

# Holly Springs Town Council Minutes

## Regular Meeting

Aug. 19, 2008

### MINUTES

The Holly Springs Town Council met in regular session on Tuesday, August 19, 2008, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7:05 p.m. A quorum was established as the mayor and four council members were present as the meeting opened.

**Council Members Present:** Councilmen Vinnie DeBenedetto, Chet VanFossen, Tim Sack and Hank Dickson and Mayor Sears.

**Council Members Absent:** Councilman Parrish Womble.

**Staff Members Present:** Carl Dean, town manager; Chuck Simmons, assistant town manager; John Schifano, town attorney; Joni Powell, town clerk (recording the minutes); Linda Harper, deputy town clerk; Gina Bobber, director of planning and zoning; Jeff Jones, senior planner; Stephanie Sudano, director of engineering; Kendra Stephenson, senior engineer; Elizabeth Goodson, development review engineer; Len Bradley, parks and recreation director; Daniel Weeks, project analyst; Anthony Revels, police lieutenant; John Herring, police chief; Cecil Parker, fire chief; Drew Holland, finance director; and Mark Andrews, public information officer.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rev. Billy Dennis, pastor of Swift Creek Baptist Church.

**4. Agenda Adjustment:** The August 19, 2008 meeting agenda was adopted with changes, if any, as listed below.

**Motion By:** Sack

**Second By:** Dickson

**Vote:** Unanimous

**Items Added to the Agenda:** None.

**Items Removed from the Agenda:** None.

**Consent Agenda Items Moved to New Business:** None.

**Other Changes:** None.

**5. Public Comment:** At this time, an opportunity was provided for members of the audience who had registered to speak to address the Council on any variety of topics not listed on the night's agenda. The following input was recorded:

Tom O'Hare, 233 Flatrock Lane – Mr. O'Hare addressed the Council, saying that residents appreciate what the Town has done in the past; however, he said there are still problems. He said residents would prefer four-way stop signs in the intersection of Flatrock and Holly Park rather than the No Parking zone that is being proposed.

The second item, he said, would be traffic-calming devices on the roadways to control speeds. He said residents have signed a petition asking for these options.

*A copy of Mr. O'Hare's comments and the pages of the petition he referenced are incorporated into these minutes as addendum pages.*

Mr. O'Hare also asked that the Town Council authorize "No Drop Off" and "No Turn Around" signs.

He explained that many students who leave the campus as "walkers" are really being picked up in the intersection by parents, and it is causing a safety hazard for children and congestion in the neighborhood. He pointed out that other areas of town have been equipped with four-way stops and traffic-calming devices, so there is a precedent.

Pam Devlin, 301 Flatrock Lane – Ms. Devlin spoke to the same issue and related that she lives on the corner in the subject intersection. She said Flatrock Lane has become a cut-through street that motorists speed on to get to Holly Ridge schools to use the public street as a drop-off and pick-up zones.

She requested four-way stops; speed humps; and No Drop-Off zones.

Doug Mason, 309 Holly Park Drive – Mr. Mason spoke to the same issue. He related to the Council what he has seen in this intersection. He had a career in law enforcement, including five years in traffic administration. He said he would like the Council to consider a "No Stopping or Standing" zone in this intersection, although that would result in "circling" motorists waiting to pick up children.

He asked if the Town used the Manual on Uniform Traffic Control Devices (MUTCD) with guidelines for the installation of stop signs.

The Town does use the MUTCD as a guideline, but the stop signs are installed at the discretion of the Town Council.

Mr. Mason warned that the Town could be liable if stop signs are not installed in accordance with the manual. He also pointed out that speed humps that were suggested by residents are noisy and slow down response time of emergency vehicles by 20 seconds each.

Mr. Mason said there is a problem in the intersection, but the solutions offered by residents would create new problems.

**6a. Annexation Petition A08-05, Adams, Coley, Lorenzen and Vaughan** – Mr. Jones explained that the public hearing for this annexation petition was held on June 17; however, action on this voluntary annexation has been deferred a number of times at the request of the applicant.

Mr. Jones said the Town received a petition for voluntary annexation of approximately 196.72 acres located along NC Hwy. 55. The petition meets all the statutory requirements for annexation.

**Action:** The Council approved a motion to adopt Annexation Ordinance A08-05 annexing approximately 196.72 acres owned by Carlyle D. Adams (Tracts A & B); Patsy R. Coley; Jeanette C. Lorenzen; Vaughan Farms Limited Partnership and Lunette S. Vaughan, and more particularly described as Wake County PINs: 0658.03-13-8033 (portion of); 0658-24-6285; 0658-04-9799; 0658-13-3419 and 0658-03-4571, into the corporate limits of the Town of Holly Springs.

