



C O U N C I L M I N U T E S O C T O B E R 8, 2 0 1 3, 6:30PM, SFD COMMUNITY CENTER

The meeting was called to order at 6:30pm by Mark Brown. The invocation was led by Linda Southard, followed by the Pledge of Allegiance. The following were present:

Council

Mark Brown, Mayor
Dena Barnes
Alicia Flowers
Dianne Laughlin
Elizabeth McClellan
John Wray

Staff

Scott Whitaker, Town Manager
William Hill, Town Attorney
Katrina Whitt, Finance Officer
Julie Reid, Interim Town Planner
Valarie Halvorsen, Town Clerk

CONSENT AGENDA

Brown recommended removing agenda item 9B (Board of Adjustment reappointments) and bringing it back for consideration during the November meeting.

McClellan motioned to approve the consent agenda as amended, including the meeting agenda, 9/10 minutes, and financial report. The motion was seconded by Barnes and carried unanimously.

PUBLIC COMMENTS

The following candidates introduced themselves and spoke of their reasons for running for office: Jane Wilson, 1128 NC Highway 150 West; John O'Day, 7013 Mustang Court; Mike Adams, 7102 Lentz Court; Rich Lipinski, 5850 Stanley Huff Road; Tim Sessoms, 6507 Horseman Trail; and Dwayne Crawford, 1106 NC Highway 150 West.

Karen Knight, 7503 William Bailey Road, stated the Elmhurst Estate homeowners association will host a candidate meet-and-greet 10/22 at 7:00pm at Community Lutheran Church, 4960 US 220.

Gail Dunham, 5805 Snow Hill Drive, expressed concerns about professionalism and procedures involving 2004's Rezoning Case #10-04, and hoped that the current case would be handled better.

COMMITTEE / EVENT REPORTS

- A. **Finance:** Whitt stated there was no meeting in September, the next meeting is 10/21, and Rouse, Rouse, Penn and Rouse was in the process of conducting the town's annual audit.
- B. **Historical:** Linda Southard invited all to view an exhibit about tobacco at town hall; the October meeting date had been changed from 10/31 to 10/24.
- C. **Public Safety:** No report.
- D. **Trails and Open Space:** Paul Lambrecht stated the committee was making progress and should have more to report during the November council meeting.

- E. **9/14 Music-in-the-Park event:** Whitaker stated the event and collaboration with The Collaborative were successful, attendees seemed pleased, and the intention was to hold another spring event.

PUBLIC HEARING

Rezoning Case #01-13: RS-40 (Residential District) to CU-GB (Conditional Use General Business District). The properties, approximately 34.26 acres, are located at 5920 Khaki Place, 5920 near Khaki Place, and 7631 Deboe Road, being Guilford County Parcels 0149658, 0217566, and 0150130. The parcels are owned by Paul G. and Virginia W. Milam and Henson Village LLC.

Reid presented the case and discussed adopted planning documents and the request's compatibility with the 2010 Comprehensive Plan, specifically in relation to its 12 Common Objectives. Reid further noted that many technical issues and citizen concerns raised to that point would be addressed during the site plan approval process. The applicant had offered the following conditions update (taken from an applicant-supplied handout):

- All parcels from the earlier zoning (approximately 45 acres) will be combined with the current request (34.28 acres) to allow for a comprehensive review of all improvements and requirements of the ordinance and other regulations. This will include the design of proposed water source and storage wastewater treatment and storm water provisions for the entire combined site.
- A comprehensive master plan will be prepared and submitted for approval for the entire approximately 80 acres using the site plans requirement for required submittals.
- The construction of the project may be phased, provided adequate utilities, parking, landscaping and access is constructed with each phase. Revisions to the master plan may be approved by the Town of Summerfield, if such should become necessary or desirable.
- A comprehensive traffic analysis will be submitted with the master plan to identify appropriate access points and necessary improvements or traffic controls to minimize impacts to the community.
- A master sign plan will be prepared and submitted with the comprehensive master plan for approval.
- The front setback from existing road(s) will be increased from fifteen feet (15') to thirty feet (30') to allow for planting and preservation of shade trees, provided no additional right-of-way dedication is required.
- Tree preservation will be addressed as a part of the master plan. The owner and developer agree that tree removal will not occur until a comprehensive master site plan and a tree conservation plan has been submitted and approved by the Town of Summerfield. The tree conservation plan will include an inventory of the types of trees, the approximate age of the trees, the number and location of the trees and an assessment of the physical condition of the trees. The owner and developer agree to make every effort to include significant existing tree stands or any extraordinary individual tree into their development plans.
- Fortune tellers and Astrologers will not be permitted as a use.

