

Holly Springs Town Council Minutes

Regular Meeting
Feb. 3, 2009

MINUTES

The Holly Springs Town Council met in regular session on Tuesday, Feb. 3, 2009, in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Dick Sears presided, calling the meeting to order at 7:05 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 (arrived at 7:45 p.m.); Chuck Simmons, assistant town manager; John Schifano, town attorney; Joni Powell, town clerk (recording the minutes); Linda Harper, deputy town clerk; Drew Holland, finance director; Len Bradley, director of parks and recreation; Laura Powell, planner I; Gina Clapp, director of planning and zoning; Mark Zawadski, planner I; Kendra Parrish, senior engineer; Eric Tayler, IT manager; Stephanie Sudano, director of engineering; Elizabeth Goodson, development review engineer; Daniel Weeks, project analyst; John Herring, police chief; and Mark Andrews, public information officer.

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

4. Agenda Adjustment: The February 3, 2009 meeting agenda was adopted with changes, if any, as listed below.

Motion By: Sack

Second By: Dickson

Vote: Unanimous

Items Added to the Agenda: None.

Items Removed from the Agenda: None.

Consent Agenda Items Removed for Discussion: Items 8e and 8f.

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: None.

6a. Quarterly Financial Report – Mr. Holland said that he will be providing the Town Council with a financial report showing revenues collected and where departments are in regard to spending as of the end of the quarter. Mr. Holland said, in summary, the Town is on target with last year and where it should be on Dec. 31 for tax collections (79%) and spending (less than 50%).

He noted that many communities are having financial difficulties, but the Town is in very good shape because it has always budgeted conservatively. Sales tax revenues are running ahead of budgeted numbers, and ad valorem tax collections are at normal collection rates.

He did note that development fees, which make up about 6% of the budget and affect the town's reserve funds, are down because development has slowed. He said reserve funds are not being replenished as in years past, but the Town may make it up from development fees paid by commercial development as it continues to grow.

Action: None.

6b. Utility Extension Feasibility And Cost Projection Report – Ms. Parrish explained that 18 property owners living along Rex Road have requested public water service from the Town of Holly Springs, according to Councilman Womble. In addition, a developer has recently indicated a desire to develop a project (a soccer complex) on Rex Road that would also require Town water service to develop.

She said at a previous Town Council meeting, Council requested that staff evaluate the feasibility, costs, and possible funding sources for such a project and to provide a report including this information, so that a decision could be made on whether or not to undertake such a project.

Ms. Parrish said in order to provide public water service to the properties, a 12-inch ductile iron waterline (sized in accordance with the Town's approved Long Range Water Plan) would have to be extended approximately 6,900 feet along Buckhorn-Duncan Road, Cass Holt Road and onto Rex Road from the existing eight-inch waterline that the Town purchased from Harnett County located on Buckhorn-Duncan Road.

She said the cost of this extension to serve these properties is currently estimated at \$801,000, excluding design and construction

inspection (both assumed to be performed by in-house staff.)

She said benefits of this line extension would be service of water to those private homes that have requested water service, plus providing water to undeveloped properties such as the speculative soccer complex, thereby making it less expensive for development to occur. The waterline extension as proposed would not provide any other benefit in this area; however, if the project were expanded – double to triple its proposed length -- it could be of benefit to existing customers in developments along Avent Ferry Road as it would provide a system loop to address needed redundancy and additional reliability in the town's existing water system.

Ms. Parrish explained that possible funding mechanisms for this project include:

- By a developer or developers. This mechanism would not apply in this instance because this is not a development project;
- By the town via an assessment. The property owners along the entire waterline route of the needed waterline could petition the Town Council to ask for the waterline extension to be funded by assessment.

The Town is allowed by General Statutes to install a waterline and charge each property owner who owns property along its frontage a portion of the cost of the waterline via a very prescribed and specific assessment process. The Town's ordinances also reference this method of funding requested waterline extensions.

Under this scenario, the Town could chose to either assess the whole cost of the waterline against all properties on a frontage basis, or it could chose to assess a lesser percentage of the waterline against all properties on a frontage basis. Or the Town could choose to contribute to the project by offering to reduce the assessed costs by providing design, inspection, and labor costs.

There is a very prescribed process that would have to be followed by the Town in order to assess the project; some amount of financing (at least interim) would have to be provided by the Town since the Town would be required to offer financing terms to the property owners assessed, and the issue of annexation of the properties would have to be dealt with prior to undertaking the project by assessment. This option of financing is required to be undertaken following certain legal steps that begin at the earliest stages of a project. While our Town ordinances allow for undertaking projects by assessment, the Town has never yet undertaken a project in this manner. It is a fairly involved process and the record keeping it precipitates can be very time consuming. More detailed information on this process and its requirements can be provided upon request.

