



## **MINUTES**

The Holly Springs Town Council met in regular session on Tuesday, March 16, 2010, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Sears presided, calling the meeting to order at 7 p.m. A quorum was established as the mayor and three council members were present as the meeting opened.

**Council Members Present:** Councilmen Jimmy Cobb, Chet VanFossen and Councilwoman Linda Hunt Williams and Mayor Sears.

**Council Members Absent:** Councilmen Tim Sack and Parrish Womble.

**Staff Members Present:** Chuck Simmons, assistant town manager; John Schifano, town attorney; Joni Powell, town clerk (recording the minutes); Linda Harper, deputy town clerk; Drew Holland, finance director; Len Bradley, director of parks and recreation; Gina Clapp, director of planning and zoning; Laura Powell, Eric Taylor, IT manager; Mark Andrews, public information officer; Stephanie Sudano, director of engineering; Jenny Mizelle, director of economic development; Daniel Weeks, project analyst; and Elizabeth Goodson, development review engineer.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Bishop Mark Sivoldi of the Church of Jesus Christ of Latter Day Saints.

**4. Agenda Adjustment:** The March 16, 2010 meeting agenda was adopted with changes, if any, as listed below.

**Motion By:** VanFossen

**Second By:** Williams

**Vote:** Unanimous

**Items added to Agenda:** None.

**Items removed from Consent Agenda for discussion:** None.

**Items removed from the agenda:** 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:

Ken Webster, 117 Flatrock – Mr. Webster addressed the Council to ask members to reconsider their individual positions on the issue of an animal control ordinance amendment that would allow backyard hens.

He maintained that backyard hens should be allowed in limited numbers in residential zones. He said there was large community support for a change in the code.

**6a. Public Hearing: Special Exception Use Petition 09-SEU-13 Little Pros Academy – Ms.**

L. Powell said the Town has received a request for a 13,300-square-foot private school to be located near the intersection of Holly Springs Road and G.B. Alford Highway.

She said the subject parcel is split-zoned with Local Business as well as R-8. A private school is designated as a special exception use in R-8, which is why the entire development plan is classified as such.

This development would be using only a portion of the parcel; lots that are developed after this must be designed to create a harmonious development throughout what would eventually become an integrated center.

She said also, the school is requesting a variance of development standards to allow for 43 additional parking spaces.

With that explanation completed, Mayor Sears opened the public hearing to accept sworn testimony. The following testimony was recorded under oath administered by the Deputy Town Clerk:

Susan Whitley, 101 Tuska Hills Drive -- Ms. Whitley addressed the Council to ask some questions about the project. She asked what the hours of operation would be; she asked if the roadway she lives on would be used to access the site.

Art Scheaffer, 224 Saranac Ridge Drive -- Mr. Scheaffer addressed the Council to say he felt like the request for additional parking should be granted to ensure there is adequate parking.

Tim Summerville, 4900 Waters Edge Drive, Raleigh -- Mr. Summerville addressed the questions about parking and site access. He said the parking increase is being requested to not only serve the school during morning and afternoon arrivals and departures, but during the day for future non-residential uses that are planned for the site. He said there would be a pedestrian connection, but not a roadway access, from Onodonga Ct.

Eli Zabrud -- Mr. Zabrud, the applicant, said the hours of operation for the school would be 7 a.m. to 6 p.m.

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

Councilman VanFossen asked for clarification about the parking spaces request. Mr. Summerville had testified that the additional parking spaces were being requested not only for the school, but for future additional uses on the property.

After thinking the issue through, Councilman VanFossen said he understood the logic and had no problem with the additional parking.

**Action #1:** The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for a variance from Unified Development Ordinance Section 7.04 Table 7.04-D., to allow for 43 additional parking spaces for Special Exception Use Petition #09-SEU-13 for Little Pros Academy as submitted by EDR Engineering.

A *variance* may be granted by the Council if competent and substantial evidence is presented by the applicant which persuades the Council to either reach each of the following conclusions independently or be reasonably able to meet these conclusions upon implementation of conditions by the Council:

1. There are practical difficulties or unnecessary hardships that would result from carrying out the strict letter of the UDO. The Board may reach this conclusion if it finds each of the following:
  - a. Based on the size, shape, topography, location, or surroundings, the applicant is prohibited from enjoying the same privileges as other properties in the vicinity and zoning classification in which the property is situated when the UDO is strictly applied;
  - b. The hardship of which the applicant complains results from unique circumstances related to the applicant's property;
  - c. The hardship results from the application of the UDO to the property;
  - d. The hardship is not the result of the applicant's own actions; and,

- e. The variance if granted must be the absolute minimum needed in order to correct the hardship.
2. The variance is in harmony with the general purpose and intent of the UDO and preserves its spirit.
3. Granting the variance assures the public safety and welfare and does substantial justice.