Brown opened the public hearing at 7:24pm.

APPLICANT

Charlie Melvin (applicant's attorney from 300 N. Greene Street, Greensboro) stated residential use is not appropriate near an interstate, architectural plan expense should incur after rezoning approval, not before, and the applicant will create a detailed master plan that will comply with all regulations. He further stated the master plan must meet approval of town staff and the Zoning Board.

John Davenport (applicant's traffic engineer from 305 W. Fourth Street, Winston-Salem) noted a traffic study will be conducted as part of the site plan process, that NCDOT is very serious about roadways, the plan will get local and state NCDOT review due to the proximity to the interstate, that the interstate will result in improvements to NC 150, and there are significant noise problems with residential uses near interstates. Responding to an inquiry from Flowers, Davenport stated the four-lane improvement portion of NC 150 would extend through the interchange only, which is designed to reduce traffic on NC 150. McClellan stated any development would increase NC 150 traffic; Davenport agreed, adding that residential development would increase it as well.

Chuck Truby (applicant's project engineer from 502 Waycross Drive, Greensboro) noted the topography of the site would limit development. He stated the 45-acre portion already zoned CU-GB works best for a strip mall, and that the additional acreage will better allow for a the proposed village concept and a more cohesive design. Truby described the process regarding water, including required buffers, drilling, rates of water production, draw-down testing, extensive and highly detailed state regulations, water system design, stormwater planning, and septic planning. He noted that all items will be addressed in the site planning process and will come before review of the town.

Responding to queries from council members, Truby stated there were two wells already located on the property producing 75 and 85 gallons per minute, that water determines the size of the development, draw-down testing would be done to determine if there would be any effect on neighboring wells, and the use of bio-retention cells would be considered during site planning.

Paul Milam (applicant from 5920 Khaki Place) stated he has developed several neighborhoods to standards beyond what is required in the development ordinance. Milam selected David Couch as the developer based on Couch's long history in Summerfield and his reputation as being a man of his word and his ability to assemble quality project teams. He asked council to support the project.

David Couch (project developer and CEO of Blue Ridge Companies, Inc.) noted his company's substantial investment in Summerfield and Summerfield Farms and stressed he would not do anything to undermine that investment. He has a 28-year track record in developing, putting together great teams, and standing by his word. He stated the current request was a land use issue and the detail about water and transportation comes with site planning, noting Davenport's traffic computer models are very accurate, that traffic problems are economic problems for him. He said he would solicit citizen and shopper input on the types of tenants approached and expressed his commitment to quality and desire for a positive impact for Summerfield.

Flowers asked about site plan approval; Hill responded the Zoning Board approves site plans following staff review and approval requires four (4) votes in the affirmative. (Later in the meeting,

Hill clarified that the Zoning Board also has the discretion to pass along site plan approval to the council.) Flowers asked if the applicant would agree to council review of the site plan as a condition; Hill stated that such a request would violate the ordinance and could not be asked.

Couch added that the request presents an opportunity to consolidate commercial uses and is the best use of the property due to proximity to the interstate.

PROPONENTS

Troy Stanliff, 3200 Pleasant Ridge Road, said Couch is very responsive to neighbors and does what he says he will.

