

Holly Springs Town Council Minutes

Regular Meeting March 20, 2007

The Holly Springs Town Council met in regular session on Tuesday, March 20, 2007, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7:04 p.m. A quorum was established as the mayor and three council members were present as the meeting opened.

Council Members Present: Councilmen Vinnie DeBenedetto, Parrish Womble and Hank Dickson and Mayor Sears.

Council Members Absent: Councilmen Chet VanFossen and Peter Atwell.

Staff Members Present: Carl Dean, town manager; Charles Simmons, assistant town manager; John Schifano, town attorney; Linda Harper, deputy town clerk (recording the minutes); Gina Clapp, director of planning and zoning; Mark Zawadski, planner I; Stephanie Sudano, director of engineering; Heather Keefer, environmental inspector; John Herring, police 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 Rabbi Ederly of The Temple Beth Shalom.

4. Agenda Adjustment: The March 20, 2007 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Dickson

Second By: DeBenedetto

Vote: Unanimous

Items Added to the Agenda: None.

Items Removed from the Agenda: Item 7b. was removed and rescheduled for the April 3, 2007, Town Council meeting.

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.

Van Crandall, 4813 Salem Ridge Road -- Mr. Crandall read a resolution that was before the Raleigh City Council requesting funding options from the General Assembly to cover costs of rapid growth in Wake County. He said the resolution requested state funds for local authorities to use in defraying the cost of such things as road improvements and schools. The resolution also supports the ability for local municipalities to charge impact fees to help pay for infrastructure improvements.

6a. Public Hearing: Zoning Map Change Petition 07-REZ-01 – Mr. Zawadski reported that the Town has received Zoning Map Change Petition 07-REZ-01 to rezone properties located at 9809 Holly Springs Road and 5212 Sunset Lake Road near the intersection of Holly Springs Road and Sunset Lake Road.

He said the properties are zoned R-10: Residential, and the applicant is requesting that both properties be rezoned to LB: Local Business. He added that the requested zoning district would be compatible with the Northeast Gateway Plan of the Ten-Year Comprehensive Growth Plan, which

designates these properties as business.

Mr. Zawadski said that staff and Planning Board recommend approval.

With that explanation completed, Mayor Sears opened the public hearing to accept input. The following comments were recorded:

Mary Beaman, 5216 Sunset Lake Road -- Ms. Beaman said that her property is located adjacent to the property that was being petitioned for rezoning. She said that her major concern is the impacts that it would have on her property since she does not know what would be proposed to be constructed on the site. She also noted her concerns about the potential increase in traffic and noise.

Loftee Smith, 5252 Limwick Drive, Fuquay-Varina -- Mr. Smith, representing the applicant, said he agrees with staff's recommendation.

Councilman Dickson explained that the request is to consider zoning of the property and not site approval; therefore, the Council can only consider the question of whether the zoning is appropriate. He noted that the local business district would allow a variety of office, retail, restaurant and personal service uses. He added that the district also would allow limited automobile and drive-through restaurant uses as special exceptions, which require public hearings specifically on the proposed uses.

There being no further input, the public hearing was closed.

Action #1: The Council approved a motion to approve the following statement: "The requested zone map change from R-10: Residential to LB: Local Business is consistent with the Holly Springs 10-Year Comprehensive Growth Plan since the Future Land Use Plan Map indicates this property as Business, and the LB: Local Business District allows for a variety of office, retail, restaurant, personal service, and other business uses."

Motion By: Womble

Second By: DeBenedetto

Vote: Unanimous.

Action #2: The Council approved a motion to approve Zone Map Change Petition # 07-REZ-01 to change the zoning of .45 acres of Wake County PIN #0659-97-7317 and .41 acres of Wake County PIN # 0669-07-0347 from R-10: Residential to LB: Local Business as submitted by Withers and Ravenel.

Motion By: Dickson

Second By: DeBenedetto

Vote: Unanimous.

