

Holly Springs Town Council Minutes

Regular Meeting Sept. 18, 2007

The Holly Springs Town Council met in regular session on Tuesday, September 18, 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 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, Parrish Womble, Chet VanFossen, and Hank Dickson, and Mayor Sears.

Council Members Absent: Councilman Peter Atwell.

Staff Members Present: Carl Dean, town manager; John Schifano, town attorney; Joni Powell, town clerk (recording the minutes); Linda Harper, deputy town clerk; Gina Clapp, director of planning and zoning; Mark Zawadski, planner I; Jeff Jones, planner II; Allison Huffman, planner I; Stephanie Sudano, director of engineering; Kendra Stephenson, senior engineer; Heather Keefer, environmental engineer; Elizabeth Goodson, development review engineer; Len Bradley, parks and recreation director; Daniel Weeks, project analyst; Drew Holland, finance director; Cecil Parker, fire chief; and Mark Andrews, public information officer.

2 and 3. The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rev. Horace Ferguson, pastor of Holly Springs United Methodist Church.

4. Agenda Adjustment: The Sept. 18, 2007 meeting agenda was adopted with changes, if any, as listed below.

Items Added to the Agenda: None.

Items Removed from the Agenda: None.

Consent Agenda Items Moved to New Business: None.

Other Changes: None.

Motion By: Dickson

Second By: DeBenedetto

Vote: Unanimous

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: None.

6a. NCDOT Litter Sweep - Mayor Sears reported that the Governor has proclaimed Sept. 15-29, 2007 as "Fall Litter Sweep" time in North Carolina, encouraging citizens in all 100 counties to take an active role in making the state's roadsides cleaner and commemorating the 19th Anniversary of the North Carolina Adopt-a-Highway program and its 6,000 volunteer groups who donate their labor and time year-round.

Mayor Sears presented a localized version of the Fall Litter Sweep proclamation and presented Certificates of Appreciation to those in the 27540 zip code who are among the Adopt-a-Highway volunteers commended by Gov. Easley.

Action: None.

7a. Parkside Village Phase 3, 07-MAS-01 - Mr. Zawadski said earlier this calendar year, the Town received a request for a preliminary subdivision plan for Parkside Village Phase 3. This project was granted vested rights on August 2, 2005 to develop under the zoning regulations that were in place at the time of the subdivision's original approval in April 1998. This means this project would follow the zoning regulations for the old TN: Traditional Neighborhood district.

He said the proposed subdivision contains 11 single-family lots located on 2.6 acres at a density of 4.21 units per acre. The subdivision would be accessed from the existing Waterpoint Road, located off of Grigsby Avenue. A perimeter landscape buffer and sidewalks on both sides of the street are proposed to match the previous phases.

Mr. Zawadski said the applicant also is asking for two engineering exceptions regarding improvements to Grigsby Avenue and installation of waterline along the property frontage. In addressing the Council on June 5, the applicant explained that the developer had widened Grigsby Avenue along the project's property frontage in previous phases of Parkside Village. With this phase, he said, the developer is being required to do much more than is usually requested, including a requirement to realign Grigsby Avenue, build a new intersection and provide a 35-foot back-to-back roadway as illustrated on the town's Thoroughfare Plan.

He said on June 5, 2007, the Council approved a motion to defer action on 07-MAS-01 and related engineering design standard waivers until the developer meets with the Town's engineering department to hash out any potential mutually agreeable options.

He said staff had several discussions and received additional information from the developer and engineer for the project. While staff still feels that constructing the improvements would be best, staff agrees that two alternative requirements would suffice:

- Right of way for Grigsby Road be dedicated with this phase of development for the extension of Grigsby Road that is located on this property.
- A fee-in-lieu of constructing the road improvements and waterline.

Action #1: The Council approved a motion to approve an exception to the Engineering Design and Construction Standards Section 3.02, UDO Section 7.07-B14 and Town of Holly Springs Thoroughfare Plan in association with preliminary plan #07-MAS-01 for Parkside Village Phase 3 to allow a fee-in-lieu of construction of the road improvements along Grigsby Avenue as submitted by Spaulding and Norris, project number 640-07, date revised 5/7/07.

Motion By: DeBenedetto

Second By: Womble

Vote: Unanimous.

Action #2: The Council approved a motion to approve an exception to the Engineering Design and Construction Standards Section 6.03-A in association with preliminary plan #07-MAS-01 for Parkside Village Phase 3 to allow a fee-in-lieu of construction of the water line along Grigsby Avenue for entire property frontage as submitted by Spaulding and Norris, project number 640-07, date revised 5/7/07.

Motion By: DeBenedetto

Second By: Womble

Vote: Unanimous.