Sam Angel, 7620 of Deboe Road, said if there must be development, Couch is the one to do it. While he does not want the highway, residents need access to gas and food and this is the most responsible way to develop this piece of property.

Scott Phillips, 3203 Pleasant Ridge Road, has lived and Summerfield Farms for 13 years and felt the farm embodies what the town all about: community, family values, and integrity. He stated Couch is the center of the Summerfield Farms team and values preservation and attention to detail.

John Van Camp, 7275 Wyatt Drive, felt the proposal is an exciting opportunity with potential to bring citizens together in a retail area. He preferred this option to driving to Friendly Center.

Billy Tesh, 7670 Deboe Road, said this is something we need. He liked the village concept, is tired of driving to Greensboro, thinks this development will benefit Summerfield, and stated that residents wouldn't have to leave to get services. He felt Couch was trustworthy.

Jeff Lewis, 7255 Wyatt Drive, agreed with Mike Adams about wanting a downtown in Summerfield. Lewis stated that Couch does what he says he is going to do and Lewis supported rezoning.

Mickey Cooke, 6224 McKibbon Circle, felt development could be managed and the proposal can be something we can all be proud of; we should embrace it and make it the best it can be.

Dail Perry, 6209 McKibbon Circle, disliked driving to Oak Ridge and Greensboro for shopping and services and felt the Comprehensive Plan and Development Ordinance would ensure proper development.

Linda Southard, 4109 Oak Ridge Road, thought the village concept was a great idea and supported a cohesive center for shops and restaurants.

Randy Elliot, 6316 Autumn Crest Court, preferred the plan to a strip-style center, felt commercial development with the interstate was inevitable, and Couch would construct a well-planned project.

Hill interjected a clarification that site plan approval would only come before council if there were not super-majority approval by the Zoning Board or at the discretion of the Zoning Board (also referred to earlier in the minutes).

OPPONENTS

Cheri Pikett, 7804 Robinson Road, asked council to table the discussion to allow for additional

consideration and more citizen input, felt a complete plan was needed before making a decision, and stated there are vacancies in existing commercial properties that should be filled prior to new commercial rezoning. She felt the proposal is not in line with the preservation of rural character and was concerned with water.

Ken Dunham, 5805 Snow Hill Drive, said this is one of largest commercial rezonings proposed for Summerfield and it does not preserve rural character. He agreed that RS40 wouldn't work so close to an interstate; however, the uses needed to be considered as they go with the land, regardless of the owner. He is not against development, but promises should be in writing as conditions.

Cyndi Harvey, 6318 Poplar Forest Drive, said the consideration should not be based on Couch's character: if passed, he can do what he wants and there needs to be limitations. She encouraged careful consideration of the water supply as Henson Forest already has low water pressure.

Peggy McPartlan, 7707 Tannery Road, was opposed because it is not consistent with the Comprehensive Plan or the vision of the town.

Mia Malesovas, 7103 Henson Farm Way, agreed with McPartlan about inconsistency with the Comprehensive Plan, particularly in its proximity to residential development, and noted that under-utilized retail should be considered first.

Shirley Jennings, 5800 Francis Marie Court, said citizen questions were not answered at the Zoning Board meeting, wanted to know who voted to approve the first rezoning (referring to case #10-04), and felt Summerfield is and should remain a bedroom community. She spoke about area history and she does not want travelers getting off the highway for gas and fast food; she did not want a Sheetz.

Gail Dunham, 5805 Snow Will Drive, expressed that: the developer could reapply and condition out Sheetz; zoning goes with the land, not the developer; affected citizens weren't accurately notified; a domino effect was possible and it could become a much larger development; it wasn't congruent with the Comprehensive Plan; there was no traffic study or stormwater management plan; it would not enhance the town; and properties couldn't be combined with different use exclusions on each.

Hill interjected and cautioned against consideration of specific businesses, noting the board must consider zoning uses and the characteristics of all businesses within that use.