**Motion:** DeBenedetto

**Second:** Dickson

**Vote:** Unanimous

*A copy of Annexation Ordinance A08-05 is incorporated into these minutes as addendum pages.*

**6b. Zoning Map Change Petition 08-REZ-03** – Mr. Jones said this rezoning request first came before the Town Council on April 15 and again on June 17 when the annexation public hearing was held. The petitioner asked for a delay in action both times to a time when the Towns of Holly Springs and Fuquay-Varina could work out a new annexation agreement line. A new annexation agreement line was adopted by both towns, and now the petitioner will be moving forward.

Mr. Jones said the town received a petition requesting that the Town rezone approximately 53.365 acres (of the approximately 196 acres annexed) along NC Hwy. 55 from R-30 upon its annexation to Community Business. The annexation is for several parcels totaling some 196 acres, and this rezoning petition applies only for a portion of the southernmost parcel.

He said the proposed zone map change is located within the Southern Gateway Plan and is designated as a Regional Center. The “regional center” areas are located along major transportation routes throughout the Town to ensure the best access with minimal impacts to the Town’s residential neighborhoods. Particularly, the Southern Gateway Area is designated as such because this area already has regional-type development occurring. The Wal-Mart Super Center with approximately 250,000 square feet of retail space is located in the area. Adjacent to this center is the Southpark Village with a Harris Teeter grocery store anchor and approximately 200,000 square feet of retail space. Additionally, the Main Street Square project will have a mix of uses from single-family and multi-family residential, office and will have approximately 75,000 square feet of retail space.

Mr. Jones said this area would be defined with a mix of higher-density residential and commercial centers. Uses in this area should provide walkability to adjacent uses and should be of a higher architectural standard than that of a normal commercial use to set the tone of the village-like character that the Town is striving to create.

**Action #1:** The Council approved a motion to accept the following statement as true: “The requested zone map change from R-30 to CB is consistent with Vision Holly Springs the Comprehensive Plan since the Future Land Use Plan Map indicates this property as a Regional Center.”

**Motion:** Sack

**Second:** Dickson

**Vote:** Unanimous

**Action #2:** The Council approved a motion to adopt Rezoning Ordinance R08-06 to approve Zone Map Change Petition #08-REZ-03 to change the zoning of 53.365 acres of Wake County PIN(s) # 0658138033 (annexed portion of) from R-30: Residential to CB: Community Business as submitted by Jay Gilleece of Hugh J. Gilleece, III and Associates, P.A.

**Motion:** Sack

**Second:** DeBenedetto

**Vote:** Unanimous

*A copy of Rezoning Ordinance R08-06 is incorporated into these minutes as addendum pages.*

**7a. Public Hearing: Annexation Petition A08-07, Adams Property** – Mr. Jones said the Town has received a petition for voluntary annexation of approximately 8.461 acres located along NC Hwy. 55. The parcel, Mr. Jones said, is the remaining portion of the Adams tract that lies in the Fuquay-Varina extraterritorial jurisdiction but also within the Holly Springs annexation area recently approved. The petition meets all the statutory requirements for annexation.

With that explanation completed, Mayor Sears opened the public hearing. The following comments were recorded: None.

There being no comments, the public hearing was closed.

**Action:** The Council approved a motion to adopt Annexation Ordinance A08-07 annexing approximately 8.461 acres owned by Carlyle D. Adams (portion of Tract A); and more particularly described as Wake County PINs: 0658.03-13-8033 (portion of), into the corporate limits of the Town of Holly Springs.

**Motion:** Dickson

**Second:** Sack

**Vote:** Unanimous

*A copy of Annexation Ordinance A08-07 is incorporated into these minutes as addendum pages.*

**7b. Public Hearing: Zoning Map Change Petition 08-REZ-08** – Mr. Jones said the Town has received a petition requesting that the Town rezone approximately 8.5 acres along NC Hwy. 55 from R-30 upon annexation to Community Business. The subject parcel is part of a larger tract that is located within the Town of Fuquay Varina's extraterritorial jurisdiction, but is on the Town of Holly Springs side of the newly-adopted annexation agreement line.

The subject parcel of the proposed zone map change is located within the Southern Gateway Plan and is designated as a Regional Center.

With that explanation completed, Mayor Sears opened the public hearing. The following comments were recorded: None.

There being no comments, the public hearing was closed.

**Action #1:** The Council approved a motion to accept the following statement as true: "The requested zone map change from R-30 to CB is consistent with Vision Holly Springs the Comprehensive Plan since the Future Land Use Plan Map indicates this property as a Regional Center."

**Motion:** Dickson

**Second:** VanFossen

**Vote:** Unanimous

**Action #2:** The Council approved a motion to adopt Rezoning Ordinance R08-10 to approve Zone Map Change Petition #08-REZ-08 to change the zoning of 8.461 acres of Wake County PIN# 0658139246 (part of) from R-30: Residential to CB: Community Business as submitted by Jay Gilleece of Hugh J. Gilleece, III and Associates, P.A.

