



C O U N C I L M I N U T E S     A U G U S T 1 1 , 2 0 2 0 , 6 : 3 0 P M , S F D C O M M U N I T Y C E N T E R

The meeting was called to order at 6:30pm by BJ Barnes. Tim Sessoms provided the invocation, followed by the Pledge of Allegiance. It was noted that attendance at the meeting was closed to the public due to the pandemic and state-of-emergency declarations but was being live streamed on the Town's Facebook page.

The following were present:

**Council**

BJ Barnes, Mayor  
 Tim Sessoms, Mayor Pro-tem  
 Lynne Williams DeVaney  
 John O'Day  
 Teresa Pegram  
 Reece Walker

**Staff**

Scott Whitaker, Town Manager  
 Dee Hall, Finance Officer  
 Lance Heater, Town Clerk  
 Bob Hornik, Town Attorney  
 Chris York, Town Planner

**CONSENT AGENDA**

Prior to consideration, Whitaker asked that Item 11C be removed from the agenda. Upon motion by O'Day, seconded by DeVaney, and carried by a vote of 4-1 (Pegram opposed), the consent agenda was approved. It consisted of the meeting agenda (as amended), open session minutes of 7/14, and the Board of Adjustment reappointment of Bill North, James Brady, and Ron Willis to 3-year terms ending 11/2023.

**ANNOUNCEMENTS**

Whitaker noted: 1) Phase II of the COVID restrictions had been extended to 9/11; 2) the Parks, Trails, & Open Space Master Plan survey was still open and citizen participation was encouraged; 3) vacancies on the Board of Adjustment, Trails & Open Space, and Historical committees existed and citizens were invited to apply; 4) the census outreach effort would end at the end of September; 5) the annual Summer-Cycle event had been cancelled due to the pandemic; and, 6) appreciation to Brad Rentz for service to the Town as an intern from 5/26 through 8/7.

**EMERGENCY SERVICES REPORTS**

**A. Summerfield Fire District:** During July, the department responded to 32 fire calls, 49 EMS calls, and 34 "other" calls for a total of 115 incidents.

**B. Guil. Co. Sheriff's Dept.:** During July, the department responded to 149 calls in District 1.

**ATTACHMENTS FOR COUNCIL'S INFORMATION**

Council received the following information with no action taken: committee/board minutes and the July financial report. Whitaker read reports from the chairs of the Historical, Trails & Open Space, and Finance committees.



**PUBLIC COMMENTS** – *None in-person or by email.*

**COUNCIL, MANAGER, AND/OR ATTORNEY RESPONSE TO COMMENTS** – *None.*

**PUBLIC HEARING/ACTION REGARDING REZONING CASE RZ-01-20**

The Mayor noted that the petitioner, M27 Land Holdings, LLC/Rob Jessup, was requesting a zoning change of property located at 3016 Rear Oak Ridge Road, parcel #149855 from AG (Agricultural) to RS-40 (Single-Family Residential). The Mayor opened the public hearing at 6:42pm. York stated the case concerned a 45.92(+/-)-acre parcel which directly abutted the existing Birkhaven residential subdivision. York stated that under the proposed RS-40 zoning, a maximum of 33 lots may be built based on an overall gross density of 0.73 dwelling units per acre. The final layout of lots, streets, and open space dedication would be set through the subdivision application process. The soil conditions for well, water, and septic requirements would regulate the maximum number of buildable lots. York stated that the parcel sits astride the jurisdictional boundary between Summerfield and Oak Ridge; however, no rezoning would be necessary within the Oak Ridge portion.