- By the Town with grant or low-interest loan money. There are very recent rumors of a Federal Economic Stimulus Package (FESP) that may provide low-interest loans or grants for utility line extensions on a competitive basis to municipalities over the next few months. At this point, staff does not know yet whether utility money will be included in the FESP package nor any of the details on potential utility project requirements.

The manager and staff will be keeping an eye out for this money to fund at least one waterline extension project in Holly Springs should it materialize. Note that the other waterline extension project that is also being considered for any future FESP money is an extension to Friendship Road for the purpose of stimulating economic development in that area. The project selected – and not the Rex Road extension – would be the one most closely meeting grant requirements should funding become available.

- By the Town with utility reserve money.
- By the Town under an agreement with the residents. Some variation of this: the residents pay their costs of the extension to the Town up front (costs as determined by the Town) prior to the Town's undertaking the project. The Town could determine these costs to be all costs or some portion of costs, or again could offset their costs by donating labor and professional services.

Two potential partners who are trying to build a soccer complex on Rex Road addressed the Council, explaining that the property they have identified does not have adequate ground water for field irrigation by well.

Then, Ms. Parrish said property owners living along Shadow Valley Road also have requested public water service. In order to provide public water service to these properties, an eight-inch 1,160-foot ductile iron waterline would have to be extended along Shadow Valley Road from the waterline stub off the Bypass to a waterline stub at the back of Somerset Farm Subdivision.

The benefit of this waterline would be that it would provide water service to properties (currently out of town), some of which have failing wells. A minor secondary benefit would be that a small waterline system interconnection would be added to the Town's waterline network.

Action: None. This will be a 2009 Winter Retreat topic.

7a. Public Hearing: Special Exception Use Petition 08-SEU-05 – Ms. L. Powell said the Town has received an application for a Special Exception Use for a 3,000 square foot drive-through restaurant to be located on 0.84 acres at 321 N. Main Street. The application is for Pizza Hut and seeks permission for a drive-through window for the customer pick-up of dinner orders placed by phone.

She said the UDO stipulates that any drive-through restaurant proposed in the LB: Local Business District must be approved through the Special Exception Use process. This parcel is a part of the Village Centre Shoppes integrated center and is required to comply with all approved master plan design building materials and colors.

She said the site would be accessed using the existing shared access drives with the existing Wendy's and Walgreens sites located adjacent to the subject parcel. The site would be utilizing the same plant species and material as the existing sites in the Village Centre Shoppes so as to ensure a uniform design throughout the center.

With that explanation completed, Mayor Sears opened the public hearing to accept sworn testimony. The following testimony was recorded under oath administered by the Town Clerk: None

There being no testimony, the public hearing was closed.

Action #1: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for Special Exception Use Petition #08-SEU-05 for a drive-through restaurant at 321 North Main Street in the LB: Local Business district as submitted by James Heizer of

Commercial Site Design, dated revised 12/4/2008.

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

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

Motion By: Sack

Second By: DeBenedetto

Vote: Unanimous.

A copy of the Special Exception Use Petition 08-SEU-05 addressing the findings of fact is incorporated into these minutes as addendum pages.

Action #2: The Council, having made findings of fact that the project meets the requirements to be granted a Special Exception Use, approved a motion to approve Special Exception Use #08-SEU-05 for a drive-through restaurant as submitted by James Heizer of Commercial Site Design, dated revised 12/4/2008 with the following conditions:

- 1. A fee-in-lieu of downstream pump station upgrades will be required with this project.
- 2. The following item is to be addressed with the 1st construction drawing submittal:
 - a. Additional review of the proposed storm drain system will be required. The current plan diverts water onto the private access road; this will need to be changed on the construction drawings. Any storm drain that is added will need to be within a private drainage easement.
- 3. The applicant shall revise the architectural elevations to include brick material with beige solider course detail for the refrigeration unit located at the rear of the building within 10 business days following Town Council approval.

Motion By: Sack

Second By: DeBenedetto

Vote: Unanimous.

7b. Public Hearing: Ordinance 09-01, ETJ Extension - Ms. Clapp said on Jan. 12, 2009, the Wake County Board of Commissioners granted the Town of Holly Springs the authority to extend its Extraterritorial Jurisdiction to add four parcels along the updated Fuquay-Varina – Holly Springs Annexation Agreement Line.

From that date, the Town has 60 days to adopt an ordinance accepting the new ETJ area and set the zoning for the new area. The deadline is March 13, 2009.

Planning & Zoning has sent a series of letters regarding each step of the process to the affected property owners in the new ETJ area, posted public hearing signs on the properties as required, and advertised in the local papers as required.

When the new ETJ is accepted by the Town Council, the area will be zoned Holly Springs R-30: Residential District as specified in UDO Section 1.20, H., "All real property annexed into the Town of Holly Springs or added to the Town of Holly Springs' extraterritorial jurisdiction after the effective date of this UDO shall be considered zoned to the R-30 District of this UDO."

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

Action: The Council approved a motion to adopt Ordinance #09-01, an ordinance extending the Town of Holly Springs Extraterritorial

Jurisdiction and setting the zoning of the affected properties at R-30, per the UDO.

