbridges), and hiking or horseback riding trails. ~~park related~~  
 15 ~~equipment, or public utilities and facilities such as wastewater, gas, electrical, and water~~  
 16 ~~systems that are located and constructed to minimize flood damage. Structures for~~  
 17 ~~pedestrian crossings (e.g. footbridges, etc.), playground equipment, and other similar~~  
 18 ~~items may be permitted if the applicant provides certification by a professional registered~~  
 19 ~~engineer, architect or landscape architect that these encroachments will not result in any~~  
 20 ~~increase in flood levels during the base flood.~~  
 21

22 ~~3.C.32.~~ Installation of public or private utilities and facilities such as wastewater, gas, electrical  
 23 and water systems, including accessory service lines.  
 24

25 ~~3.C.3. The development consists of fencing proposed to be located outside the floodway and~~  
 26 ~~meets each of the following requirements:~~  
 27

- 28 ~~(a) Vertical post height not to exceed 4 feet.~~
- 29 ~~(b) The construction method is wire, post and wire with or without top and bottom rails,~~  
 30 ~~post and rail with or without wire, or post and cross rails with or without wire.~~
- 31 ~~(c) The smallest dimension on the wire opening may not be less than 1 inch.~~
- 32 ~~(d) The largest dimension on support rails or posts may not exceed 6 inches.~~
- 33 ~~(e) The minimum spacing on vertical posts may not be less than 6 feet on center.~~

34  
 35 Fences meeting all the following requirements:  
 36

- 37 (a) Vertical support posts do not exceed eight feet in height and six inches in width or  
 38 diameter at any point,
- 39 (b) Vertical support posts are placed no less than six feet on center,
- 40 (c) The construction method is wire, post and wire (with or without top and bottom rails),  
 41 post and rail (with or without wire), or post and cross rails (with or without wire), and  
 42 (d) The smallest dimension of wire openings is no less than one inch.

43  
 44 3.C.4 General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife  
 45 sanctuary, game farm and other similar agricultural, wildlife and related uses.  
 46

- 1 3.C.5 Lawns, gardens, play areas and other similar uses.
- 2
- 3 3.C.6 Picnic grounds, parks, playgrounds, open space and other similar public and private
- 4 recreational uses.

**HILLSBOROUGH BOARD OF COMMISSIONERS**  
**Consistency Statement per Section 160D-605(a)**

**Text Amendment Request from: Staff – Planning and Economic Development Division**  
**Aug. 26, 2024**

The Hillsborough Board of Commissioners has received and reviewed the application from Planning and Economic Development Division staff to amend the Town Flood Damage Prevention Ordinance as follows:

*Amend Article 3 (General Provisions) Section 3.C (Establishment of Floodplain Development Permit) to allow certain development activities in Special Flood Hazard Areas, such as agriculture, horticulture, and private utility connections, if the proposed development complies with applicable Flood Damage Prevention Ordinance requirements and a floodplain development permit is obtained.*

The Hillsborough Board of Commissioners has determined the proposed action **is/is not** consistent with the Town of Hillsborough’s Comprehensive Sustainability Plan (CSP) because it **supports/does not support** the following goal:

1. Town Government & Public Services Goal 2: Adopt local laws, regulations & policies that help to achieve sustainable & equitable outcomes.

The foregoing consistency statement having been submitted to a vote, received the following vote and was duly adopted this 26<sup>th</sup> day of August in the year 2024.

Ayes:

Noes:

Absent or excused:

---

Sarah E. Kimrey, Town Clerk





**ORDINANCE**  
**Amending the Hillsborough Flood Damage Prevention Ordinance**  
*Section 3C., General Provisions – Establishment of Floodplain*  
*Development Permit*

The Hillsborough Board of Commissioners ordains the following amendments:

- Section 1.** The amendments to Flood Damage Prevention Ordinance Section 3C, *General Provisions – Establishment of Floodplain Development Permit*, as attached hereto.
- Section 2.** All provisions of any town ordinance in conflict with this ordinance are repealed.
- Section 3.** This ordinance shall become effective upon adoption.

The foregoing ordinance having been submitted to a vote, received the following vote and was duly adopted this 26th day of August in the year 2024.

Ayes:

Noes:

Absent or excused:

---

Sarah E. Kimrey, Town Clerk

### **3.C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

In general, no development or development activity is allowed in Special Flood Hazard Areas. However, the following development activities may be permitted provided the activity and any related structures, including accessory/appurtenant structures and equipment, comply with all applicable provisions of this and other federal, state, and local ordinances; and receive a Floodplain Development Permit in accordance with the provisions of Article 4.B:

- 3.C.1. Construction of public or private roads, greenways, pedestrian crossings (e.g., footbridges), and hiking or horseback riding trails.
- 3.C.2. Installation of public or private utilities and facilities such as wastewater, gas, electrical and water systems, including accessory service lines.
- 3.C.3. Fences meeting all the following requirements:
  - (a) Vertical support posts do not exceed eight feet in height and six inches in width or diameter at any point,
  - (b) Vertical support posts are placed no less than six feet on center,
  - (c) The construction method is wire, post and wire (with or without top and bottom rails), post and rail (with or without wire), or post and cross rails (with or without wire), and
  - (d) The smallest dimension of wire openings is no less than one inch.
- 3.C.4. General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm and other similar agricultural, wildlife and related uses.
- 3.C.5. Lawns, gardens, play areas and other similar uses.
- 3.C.6. Picnic grounds, parks, playgrounds, open space and other similar public and private recreational uses.



## Agenda Abstract

### BOARD OF COMMISSIONERS

Meeting Date: Aug. 26, 2024  
Department: Utilities (WSAC)  
Agenda Section: Regular  
Public hearing: No  
Date of public hearing: N/A

#### PRESENTER/INFORMATION CONTACT

Water and Sewer Advisory Committee Vice Chair Daniel Rawlins  
Utilities Director K. Marie Strandwitz, PE

#### ITEM TO BE CONSIDERED

**Subject:** Water and Sewer Advisory Committee and Board of Commissioners Joint Meeting Agenda

##### Attachments:

1. Memorandum from the Water and Sewer Advisory Committee
2. Citizen's Advisory Task Force Formation 2000
3. Original Water and Sewer Advisory Committee Formation 2001
4. Codified Water and Sewer Advisory Committee

##### Summary:

The only topic of discussion for the proposed joint meeting agenda is the continued viability of the Water and Sewer Advisory Committee. See attached memorandum and background documents. Suggested joint meeting agenda:

1. Welcome and Introductions
2. Discussion of committee's existence
3. Final thoughts and adjourn

##### Financial impacts:

N/A

##### Staff recommendation and comments:

None at this time.

##### Action requested:

Hold joint meeting. If necessary, make any board motions regarding the committee after the joint meeting has adjourned.

# Memorandum

To: Mayor Mark Bell and  
Board of Commissioners

From: Chair Jenn Sykes and  
Water and Sewer Advisory Board Members

Date: Aug. 19, 2024

Subject: Joint WSAC/BOC Meeting Agenda Thoughts



The joint meeting of the Board of Commissioners and the Water and Sewer Advisory Committee is scheduled for Aug. 26, 2024, at your regularly scheduled workshop. The only agenda meeting topic we wish to discuss is the benefit and potential discontinuation of the Water and Sewer Advisory Committee.