York reported that a public information open house was held 6/10 and a public hearing was held at the 6/22 Zoning Board meeting. York stated that the Zoning Board had a full discussion of land use and that no reason was cited that the proposed residential land use would be inconsistent with the Comprehensive Plan or incompatible with existing development in the area. York stated the Zoning Board spoke about elements of a subdivision application and plan and he explained that the application was for a change of land use. The Zoning Board made a unanimous recommendation to deny the rezoning application, citing inconsistency with Comprehensive Plan Policy Areas 4.6 and 4.9, stating that there were not at least two points of access/egress to through streets and that it does not mitigate traffic impacts to preserve the carrying capacity of public roadways, and citing that the request is unreasonable and is not in the public interest because the land meant to satisfy open space requirements is already “undevelopable.”

York stated that the developer had added a 30,000-gallon water tank for fire protection to the preliminary sketch of the property. In response to a question from Pegram, York stated that the request did not need to be referred back to the Zoning Board as a result of the addition of the water tank to the sketch because the issue before the Council was land use, not issues (such as the water tank), which would be dealt with at the subdivision approval stage. Hornik also reminded Council that issues such as the layout of lots and streets, water tanks, etc. were issues that shouldn't be considered at this stage. He stated that the real question for this rezoning is whether the land is suitable for residential use, and if so, to what density level.

The Mayor asked DeVaney to read a letter from 59 households in the Birkhaven subdivision which asked that Council deny the request because: 1) 30 or more additional homes would strain the neighborhood infrastructure due to the single-point access; 2) Birkhaven Drive may already fall below the Town's minimum standards for a residential collector road and additional volume would exacerbate issues associated with the already narrow road; and, 3) of drainage impacts on the existing neighborhood.

Ethan Creed, of Hugh Creed Associates, representing the developer, was present to discuss the development and ask for approval of the rezoning. Creed stated that the property would only



support 27 lots due to development issues. Creed stated that the property was located within the Oak Ridge Fire District and was approximately 5 minutes from both Oak Ridge and Summerfield fire stations. There was discussion regarding the distance to Oak Ridge's Linville Road station and possible impacts on the proposed housing units' fire rating (ISO) if it exceeded 5 miles.

Barnes stated that Council had 3 options: approve, deny, or table until further information could be obtained regarding the fire protection rating issue. In response to a question from Pegram, York stated that the property had 2 potential points of access from existing roadways. York presented a letter from Summerfield Fire Chief Chris Johnson in which he stated that the developer had indicated a willingness to work with the fire department to develop a 30,000-gallon water storage point. In response to a question from Walker, Hornik stated that the issue of fire protection would be legitimately dealt with at the subdivision approval stage.

Scott Muthersbaugh, 7506 Shadow Creek Drive, President of the Birkhaven HOA, reiterated the concerns expressed in the letter read by DeVaney.

Upon motion by Sessoms, seconded by DeVaney and carried unanimously, the public hearing was closed at 7:51pm.

Upon motion by DeVaney, seconded by Walker and carried by a vote of 3-2 (Pegram and O'Day opposed), the matter was tabled until the September Council meeting so that further information regarding the fire safety issue could be brought forward and to consider the advice of the Town Attorney regarding Council's options at the rezoning consideration stage.

The Mayor declared a recess at 7:51pm.

The meeting was reconvened at 8:02pm.

### **BUSINESS FROM TOWN MANAGER**

**A. Committee appointments/reappointments:** Upon motion by DeVaney, seconded by Walker and carried unanimously, Council appointed Troy Stantliff to a term ending 7/22 and Elizabeth Ingram (as ex-officio member) to a term ending 7/21 on the Historical Committee. Upon motion by DeVaney, seconded by Walker and carried unanimously, Bill King was reappointed to the Trails & Open Space Committee to a term ending 7/22.

**B. Coronavirus Relief Fund allocation and intergovernmental agreement:** Whitaker noted that Guilford County had allocated up to \$110,440 to Summerfield from its own \$97.3M Coronavirus Relief Fund allocation for the purpose of off-setting costs associated with the response to and recovery from the pandemic. Whitaker and Hall stated the Town had incurred very few reimbursable costs thus far related to the pandemic and that only direct expenses, not lost revenue, were eligible for reimbursement. Upon motion by Walker, seconded by DeVaney and carried unanimously, Council approved the intergovernmental agreement.