McClellan asked if gas stations could be excluded; it was noted that uses could be excluded with the agreement of the applicant. Hill noted any uses would have to conform to other town ordinances and requirements, such as the Dark Sky Preservation ordinance and Scenic Corridor overlay.

Fran Cabe, 7666 Deboe Road, moved to Deboe Road when it was farmland and loves the area's rural feel. She knows the interstate will bring noise and traffic, was troubled by the earlier rezoning (referring to case #10-04), did not want the rural area to become commercial, and felt approval would result in a situation like the former "Red Road," which is now Wendover Avenue.

Dwayne Crawford, 1106 NC Hwy 150 West, served on the Comprehensive Plan committee and addressed population growth and noted that residents bought into a rural area with nearby amenities, such as having to drive to Greensboro for shopping. He was concerned about water and read from a Guilford County document about ground water recharge.



Recess from 8:56pm to 9:05pm.

REBUTTAL

David Couch stated the water issues experienced by Henson Forest are likely due to having a community well that was permitted at a time when regulations may not have addressed irrigation of large lots, which would require higher output. He stated the previously-zoned tract has few conditions, and without this additional property, would only be suitable for outparcels or a strip-style center, that rezoning of the abutting land is requested to enable a cohesive development rather than a piecemeal one. The location is a commercial node and the abutting land is zoned commercial. The difference in the exclusions between the properties is due to ambiguity in the use definitions.

Chuck Truby said a Red Road/Wendover Avenue situation would not be possible in Summerfield given water and stream buffer rules and the lack of public water.

David Couch said the population exceeds 10,000 within a roughly 27-square-mile area and he wants to provide desired retail. He discussed marketing briefly, noting that existing and future low-density development creates difficulties in marketing commercial properties and leases, and the land can be developed one way with only 45 acres, but another (better) way with a combined 80 acres.

McClellan asked Couch if he would be willing to exclude gas stations as a use. Couch said that would warrant some research, but the vote was immediately before council and he was not willing to agree to such exclusion on the spot.

Flowers stated the water would come from the same aquifer as Henson Forest. Couch questioned the source of that information, stated water does not leave the community but goes to a recharge area, and that Truby could speak about aquifer location technology. Flowers stated "Automobile Parking/Commercial" is not the same as retail parking; Couch said the language is ambiguous. Flowers asked about "Ambulance Service" and Couch said some medical uses would necessitate an ambulance and it would be prudent to not exclude such potential tenants, as citizens have medical needs that could be addressed in Summerfield rather than Greensboro. Flowers questioned the validity of the prior rezoning (case #10-04); Couch stated that was not germane to this case.

McClellan questioned uses, including pawnshops and coin-operated laundries. Couch noted commercial is the best use of the property as it is bounded by NC 150 and I-73. He stated there is not a degreed planner in the country that would say this is inconsistent with what is appropriate at interstate interchanges, that this development can be done well, and it would be bound by the confines of the Comprehensive Plan, Development Ordinance, and other town ordinances. McClellan preferred to exclude additional uses.

REBUTTAL OPPOSITION

Gail Dunham stated the real request is for 80 acres of commercial, she wanted an accurate list of exclusions, and felt the Comprehensive Plan opposes many of the proposed uses. She noted a sprinkler system would be required, but the water used may not leave much left for the fire suppression needs of citizens. She felt development is premature as I-73 is years away and the town should have negotiated with NCDOT for something similar to the parkway in Virginia.

Peggy McPartlan is familiar with interstate interchanges and said there are plenty of rural and attractive ones in the Newark, New Jersey, area. She asked council not to rezone this property based on the threat of a strip mall on the previously-zoned 35 acres, and said council should trust the work of the Comprehensive Plan volunteers who wanted to control, not prevent, development.

Dwayne Crawford said he was not speaking in rebuttal, but raised a point of fact, that residential property can be used in service of commercial property.

Brown closed the public hearing at 9:34pm.

