

**Town of Garner
Town Council Meeting Minutes
January 22, 2019**

The Council met in regular session at 7:00 p.m. in the Garner Town Hall located at 900 7th Avenue.

CALL MEETING TO ORDER/ROLL CALL: Mayor Ronnie Williams

Present: Mayor Ronnie Williams, Mayor ProTem Ken Marshburn Council Member Kathy Behringer, Council Member Buck Kennedy, and Council Member Gra Singleton.

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager-Development Services, Matt Roylance-Asst. Town Manager-Operations, Jeff Triezenberg-Planning Director, David Bamford-Planning Services Manager, Het Patel-Senior Planner, Stacey Harper-Senior Principal Planner, Rick Mercier-Communications Manager, Chris Johnson-Town Engineer, Brandon Zuidema-Police Chief, Pam Wortham-Finance Director, William E. Anderson-Town Attorney, and Stella Gibson-Town Clerk

PLEDGE OF ALLEGIANCE: Mayor Williams asked Boy Scout Keefer Froom to lead the pledge.

PETITIONS AND COMMENTS

ADOPTION OF AGENDA

Add introduction of Town Engineer and remove closed session.

Motion: Marshburn

Second: Singleton

Vote: 4:0

PRESENTATIONS

Council Member Behringer read the Human Trafficking Awareness Week Proclamation.

Introduction of Chris Johnson, Town Engineer

CONSENT

Council Meeting Minutes

Presenter: Stella Gibson, Town Clerk

Minutes from the October 16, 2018 and December 18, 2018 Council Meetings. Closed Session Minutes from December 18, 2018.

Action: Adopted Minutes

Resolution Declaring Unpaid Nuisance Abatements as Liens

Presenter: Pam Wortham, Finance Director

Resolution declaring certain delinquent nuisance abatements as a lien on property. This resolution authorizes Wake County to add these abatement costs to Wake County property tax bills.

Action: Adopted Resolution (2019) 2367

Ordinance Amending FY2018/2019 Operating Budget (Recognize Revenue for Downtown Project)

Presenter: Pam Wortham, Finance Director

Together with United Arts, the Downtown Garner Association (DGA) contracted with Sean Kernick to paint a mural in downtown Garner. United Arts provided \$5,000 towards the project. The remaining \$5,000 was split equally between Full Bloom Coffee and DGA. United Arts provided their funding directly to the artist. DGA and Full Bloom gave the funds to the Town, and the Town will pay the remainder of the project. We are requesting to budget the \$5,000 in revenue and increase our expenditures.

Action: Adopted Ordinance (2019) 3950

Clifford Grove Stop Conditions

Presenter: Chris Johnson, Town Engineer

The Engineering Department is seeking approval for three stop conditions within the Clifford Grove subdivision.

Action: Approved stop conditions within the Clifford Grove subdivision.

Motion: Marshburn
Second: Singleton
Vote: 4:0

PUBLIC HEARINGS

Annexation Petition ANX-18-07, Auburn Village

Presenter: David Bamford, Planning Services Manager

Annexation petition submitted by CalAtlantic Group, Inc. to incorporate 120.01 +/- acres on the west side of Auburn-Knightdale Road.

Action: Adopt Ordinance (2019) 3945

Motion: Singleton
Second: Marshburn
Vote: 4:0

Annexation Petition ANX 18-09, 5105 Fayetteville Road

Presenter: David Bamford, Planning Services Manager

Annexation petition submitted by Midtown Group, LLC to incorporate 0.433 +/- acres with an existing house on the east side of Fayetteville Road for which they are requesting connection to public water.

Action: Adopt Ordinance (2019) 3946

Motion: Marshburn
Second: Singleton
Vote: 4:0

Annexation Petition ANX 18-10, Ashton Forest

Presenter: David Bamford, Planning Services Manager

Annexation petition submitted by Mohler Investments, LLC to incorporate 15.0 +/- acres on the west side of Creech Road.

Action: Adopt Ordinance (2019) 3947

Motion: Marshburn
Second: Singleton
Vote: 4:0

Annexation Petition ANX 18-11, 1504 Creech Road

Presenter: David Bamford, Planning Services Manager

Annexation petition submitted by Douglas Robertson to incorporate 0.8 +/- acres with an existing house located at 1504 Creech Road for which he is requesting connection to public water.

