

Holly Springs Town Council Minutes

Regular Meeting Aug. 21, 2007

The Holly Springs Town Council met in regular session on Tuesday, August 21, 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 five council members were present as the meeting opened.

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

Council Members Absent: None.

Staff Members Present: Carl Dean, town manager; Chuck Simmons, assistant town manager; John Schifano, town attorney; Joni Powell, town clerk, Linda R. Harper, deputy town clerk, (recording the minutes); Jenny Mizelle, economic development director; Gina Clapp, director of planning and zoning; Alison Huffman, planner I; Heather Keefer, environmental specialist; Kendra Stephenson, senior engineer; Elizabeth Goodson, development review engineer; Len Bradley, parks and recreation director; Scott Barnard, Bass Lake Park manager; Drew Holland, finance director; Eric Tayler, information technician; and Mark Andrews, public information officer.

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

Mr. Dennis invited the Council members to attend the Holly Springs Concert Band Annual Fall Concert "That Song Takes Me Back" at 8 p.m. Friday, Sept. 14 at the Holly Spring Cultural Center.

4. Agenda Adjustment: The August 21, 2007 meeting agenda was adopted with changes, if any, as listed below.

Items Added to the Agenda: None.

Items Removed from the Agenda: Item 9f. South Park development.

Consent Agenda Items Moved to New Business: None.

Other Changes: None.

Motion By: Dickson

Second By: Atwell

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. Youth Summer Work Crew - Mr. Barnard introduced summer work crew leaders Amanda Williamson and Gabe Wilson who presented a brief Power Point presentation of the first-time successful program.

Mayor Sears at this time recognized the program's participants for their hard work and contribution to the town.

Action: None.

7a. Public Hearing: Ordinance 07-14, UDO Amendment Section 7.01 Landscaping Regulations – Ms. Huffman said this request is to revise the Unified Development Ordinance (UDO) Section 7.01, Landscaping regulations to clarify and improve the applicability with the addition of diagrams. She said the following list of amendments have been reviewed by the Technical Review Committee, which has recommended that they be forwarded to the Planning Board and then to Town Council for consideration and adoption.

Ms. Huffman said the proposed changes to UDO Section 7.01, Landscaping will affect the following:

- Location of landscaping in subdivision, single use sites and integrated centers.
- Not allow evergreen trees that lose their lower branches.
- Clarification of language and addition of the Tree inventory diagram.
- Correction of height for a large evergreen from 12" to 12'
- The PUV of a Fence or a wall will not count if under 35% PUV.
- 50% of plant material has to be on the exterior of a fence or wall when the PUV is being counted toward the buffer.
- Graphic to show overlapping corners for landscape plans are not permitted. The perimeter landscape with the greater PUV will be count in

the corners.

Ms. Huffman reviewed in further detail Part 1 through Part 10 of the UDO amendments as follows:

Part 1: Remove existing diagram and add the three new diagrams to Section 7.01 A.

Part 2: Add text in bold to Section 7.01 B. Types of Landscape Screening as written below:

"Any evergreen species that drops its lower branches shall not be permitted as "evergreen" trees in a Type B: Semi-opaque landscape area.

Part 3: Remove text in strikeout and add text in bold to section 7.01 C. 3.

3. Location of Perimeter Landscape Yard Landscape Materials.

In order to qualify **against toward** a required plant unit value, landscape materials shall be located within the lesser of:

- a. the depth of the required perimeter yard or buffer-yard; or,
- b. fifty (50) feet of a property line.

Part 4: Remove text in strikeout and add text in bold to Section 7.01, H.

(2) One (1) Sample Area Survey shall be provided for each *perimeter yard or buffer-* ~~yard~~ which includes a preservation area.

If a *perimeter yard* is in excess of ~~five~~ ~~one~~-hundred lineal feet, an additional Sample Area Survey shall be provided for

each ~~five~~ ~~one~~-hundred lineal feet, or portion thereof, of the applicable *perimeter* ~~yard~~. If additional Sample Area Surveys are required, such additional Sample Area Surveys shall be equally distributed along the applicable *perimeter yard*.

Part 5: Add new diagram to Section 7.01 H.

Part 6: Make changes to Table 7.01-D: Tree Preservation Credits.

Plant Categories of Trees to be Preserved.

Large Evergreen Tree change height from 12" to 12'.

Part 7: Make changes to Table 7.01-E: Plant Unit Value of a Fence or Wall.

The table use to allow for any fence or wall providing a sight barrier of 50% or less to receive credit. 30" to 3' would receive 5 PUV, 4' to 6' would receive 20 PUV and 6' to 10' would receive 45 PUV. The applicant could provide any where in the 50% or less range and still get credit. This amendment keeps this from happening.

- If the height of the fence or wall is between 30" and 3', 4' and 6', 6' and 10' the percentage sight barrier if 0 to 35 % then the Plant Unit value is equivalent to 0.
- If the height of the fence or wall is between 30" and 3' the percentage sight barrier if 35% to 50% then the plant unit value is 5.
- If the height of the fence or wall is between 4' and 6' the percentage sight barrier if 35% to 50% then the plant unit value is 20.
- If the height of the fence or wall is between 6' and 10' the percentage sight barrier if 35% to 50% then the plant unit value is 45.