Motion By: Womble

Second By: DeBenedetto

Vote: Unanimous.

A copy of *Ordinance 09-01* is incorporated into these minutes as addendum pages.

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

8a. Budget Report – The Council received a report of amendments to the FY 2008-09 budget approved by the town manager. *A copy of the budget amendment report is incorporated into these minutes as an addendum page.*

8b. Budget Amendment, \$285,000 – The Council adopted an amendment to the FY 2008-09 budget in the amount of \$285,000 to pay water capacity charges to the City of Raleigh under a contract revised Oct. 21, 2008. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8c. Mutual Aid Agreement – The Council authorized the Director of Public Works to enter into a mutual aid agreement to allow coordination of personnel and equipment among municipalities in Wake County during emergencies. *A copy of the mutual aid agreement is incorporated into these minutes as addendum pages.*

8d. Budget Amendment, \$13,500 – The Council adopted an amendment to the FY 2008-09 budget in the amount of \$13,500 to carry site certification project funds budgeted in FY 2007-08 over to this year. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8e. Website Design Contract – This item was removed from the Consent Agenda during agenda adjustment.

8f. Green Oaks Parkway 4-lane Project Change Order #1 – This item was removed from the Consent Agenda during agenda adjustment.

8g. Bass Lake Interceptor Change Order #1 – The Council authorized contract change order No. 1 with Fechko Excavation to extend the contract time period by 44 days for clearing work on the Bass Lake interceptor. *A copy of change order #1 is incorporated into these minutes as addendum pages.*

8h. Bass Lake Interceptor Change Order #2 – The Council authorized contract change order No. 2 with Fechko Excavation in the amount of \$7,455 for additional work required on the Bass Lake interceptor. *A copy of change order #2 is incorporated into these minutes as addendum pages.*

8i. Bass Lake Interceptor Change Order #3 – The Council authorized contract change No. 3 with Fechko Excavation to extend the contract time period by 24 days at no cost for clearing work on the Bass Lake interceptor. *A copy of change order #3 is incorporated into these minutes as addendum pages.*

8j. Arbor Creek Entrance Sign Hold Harmless Agreement – The Council accepted a Maintenance, Indemnity and Hold Harmless Agreement and liability insurance for sign installation petition #08-SP-86 and #08-SP-89, Arbor Creek entrance monument signs. *A copy of the Maintenance, Indemnity and Hold Harmless agreement is incorporated into these minutes as addendum pages.*

8k. Resolution 09-01 – The Council adopted Resolution 09-01 directing the town clerk to investigate the sufficiency of annexation petition A09-01 and setting a public hearing on the question of annexation for Tuesday, Feb. 17, 2009. *A copy of Resolution 09-01 is incorporated into these minutes as addendum pages.*

8l. Wastewater Treatment Plant Wireless Communications Contract – The Council authorized a contract with Windchannel in the amount of \$14,550, payable from within WWTP project contingency, for a wireless communications tower at the plant site. *A copy of the Windchannel contract is incorporated into these minutes as addendum pages.*

8m. Holly Springs Boundary Map – The Council authorized a contract with Benchmark in the amount of \$5,000 for an accurate boundary map of Holly Springs. *A copy of the Benchmark contract is incorporated into these minutes as addendum pages.*

8n. Budget Amendment, \$1,500 – The Council adopted an amendment to the FY 2008-09 budget in the amount of \$1,500 to carry prospect development funds budgeted in FY 2007-08 over to this year. *A copy of the budget amendment is incorporated into these minutes as an addendum page.*

8o. Village District Master Streetscape Plan Design Contract – The Council authorized a contract with Withers & Ravenel in the amount of \$15,000 for design of a Village District master streetscape plan. *A copy of the Withers & Ravenel contract is incorporated into these minutes as addendum pages.*

8e. Website Design Contract – Councilman DeBenedetto asked if any local website designers had been contacted about the prospects of redesigning the town's website. Ms. J. Powell responded that no local firms were considered.

Action: The Council authorized staff to enter a contract with Web Full Circle of Charlotte in the amount of \$10,780 for website design.

Motion By: Sack

Second By: VanFossen

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

8f. Green Oaks Parkway 4-lane Project Change Order #1 – Councilman DeBenette wanted confirmation that this contract change order was for the town's portion of the project. Staff responded that it was the four-lane portion of the project, which is the town's portion.

Action: The Council authorized contract change order No. 1 with Triangle Paving in the amount of \$2,600 for relocating waterline in the Green Oaks Parkway 4-lane project.

Motion By: VanFossen

Second By: DeBenedetto

Vote: Unanimous.

A copy of change order #1 is incorporated into these minutes as addendum pages.

9a. Piney Grove-Wilbon Road Extension Contract – Mr. Simmons advised the Council that the town manager wanted to table this item until he gathers more information from NCDOT.

