



**Sept. 4, 2018**

## **MINUTES**

The Holly Springs Town Council met in regular session on Tuesday, Sept. 4, 2018 in the Council Chambers of Holly Springs Town Hall, 128 S. Main Street. Mayor Sears presided, calling the meeting to order at 7 p.m. A quorum was established as the mayor and five council members were present as the meeting opened.

**Council Members Present:** Mayor Sears, Councilmen Dan Berry, Tom O'Brien and Peter Villadsen and Councilwomen Cheri Lee and Christine Kelly.

**Council Members Absent:** None.

**Staff Members Present:** Randy Harrington, town manager; Daniel Weeks, assistant town manager; John Schifano, town attorney; Joni Powell, town clerk (recording the minutes); Gina Clapp, director of planning and zoning; Melissa Sigmund, principal planner; Kendra Parrish, director of engineering; Paul Allen, real estate acquisition agent; John Herring, police chief; Adam Huffman, assistant parks and recreation director; LeRoy Smith, fire chief; Irena Krstanovic, economic development director; Mary Hogan, finance director; Rachel Jones, development review engineer; Mary DePina, project engineer; Tamara Ward, communications specialist and Billy Whitehead, information technology analyst.

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

**4. Agenda Adjustment:** The Sept. 4, 2018 meeting agenda was adopted with changes, if any, as listed: None.

**Motion by:** O'Brien

**Second by:** Villadsen

**Vote:** Unanimous

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

Gerald Holleman, 5625 Easton Street – Mr. Holleman said he was concerned about the proposed 5-cent tax rate increase if the transportation bond referendum passes. He suggested Town leaders work with Fuquay-Varina officials to work together in partnership on Sunset Lake Road. He urged elected officials to visit with elected officials in Washington D.C. Then, he said, he would get staff to work with elected officials' staff to earn grants for various projects.

**6a. Public Hearing: Rezoning Petition 18-REZ-02** – Ms. Sigmund said this is a request for a zone map change for two parcels located on the northwest side of Cass Holt Road, south of Honeycutt Road. The property totals 42.83 acres.

Ms. Sigmund said the Town of Holly Springs Timbering Ordinance regulates the removal and preservation of existing trees and shrubs within a perimeter buffer zone prior to development. In the past three years, trees within the buffer zone have been cleared from this site without an approved Town of Holly Springs timbering plan; however, the property was subject to a State Forest Management Plan, approved May 11, 2017 according to documentation provided by the applicant.

Bennie Glenn, 5836 Cass Holt Road – Mr. Glenn is the owner of the property and explained to Council that he timbered some of his land in accordance with the N.C. Forest Service to raise money to provide medical care for his wife.

At this time, Mayor Sears opened the public hearing to accept comment on the rezoning.

Steve Gillooly, the developer – Mr. Gillooly gave an overview of a residential project he has in mind for Mr. Glenn's property.

Mr. Schifano advised the Council that it should not contemplate specific development plans or concepts but to make its rezoning decision based on all uses that would be allowed in an R-10 zoning district with conditions.

At this time, Ms. Sigmund gave an overview of the rezoning request.

Ms. Sigmund said the applicant is requesting to rezone the property from R-30: Residential to R-10 CU: Residential Conditional Use. The requested R-10 CU: Residential Conditional Use, with petitioner-offered conditions is consistent with the Suburban Residential designation of the property on the Future Land Use Plan map of the comprehensive plan. A plan for development of the site has not yet been submitted; however, the zoning conditions offered by the developer would allow for the development of a maximum of 93 single-family homes on the property. Specific site layout would be reviewed through a separate process, also requiring Town Council approval.

Ms. Sigmund said the property is developed with one single-family residence and is used for agricultural/horticultural purposes. The surrounding properties are either undeveloped, or currently developed and used for similar agricultural uses with scattered residences throughout the vicinity.

Since the Planning Board meeting, Ms. Sigmund said, the petitioner has offered an additional condition (Condition #11) to enhance the landscape screening between the subject site and the neighboring property to the northeast of the site.

At this time, the Council heard from developer consultants for the property regarding tree preservation and traffic.