The Water and Sewer Advisory Committee (WSAC) was born in 2003 from a task group formed in 2001 to help figure out what to do when Flint Fabrics suddenly closed, taking at least a third of the water revenue from the utility enterprise fund. For 24 years, with a mix of committee members having various perspectives from the entire service area, WSAC has tackled an amazing number of issues related to the utility's enterprise fund. These include policies about leak adjustments, disconnections, billing deposits, billing systems, irrigation, energy use/savings opportunities, water quality, drought and conservation policies, code changes and other initiatives. We have assisted routinely with outreach ideas and efforts, the utility assistance program, input on the budget, and -- most critical to the customer base -- rates (minimum volume, differential, structure, etc.).

However, all the above and more have essentially been established and settled and even revisited several times over the 24 years of the committee's existence. We are proud of all that WSAC has accomplished. As only an advisory committee, there is no decision-making authority; recommendations only may be made by the committee. We appreciate the consideration the Board of Commissioners has given to such when offered or requested.

As of late, WSAC has struggled with its purpose and wonders about its benefit to the town. We understand the board has been thinking about this as well. It may be the time to consider whether to continue as an advisory committee who meets routinely, a committee that only meets to tackle significant matters, or a disbanded committee with new task forces formed when relevant. Below are some thoughts and perspectives for discussion at our joint meeting on Aug. 26.

- All major matters have been resolved through code or policy.
- Some WSAC recommendations have not been adopted. Some topics have been taken up by WSAC multiple times under different membership with essentially the same outcome.

- It has been difficult to get participation in WSAC. We have had two out of town vacancies for several months and no applicants. This is not the first time we have gone months with a vacancy.
- No citizenry routinely attends the meetings, and WSAC cannot resolve their concerns at the meeting, regardless.
- Attendance by some (past members) was sporadic. Member attendance has ebbed and flowed many times and sometimes a quorum is lacking. The interest level has seemed to decline, likely due to a lack of new topics to address.
- We want to be respectful of staff time to prepare agendas, information, and topics for the meetings. While the information shared by staff at WSAC meetings is always helpful, recently, little or no action is required by WSAC.
- WSAC advises on the utilities enterprise fund which spans multiple departments beyond utilities. It has been increasingly difficult to get outside departmental attendance to hear directly from them about the budget, rates, or financial policies as in the past. The burden has fallen on utilities staff to prepare information that we would want to hear from others.

While we believe the biggest asset of WSAC is that all members are wonderful ambassadors of the utility to the community (who is often woefully uninformed about certain aspects of operations) the committee desires to discuss how WSAC could be either more useful to the BOC and town or whether it's time to suspend WSAC and only call upon members for brainstorming and input when a large issue arises.

We look forward to this discussion and are prepared for whatever outcome arises from it. If it is determined to pause or cease WSAC, a vote of such is requested from the Board after the discussion.

Cc: Town Manager Eric Peterson  
Civil Engineer Tyler Freeman (staff liaison to WSAC)



**CREATION & MISSION OF THE  
CITIZENS ADVISORY TASK FORCE  
TO EVALUATE THE TOWN OF HILLSBOROUGH'S  
WATER & SEWER FUND OPERATIONS**

WHEREAS, the Town of Hillsborough's Water & Sewer Fund is facing significant financial challenges due to large debt service payments, old plants and infrastructure, low fund balances, and high rates; and

WHEREAS, the high rates needed to sustain the Water & Sewer Fund place a financial burden on many of the system's utility customers; and

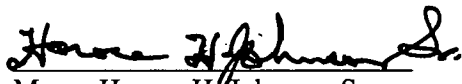
WHEREAS, the Town's Board of Commissioners is committed to running the Hillsborough Water & Sewer Fund in as professional, effective, and efficient manner.

NOW, THEREFORE, the Town of Hillsborough Board of Commissioner's now creates the Citizens Advisory Task Force for Water & Sewer Fund Operations.

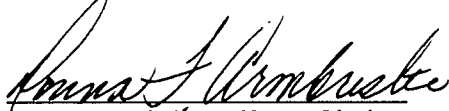
NOW, the Town of Hillsborough Board of Commissioners presents the following "Mission" and guidelines to the Citizens Advisory Task Force:

- The Task Force will be comprised of members appointed by the Board of Commissioners. One member of the Board of Commissioners will serve as an ad hoc member of the Task Force.
- The Task Force will complete its work and make a presentation of their findings and recommendations to the Board of Commissioners no later than the April 2001 Board meeting (thus giving the Town time to incorporate any suggestions/findings into the FY2001-02 Budget.
- Once the Task Force completes its mission in April it will then be dissolved.
- The task force is free to use the Town staff in any reasonable manner to assist them in the process of developing their Report of Findings & Recommendations. The Town Manager will serve as the Town's liason to this Task Force, all administrative support for the Task Force must be coordinated through the Town Manager.

ADOPTED this 9<sup>th</sup> Day of October 2000.

  
Mayor Horace H. Johnson, Sr.

ATTEST:

  
Donna Armbrister, Town Clerk

**CREATION OF THE  
WATER & SEWER ADVISORY COMMITTEE**

WHEREAS, the Town of Hillsborough’s Water & Sewer Fund has experienced and will continue to face significant financial challenges due to large debt service payments, old plants and infrastructure, low fund balances, and high rates; and

WHEREAS, the Town of Hillsborough Board of Commissioners established a Citizens’ Advisory Task Force in October 2000 to evaluate the Town’s Water & Sewer Fund operations for the purpose of providing objective analysis, suggestions, and guidance regarding the Fund’s condition and operation; and

WHEREAS, the Citizens’ Advisory Task Force produced a report (dated July 1, 2001) releasing the group’s findings, recommendations, and analysis regarding their review of the Town’s water and sewer operations; and

WHEREAS, the original “charge” of the Task Force is now satisfied with the completion of the Report; and

WHEREAS, the Task Force recommends that a permanently standing Water & Sewer Advisory Committee be established by the Town of Hillsborough; and

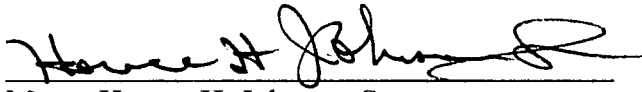
WHEREAS, the purpose and scope of the Water & Sewer Advisory Committee would be as follows:

- To meet at least quarterly with the Town’s staff for the purpose of receiving updates regarding key operational, policy, and financial issues facing the Water & Sewer Fund;
- To request information from the staff so as to stay informed and knowledgeable as it related to key issues, concerns, and opportunities facing the Water & Sewer Fund;
- To provide recommendations to the Town staff and Board of Commissioners as the Committee deems appropriate regarding general operational, financial, public information, and other issues related to the management of the Water & Sewer Fund;
- The Committee will not make recommendations regarding individual personnel matters (e.g., hiring, firing, and disciplinary issues) within the Water & Sewer Fund;
- The Committee will consist of between 6-8 members, appointed by the Town’s Board of Commissioners, the Town will strive to maintain an even balance between in-town and out-of-town water/sewer customers, or as close as is reasonable possible;

- Committee Members will serve staggered four-year terms. Thus, half of the original appointees will be appointed to serve two-year terms and the other half will be appointed to serve four-year terms;
- The Board of Commissioners may choose to have one (1) of its members serve as an ad hoc member of the Water & Sewer Advisory Committee.

NOW, THEREFORE LET IT BE RESOLVED by the Town of Hillsborough Board of Commissioners that it hereby creates the Water & Sewer Advisory Committee, and appoints the following members to serve the following terms: Scott Neal (4 years), Michael Harvey (4 years), Donna Lee Jones (4 years), Chris Cole (2 years), Jack Snipes (2 years), Dorothy Johnson (2 years), Jim Singleton (2 years), and Jeffrey Wright (4 years).