9b. Green Oaks Parkway Change Order #5 – Ms. Sudano said staff requests consideration of the final adjusting change order for the two-lane portion of Green Oaks Parkway under the three-party agreement with Fowler Construction.

She said change order #5 is a credit adjusting change order in the amount of \$22,452.91.

Action: The Council approved a motion to approve contract Change Order 5 adjusting the two-lane portion of Green Oaks Parkway under the three-party agreement with Fowler Construction with a credit of \$22,452.91.

Councilman DeBenedetto asked if payment to Fowler had been made. Staff responded not completely.

Motion By: Sack

Second By: DeBenedetto

Vote: Unanimous.

A copy of contract change order #5 is incorporated into these minutes as addendum pages.

9c. Holly Glen Commercial, 08-MAS-04 - Ms. L. Powell said the Town has received a request for a master subdivision plan located at the intersection of Holly Meadow Drive and Avent Ferry Road. The project area contains approximately 7.47 acres and would allow for non-residential uses permitted in the local business zoning district.

She said the applicant has chosen to follow the detailed master plan option and has included internal circulation systems, utility connections and internal access with this plan.

With the submittal of Holly Glen Commercial Master Plan, the developer had requested consideration of a waiver of the street design requirements of UDO Section 7.07. The UDO requires that any project or subdivision complete the road improvements along the entire road frontage from centerline to the edge of the right-of-way in accordance with the Town's Thoroughfare Plan. The Town's Thoroughfare Plan calls for the ultimate cross-section for Avent Ferry Road to be 74 feet back to back on 100 feet of right of way.

Ms. Powell said specifically, the developer was asking to allow phasing of the required road improvements for the subdivision with each lot along Avent Ferry Road.

She said it is staff's recommendation was that the waiver not be granted and that the road improvements be completed at one time with the first portion of the subdivision plan.

Subsequently, the applicant withdrew the waiver request.

Jimmy Cobb of the Planning Board addressed the Council, reporting that the Planning Board had recommended approval of the plan following a 5-1-1 vote. He said the dissenting voter was concerned about access to the property from Avent Ferry Road.

Council members agreed that the right-in / right-out was shown on the plan was adequate.

Action: (Actions #1 and #2 called for agenda packets were eliminated as the applicant withdrew the request.) The Council approved a motion to approve detailed Master Plan #08-MAS-04 for Holly Glen Commercial as submitted by Tony Tate Architecture, project number 08012, dated revised 12/1/2008 with the following conditions:

1. A fee-in-lieu of upgrade will be required for this project for the Pump Station and/or Force Main.
2. A fee-in-lieu of construction of the median on Avent Ferry Road will be required for this project.
3. The following items will be required with the 1st development plan associated with this subdivision:
 - a. All infrastructure improvements for the subdivision must be complete. This includes:
 - i. Utility extensions necessary to serve each lot for subdivision.
 - ii. Road improvements for Avent Ferry Road along the full frontage of the subdivision as shown on the Town of Holly Springs' Thoroughfare Plan – half of a 74' btb on 100' ROW including median. *(if waiver granted by Town Council, this condition will need to be updated to reflect decision)*
4. The following items will be required with each development plan associated with this subdivision:
 - a. Provide completed Industrial Waste short survey Form - An Industrial Sewer Permit Application is required for non-residential sewage waste streams; for non-residential waste streams (Check Town Ordinance and State rules to insure compliance.).
 - b. Provide the Grease Trap Form as required for all businesses that will be handling fats, oils, or grease (i.e. restaurants).
 - c. A Traffic Impact Analysis will be required for each lot.
 - d. Area 1, 2, and 3 will be required to meet the Town of Holly Springs NPDES Ph.II Post Construction Stormwater Ordinance.
5. The following items will be required prior to a grading permit being issued or construction drawing approval each lot:
 - a. Payment of Stormwater Fee-in-Lieu will be required for Areas 1, 2, and 3.

- b. Provide a recorded plat dedicating the utility easement along the right-of-way of Holly Meadow Drive from the existing manhole to Avent Ferry Road for a future sewer extension to be completed by another developer.
- 6. Within 10 business days of the Town Council action of this plan, the following items must be addressed on revised plans submitted:
 - a. Label the entrance on Avent Ferry Road as future right in/right out access only.

Motion By: VanFossen
Second By: Womble
Vote: Unanimous.

9d. Chick-Fil-A, 08-DP-14 – Mr. Zawadski said the Town has received a request for a development plan for outparcel #2 located within the Southpark Village integrated center. The property is 1.66 acres and is located at the intersection of Ralph Stephens Road and GB Alford Highway. The proposed development plan is for the construction of a 4,596-square-foot Chick-Fil-A restaurant.

He said the plan proposes a total of 65 parking spaces located on the southern side of the building (see parking waiver request for the location of the parking spaces.) Pedestrian connections are provided to connect the sidewalk along the vehicular access drive with the front entrance to the building. The site also includes a single drive-through lane located on the eastern side of the building.

