

# Holly Springs Town Council Minutes

## Regular Meeting Jan. 15, 2008

The Holly Springs Town Council met in regular session on Tuesday, Jan. 15, 2008, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7:00 p.m. A quorum was established as the mayor and all five council members were present as the meeting opened.

**Council Members Present:** Councilmen Vinnie DeBenedetto, Parrish Womble, Chet VanFossen, Tim Sack 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 (recording the minutes); Jeff Jones, senior planner; Alison Huffman, planner I; Stephanie Sudano, director of engineering; Elizabeth Goodson, development review engineer; Heather Keefer, environmental specialist; Len Bradley, parks and recreation director; David Mallard, leisure program manager; Daniel Weeks, project analyst; Adam Wunch, IT technician; John Herring, police chief; Drew Holland, finance director; Ricky Blackmon, director of code enforcement; and Mark Andrews, public information officer.

**2 and 3.** The Pledge of Allegiance was recited, and the meeting opened with an invocation by Rabbi Ederly of Temple Beth Shalom.

**4. Agenda Adjustment:** The Jan. 15, 2008 meeting agenda was adopted with changes, if any, as listed below.

**Motion By:** Sack

**Second By:** Womble

**Vote:** Unanimous

**Items Added to the Agenda:** Discussion of the Town's growth management report was added as an item of New Business.

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

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

**Other Changes:** None.

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

Doris Quinene, 224 Elam Street -- Mrs. Quinene addressed the Council, saying that she recently moved to Holly Springs and opened a driveway to Elam Street, and a neighbor is blocking her driveway by parking on the street. Council members advised her to contact the Sunset Ridge North Home Owners Association to report the resident, who is parking on the street overnight in violation of the subdivision covenants.

**6a. Athletic Park Sponsors Recognition** – Mr. Mallard presented plaques of appreciation to local businesses who contributed to the Parks & Recreation Department through sponsorship signage placed on the ball fields at Womble Park.

**Action:** None.

**6b. Novartis Project and Economic Impact Update** – Mr. Tom Anderson, director of project management for Novartis, addressed the Town Council on the progress of the Novartis Vaccines and Diagnostics facility.

Mr. Anderson described how the Novartis facility would be arranged on the site; he gave interesting facts about the size of the facility and the amount of materials that are being used in construction; he reported that 2012 was the projected date for actual vaccine production for distribution; and he showed Power Point slides illustrating construction progress at the site.

Councilman DeBenedetto asked Mr. Anderson to provide, if he knew at this point, to what extent Novartis would be using reclaimed water. Mr. Anderson said although he had a sense of what reclaimed water at the site would be used for, he did not know the amounts.

Councilman DeBenedetto asked when the plant was up and running how would waste generated there be disposed of, especially hazardous waste.

Mr. Anderson said infectious waste would be de-contaminated on site. He explained that the waste in question is more biological than chemical, and it is de-activated so that it is not hazardous.

Ms. Mizelle also had addressed the Council in agenda packets, explaining that in the summer of 2006 as the Town of Holly Springs was in discussions with Novartis Vaccines and Diagnostics and as part of the recruitment phase, the Town made certain commitments to Novartis. At the time, the Town worked with other partners, including the State of North Carolina, the Golden Leaf Foundation, the Economic Development Administration, the North Carolina Department of Transportation and others, to present a financial package presumably attractive enough to

Novartis to win the project over known competitors in Maryland and Athens, Georgia.

She said the Town offered an incentive to Novartis, which was accepted and consisted of the Town's paying for 167 acres of land at a cost of \$7.3 million and providing a \$1 million clearing/grading allowance. All other commitments involved public infrastructure improvements that would not only serve the Novartis site, but the town in general.

Novartis originally had requested \$3.25 million as the total expected cost of clearing and grading; however, the Town committed \$1 million. A gap existed in the request and the funding, and the State of North Carolina offered \$1 million, and the Town of Holly Springs agreed to fill the other \$1.25 million gap if the Town received that amount in grants from the Golden Leaf foundation, which would, in turn, reduce the amount the Town had to spend on sewer infrastructure in the same amount of \$1.25 million.

Ms. Mizelle said during negotiations in the summer of 2006, the Town approached Golden Leaf to ask for grant funds toward the project. The Town made two separate applications to Golden Leaf for grants to offset infrastructure improvement expenses.

She said the Town was awarded \$800,000 (for roadway design fees) and \$1.25 million (for sewer lines.) The timing of the Town's second application where it was awarded \$1.25 million was concurrent with final negotiations with Novartis. The agreement with Novartis as spelled out in the Economic Development Agreement (EDA) adopted by the Town Council on July 18, 2006, was that the Town of Holly Springs would submit payment to Novartis in an amount up to but not exceeding \$1.4 million, contingent upon a grant as yet unapproved by the Golden Leaf board of directors.