**Motion:** Dickson

**Second:** VanFossen

**Vote:** Unanimous

*A copy of Rezoning Ordinance R08-10 is incorporated into these minutes as addendum pages.*

**7c. Public Hearing: Zoning Map Change Petition 08-REZ-09** – Mr. Jones said the Town has received a petition requesting that 9821 Holly Springs Road be rezoned from R-10: Residential to LB: Local Business. Many parcels within the area have changed from a Residential zoning designation to Local Business. The parcel is very close to one of Holly Springs' largest intersections, Holly Springs Road and Sunset Lake Road. The area generates a great deal of business-related activity. The zoning map change would be consistent with other uses within the area.

With that explanation completed, Mayor Sears opened the public hearing. The following comments were recorded: None.

There being no comments, the public hearing was closed.

**Action #1:** The Council approved a motion to accept the following statement as true: "The requested zone map change from R-10 to LB is consistent with the Vision Holly Springs Comprehensive Plan since the Future Land Use Plan Map indicates this property as Business, and the LB: Local Business Zoning Classification is commercial in nature."

**Motion:** Sack

**Second:** DeBenedetto

**Vote:** Unanimous

**Action #2:** The Council approved a motion to adopt Rezoning Ordinance R08-11 to approve Zone Map Change Petition #08-REZ-09 to change the zoning of 0.39 acres of Wake County PIN # 0659-97-5165 located at 9821 Holly Springs Road from R-10: Residential to LB: Local Business as submitted by Marco Vallecillo.

**Motion:** Sack

**Second:** Dickson

**Vote:** Unanimous

*A copy of Rezoning Ordinance R08-11 is incorporated into these minutes as addendum pages.*

**Action:** At this time, the Council approved a motion to recuse Councilman VanFossen from discussion and action on Item 7d. due to his professional involvement in the project. *[Note: A quorum of the Council remained intact with three Council members and the mayor.]*

**Motion By:** Sack

**Second By:** Dickson

**Vote:** Unanimous.

**7d. Public Hearing: Zoning Map Change Petition 08-REZ-10** – Mr. Jones said the Town has received a request for a zone map change for two parcels along Holly Springs Road at 9825 Holly Springs Road. The applicant is requesting the parcels be rezoned from R-10: Residential to LB: local Business. The parcels are approximately 0.92 acres and have 160 feet of road frontage on Holly Springs Road.

With that explanation completed, Mayor Sears opened the public hearing. The following comments were recorded: None.

There being no comments, the public hearing was closed.

**Action #1:** The Council approved a motion to accept the following statement as true: "The requested zone map change from R-10 to LB is consistent with the Vision Holly Springs Comprehensive Growth Plan since the Future Land Use Plan Map indicates this property as Business, and the LB: local Business District allows for Commercial development."

**Motion:** Dickson

**Second:** DeBenedetto

**Vote:** Unanimous

**Action #2:** The Council approved a motion to adopt Rezoning Ordinance R08-12 to approve Zone Map Change Petition #08-REZ-10 to change the zoning of 0.92 acres of Wake County PINs 0659974081 and 0659975028 from R-10: Residential to LB: Local Business as submitted by Randall Miller.

**Motion:** Dickson

**Second:** DeBenedetto

**Vote:** Unanimous

*A copy of Rezoning Ordinance R08-12 is incorporated into these minutes as addendum pages.*

**Action:** The Council approved a motion to readmit Councilman VanFossen into the meeting.

**Motion By:** Sack

**Second By:** Dickson

**Vote:** Unanimous.

**7e. Public Hearing: Annexation Petition A08-08, Stafford Land Company, Inc.** – Mr. Jones said the Town has received a petition for voluntary annexation of approximately 17.62 +/- acres located along NC Hwy. 55. The petition meets all the statutory requirements for annexation.

With that explanation completed, Mayor Sears opened the public hearing. The following comments were recorded: None.

There being no comments, the public hearing was closed.

**Action:** The Council approved a motion to adopt Annexation Ordinance A08-08 annexing approximately 17.62 +/- acres owned by Stafford Land Company, Inc., and more particularly described as Wake County PIN: 0658.09-05-4789, into the corporate limits of the Town of Holly Springs.

**Motion By:** Dickson

**Second:** Sack

**Vote:** Unanimous

*A copy of Annexation Ordinance A08-08 is incorporated into these minutes as addendum pages.*

**7f. Public Hearing: Development Plan 08-DP-02 Bridgewater West Townhomes** – Mr. Jones said the Town has received a request for a development plan for 5.31 acres accessed by Millpass Drive and located in between the Bridgewater Subdivision and the Windcrest Subdivision. The proposed development plan includes 33 three-story townhouse units, which would be accessed by a new private street that would connect with the existing Orvis Drive (located in Windcrest).

He said four off-street parking spaces per unit are proposed throughout the site as well as sidewalks for pedestrian access. A total of 3.40 acres (0.09 acres developed and 3.31 acres passive) of open space are proposed throughout the site.

Mr. Jones said the front of the townhouses are proposed to be constructed primarily of horizontal vinyl siding, shakes and stone. Other architectural elements include multiple building materials, standing seam metal roofs, shutters, façade modulation, roofline variation, decorative fencing and porticos. The side and rear elevations are proposed to be constructed with vinyl siding and shakes and include a horizontal band and shutters.