**Motion By:** Williams

**Second By:** VanFossen

**Vote:** Unanimous

**Action #2:** Having made findings of fact that the petition meets the requirements to be granted a variance, the Council approved a motion to grant Variance #10-VAR-02 from UDO Section 7.04 Table 7.04-D., to allow for 43 additional parking spaces for Little Pros Academy with the following condition:

1. This Variance is granted in conjunction with Special Exception Use #09-SEU-13 for Little Pros Academy as submitted by EDR Engineering. If such Special Exception Use is not approved or becomes invalid, such variance will no longer be valid.

**Motion By:** Williams

**Second By:** VanFossen

**Vote:** Unanimous

At this time, Ms. Powell introduced the topic of the Special Exception Use for the school. She said the school is proposed to be about 13,000 square feet, and she detailed for the Council the landscaping plan and noted that the Planning Board had recommended that the site be treated with some additional buffering at the shared property line.

Councilman VanFossen asked what fence materials would be used.

Ms. Powell said the petition notes a vinyl-coated chain link fence with plastic slats.

The Planning Board recommends approval of the plan, Ms. Powell reported.

With that explanation completed, Mayor Sears opened the public hearing to accept sworn testimony. The following testimony was recorded under oath administered by the Deputy Town Clerk:

Eric Meier, 229 Saranac Ridge – Mr. Meier said his concern is about the retention pond that would back up to his neighborhood.

Lori Hrehor, 317 Saranac Ridge – Ms. Hrehor said she is concerned about noise and the non-residential nature of the property use. She said she believed that the plans featured fencing that appeared to be privacy fencing and not chain link.

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

Councilman VanFossen said he felt the testifier had a point about fence material and that the developer might be amenable to changing it. He said the Town already asked the developer to increase the buffering from the required semi-opaque to opaque, and so the applicant had exceeded requirements.

After discussion, he suggested that the Town add a condition to the permit that opaque inserts would be used with the vinyl-coated chain link fence, which would be six feet high.

Councilwoman Williams asked about mosquito control and the fence height around the pond.

Ms. Goodson said the storm water wetland is required, and if there are problems with mosquitoes, the Town would respond and work with the owners to correct any problems.

In discussion, the Council agreed to add to conditions that a fence would be installed around the detention pond, and the design of the fence would be identical to a similar pond fence at Holly Ridge school on Holly Springs Road.

**Action #3:** The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for Special Exception Use Petition #09-SEU-13 for Little Pros Academy to allow for a private school in R-8: Residential zoning district as submitted by EDR Engineering Project Number 08-292, dated revised 2/8/2010.

Special Exception Use Findings of Fact:

A special exception use may only be granted upon the presentation of sufficient evidence to enable a written determination that:

- a. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;
- b. The proposed use will not injure or adversely affect the adjacent area;
- c. The proposed use will be consistent with the character of the district, land uses authorized therein, and the Town of Holly Springs Comprehensive Plan;
- d. The proposed use shall conform to all development standards of the applicable district (unless a waiver of such development standards is requested as part of the special exception use petition and approved as set forth above, in which case the proposed use shall conform to the terms and conditions of such waiver).
- e. Access drives or driveways are or will be sufficient in size and properly located to: ensure automotive and pedestrian safety and convenience, traffic flow as set forth in Section 7.09 – Pedestrian Circulation and Vehicular Area Design; and, control and access in case of fire or other emergency;
- f. Off-street parking areas, off-street loading areas, trash enclosures, trash pick-up and removal, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood;
- g. The lot, building or structure proposed for the use has adequate restroom facilities, cooking facilities, safety equipment (smoke alarms, floatation devices, etc.), or any other service or equipment necessary to provide for the needs of those persons whom may work at, visit or own property nearby to the proposed use;
- h. Utilities, schools, fire, police and other necessary public and private facilities and services will be adequate to handle the needs of the proposed use;
- i. The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts; and,
- j. The type, size, and intensity of the proposed use (including but not limited to such considerations as the hours of operation and numbers of people who are likely to utilize or be attracted to the use) will not have significant adverse impacts on adjoining properties or the neighborhood.