Action #3: The Council approved a motion to approve preliminary plan #07-MAS-01 for Parkside Village Phase 3 as submitted by Spaulding and Norris, project number 640-07, dated revised 5/7/07 with the following conditions:

- 1) Fee-in-lieu of pump station upgrade will be required.
- 2) Prior to Final Plat, the following must be completed:
 - a) Payment of fees-in-lieu of land dedication in the amount of \$904/unit.
- 3) The following items are to be included with 1st construction drawing submittal (later in the approval process):
 - a) A comprehensive drainage area map with supporting calculations will need to be submitted.
 - b) The Somerset Basin Flood Study will need to be updated with this phase.
 - c) Riparian Buffer Homeowner education packet must be submitted with first erosion control plan submittal.
- 4) Within 10 business days of Town Council approval, revised plans are to be submitted to address the following items (unless otherwise approved by Town Council with an exception):
 - a) Show the right-of-way dedication required for Grigsby Avenue and include a note that states that a fee-in-lieu will be paid for the construction of road improvements & water line on Grigsby Avenue in accordance with Town standards for Grigsby Avenue (35' btb on 60' ROW).

Motion By: DeBenedetto

Second By: Womble

Vote: Unanimous.

7b. Sunset Lake Commons Shopping Center, 06-MAS-10 - Ms. Huffman said phase I of the Sunset Lake Commons project has been approved and constructed. Now the developers would like to develop Phase II of the project. After several meetings with staff, it was staff's determination that the shopping center needed to be master planned. She said in completion of a master plan the developer is required to provide a conceptual lot layout, where utilities will be located and where the internal road network would possibly be located. After the approval of the master plan, the applicant would then submit for a major subdivision plan that would be reviewed administratively and would allow the developer to plat the lots for sale. It is not until the specific development plans are prepared that the Planning Board and Town Council would review the specific development requests for this project.

Ms. Goodson addressed the engineering issues of the project. She said during the Town Council meeting on August 21, 2007, the Town Council requested that the developer revisit the road improvements that would be completed at the time of the first two lots (also referred to as Phase 2a). Specifically, the Council felt that the intersection of Optimist Farm Road and Sunset Lake Road needed to be improved to address existing traffic concerns. The developer met with staff and agreed to completing an addendum to the TIA approved for this development to study this intersection and evaluate the improvements needed to address capacity and function of the intersection for 2-3 years.

Ms. Goodson said this TIA has been completed and included updated traffic counts for this area and shows that the requirements needed for this intersection at this time include constructing a northbound right-turn lane on Sunset Lake Road and lengthening the existing southbound left turn lane on Sunset Lake Road in addition to the proposed traffic signal to be installed by the Town. The developer has agreed to construct the turn lanes as a part of Phase 2a.

Action: The Council approved a motion to approve master plan #06-MAS-10 for Sunset Lake Commons as submitted by Jerry Turner & Associates, dated revised 08/13/2007 with the following conditions:

- 1) The greenway approved on the master plan must be completed before the build out of Phase II. Please provide plans for the completion of greenway trail as shown on plans. *(Note that Phase 1 greenway trail will be completed with Phase 2)*
- 2) The following items will need to be included and completed with the development of Phase 2a:
 - a) Dedication of right-of-way for the entire development shall be recorded.
 - b) Prior to the Construction Drawings of this phase (2a), the following will need to be completed:
 - i) Optimist Farm Road realignment right-of-way deed will need to be returned to the town
 - c) The requirements outlined in the TIA addendum will need to be completed including constructing a northbound right-turn lane on Sunset Lake Road and lengthening the existing southbound left turn lane on Sunset Lake Road – See the TIA for specifics of these requirements.
- 3) The following items will need to be included and completed with the next portion of the development of Phase 2 (any lot in Phase 2 other than those included in Phase 2a):
 - a) The full road improvements and sidewalk will be constructed on the development side of Sunset Lake Road from where the widening ends now all the way to the Optimist Farm Road intersection.
 - b) An exclusive right turn lane will be constructed on Optimist Farm Road at the intersection.
- 4) The following items will need to be included and completed with Phase 3 development plans:

- a) Install a decorative traffic signal at Sunset Lake Road and Optimist Farm Road.
- b) All remaining improvements of the Master Plan.
- 5) Fee-in-lieu of pump station upgrade will be required.
- 6) The following items are to be addressed with 1st construction drawing submittal (later in the approval process):
 - a) A comprehensive drainage area map and supporting calculations will be required.
- 7) Through several reviews and meetings with the developer and staff, the master plan has changed from what was originally submitted, therefore the following list of conditions represent comments that need to be addressed on the plans prior to the approval notice being issued. Within 10 business days of Town Council approval of this Master Plan, revised plans will need to be submitted to include the following items:
 - a) Show utility easements for all water or sewer lines outside of the public right-of-way.
 - b) Remove the reference for if required from the note referencing the stream crossing for the Lassiter Road extension.
 - c) Please clarify the note about the Town's help with obtaining right-of-way to state for the Yates property only.
 - d) Prior to the approval of Sunset Lake Commons Phase 2 the developed open space specified in note 4. b., located on the plans, needs to be submitted to the Department of Planning and Zoning for review and approval.
 - e) Remove internal landscape buffer between the out parcels located within the Master Plan and around the existing residential parcel this will be addressed during Preliminary Plan Review.
 - f) Revise plans to reflect clearly the boundary of the individual phases of this Master Plan (specifically where Phase 2a stops and Phase 2b continues).