She said the understanding under which the commitment was made was that the Golden Leaf grant funds, if any, would reduce the town's financial exposure for the wastewater project improvements, and those savings would be reallocated to meet Novartis' clearing/grading budget of \$3.25 million.

Novartis has submitted a request for payment of the remaining \$1.25 million in accordance with the EDA, she reported.

The estimated property tax valuation for the project continues to evolve.

Ms. Mizelle said that staff conservatively estimated the taxable value as low as \$170 million as compared to the state's records of \$267 million. In the last year, Novartis has submitted plans for a much larger facility than originally projected (from 300,000 square feet to more than 500,000 square feet.) Novartis officials have stated this facility, when built out of Phase I is completed, will represent a capital project of \$600 million.

She said as of January 2008, the Town has processed three building permits of the first five planned buildings. As submitted by Novartis, the permit costs based on construction costs are as follows: Bulk Building, \$190,629,300; Lab/Administration Building, \$36,294,073; and Facility/Operations, \$47,000,000, for a total of \$273,923,373.

She said these estimates do not include land value, nor pending machinery and equipment. Building permit applications for two additional buildings (Warehouse and Fill/Finish) are expected this year, and staff will continue to track this data.

**Action:** None.

**7a. Public Hearing: Special Exception Use Petition 07-SEU-10, 228 Tullich Way** – Ms. Huffman reported that the petitioner had withdrawn her application for a Special Exception Use permit to allow a family childcare home at 228 Tullich Way.

She added that should the petitioner wish to have her request reconsidered in the future, a new petition will be required to be filed, and a new public hearing scheduled. She asked the Council to simply close the public hearing that remains open from the Dec. 18 Town Council meeting when it was opened and continued.

**Action:** The Council closed the public hearing.

**7b. Public Hearing: Ordinance 08-01 (07-UDO-09) Wireless Communications** – Ms. Huffman said that due to a recent change to the North Carolina General Statutes on wireless communications requirements, the Town must amend its Unified Development Ordinance Section 8.01, Special Regulations for Wireless Telecommunication Facilities.

She said currently in the UDO an applicant would have to apply for a special exception use permit to be able to construct a new wireless telecommunication tower. In Section 9.10, Special Exception Uses, an amendment will be needed due to the permitting process of communication towers having been extended.

Ms. Huffman also included in UDO amendment 07-UDO-09 a modification to Section 8.02, Family Care Homes definition. Currently in the UDO the General Statutes definition is not included; therefore, to be in compliance as well as to not create confusion during interpretation it was important to include the North Carolina General Statute definition, she said.

With that explanation completed, Mayor Sears opened the public hearing to accept input. The following comments were recorded: None. There being no input, the public hearing was closed.

**Action #1:** The Council approved a motion to accept the following statements as true: "The requested UDO Text Amendment is consistent with the Vision Holly Springs, Town of Holly Springs Comprehensive Plan. The proposed modifications to Section 8.01, Special Regulations for Wireless Telecommunication Facilities; to Section 8.02, Special Regulations for Family Care Homes; and to Section 9.10, Special Exception Uses, creates enforceable ordinances to enact Land Use Policies."

**Motion By:** Dickson

**Second By:** Womble

**Vote:** Unanimous.

**Action #2:** The Council approved a motion to adopt Ordinance #08-01 to approve and enact UDO Amendment #07-UDO-09 to modify the

text of UDO Section 8.01, Special Regulations for Wireless Telecommunication Facilities; Section 8.02, Special Regulations for Family Care Homes; and Section 9.10, Special Exception Uses.

**Motion By:** Dickson

**Second By:** Womble

**Vote:** Unanimous.

A copy of *Ordinance 8-01 (07-UDO-09)* is incorporated into these minutes as addendum pages.

**7c. Public Hearing: Ordinance 08-02 (07-UDO-12) Section 11** – Mr. Zawadski said staff has been reviewing and evaluating the text of the Unified Development Ordinance since its adoption. While using the UDO, staff comes across minor errors, interpretations that are unclear, and sometimes regulations that need to be added or changed, he explained. He said staff suggests making the following revisions to help clarify and improve the applicability of UDO Section 11, Definitions. The following list of amendments has been reviewed by the Technical Review Committee and the Planning Board, he added.

