

**Town of Garner  
Town Council Minutes  
July 5, 2016**

The Council met in regular session at 7:00 p.m. in the Garner Police Department Training Room located at 912 7<sup>th</sup> Avenue.

**CALL MEETING TO ORDER/ROLL CALL:** Mayor Ronnie Williams

**PLEDGE OF ALLEGIANCE:** Mayor Pro Tem Kathy Behringer

Mayor Pro Tem Kathy Behringer invited Pastor Ryan Jackson of Capital Church to deliver the invocation. Pastor Ryan also invited those interested to participate in The Global Leadership Summit on August 11-12, 2016.

**PETITIONS AND COMMENTS**

Matthew Poole, GVFR Fire Chief, expressed his appreciation for Council's support during the budgeting process.

**ADOPTION OF AGENDA**

Motion: Marshburn  
Second: Johns  
Vote: Unanimous

**PRESENTATIONS**

**Recognition of Paul Cox, APWA Award**

Presenter: Keith Pugh, Chapter Awards Chair, NC Chapter of APWA

Mr. Pugh presented Paul Cox with the Robert S. Hopson Leadership Service Award. This award is presented by the American Public Works Association to recognize a North Carolina Public Works official working above the supervisory level for outstanding service and meritorious achievement in local government service.

**CONSENT**

Resolution Authorizing Wake County to Collect Property Taxes

Presenter: Pam Wortham, Finance Director

This Resolution gives the Wake County Revenue Administrator authorization to levy and collect real or personal property taxes on behalf of the Town of Garner.

Action: Adopt Resolution No. (2016) 2294

Motion: Singleton  
Second: Johns  
Vote: Unanimous

## **PUBLIC HEARINGS**

Annexation Petition ANX-16-01, Camping World  
Presenter: Jeff Triezenberg, Assistant Planning Director

Mayor Williams opened the public hearing and asked Mr. Triezenberg to present the staff report.

Mr. Triezenberg explained this annexation petition is associated with the Camping World rezoning and CUP site plan applications. Store Master Funding II, LLC is requesting to annex an 11.84 acre tract of land located at U.S. 70 Business Highway and TV Tower Road. The site is currently located in Wake County's jurisdiction. Council action on the annexation petition is required prior to Council action on the rezoning and CUP applications.

Mayor Williams closed the public hearing.

Action: Adopt Ordinance (2016) 3819

Motion: Singleton  
Second: Johns  
Vote: Unanimous

Mayor Williams announced the next four public hearings were quasi-judicial hearings and asked Town Attorney William E. Anderson to explain the procedures to be followed in these hearings. The Clerk administered an Affirmation of Oath to: Brad Bass, Jeff Triezenberg, Tony Chalk, Jenny Saldi, Chris Fuller, Gary McCabe, Trey Adams, Laura Holloman, Eric Rifkin, and Andy Archer.

Mayor Williams asked Council to disclose any ex parte communications. Hearing none, Mayor Williams opened the public hearing and asked Mr. Triezenberg to provide the staff report.

### **Rezoning Application CUD-Z-16-05 and Conditional Use Permit-SP-16-15, Camping World**

Presenter: Jeff Triezenberg, Assistant Planning Director

FreedomRoads, LLC is requesting to rezone an 11.84 acre tract of land located on the south side of U.S. 70 Business at TV Tower Road from Wake County Highway District (HD) to Service Business Conditional Use (SB C185) and request for conditional use permit approval of expanded outdoor sales display areas associated with existing RV Sales and Service use. The City of Raleigh is not requiring connections to water or sewer, there is no expected increase in traffic, and the property is not located within a floodplain. There are no changes proposed to the 28,345 square foot building or landscape buffers. The Planning Commission reviewed this project at their June 13, 2016 meeting and unanimously recommended approval of this project with one site specific condition.

Mr. Fuller stated Camping World has 120 stores and has 3000 employees; the store in Garner has 50 employees. He also expressed his excitement to be a part of the Town of Garner.

Mr. McCabe stated RV sales and service has been at this location since the early 1990's. He also stated this project has been in progress since 2012 and that in Wake County the Highway District zoning designation is misleading as it is primarily a residential designation.

Hearing no further comments, Mayor Williams closed the public hearing and called for a motion.

Action: Adopt Ordinance (2016) 3820

Motion: Singleton

Second: Marshburn  
Vote: Unanimous

Action: Find application complete with one site specific condition, 1) Prior to the approval of CDs, a recombination plat must be recorded with the Wake County Register of Deeds.