Motion By: Womble

Second By: Dickson

Vote: Unanimous.

8a. Public Hearing: Ordinance 07-16 (07-UDO-07) - Ms. Huffman said staff suggests making the following revisions to correct grammatical errors, help clarify and improve the applicability of UDO Section 7.06 & 7.09. The Planning Board has reviewed this proposal and recommends approval.

UDO Section #	Page #	Suggested Modification
Section 7.06	7.06-6	Part 1: Greenways - change "chase" to "case"
Section 7.06	7.06-7	Part 2: Types of Buffer Areas - either define and determine what "Landscape Easement" is or remove
Section 7.09	7.09-4	Part 3: Add clarification re: required for sidewalks in large parking lots

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 and agree that the following statement is true: "The requested UDO Text Amendment is consistent with the Holly Springs Ten Year Comprehensive Growth Plan Policies for Land Use. The proposed modifications to the Section 7.06, Special Regulations: Lot Design and Public Place Reservation and Section 7.09, Special Regulations: Open Space Regulations creates enforceable ordinances to enact Policies."

Motion By: Dickson

Second By: DeBenedetto

Vote: Unanimous.

Action #2: The Council approved a motion to adopt Ordinance 07-16 enacting Unified Development Ordinance Amendment #07-UDO-07 to modify the text of UDO Section 7.06, Special Regulations: Lot Design and Public Place Reservation, and Section 7.09, Special Regulations: Open Space.

Motion By: Dickson

Second By: DeBenedetto

Vote: Unanimous.

A copy of Ordinance 07-16 is incorporated into these minutes as addendum pages.

8b. Public Hearing: Bridgewater Townhomes, 07-DP-09 – Mr. Zawadski said the Town has received a request for a development plan approval for 9.3 acres accessed by Anchor Creek Way and located adjacent to the Bridgewater Subdivision. The proposed development plan includes 34 2- and 3-story townhouse units which would be accessed by a new private street that would connect with the existing Anchor Creek Way.

He said thirteen off-street parking spaces are proposed throughout the site as well as a sidewalk on one side of the street. A total of 5.64 acres (1.15 acres developed and 4.49 acres passive) of open space are proposed throughout the site.

He said the front elevations 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.

Councilman DeBenedetto commended the applicant for the energy star rating of the project design. He asked the difference between hardiplank and vinyl siding, particularly as the difference pertains to fire ratings in light of recent townhome project fires in other cities.

Tom Spaulding, 972 Trinity Road, Raleigh – Mr. Spaulding is the project designer. He addressed the Council on the question of the hardiplank compared to vinyl siding. He said in his research of the Raleigh fire, there were several factors that really had nothing to do with the exterior building material. Contributing factors to the fire were the wind and the dryness of the area. He pointed out that builders are rated higher for environmental ratings for using vinyl rather than concrete composite materials. He said Mr. Brian Cope could provide more information on why.

Brian Cope – Mr. Cope, with Anderson Homes, addressed the Council on the question of vinyl siding. He said Anderson Homes uses 2-hour firewall

between units to mitigate the potential for fires to spread so quickly.

He explained that vinyl siding is a more environmentally sound material and given more “green points” than hardiplank because once it is installed, there is no maintenance or painting required that would introduce substances into the environment.

Councilman VanFossen commented that vinyl siding may be more environmentally sound, but it is not as attractive.

Mr. Cope agreed that this used to be the case; however, he said the vinyl siding of today is more attractive than it used to be. He also noted that, according to the Census Bureau, that vinyl siding is second only to stucco as the preferred exterior covering for homeowners in the \$300,000 home value range.

Councilman DeBenedetto said he still feels that hardiplank is a safer, more fire-resistant material than vinyl. He asked if there was an opportunity to use hardiplank in the project.

Mr. Spaulding said the developer is getting higher green points for using vinyl and the cost of hardiplank versus vinyl may not be in keeping with the project price point.

Councilman DeBenedetto maintained that the development’s Silver Star rating may not be effected by the elimination of only 3 points that were awarded for the vinyl siding.

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.

Councilman Dickson asked how long the driveways were. Mr. Spaulding said in most cases, they were 20 feet beyond the sidewalk.

Councilman Dickson said his concern would be the driveway or on-street parking in front of homes with front-load one-car garages. Mr. Spaulding explained that boundary restrictions limit the design of the townhomes.