Earl Lewelyn, the traffic study consultant – Mr. Lewelyn reported the results of his traffic impact analysis, based on a proposed development of the property for 93 homes. He said there would be a low-traffic generating use on the property. He said the analysis suggests that the developer provide half of the ultimate four-lane median-divided road cross section on the road frontage and pay a fee in lieu of road improvements toward extension of an eastbound right turn lane extension on Avent Ferry Road.

Charlie Oakley, McAdams Company – Mr. Oakley addressed the Council to address tree preservation on the site. He said the property developer would be expanding the boundary buffer of his proposed project on the property to provide additional plantings to make up for the timbering. Some of the buffers would be expanded from 5 to 40 feet, and the overall opacity of the expanded buffer would be 20% in new plantings. This would be a condition of a future development plan for the site.

At this time, the Council set about its considerations on the timbering ordinance violation.

Ms. Sigmund explained that if timbering activities are conducted such that buffer requirements for development are not met, the Town Council can determine if a penalty shall apply to the property. The following penalties are listed in the ordinance:

- (1) The town may deny a building permit or refuse to approve a site or subdivision plan for a period of three years following completion of the harvest if all or substantially all of the perimeter buffer trees that should have been protected were removed from the tract of land for which the permit or plan approval is sought.
- (2) The town may deny a permit or refuse to approve a site or subdivision plan for a period of two years if the owner replants the buffer area within 120 days of harvest with plant material that is consistent with buffer areas required under the municipality's ordinances.
- (3) The Town Council also may decide to require no penalty.

Council discussion revolved around how the property owner was properly permitted by the State to do the timbering a few years ago, and at the time, he had no plans for developing his property so buffers were not contemplated.

Councilman O'Brien said he would like the Council to be consistent in how it administers the tree protection ordinance. He said the United Community Bank developer whose contractor inadvertently removed two trees from the buffer area of the site was fined about \$13,000, based on the caliper of the two big oak trees removed.

Mr. Schifano said the two instances are similar, but different. In this case, Mr. Schifano said, the question is zoning. He said the bank application was for a special exception use where findings of fact had to be made on a development plan.

Councilman Villadsen said he was not inclined to assess a penalty that would delay the restoration of the vegetation. Even though it would not be punitive, he said, he would support no penalty as a means of getting the property repopulated with at least a buffer of trees.

Councilwoman Lee said she agreed with Councilman Villadsen but that she would like to see the developer expand the buffer even more because, she said, 40 feet at 20% opacity would not be enough.

Councilman O'Brien said he agreed with Councilman Villadsen and that there was no malice or carelessness on the landowner's part.

Councilman Villadsen added that the landowner had a timbering permit from the State.

Councilwoman Kelly said she had no problem with this case, but she is concerned at the precedent the Council would be setting. She said since the ordinance was put in place, the Council has not applied the stated penalties in either of the two cases it has heard. She said she is concerned about the next case.

**Action:** The Council approved a motion to require no penalty be placed on the owner for violation of the Town of Holly Springs Timbering Ordinance:

**Motion by:** Lee

**Second by:** Villadsen

**Vote:** The motion carried following a 4-1 vote. Councilwoman Kelly voted against the motion.

With that decision, the Council then considered motions regarding the actual rezoning petition.

Councilwoman Kelly said she has concerns about traffic in the vicinity of this property, especially with all the nearby schools. She said she is not sure about transportation impact analysis studies make sense. She said improvements are made, but traffic is still a problem.

For this reason, she said, she is against the rezoning of the property.

Councilwoman Lee said she felt the TIA was compatible because of the low density of the use. She added that she might feel differently if the proposed use would result in 300 or 400 homes.

Councilman Berry said he felt like the numbers in the TIA were low, but he knows the study was vetted by the Town's engineering staff and NCDOT. He said he shares Ms. Kelly's concerns, which he said were valid. He said he is reassured by the fact that the proposed density the rezoning would place on the property is low.

Councilman Villadsen said he was comfortable with the proposed density of 2.3 units per acre, which is less than the 2.5 units per acre Council has established for this area.

Before motions were floored, the public hearing was opened and closed. The following input was entered into the record from emails received in the Clerk's office:

Clayton Twigg, 112 Chilmark Ridge Drive – Mr. Twigg said his e-mail was in reference to the rezoning of land on Cass Holt Road. He said, "The farm land is beautiful. There are horses, cows, trees, open fields. It is so close to the bustling part of town yet, I feel as if I am in the country every time I drive by. As much land that is already being developed into neighborhoods (like just south of Wal-Mart), even more conversion is not needed, at this time. I left Raleigh to get away from being on top of my neighbors. No one should be able to see into their neighbor's house from within their own house. The people of Holly Springs love the size and density of our town."