ADOPTED this 8<sup>th</sup> Day of October 2001.



Mayor Horace H. Johnson, Sr.

ATTEST:



Donna F. Armbrister, Town Clerk



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### **Sec. 3-71. Water and sewer advisory committee.**

There shall be a water and sewer advisory committee, the establishment, powers and duties of which are provided for as follows.

- (a) *Powers and duties.* The general charge includes, but is not limited to, the following duties:
  - (1) Receive updates regarding key operational, policy, and financial issues facing the water and sewer enterprise fund.
  - (2) Request information from staff to stay informed and knowledgeable regarding key issues, concerns, and opportunities facing the water and sewer fund.
  - (3) Offer recommendations to the Town Board regarding general operational, financial, public information, and other management issues affecting the of the water and sewer fund.
  - (4) The committee will not make recommendations regarding individual personnel matters (e.g., hiring, firing, and disciplinary issues) within the water and sewer fund.
  - (5) The committee will not make recommendations on how to perform projects, their priority, or which consultant or contractor is hired within the water and sewer fund.
- (a) *Membership.* The committee will consist of between six to eight members. The town will strive to maintain an even balance between in-town and out-of-town water/sewer customers, or as close as is reasonable possible.
- (b) *Terms.* Committee members will serve staggered four-year terms, with the opportunity for reappointment for a second full term. After serving two complete terms and any partial term, a member shall be ineligible for reappointment until one calendar year has expired. One member shall be the mayor pro tem of the Board of Commissioners.
- (c) *Staff.* The utilities administrative division shall provide staff support to the water and sewer advisory committee. The Town Board member is not subject to term limits as the appointment is tied to service as mayor pro tem.
- (d) *Meetings.* All meeting shall be open to the public. The board shall adopt and publish a regular meeting schedule of not less than four meeting per calendar year.
- (e) *Quorum.* A majority of appointed seats shall constitute a quorum. This number may be adjusted for vacancies. Staff are not qualified to vote.
- (f) *Rules of procedure.* The board shall adopt rules of procedure for the conduct of its meetings. Rules of procedure shall be consistent with the procedural requirements of state law.

(Ord. No. 20230109-7.A, § 8, 1-9-2023; Ord. No. 20230123-5.D, §§ 3, 4, 1-23-2023)



## Agenda Abstract

### BOARD OF COMMISSIONERS

Meeting Date: August 26, 2024  
 Department: Community Services  
 Agenda Section: Items for decision – regular agenda  
 Public hearing: Yes  
 Date of public hearing: April 18, 2024

#### PRESENTER/INFORMATION CONTACT

Shannan Campbell, Planning and Economic Development Manager  
 Molly Boyle, Planner II

#### ITEM TO BE CONSIDERED

**Subject:** Rezoning request for 128 W. Margaret Lane (PIN 9874-06-2054)

#### Attachments:

1. Rezoning application
2. Vicinity and Future Land Use maps
3. Existing special use permit (associated with the current zoning, Neighborhood Business Special Use)
4. Information on the proposed zoning district, Neighborhood Business general use (NB)
5. Conditional zoning alternative – proposed allowable land uses
6. Draft consistency statement
7. Draft ordinance

#### Background:

The applicant submitted a request to rezone his property, 128 W. Margaret Lane, from Neighborhood Business Special Use (NBSU) to Neighborhood Business (NB). Further details on the property and request are as follows:

Rezoning Request Details – 128 W. Margaret Lane	
Parcel ID Number	9874-06-2054
Town Limits or ETJ	Town limits
Current Base Zoning	Neighborhood Business Special Use (NBSU)
Proposed Base Zoning	Neighborhood Business (general use)
Overlay District(s)	Historic District Overlay
Future Land Use Designation	Urban Neighborhood

#### Current zoning district:

Currently, this property is zoned Neighborhood Business Special Use (NBSU). As such, the allowable land uses for the property are outlined in a special use permit, which is enclosed for reference.

Effective July 1, 2021, special use zoning districts are no longer allowed in North Carolina per the General Statutes. Any special use district that existed prior to July 1, 2021, like this one, is now regulated as a conditional zoning district, the conditions for which are outlined under the existing special use permit.

#### Conditional Zoning alternative:

If the Board of Commissioners is not amenable to the general use rezoning request, the applicant requests that it consider amending the *de facto* conditional zoning district instead.

Even though the town’s Unified Development Ordinance does not have provisions for conditional zoning districts, the Board of Commissioners can entertain a conditional rezoning request for this property. Technically, under State law, the property is already considered a conditional zoning district, the conditions for which are outlined in the special use permit.

In this scenario, the Board of Commissioners is considering whether to expand the list of allowable land uses under the *de facto* conditional zoning district. The applicant’s list of proposed, allowable land uses is enclosed.

**Comprehensive Sustainability Plan goals:**

- Land Use and Development Goal 1:  
Ensure that future growth and development, including infill and redevelopment, are aligned with smart growth principles and consider infrastructure constraints such as water and wastewater system capacity.
- Strategy:  
Ensure that land use/development regulations are aligned with preferred future land use/growth patterns.

**Financial impacts:** None.

**Joint public hearing:**

The public hearing was held on April 18, 2024. The approved minutes for the hearing are available online: <https://mccmeetings.blob.core.usgovcloudapi.net/hillsbronc-pubu/MEET-Minutes-149f3b7cd6f542f3a6bf8dbc6ac55f01.pdf>

Two (2) residents spoke against the rezoning request at the public hearing. Another four (4) residents submitted written public comment beforehand. Staff forwarded these comments to the Planning Board and Board of Commissioners prior to the hearing for consideration.

**Planning Board recommendation:**

On May 16, 2024, the Planning Board recommended *denial* of both rezoning requests (3-2 for denial).

**Board of Commissioners – previous action:**

The Town Board of Commissioners considered this proposal at its meeting on June 10, 2024. The Commissioners expressed interest in rezoning the property to Neighborhood Business Conditional Zoning but wanted to remove some of the proposed allowable land uses from Mr. Lloyd’s list. Specifically:

- Brewery (with a Special Use Permit)
- Restaurant
- Veterinarian/Animal hospital

Mr. Lloyd was not present at the meeting to discuss conditions, so the Commissioners tabled the item until the next Commissioners meeting that Mr. Lloyd could attend.

**Staff comments and recommendation:**

Staff recommends approving the rezoning request to rezone the property to Neighborhood Business Conditional Zoning.

**Action requested on this item:**

Approve the request to rezone the subject property to Neighborhood Business Conditional Zoning.



TOWN OF  
HILLSBOROUGH

# GENERAL APPLICATION Amendment to Future Land Use Map, Unified Development Ordinance or Official Zoning Map

Planning and Economic Development Division  
101 E. Orange St., PO Box 429, Hillsborough, NC 27278  
919-296-9477 | Fax: 919-644-2390  
www.hillsboroughnc.gov

This application is for amendments to the Comprehensive Sustainability Plan, Unified Development Ordinance, and/or Official Zoning Map. Incomplete applications will not be accepted or processed.