Action: The Council approved a motion to approve development plan #07-DP-09 for Bridgewater Townhomes as submitted by Spaulding and Norris, project number 629-06, dated revised 8/10/07 with the following conditions:

- 1) Fee-in-lieu of pump station upgrade will be required
- 2) Prior to Final Plat, the following must be completed:
 - a) Home Owner’s Association covenants shall be submitted to and approved by the Department of Planning & Zoning and Engineering Department, and then subsequently recorded that establish an HOA to maintain the private open spaces, streets, parking areas, lighting, recreation areas, greenways, ponds, lakes, private sewer collection, private drainage easements, etc.
 - b) Payment of fees-in-lieu of land dedication in the amount of \$927/unit.
- 3) Prior to issuance of a building permit, revised plans that include the following revisions shall be submitted to and approved by the Department of Planning and Zoning:
 - a) Replace ‘Euonymus’ shrub with a comparable native species on the landscape plan.
 - b) Provide elevations for the proposed gazebo which utilize similar colors and materials as the townhouses.
- 4) The following items are to be included with the first construction drawing submittal (later in the approval process):
 - a) Documentation shall be provided for offsite sewer easement on Windcrest Community Association Inc. property
 - b) A comprehensive drainage area map with calculations.
 - c) An update to the Windcrest Flood study.
 - d) All environmental permits for the entire project.
 - e) Provide a signed USACE wetlands map. (*Since USACE is not currently providing signed wetlands maps, please provide an Engineering signed and sealed letter with map stating that you have met with a USACE representative in the field to determine where the wetlands and other jurisdictional features are located on the property.*)
- 5) Riparian Buffer Homeowner education packet must be submitted with first Erosion Control Plan submittal.

Motion By: VanFossen

Second By: Womble

Vote: The motion carried following a 3-2 vote. Councilmen DeBenedetto and Dickson voted against the motion. Councilmen Womble and VanFossen voted for the motion. Mayor Sears voted for the motion, breaking the 2-2 tie.

8c. Public Hearing: Townes at Arbor Creek, 07-DP-13 – Ms. Huffman said development plan 07-DP-13 is one of the last parcels in the Arbor Creek Planned Unit Development that has not been developed.

She said in the PUD document, the parcel is designated as mixed use/townhomes. The applicant is asking for 19 townhome units to be placed on the 2.12 acres. The Arbor Creek PUD Master Plan does not provide any specific development regulations for townhome projects; therefore, the site plan is to be in conformance with the Town’s UDO Section 2.06, R-MF-8 regulations.

She said the PUD does specify perimeter buffer requirements, so the Sunset Lake Road and eastern property line landscape areas are designed to the PUD regulations, not to the Town’s typical landscape criteria. The Town’s ordinance would require the thoroughfare buffer along Sunset Lake Road to be a 50-foot buffer instead of a 40-foot buffer.

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.

Councilman DeBenedetto said he had similar questions about the use of vinyl siding as he did with the previous agenda topic.

Councilman Dickson said his concerns with this plan, as with the previous agenda item, would be the front yard driveways and on-street parking in front of homes with front-load one-car garages.

Councilman VanFossen said he feels vinyl siding is not attractive and that this plan is custom-suited for rear-loaded garages, which would be more acceptable.

Ms. Huffman explained that the applicant was unable to attend the Council meeting to address questions.

Action: The Council approved a motion to defer action on 07-DP-13 for the Townes at Arbor Creek until such time as the applicant could speak to concerns raised by Council members.

Motion By: Womble

Second By: DeBenedetto

Vote: Unanimous.

8d. Public Hearing: Special Exception Use Petition, 07-SEU-07 – Ms. Huffman said this project would be located in Phase II of the Sunset Lake Commons Shopping Center on out parcel 6, which is the lot located next to the main center in Phase I. The applicant is proposing a tire and auto service center (with services limited to those associated with standard oil changes) as well as a detached carwash.

Ms. Huffman said both the carwash and the tire and auto service center are classified as Special Exception Uses and are not permitted by right.

She said the subject parcel is located in the Northeast Gateway Plan where automobile uses are not recommended since they are not conducive to creating an urban village atmosphere for a social meeting place and to being pedestrian-oriented.

She said the project originally was designed on one of the centrally located parcels within Phase 2 of the center and was scheduled to go to the May Planning Board meeting; however, after the applicant received the staff report, the project was then pulled and taken to the Technical Review Committee (TRC) for input. The applicant attended the TRC meeting on June 5 receiving an unfavorable opinion. TRC members were concerned because the use would be located in the Northeast Gateway Area and on a highly visible lot within the center.

Ms. Huffman said once the applicant received the Planning Board staff report and received TRC feedback, the project was placed on hold. The plan was to relocate and redesign.

Ms. Huffman said the petitioner has relocated the proposed use to a parcel that is not as visible, has placed the building closer to the street to create a pedestrian-friendly streetscape with on-street parking, and has re-designed the building to remove the “pull through” service bays and replaced them with “pull in and back out” bays, thus creating an external appearance that the facility is not an oil change facility from the street.

Councilman DeBenedetto asked if tires would be a primary part of the business, since application information indicated that tires would not be.