<b>Suggested Modification</b>	
	Add “Whip Antenna” definition
ion 11	Add NCGS Reference to “Family Care Home” and “Persons With Disabilities” and remove definitions
	Remove “Development Plan, Phased” definition
	Add “Marquee” definition
	Add NCGS reference to “Family Child Care Home” and remove definition
	Revise “Board of Commissioners” definition to reference Town Council
	Add diagrams for odd-shaped lots to determine front, side, and rear yards.

With that explanation completed, Mayor Sears opened the public hearing to accept input. The following comments were recorded: None. There being no input, the public hearing was closed.

**Action #1:** The Council approved a motion to accept the following statements as true: “The requested UDO Text Amendment is consistent with the Vision Holly Springs, Town of Holly Springs Comprehensive Plan. The proposed modifications to the definitions section create enforceable ordinances to enact Land Use Policies.”

**Motion By:** VanFossen

**Second By:** Womble

**Vote:** Unanimous.

**Action #2:** The Council approved a motion to adopt Ordinance 08-02 to approve and enact Unified Development Ordinance Amendment #07-UDO-12 to modify the text of UDO Section 11, Definitions.

**Motion By:** VanFossen

**Second By:** Womble

**Vote:** Unanimous.

A copy of *Ordinance 8-02 (07-UDO-12)* is incorporated into these minutes as addendum pages.

**7d. Public Hearing: Comprehensive Plan Amendment 07-CPA-01, Southern Gateway Plan** – Mr. Jones said that in November, the Council adopted the updated Comprehensive Plan.

Part of the overall work plan is continuing to study small areas within the Town jurisdiction he said, adding that the Southern Gateway Plan has been prepared for the area generally located around the G.B. Alford Highway down to the existing annexation agreement line with Fuquay-Varina and down Avent Ferry Road to Piney Grove-Wilbon Road.

The area also overlaps with the Village District Area Plan and would amend that plan by removing the land near G.B. Alford Highway from the VDAP and adding it to the Southern Gateway Plan.

He said development has begun in the area, and recently the Shoppes at Holly Springs opened on Nov. 14. Two other major developments, Main Street Square and Southpark Village, have gone through several development plans and currently are under construction.

Mr. Jones said staff felt that a gateway plan to set land uses and goals for this area was warranted for any new developments that may come in the future.

The overall plan for the Southern Gateway is for Regional Commercial and Office development with higher density residential supporting those commercial developments. The plan is for this area to be of high quality design and to be an attractive gateway into the Town.

Mr. Jones said staff has prepared a proposed land use map that clearly specifies the land use designations for parcels within the study area. Staff has added additional Office/Professional and Mixed residential within the study area.

Also, the Transportation Plan portion of the Plan has been adopted by Town Council through a Thoroughfare Plan amendment that Engineering put forward a couple of months ago. This plan will be incorporated into the Southern Gateway Plan. The major addition to the transportation network in this area is a new connection from Piney Grove-Wilbon to Ralph Stephens Road.

Within the plan, staff identified several policies. These policies set a course for the study area's future development.

Mr. Jones explained that a public meeting was held Nov. 14, and approximately 12 residents attended. Comments were favorable and in support of the plan; however, there was a written request by Ms. Lori Stokes who resides on Avent Ferry Road to remove her property from the study area boundaries. She said she would prefer that her property continue to be designated as residential within the Village District Area Plan.

There also were a few other residential properties that requested the same.

Mr. Jones noted a new road connection from Avent Ferry Road to Ralph Stephens Road.

He said since the Planning Board meeting, the transportation plan has been updated to remove a proposed roadway alignment through a sensitive environmental area near the Little Moccasin Lane area.

Councilman VanFossen asked why a pedestrian overhead crossing was being included in the plan since the Bypass has signalized intersections.

Mrs. Sudano explained that NCDOT refuses for several reasons to allow any at-grade pedestrian crossing of G.B. Alford Highway.

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 adopt resolution 08-01 approving Comprehensive Plan Amendment 07-CPA-01 to add the Southern Gateway Plan and to amend the Village District Area Plan Boundary and the Village District Area Plan Transportation Map.

**Motion By:** VanFossen

**Second By:** Dickson

**Vote:** Unanimous.

*A copy of Resolution 08-01 is incorporated into these minutes as addendum pages.*

**7e. Public Hearing: Comprehensive Plan Amendment 07-CPA-02** - Ms. Huffman said the Town has received an application requesting an amendment to the Comprehensive Plan of the land area located in the southeast quadrant of the intersection of G. B. Alford Highway (Highway 55 By-pass) and W. Holly Springs Road.

She said the property has approximately 1,100 feet of frontage on G. B. Alford Highway and 600 feet on Holly Springs Road. The property is situated at a signalized intersection which provides access to the property for travelers on the Bypass or W. Holly Springs Road.