Motion: Marshburn  
Second: Singleton  
Vote: Unanimous

### **Rezoning Application CUD-Z-16-08 and Conditional Use Permit CUP-SB-16-04, Clifford Road**

Presenter: Brad Bass, Planning Director

Mayor Williams opened the public hearing and asked Mr. Bass to provide the staff report.

Hopper Communities is requesting to rezone a 46.8 acre tract of land located on Clifford Road from R-40 to R-9 C188 and request for conditional use permit approval of a 115 lot single family subdivision. The existing zoning of R-40 allows single-family lots of at least 40,000 square and the R-9 district allows single-family lots of at least 9,000 square feet. Public water is available along Clifford and the developer is planning to extend public sewer to the development. A fee-in-lieu of parkland dedication is required and open space requirements are met. The site does not contain a FEMA designated flood plain; however, the project is subject to both quantity and quality requirements. The Fire Inspector has reviewed and approved the subdivision plans. Access to the site is provided with three entrances on Clifford Road and street stubs to the north, south and east for future access. Sidewalks have been provided as required. The design and location of the mail kiosk has been approved by the Garner Post Master. The Planning Commission discussed this matter at their June 13, 2016 meeting and unanimously voted to approve this project.

Council Member Johns asked if the original home place on the site plan was included in the rezoning and Mr. Bass stated this area was excluded.

Council Member Marshburn asked the distance from this project to the new school and Mr. Bass stated approximately ½ mile.

Council Member Kennedy asked about the buffering requirement for houses abutting each other in different subdivisions and Mr. Bass stated there is no buffer requirement. However, the applicant added a 15 foot undisturbed buffer along the western property line adjoining the Sutton Springs Subdivision. Mr. Bass added the road improvements include road widening with curb/gutter and sidewalk improvements along the frontage of Clifford Road and staff is requesting these improvements be extended down Clifford Road between Streets A and F and left turn lanes on Clifford Road at Street B and F. NCDOT has completed a preliminary review of the planned road improvements and has requested information to continue the review. There is no interconnectivity between this project and the Sutton Springs subdivision.

Joseph Hayes of 116 Trabridge Lane, expressed concern regarding the increased traffic this project and the new schools will add to the already congested roads in the area.

Will Cummings of 126 Painted Rock Court expressed concern regarding the amount of notice he received for meeting with the developers as well as the changes being made to the 15' proposed buffer. He stated he moved to the area two years ago and feels the developer plans to clear cut the buffer and build track houses. He feels that Garner shouldn't be known for this type of housing, but for the type of homes built in Sutton Springs.

Council Member Kennedy asked if there was merit to providing a buffer along the pond and Mr. Bass stated that may be a possibility. The developer may be able to redesign the layout.

Gary Butler of 100 Painted Rock Court expressed concern that growth in the area was happening too fast in the area without any concern for the traffic situation. He felt this project should be phased in to allow road improvements to catch-up to density.

Corey Hocutt of 148 Sutton Springs Drive stated he felt the same concerns as his neighbors and felt the timing of the developer meetings were planned near holidays with short notice to limit the number of attendees. He also stated houses in the Sutton Springs subdivision are 2,500 to 4,300 sq. ft. and all sold below \$400,000. The last minute concession to the proposed buffer give the impression the developers are not honest.

Krista Bordatto of 136 Painted Rock Court expressed concern over the retention area behind her house. The property is not fenced and would allow individuals to walk from the new development near her property to the Sutton Springs subdivision. She also stated she moved to the area for the serene environment, but this would go away with the new development. The developer should go back and find a better solution to allow the residents in Sutton Springs to feel safe in their yards.

Council Member Kennedy asked what kind of protection was provided around the ponds and Mr. Bass responded that there is a solid fence all around the ponds as well as landscaping on areas abutting residents.

Joe Falkner of the CE Group stated neighborhood meetings were not required, but held to work with neighbors and address their concerns. They did not deliberately schedule the meetings to limit the number of attendees. During the neighborhood meetings Mr. Hocutt expressed concern regarding the buffer. Mr. Falkner responded buffers were not required between residential uses, but after review by the Planning Commission a 15' undisturbed buffer was added as a deed restriction. Mr. Falkner also stated that he had walked the rear property line of the Sutton Springs subdivision and found the majority of lots in Sutton Springs were cleared to rear property line. To address the increased traffic concerns several improvements to the road were included in the development plan.