<b>OFFICIAL USE ONLY</b>			UK# 2152 PAID		
Case Number:		Fee: \$500.00		Receipt No.: 060272	
FLUM Designation: <i>Urban Neighborhood</i>			Zoning District: <i>NBSU</i>		Overlay Zone: <del>HDO</del>

Amendment Type: <input type="checkbox"/> Future Land Use Map		<input type="checkbox"/> Unified Development Ordinance Text	
<input checked="" type="checkbox"/> Zoning Map – General Use or Overlay District		<input type="checkbox"/> Zoning Map – Planned Development District	

<b>PROPERTY LOCATION AND DESCRIPTION</b>	
Property Address or Location: <i>128 West Margaret Lane</i>	
PIN(s): <i>9874-06-2054</i>	Size of Property (Acres/Sq. Ft.): <i>0.21 Acres</i>
Current Use of Property: <i>Vacant - formerly occupied as real estate office</i>	
Current Zoning Classification(s): <i>NBSU (Neighborhood Business Special Use)</i>	
* Proposed Zoning Classification(s): <i>NB</i>	

<b>CERTIFICATION AND SIGNATURES</b>	
<b>Applications will not be accepted without signature of legal property owner or official agent.</b>	
I certify that the information presented by me in this application and all accompanying documents are true and accurate to the best of my knowledge, information, and belief; and I acknowledge that the processing of this application may require additional town, county and/or state permits, approvals, and associated fees.	
Applicant Name: <i>Andrew B. Lloyd, Jr.</i>	Legal Property Owner Name: <i>Andrew B. Lloyd, Jr.</i>
Mailing Address: <i>2701 US 70 West</i>	Mailing Address: <i>2701 US 70 West</i>
City, State, ZIP Code: <i>Efland, NC 27243</i>	City, State, ZIP Code: <i>Efland, NC 27243</i>
Telephone: <i>919-880-5680</i>	Telephone: <i>919-880-5680</i>
Email: <i>farmer1930@nc.rr.com</i>	Email: <i>farmer1930@nc.rr.com</i>
* Signature: <i>B. Lloyd</i>	Signature:
Date: <i>2-2-24</i>	Date:



TOWN OF  
HILLSBOROUGH

## SUPPLEMENTAL FORM

### Amendment to Official Zoning Map

Planning and Economic Development Division  
101 E. Orange St., PO Box 429, Hillsborough, NC 27278

919-296-9477 | Fax: 919-644-2390

www.hillsboroughnc.gov

To the Hillsborough Board of Commissioners:

I, Andrew B. Lloyd, Jr., hereby petition the Board of Commissioners to change the zoning designation of the property described in the attached General Application Form FROM NBSU (Neighborhood Business Special Use) TO \_\_\_\_\_.

#### FACTORS RELEVANT TO DECISION TO AMEND THE OFFICAL ZONING MAP

The Hillsborough Unified Development Ordinance lists the following 10 general standards/findings of fact that the Board of Commissioners must weigh and consider before deciding to amend the official zoning map. Below or on a separate sheet, indicate the facts you intend to show and the arguments you intend to make to convince the Board of Commissioners that it can properly reach these 10 findings.

1. The extent to which the proposed amendment is consistent with all applicable Town adopted plans.

The amendment is consistent with current and future plans.

2. The extent to which there are changed conditions that require an amendment.

The market has changed and office is not in demand use.

3. The extent to which the proposed amendment addresses a demonstrated community need.

will provide the town and community with a needed business.

4. The extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land, is consistent with the Hillsborough Comprehensive Plan.

Property is located downtown adjacent to similar businesses.

5. The extent to which the proposed amendment would result in a logical and orderly development pattern or deviate from logical and orderly development patterns.

The amendment provides a transition from residential to commercial downtown.

6. The extent to which the proposed amendment would encourage premature development.

The property is already developed and approved for 'office' use.

7. The extent to which the proposed amendment would result in strip or ribbon commercial development.

The proposed amendment would not. N/A.

8. The extent to which the proposed amendment would result in the creation of an isolated zoning district unrelated to or incompatible with adjacent and surrounding zoning districts.

N/A

9. The extent to which the proposed amendment would result in significant adverse impacts on the property values of surrounding lands.

Amendment will likely increase property values.

10. The extent to which the proposed amendment would result in significantly adverse environmental impacts, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

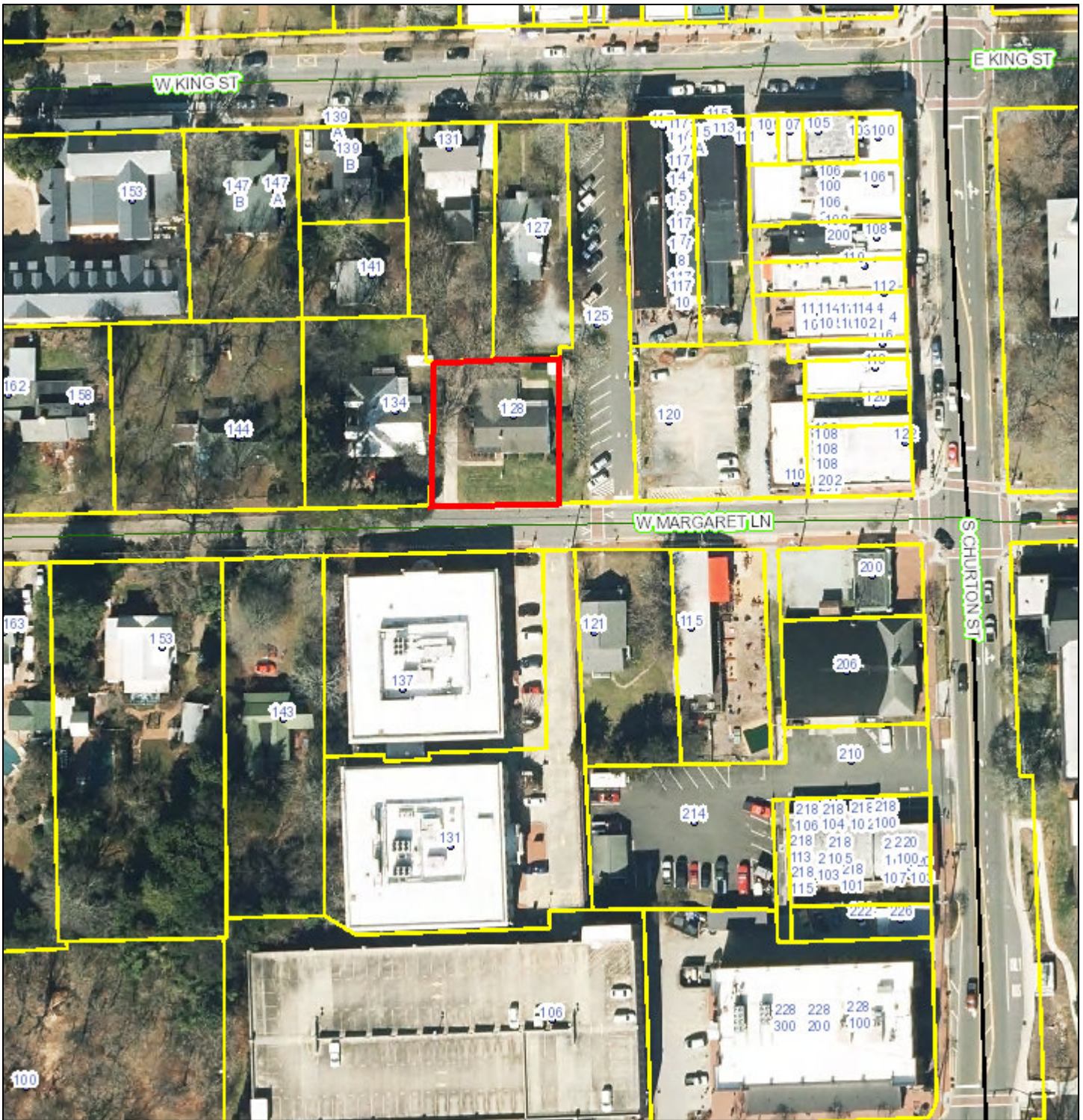
The property is already developed and no further impacts are anticipated

I certify that all the information presented by me in this application is accurate to the best of my knowledge, information, and belief.