Part 8: Add text in bold to Section 7.01, I, 3, c: Fence, Wall or Berm and renumber remaining subsections.

c. Location of Fence or Wall within perimeter *yard* / *bufferyard* landscaping.

If a fence or wall is used in conjunction with required *perimeter yard* or *bufferyard* landscaping, a minimum of fifty percent (50%) of the required *plant unit value* shall be located between the fence or wall and the adjacent street right-of-way or property line.

Part 9: Add text in bold to Section 7.01, I, 3, f:

f. Limitation on *Plant Unit Value* for Use of Fence, Wall and Berm.

A fence, wall or berm may be used individually or in combination, when approved as part of a Landscape Plan required by this Section, provided, however, the total *plant unit value* of a fence, wall or berm, either individually or in combination, shall not exceed ~~one-third (1/3)~~ **twenty five percent (25%)** of the required *plant unit value* for any one-hundred, **(100)** foot increment.

Part 10: Remove the existing graphic and add new diagram to Section 7.01, K.

Table 7.01-E: Plant Unit Value of a Fence or Wall

There was further discussion among the Council Members and staff regarding the plant unit value credits of sharing a fence between properties.

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.

There was more discussion regarding fence regulations and buffer credits installed by commercial developers.

Action #1: The Council approved a motion to accept the following statement as true: "The requested Unified Development Ordinance text amendment is consistent with the Holly Springs 10-Year Comprehensive Growth Plan policies for land use. The proposed modifications to the Landscaping Section, 7.01 create enforceable ordinances to enact land use policy. The modifications to the landscaping regulations allow for land uses to co-exist with each other by clarifying appropriate landscape screening to reduce potential impacts on adjacent development."

Motion By: Atwell

Second By: Dickson

Vote: Unanimous.

Action #2: The Council approved a motion to adopt Ordinance 07-14 to approve and enact Unified Development Ordinance Amendment #07-UDO-01 to modify the text of UDO Section 7.01 Landscaping.

Motion By: Dickson

Second By: Atwell

Vote: Unanimous.

A copy of Ordinance A07-14 is incorporated into these minutes as addendum pages.

7b. Public Hearing: Annexation Ordinance A07-05 - Ms. Huffman said the Town has received a petition for voluntary annexation of approximately 1.4 acres located at 4420 Middle Creek Farm Road. The petition meets all the statutory requirements for annexation. She explained that the petitioners wish to connect to Town utilities.

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

Doris Quinene, 4420 Middle Creek Farm Road requested the property be annexed into the city limits in order to connect to the town utilities. She said that the property's well was shallow and would be used for irrigation.

Tim Sack, 332 Elam Street, an adjacent property owner, said that he was in favor of the annexation petition.

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

Councilman VanFossen asked Ms. Quinene if the well water has been tested due to her property was adjacent to the Town of Cary's landfill.

Ms. Quinene said the water has been tested twice and was contaminated and repaired. Due to health issues, the owners would be interested in tapping onto town utilities.

Ms. Moore of the water quality department said that the water can be tested, but testing would not indicate the source of the contamination.

Action: The Council approved a motion to adopt Annexation Ordinance A07-05 annexing approximately 1.4 acres owned by Edward and Doris Quinene, and more particularly described as Wake County PIN: 0659.02-75-0245, into the corporate limits of the Town of Holly Springs.

Motion By: Atwell

Second By: Dickson

Vote: Unanimous.

A copy of Ordinance A07-05 is incorporated into these minutes as addendum pages.

7c. Public Hearing: 07-DP-09, Bridgewater Townhomes - Mayor Sears explained that a public hearing was advertised to take place on Aug. 21 to receive input on development plan 07-DP-09 for Bridgewater Townhomes; however, the plan is being revised and will be brought to the Council in September. Mayor Sears explained that the Council will open the public hearing to receive any comments that may be forthcoming and then approve a motion to continue the public hearing to resume on Sept. 18, 2007.

He said the amended plans and full explanation of the project will be presented at the Sept. 18 Town Council meeting.

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

Action: The Council approved a motion to continue the public hearing to resume on Sept. 18, 2007.

Motion By: Atwell

Second By: Dickson

Vote: Unanimous.

At this time, Mayor Sears requested to be recused from the next agenda item, saying that he is contracted by Wakefield Development, the applicant. He asked to be recused and that the meeting temporarily be presided over by Mayor Pro Tem Dickson.

Councilman VanFossen also asked to be recused, saying that he is the architect designing the development's clubhouse.

Action: The Council approved a motion to recuse Councilman VanFossen and Mayor Sears from deliberations and action on agenda item 7d, public hearing on proposed amendments to the Twelve Oaks, Phase I Preliminary Plan.