The applicant believes the site would be a good location for a mixed use development to accommodate and serve customers employed at the Holly Springs Business Park as well as existing and new residential developments along W. Holly Springs and New Hill Road.

She said the applicant is requesting the Mixed Use classification due to the Residential zoning properties adjacent to the proposed site. Using the Mixed Use classification would allow a blending of community commercial development with medium- to high-density residential densities.

Ms. Huffman explained the eastern half of the intersection is the least intense land use designation with the other half of the intersection's being designated as Regional Center and Central Core. The applicant feels that Mixed Use is the highest and best use of the property while enhancing the quality of life for residents and business owners in the area due to the limited access onto the G. B. Alford Highway and the need for commercial.

The previous Comprehensive Plan, as recently as October 2007, illustrated the land area surrounding the entire intersection as Mixed Use. Three of the 15 parcels (approximately 8.5) acres were rezoned to Local Business in June of 2007, and 2 of the 15 parcels (approximately .61 acres) had been rezoned prior to 2007. The current Comprehensive Plan, adopted in November 2007, now designates this land area as residential even though 75% of the subject property was re-zoned, in compliance with the previous Comprehensive Plan, to Local Business.

She said staff is in favor of the Comprehensive Plan Amendment to change the current classification of the parcels from Residential to Mixed Use. Staff feels that Commercial and Mixed Use development at the corner of G.B. Alford Highway and W. Holly Springs Road is in keeping with the Town's Vision even though it is contrary to the current Comprehensive Plan. 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 Vision Holly Springs Town of Holly Springs Comprehensive Plan Amendment 07-CPA-02 to change the Future Land Use Designation of 10.57 acres of Wake County PIN # 0649543055; 0649542069; 0649541182; 0649541123; 0649533910; 0649532931; 0649531947; 0649541013; 0649534918; 0649534990; 0649531775; 0649536962; 0649536821; 0649535698 and 0649533493 from Residential and Regional Center to Mixed Use as submitted by Fred Fletcher, Jr.

**Motion By:** VanFossen

**Second By:** Womble

**Vote:** Unanimous.

**7f. Public Hearing: Rezoning Petition 07-REZ-16** - Ms. Huffman said applicant Fred Fletcher, Jr. requests rezoning of property from R-8 and R-10: Residential to LB: Local Business. The properties the applicant has designated for the rezoning are in the southeast quadrant of G.B. Alford Highway (Hwy. NC 55 Bypass) and W. Holly Springs Road. Due to the intersection onto G.B. Alford Highway, a signaled intersection, this quadrant would be a prime location for a commercial designation, such as LB: Local Business.

She said the uses that would be allowed in the local Business District would serve the residents within the area, the business park, the subdivisions located to the east of the property and the residents who live on W. Holly Springs and New Hill Road. Staff is in favor of the rezoning of the property due to the compatibility with the area zoning across the bypass as well as the need for commercial services on the east side of the

highway.

Ms. Huffman said that two Planning Board Members voting against the rezoning stated that the transition of R-8: Residential between the LB: Local Business designation and the R-10: Residential designation should be left as is, due to the need for a buffer between the commercial land uses and the residential properties (Oaks at Avent Acres Subdivision).

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

Assaf Lev Ram, 504 Onondaga – Mr. Lev Ram addressed the Council, saying that residents are concerned, especially because no one knows what is being specifically planned. He said many he has talked to are opposed to the rezoning petition because they feel it should remain residential.

Senita Way, 420 Onondaga – Ms. Way said a lot of the residents are concerned about traffic, particularly if traffic would be increased on Onondaga Ct., which would not adequately handle that amount of traffic.

Art Scheaffer, 224 Saranac Dr. – Mr. Schaeffer said he was opposed to the rezoning request because he lives on the edge of the residential zone and would abut the non-residential. He pointed out that there would be sedimentation, drainage and erosion control issues as well.

John Hughes, 225 Saranac – Mr. Hughes said he was opposed to the rezoning request because he feels the traffic generated by a local business use would pour onto residential streets.

Fred Fletcher, applicant – Mr. Fletcher spoke in favor of the rezoning. He pointed out that the company would need to have all property in the request to be rezoned for the viability of any development. He said he understood residents' concerns about through-traffic, which could be addressed at the site plan stage. He said existing town ordinances would address such concerns such as sedimentation and construction traffic.

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

Councilman DeBenedetto asked if Planning Board members present would comment.

Planning Board members Matt Johnson and Glenn Myrto explained why some on the Planning Board felt that there were zoning transition concerns and that leaving the R-9 portion zoned as is would provide that transition between the R-10 areas and the Local Business.