*BF* Brian R. Lloyd  
Signature of Applicant

2-3-24  
Date

# Vicinity Map



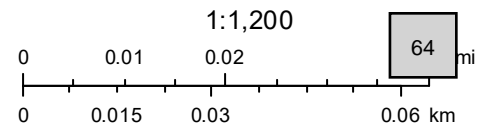
This map contains parcels prepared for the inventory of real property within Orange County, and is compiled from recorded deed, plats, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this map. The county and its mapping companies assume no legal responsibility for the information on this map.

April 10, 2024

**PIN:** 9874062054  
**OWNER 1:** LLOYD ANDREW B JR  
**OWNER 2:**  
**ADDRESS 1:** 2701 US 70 W  
**ADDRESS 2:**  
**CITY:** EFLAND  
**STATE ZIP:** NC 27243  
**Section 4, Item B.** N/S MARGARET LN

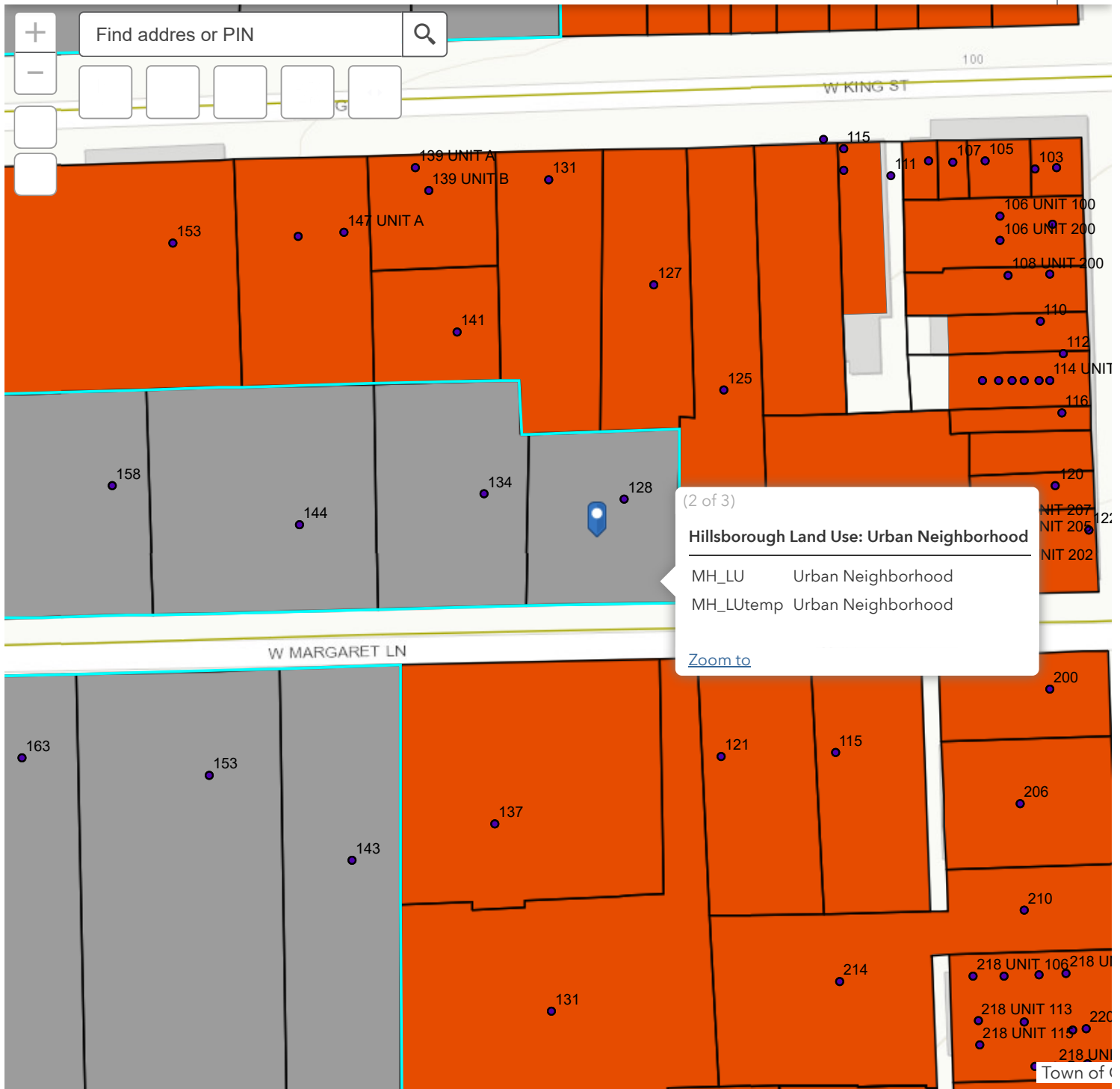
**SIZE:** 0.21 A  
**DEED REF:** 6229/282  
**RATECODE:** 23  
**DATE SOLD:** 12/1/2016  
**BLDG SQFT:** 1945  
**YEAR BUILT:** 1952

**BUILDING COUNT:** 1  
**LAND VALUE:**  
**BLDG\_VALUE:**  
**USE VALUE:**  
**TOTAL VALUE:**





# Future Land Use Map



100ft

-79.098 36.075 Degrees

10  
MB



DMC

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Bk: RB5974 Pg: 128  
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FILED Mark Chilton  
Register of Deeds, Orange Co., NC  
Recording Fee: \$26.00  
NC Real Estate TX: \$.00

PC

Prepared by: Margaret Hauth, AICP, CZO, Planning Director, Town of Hillsborough Planning Department  
Return to: Julie Smith, P.O. Box 1411, Hillsborough, NC 27278

**ORANGE COUNTY** **TOWN OF HILLSBOROUGH** **NORTH CAROLINA**  
**SPECIAL USE PERMIT #2015-01**

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned property owner, ZV Smith, Jr. Family Trust acknowledges the receipt of this Special Use Permit for the use and development of the property hereinafter described and as submitted by the Applicant, Julie Smith; the same was granted by the Town of Hillsborough on June 8, 2015, the terms of which are as follows:

**NAME OF PROJECT:** 128 West Margaret Lane office  
**NAME OF PROPERTY OWNER:** ZV Smith, Jr. Family Trust  
**NAME OF APPLICANT:** Julie Smith  
**TYPE OF SPECIAL USE:** Convert single-family dwelling to real estate, attorney, and other office uses/office sharing arrangement

**DESCRIPTION OF PREMISES**

**LOCATION:** 128 West Margaret Lane

**PARCEL IDENTIFICATION NUMBER:** 9874-06-2054 *gaw*

**DESCRIPTION OF PROPERTY:** BEGINNING on the northern side of W. Margaret Lane (33' Public R/W) at a RR spike found, the southeastern corner of the property of William D. Payne, III, now or formerly, as described in Deed Book 5664, Page 581, Orange County Registry, and running with the eastern line of Payne N 01°36'16" E, 100.37 feet to a computed point in a fence and in the southern line of the property of Brian W. Johnson, now or formerly, as described in Deed Book 2419, Page 457, Orange County Registry (being also the southern line of Tract A as shown on plat in Map Book 61, Page 184, Orange County Registry); thence with the southern line of Johnson and with the southern line of the property of Judith M. Hauser, P.C., now or formerly, as described in Deed Book 5749, Page 395 (being also the southern line of Tract B as shown on plat in Map Book 61, Page 184, Orange County Registry) S 89°45'17" E, 89.99 feet to a 1/2 inch existing iron pin in the western line of the

property of the Town of Hillsborough now or formerly, as described in Deed Book 486, Page 195 (and shown on the plat recorded in Map Book 40, Page 85, Orange County Registry); thence with the western line of the Town of Hillsborough, S 01°39'06" W, 100.00 feet to a ½ inch existing iron pin in the northern margin of W. Margaret Lane; thence with the northern margin of W. Margaret Lane, N 89°59'31" W, 89.91 feet to the BEGINNING, containing 0.21 acres, more or less, (9009 square feet) as shown on the survey dated February 12, 2015, by Robert S. Jones, P.L.S. entitled "Survey For Smith Land & Realty, Inc.