Motion By: Atwell

Second By: Dickson

Vote: Unanimous.

7d. Public Hearing: Twelve Oaks Amendment, Phase I, 06-MAS-01-A02 - Ms. Huffman said Twelve Oaks, Phase 1, Applewood, was approved on April 4, 2006 with 280 single-family lots and 80 multi-family lots. She explained when the phase was approved, a condition was placed on the approval requiring the multi-family portion of Phase 1 to return to Town Council to gain approval for the architectural elevations and the landscape plans.

Ms. Huffman said the townhomes have a total of three different models (A, B, and C.) The layout would include 4 to 6 units per building.

She said future townhome owners would be able to choose from six different complementary color palettes in this section called Applewood.

She said the designs of these townhomes are required to meet R-MF-8 architectural standards, which have been provided in the plans. Standards include multiple building materials, and brick and hardi-plank are to be used; façade modulation and roof line variation are required as

are a variety of architectural elements such as columns, cornices, decorative windows, and dormers.

Councilman DeBenedetto said that in the past there have been some concerns about appearance and location of the venting pipes on roof tops of townhomes.

Michael Dean Chadwick of First American, 208 Oxford Mill Court, Cary - said that in the past all the vents were painted black and blended in with the roof. He assured the Councilmen that the finished product has been successful in receiving numerous awards.

Tom McKay of McKay & Associates, Inc., 1140 Holly Springs Road, Holly Springs - said the finished product is not in the same category of the townhomes located on Kildaire Farm Road. He explained that the townhomes are oriented on the lot so that the vents are in the back of the buildings, not visible from public view. He said the townhomes are designed with an alley way access to the rear with driveways and garages located in back. Mr. McKay said that he would address that concern with the appearance of the roof lines during the architecture review process. He said that this product has done well at other locations.

Councilman DeBenedetto asked if the 13 -/+ acres of open space was contiguous throughout the development or just for this townhome phase.

Tom Spaulding 972 Trinity Road said that the designated 13 -/+ acres of open space provided is spread throughout the whole development.

With that explanation completed, Mayor Pro Tem Dickson 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 preliminary plan amendment 06-MAS-01-A02 for Twelve Oaks Phase 1 as submitted by Spaulding and Norris, P.A., project number 410-02, dated revised 07/23/2007 with the following conditions:

1. All items must be addressed within 10 business days of the Town Council meeting:
 - a. Remove note allowing for change of the elevations of the town homes.

Motion By: Womble

Second By: DeBenedette

Vote: Unanimous.

Councilman Atwell made a motion to readmit Councilman VanFossen and Mayor Sears into the meeting. The motion was seconded by Councilman Dickson, and it carried unanimously.

7e. Public Hearing: 07-DP-10, Stonemont – Ms. Huffman said the developers of Stonemont are requesting permission to use development options on parcels located west of Highway 55 Bypass on Avent Ferry Road just south of Holly Pointe subdivision.

The property south of Avent Ferry Road is proposed to be developed as the town's first R-15 development options project. The developer has to provide a higher quality product and additional elements throughout the subdivision that normally would not be required in a standard subdivision.

Ms. Huffman said that a development options subdivision is not a subdivision by right. The applicant is required to submit findings of fact that must be satisfied for the subdivision to be approved.

She said these parcels were annexed into town during March 20, 2007. After annexation, the applicant applied for and was granted conditional use rezoning to R-15 with the following conditions:

1. Minimum dwelling size of 2,000 square feet
2. All foundations to be made of masonry, stone or other comparable material
3. No slab on grade dwellings will be permitted and the grading will be designed to preserve the natural vegetation to the maximum extent practicable. If natural vegetation is not maintained undisturbed and in good condition for a minimum threshold then landscaping will need to be replanted. This threshold will be coordinated with the developer and staff during the development plan review process and presented to Town Council for approval.
4. Limit lot count to 160 lots
5. 15% open space

She said rezoning condition #3 has been addressed by the developer. A letter was submitted providing a list of ways the condition is being met on each of the lots within the subdivision.

The conditions are as follows:

1. All lots that border the overall property boundary are required to maintain the 20 linear foot width undisturbed perimeter buffer. If this buffer is disturbed or needs to be replanted as determined by the Town of Holly Springs, a perimeter buffer re-vegetation plan as provided on the plans showing three evergreen trees, five large shrubs, two small trees and one canopy tree every 50 linear feet of buffer length.
2. The majority of the other subdivision lots back onto open space which is protected as natural area throughout the site, or border a buffer that is already to be planted as required by the planning document process (these lots that border street landscaping buffers are 101-104 and 116-120 along Avent Ferry Road and lots 121-122 and 129-135 along the no-load collector street). This no replanting is provided for any of these lots.
3. For the lots that back onto other lots within the subdivision, only if the rear 10 l.f. of backing lot (so 20 l.f. that span the rear lot line) has existing tree and shrub vegetation that is cleared for grading purposes, it will be replanted with the buffer re-vegetation scheme mentioned above along that 20 l.f. strip spanning the rear lot line. This will provide for a visual buffer between the rear-adjoining properties and will still

enable each property owner to have room for a deck, yard, shed, etc. in order to fully utilize their property. Note that this potential replanting applies only to lots 232-245, 247-249, 317-324, 401 and 411-420 and only if their rear 10' property is cleared for grading purposes. The planting proposal does not apply if the existing vegetation that remains at the rear of these lots is sparse or non-existent. In that case, no new plantings shall be made.