6b. Public Hearing: Growth Plan Amendment 07-GPA-01 – Mr. Zawadski explained the Town has received a Growth Plan Amendment Petition 07-GPA-01 requesting to rezone property located near the intersection of Main Street and Anchor Creek Way known as Bridgewater Village development. He said the rezoning request requires an amendment to the Land Use element of the Ten-Year Comprehensive Growth Plan, which designates the property for medium-density residential up to 3.25 units per acre development.

Mr. Zawadski said the applicant is requesting a growth plan amendment to change the future land use designation to high-density residential up to 4.5 units per acre. He explained the property is currently split-zoned R-8: residential and R-MF-8: multi-family residential. The applicant is proposing to rezone from the R-8: residential portion to R-MF-8: multifamily which the R-8 allows up to 8 units per acre. He said the R-MF-8 zoning district would exceed the high-density residential development limit that would result from an amendment to the Land Use Plan. There are environmental features on the property that would effectively restrict development to the high-density maximum.

Mr. Zawadski reviewed the surrounding land uses and density of the adjacent properties, such as; Arbor Creek density is 3.8 dwelling units per acre, and Windcrest 3.5 dwelling units per acre. He said the proposed amendment is requesting high density which would allow up to 4.5 dwelling units per acre.

With that explanation completed, Mayor Sears opened the public hearing to accept input. The following comments were recorded:

Thomas Spaulding of Spaulding & Norris, PA, 972 Trinity Road, Raleigh. Mr. Spaulding representing the property owner reviewed the location of the proposed property. He said that in response to the Planning Boards' concerns of the land use designation as high density of 4.5 dwelling units per acre. He said that 50% of the land is considered unusable, and is limited because of the flood and

environmental issues on the property. He said that he felt the proposed 3.9 density is a good fit for the property.

Councilman DeBenedetto asked how many dwelling units per acre is proposed with the request 3.9 dwelling units per acre.

Mr. Spaulding said with the density of 3.9 it would average approximately of 37 dwelling units on 9 acres.

Councilman Dickson asked if the property were to remain zoned R-8: Residential and using the developable land, how many units could be built on the property.

Mr. Spaulding said with the zoning remaining as R-8: Residential approximately 18 or 20 units. He said that the proposed 3.9 density is a better fit for townhomes verses residential lots, it's the best use for the property and there's not much of an increase in density from 3.5 to 4.5 dwelling units per acre.

Van Crandall, 4813 Salem Ridge Rd. Mr. Crandall requested the Council to require the developer to construct road widening improvements along NC 55 at the time the property is developed.

Brian Rieland, 308 Anchor Creek Way. Mr. Rieland the property owner said with the Town's approval of rezoning the access into the development will be from Anchor Creek Way, which all road widening and improvements is completed. He said that he feels the proposed density is the best use for the property being all the existing environmental issues currently located on the property.

There being no input, the public hearing was closed.

Councilman Dickson said that he did not oppose to the proposed density or multifamily zoning district and feels that it's appropriate with the other adjacent developments. He said his major concerns will be the review and consideration of the development plan.

Mr. Zawadski said the Planning Board had concerns with the proposed land use with the adjacent properties, Arbor Creek-3.8 dwelling units per acre, Windcrest 3.5 dwelling units per acre, and the proposed high density 4.5 dwelling units per acre. He said that staff and Planning Board recommend approval.

Action: The Council approved a motion to approve Ten-Year Comprehensive Growth Plan amendment 07-GPA-01 to change the future land use designation of a 9.3-acre portion of Wake County PIN #0659-08-4139 from medium-density residential to high-density residential as submitted by Spaulding and Norris, PA.

Motion By: Womble

Second By: Dickson

Councilman DeBenedetto commended that the developer is developing the project with energy star and presents a good quality product.

Vote: Unanimous.

6c. Public Hearing: Zoning Map Change Petition 07-REZ-02 – Mr. Zawadski said this request is for the rezoning of property located near the intersection of Main Street and Anchor Creek Way known as Bridgewater Village. The property currently is split-zoned R-8: residential and R-MF-8: multifamily residential.

Mr. Zawadski said the applicant is requesting that the 9.3-acre R-8: residential portion of the property be rezoned to R-MF-8: multi-family residential.