Mr. Zawadski said the building is subject to the colors and materials approved with the Southpark Village Design Guidelines as well as the new UDO commercial architectural requirements. The building is proposed to be constructed primarily with two shades of brown brick and a light brown accent brick. The proposed architecture includes a variety of Building Massing and Façade Treatments as required by the UDO. Specific features include: building base, body, and cap, roofline variation, façade modulation, windows, awnings, decorative brick patterns, decorative building lighting.

He said a request for alternate architectural compliance was submitted with the project to utilize decorative brick windows in replace of traditional glass windows along the sides of the building. Staff supports this request since traditional glass windows are infeasible in these areas due to the location of the kitchen, drive-through, and interior storage areas.

Action #1: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for a waiver of regulations of UDO Section 7.04 E.,3 to allow more than 75% of the parking to be placed between the front building line and front property line in association with Development Plan 08-DP-14 for Chick-Fil-A.

Findings of Fact:

1. A parking demand study completed by a third party that provides evidence regarding:
 - a. Peak usage estimates based on reliable data collected from comparable uses located within the same or similar market areas as the Town of Holly Springs. Comparable uses will be determined based on density, scale, bulk, area, type of activity, and location; and,
 - b. Number of employees on the largest shift; and,
 - c. Minimum number of spaces needed to meet the parking demand for the specific use; and,
2. The inclusion of parking above 110% of the minimum parking requirements; and, or locating more than 75% of the total number of *off-street parking spaces* between the front *building line* and the property line will not cause negative impacts on the environment and adjacent properties (i.e. Will any additional screening, pervious pavement, shared parking, rain gardens, etc. be provided?); and,
3. The proposed development is consistent with the intent of the *Comprehensive Plan*; and,
4. The proposed development is consistent with the intent and purpose of this UDO.

Motion By: Womble

Second By: DeBenedetto

Vote: Unanimous.

Action #2: Having made the necessary findings of fact, the Council approved a motion to approve a waiver of regulations of UDO Section 7.04 E.,3 to allow more than 75% of the parking to be placed between the front building line and front property line in association with Development Plan 08-DP-14 for Chick-Fil-A.

Motion By: Sack

Second By: Womble

Vote: Unanimous.

Action #3: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for the alternate Means of Compliance of Architectural Regulations of UDO Section 3.08, A, 1. c (2)(c)(ii) Architectural and Site Design Requirements to allow for decorative brick windows to be used in place of traditional glass windows along the sides of the building in association with Development Plan 08-DP-14 Chick-Fil-A.

Alternate Compliance Findings of Fact:

1. The proposed development represents the use of (*building materials*, colors, textures, *building* architecture, roof features, *façade* modulation, *building* orientation, *signs*, landscaping, lighting or *open space*) which will result in a development pattern which is equivalent to or superior to that achievable under the applicable regulations;
2. The proposed development will be compatible with and will enhance the *use* or value of area properties;

3. The proposed development is consistent with the intent of the *Comprehensive Plan*; and,
4. The proposed development is consistent with the intent and purpose of this UDO.

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

Action #4: Having made the necessary findings of fact, the Council approved a motion to approve the request to allow for an Alternate Means of Compliance of Architectural Regulations of UDO Section 3.08, A, 1. c (2)(c)(ii) Architectural and Site Design Requirements to allow for decorative brick windows to be used in place of traditional glass windows along the sides of the building in association with Development Plan 08-DP-14 for Chick-Fil-A.

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

Action #5: The Council approved a motion to approve Development Plan #08-DP-14 for Chick-Fil-A as submitted by G. Robert George and Associates, LLC., project number: 1745-2, dated revised 12/23/2008 with the following conditions:

1. All conditions of approval for the Southpark Village Master Plan will apply to this plan.
2. Sign permits are required to be obtained prior to signage installation.
3. A fee-in-lieu of pump station upgrade will be required.

Motion By: Womble
Second By: VanFossen
Vote: Unanimous.

9e. Burger King, 08-DP-15 – Mr. Zawadski said the Town has received a request for a development plan for outparcel #3 located within the Southpark Village integrated center. The property is .82 acres and is located at the intersection of Village Walk Drive and Ralph Stephens Road. The proposed development plan is for the construction of a 2,541-square-foot Burger King restaurant.

He explained the plan proposes a total of 27 parking spaces located throughout the site. Pedestrian connections are provided through the parking lot to connect the front entrance of the building to the sidewalk along Village Walk Drive and Ralph Stephens Road. The site also includes a single drive-through lane and by-pass lane located on the northern side of the building.

The building is subject to the colors and materials approved with the Southpark Village Design Guidelines as well as the new UDO commercial Architectural requirements. The building is proposed to be constructed primarily with two shades of brown brick. The proposed architecture includes a variety of Building Massing and Façade Treatments as required by the UDO. Specific features include: building base, body, and cap, roofline variation, façade modulation, windows, awnings, decorative brick patterns, decorative building lighting.