She said with the efforts the developer has made to address staff's concerns, staff is comfortable with the approval of the subdivision and the plan of action for re-vegetation.

She said the developer is providing 18.9 acres of open space for this project which meets the open space requirement.

Councilman DeBenedetto asked if staff was satisfied with the Planning Board's comments regarding the completion of the recreational facilities at time of receiving the certificate of occupancy, (CO).

Ms. Huffman said yes that the pool will be completed by the 50th certificate of occupancy granted within the subdivision and all other recreational areas/amenities will be completed with the final CO's with the phase associated with the facility where located.

There was further discussion among staff and Council Members about the language "reserved by owner open space" used on the plan identifying open space at certain areas located adjacent to other properties.

Russell Briggs of B & F Consulting, 2805 Tobermory Lane, Raleigh explained that those areas are labeled "reserved by owner open space" will alert future homeowners who buy the property adjacent to these lots and will open the area for construction for a house at that location in the future if a developer acquires the property on the other side of the parcel. He said the Planning Board thought this to be a good idea. He said the UDO specifies a lot that meets all the dimensional requirements or a pocket of open space, is to be calculated into the overall development calculations of the development project.

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 VanFossen asked since the property was annexed and zoned Residential-15 (R-15), would the lot sizes be 15,000 square feet.

Ms. Huffman said the developer is requesting to use development options for this project. She said the development options will allow the developer to have a density of a maximum of 141 residential lots, which is equivalent to 2.02 dwelling units to an acre. The maximum lot area is 29,872 square feet, the minimum lot area of 10,000 square feet and the average lot size 12,115 square feet.

Councilman Atwell asked if this development will connect to the Union Ridge subdivision.

Ms. Goodson said that this development will connect with the Union Ridge development at another phase.

Mr. Dean said the timing of Stonemont and Union Ridge is important being both developments will be sharing the same pump station.

Ms. Goodson explained that the proposed downstream Union Ridge Pump Station and 18" gravity sewer lines are to be constructed to the eastern most property line of Union Ridge which is needed to serve Stonemont. She said that the Union Ridge project is currently moving forward in a timely matter, but if that project is delayed or not completed by the Union Ridge subdivision developer then the installation of the pump station will be the responsibility of the developer of Stonemont to complete the sewer to the Avent Ferry Pump Station.

Action #1: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for Development Plan Petition #07-DP-10 for Stonemont to allow for a waiver of regulations of UDO Section 2.09: R-15 Residential District, to allow for development options to be used in the R-15 residential zoning district as submitted by B&F Engineering and Consulting, Project Number AVENT-20070715, dated revised 08/01/2007. The following findings of facts:

- a. The use of area properties will not be adversely affected;
- b. The proposed development is appropriate to the site and its surroundings;
- c. The proposed development is consistent with the policy statements of the Comprehensive Plan;
- d. The proposed development is consistent with the intent and purpose of this UDO.
- e. The proposed development will enhance or preserve the natural and/or environmental features on the property
- f. The proposed development will reduce the amount of tree cutting or mass grading of the property as a result of using Development Options.

Motion By: Dickson

Second By: Atwell

Vote: Unanimous.

Action #2: Having made the necessary findings of fact, the Council approved a motion to approve Development Plan #07-DP-10 for Stonemont as submitted by B & F Engineering and Consulting, Project Number AVENT-20070715, dated revised 08/01/2007 with the following conditions:

1. Fee-in-lieu of pump station upgrade and/or actual upgrade will be required.
2. No construction drawings will be approved for this project until the downstream Union Ridge Pump Station and Union Ridge 18" gravity sewer lines are constructed to the eastern most property line of Union Ridge. If this is not completed by the Union Ridge subdivision developer then it will be the responsibility of this project to complete the sewer to the Avent Ferry Pump Station, *(subject to approval by Town Council)*.
3. The following items shall be addressed with the first submittal of construction drawings:
 - a. Provide design of the offsite sewer for the sewer that needs to be built to properly serve this property. Note that all offsite easements will

need to be recorded prior to construction drawing approval.