**Action #1:** The Council approved a motion to accept the following statement as true, "The requested zone map change from R-10: Residential to LB: Local Business is consistent with Vision Holly Springs; Town of Holly Springs Comprehensive Plan since the Future Land Use Plan Map indicates this property as Mixed Use and is located in a Community Growth Area."

**Motion By:** Dickson

**Second By:** VanFossen

**Vote:** Unanimous.

**Action #2:** The Council approved a motion to adopt Rezoning Ordinance 08-01 to approve and enact Zone Map Change Petition #07-REZ-16 to change the zoning of 10.57 acres of Wake County PIN # 0649543055; 0649542069; 0649533910; 0649532931; 0649534918; 0649535698; 0649536821; 1649536962; and 0649533493 from R-10: Residential to LB: Local Business as submitted by Fred Fletcher, Jr.

**Motion By:** Dickson

**Second By:** VanFossen

**Vote:** Unanimous.

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

8a. Minutes - The Council approved minutes of the Council's special meeting held Sept. 20 and its regular meeting held Oct. 16, 2007.

8b. Budget Report – The Council received a report of FY 2007-08 budget amendments #13 through #24 approved by the town manager. A copy of the budget amendment report is incorporated into these minutes as addendum pages.

8c. Holly Springs Moravian Church Six-Month Extension – The Council approved a request from Holly Springs Moravian Church for a six-month extension of approval for development plan 05-DP-03.

8d. Wake County Public School Agreement - The Council approved to enter an agreement with Wake County Public School System to provide building inspections of Wake County public schools. A copy of the agreement is incorporated into these minutes as addendum pages.

8e. Harnett County Water Plant Expansion Professional Agreement – The Council approved to enter a professional services agreement with Davis Martin Powell for \$16,000 for technical assistance in the Harnett County water plant expansion project and to adopt related budget amendments. Copies of the Davis Martin Powell contract and budget amendment are incorporated into these minutes as addendum pages.

8f. Budget Amendment, \$250 - The Council adopted an amendment to the FY 2007-08 budget in the amount of \$250 to accept a donation to the Holly Springs Fire/Rescue Department from the Golden Hawks Club. A copy of the budget amendment is incorporated into these minutes as an addendum page.

8g. Budget Amendment, \$1,500 – The Council adopted an amendment to the FY 2007-08 budget in the amount of \$1,500 to appropriate prior year Community Development funds from developers to cover current year costs associated with prospect development. A copy of the budget amendment is incorporated into these minutes as an addendum page.

8h. Budget Amendment, \$5,000 – The Council adopted an amendment to the FY 2007-08 budget in the amount of \$5,000 to operate the Cultural Center/Library coffee kiosk through the end of the year. A copy of the budget amendment is incorporated into these minutes as an addendum page.

8i. Budget Amendment, \$8,920 – The Council adopted an amendment to the FY 2007-08 budget in the amount of \$8,920 to accept insurance

proceeds for a damaged police vehicle and lightning damage. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8j. Budget Amendment, \$11,600 – The Council adopted amendments to the Gable Ridge culvert project fund in the amount of \$11,600 to cover additional project costs. *Copies of the budget amendments are incorporated into these minutes as addendum pages.*

8k. Windcrest Home Owners Association Utility Easement – The Council approved to accept a utility easement from Windcrest Home Owners Association. *A copy of the utility easement is incorporated into these minutes as addendum pages.*

8l. Reclaimed Water Phases 1 & 2 – The Council authorized additional funding and a contract amendment to an existing Davis Martin Powell agreement in the amount of \$30,000 for additional work in the town's reclaimed water project. *A copy of the Davis Martin Powell contract amendment is incorporated into these minutes as addendum pages. (Note: A project budget for the reclaimed water project is forthcoming and will include this amount.)*

At this time, Mayor Sears excused himself, and Mayor Pro Tem Sack took over the presiding officer role for a few moments until Mayor Sears returned.

**9a. Sunset Ridge Lot 35R Variance** – Ms. Keefer said the Town has received a request for a variance to the Flood Damage Prevention Ordinance to place fill in the 500-year floodplain for construction of a single-family home and swimming pool on lot 35R in the Sunset Ridge Subdivision, 4701 Shadow Ridge Ct.

Ms. Keefer explained the background of the variance request. She noted that the Sunset Ridge Subdivision plat was re-recorded in July 2003. 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 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 the subject lot gives the appearance that there is enough buildable area outside of the 100-year floodplain and the Town's 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.

Ms. Keefer said 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. She said 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.