Action: Adopt Ordinance (2019) 3948

Motion: Singleton
Second: Marshburn
Vote: 4:0

General Use Rezoning Z 18-06, Jordan Road

Presenter: Het Patel, Senior Planner

Harold Godwin is requesting a change in zoning for 18.59 +/- acres from Community Retail (CR) to Neighborhood Office (NO) General Use. The site is located at 0 Jordan Road (where Jordan Road ends before NC 50 north of Ten-Ten Road) and may be further identified as Wake County PIN# 1618-38-8558.

Action: Refer to Planning Commission

Mr. Anderson explained the procedures to be followed during the hearing and the Town Clerk administered the Affirmation of Oath. Oath administered to: Het Patel, Stacey Harper, Jeff Triezenberg, David Bamford, Chris Johnson, Randy Miller, and Tom Hester. Mr. Anderson then asked the Council to

disclose any ex parte communications and to state any reasons they could not render a fair decision. Mayor Williams asked Mr. Patel and Ms. Harper to provide the staff reports.

Conditional Use Rezoning CUD-Z-18-08 and Conditional Use Permit CUP-SB-04, Buffaloe Springs Rezoning and Subdivision Plan

Presenters: Het Patel, Senior Planner and Stacy Harper, Principal Planner

Mr. Patel stated Trilandco requested a change in zoning for 24.75 +/- acres from Single-Family Residential (R-40) to Multifamily Residential Conditional Use (MF-1 C-207). Trilandco is also requesting conditional use permit approval for a residential cluster use comprising 77 single-family lots. The site is located on the east side of Buffaloe Road and may be further identified as Wake County PIN#'s 1700-65-4039, 1700-65-1054, and portions of 1700-64-3525, 1700-64-3392 and 1700-75-2389.

Mr. Patel also stated Buffaloe Road is a 22-foot wide NCDOT-maintained facility within a 60-foot right of way. This road lacks curb and gutter and sidewalks. Mr. Patel also stated the project is consistent with the 2018 Garner Forward Comprehensive Plan as proposed development has a density of 3.12 dwelling units per acre which is within the recommended density of the future land use map designation, and single-family residences, regardless of subdivision style, are identified as a compatible use within the Medium-Density Residential designation and the rezoning also supports the following principles and recommendations for living spaces: 1) The proposed district permits household living uses that are attractive to younger families with children as well as older residents looking to maintain private but smaller outdoor spaces; 2) The proposed district provides adequate buffers and usable open spaces that help to preserve and protect adjacent housing stock.

Mr. Patel then reviewed the proposed conditions to the project and added staff recommended approval of CUD-Z-18-08 & finds CUP-SB-18-04 in conformity with UDO.

Council Member Kennedy expressed concern regarding the amount of siding proposed to the buildings and asked if there was any discussion to require a specific amount of stone. Ms. Rehab Hamad responded that this was not being proposed as part of the design; however, buyers will have the option to upgrade to stone. She added the Planning Commission found the project was in conformity with requirements and would be in harmony with the surrounding area.

The following expressed their support of the project:

Buddy Gupton, 153 Luxorwind Drive
Jean Stevens, 6528 Malweathers Road
Zackery Davis, 123 Pecan Harvest Drive
Cardiff Shea, 1608 Buffaloe Road
Bill Spence, 120 Spence Lane

Jay Kamm, 2113 Cliffs Edge Drive, Austin, TX, read a statement from his wife whose family owns the property and is in support of the project and asked that they be allowed to develop the property.

The following were opposed to the project:

Jon Richter, 146 Roan Drive
Lack of notification of project, parking, location, cluster housing, zoning

Kathleen Abbey, 107 Lyne Court

Density, traffic, stormwater, noise pollution, lack of public transportation, light issues, location of drainage

Kirk Abbey, 107 Lyne Court

Riparian buffer, zoning

Mark Beasley, 1516 Buffaloe Road

Drainage, trash and debris, stormwater runoff

Carolyn and Chuck Heindel, 305 Tiffany Circle

Location, density, responsibility of correcting erosion issues when complete

Molly Stevens, 313 Tiffany Circle

Runoff

Demian Dellinger., 1311 Sycamore Drive

Impact on adjacent property

Rehab Hamad stated along Tiffany Woods to the northern part of the site plan will be a fence. These lots were widened to 60 ft (which is the same as R-9) which should affect 3 homes on that side of the subdivision. The requested zoning is MF-1 which will allow 3.1 homes per acre. Problems with the creek exists there now. The project is required to have 27% of open space. If the zoning were R-9, only 10% would be required, which would result in the green buffer along Buffaloe going away. The maximum amount of impervious space is 70%; the project is proposing 35%.