Dede Bushneck – Ms. Bushneck said in her email, she did not support the rezoning because there is so little farm land left. She said the drive down the road has the countryside and farm animals, and it is lovely. She said there are way too many subdivisions everyone and she urged no more construction. She added that she heard there are 600 homes going in behind the new school, and that should be plenty she said.

Joan Diaz – Ms. Diaz said in her email that she feels more high density homes can only bring more traffic into an already stressed area. This area is already over built with developments with 1,000 homes and 600 more to come. Please put a stop to this. We need to keep our farms and not build more houses.

The following input was entered into the record from speakers at the hearing: None.

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

**Action #1:** The Council approved a motion to accept the following as being true:

*"The requested zone map change from R-30 to R-10: Residential Conditional Use is consistent with the Vision Holly Springs Comprehensive Plan since the Future Land Use Plan designates the property as Suburban Residential, which allows for densities between 1-2.5 units per acres and the proposed R-10 CU: Residential Conditional Use District will allow a maximum of 93 units on the 42.83 acre property. It is also consistent with the objectives of the Vision Holly Springs Comprehensive Plan by ensuring that new housing is appropriate in type, location, and density to minimize environmental impacts and maintain community character."*

**Motion by:** Villadsen

**Second by:** Lee

**Vote:** Unanimous

**Action #2:** The Council approved a motion to adopt ordinance 18-REZ-02 to approve and enact Zone Map Change Petition #18-REZ-02 to change the zoning of approximately 42.83 acres of Wake County PINs 0648101232 and 0648203307 from R-30: Residential to R10: Residential Conditional Use as submitted by Steve Gillooly with the following conditions offered by the petitioner:

1. Development will be permitted a maximum of 93 single-family lots.
2. The use of vinyl siding is prohibited, except as accent elements for the façade, limited to 20% of the total façade area.
3. All lots will contain a foundation landscape package (min. 2 trees and 8 shrubs). Landscape materials used in the foundation landscape package will meet the minimum size requirements in the Holly Springs UDO.
4. Developer agrees to the dedication and construction of streets, rights-of-way and other infrastructure and for the coordinated provision of utilities that will create conditions essential to the public health, safety, and general welfare.
5. The Town of Holly Springs requires certain fees to be paid upon development of land and for the granting of a building permit. Said fees are listed in the Town's annual budget, and with this rezoning the Developer agrees that he/she (i) is familiar with these fees, (ii) does not dispute the reasonableness of these fees as set forth in the Town's annual budget; and (iii) notwithstanding any reimbursements discussed at this time through an Infrastructure Reimbursement Agreement, hereby agrees to timely pay all normal and customary fees applicable to Developer in connection with the Residential Project. Such fees are listed in the current year annual budget of fees at the time the fee is due under the ordinary course of development.
6. Development will preserve two 35" White Oaks located in the southwestern quadrant of the development.
7. Developer agrees to construct road improvements recommended in the Traffic Impact Analysis.
8. A 40' landscaped buffer will be provided along the southern property boundary.
9. A minimum of 15% of the total project area will be maintained in open space, including utility corridors and stormwater management devices. Internal walking trails will be constructed to provided pedestrian connections to open spaces within the development.
10. Developer agrees to pay a fee-in-lieu for the right turn lane on Avent Ferry Road at Cass Holt Road proportionate to the project's impact.

11. Along the property boundary shared with the property identified as PIN 0648203676, Large Evergreen trees 6' in height will be planted 12' on center in addition to the requiredA-20 buffer.

**Motion by:** Lee

**Second by:** Berry

**Vote:** The motion carried following a 4-1 vote. Councilwoman Kelly voted against the motion.

*A copy of Rezoning Ordinance 18-REZ-02 is attached to these minutes.*

**6b. Public Hearing: Annexation Ordinance A18-05** - Mr. Clapp said the Town is requesting the annexation of .06 +/- acres on Maple Street where a pump station is located. The property owner is the Town of Holly Springs, and the property is contiguous with city limits.