Mr. Zawadski said two requests for alternate architectural compliance were submitted with the project. The first request was for an illuminated red parapet signage band to replace a traditional cornice for a portion of the building cap. Staff did not support this request since all other buildings in the development were approved with traditional brick and EIFS cornices. Staff felt that a red plastic signage band was not an appropriate cornice treatment and would not be in harmony with the development. The Planning Board also determined that a red signage band along the top of the building would not be consistent with the development. During the meeting, the applicant offered to provide a traditional cornice as shown on the rest of the building and apply for the red band to be placed below the cornice through the sign permitting process (see condition 4b.) Due to this change, the alternate compliance (Action #1 below) is no longer needed.

He said the second request is to utilize decorative brick windows to replace traditional glass windows along the sides of the building. Staff supports this request since traditional glass windows are infeasible in these areas due to the location of the kitchen, drive-through, and interior storage areas.

Action #1: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for an alternate means of compliance of UDO Section 3.08, A, 1. c (2)(c)(ii) Architectural and Site Design Requirements to allow for decorative brick windows to be used in place of traditional glass windows along the sides of the building in association with Development Plan 08-DP-15 for Burger King.

Alternate Compliance Findings of Fact:

1. The proposed development represents the use of (building materials, colors, textures, building architecture, roof features, façade modulation, building orientation, signs, landscaping, lighting or open space) which will result in a development pattern which is equivalent to or superior to that achievable under the applicable regulations;
2. The proposed development will be compatible with and will enhance the use or value of area properties;
3. The proposed development is consistent with the intent of the *Comprehensive Plan*; and,
4. The proposed development is consistent with the intent and purpose of this UDO.

Motion By: Sack
Second By: Womble
Vote: Unanimous.

Action #2: Having made the necessary findings of fact, the Council approved a motion to allow for an Alternate Means of Compliance of

Architectural Regulations of UDO Section 3.08, A, 1. c (2)(c)(ii) Architectural and Site Design Requirements to allow for decorative brick windows to be used in place of traditional glass windows along the sides of the building in association with Development Plan 08-DP-15 Burger King.

Motion By: Sack

Second By: DeBenedetto

Vote: Unanimous.

Action #3: The Council approved a motion to approve Development Plan #08-DP-15 for Burger King as submitted by Stimmel Associates, PA, project number ROC-40, dated revised 12/23/2008 with the following conditions:

1. All conditions of approval for the Southpark Village Master Plan will apply to this plan.
2. Sign permits are required to be obtained prior to signage installation.
3. A fee-in-lieu of pump station upgrade will be required.
4. Prior to issuance of Building Permit, the following must be completed:
 - a. A lighting plan must be submitted to and approved by the Department of Planning and Zoning.
 - b. A traditional building cornice shall be provided on the building to comply with UDO requirements and SPV Design Guidelines.

Motion By: DeBenedetto

Second By: Womble

Vote: Unanimous.

9f. Primrose School, 08-DP-16 - Ms. L. Powell said the Town has received a request for a development plan for a Primrose School child care center, to be located near the intersection of Avent Ferry Road and Holly Meadow Drive, which leads into the Overlook at Holly Glen Subdivision. This is a part of the Holly Glen commercial subdivision master plan.

The building is proposed to be approximately 11,750 square feet. This would be a primary use within Local Business zoning. The proposed building would be oriented with the front of the building facing Avent Ferry Road. There are 45 parking spaces proposed, and pedestrian connections to both Avent Ferry Road and to the proposed sidewalk along Holly Meadow to be built as Holly Glen Commercial develops.

She said this building would be subject to the recently adopted commercial architectural requirements. However, because the nature of the use is a child care center and not a more traditional commercial use, according to the applicant, classrooms must be partitioned adequately, and the 50% glass requirement for the first 15 feet of the building façade that faces adjacent development and a front lot line cannot be met. The applicant has provided the following: Glass Provided: Front Elevation, 10%; Left Side Elevation, 15%.

The applicant has provided decorative fencing along the front elevation, use of decorative vents, and shutters as an Alternate Means of Architectural Compliance request, and because of their efforts, staff concurs with the request.

Ms. Powell said two parking waivers are being requested with the development plan. The first waiver requests to allow more than 75% of parking spaces to be located in front of the building and the second request is to provide more than 110% of the minimum number of spaces required. Staff feels the applicant has provided adequate justification to locate all of the parking spaces between the front of the building and the adjacent right of way (the nature of the use suggests that the playgrounds must be located behind the building to promote health, safety and welfare for children and staff.) However, Staff does not feel any additional parking spaces are needed beyond the 110% maximum requirement based on the parking demand study.