Having heard all the evidence and argument presented at the public hearing on April 16, 2015, the Board finds that the application is complete, that the application complies with all the applicable requirements of the Town of Hillsborough Unified Development Ordinance for the development proposed, and that therefore the application to make use of the above-described property for the purpose indicated is hereby approved, subject to any and all applicable provisions of the Town of Hillsborough Unified Development Ordinance, and the following **waivers and special terms and conditions**:

**Waivers Granted from Section 6 (Development Standards) of the Unified Development Ordinance**

- a. Section 6.3.2 (Table of Dimensional Requirements – Non-residential): Minimum Lot Area for Neighborhood Business Special Use = 10,000 square feet. The minimum lot size is reduced to match the current lot size of 9,009 square feet as shown on the referenced survey.
- b. Table 6.5.9 (Required Buffers): Neighborhood Business Special Use provides a Type A buffer when adjacent to property zoned R-20. This requirement is waived along the portion of the west property line where the existing wooden privacy fence is not installed.
- c. Section 6.10.3 (Landscaping requirements (for parking lots)), subsection 7 requires five feet of landscaped area between parking and the exterior wall of a structure. This requirement is waived when the pavement currently abuts the structure. No addition of landscape materials were required in existing gaps between the pavement and structure.
- d. Section 6.10.3 (Landscaping requirements (for parking lots)), subsection 8 requires perimeter plantings around parking areas. This requirement is waived due to the lack of space to install landscaping.
- e. Section 6.11.4.1 requires a minimum light intensity of 1 foot candle for parking areas. The applicant proposes to add no exterior lights because the hours of operation cease at 8 PM.
- f. Table 6.13.3.5 Minimum number of parking spaces required would require eight spaces based on the building square footage for office use. The applicant has committed to provide four spaces using the current paved driveway and further committed that employees will use other public parking in the vicinity rather than the driveway.

**Approval Conditions**

**Conditions Related to the Development**

- 1. **Approved Plans and Application Materials:** The application materials including, but not limited to, the survey and narrative dated February 2, 2015 are those approved with this Permit.
- 2. **Approved Uses:** The permitted uses of the property are limited to those described in the narrative which accompanied the application. Provided, however, that similar office use (or uses, if more than one occupant) with (a) no more than 8 employees (combined total of all offices) working from the site, and (b) hours of operation limited to 6 AM to 8 PM seven days a week, may also occupy and operate at the property.
- 3. **Additional Permits and Approvals Required:** Any development or modifications to the site are subject to all review and permit requirements of the Town.

**Additional Stipulations**

The following additional stipulations shall apply to this Permit:



Permit Recordation Requirement: Pursuant to Section 3 (Administrative Procedures), Subsection 3.8 (Special Use Permit), Paragraph 3.8.16 (Formalizing the Outcome), this Permit shall be recorded in the Orange County Register of Deeds Office within 10 days of its receipt. The Permit will not be effective, and no further permits or approvals for the development issued, until the Permit has been recorded. In addition, nothing authorized by this Permit may be done until the property owner properly executes, and returns to the Town a copy of the recorded Permit with the recording information attached thereto by the Orange County Register of Deeds.

Vested Right Established: A two-year vested right pursuant to G.S. 160A-385.1 and Section 1 (General Provisions), Subsection 1.8 (Vested Rights), Paragraph 1.8.4 (Duration and Termination of Statutory Vested Rights) of the Unified Development Ordinance is established as of the date hereof. Under the Statute and Ordinance provisions, unless terminated at an earlier date, the Permit is vested until **June 8, 2017**. Requests for an extension of this Permit's vested rights beyond the stated expiration date must be made to the Town in writing before the vested right expiration date is reached.

Permit Expiration: As provided in Section 3, Subsection 3.8, Paragraph 3.8.26 (Expiration) of the Unified Development Ordinance, this Permit shall expire 24-months from its date of approval if a Zoning Compliance Permit has not been issued for the project. Thus, the Permit will expire on **June 8, 2017** if a Zoning Compliance Permit has not been issued for the project. The Board may consider re-application for the permit on a property on which a previous permit has expired provided that all of the standards which are set forth in the Unified Development Ordinance are met, or if a request for an extension is made in writing before the expiration of the standard 24 months.

Changes and Modifications: As provided in Section 3, Subsection 3.8, Paragraphs 3.8.20 (Deviations) through 3.8.24 (Action Required on Proposed Modifications) of the Unified Development Ordinance, minor changes to this Permit may be approved by the Planning Director, as long as they are in harmony with the action of the Town Board of Commissioners, and provided such changes are not determined to be modifications (as defined in the Unified Development Ordinance). Modifications will require approval from the Town Board of Commissioners. Prior to commencement of any change in the approved plans, the Planning Director shall be consulted so as to determine whether the proposed change is considered a minor change or a modification.

Revocation: Pursuant to Section 3, Subsection 3.8, Paragraph 3.8.25 (Revocation) of the Unified Development Ordinance, the Town Board of Commissioners may revoke this Permit after a finding of the existence of any one of the following conditions:

- (a) That any governmental license or permit required for the activity authorized by the Permit have not been obtained or have been terminated; or
- (b) That any of the applicable requirements of the Unified Development Ordinance or any conditions attached to the Permit, or subsequent modification thereof, have been violated.

The Board may consider re-application for the permit on a property on which a previous permit has been revoked, provided that all of the standards which are set forth in the Unified Development Ordinance are met.

Continued Validity: The continued validity and effectiveness of this Permit is expressly conditioned on the continued compliance with the plans and conditions listed above.

Non-severability: If any part of this Permit, or any of the conditions affixed hereto shall be held invalid or void, then this Permit shall be void in its entirety, and of no effect.

Permit Runs with the Land: The terms herein contained are binding on the present owners, and their successors in title and interest, and shall henceforth be appurtenant to, and shall run with the title to said real property unless the conditions herein are otherwise vacated or changed by governmental action, the expiration of this Permit (including any approved extensions to its expiration date), the expiration of the Permit's vested right status (including any approved extensions), or vacated or modified by action of a Court of competent jurisdiction.

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IN WITNESS WHEREOF, the Town has caused this Permit to be issued in its name, and the undersigned, being all of the property owners of the property above described, do hereby accept this Special Use Permit, together with all its conditions, as binding on them and their successors in interest.

Attest:

TOWN OF HILLSBOROUGH

Katherine M. Cathey  
Katherine M. Cathey  
Town Clerk



By Margaret A. Hauth  
Margaret A. Hauth, AICP  
Planning Director

ACCEPTED BY:

We, the undersigned property owners of the above identified property, do hereby acknowledge receipt of this Special Use Permit. The undersigned owners do further acknowledge that no work may be done pursuant to this Permit except in accordance with all of its conditions and requirements, that failure to comply with the approved terms and conditions stated herein will result in forfeiture of this Permit, and that these restrictions shall be binding on them and their successors in interest.