Mr. Zawadski said with the previous approval of growth plan amendment, 07-GPA-01, the rezoning petition 07-REZ-02 still would not be consistent with the growth plan, because the requested R-MF-8 multifamily zoning would allow development up to 8 units per acre, which would exceed the limits of the high-density designation; however, there are environmental features on the property that would effectively restrict development to the high-density maximum.

Mr. Zawadski said the Planning Board discussed the compatibility of the R-MF-8 zoning district with the high density land use designation. He said that staff and Planning Board recommend approval.

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

There being no input, the public hearing was closed.

Action #1: The Council approved a motion to accept the following statement of zoning compatibility: "The requested zone map change from R-8 to R-MF-8 is not consistent with the Holly Springs 10-Year Comprehensive Growth Plan since the Future Land Use Plan Map indicates this property

as high-density residential (maximum density of 4.5 units/acre), and the R-MF-8 Residential district sets the maximum allowed density at 8 units per acre. However, due to site limitations and the surrounding area, the R-MF-8 zoning district is compatible for this particular area of Town.”

Motion By: Womble

Second By: Dickson

Vote: Unanimous.

Action #2: The Council approved a motion to approve Zone Map Change Petition #07-REZ-02 to change the zoning of a 9.3-acre portion of Wake County PIN #0659084139 from R-8: Residential to R-MF-8: Multifamily Residential as submitted by Spaulding and Norris.

Motion By: Dickson

Second By: DeBenedetto

Vote: Unanimous.

7a. Holly Springs Community Band Presentation – Mr. Billy Dennis of 540 Cayman Avenue, president of the Holly Springs Community Band, introduce the group to the Council and thank Mayor Sears for his support and invited the Council to an upcoming concert.

Action: None.

7b. Appearance Issues and Sign Regulation Report – This agenda item was rescheduled to the April 3, 2007 Town Council meeting during agenda adjustment.

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

8a. Minutes - The Council approved minutes of the Council's 2007 Winter Retreat and its regular meeting held on March 6, 2007.

8b. Budget Report – The Council received report of FY 2006-07 budget amendments #68 through #75 approved by the town manager. *A copy of the budget report is incorporated into these minutes as an addendum page.*

8c. National Incident Management System (NIMS), Resolution 07-10 – The Council adopted Resolution 07-10 establishing the National Incident Management System (NIMS) as the standard in Holly Springs for incident management for daily operations and disaster response. *A copy of Resolution 07-10 is incorporated into these minutes as an addendum page.*

8d. Stinson Avenue, Phase II, Budget Amendment – The Council approved amendment to the FY 2006-07 budget in the amount of \$295,000 from Street Reserves to fund Stinson Avenue Phase II. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8e. Thomas Mill Road Extension Budget Amendment – The Council adopted amendment to the FY 2006-07 budget in the amount of \$330,000 from street reserves to fund Thomas Mill Rd extension. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

9a. Bass Lake Sanitary Sewer Interceptor Encroachment – Ms. Keefer reported that prior to the construction of the Bass Lake sanitary sewer interceptor which is currently in the design and permitting process, requires the Council's approval to encroach into the Town's 100-foot undisturbed Bass Lake buffer and Clean Water Management Trust Fund (CWMTF) conservation easement around Bass Lake.

Ms. Keefer reviewed with the Council Members the design work and the location of the 6,000 linear feet gravity sewer extension in the Bass Lake drainage basin, in order to take the Somerset Farm pump station offline.

Ms. Keefer reviewed the design process and the impacts to the Town-regulated Bass Lake riparian buffer and the State-regulated riparian Neuse buffer. She said the Town's Bass Lake buffer is a 100-foot undisturbed buffer from the top of bank on each side of perennial streams tributary to Bass Lake and the encroachment into this buffer requires the approval of the Town Council.

Ms. Keefer said also there will be an impact of 3,188 square feet into the riparian buffers, streams and wetlands, of the conservation easement around Bass Lake that was created in conjunction with the

Clean Water Management Trust Fund for the Bass Lake dam rehabilitation project. She said the impacts is when the tying the new sanitary sewer line into the existing sanitary sewer outfall and the upgrading of existing manholes which will consist of increasing the manhole lid elevations to prevent infiltration of water into the manholes from the periodic flooding of Bass Lake.