Ms. Harper presented the following:

- Tree Cover - Requirement of 12% is met with both existing and proposed plant material. Plan shows 14.42% tree cover area.
- Perimeter Buffers - A 50-foot (30-foot planted and 20-foot open space area) perimeter buffer is provided. A 6-foot tall wooden fence is now being provided between the two buffers.
- Open Space - Required: 25% (6.17 acres), Provided: 26.9% (6.64 acres)
- Parks - Parks, Recreation and Cultural Resources Department recommended fee-in-lieu of park land dedication. A public greenway easement is being dedicated to facilitate future access to Town parks as required by the Garner Forward Transportation Plan.

Inspections Department, together with the Fire Department, reviewed and approved.

Southeast corner of the site falls within 100-year and 500-year FEMA designated floodzone. FEMA designated floodway runs along the east side of the site.

This site is subject to stormwater quality regulations for nitrogen as well as stormwater quantity regulations for detention of the 1, 10 and 25-year storms. A wet retention pond is designed for both water quantity and quality and will reduce the nitrogen below the allowable threshold of 6 pounds per acre per year for residential. A nitrogen offset payment will be required.

Site will be served by City of Raleigh water and sewer infrastructure. 12" water main at Buffaloe Road and 15" sewer main to the east of the site.

One access point on Buffalo Road with stubs to the north for future connectivity. The plans would improve Buffalo Road along the project's frontage with curb, gutter and sidewalks. Sidewalk is provided throughout the subdivision as required.

Lighting for the mail kiosk area will be provided by street lighting and will be reviewed by Engineering at the Construction Drawing phase.

The 2018 Garner Forward Transportation Plan identified Buffalo Road as two-lane facility. It also identifies a greenway connection between Buffalo Road and White Deer Park in this general vicinity. With the proposed improvements along the frontage of Buffalo Road, this project, as proposed, may be found to be in conformity with the 2018 Garner Forward Transportation Plan.

The site falls within the New Urban designation of the Swift Creek Land Management Plan. The New Urban designation allows for up to 6 dwelling units/acre. Furthermore, impervious surface limits are allowed to reach 70% so long as the first inch of rainfall can be retained on-site. The proposed development at 3.12 dwelling units/acre and the proposed stormwater infrastructure is in conformity with the Swift Creek Land Management Plan restrictions.

After sufficient review and plan revisions, staff finds that this project, as proposed, conforms to the regulations of the Unified Development Ordinance so long as the site specific conditions are met.

Site Specific Requirements

- Prior to recordation of the first final plat, an annexation petition shall be submitted to the Garner Planning Department;
- Prior to recordation of the first final plat, documents establishing a Homeowner's Association and restrictive covenants shall be submitted to the Garner Planning Director for a courtesy review;
- Prior to building permit, a fee in lieu of park land dedication shall be paid to the Town of Garner;
- The developer shall be responsible for all roadway improvements required by NCDOT.

The Planning Commission reviewed this request at their November 13, 2018 meeting and denied approval of rezoning request CUD-Z-18-08 based on a lack of compatibility of the proposed district with the present zoning, conforming uses on nearby property and the character of the neighborhood.

Planning Commission did not provide a recommendation on Subdivision Plan Conformity under the requested zoning (CUP-SB-18-04); however, they indicated that they found the plan non-conforming as related to the current R-40 zoning district.

Randy Miller, Project Engineer, stated the NC Department of Water Quality looked at the site and approved. They also determined no features on the site required a riparian buffer. After development of grading for the lots and streets and stormwater only 1.9 acres of the 35 acres drains to Tiffany Woods. Currently, 90% of drainage comes from Tiffany Woods and to the east.

Regarding protection of the spring running along the boundary of Tiffany Woods, there will be a ditch to direct it to the street and while its being graded proper erosion control measures will be in place. After grading it will be stabilized with grass, then the ditch will remain and converted to permanent for any possible water draining and will be directed back to the street.

During construction Wake County will perform inspections after every rain event and record to ensure no sediment is allowed to leave the site. A report will be provided to the Town and the Homeowner's Association (once they take over). After construction if problems occur with erosion it would be the HOA would be responsible for taking care of.