The current Primrose plan proposes 150% of the minimum number of required spaces for a total of 45 parking spaces at a rate of 11.75 spaces per 1,000 square feet. The parking demand study recommends that child care centers provide 150% of the minimum number of spaces required by the UDO at a rate of 11.75 spaces per 1,000 square feet. This recommendation is a worst-case scenario that includes traffic congestion measures, and effective parking supply increases. The actual average observed occupancy was 31 spaces, which is one space over the UDO requirement of 30 spaces. However, the Urban Land Institute supports providing above the capacity observed to ensure eliminating safety concerns that could arise by circling around in search of parking spaces while maintaining traffic pick-up / drop-off flow throughout the development.

Ms. Powell said based on the results of the parking study, as well as Urban Land Institute recommendations, staff suggests utilizing 120% of the allowed parking by the UDO with a waiver, which would allow for a total of 36 spaces.

Parking Data Summary

Minimum Spaces - 30 spaces

Maximum without a waiver (110%) - 33 spaces

Maximum with a waiver (150%) - 45 spaces

Proposed (150%) - 45 spaces

Parking Study recommendation (150%) - 45 spaces

Primrose at Westlake (10,175 sf) (116.5%) - 35 spaces

All About Kids (10,822 sf) (160%) - 48 spaces

Staff recommendation (120%) - 36 spaces

The applicant addressed the Council to explain that the request for additional parking stems from the need to have adequate staff parking spaces without taking up those to be used by parents dropping off or picking up children.

Council members were generally supportive of the applicant's position.

Action #1: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes for the Alternate Means of Compliance of UDO Section 3.08, A, c (2) 2. (c) (ii) 1. Architecture and Site Design Regulations to allow for reduction in the glass requirement along the primary facades of the child care center for Petition #08-DP-16 for Primrose School as submitted by Resource International, LTD., project # 205084.10 date revised 12/1/08.

Alternate Compliance Findings of Fact:

1. The proposed development represents the use of (*building materials*, colors, textures, *building* architecture, roof features, *façade modulation*, *building orientation*, *signs*, *landscaping*, lighting or *open space*) which will result in a development pattern which is equivalent to or superior to that achievable under the applicable regulations;
2. The proposed development will be compatible with and will enhance the *use* or value of area properties;
3. The proposed development is consistent with the intent of the *Comprehensive Plan*; and,
4. The proposed development is consistent with the intent and purpose of this UDO.

Motion By: VanFossen

Second By: Sack

Vote: Unanimous.

Action #2: Having made the necessary findings of fact, the Council approved a motion to approve the request to allow for Alternate Means of Compliance of UDO Section 3.08, A, c (2) 2. (c) (ii) 1. Architecture and Site Design Regulations for Petition #08-DP-16 for Primrose School to allow for a reduction in the glass requirement along of the primary facades of the child care center as submitted by Resource International, LTD., project # 205084.10 date revised 12/1/08.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous.

Action #3: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes of a waiver of regulations of UDO Section 7.04 E.,3 for Development Plan #08-DP-16 for Primrose School to allow more than 75% of the parking to be placed between the front building line and front property line as submitted by Resource International, LTD., project # 205084.10 date revised 12/1/08.

Waiver Findings of Fact:

1. A parking demand study completed by a third party that provides evidence regarding:
 - a. Peak usage estimates based on reliable data collected from comparable uses located within the same or similar market areas as the Town of Holly Springs. Comparable uses will be determined based on density, scale, bulk, area, type of activity, and location; and,
 - b. Number of employees on the largest shift; and,
 - c. Minimum number of spaces needed to meet the parking demand for the specific use; and,
2. The inclusion of parking above 110% of the minimum parking requirements; and, or locating more than 75% of the total number of *off-street parking spaces* between the front *building line* and the property line will not cause negative impacts on the environment and adjacent properties (i.e. Will any additional screening, pervious pavement, shared parking, rain gardens, etc. be provided?); and,
3. The proposed development is consistent with the intent of the *Comprehensive Plan*; and,
4. The proposed development is consistent with the intent and purpose of this UDO.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous.

Action #4: Having made the necessary findings of fact, the Council approved a motion to grant a waiver of regulations of UDO Section 7.04 E.,3 for Development Plan #08-DP-16 for Primrose School to allow more than 75% of the parking to be placed between the front building line and front property line as submitted by Resource International, LTD., project # 205084.10 date revised 12/1/08.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous.

Action #5: The Council approved a motion to make and accept the findings of fact to be recorded in the minutes of a Waiver of Regulations of UDO Section 7.04 E.,3 for Development Plan #08-DP-16 for Primrose School, to provide 150% of the minimum number of spaces required by the UDO, as submitted by Resource International, LTD., project # 205084.10 date revised 12/1/08.