- b. A comprehensive drainage area map with calculations will be required
- c. Show and label backwater easements (to be recorded) at stream crossings and storm drainage inlets; provide 100 year calculations accordingly.
- d. All environmental permits for the entire project will be required.
- 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.
- f. Riparian Buffer Homeowner education packet must be submitted with first erosion control plan submittal.
- g. An update to the FEMA flood study and a local flood study for the upstream tributaries will be required with this plan.
- h. The following are special studies that are required for this project. Each report shall be completed and approved prior to the first Construction Drawing submittal of this project.
 - a. A Traffic Impact Analysis will be required for this plan. *It has been submitted to the Town for review with the 2nd submittal received on 8/14/07. The Town will be reviewing this report and issuing comments through a separate memo.*
 - b. A sewer report will be required for this plan to verify the size of the lines for upstream development. *It has been submitted to the Town for review with the 2nd submittal received on 8/14/07. The Town will be reviewing this report and issuing comments through a separate memo.*
 - c. A pond study will be required for this plan. The following information will be required.
 1. Provide a sealed engineer's report and calculations to verify structural integrity of dam(s) prior to 1st construction drawing submittal.
 2. Provide 100-yr water surface area of the pond and 100 year flood plain elevation.
 3. Show 20' maintenance easement surrounding pond and dam
 4. Verify that this pond/dam does not meet Dam Safety

It has been submitted to the Town for review with the 2nd submittal received on 8/14/07. The Town will be reviewing this report and issuing comments through a separate memo.

4. Prior to Final Plat, the following must be completed:
 - a. Payment of fees-in-lieu of land dedication in the amount of \$927/unit totaling \$130,707.00.
5. Within 10 business days of Town Council approval, revised plans addressing the following items shall be provided.
 - a. Note that an alternate roadway plan is included with this plan set for the connection to Union Ridge. This plan sheet shall be apart of the revised plans and shall be clearly labeled as an Alternate and include the following note on the plans: *The Alternate Road Layout is only applicable if all of the following occur: 1) the property located to the west of Stonemont (Macon property) is acquired, 2) an amendment to the Union Ridge subdivision plan is approved showing the revised layout, and 3) all permits associated with the stream crossing are obtained (USACE and NCDWQ).*
 - b. Road improvements for this plan are required for the full road frontage of the property in accordance with the Town's Thoroughfare Plan. A plat is anticipated for this development to adjust the property at Avent Ferry Road. These plans shall reflect the new property information from the plat and all applicable road improvements required. *(Note that at the time of this report preparation, the plat referred to in this condition has been submitted for review however the mylar has not been recorded. This plat needs to be recorded and the plans amended to reflect this change including right-of-way dedication and new property lines.)*
6. The Recreational facilities shall be built in accordance with the following:
 - a. Prior to the 50th Certificate of Occupancy, the Recreational Pool Facility shall be completed.
 - b. Prior to the final Certificate of Occupancy for each Phase as specified on the plans, all other recreational areas/amenities for that specific phase shall be completed.

Motion By: Dickson
Second By: Atwell
Vote: Unanimous.

7f. Public Hearing: National Pollutant Discharge Elimination System (NPDES), Phase II Ordinance – Ms. Keefer said this request is for adoption of the town's proposed Stormwater Ordinance, which is a requirement for the Town to comply with the post-construction portion of its National Pollutant Discharge Elimination System (NPDES), Phase II Stormwater Permit.

Ms. Keefer said in 2006 the North Carolina General Assembly enacted Session Law 2006-246 to provide for implementation of Phase II Stormwater Management Requirements. She said this act establishes procedures for implementing the Federal NPDES Stormwater Permitting program for small communities in census designated urbanized areas. In addition to permitting requirements for Municipal Separate Storm Sewer Systems (MS4s), the act established post-construction stormwater management requirements, in both unincorporated and incorporated areas, for development activities in areas outside of the permitted MS4s. She said the act requires that new development and redevelopment in these areas must meet the post-construction requirements beginning December 1, 2007. The Town's Stormwater Ordinance addresses NPDES Phase II post-construction requirements, and provides enhancements to the existing stormwater management program.

Ms. Keefer said the draft ordinance has been posted on the Town's web site since Aug 3, and postcards were mailed to all area

developers and engineers notifying them of the proposed ordinance and of an Aug. 30 stakeholder meeting. The purpose of the stakeholder meeting will be to include a full explanation of the proposed ordinance and collect feedback. She said staff will bring the ordinance back before the Town Council on Sept. 4 for final consideration with an effective date of Oct. 1, 2007.

There was discussion among staff and the Council Members of the responsibility of maintenance for the stormwater devices once installed within a development. Ms. Keefer explained that once the engineered stormwater devices were installed it would be turned over to the Homeowners' Association for maintaining and operation of the Best Management Practices (BMPs).

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

Action: The Council approved a motion to continue to public hearing until the Sept. 4, 2007 Town Council meeting.

Motion By: Atwell

Second By: Dickson

Vote: Unanimous.

Councilman VanFossen made a comment that the new ordinance will cause an increase in the cost of development.

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 Atwell and a unanimous vote. The following actions were affected:

8a. Minutes - The Council approved minutes of the Council's regular meetings held on May 15 and June 5, 2007.

8b. Community Development Building Grant (CDBG) Project Contract – The Council awarded the contract for Community Development Building Grant (CDBG) project to low bidding company, D&A Complete Construction, in the amount of \$55,025. A copy of the *D&A Complete Construction contract is incorporated into these minutes as addendum pages*.