BOARD DISCUSSION

McClellan said policy 1.9 of the Comprehensive Plan stated commercial development should not be located near residential, and it was hard for her to reconcile that with this large rezoning. She was not against commercial development, but must base her decision on the Comprehensive Plan, which is the town's most current and most citizen-driven planning document.

Flowers explained that as a member of the Comprehensive Plan committee, she understood its intent. Owners have property rights, but this development would affect others and it is council's duty to execute the plan with the citizens' intent in mind. She referenced policy 1.8 and stated she knew when moving here, as did others, that much shopping would occur in Greensboro and being "tired of driving to Greensboro" was not a valid reason to approve the rezoning. Flowers felt the request was contrary to policies 1.9 and 4.8, and therefore did not support it.

Wray disagreed, stating the 2003 "Market Analysis & Commercial Needs Assessment" pinpointed the location as one of the best spots for commercial development and identified it as a "major node." It is not appropriate for residential use due to the future traffic noise. He stated that while he was against Couch's separate, past Summerfield Farm rezoning, he had come to trust that Couch was a reliable developer. Wray felt residents should be able to shop in town and it would be the best use of the property based on its location at an interstate interchange. Flowers asked Wray what part of the Comprehensive Plan he was basing his decision on; Wray said he based it on the Commercial Needs Assessment identification of the property as one of the best locations for commercial development. Brown agreed. McClellan emphasized she did not doubt Couch's integrity, but cautioned all to carefully review the permitted uses as they stay with the land, regardless of the owner. Laughlin stated regulations such as buffer requirements and water issues would limit the buildable area of the property, and some of the uses would require approval of other agencies as well.

Wray made a motion to approve Rezoning Case #01-13 RS-40 to CU-GB to include all permitted uses within the General Business District, except those that were excluded by the applicant (*each use was not stated individually, but page 66 of the agenda packet specified*: Junked motor vehicles; Shelter for the homeless; Psychiatric hospital; Fraternity or sorority {university or college related}; Cemetery or mausoleum; Country club with golf course; Theater, adult; Massage parlor, adult; Equipment repair, light; Live entertainment business, adult; Ice manufacturing; Bookstore, adult; Landfills of any kind {applicant agreed that this includes construction demolition and land clearing debris}; Taxi terminal; Bus terminal; Warehouse, general storage, enclosed; Truck & utility trailer rental & leasing, light; Boat sales; Motor vehicle sales; Boat repair; Electronic gaming establishments and internet sweepstakes; and Fortune tellers and astrologers {applicant agreed to this exclusion *after* the Zoning

Board's recommendation)). Wray continued the motion to include the jointly-agreed-upon conditions (*not stated individually at this point*) and concluded with, "The rezoning is consistent with and based upon the 2003 Market Analysis & Commercial Needs Assessment and the 2010 Comprehensive Plan. The rezoning amendment is reasonable and in the public interest."

The motion was seconded by Laughlin.

Flowers disagreed, saying she does not believe the rezoning is in the public's best interest and it is not based on the Comprehensive Plan or the wishes of the people of Summerfield.

Flowers made a substitute motion to remand the case back to the Zoning Board for further discussion and perhaps delete more permitted uses. Flowers contended the Zoning Board member who made the motion to approve it did not cite the Comprehensive Plan when making the motion. The substitute motion was seconded by McClellan. Barnes felt that remanding the case would be "the council not doing its job." She felt that the Zoning Board voted and sent the case to council and there is no evidence that the Zoning Board made any mistakes during the hearing. She felt it would be unfair to put the applicant through the process again. Flowers stated the Zoning Board did not take into consideration the recommendations made by the town planner requiring a master plan and that the board member did not cite the Comprehensive Plan when making the motion; Hill stated they did. Flowers read a transcript of the Zoning Board motion: "My comment is, based on the ordinance that we have, based on the great report that you put together, on what we know, and I take your word that it does meet our Comprehensive Plan, and based on, I understand that the community has issues, we all have issues, I've been on both sides of this thing, but, based on our ordinance, based on what we've seen, I make a motion to approve the rezoning with the conditions proposed, and as modified."