Mr. Jones reported that the Planning Board had reviewed the plan and recommends approval with conditions. The Planning Board did have questions about the plan, specifically about the adequacy of parking at the mail kiosk.

Councilman DeBenedetto said he thought the Town did not want to see vinyl siding, and he asked why this was being proposed.

Mr. Jones explained that the Town does not have ordinances currently that prohibit an applicant from proposing vinyl siding.

Councilman DeBenedetto said he had concerns about vinyl siding because of fire hazard and quality of construction.

Mr. Jones said the proposed materials would be in keeping with the other parts of the Bridgewater subdivision and neighboring subdivisions.

Councilman Sack asked if the applicant had addressed the Planning Board's concerns about parking at the mail kiosk.

Tom Spaulding of Spaulding and Norris – Mr. Spaulding, representing the applicant, responded, saying that the developer could install "Reserved for Mail Pick-Up Only" signs or move the kiosk. Additional spaces, he said, would not be feasible because of flood plain limits. He said the company would be glad to consider options.

Councilman VanFossen suggested moving the guest parking down and then installing a pull up lane at the mail kiosk or an additional "mail only" parking space.

Council directed the applicant to work with staff to provide additional parking at the mail kiosk, or at the very least, a mail pull-up lane.

Councilman Dickson asked how much an alternative exterior siding would drive up the price of the units.

Brian Rieland, 201 Shannon Oaks, Cary -- Mr. Rieland responded that the cost to go from vinyl to hardiplank would drive the price up by about \$8,000 to \$10,000 per unit. He said there is another product that may be an option.

Councilman VanFossen pointed out that requiring an alternative siding on the townhome section when the rest of the subdivision featured vinyl siding on single-family homes was not logical.

Councilman DeBenedetto said he was concerned about the fire hazard of vinyl siding.

Councilman VanFossen explained that the disastrous fire in Raleigh last year was not made worse by the siding material but because of faulty fire breaks in the construction.

Councilman DeBenedetto maintained his position that vinyl siding is a fire hazard as compared to hardiplank, and he thinks there are many other towns that have adopted restrictions against the use of vinyl siding.

With that explanation and discussion completed, Mayor Sears opened the public hearing. The following comments were recorded: None.

There being no comments, the public hearing was closed.

**Action:** The Council approved a motion to approve Development Plan #08-DP-02 for Bridgewater West Townhomes Phase II as submitted by Spaulding & Norris Engineering, project number 360-02, dated revised 07-03-2008 with the following conditions, including Condition No. 6 added by the Council:

1. A fee-in-lieu of pump station upgrade will be required for this project.
2. With the 1<sup>st</sup> submittal of construction drawings for this project, the following items must be submitted or addressed:
  - a. Provide a comprehensive drainage area map and supporting calculations at 1<sup>st</sup> construction drawing submittal.
  - b. This project is located in a basin where the Town has an approved flood study – Bridgewater Flood Study. With the first construction drawing submittal, the flood study will need to be updated to reflect this project and will need to demonstrate that development of the site will not raise established flood levels or documentation will need to be provided verifying that this phase was included with the original flood study calculations.
3. With the 1<sup>st</sup> submittal of erosion control plans for this project, the following items must be submitted:
  - a. Riparian Buffer Homeowner education packet must be submitted with first erosion control plan submittal.
4. With the recordation of the first final plat associated with this plan, the following will need to be addressed:
  - a. HOA covenants will need to be recorded
5. Prior to Final Plat, the following must be completed: payment of fees-in-lieu of land dedication in the amount of \$903 / unit.
6. Work with planning staff to improve parking limitations at mail kiosk.

**Motion By:** Sack

**Second:** Dickson

**Vote:** The motion carried following a 3-1 vote. Councilmen VanFossen, Sack and Dickson voted for the motion. Councilman DeBenedetto voted against.

Councilman VanFossen asked Ms. Clapp if the Planning & Zoning Department would research what other towns do regarding vinyl siding and how any restrictions are being done legally.

**8. Consent Agenda:** The Council approved all items on the Consent Agenda following a motion by Councilman Sack, a second by Councilman Dickson and a unanimous vote. The following actions were affected:

8a. Budget Amendment Report - The Council received a report of amendments to the FY 2008-09 budget approved by the town manager. *A copy of the budget amendment report is incorporated into these minutes as an addendum page.*

8b. Parks and Recreation Refund Policy – The Council amended the Parks and Recreation refund policy to require 14 days notice of non-participation before being eligible for a program fee refund.