With that explanation completed, Mayor Sears opened the public hearing to accept sworn testimony and qualified evidence. Under oath administered by the Deputy Town Clerk, the following provided testimony to be recorded:

Don Kennedy, 4400 Dewees Ct., Raleigh – Mr. Kennedy is the applicant. He explained that the primary business of the center would be oil change, although tires and the car wash would be secondary.

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

Councilman VanFossen said he is not a fan of auto service uses in a shopping center. He said he feels the applicant has done a good job of building design but does not feel the town should set the precedent

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 Petition #07-SEU-07 for Sunset Tire and Lube to allow for a carwash and a tire and auto service center (with tire sales and service and auto service limited to those services associated with standard oil changes) as submitted by BNK, project number 0700600R, dated revised 7/30/2007. A special exception use may 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: DeBenedetto

Second By: Dickson

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

Action #2: Having made findings of fact that the project meets the requirements to be granted a Special Exception Use, motion to approve Special Exception Use Petition #07-SEU-07 to allow for a carwash and a tire and auto service center (with services limited to those associated with standard oil changes) for Sunset Tire and Lube as submitted by BNK, project number 0700600R, dated revised 7/30/2007 with the following conditions:

1. All conditions of approval for Sunset Lake Commons Master Plan (06-MAS-10) and Sunset Lake Commons Phase 2 (07-MAS-03) will also apply to this project. *Note that approval of this plan is pending approval of the Sunset Lake Commons Master Plan (06-MAS-10) by Town Council and Administrative Approval of Sunset Lake Commons Phase 2 Preliminary Plan (07-MAS-03).*
2. Fee-in-lieu of pump station upgrade will be required.
3. The following items are to be included with 1st construction drawing submittal (later in the approval process):
 - a. A comprehensive drainage area map and supporting calculations.

4. Uses will be limited to a Tire and Auto Service Center (with tire sales and service and the auto service center limited to those services associated with standard oil changes) and a Carwash; no other related automobile services will be allowed.

5. Prior to submittal of Construction Drawings, Sunset Lake Commons Phase 2 preliminary plan (07-MAS-03) must be approved.

Motion By: Dickson

Second By: DeBenedetto

Vote: Unanimous.

A copy of Special Exception Use application 07-SEU-07 entered into the record by the applicant and addressing the findings of facts is incorporated into these minutes as addendum pages.

Councilman DeBenedetto stated for the record that a phone conversation he had with the applicant did not play a role in his making findings of fact.

8e. Public Hearing: Growth Plan Amendment, 07-GPA-03 – Mr. Zawadski said the Town has received a request for a Growth Plan Amendment for two properties located at the intersection of Lockley Road and Sunset Lake Road. The two subject properties total 2.4 acres within the Northeast Gateway Plan and have a Business land use designation. The requested land use plan change is Medium Density Residential.

He said during the draft of the Northeast Gateway Plan, staff felt that the highest and best use of these properties was business due to their proximity to a major road median break.

He said since the requested growth plan amendment is not in conformance with the plan, the proposal was brought to the TRC on June 5 for review and discussion. During the meeting, the applicant expressed that the site was too small for a retail use and that traffic circulation was a concern due to the proximity of the property with the Sunset Lake Road intersection. As a result, TRC members requested that a traffic study be performed for the intersection based on a commercial use on this corner.

Mr. Zawadski explained that with the additional information that was provided with the study, engineering staff determined that a service road or interconnectivity between all of the lots that front on Sunset Lake Road should not outlet on the Lassiter/Lockley loop road. This would not be advantageous due to the close proximity of the proposed drive to the intersection of Sunset Lake Road and the Lassiter/Lockley loop road (which would be a signalized intersection in the future) regardless of the zoning.

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: The Council approved a motion to approve 10-Year Comprehensive Growth Plan Amendment 07-GPA-03 to change the future land use designation of 0.23 acres of Wake County PIN # 0659-89-7227 and 2.2 acres of Wake County PIN# 0659-88-7932 from Business to Medium Density Residential as submitted by Philip Culpepper.

Motion By: VanFossen

Second By: Dickson

Vote: Unanimous.

8f. Public Hearing: Zoning Map Change Petition, 07-REZ-07 – Mr. Zawadski said the Town has received a request for conditional use rezoning for two properties located at the intersection of Lockley Road and Sunset Lake Road. The two subject properties are located within the Northeast Gateway Plan area and had a Business land use designation until the Growth Plan was amended in previous action.

The properties are currently zoned R-20: Residential and are requested to be rezoned to R-10CU: Residential (see conditions below).

Mr. Zawadski said the applicant has requested the following condition be placed on the properties:

1. No detached single-family homes shall have slab on grade construction.

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

There being no further input, 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-20 to R-10 is consistent with the Holly Springs 10-Year Comprehensive Growth Plan since the future land use plan map indicates this property as Medium Density Residential and the R-10 Residential District allows for development at a density up to 3.25 units per acre."

Motion By: VanFossen

Second By: Womble

Vote: Unanimous.