Flowers asked Reid if a master plan was recommended; Reid replied affirmatively, noting the recommendation was to combine the parcels and the applicant had agreed to a master plan. Barnes stated again that she could not support remanding the case. Brown called for a vote on the substitute motion, which was defeated with 2 affirmative votes (Flowers, McClellan) to 3 negative votes (Barnes, Laughlin, Wray). Regarding the original motion, Hill stated the agreed-upon conditions should be stated and Barnes offered a friendly amendment to do so. Whitaker noted the conditions were listed on a document before council, and Wray agreed to the amendment to clarify the following conditions:

- All parcels from the earlier zoning (approximately 45 acres) will be combined with the current request (34.28 acres) to allow for a comprehensive review of all improvements and requirements of the ordinance and other regulations. This will include the design of proposed water source and storage wastewater treatment and storm water provisions for the entire combined site.
- A comprehensive master plan will be prepared and submitted for approval for the entire approximately 80 acres using the site plans requirement for required submittals.
- The construction of the project may be phased, provided adequate utilities, parking, landscaping and access is constructed with each phase. Revisions to the master plan may be approved by the Town of Summerfield, if such should become necessary or desirable.

- A comprehensive traffic analysis will be submitted with the master plan to identify appropriate access points and necessary improvements or traffic controls to minimize impacts to the community.
- A master sign plan will be prepared and submitted with the comprehensive master plan for approval.
- The front setback from existing road(s) will be increased from fifteen feet (15') to thirty feet (30') to allow for planting and preservation of shade trees, provided no additional right-of-way dedication is required.
- Tree preservation will be addressed as a part of the master plan. The owner and developer agree that tree removal will not occur until a comprehensive master site plan and a tree conservation plan has been submitted and approved by the Town of Summerfield. The tree conservation plan will include an inventory of the types of trees, the approximate age of the trees, the number and location of the trees and an assessment of the physical condition of the trees. The owner and developer agree to make every effort to include significant existing tree stands or any extraordinary individual tree into their development plans.

Brown called for a vote, which was approved with 3 affirmative votes (Barnes, Laughlin, Wray) to 2 negative votes (Flowers, McClellan).

Break from 9:50 to 10:10.

BUSINESS FROM TOWN MANAGER

- Council budget amendment #2 for interim planning (FY13-14):** Wray made a motion to approve Council budget amendment #2 for interim planning (FY13-14) in the amount of \$10,000. The motion was seconded by Barnes and carried unanimously.
- Board of Adjustment reappointments** (*removed from agenda*)
- Date for Summerfield Christmas Tree Lighting:** Wray made a motion approving December 7, 2013, as the date of the annual tree lighting event. The motion was seconded by Laughlin and carried unanimously.
- Reports, updates, or comments:** Whitaker reported the following: SAP drainage improvements were finished; exterior town hall repairs were underway; he continues to address staffing; he attended the ICMA conference in Boston; and there was brief discussion of the 220 noise wall.

BUSINESS FROM MAYOR AND COUNCIL

- Unsealing of closed session minutes:** McClellan motioned to accept the recommendations of the Town Attorney regarding unsealing closed session minutes. The motion was seconded by Laughlin and carried unanimously.
- Reports, updates, or comments:** (*none*).



CLOSED SESSION

Brown read the reasons for entering closed session as follows: A) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege as provided under NCGS 143-318.11(a)(3); and B) to instruct the public body's staff or negotiating agents concerning the price and other material terms concerning real property as provided under NCGS 143-318.11(a)(5).

Barnes made motion to enter into closed session at 10:35pm. The motion was seconded by Wray and carried unanimously.

Laughlin made a motion to return to open session at 11:10pm. The motion was seconded by Wray and carried unanimously.

With no further business, a motion was made at 11:10pm by Barnes to adjourn. The motion was seconded by Wray and carried unanimously.

Mark E. Brown, Mayor

Valarie R. Halvorsen, Town Clerk