Bill Harrell of Hopper Communities stated the price point of homes in the development will be between the high \$200,000's and upward of \$400,000. The quality of the homes will be similar to those constructed in Sutton Springs; the only difference is the lot size. Builders don't need a 70' lot to build a home; a 60' x 150' lot is sufficient to for a single-family home and playground. Mr. Harrell also clarified the buffer spans the entire length of the property line. Mr. Harrell addressed Mr. Hocutt's statement regarding the maximum home size of 2400 sq. ft. and stated this was the average home size; most will be in excess of 3000' sq. ft.

Council Member Kennedy asked about time of build-out for the subdivision and Mr. Harrell responded at the pace of 3 homes per month, the subdivision will be complete in approximately 3 years.

Council Member Singleton asked for clarification regarding the dry retention ponds – on the site plan, all 3 have 4' fencing around them with landscaping, the open area is the Neuse River buffer of 50' and state law prohibits anything being built in that area, the existing pond in Sutton Springs is wet pond with no fence, the 15' buffer is proposed from top to bottom, undisturbed, backing up behind all Sutton Springs lots shown on the plan. Mr. Falkner confirmed this information and presented Council with photos of the buffer site line.

Council Member Behringer stated traffic on New Bethel, Bryan, Clifford, and Hebron Church will increase with increased development as well as the new school. However, Council does not have a lot of control over what NCDOT does. She stated she is concerned about Ms. Bordatto and the lack of safety and privacy around her property and felt the community meetings did not appear to be purposely scheduled to minimize participation.

Council Member Marshburn stated schools seem to be a blessing and a curse at the same time in terms of increased traffic. He is sympathetic to the people who live in Sutton Springs, and has heard concerns on other projects as well. He wanted to assure everyone the Town is doing its best to keep up with growth. The Town embarked on new Transportation Plan to determine strategies and recommendations to meet growing needs.

Hearing no further comments, Mayor Williams closed the public hearing and called for a motion.

Council Member Singleton stated he has concerns with last minute changes to the buffer language and would prefer to delay for 2 weeks to allow for clarity. Council Member Behringer agreed.

Action: Continue to July 19, 2016 Council Meeting to allow time for developer to communicate buffer changes to the residents in the Sutton Springs subdivision.

Motion: Singleton  
Second: Behringer  
Vote: Unanimous

### **Rezoning Application CUD-Z-16-07 and Conditional Use Permit-SP-16-16, Timber Dr. Office Park**

Presenter: Brad Bass, Planning Director

Mayor Williams opened the public hearing and asked Mr. Bass to provide the staff report.

The Lundy Group is requesting to rezone a 3.49 acre tract located on the south side of Timber Drive, East from R-20 to N-O C187 and request for conditional use permit approval of two office buildings. The surrounding area is zoned R-20 which allows for single family lots of at least 20,000 sq. ft. The N-O zoning district was established to accommodate professional office uses and can serve as a transition between residential districts and more intense districts. The developer would be required to construct 6-foot wood screening along the rear portion on the CUP-SP-16-16 site plan. The applicant is proposing to construct two 10,000 sq. ft. buildings constructed of red and beige brick with EIFS as a secondary material. The plan as submitted, meets landscape and buffer requirements. Parking meets the standards for general office or medical office use; 100 spaces with 4 accessible. This project is subject to nitrogen and quantity requirements. The applicant is responsible for off-site water and sewer extensions to the site. The site is served by an existing full service driveway that was constructed as part of the timber Drive East road project. The Planning Commission reviewed this project at their July 5, 2016 meeting and unanimously recommended approval of this project with 5 site specific conditions.

Trey Adams of the Lundy Group met with the neighbors to discuss the project and reported receiving a good positive response. Mr. Adams also reported the first building had already been leased to a national real estate firm and the second building was being designed for medical offices.

Mayor Williams closed the public hearing and called for a motion.

Action: Adopt Ordinance (2016) 3822

Motion: Marshburn  
Second: Singleton  
Vote: Unanimous

Action: Find application complete with five site specific conditions, 1) Prior to C.O. issuance, the applicant shall be responsible for installing additional landscape material in perimeter buffers if the Planning Department determines additional material is needed, 2) Prior to building permit issuance, the applicant must recombine the property into one parcel, 3) The applicant shall provide fire flow calculations to the Fire Inspector at the time construction drawings are submitted. Should the flow be determined by the Fire Inspector to be insufficient;

then an additional on-site fire hydrant shall be required, 4) Construction drawing approval by the City of Raleigh is required prior to building permit issuance, and 5) The dumpster detail shall be revised to meet the Town's standard gate requirement .

Motion: Marshburn  
Second: Johns  
Vote: Unanimous

### **Special Use Permit SUP-SB-16-01, McCuller's Walk Subdivision**

Presenter: Jenny Saldi, Senior Planner

Mayor Williams opened the public hearing and asked Ms. Saldi to provide the staff report.