Action #2: The Council approved a motion to approve zone map change petition #07-REZ-07 to change the zoning of .23 acres of Wake County PIN # 0659-89-7227 and 2.2 acres of Wake County PIN# 0659-88-7932 from R-20: Residential to R-10CU: Residential as submitted Philip Culpepper including the following developer commitments:

1. No detached single-family homes shall have slab on grade construction.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous.

8g. Public Hearing: Zoning Map Change Petition, 07-REZ-12 – Mr. Jones said the applicant is proposing to rezone 0.22 acres along Cotton Lane from R-15: Single Family to RMF-8 Multi Family Residential. The parcel is adjacent to recently rezoned property that was rezoned from R-15 to RMF-8. The parcel is located within the Village District Area Plan boundary, and that plan designates this area for attached residential.

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 and agree that the following statement is true: "The requested zone map change from R-15 to R-MF-8 is consistent with the Holly Springs Ten Year Comprehensive Growth Plan (The Village District Area Plan) since the Future Land Use Plan Map

indicates this property as Attached Residential Housing. R-MF-8 zoning designation will fit into the area. The requirements allowing for a multi-family zoning will be in conformance with its surroundings.”

Motion By: Dickson

Second By: Womble

Vote: Unanimous.

Action #2: The Council approved a motion to approve Zone Map Change Petition #07-REZ-12 to change the zoning of a portion of #0648893501, as specified in the attached legal description, from R-15: Residential to RMF-8: Multi Family Residential as submitted by Douglas Ledson.

Motion By: Dickson

Second By: Womble

Vote: Unanimous.

At this time, Mayor Sears asked the Town Attorney if he and Councilman VanFossen should recuse themselves from action on the Consent Agenda since one of the items is a budget amendment to monitor water usage through SCADA at the 12 Oaks Golf Course. He added that he and Councilman VanFossen are both under contract with the developers of 12 Oaks Subdivision.

The Town Attorney said recusal was not necessary since the topic of the agenda item was related to the Town's purchase of SCADA for its reclaimed water system and would have no financial significance for either of the Council members.

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

9a. Minutes - The Council approved minutes of the Council's regular meetings held on June 19 and July 17, 2007.

9b. Budget Report – The Council received a report of FY 2007-08 budget amendments #1 through #12 approved by the town manager. *A copy of the budget amendment report is incorporated into these minutes as an addendum page.*

9c. Budget Amendment, \$88,890 – The Council adopted amendments to the prior FY 2006-07 budget in the amount of \$88,890 to reclassify debt service payment. *Copies of the budget amendments are incorporated into these minutes as addendum pages.*

9d. Budget Amendment, \$30,000 – The Council adopted an amendment to the FY 2007-08 budget in the amount of \$30,000 to fund the necessary equipment, electrical and engineering services needed to add the ability to monitor water usage through SCADA at the 12 Oaks Golf Course. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

9e. Resolution 07-36 – The Council adopted Resolution 07-36, a bank financing resolution for the installment purchase of vehicles. *A copy of Resolution 07-36 is incorporated into these minutes as addendum pages.*

9f. Flint Point Lane - The Council approved to designate Flint Point Lane as a “No Parking” street near the fire station.

9g. Western Wake Partnership Policy Advisory Committee – The Council approved a Western Wake Partnership Policy Advisory Committee recommendation to amend the inter-local agreement for the project. *A copy of the Inter-local Agreement amendment is incorporated into these minutes as addendum pages.*

9h. South Gateway Area Policy P-027– The Council adopted amendments to Policy Statement P-027 to add the new South Gateway Area Plan. *A copy of Policy Statement P-027 is incorporated into these minutes as addendum pages.*

9i. IT Department and Town Clerk's Office Reclassifications – The Council approved organizational changes in the IT Department and the Town Clerk's Office and authorized reclassifications and salary adjustments within existing budgets.

9j. Rescue Technician Reclassification – The Council approved reclassification of one of three Rescue Technician positions to that of firefighter.

10a. Sunset Ridge, Lot 35R Variance – Ms. Keefer said this request is for a variance to the Flood Damage Prevention Ordinance to construct a single family residential home and pool on lot 35R in the Sunset Ridge Subdivision, 4701 Shadow Ridge Ct.

Ms Keefer explained that the Sunset Ridge Subdivision's plat was re-recorded in July 2003 and at that time the Town's Flood Damage Prevention Ordinance did not allow residential development in the 100-year floodplain; however, the ordinance did allow residential lot development in the 500-year floodplain.

In May of 2006 the Town changed the ordinance to include the 500-year floodplain as an unbuildable area to limit the amount of flooding problems on new lots created in the Town. The recorded plat for this lot gives the appearance that there is enough buildable area outside of the 100-year floodplain and the Town of Holly Springs utility easement to construct a single family residence.

After review of the proposed building permit application staff determined that there was a drainage feature and 500-year floodplain that existed on this property in addition to the sanitary sewer easement and the 100-year floodplain. The builder changed the proposed plot plan to remove development from the 100-year floodplain, which would bring the lot into compliance with the Flood Damage Prevention Ordinance that was in effect when the lot was rerecorded in 2003.