Tom Hester, 228 Fayetteville Street, stated this project will have no negative impact on the adjacent property and would be in harmony with surrounding properties.

Bob Anderson, 1107 S Person Street stated 50% homes will have minimum of 100 sq. ft. of masonry on the front elevation and each side will have minimum of one 1 window or closed shutter.

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

Action: Move the Town Council accept staff's statements regarding zoning consistency with the Comprehensive Growth Plan, detailed in Section V of the staff report as our own; and therefore move further that the Town Council adopt Ordinance (2019) 3949 approving rezoning request CUD-Z-18-08 as it is reasonable and in the public interest because it will likely allow household living uses that are attractive to younger families with children as well as older residents looking to maintain private but smaller outdoor spaces; allow adequate buffers and usable open spaces that help to preserve and protect adjacent housing stock; and allow the development of an appropriate density of housing in the area in which it is located.

Motion: Marshburn
Second: Behringer
Vote: 3:1

Council Member Kennedy voted nay.

Council Member Kennedy stated the design was well done, the applicants followed the rules, concerns regarding the drainage was well addressed. He would prefer the density to be less. His main two issues were the aesthetics and use of vinyl. However, the Buffaloe family should be able to develop their land, especially when they have adhered to the Town's development requirements.

Action: Move that the Council accept the staff statements regarding plan consistency in Section VII of this report as our own and find the application meets the 10 permit criteria in Section 3.14.D. and therefore approve CUP-SB-18-04, Buffaloe Springs, with the three standard conditions and four site-specific conditions to be listed on the permit that will be prepared separately by staff.

Find CUP-SB-18-04 in conformity with UDO and adopt Ordinance (2019) 3949; add additional condition: a minimum of a 20-foot Greenway dedication to be provided to give access from Buffaloe Road to the rear property line of the development.

Motion: Singleton
Second: Marshburn
Vote: 4:0

UDO-18-02, Neighborhood Meetings

Presenter: Jeff Triezenberg, Planning Director

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

Mr. Triezenberg stated this UDO text amendment submitted by the Planning Department is to require applicant-led neighborhood meetings for any development application including a Conditional Use District Zoning, Planned Development or Special Use Permit request. After discussion regarding methods of notification to affected properties, it was determined the developer should keep a log of who they send notices to and return envelopes that are not delivered to the Town.

Mayor Williams closed the hearing.

Rosa Bonapart expressed concern regarding setting a minimum number of people required to participate in the neighborhood meetings. It was determined this would not meet the notification objectives.

Action: Refer to Planning Commission

NEW/OLD BUSINESS

Wake Transit Community Funding Area Program Application

Presenter: Het Patel, Senior Planner

Mr. Patel provided an update to Wake Transit Community Funding Area Program application process and recommendations for completing application for FY 2020 planning study/technical assistance funds.

Action: Consider approving CFAP Application and authorization for Town Manager to provide Letter of Support. The Town Attorney will refine the contract and bring back for Council's review.

Motion: Marshburn
Second: Kennedy
Vote: 4:0

COMMITTEE REPORTS

MANAGER REPORTS

Finance Report

garner info

2019 Town & State Dinner – February 20, 5:00 p.m. at the Raleigh Convention Center

ATTORNEY REPORTS

COUNCIL REPORTS

Council discussed the process in which to fill the vacancy created by the passing of Council Member Johns. Consensus to use an application/interview process.

Kennedy

- Asked about the budget for the Historic Depot project. Mr. Dickerson responded staff met with the Garner Area Historical Society and discussed their plans and requests and narrowed the scope. Staff is currently refining costs and those should be available in the next 2-3 weeks.

- Asked for discussion on how to pay for significant land acquisition and getting utilities to the property. Asked that this matter be brought to a Public Works Committee meeting.

Singleton

- Requested an update on the status of the pavement survey. Mr. Roylance responded this item will be discussed at next week's work session.

Behringer

- Reported a transfer truck parked at the intersection of W. Garner Road and St. Mary's Street.
- Reported streetlights out in the 400 and 500 block of W. Garner Road and Garner Station Blvd. Mr. Dickerson responded the staff has already reported this to Duke Energy.

Council Member Marshburn had nothing to report.

ADJOURNMENT: 10:55 p.m.