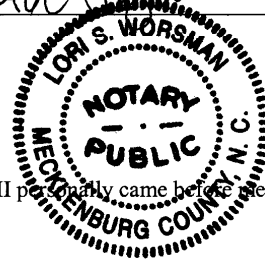
ZV Smith, Jr. Family Trust

By Zebulon V. Smith III  
Zebulon V. Smith, III  
Trustee

By Kristen L. Smith  
Kristen L. Smith  
Trustee

NORTH CAROLINA  
Mecklenburg COUNTY

I, Lori S. Worsman, a Notary Public, certify that Zebulon V. Smith III personally came before me this day and acknowledged the due execution of the foregoing instrument.

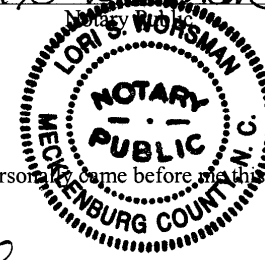


Lori S. Worsman

My commission expires June 14, 2020

NORTH CAROLINA  
Mecklenburg COUNTY

I, Lori S. Worsman, a Notary Public, certify that Kristen L. Smith personally came before me this day and acknowledged the due execution of the foregoing instrument.



Lori S. Worsman  
Notary Public

My commission expires June 14, 2020

(Not valid until fully executed and recorded)



# 4. ZONING DISTRICTS

## 4.2 BUSINESS BASE ZONING DISTRICTS

### 4.2.3 NEIGHBORHOOD BUSINESS DISTRICT (NB)

#### 4.2.3.1 Intent

The purpose of the NB District is to accommodate small-scale, low-intensity, and convenience retail and service uses that provide goods and services to residents of the immediately surrounding neighborhood. Development in this district should not be out of character or scale with a residential neighborhood, nor should it attract traffic from outside the surrounding neighborhood. Performance standards shall be used to ensure the absence of adverse impacts beyond the immediate space occupied by the building.

#### 4.2.3.2 Application Criteria

This district will usually be applied where the following conditions exist:

- 4.2.3.2.a Located at the intersection of either sub-collector or local streets.
- 4.2.3.2.b Uses would generally not serve commuters or persons outside the surrounding neighborhood.
- 4.2.3.2.c Water and sewer lines exist at the site or are to be installed as part of the development process.
- 4.2.3.2.d Normally, the maximum amount of land zoned NB at any intersection

<b>5.1.8 TABLE: USE TABLE FOR NON-RESIDENTIAL DISTRICTS</b>															
P = Permitted by Right      SUP = Permitted with a Special Use Permit      PA = Permitted as accessory use      * = Refer to 5.2.47															
	LO	NB	OI	CC	GC	HIC	ARU	BP	EDD	LI	GI		ESU	NBSU	SDSU
Adult Day Care			P			P							SUP	SUP	SUP
Adult Use						SUP									
Artisan Studio	P	P	P	P	P	P	P	P	P	P	P		SUP	SUP	SUP
Bank & Financial Institution	P		P	SUP	P	P		P	P				SUP		SUP
Bar				P	P	P	P		P				SUP		SUP
Bed and Breakfast Facility															
Botanical Garden & Arboretum		P	P	P	P	P	P				P		SUP		
Brewery		SUP			P	P	P	P	P	P	P				
Building/Trade Contractor's office		P			P	P		P	P	P	P		SUP		
Cemetery			SUP			SUP									
Child Day Care		P	P		P	P	P	P	P				SUP	SUP	SUP
Church, Place of worship		P	P	P			P		P				SUP	SUP	SUP
Detention Facility			SUP						SUP						
Dwelling: Accessory		P	P	P	P	P		P					SUP	SUP	SUP
Dwelling: Attached (1-4 units)				P			P				SUP		SUP	SUP	SUP
Dwelling: Attached (5-19 units)				P			P				SUP		SUP		SUP
Dwelling: Attached (20+ units)				SUP			P				SUP		SUP		SUP
Dwelling: Mobile Home A															
Dwelling: Mobile Home B															
Dwelling: Mobile Home C															
Dwelling: Single-family		P	P	P	P	P							SUP	SUP	SUP
Electronic Gaming Operation		PA		PA	PA/SUP	PA/SUP								SUP	
Event Center			P	SUP	P	P	P	P	P				SUP	SUP	SUP
Extended Care Facility			P			P							SUP		SUP
Family Care Home													SUP	SUP	SUP
Family Child Care Home														SUP	
Farm, Bona fide															
Farmer's Market		P	P	P	P	P	P		P	P	P		SUP		SUP

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	LO	NB	OI	CC	GC	HIC	ARU	BP	EDD	LI	GI		ESU	NBSU	SDSU
Flex Space						P	P	P	P	P	P		SUP		SUP
Food Preparation Business					P	P	P		P	P	P		SUP	SUP	
Funeral Home	P		P	P	P	P			P				SUP	SUP	SUP
Gallery/Museum	P	P	P	P	P	P	P						SUP	SUP	SUP
Government Maintenance Yard			SUP						SUP	P					
Greenhouses/Nursery						P				P	P		SUP	SUP	
Group Care Facility															
Health Care Facility			P	P	P	P	P	P	P				SUP	SUP	SUP
Health/Fitness Club					P	P	P	P	P				SUP	SUP	SUP
Homeless Shelter		SUP	SUP	SUP	SUP	SUP							SUP	SUP	SUP
Hospitals			SUP										SUP		
Hotels & Motels			P	P	P	P	P	P	P				SUP		SUP
Junkyard/Outside Storage of Junked or Wrecked Motor Vehicles											SUP				
Kennels, Boarding										SUP	SUP				
Library	P		P	P	P	P			P				SUP	SUP	SUP
Manufacturing Complex							P	P	P	P	P				
Meeting Facility	P		P	P	P	P	P	P	P				SUP	SUP	SUP
Microbrewery		SUP		P	P	P	P	P	P	P	P				
Mobile Home Park															
Motor Vehicle Fuel Station					SUP	P		SUP	SUP				SUP		SUP
Motor Vehicle Maintenance, & Service					SUP	P							SUP	SUP	SUP
Motor Vehicle Repair					SUP	P				P	P				
Motor Vehicle Sales & Rentals					SUP	P							SUP		
Office operations			P	P	P	P	P	P	P	P	P		SUP	SUP	SUP
Offices and professional services	P	P	P	P	P	P	P	P	P				SUP	SUP	SUP