The builder was unable to find another suitable location for the foundation of the home due to the topography of the lot, including a steep slope off of the road, a drainage feature running at the bottom of the slope perpendicular to the driveway, the location of the existing sanitary sewer line which is located in a utility easement in the middle of the property and the location of the 100-year floodplain located in the back of the property.

In addition to obtaining the variance to the Flood Damage Prevention Ordinance from the Town Council, the builder must prove to the Town that the lot complies with the State of North Carolina, Neuse Buffer Regulations and the Town of Holly Springs Engineering Design and Construction Standards in respect to the drainage feature that will have to be crossed to access the proposed foundation location.

She said because the Town Council has been established at the Appeal Board for the Flood Damage Prevention Ordinance, it shall hear and decide all requests for variance s from the requirements of this ordinance. A variance may be issued for development provided that it meets the variance requirements outlined in section 8-125 of the Flood Damage Prevention Ordinance.

The appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance and the following factors provided in a written report provided by the property owner or their authorized agent in the variance application. Responses to the findings of

fact have been provided by the applicant, she added.

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location as defined under Sec. 8-85 of this ordinance as a functionally dependant facility, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

Ms. Keefer said upon consideration of the factors listed above and the purposes of the Flood Damage Prevention Ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of the ordinance. Staff recommends the approval of the variance to the Flood Damage Prevention Ordinance with the following conditions of approval as listed below:

- 1.) This variance is to allow encroachment into the 500-year floodplain only, structures including but not limited to the residential home and the pool can not be located in the 100-year floodplain or the regulated Floodway.
- 2.) Documentation must be provided to the Town that the North Carolina, Department of Environment and Natural Resources, Division of Water Quality has issued approval or variance for the construction of a single family residence and a pool in the Neuse River Buffer or removed the Neuse River Buffer designation from this property.
- 3.) If applicable, a Nationwide 404 Permit and 401 Certification must be obtained prior to issuance of the building permit.
- 4.) The lowest finished floor elevation and utilities of the single family residence and the pool's mechanics must meet all building code requirements in respect to the Town's minimum freeboard requirements.
- 5.) The storm drainage for the proposed driveway must be designed to meet Town Engineering Design and Construction Standards.

Ms. Keefer said the Flood Damage Prevention Ordinance required the following conditions to variance to be met in order for the Appeal Board to approve the variance. The following conditions for variances are listed and comments have been outlined below.

- (1) This variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

Approval must be obtained from the North Carolina Division of Water Quality to construct the pool and pool house in the Neuse River Buffer located on the property and obtain 404/401 permits if applicable.

- (2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

There is no designated floodway or non-encroachment area present on this lot. This variance will not result in any increase in the flood levels during the base flood discharge.

- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

This home can not be relocated on the lot to provide less impact to the floodplain and meet other building requirements.

- (4) Variances shall only be issued prior to development permit approval.

The variance will be required prior to issuance of a building permit.

- (5) Variances shall only be issued upon:

- i) a showing of good and sufficient cause;

There are no better locations available for construction of a single family residential structure and accessory structures on this property.

- ii) a determination that failure to grant the variance would result in exceptional hardship; and

Failure to grant the variance would result in exceptional hardship to the current property owner and the contractor due to the amount of resources used to purchase and plan for the development of the lot that has been platted in 2003.

- iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

Since the proposed development is located outside of the designated floodway there is no increase in the flood heights because the fill of this area has been taken into account when determining the width of the designated floodway in this area.

Action #1: The Council approved a motion to accept the following findings of fact to be recorded in the minutes:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location as defined under Sec. 8-85 of this ordinance as a functionally dependant facility, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at

the site; and

(11) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

Motion By: Dickson

Second By: VanFossen

Vote: Unanimous.

Action #2: The Council approved a motion to approve a variance to the Flood Damage Prevention Ordinance for lot 35R in the Sunset Ridge Subdivision, 4701 Shadow Ridge Ct. to construct a single-family home and pool on the property with the following conditions of approval:

- 1) This variance is to allow encroachment into the 500-year floodplain only, structures including but not limited to the residential home and the pool cannot be located in the 100-year floodplain or the regulated Floodway
- 2) Documentation must be provided to the Town that the North Carolina, Department of Environment and Natural Resources, Division of Water Quality has issued approval or variance for the construction of a single-family residence and a pool in the Neuse River Buffer or removed the Neuse River Buffer designation from this property.
- 3) If applicable, a Nationwide 404 Permit and 401 Certification must be obtained prior to issuance of the building permit.
- 4) The lowest finished floor elevation and utilities of the single family residence and the pool's mechanics must meet all building code requirements in respect to the Town's minimum freeboard requirements.
- 5) The storm drainage for the proposed driveway must be designed to meet Town Engineering Design and Construction Standards.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous.

10b. Gable Ridge Culvert – Ms. Sudano reported that this agenda item needs to be tabled.