8c. Budget Amendment, \$195,000 – The Council adopted an amendment to the Reserve Fund Budget for FY2007-08 in the amount of \$195,000 to transfer funds from Wastewater Reserves to the Wastewater Treatment Plant Expansion Project Budget, which was approved at the Oct. 16, 2007 Town Council meeting. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8d. Budget Amendment, \$1,110 - The Council adopted an amendment to the FY 2008-09 budget in the amount of \$1,110 to receive insurance proceeds for maintenance of a fire/rescue vehicle. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8e. Budget Amendment, \$1,150 – The Council adopted an amendment to the FY 2008-09 budget in the amount of \$1,150 to receive insurance proceeds for maintenance of a water distribution vehicle. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

**9a. Development Plan 08-DP-03, Lowe's** – Ms. Clapp said that Lowe's Home Improvement proposes to locate a new store immediately south of the Shoppes at Holly Springs Shopping Center inside the Ralph Stephens Road Loop along NC Hwy. 55. The parcel has several constraints, such as utility easements, wetlands and overhead power lines as well as having "two fronts" since it is a corner lot. The proposed structure has been placed strategically so there would be no conflicts with the constraints on the site.

She said the proposed building is approximately 154,415 sq. ft. including a garden center on a 17.60-acre tract zoned CB: Community Business. There would be two locations in the rear of the structure for outdoor storage, and, like many of the home improvement stores, there is a total of 13,539 sq. ft. of outdoor sales and display area proposed along both front facades.

With the approval of this development plan, the applicant is requesting one engineering exception to the Engineering Design and Construction Standards, a number of waivers from Unified Development Ordinance regulations pertaining to the construction of the building and that one of the conditions of approval recommended by staff and the planning board be eliminated.

A recommended condition of approval on the plan is Condition No. 4, which states, "Prior to issuance of Certificate of Occupancy a pedestrian corridor must be constructed and dedicated to the Town as a component of the Town's Greenway System in accordance with the Parks and Recreation Master Plan. If another suitable location of the pedestrian access is determined, the Director of Parks and Recreation may approve the change."

The applicant is requesting that it not be required to provide this pedestrian corridor.

The Engineering Design and Construction Standards require that all developments extend sewer to the adjacent properties to provide for future sewer connection of upstream properties. In this instance, Lowe's is able to be served by tying a sewer service to a sewer stub that was provided to the property line through the Shoppes at Holly Springs development and would not need to extend a public line into the site in order to serve the property.

Ms. Goodson said there is a second sewer manhole located on NC Hwy. 55 that was provided by Shoppes at Holly Springs in a location that could serve the upstream properties (both Lowe's Home Improvement site and the Wilco Hess property located at the corner of Ralph Stephens Road and NC Hwy. 55.) The requirement for this site is to extend the public sewer line from this manhole across the property to the property line with the upstream property. She said staff recommends that this sewer extension be provided as required, but the town manager had other insights.

The Town Manager suggested that Lowe's be allowed to provide the right of way for future sewer to the Wilco-Hess site. This is something he and principles of Lowe's have discussed and to which all have tentatively agreed. Mr. Dean said, in his opinion, Lowe's should not have to provide sewer service that it will not be using, and the Wilco-Hess property owner is responsible for providing sewer to its site. Mr. Dean said he would recommend that Lowe's be granted an exception from the Engineering Design and Construction Standards with the condition that right of way for future sewer extension would be provided. When the Wilco-Hess site owner is ready to develop, he would extend the line to his site down the right of way, repairing any of Lowe's entrance pavement that might be destroyed in the process.

The following actions are tied to this development plan petition:

1. Findings of fact for waiver of UDO Section 3.08.
2. Action on request for UDO waiver to allow reduction in required masonry from 60% to 48.25% masonry material on the southern elevation façade.
3. Findings of fact for waiver of UDO Section 7.03.
4. Action on request for UDO waiver to allow an increase in the height of letters from 48" to 70" and logo from 60" to 206" on the south elevation and to allow an increase in the height of letters from 48" to 93" and logo from 60" to 275" on the east elevation for the Lowe's signage.
5. Findings of fact for waiver of UDO Section 7.04.
6. Action on request for UDO waiver to allow for an increase from 75% to 90% of the total number of off-street parking spaces to be placed between the front building line and the property line.
7. Action on request for exception to Engineering Design and Construction Standards of requirement to extend sanitary sewer to all adjacent property lines in order to serve upstream properties with sewer.
8. Action on development plan.

Ms. Clapp said the applicant is requesting a waiver of regulations of UDO Section 3.08, B., Gateway Corridor and Residential Gateway Architectural and Site Design Regulations, for Petition #08-DP-03 for Lowe's Home Improvement, Inc, to allow for a reduction from 60% to 48.25% masonry material on the southern elevation facade.

A petition for a waiver of regulations of UDO may be granted only upon the presentation of sufficient evidence to enable a written determination that:

Waiver Findings of Fact:

1. The proposed development represents the use of (*building materials*, colors, textures, *building* architecture, roof features, façade modulation, *building* orientation, *signs*, landscaping, lighting or *open space*) which will result in a development pattern which is equivalent to or superior to that achievable under the applicable regulations;
2. The proposed development will be compatible with and will enhance the *use* or value of area properties;
3. The proposed development is consistent with the intent of the *Comprehensive Plan*; and,
4. The proposed development is consistent with the intent and purpose of this UDO.