Spaulding & Norris, PA is requesting a Special Use Permit for a 94 lot single-family subdivision, on 36.5 acres, off Ten Ten Road as Phase 2 of the McCuller's Walk cluster development. Minimum lot size is 5,000 sq. ft. and rear setbacks may be 10 feet when adjacent to open space, otherwise the buffer must be 15 feet. The plan as submitted, meets landscape and buffer requirements as well as parks and open space requirements. This project is subject to nitrogen and quantity requirements and payment to a private mitigation bank is required. Applicant is planning to extend public water and sewer to serve the development as a whole (apartments, single family homes and townhomes). Access will be through two new streets off of Ten Ten Road and additional road improvements include modifying the median on Fayetteville Road to allow a left turn into the shopping center (right in, right out only) and modifying the median on Fayetteville Road at Caddy Road to allow left only off Fayetteville and right in, right out for Caddy Road. The Planning Commission reviewed this project at their June 13, 2016 meeting and unanimously recommended approval of this project with 4 site specific conditions.

Ms. Holloman of Spaulding and Norris was present representing the owner and stated this project was Phase 2 of the McCuller's Walk master plan. They are committed to moving forward with this project.

Mr. Rifkin of The Halle Companies addressed approximate home prices. They will be looking at homes selling in Cypress Meadows, but estimate homes will be priced at around \$315,000.

Hearing no further comments, Mayor Williams closed the public hearing and called for a motion.

Action: Approve Special Use Permit SUP-SB-16-01 with 4 site specific conditions, 1) Lots which are not adjacent to open space shall maintain a 15 ft. rear setback as required by cluster development standards, 2) The developer shall be responsible for any additional road improvements required by NCDOT, 3) Documentation establishing a Homeowner's Association and Restrictive Covenants shall be submitted to the Town of Garner Planning Department prior to first final plat recordation, and 4) A fee-in-lieu of parkland dedication shall be paid to the Town of Garner prior to issuance of each building permit.

Motion: Singleton  
Second: Kennedy  
Vote: Unanimous

### **NEW/OLD BUSINESS**

#### **General Use Rezoning Z-16-02, 1650 Mechanical Boulevard**

Presenter: Brad Bass, Planning Director

Request by Amerco Real Estate Company to rezone a .328 acre tract of land located at 1650 Mechanical Boulevard from Community Retail (CR) to Service Business (SB). The site has approximately 78' of frontage along Mechanical Boulevard and increased traffic is not expected. No specific development plan is proposed at

this time. The Planning Commission reviewed this project at their June 13, 2016 meeting and unanimously recommended approval of this project.

Action: Adopt Ordinance (2016) 3823

Motion: Singleton  
Second: Marshburn  
Vote: Unanimous

## **COMMITTEE REPORTS**

### **MANAGER REPORTS**

- garner info
- The Groundbreaking Ceremony for the Garner Town Hall is scheduled for July 14<sup>th</sup> at 9:00 a.m.
- Reported the Town received a \$25,000 grant from the Rural Economic Development Division of the Department of Commerce for downtown revitalization projects. The Downtown Development Manager will be working on potential uses for the grant.
- Reported the Town received a 5 year extension for the property tax exclusion for the ConAgra Site.

### **ATTORNEY REPORTS**

- Advised Council the speech delivered by the spokesman for the Village at Aversboro group under the Petitions and Comments section of the last meeting could be considered ex parte communication and will need to be disclosed when the actual hearing comes forward. Mr. Anderson further explained that because this item will be considered during a quasi-judicial public hearing, if the project is denied and the developer challenges the decision, the courts may find there is a violation in the process and reverse Council's decision.

### **COUNCIL REPORTS**

Council Member Kennedy

- Remarked that it is difficult for citizens to have input during quasi-judicial hearings if they are not expert witnesses and Mr. Anderson advised we are working on a process that would allow citizens to express their opinions, possibly after the staff report and before the public hearing is opened.

Council Member Singleton, Johns, and Marshburn

- Thanked staff for a wonderful July 3<sup>rd</sup> event.

### **CLOSED SESSION**

Pursuant to N.C.G.S. 143-318.11(a)(5) "to discuss possible real estate acquisition and the Town's negotiating position regarding such real estate."

Motion: Singleton  
Second: Johns  
Vote: Unanimous

**RETURN TO REGULAR SESSION AND ADJOURNMENT: 11:30 p.m.**

Respectfully Submitted,  
Stella Gibson, Town Clerk