Action: The Council approved a motion to table the item.

Motion By: VanFossen

Second By: DeBenedetto

Vote: Unanimous.

10c. Decorative Street Signs and Posts Policy – Ms. Sudano said staff requests a proposed amendment to the Town's policy on Specialty Traffic Control and Street Name Signs and Posts to allow decorative or "specialty" signage for new streets. Only one style of decorative street signs and traffic signs would be allowed, and developers would have to pay added installation and material costs.

She said in addition developers would have to set up homeowner associations and covenants that obligate the residents of the developments where the decorative signs are installed to pay for ongoing maintenance and replacements. This policy statement is consistent with the Town's policy statement on decorative street lighting, she added.

Action: The Council approved a motion to amend the town's policy P-011, Specialty Traffic Control and Street Name Signs and Posts, enacting in its place P-011.1.

Motion By: Womble

Second By: DeBenedetto

Vote: Unanimous.

A copy of Policy Statement P-11.1 Specialty Traffic Control and Street Name Signs and Posts is incorporated into these minutes as addendum pages.

10d. Stonemont IRA – Ms. Sudano said that on August 21, the Town Council approved a development plan for Stonemont Subdivision. One of the conditions of approval was that downstream off-site sewer would have to be completed to Union Ridge (a downstream development). This is a typical development condition when one development is upstream of another that has not yet been built, she explained.

She said since the time of Stonemont approval, the developer of Stonemont has advised the Town that the developer of Union Ridge has no schedule to install the downstream sewer any time soon. He has requested permission to install a pump station and associated infrastructure with his development. The station would be sized to accommodate up to 50% of future development upstream of Stonemont, as opposed to the full basin. This is because it is staff's opinion that the downstream pump station and other infrastructure would be installed before 100% development, she added.

Ms. Sudano said that, in accordance with Town policy, the developer of Stonemont is eligible for oversizing reimbursement from development fees for the oversized portion of the pump station, force main, and internal gravity lines. The amount of credit that the developer is eligible for – based upon engineer's cost opinions – is \$101,100. This translates to a maximum amount of credit that could be granted of \$101,100 plus 10%, or \$112,210

She said the credits would be from sewer acreage fees and sewer capacity replacement fees for the Stonemont project, which total \$549,400.

Action: The Council approved a motion to enter into an Infrastructure Reimbursement Agreement with the developer of Stonemont to cover oversizing of sewer infrastructure.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous

A copy of the Stonemont Infrastructure Reimbursement Agreement is incorporated into these minutes as addendum pages.

11. Other Business: Councilman Womble suggested a motion that the town provide a fact sheet supporting needs for additional schools and setting a meeting with the Wake County Board of Education to discuss these needs. He said the county should look at obtaining land for future school sites.

Action: The Council approved a motion to provide the Wake County Board of Education with information about the growing need for schools in Holly

Springs and to plan holding a meeting with the BOE on this topic.

Motion By: Womble

Second By: DeBenedetto

In discussion, Council members expressed that the concept was something all had agreed upon and that there was no need for a motion.

Vote: The motion carried following a 3-1 vote. Councilmen DeBenedetto, Womble and VanFossen voted for the motion. Councilman Dickson voted against, saying he supported the idea but did not feel a motion was necessary since the Town already has agreed to do it.

Councilman VanFossen asked Chief Parker about the fire issue surrounding vinyl siding. Chief Parker said his initial response would be that no changes in ordinances are necessary, but he would like to research the issue further before venturing a recommendation on changing town ordinances.

Councilman VanFossen said the Town needs to look at front-loaded garages, driveways and so forth because it is not fair to developers for them to follow the rules in place and then get voted down at a Council meeting. He asked that the issue be scheduled for TRC discussion.

12. Manager's Report: Mr. Dean reported that there would be a meeting of the Town Council and Comprehensive Plan Steering Committee on Sept. 20; Mayor Sears reported on the ribbon-cutting and open house for 12 Oaks; Mr. Dean passed on the appreciation of Capt. Mike Fielder's family following the soldier's death in Iraq and the town's lowering of its flags in his honor.

13. Closed Session: The Council approved a motion to enter into Closed Session, pursuant to G.S. 143-318.11(a)(3) to discuss a legal matters with the town attorney, specifically a potential condemnation matter for right-of-way along Green Oaks Parkway.

Motion By: Dickson

Second By: VanFossen

Vote: Unanimous

General Account of Closed Session – September 18, 2007

In Closed Session, the Town Council discussed with the town attorney and gave direction as to proceeding forward with the acquisition of right-of-way easement along Green Oaks Parkway.

-- End General Account

Councilman Atwell made a motion that the Council return to Open Session, and it was seconded by Councilman Dickson. The vote was unanimous.

14. Adjournment: There being no further business for the evening, the Sept. 18, 2007, meeting of the Holly Springs Town Council was adjourned.

Respectfully Submitted on Tuesday, Nov. 6, 2007,

Joni Powell, CMC, Town Clerk

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