8c. Resolution 07-32 – The Council adopted Resolution 07-32, declaring Wastewater Treatment Plant vehicles surplus to the needs of the Town. A copy of *Resolution 07-32 is incorporated into these minutes as an addendum page*.

8d. Resolution 07-33 – The Council adopted Resolution 07-33, declaring certain real property located on Main Street surplus to the needs of the Town. A copy of *Resolution 07-33 is incorporated into these minutes as an addendum page*.

9a. The Overlook at Holly Glen Amendment, 05-DP-08-A02 – Ms. Huffman said the Overlook at Holly Glen originally was approved in 2005 as a Development Incentives project. When approved there was a condition placed on the development plan stating, "The proposed development is appropriate to the site and its surroundings and the existing grading, and vegetation will be preserved to the extent possible in keeping with common building practices."

Ms. Huffman said that McCar Homes bought the property after preliminary approval. With their request for additional grading through a grading plan revision, staff raised concern about if the proposed plan was meeting the intent of the condition placed on this plan by the Town Council.

She said the applicant has been asked to provide information to justify how the proposed plan meets the intent of the condition. She added that McCar has submitted a landscape and grading plan to show how they intend to deal with grading of lots.

She explained the builder proposes to keep vegetation from 20% to 30% on lots if permitted; however, if the lots are compromised and less than 20% is being provided then the re-vegetation plan would be used. The builder is committing to put foundation landscaping around every home and street trees on all streets, not just the main collector street.

Ms. Huffman said staff asked McCar to submit examples of lots completed showing the amount of landscaping normally installed compared to what the company proposes to provide.

She said if approved, the additional information provided will be added to the approved Overlook at Holly Glen plans and used in review of the grading plan.

Jim Canfield 111 MacKenan Drive of Withers & Ravelin said the criteria of their product address issues of driveway slopes and drainage between the lots. He said the number one home owners' complaint deals with drainage problems; therefore, the developer puts a lot of thought in solving those drainage issues at the beginning. Mr. Canfield said the appearance of the finished development will be within scale and pleasing. He said that it was the intent to minimize clear cutting the property.

John Millenaar, the region manager of McCar Homes, said as stated on the plan one of the conditions relates to clearing and grading of lots is to be consistent with common building practices. He reviewed the guidelines that McCar Homes uses for clearing property and drainage criteria. He reviewed the steepness of driveways; the required clearance from vegetation; inability to move machinery without adequate clearance, on-site storage for materials, curb appeal and re-vegetation plan. He said that it was McCar Homes' goals to design an aesthetically pleasing community.

Bob Kosnik 15401 Western Parkway, Cary, presented the Council with a presentation of the proposed property, the current status of the property and proposed grading plan. He reviewed the areas where the trees will be saved and the areas to be cleared. He also reviewed examples of individual lots that are to be re-vegetated and spoke of the importance of proper drainage and agreed to save as many trees as possible.

Councilman Atwell said his concerns are not with drainage but the appearance of clearing cutting the lots and the steepness of slopes.

Ms. Stephenson explained the drainage issues and steep slopes of the property and said the developer is proposing over and beyond what is required for drainage.

Councilman VanFossen made a suggestion to leave as many trees as possible especially the older trees in that area of town.

Councilman Atwell and Mr. Kosnik discussed the finished product of the houses. Councilman Atwell's concern was if the houses were to be built slab on grade. Mr. Kosnik said the homes are built on a raised slab with a brick finished edge around the house.

There was further discussion about the appearance of clear cutting and stacking of the homes.

Councilman DeBenedetto asked if the Overlook at Holly Glen would have its own Home Owner's Association.

Mr. Bob said that the Overlook at Holly Glen was annexed with Holly Glen's Home Owner's Association.

Ms. Stephenson commented that the Council can add a condition of the approval so that during construction drawing review, the lot grading will be reviewed to insure that step grading is minimized throughout the site.

Action: The Council approved a motion to approve Development Plan Amendment #05-DP-08-A02 for Overlook at Holly Glen as submitted by Withers and Ravenel, Project Number 2070206.0, dated revised 08/06/2007 with the following conditions:

1. All previous conditions of approval shall apply.

2. *During construction drawing review, the lot grading will be reviewed to insure that step grading is minimized throughout the site.*

Motion By: Atwell

Second By: VanFossen

Vote: Unanimous.

9b. Sunset Lake Commons Master Plan, 06-MAS-10 – Ms. Huffman said that Sunset Lake Commons phase I project has been approved and constructed. She said developers now would like to develop phase II. She said after several meetings, it was staff's determination that the shopping center needed to be master planned with the developer's providing a conceptual lot layout, location of utilities and locations for the internal road network.

Ms. Huffman said that after approval of a 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.

She said it is not until the specific development plans are prepared that the Planning Board and Town Council will review the specific development requests for this project.

Ms. Huffman reviewed the location of the project and landscape buffer requirements, greenway and open space requirements.