**C. Summerfield Community Center property:** Whitaker stated that the topic of the Town assuming ownership of the Community Center property was discussed at the 1/14 meeting and that the Community Center board had recently restated its interest in transferring ownership to the Town. Given Guilford County's right-of-first-refusal on the property, the County BOC will need to waive or transfer this right in order for the Town to take ownership. After discussion, it was the consensus



of Council that it did have an interest in acquiring the property and for Whitaker to continue to perform due diligence (such as having a formal inspection done) and be ready to act on the request once the County acts with regard to its interest.

**D. State of Emergency Remote Meeting Policy:** Upon motion by O'Day, seconded by Sessoms and carried unanimously, Council approved POL-2020-001, State of Emergency Remote Meeting Policy.

**E. Reports, updates, or comments:** Whitaker stated that: 1) the Finance Committee was continuing its consideration of the Capital Improvement Plan (CIP); 2) the Board of Adjustment had vacancies for 2 positions that should be filled as soon as possible; and, 3) the Town had received 20 responses from its RFQ for architectural services for the new town hall/meeting space.

### **BUSINESS FROM THE MAYOR AND COUNCIL**

**A. Summerfield Tomorrow Committee and Consolidated Committee Ordinance revisions:**

Whitaker presented revisions to the Consolidated Committee Ordinance which represented staff's attempt to describe the purpose, membership details, duties, and responsibilities of the Committee as directed by Council. Barnes noted that it had been suggested that the Committee not become active until January 2021 due to pandemic meeting restrictions in place. There was then a lengthy discussion of how Committee members would be appointed – whether in the same manner as other committees or to have 2 members selected by each Council member who serve only as long as the Council member is in office. As there was no consensus, Council directed Whitaker to place the matter on the 9/8 agenda with two potential alternative methods of appointment being drafted in the Ordinance.

**B. Water and fire protection:** The consensus of Council was to table the matter indefinitely due to the need to establish the location for a new town hall first.

**C. Reports, updates, or comments:** *None.*

### **OTHER BUSINESS**

In response to a question from DeVaney, York presented an update on progress toward completion of the UDO, stating that the Zoning Board's review should be complete in a few weeks. It was noted that the pandemic restrictions could affect the timing of public hearings. There was discussion regarding the timing of the development of a land use plan, as it had been decided at Council's retreat that development would follow UDO adoption. Whitaker stated that starting the land use plan process beforehand could slow the UDO process. DeVaney disagreed, stating that a consultant could be working on a land use plan while the UDO process was continuing and suggested that Council change the process agreed to earlier. Whitaker stated that staff was pushing the Zoning Board to finish its UDO recommendations and suggested that Council could encourage the same if dissatisfied. Whitaker stated that if the desire was to have a land use plan largely developed by consultants, then work toward that goal could be started. Walker noted that a previous effort to develop a UDO by a consultant had not been successful and questioned whether that approach with regard to a land use plan would be successful. Walker stated that it might be better for Council to communicate its desire for progress to the Zoning Board. Pegram expressed a desire to allow the



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Zoning Board to proceed at its own pace. Hornik advised that the UDO process would never result in a perfect product.

Walker expressed support for the town potentially using an extraterritorial jurisdiction (ETJ) and/or voluntary annexation to prevent development incompatible with the Development Ordinance for development along Town borders. After discussion, it was the consensus of Council (Pegram objecting) that they would desire to see a draft of a conceptual ETJ map.

The Mayor presented Brad Rentz with a token of appreciation for service to the Town as an intern. Upon motion by DeVaney, seconded by O'Day and carried by a unanimous vote, the meeting was adjourned at 10:16pm.

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*BJ Barnes, Mayor*

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*Lance G. Heater, Town Clerk*