Waiver Findings of Fact:

1. A parking demand study completed by a third party that provides evidence regarding:
 - a. Peak usage estimates based on reliable data collected from comparable uses located within the same or similar market areas as the Town of Holly Springs. Comparable uses will be determined based on density, scale, bulk, area, type of activity, and location;

and,

- b. Number of employees on the largest shift; and,
- c. Minimum number of spaces needed to meet the parking demand for the specific use; and,

- 2. The inclusion of parking above 110% of the minimum parking requirements; and, or locating more than 75% of the total number of *off-street parking spaces* between the front *building line* and the property line will not cause negative impacts on the environment and adjacent properties (i.e. Will any additional screening, pervious pavement, shared parking, rain gardens, etc. be provided?); and,
- 3. The proposed development is consistent with the intent of the *Comprehensive Plan*; and,
- 4. The proposed development is consistent with the intent and purpose of this UDO.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous.

Action #6: Having made the necessary findings of fact, the Council approved a motion to grant a waiver of regulations of UDO Section 7.04 E.3 for Development Plan #08-DP-16 for Primrose School, to provide 150% of the minimum number of spaces required by the UDO, as submitted by Resource International, LTD., project # 205084.10 date revised 12/1/08.

Motion By: VanFossen

Second By: Sack

Vote: Unanimous.

Action #7: The Council approved a motion to approve Development Plan #08-DP-16 for Primrose School as submitted by Resource International, LTD., project # 205084.10 date revised 12/1/08 with the following conditions:

1. This project is a portion of the Holly Glen Commercial Detailed Master Plan: all approval conditions for the Holly Glen Commercial Detailed Master Plan will apply to this plan as well.
2. A fee-in-lieu of upgrade will be required for this project for the Avent Ferry Road Pump Station and associated Force Main.
3. This project will be required to meet the Town of Holly Springs NPDES Ph. II Post Construction Stormwater Ordinance.
4. With the development of this lot any utility extensions needed to serve this lot will be required to be included with this development plan. This includes obtaining any necessary easements to construct the utility extension.
5. The following items are required with the 1st construction drawing submittal:
 - a. Offsite right-of-way must be dedicated for this project for the road frontage of the entire Holly Glen Commercial subdivision. *(If a waiver is granted for the Holly Glen Commercial Subdivision plan to phase road improvements, this condition may need to be revised)*
 - b. Offsite utility easements must be dedicated for this project for the sewer extension needed to serve this lot.
6. Prior to issuance of a land disturbance permit or construction drawing approval, the following items must be addressed:
 - a. Approval of Stormwater Management Plan is required.
 - b. Payment of the Stormwater Fee-in-Lieu will be required.
7. Within 10 business days of Town Council action of this plan, the following items must be addressed on revised plans:
 - a. Label the entrance on Avent Ferry Road as future right-in/right-out access only.
 - b. Include road improvements for Avent Ferry Road along the full subdivision frontage to be completed with this lot. *(If a waiver is granted for the Holly Glen Commercial Subdivision plan to phase road improvements, this condition may need to be revised)*
 - c. A TIA is required for this project. It has been submitted and is under review however there is still one significant comment outstanding that will need to be addressed prior to final approval. The TIA currently indicates that the traffic distribution would warrant a left turn lane into the site however staff feels that the distribution has an error in it that can be fixed easily and would likely not require a left turn lane. All other significant comments have been addressed at this time.

Motion By: VanFossen

Second By: Womble

Vote: Unanimous.

9g. Holly Springs Citizens Academy – Mr. Dean reported that staff, in response to a suggestion by Councilman Dickson, has initiated development of a leadership and education program for Holly Springs citizens. This multi-month program would inform participants about municipal government and leadership in the areas of development, public safety, public works and utilities, finance, parks and recreation, infrastructure and quality of life in Holly Springs. A maximum group of participants is expected to be 25 to 35, Mr. Dean said.

Action: The Council approved a motion to endorse the concept of the Citizens Academy.

Motion By: Dickson

Second By: Sack

Vote: Unanimous.

10. Other Business: Councilman VanFossen shared drawings of stone entrance signs he designed. He estimates the cost to be a little less than \$10,000.

Councilman VanFossen asked if the Council was interested in providing town facilities for free rental once a year. In discussion, the consensus was that Council members should not receive a benefit that would not be made available to other citizens.

11. Manager's Report: Mr. Dean reported on a program to provide computers to children in need. He said the Town has several computers that could be donated to the cause once the hard drives are cleaned. The Council consensus was that the computers should be declared surplus and given to the program.

12. Closed Session: The Council approved a motion to enter Closed Session, pursuant to N.C.G.S. 143-318.11(a)(3) to discuss with the Town Attorney a matter of litigation involving *Melanie Mangum vs. Town of Holly Springs*.

Motion By: Sack

Second By: Dickson

Vote: Unanimous

General Account – Closed Session, Feb. 3, 2009

In Closed Session, Mr. Schifano briefed the Council on how the Melanie Mangum vs. Holly Springs litigation is proceeding. No action was taken in Closed Session.

-- End General Account

The Council returned to Open Session and took no action.

13. Adjournment: There being no further business for the evening, the February 3, 2009 meeting of the Holly Springs Town Council was adjourned.

Respectfully Submitted on Tuesday, April 21, 2009.

Joni Powell, CMC, Town Clerk