Ms. Keefer said that staff is requesting the Council to consider approval of a waiver of UDO regulations in Section 7.06e (1), environmental buffer areas, for the Town impacts into the Bass Lake Buffer with the construction of the Bass Lake sanitary sewer interceptor, including approval of the potential alternate alignment. She said staff is also requesting the Council to endorse the impacts into the CWMTF conservation easement for the construction of the Bass Lake sanitary sewer interceptor and maintenance of existing manholes on the existing Bass Lake outfall.

Ms. Keefer reviewed with Council Members the realignment of the Bass Lake sanitary sewer interceptor, which staff recommends approval.

Action #1: The Council approved a motion to accept that the following findings of fact have been adequately addressed and to approve a waiver of UDO regulations Section 7.06e(1), Environmental Buffer Areas, for the Town of Holly Springs to impact into the Bass Lake buffer with the construction of the Bass Lake sanitary sewer interceptor, including approval of the potential alternate alignment as presented by staff.

Findings of Fact:

1. The carrying out of the strict letter of the UDO will result in practical difficulties in the development of the property included in the Waiver Petition.
2. Approval will observe the spirit of the UDO.
3. Approval will secure public safety and welfare.
4. Approval will provide substantial justice.
5. a. There are exceptional conditions pertaining to the particular piece of property in question because of its shape, size, or topography, that are not applicable to other lands, buildings, or structures in the same district, *or*
b. There is a peculiar characteristic of a proposed use which makes the application of certain development standards of the UDO, as requested in the petition for waiver of Riparian Buffer Regulations, unrealistic.
6. Granting the Waiver requested will not confer any special privileges that are denied to other owners or residents of the district in which the property is located.
7. A literal interpretation of the provisions of the UDO would deprive the applicant of rights commonly enjoyed by other owners and residents of the district in which the property is located.
8. The requested Waiver will be in harmony with the purpose and intent of the UDO and will not be injurious to neighbor or to the general welfare
9. The special circumstances giving rise to the Waiver request are not as a result of actions of the Applicant.
10. Waiver Requested is the minimum variance that will make possible the legal use of the land, building, or structure.

Motion By: Dickson

Second By: Womble

Vote: Unanimous.

Action #2: The Council approved a motion to endorse the impact of the Clean Water Management Trust Fund conservation easement with the construction of the Bass Lake sanitary sewer interceptor and maintenance of existing manholes on the existing Bass Lake outfall.

Motion By: Womble

Second By: Dickson

Vote: Unanimous.

10. Other Business: Councilman DeBenedetto saluted all the women of Holly Springs and Town staff being this month is considered National's Women's History Month.

Councilman Womble asked Mayor Sears if he or the Town was considered a part of the year round

school suit. Mayor Sears responded that neither was a part of the suit.

Councilman Womble asked the status of the sidewalks at Food Lion and Center Street becoming a way-one street.

Ms. Sudano said that Center Street will be completed with the downtown enhancement project and the sidewalk project is estimated to begin construction early May 2007.

11. Manager's Report: Mr. Dean invited the Council Members to the Main Street Square ground breaking scheduled for April 5th at 4:00 and to the Development Business function on March 27, at the Devil's Ridge Golf Club from 4:00 p.m. to 7:00 p.m.

Mr. Dean commented on the new fire truck that was presented earlier in the evening. He also reported that the Town has received the finding of no sufficient impacts report from the Department of Environmental National Resources, which allows the Town to start construction of the Wastewater Treatment Plant expansion in July, 2007.

Mr. Dean said that the budget process will be starting at the end of April, 2007.

12. Closed Session: None.

13. Adjournment: There being no further business for the evening, the March 20, 2007, meeting of the Holly Springs Town Council was adjourned following a motion by Councilman DeBenedetto, a second by Councilman Womble and a unanimous vote.

Respectfully Submitted on Tuesday, April 3, 2007.

Linda R. Harper, CMC, Deputy Town Clerk

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