**Action #1:** The Council approved a motion to make and accept findings of fact to be recorded in the minutes for Development Petition 08-DP-03 for Lowe's Home Improvement for a waiver of regulations of UDO Section 3.08, B., Gateway Corridor and Residential Gateway Architectural and Site Design Regulations, to allow for a reduction from 60% to 48.25% masonry material on the southern elevation facade for Petition 08-DP-03 for Lowe's Home Improvement, Inc.

**Motion By:** VanFossen

**Second By:** Dickson

**Vote:** Unanimous.

**Action #2:** Having made findings of fact that the petition meets the requirements to be granted a waiver of regulations of UDO Section 3.08, B., Gateway Corridor and Residential Gateway Architectural and Site Design Regulations, the Town Council approved a motion to grant a waiver to allow for a reduction from 60% to 48.25% masonry material on the southern elevation facade for Development Plan Petition 08-DP-03 for Lowe's Home Improvement, as submitted by Lowe's Home Centers, Inc., drawn by Scott & Goble Architects, dated July 3, 2008.

**Motion By:** VanFossen

**Second By:** DeBenedetto

**Vote:** Unanimous.

Ms. Clapp said that the applicant is requesting a waiver of regulations of UDO Section 7.03, E., Signs in Commercial/Mixed Use Districts and Industrial Districts, for Petition #08-DP-03 for Lowe's Home Improvement, Inc, to allow an increase in the height of letters from 48" to 70" and logo from 60" to 206" on the south elevation and to allow an increase in the height of letters from 48" to 93" and logo from 60" to 275" on the east elevation for the Lowe's signage.

A petition for a waiver of regulations of the UDO may be granted only upon the presentation of sufficient evidence to enable a written determination that:

Waiver Findings of Fact:

1. The proposed signs are harmonious with the buildings and sites they occupy;
2. The proposed signs will not create a hazard to motorists or pedestrians resulting from the sign location, size or configuration;
3. The proposed signs will not increase the total combined sign surface area allowed for the front sign zone, interior sign zone and building signs on the lot, out lot, integrated center, business park, industrial park, subdivision or building served by the proposed signs;
4. The proposed signs will result in an overall pattern of signs for the lot, out lot, integrated center, business park, industrial park, subdivision or building which is equivalent or superior to the achievable under the applicable regulations;
5. The proposed signs will be compatible with and will enhance the use or value of area properties;
6. The proposed signs are consistent with the intent of the *Comprehensive Plan*; and
7. The proposed signs are consistent with the intent and purpose of this UDO.

**Action #3:** The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for Development Petition 08-DP-03 for Lowe's Home Improvement for a Waiver of Regulations of UDO Section 7.03, E., Signs in Commercial/Mixed Use Districts and Industrial Districts, to allow an increase in the height of letters from 48" to 70" and logo from 60" to 206" on the south elevation and to allow to increase the height of letters from 48" to 93" and logo from 60" to 275" on the east elevation for the Lowe's signage for Petition 08-DP-03 for Lowe's Home Improvement, Inc.

**Motion By:** VanFossen

**Second By:** Dickson

**Vote:** Unanimous.

**Action #4:** Having made findings of fact that the petition meets the requirements to be granted a waiver of regulations of UDO Section 7.03, E., Signs in Commercial/Mixed Use Districts and Industrial Districts, the Town Council approved a motion to grant a waiver to allow an increase in the height of letters from 48" to 70" and logo from 60" to 206" on the south elevation and to allow to increase the height of letters from 48" to 93" and logo from 60" to 275" on the east elevation for the Lowe's signage for Development Plan Petition 08-DP-03 for Lowe's Home Improvement, as submitted by Lowe's Home Centers, Inc., drawn by Scott & Goble Architects, dated July 3, 2008.

**Motion By:** VanFossen

**Second By:** Dickson

**Vote:** Unanimous.

Ms. Clapp said that the applicant is requesting a waiver of regulations of UDO Section 7.04, E., Number of Off-Street Parking Spaces, for Petition 08-DP-03 for Lowe's Home Improvement, Inc, to allow for an increase from 75% to 90% of the total number of off-street parking spaces to be placed between the front building line and the property line.

A petition for a waiver of regulations of UDO may be granted only upon the presentation of sufficient evidence to enable a written determination that:

Waiver Findings of Fact:

- (1) A parking demand study (please attach all documentation) completed by a third party that provides evidence regarding:
  - a. Peak usage estimates based on reliable data collected from comparable uses located within the same or similar market areas as the Town of Holly Springs. Comparable uses will be determined based on density, scale, bulk, area, type of activity, and location; and,
  - b. Number of employees on the largest shift; and,
  - c. Minimum number of spaces needed to meet the parking demand for the specific use.

- (2) The granting of a waiver will not cause negative impacts on the environment or adjacent properties without the necessity of including mitigating elements such as additional screening, pervious pavement, shared parking, rain gardens, or those elements are provided under the plan to the extent necessary to lessen the effects of any negative impacts:
- (3) The proposed development is consistent with the intent of the *Comprehensive Plan*:
- (4) The proposed development is consistent with the intent and purpose of this UDO.