After a variance was obtained in September 2007, the future homeowners and the builder determined that fill also was needed on the lot in the 500-year floodplain to construct the home. The builder has proved 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.

**Action #1:** The Council approved a motion to make and accept findings of fact to be recorded in the minutes for Variance No. 2 at 4701 Shadow Ridge Ct., and the Council has considered such things as:

- (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:** VanFossen

**Second By:** DeBenedetto

**Vote:** Unanimous.

**Action #2:** The Council approved a motion to approve a variance for lot 35R in the Sunset Ridge Subdivision, 4701 Shadow Ridge Ct., to place fill in the 500-year floodplain with the following conditions:

- 1) This variance is to allow encroachment of fill into the 500-year floodplain only; fill and 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) The lowest finished floor elevation and utilities of the single-family residence and the pool's mechanics must meet all building code requirements, and the lowest finished floor elevation must be two feet above the 500-year floodplain;

3) A lot grading plan must be approved prior to issuance of the building permit;

4) 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.

**9b. Main Street Square Waiver** – Ms. Keefer said as a result of the design and review process, it has been determined that a portion of the Main Street Square Greenway Trail will require encroachment into the Town of Holly Springs 100-foot undisturbed Bass Lake Buffer. Approval of a waiver to encroach into the buffer is required by Town Council prior to construction.

**Action #1:** The Council approved a motion to accept the following findings of fact to be recorded in the minutes for a waiver to the Bass Lake Buffer requirements for the greenway trail of Main Street Square:

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

**Motion By:** Dickson

**Second By:** DeBenedetto

**Vote:** Unanimous.

**Action #2:** The Council approved a waiver of the UDO for impact to the Bass Lake Buffer for the construction of the Main Street Square greenway trail with the following condition:

- a. All 404, 401 and permits to impact the Neuse Buffer must be obtained prior to construction of the Greenway Trail.

**Motion By:** Dickson

**Second By:** Debenedetto

**Vote:** Unanimous.

**9c. Bass Lake Park Master Plan** – Mr. Barnard said staff requests approval of a master plan for Bass Lake Park following the acquisition by the Town of the Cornell property.

He said the Cornell Estate property adds 8.97 acres to Bass Lake Park. In addition to  $\frac{1}{4}$  mile of additional shoreline, the property also adds 102 feet of frontage on Bass Lake Road, south of the bridge. Mr. Barnard said the property features over 85 feet of total gain or loss in elevation, a mixed stand of hardwoods and at least one unique species - the Alternate Leaved Dogwood.

He explained that following stakeholder meetings, staff compiled a plan from input and recommends in the master plan that the Town should consider the following:

1. Formalize 'Right of First Refusal' with Tate Sanders and any other appropriate parties to ensure that remaining Sanders property will be available for future town purchase.
2. Pressure NC DOT by any means necessary to moving Bass Lake Road Bridge back onto funded priorities for replacement.
3. Seek agreement with NC DOT to design combined vehicle/pedestrian crossing of Basal Creek (Bass Lake Road Bridge).
4. Purchase necessary property along Bass Lake Road to provide for safe visitor vehicle access and exit onto Cornell Property (consult NC DOT and Town Engineering Departments for recommendation and minimums).
5. Fund design of parking and combined restrooms/picnic shelter.
6. Seek acquisition of easement or purchase property from Simpson connecting Cornell Property to Town Property. Option 1: Along Shoreline Option 2: Along Bass Lake Road
7. Design and install a paved/concrete trail connecting Bass Lake's existing sidewalk to recommended paved parking area/picnic shelter.

**Action:** The Council approved a motion to approve the Master Plan for Bass Lake Park as presented by staff.

**Motion By:** Womble

**Second By:** Sack

**Vote:** Unanimous.

**9d. Jones Park and Veteran Park** - Mr. Barnard explained that the Town has received three bids for constructing the greenway at Veterans Park and Jones Park.

He said Booker Construction offered the lowest bid of \$167,104; followed by Asphalt Experts, Inc. that bid \$172,649.75 and Gelder & Associates, Inc. with a bid in the amount of \$200,037.65.

He said staff has been negotiating terms with Booker Construction and requests the Council to award to the lowest responsible bidder of Booker Construction as the contractor and authorize project funds to be transferred.

Mr. Bernard said the cost of the project will be \$127,500. Approximately \$5,000 already has been spent from the \$60,000 in grant funds that were awarded for the project. He said that leaves \$67,500 that needs to be transferred from the Parks & Rec Reserve fund.

**Action:** The Council approved a motion to enter a construction contract with Booker Construction in the bid amount of \$167,104 and adopt amendments to the FY 2007-08 budget in the amount of **\$167,500** to provide remaining funding for construction of greenway at Veterans Park and Jones Park.