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	LO	NB	OI	CC	GC	HIC	ARU	BP	EDD	LI	GI		ESU	NBSU	SDSU
Order Fulfillment Center						P	P	P	P	P	P		SUP	SUP	
Outlet sales							P		P	P	P		SUP		
Park, Athletic or Community		SUP	P	P	P	P			P				SUP		SUP
Park, Cultural or Natural		P	P	P	P	P							SUP		SUP
Park, Neighborhood													SUP		SUP
Park and Ride Facility	P	P	P	P	P	P	P	P	P	P	P		SUP	SUP	SUP
Parking as Principal Use, Surface or Structure			P	P	P	P		P	P				SUP		SUP
Performance Facility			P	P	P	P	P	P	P				SUP	SUP	SUP
Personal service business	P	P	P	P	P	P	P	P	P				SUP	SUP	SUP
Petroleum Products (storage & distribution)											SUP				
Pharmacy, Convenience					SUP	P							SUP	SUP	
Pharmacy, Retail		P		P	P	P	P						SUP	SUP	
Postal and Parcel Delivery Services			P	P	P	P	P		P	P					
Processing Facility								SUP	SUP		SUP				
Public Safety Services	P	P	P	P	P	P	P	P	P	P	P		SUP	SUP	SUP
Public Utilities	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP		SUP	SUP	SUP
Recreational Facilities		SUP	P		P	P	P		P				SUP	SUP	SUP
Research Facility			P		P	P	P	P	P	P	P		SUP		
Research Facility, Intense								SUP	SUP	P	P		SUP		
Restaurant		P		P	P	P	P	P	P				SUP	SUP	SUP
Restaurant, Convenience					SUP	P			P				SUP	SUP	
Retail sales/rentals of goods with outside display/storage of merchandise					P	P	P			P			SUP	SUP	SUP
Retail sales/rentals of goods within wholly enclosed structure		P		P	P	P	P		P				SUP	SUP	SUP

**5.1.8 TABLE: USE TABLE FOR NON-RESIDENTIAL DISTRICTS**

	P = Permitted by Right			SUP = Permitted with a Special Use Permit				PA = Permitted as accessory use				* = Refer to 5.2.47		
	LO	NB	OI	CC	GC	HIC	ARU	BP	EDD	LI	GI	ESU	NBSU	SDSU
School: Art & Music			P	P	P	P	P	P	P			SUP	SUP	SUP
School: Dance, Martial Arts			P	P	P	P	P	P	P	P	P	SUP	SUP	SUP
School: Elementary, Middle & Secondary			SUP				SUP	SUP	P*			SUP		SUP
School: Higher Education			SUP				SUP							
School: Vocational								P	P	P	P	SUP		
Storage & Warehousing: Inside building, excluding explosives & hazardous wastes					P	P	P	P	P	P	P	SUP		
Storage & Warehousing: Outside								P	P	P	P			
Storage & Warehousing: Self										P	P			
Telecommunication Tower	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP
Temporary Family Health Care Structure														
Transit Passenger Terminal	P					SUP		SUP				SUP		SUP
Transmission Lines	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP
Veterinarian/Animal Hospital		P			P	P		P	P			SUP	SUP	SUP
Wholesale sales, indoor						P	P	P	P	P	P	SUP		
Wholesale sales, with outdoor storage/display										P	P			

## Neighborhood Business Conditional Zoning - Applicant's Proposed Land Uses

If the Commissioners are not amenable to a general use rezoning, the applicant requests to expand the allowable land uses under the *de facto* conditional zoning district. Under this scenario, the applicant proposes the following allowable land uses, all of which are currently allowed in the Neighborhood Business general use district:

### Allowable Uses:

- Artisan studio
- Brewery (with a Special Use Permit)
- Building/Trade contractor's office
- Dwelling: Accessory
- Dwelling: Single-family
- Gallery/Museum
- Microbrewery (with a Special Use Permit)
- Office and professional services
- Personal service business
- Pharmacy, retail
- Restaurant
- Retail sales/rentals of goods within wholly enclosed structure
- Veterinarian/Animal hospital

The following uses are also currently allowed in the Neighborhood Business general use district, but the applicant proposes to *exclude* them from the conditional zoning district:

### Excluded Uses:

- Botanical garden & arboretum
- Child day care
- Church, place of worship
- Electronic gaming operation
- Farmer's market
- Homeless shelter
- Park, athletic or community
- Park, cultural or natural
- Park and ride facility
- Public safety services
- Public utilities
- Recreational facilities
- Telecommunication towers
- Transmission lines

**BOARD OF COMMISSIONERS  
TOWN OF HILLSBOROUGH, NORTH CAROLINA**

**Consistency Statement per Section 160D-605**

*Request to amend the Official Zoning Map for the Town of Hillsborough -  
128 W. Margaret Lane (Parcel ID Number: 9874-06-2054)*

Aug. 26, 2024

The Board of Commissioners for the Town of Hillsborough has received and reviewed the request from Mr. Andrew B. Lloyd, Jr. to amend the town's Official Zoning Map as follows:

- *Rezone the parcel identified as 128 W. Margaret Lane (PIN 9874-06-2054) from Neighborhood Business Special Use (NBSU) to Neighborhood Business, a general use zoning district.*
- *If the Board of Commissioners is not amenable to a general use rezoning, then the applicant requests to expand the list of allowable land uses under the de facto Neighborhood Business Conditional Zoning district, under which the applicant and commissioners can negotiate a list of appropriate land uses for the property.*

The Board of Commissioners has determined that rezoning the parcel to Neighborhood Business Conditional Zoning **is/is not consistent** with the town's Comprehensive Sustainability Plan (CSP) because:

1. The proposed amendment **is/is not consistent** with the *Land Use and Development* chapter goal to "Ensure that future growth and development, including infill and redevelopment, are aligned with smart growth principles and consider infrastructure constraints such as water and wastewater system capacity."

Strategy: Coordinate all plans, including land use, zoning, utility and infrastructure provision, and annexation policies to ensure that future growth and development – including infill and redevelopment – establishes and follows land use and growth preferences.

2. The proposed rezoning **does/does not** advance identified goals and strategies found in the CSP and does not promote public health, safety, and welfare because it would allow for infill/redevelopment inconsistent with the unique character of the neighborhood.

The foregoing consistency statement, having been submitted to a vote, received the following vote and was duly adopted this 26<sup>th</sup> day of August in the year 2024.

Ayes:

Noes:

Absent or excused:

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Sarah E. Kimrey, Town Clerk



# ORDINANCE

## Amending the Official Zoning Map for 128 W. Margaret Lane

The Hillsborough Board of Commissioners ordains:

- Section 1.** An application was made to amend the Official Zoning Map for the Town of Hillsborough, specifically to rezone a 0.21-acre parcel of property identified as 128 W. Margaret Lane (PIN 9874-06-2054), the legal description of which can be found in Deed Book 6229, Page 282 of the Orange County Registry.
- Section 2.** The application was referred to the town Planning Board for its recommendation, and the Planning Board has provided the town board with a written recommendation addressing the consistency of the proposed rezoning amendment with the town's comprehensive plan and such other matters as the Planning Board deemed appropriate.
- Section 3.** The town board has, prior to acting on the application, adopted a statement describing the consistency of the proposed rezoning with the town's Comprehensive Sustainability Plan and explaining why the action contemplated by the town board as reflected herein is reasonable and in the public interest.
- Section 4.** The Official Zoning Map of the Town of Hillsborough is hereby amended to rezone the 0.21-acre parcel identified as 128 W. Margaret Lane (PIN 9874-06-2054) from Neighborhood Business Special Use to Neighborhood Business Conditional Zoning.
- Section 5.** Only the following land uses are permissible in the Neighborhood Business Conditional Zoning district:
- Artisan studio
  - Building/Trade contractor's office
  - Dwelling: Accessory
  - Dwelling: Single-family
  - Gallery/Museum
  - Microbrewery (with a Special Use Permit)
  - Office and professional services
  - Personal service business
  - Pharmacy, retail
  - Retail sales/rentals of goods within wholly enclosed structure
- Section 6.** All provisions of any town ordinance in conflict with this ordinance are repealed.
- Section 7.** This ordinance shall become effective upon adoption.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this 26th day of August in the year 2024.

Ayes:

Noes:

Absent or excused:

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Sarah E. Kimrey, Town Clerk