**Action #5:** The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for a waiver of regulations of UDO Section 7.04, E., Number of Off-Street Parking Spaces, to allow for an increase from 75% to 90% of the total number of off-street parking spaces to be placed between the front building line and the property line for Petition 08-DP-03 for Lowe's Home Improvement, Inc.

**Motion By:** /VanFossen

**Second By:** Dickson

**Vote:** Unanimous.

**Action #6:** Having made findings of fact that the petition meets the requirements to be granted a waiver of regulations of UDO Section 7.04, E., Number of Off-Street Parking Spaces, the Council approved a motion to grant a waiver to allow for an increase from 75% to 90% of the total number of off-street parking spaces to be placed between the front building line and the property line for Development Plan Petition #08-DP-03 for Lowe's Home Improvement, as submitted by Freeland and Kauffman, Inc., plans entitled Site Development Plans for Lowe's of Holly Springs, dated revised 07/07/2008.

**Motion By:** VanFossen

**Second By:** Dickson

**Vote:** Unanimous.

**Action #7:** The Council approved a motion to allow an exception to Engineering Design and Construction Standards Section 7.01.A.7 in association with Development Plan #08-DP-03 for Lowe's Home Improvement, Inc., to waive the requirement to extend sanitary sewer to all adjacent property lines in order to serve upstream properties with sewer as submitted by Freeland and Kauffman, Inc., plans entitled Site Development Plans for Lowe's of Holly Springs, dated Revised 07/07/2008.

**Motion By:** VanFossen

**Second By:** Dickson

**Vote:** Unanimous.

**Action #8:** The Council approved a motion to approve Development Plan 08-DP-03 for Lowe's Home Improvement, Inc. as submitted by Freeland and Kauffman, Inc., plans entitled Site Development Plans for Lowe's of Holly Springs, dated revised 07/07/2008 with the following conditions:

1. A fee-in-lieu of upgrade will be required for this project for the downstream pump station and force main.
2. With the first construction drawing submittal associated with this plan, the following items are to be addressed prior to or submitted with the plans:
  - a. Provide documentation of offsite sewer easement
  - b. An updated Somerset Basin Flood Study will be required
  - c. This project will be required to meet NPDES Phase II requirements. Supply a Stormwater Management Plan
  - d. Provide an updated PCN with all supporting documentation including but not limited to wetlands and projected location and impacts to jurisdictional features for the entire project
  - e. A Gravity Sewer Line Sizing Report will be required for all lines that are stubbed to adjacent upstream properties (unless an exception is granted by Town Council to not require the sewer stub).
3. Prior to the approval of the first set of construction drawings for this project, the following items will need to be addressed:
  - a. Stormwater mitigation will need to be paid to the appropriate agency as part of the 401/404 approval. Documentation of this payment will be required.
  - b. All environmental permits must be obtained prior to construction drawing approval and/or issuance of a land disturbance permit for the entire project.
  - c. 401 water quality certification and 404 permit approval of this project will be required
4. Prior to issuance of Certificate of Occupancy a pedestrian corridor must be constructed and dedicated to the Town as a component of the Town's Greenway System in accordance with the Parks and Recreation Master Plan. If another suitable location of the pedestrian access is determined, the Director of Parks and Recreation may approve the change.

**Motion By:** VanFossen

**Second By:** Sack

In discussion, Council talked about the condition of approval, Condition No. 4, requiring the greenway trail on the north side of the site. Sidewalk is planned for a portion of the site, but the Master Plan for greenways calls for greenway in this area.

Mr. Bradley said he felt public sidewalk eventually would be installed along NC Hwy. 55 and along Ralph Stephens Road, so sidewalks



proposed in the plan would connect pedestrian way.

Ms. Clapp noted the wording of the condition provides plenty of time and the option to for the applicant to work with the director of parks and recreation.

**Vote:** Unanimous.

**9b. No Parking Zone Sign** – Ms. Stephenson said that an increase in traffic is being seen at the intersection of Flat Rock Lane and Holly Park Drive due to parents dropping off and picking up children at this pedestrian access point. The increase is due to Wake County's new rule of not providing bus services to students living within 1.5 miles of a school campus.

She said staff has taken several calls from adjacent property owners expressing concern over the unsafe situation. Cars come into Holly Park Drive, which is a stub street, to the school campus, park and wait for children. Then, when they are ready to leave, they have to complete a three-point turn to get out. Meanwhile, other cars are coming onto the stub street.

There have been a few near-misses witnessed, and the residents have asked the town to take a look at this situation. Cars also stack up along the other three legs of the intersection on both sides of the street in no specific manner.

Ms. Stephenson said that every month, the Police Department, Engineering Department, and Public Works Department meet to discuss transportation complaints and issues. During the last school year, the committee reviewed this issue, and the solution recommended was the installation of advance warning crosswalk signs; a painted crosswalk; a stop sign on the stub road; and trimming the street trees to maintain good sight distance. These items were completed last spring.