Councilman DeBenedetto asked if there will be a traffic light at the Lassiter Road and Sunset Lake Road intersection.

Jeff Baran of Hughes-Baran Associates, 6409 Westgate Rd., Raleigh managing partner of the project recognized his partners who are working on this project. Mr. Baran reviewed his vision of meeting the needs of the community of on-street parking and sidewalks for phase II. He said as development occurs at Lassiter Road and Sunset Lake Road there will be a need for a traffic light to be installed.

Mayor Sear inquired about the topography issues on the property.

Mr. Baran said yes there were some drainage issues toward the rear of property.

Ms. Goodson clarified the changes in the motion, the underlined and bold print is to be added to the motion and delete the strike-through.

Mr. Dean explained the development phases and order of completing the road improvements.

There was much discussion regarding the order of road improvements. Councilman VanFossen suggested to Mr. Baran that the Optimist Farm Road intersection be completed as soon as possible and develop the remaining property and road improvements along Sunset Lake Road last.

Mr. Baran explained that the first two parcels have access and that there is a property owner who is between these properties on Optimist Farm Road who does not wish to sell.

There was further discussion regarding the issue of a possible eminent domain process on the property separating the parcels and the temporary fix to the traffic problems at Optimist Farm Road.

David Dominick of Bass, Dixon & Kennedy discussed with staff and the Council Members possible solutions for the road widening of Optimist Farm Road.

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 within 2 years of approval 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 third lot in Phase 2 development plans or preliminary Phase 2 Plans:
 - a. Dedication right-of-way for the entire development.
 - b. 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.
 - c. An exclusive right turn lane will be constructed on Optimist Farm Road at the intersection.
3. 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.
4. Fee-in-lieu of pump station upgrade will be required.
5. 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.
6. 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. **Remove note number 4 on the plans and replace with a note on the plans that states the developed recreational open space will be provide as 2% of the main tenant's square footage or 200 square feet which ever is greater; the required greenway trail will not replace this requirement of the developed recreational open space.**
- 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. Provide revised phasing on the plans that reflects the sub-phasing for Phase 2 including a note reflecting the developer's agreement with staff to not require road improvements until the 3 lot is developed. (*Note that this condition has been added at the Town Council meeting due to additional information discussed after report was completed*).

There was more discussion regarding Optimist Farm Road and Sunset Lake Road improvements and the motion on the floor.

Motion By: VanFossen

Councilman VanFossen withdrew his motion.

Action: The Council approved a motion to table Master Plan #06-MAS-10 for Sunset Lake Commons as submitted by Jerry Turner & Associates, to a future Town Council meeting for further discussion on road improvements along Sunset Lake Road and Optimist Farm Road.

Motion: Atwell

Second: DeBenedetto

Vote: The motion carried following a 4-1 vote. Councilmen DeBenedetto, Dickson, Womble and Atwell voted for the motion. Councilman VanFossen voted against.

9c. Holly Springs Community Center – Mr. Bradley said that Heery International has submitted a fee proposal of \$90,000 for programming, facility planning, master planning, review process, and deliverables for a new community center.

Mr. Bradley said the total cost would be billed monthly based on the percent of work completed. He said work beyond the scope of basic services and as authorized by the Town would follow hourly rates as provided in the contract.

He said the planning schedule is expected to take approximately four months.

Mr. Schifano explained the Code of Ethics for Town Officials policy in regards to Councilman Womble's ownership of property in the proposed project area. He also discussed the logistics of accepting bids for Town projects.

Action: The Council approved a motion to enter a professional services agreement with Heery International for the programming and planning processes of a new community center at a lump sum cost of \$90,000 and to adopt associated budget amendments.

Motion By: Atwell

Second By: VanFossen

Vote: Unanimous.

A copy of Heery International contract and budget amendments are incorporated into these minutes as addendum pages.

Councilman VanFossen asked Mr. Bradley while working with Heery International and designing the new community center to consider other sites other than the Main Street site.

9d. Sidewalk Design Contract Award – Ms. Stephenson said at the 2007 February Town Council Retreat, staff was directed to pursue survey and in-house design for the sidewalk connection from Wendy's to Oak Hall Shopping Center.

She said this sidewalk is approximately 1,100 feet and crosses a significant culvert crossing in an environmentally sensitive area. The proposed sidewalk path also is in an area with a conflict to an existing pump station and overhead utilities.

Due to the active design project list, staff had projected design to be complete fall/winter of 2007 and advertise/bid to be in February 2008. As a result of the last council meeting, however, this project has been accelerated and must be designed by a consultant.

Action: The Council approved a motion to award the contract for sidewalk design for a connection from Oak Hall Shopping Center along NC Hwy. 55 to Wendy's site to Kimley Horn in an amount not to exceed \$24,500.

Motion By: Atwell

Second By: Dickson

Vote: Unanimous

A copy of Kimley Horn & Associates contract is incorporated into these minutes as addendum pages.