**Motion By:** Womble

**Second By:** DeBenedetto

**Vote:** Unanimous.

*A copy of the budget amendment is incorporated into these minutes as an addendum page.*

**9e. Green Oaks Parkway Project** – Ms. Sudano said that last fall, the two-lane portion of Green Oaks Parkway project being constructed by the developer of Twelve Oaks Development as a part of its agreement with the Town was put under violation by both the U.S. Army Corp of Engineers and the N.C. Division of Water Quality permitting agencies.

Ms. Sudano said because the project was permitted under the Town's name, the Town was called upon to insure that violations were cleared up as soon as possible to bring the project back into compliance, insuring protection of the environment, preservation of the Town's relationship with permitting agencies, and timely completion of the project.

She said the oversight efforts took a considerable amount of time and effort and had the potential to impact the design and permitting process of the Town's four-lane portion of the Green Oaks Parkway project. As a result, the Town had to hire a consultant to assist with the oversight of bringing the 2-lane project into compliance.

She said also, while visiting the site, the agencies saw a situation on an older section of Green Oaks Parkway that needed attention. The area they identified is upstream of one of the culvert crossings. At this location, a head-cut is forming in the stream channel. The agencies included repair of this area in their actions on the neighboring developer's Green Oaks Parkway Project (2-lane portion.)

Ms. Sudano explained that one proposal before the Council is for permit compliance services by Kimley-Horne and Associates, the Town's designer for the second phase of the Town's Green Oaks Parkway project. The letter of agreement is open-ended and arranges for compensation to be on an hourly, as-needed basis.

Final costs of these oversight efforts are anticipated to be approximately \$35,000, she reported, adding that a statement would be added to the letter of agreement that costs may not exceed \$35,000 without written approval in advance of services provided.

Ms. Sudano said the second proposal before the Council's consideration would be an amendment to the existing Kimley-Horne and Associates agreement with the Town for the design of the four-lane portion of Green Oaks Parkway. It is uncertain what the total amount of repair to the headcut would be; however, costs are estimated to be around \$25,000, including construction administration.

She said a statement would be added to the addendum that costs may not exceed \$25,000 without written approval in advance of services provided.

At this time, Mayor Sears asked if he and/or Councilman VanFossen should recuse themselves from action since both of them are associated with the developer of Twelve Oaks.

Mr. Schifano said that because the agenda item pertained to a professional service agreement between the town and an engineering firm, recusal would not be necessary.

Councilman DeBenedetto asked why would the taxpayers of the Town be paying for a violation created by a developer.

Ms. Sudano said her request before the Council is for funding to pay the town's consultant to oversee the work that was done to correct the violation. She said she felt the Town needed to control and oversee the work because the permit is in the name of the Town. She added that if the Town Council wanted to seek reimbursement of the cost from the developer, that would be an option at the Council's discretion.

Councilman DeBenedetto said he would suggest that the Town seek reimbursement from the developer.

Councilman Sack said he agrees the Town was acting responsibly in having its own consultant oversee the work being done, and he also agreed that the Town should pursue reimbursement of the costs from the developer or through continuing negotiations with fee credits.

Mr. Dean said there were opportunities in the project to reduce fee credits for the developer or otherwise collect the \$35,000 during the remainder of the projects.

Councilman VanFossen said he felt that there was more than the Council knew about these violations.

Councilman Sack said he still felt it was appropriate for the developer to pay for the Town's expenses in the violations.

Councilman VanFossen said he was not sure it was the developer's contractor that caused the problem.

At this time, Mr. Schifano advised Councilman VanFossen and Mayor Sears that the way the discussion was going in bringing in the developer and the developer's contractor into the conversation and discussing whether to recover funds, they should recuse themselves because of their association with the developer.

Both Councilman VanFossen and Mayor Sears asked to be recused.

**Action:** The Council approved a motion to recuse Councilman VanFossen and Mayor Sears from discussion and deliberation on this item due to their professional associations with the developer of Twelve Oaks.

**Motion By:** Sack

**Second By:** DeBenedetto

**Vote:** Unanimous.

Mayor Pro Tem Sack presided over this portion of the meeting.

**Action:** The Council approved a motion to approve additional services from Kimley-Horne and Associates in the amount of \$35,000 for oversight of permitting compliance for Green Oaks Parkway and directed staff to seek compensation from the developer of Twelve Oaks for the \$35,000.