In the anticipation of school's getting ready to start this year, several residents have contacted town staff again with additional requests. It is our understanding, Ms. Stephenson said, that the vehicular drop-off and pick-up of students still remains as an issue for the residents.

She said staff has spoken many times with the school principals, who have indicated that they do not have the ability to regulate vehicular drop-off and pick-up as long as the student lives in the 1.5 mile radius.

Ms. Stephenson said staff then consulted with the Town Attorney, seeking guidance as to what the Town can regulate in the right of way in this instance. The Town Attorney advised that the Town could install a sign prohibiting parking and standing on the stub road, which could then be enforced by the Police Department. This would still allow for on-street parking and students to use the crosswalks and sidewalk to get to the cars that are parked beyond the limit of the signs.

Due to the short time frame between this agenda item's being developed and the start of school, staff is mailing letters to residents in this immediate area to insure that all residents directly impacted by the traffic issues have an opportunity to provide feedback on the proposed signage changes.

She said staff is recommending a No Parking zone extending 500 feet from the intersection, which would make it a hassle, so parents would choose to go ahead and use the school property's drop-off and pick-up lane.

Lt. Revels said he met with school officials and was advised that the position of the school system is that this is a town police problem and not a school system problem.

He also noted that a similar solution was instituted at Holly Grove Elementary School last year, and it worked great for residents and students,

Tonight, Ms. Stephenson said, staff is not recommending four-way stops and speed humps as requested by the residents. She pointed out that Flat Rock is not a collector street, so it would not meet Manual for Uniform Traffic Control Devices guidelines for stop signs. She reported that the town has received a petition calling for the study of whether the street would qualify for speed humps. Ms. Stephenson said that two other neighborhoods are in line ahead of this area.

Councilman Sack suggested incremental changes. He suggested that the Town install the No Parking Zone signs and see if that helps. If not, then the Town could proceed to do a speed hump study.

**Action:** The Council approved a motion to authorize installation of "No Parking Zone" signs on Holly Park Drive in a zone 500 feet from the intersection during specified times and days.

**Motion By:** DeBenedetto

**Second By:** Sack

In discussion, Councilman Dickson said he was reluctant because he was not sure residents would be happy with the No Parking signs.

**Vote:** Unanimous.

Staff will keep the issue open to further options as needed.

**9c. Maple Street Extension Bid Award** – Ms. Stephenson said that in order to provide access to the Rex Soccer Fields, Maple Street must be extended 300 feet. Informal bids were requested from Pacos Construction, Narron Construction and Asphalt Experts for this extension, which would consist of 300 feet of grading, base and paving.

She said the bids were received on Aug. 11, 2008, and Pacos Construction was the lowest bidder. Bids were as follows: Pacos Construction - \$35,000; Narron Construction - \$37,800; and Asphalt Experts - \$57,678.35.

**Action:** The Council approved a motion to approve the Maple Street Extension Project, to award the construction contract to low bidder Pacos Construction in the amount of \$38,500, which includes 10% contingency; and to authorize funding for the project from Powell Bill Funds.

**Motion By:** VanFossen

**Second By:** Sack

**Vote:** Unanimous.

**10. Other Business:** Councilman DeBenedetto asked that the Rex Health Care certificate of need appeal be publicized on the town's website.

**11. Manager's Report:** Mr. Dean reported that Progress Energy was planning a public forum for October; that Novant Health was planning a public forum in Fuquay-Varina; he thanked staff and citizens for their support of a Certificate of Need for Holly Springs Hospital; he reported that motorcycles authorized by the Town Council for the police department had arrived; he reported that he and staff are working to prepare a list of projects for potential bond funding and that the Council may want to plan a special bond workshop for September; he introduced Mr. Holland and asked him to report on a recent project.

Mr. Holland addressed the Council explaining that Assistant Finance Director Larry Boykin and he were approached by a certified public accountant during a recent conference who offered to conduct a utility franchise audit of Progress Energy. The accountant said he would do the work for 40% of what the audit would recoup for the Town.

Mr. Holland said Councilman Dickson had advised him that he was aware of the accountant's work but that the same information from Progress Energy could be obtained for free.

Mr. Holland reported that he followed through with the information, obtained the records and reviewed them based on whether the customers billed resided inside or outside the town limits. After making corrections to the records, Mr. Holland said, the Town stands to receive approximately \$94,000 in back utility franchise taxes.

He added that because the work was done in-house as suggested by Councilman Dickson, the town gets the entire amount owed and does not have to pay a consulting accountant a share.

**12. Closed Session:** None.

**13. Adjournment:** There being no further business for the evening, the August 19, 2008, meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Sack, a second by Councilman VanFossen and a unanimous vote.

Respectfully Submitted on Tuesday, Oct. 7, 2008.

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Joni Powell, CMC, Town Clerk

**Addendum pages as referenced in these minutes follow and are a part of the official record.**