9e. Stinson Avenue, Phase II – Ms. Stephenson said in accordance with the Town's originally approved Transportation Capital Improvement Plan, the second phase of Stinson Avenue is to be constructed to connect two existing sections of Stinson Avenue and provide a vital link between the Village District and Bass Lake Road.

She said the construction of culverts will require specialized inspections and testing of materials. She said Wetherill Engineering proposes to conduct the inspections and material testing for the box culverts and provide the design for this specialized portion of the project as well. The contract covers periodic construction observations, materials sampling and testing, and contract administration for this portion of the contract.

Action: The Council approved a motion to enter into a professional services agreement with Wetherill Engineering at a cost of \$9,900, inclusive of a 10% contingency, for Stinson Avenue Phase II construction administration.

Motion By: Atwell

Second By: Dickson

Vote: Unanimous

A copy of Wetherill Engineering contract is incorporated into these minutes as addendum pages.

9f. South Park Development – This item was removed from new business during agenda adjustment.

9g. Southern Wake Water Line Settlement Agreement – Mr. Dean said a series of interlocal agreements were entered into in the mid 1980s through late 1980s between Wake County, Apex, Cary, Holly Springs, and Fuquay-Varina regarding the construction of the South Wake Waterline, which was a “dry line” installed by Wake County along old NC 55 (Main Street). Under the agreement with Wake County, each municipality was to purchase water from another municipality to put in the line. The agreement was entered into in 1983 for a period of 25 years, and therefore expires next year.

He said the agreements for water provision by neighboring towns were loosely formed, which resulted in spotty service, no guarantees for capacity, and uncertainty for Holly Springs. The Town currently does not use the line for its intended use because of the difficulty in procuring a reliable water source from the neighboring towns; however, the Town does use the line as a part of its internal distribution network as the water is coming in from the main trunk lines from Raleigh via Holly Springs Road and from Harnett County via Pine Grove-Wilbon Rd.

Mr. Dean said the 1983 agreement contemplated a pay-back provision by collecting an additional fee from parcels that wished to tie on to the water system which was to be assessed by the Town according to linear footage of the parcel and by acreage. This fee was not collected and transmitted to the county by the Town as required in the agreement. There is no record of payment.

Wake County has estimated the amount due from the Town as \$346,891 and has demanded payment of this amount.

He said staff recommends entering into a settlement agreement with Wake County for full satisfaction of the 1983 interlocal agreement for \$346,891 to include an asset transfer of the line to the Town of Holly Springs.

Action: The Council approved a motion to authorize the town manager to enter into a settlement agreement with Wake County for full satisfaction of the 1983 interlocal agreement for \$346,891 to include an asset transfer of the line to the Town of Holly Springs, subject to terms acceptable to the town attorney.

Motion By: VanFossen

Second By: Atwell

Councilman DeBenedetto asked if the money was coming from the Town’s reserve funds. Mr. Holland said yes.

Vote: Unanimous

A copy of the settlement agreement is incorporated into these minutes as addendum pages.

10. Other Business: Councilman Womble made a motion to adopt a resolution supporting the efforts of parents of Lincoln Heights Magnet Elementary School students in restoring and maintaining Lincoln Heights’ magnet status and program to be mailed with a cover letter to Wake County Board of Education. The motion was seconded by Councilman DeBenedetto, and it carried following a 4-1 vote. Councilmen DeBenedetto, Womble, VanFossen and Atwell voted for the motion. Councilman Dickson voted against.

Councilman Dickson suggested stating in the cover letter that the passing vote was not a unanimous vote. He also wanted to go on record saying that he did not wish any ill will against anyone making these decisions but in his opinion that magnet schools promote inequality in education and opportunity.

Councilman Womble asked if Town staff is being notified of the Wake County Board of Commissioners meetings and if the Town is being represented at those meetings. Mr. Dean said that the Town receives a fax of the meeting agendas the day before the meeting and the agenda is on the County’s website.

11. Manager’s Report: Mr. Dean asked if the Council received an email regarding the revaluation presentation given by Mr. Emmit Curl that was presented to Novartis on Aug. 9. He said Mr. Curl offered to make the presentation to the Council at a fall mini-retreat.

Mr. Dean said that the flag at all the Town’s facilities will fly at half-mast through Friday, Aug. 24 in honor of Captain Michael Shean Fielder, 35, of Holly Springs. He died Aug. 19 in Baghdad, Iraq of injuries sustained in a non-combat incident. Councilman Atwell asked the public information officer to do a news release to the papers.

Mr. Dean distributed the employee reclassification study to the Council Members at this time. He also reminded the Council Members of the Novartis ground breaking that is by invitation only at 1 p.m. Aug. 23.

12. Closed Session: None.

13. Adjournment: There being no further business for the evening, the August 21, 2007, meeting of the Holly Springs Town Council was adjourned following a motion by Councilman Atwell, a second by Councilman VanFosser and a unanimous vote.

Respectfully Submitted on Tuesday, Oct. 2, 2007.

Linda R. Harper, CMC, Deputy Town Clerk

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