**Motion By:** DeBenedetto

**Second By:** Womble

**Vote:** Unanimous.

*A copy of the Kimley-Horne and Associates proposal is incorporated into these minutes as an addendum pages.*

**Action:** The Council approved a motion to approve additional services from Kimley-Horne and Associates in the amount of \$25,000 for head-cut repair in the Green Oaks Parkway project.

**Motion By:** Sack

**Second By:** DeBenedetto

**Vote:** Unanimous.

*A copy of the Kimley-Horne and Associates proposal is incorporated into these minutes as an addendum pages.*

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

**Motion By:** Dickson

**Second By:** Sack

**Vote:** Unanimous.

**9f. South Wake Landfill** – Councilman DeBenedetto said that he requested this item to be placed on the agenda. He said that at a recent South Wake Landfill Committee meeting, he learned that the landfill will be opening on Feb. 7. He said with this opening, the transfer station in Holly Springs will no longer be available. He added that he feels there appears to be a number of policy issues that need to be resolved in conjunction with the transfer station's closing: Does the Town intend to continue to have our town's garbage transported to another county, does the Town propose to not make use of the South Wake Landfill as a way station?

Councilman DeBenedetto said he felt the should revisit the question of host fees, potentially in a joint effort with the Town of Apex, which would also be impacted by the landfill.

Mr. Dean said the Town will be looking at its waste hauling services this spring as its current contract with Waste Industries expires in June. In the meantime, he said, Waste Industries has not yet provided rate information because tipping fees at South Wake Landfill have not yet been set.

He said he would seek a contract amendment with Waste Industries that would provide Holly Springs a lower rate through the end of the year because waste would be transported only as far as Holly Springs (and not Sampson County.)

Brent Kerschoff of Waste Industries – Mr. Kerschoff addressed the Council, explaining the history of the Town's business with Waste Industries and of the Town's shipping its waste to Sampson County. He explained that a few years ago, Waste Industries began transporting Holly Springs waste to Sampson County though the South Wake transfer station. He confirmed that costs would be lower to deposit waste in the South Wake Landfill and that he would get with Mr. Dean regarding any rate reductions.

Mr. Kerschoff and Mr. Dean agreed that the rate reduction would be applied immediately for customers through the end of the fiscal year and then the Town would confirm future rates extending beyond July 1, 2008.

The Council agreed that the issues of the Town's non-participation in the Wake Solid Waste partnership and the question of host fees would be revisited at the Council's winter retreat in February.

**9g. Growth Management Report** -- Councilman Dickson recapped the issue that surfaced during the fall campaign season and said the issue has had no closure, but has not gone away completely. He said he wanted to garner a vote from the Council as to whether the report as presented to the Council and published on the Town's Web site would be accepted by the Council.

Councilman Dickson made a motion that the Council accept the report as it was presented and published on the Town's Web site.

In discussion, Councilman Sack said he feels there is too much involved in the issue for a simple vote up or down. What policies should the Town put into place and how will it effect the growth are questions that can't be answered with a yes or no, he said. He suggested that there be more discussions at the Council's winter retreat.

He said it would be more beneficial for the Council to discuss these issues at length in the retreat forum.

Councilman VanFossen said he has received a number of calls from those in the development and lending community expressing concern about slowing growth in Holly Springs.

Councilman DeBenedetto said he wants there to be a public hearing on the questions.

Councilman Dickson agreed that the issues of growth need involved discussion; however, he said his intent is simply to endorse the report presented by staff and validate the information that was provided.

Councilman VanFossen seconded the motion because, he said, the contents of the report are true and accurate, and so he would vote for the motion as stated.

**Action:** The Council approved a motion to accept a recent staff report and statistics on growth trends, matters and issues in the Town of Holly Springs as presented to the Council and as published on the Town's Web site.

**Motion By:** Dickson

**Second By:** VanFossen

**Vote:** The motion carried following a 3-2 vote. Councilmen VanFossen, Dickson and Sack voted for. Councilmen DeBenedetto and Womble voted against.

**10. Other Business:** Councilman Dickson asked if signs at ballfields could be placed in the left and right fields and not in the center field.

Councilman Womble asked when the Main Street enhancement project would commence. Ms. Sudano said the project is set to go to bid in the next 60 days or so.

**11. Manager's Report:** Mr. Dean reported that residents along Rex Road are wanting municipal water services, and the engineering department is looking into the costs of such an extension of services.

**12. Closed Session:** None.

**13. Adjournment:** There being no further business for the evening, the Jan. 15, 2008, meeting of the Holly Springs Town Council was adjourned following a motion by Councilman VanFossen, a second by Councilman Sack and a unanimous vote.

Respectfully Submitted on Tuesday, March 18, 2008.

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Joni Powell, CMC, Town Clerk

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