The petition meets all the statutory requirements for annexation.

With that explanation completed, Mayor Sears opened the public hearing. The following input was recorded: None.

There being no input, the public hearing was closed.

**Action:** The Council approved a motion to adopt Annexation Ordinance A18-05 annexing .06 +/- acres owned by the Town of Holly Springs, and more particularly described as Wake County Pins: 0648-98-8965, into the corporate limits of the Town of Holly Springs.

**Motion by:** Berry

**Second by:** O'Brien

**Vote:** Unanimous

*A copy of Annexation Ordinance A18-05 is attached to these minutes.*

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

7a. Minutes – The Council approved minutes of the Board's meeting held Aug. 21, 2018.

7b. Budget Amendment – The Council adopted a budget amendment to process a Southern Crossroads reimbursement agreement payment to transfer \$221,716 from sewer reserves (24.95) to fund 30 210.06.

**8a. Avent Ferry Force Main Project** – Mr. Levitt said that in 2016, Council approved funding for the design to upgrade the existing force main originating in the southwest area of Braxton Village, extending through Braxton Village and Holly Glen subdivisions, continuing through a large parcel owned by Duke Energy, and ultimately, terminating at the waste water treatment plant. The Town needs to acquire temporary construction easements, as well as, permanent easements in order to construct the project.

With the design and project manual approaching completion, the Town would like to begin purchasing easement rights.

**Action:** The Council approved a motion to approve funding in the amount of \$17,655 for both temporary and permanent construction easements and to transfer \$17,655.00 from sewer reserves (24.95) to the project account #45-814 90.05.

**Motion by:** O'Brien

**Second by:** Villadsen

**Vote:** Unanimous

**8b. 242 Main Street Holly Springs LLC** - Mr. Schifano said this request is to enter into a Use and Shared Maintenance Agreement with 242 Main Street Holly Springs, LLC for the parking deck at Town Hall Commons.

Mr. Schifano explained the developer agreement that was approved by Town Council in June 2017:

- Committed town funds to build parking deck (180 spaces) and other infrastructure
- Allowed for exchange of property

- Expedited review and 50% fee reimbursement
- Allowed Developer to “sign” top deck for tenants and customers and sign for individual tenants

After receiving input from Council via email, Mr. Schifano said the Use and Shared Maintenance Agreement was modified:

- To replace “Exclusive Use” with “Allocation”
- Still allows top deck to be signed for tenants and customers only
- Limited to 50% to be reserved by tenants
- No use inconsistent with regular patron parking
- Town has right to use for events upon 10 days notice.
- Cost share of maintenance expenses

Councilwoman Kelly said she was having a problem with limitations on a public parking lot.

Mr. Schifano said yes, but towns commonly limit the use of public property, including parks, picnic shelters, parking lots, etc. He said the Town is participating in the project to develop downtown and boost the local economy. The purpose of the deck would be to serve the public, but also the private investments that are making the project possible.

Mr. Harrington noted that it was important to remember that more than half of the spaces would not be allocated; that the parking lot would serve the public; and the lot would be useful for parking for special events of the Town.

**Action:** The Council approved a motion to enter into a Use and Shared Maintenance Agreement with 242 Main Street Holly Springs, LLC for the parking deck at Town Hall Commons.

**Motion by:** Berry

**Second by:** Lee

**Vote:** Unanimous

**9. Other Business:** None that resulted in Council action; however, Councilman Berry suggested that traffic engineers for projects address their studies at the planning board; he also suggested that the Town should look at its thresholds for requiring TIAs. He said he feels the Council looks at a lot of developments on a project-by-project basis, but it might be time to adjust developer requirements so the Council could consider traffic impacts on a more regional level, regardless of how small or large a development plan is.

Councilwoman Kelly asked if a list and map of available public parking could be produced and publicized.

**10. Manager's Report:** Mr. Harrington addressed the Council. He said dates would be selected for a possible workshop of Town Council and the Parks and Recreation Advisory Committee to discuss project priorities.

**11. Closed Session:** None.

**12. Adjournment:** There being no further business for the evening, the Sept. 4, 2018 meeting of the Holly Springs Town Council was adjourned.

day, Sept. 18, 2018.

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**Addenda pages as referenced in these minutes follow and are a part**