**Motion By:** Williams

**Second By:** Cobb

**Vote:** Unanimous

*A copy of the Special Exception Use Petition 09-SEU-13 addressing the findings of fact is incorporated into these minutes as addendum pages.*

**Action #4:** Having made findings of fact that the project meets the requirements to be granted a Special Exception Use, the Council approved a motion to approve Special Exception Use Petition #09-SEU-13 for Little Pros Academy as submitted by EDR Engineering Project Number 08-292, dated revised 2/8/2010 with the following conditions.

1. At the time of any additional development on this 8.4 acre site, a Master Plan will be required in addition to any development petition request.

2. GB Alford Highway (NC55 Bypass) will be widened in the future to a 6 lane cross-section. This widening will require additional right-of-way along the frontage of this property. Any additional design for this site will need to reserve area accordingly to accommodate a change in right-of-way when needed in the future.
3. At the time that the use of this parcel changes in the future or additional uses are added, the TIA will need to be revised and additional improvements will be necessary.
4. This project will be required to meet the Town of Holly Springs NPDES Ph. II Post Construction Stormwater Ordinance.
5. The following items are required to be addressed with the first construction drawing submittal:
  - a. Final Gravity Sewer Line Sizing Report will be required for all lines that are stubbed to adjacent upstream properties. Include calculations to document line sizes, adequacy of proposed sanitary sewer lines to serve all future upstream development.
  - b. Increases in 100 yr. backwater elevations at downstream structures will not be allowed.
  - c. Provide Stormwater Performance and Maintenance Sureties information for the BMP including draft Operation and Maintenance Agreement (Form 16024), and PE cost estimate for the stormwater performance surety of the BMP is required.
  - d. Provide a revised Stormwater Fee-in-Lieu Request Form (16006) for the Cape Fear River Basin.
  - e. Water from BMP outlet or spillway cannot be directed toward the adjacent residential lots.
  - f. A fence will be required around the proposed stormwater wetlands. The fence must meet the requirements of the Town of Holly Springs Planning Department.
6. Opaque inserts will be used in the vinyl-coated chain link fence, which will be installed at a height of six feet.
7. A fence of similar appearance to one surrounding a pond on school property on Holly Springs Road shall be installed around the detention pond.

**Motion By:** Williams

**Second By:** Cobb

**Amended Motion By:** Councilman VanFossen asked that the motion to be amended to include conditions stemming from discussions.

**Amendment Seconded By:** Williams

**Vote:** Unanimous

**6b. Public Hearing: Special Exception Use Petition 10-SEU-01** – Ms. L. Powell said the Town has received a request to have an accessory dwelling within a basement of a single-family residence in the Woodcreek subdivision, more specifically at 213 Hidden Stream Drive.

She explained the potential buyers would like to add a kitchen and a laundry room in order to have their mother-in-law reside in the residence. Woodcreek is zoned R-10CU, and within that zoning district, an accessory dwelling is a special exception use.

With that explanation completed, Mayor Sears opened the public hearing to accept sworn testimony. The following testimony was recorded under oath administered by the Deputy Town Clerk:

Shane McLeod, -- Mr. McLeod is the builder, and he testified that the Woodcreek homeowners association would not, in the future, allow rental of the basement apartment.

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

**Action #1:** The Council approved a motion to make and accept the Findings of Fact to be recorded in the minutes for Special Exception Use #10-SEU-01 to allow for an Accessory

Dwelling at the property located at 213 Hidden Stream Drive, Wake County PIN 0659682434.

Special Exception Use Findings of Fact:

A special exception use may only be granted upon the presentation of sufficient evidence to enable a written determination that:

- a. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;
- b. The proposed use will not injure or adversely affect the adjacent area;
- c. The proposed use will be consistent with the character of the district, land uses authorized therein, and the Town of Holly Springs Comprehensive Plan;
- d. The proposed use shall conform to all development standards of the applicable district (unless a waiver of such development standards is requested as part of the special exception use petition and approved as set forth above, in which case the proposed use shall conform to the terms and conditions of such waiver).
- e. Access drives or driveways are or will be sufficient in size and properly located to: ensure automotive and pedestrian safety and convenience, traffic flow as set forth in Section 7.09 – Pedestrian Circulation and Vehicular Area Design; and, control and access in case of fire or other emergency;
- f. Off-street parking areas, off-street loading areas, trash enclosures, trash pick-up and removal, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood;
- g. The lot, building or structure proposed for the use has adequate restroom facilities, cooking facilities, safety equipment (smoke alarms, floatation devices, etc.), or any other service or equipment necessary to provide for the needs of those persons whom may work at, visit or own property nearby to the proposed use;
- h. Utilities, schools, fire, police and other necessary public and private facilities and services will be adequate to handle the needs of the proposed use;
- i. The location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts; and,
- j. The type, size, and intensity of the proposed use (including but not limited to such considerations as the hours of operation and numbers of people who are likely to utilize or be attracted to the use) will not have significant adverse impacts on adjoining properties or the neighborhood.

**Motion By:** VanFossen

**Second By:** Williams

**Vote:** Unanimous

*A copy of the Special Exception Use Petition 10-SEU-01 addressing the findings of fact is incorporated into these minutes as addendum pages.*

**Action #2:** Having made the findings of fact, the Council approved a motion to grant Special Exception Use #10-SEU-01 to allow for an Accessory Dwelling at 213 Hidden Stream Drive, Wake County PIN 0659682434.

**Motion By:** VanFossen

**Second By:** Cobb

**Vote:** Unanimous

**6c. Public Hearing: Community Development Block Grant** – Ms. Mizelle said the Town of Holly Springs is considering submitting an application to the North Carolina Department of Commerce, Division of Community Assistance, for a housing development grant in support of

Woods at Avent Ferry, a proposed senior housing multi-family development.

She said the purpose of the public hearing is to accept comments from the community on the plan to submit an application for \$250,000 grant to be used for water, sewer and/or roadway improvements for the project.

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 directed staff to proceed with the CDBG application.

**7. Consent Agenda:** The Council approved a motion to approve all items on the Consent Agenda. The motion carried following a motion by Councilman VanFossen, a second by Councilman Cobb and a unanimous vote. The following actions were affected:

7a. Minutes – The Council approved minutes of the Council's regular meetings held on Aug. 4, 2009 and March 2, 2010.

7b. Budget Amendment Report - The Council received monthly report of amendments to the FY 2009-10 budget approved by the town manager. *A copy of budget amendment report is incorporated into these minutes as an addendum page.*

7c. Environment Assessment Study, Phase 2 – The Council retained Withers and Ravenel for \$4,100 for the completion of a Phase 2 Environmental Assessment study for potential extension of water and sewer services into the Friendship area.

7d. Methodist Church Parking Lot Change Order 4 – The Council approved construction contract Change Order 4 to increase work or scope at a cost of \$14,900 in the Methodist Church downtown parking lot project.

7e. Water Shortage and Conservation Codes Amendment- The Council authorized an ordinance to amend the Town's Water Shortage and Conservation Codes to allow unrestricted water use for uses defined as "essential uses."

7f. Reclaimed Water Bulk Loading Station Change Order 9 - The Council approved construction contract Change Order 9 in the amount of \$108,941.20 to install reclaimed water bulk loading station and to increase the contract time by 61 weather days.

**8a. Parking Limits Ordinance 10-02** – Mr. Schifano said pursuant to a request from Councilman Womble regarding establishing a time limit for parking on Center Street, this ordinance and resolution was created. In order to establish legally enforceable time restrictions on parking in a designated zone, the town council must first establish an ordinance, then designate a particular parking location as a time-limited zone.

Councilman Vanfossen said the Council might want to table the issue until Councilman Womble was in attendance since he brought up the issue. He said he is not sure there is a real problem, but he would want to hear from Councilman Womble first.

**Action:** The Council approved a motion to table the issue until the April 4, 2010 Council meeting.

**Motion By:** Cobb

**Second By:** VanFossen

**Vote:** Unanimous


**9. Other Business:** Councilwoman Williams said there is lots of litter on Sunset Lake Road north of Holly Springs Road.

**10. Manager's Report:** None.

**11. Closed Session:** None.

**12. Adjournment:** There being no further business for the evening, the March 16, 2010 meeting of the Holly Springs Town Council was adjourned following a motion by Councilman VanFossen, a second by Councilman Cobb and a unanimous vote.

Respectfully Submitted on Tuesday, April 20 2010,



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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.

