



TOWN OF FUQUAY-VARINA  
BOARD OF COMMISSIONERS REGULAR MEETING  
AUGUST 3, 2020

CALL TO ORDER

Mayor John W. Byrne (physically present) called the regular meeting of the Fuquay-Varina Board of Commissioners to order on August 3, 2020 at 7:00 p.m. This meeting was conducted using the Zoom media platform due to state mandates for social distancing to prevent the spread of the COVID-19 Novel Coronavirus.

Commissioners Physically Present: Blake Massengill (Mayor Pro-Tem)  
Bill Harris  
Jason Wunsch  
Marilyn Gardner  
Larry Smith

Commissioners Absent: None

Others Physically Present: Town Manager Adam Mitchell  
IT Director Scott Clark

Others Remotely Present: Assistant Town Manager Mark Matthews  
Assistant Town Manager Jim Seymour  
Town Clerk Rose Rich  
Town Attorney James Adcock

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INVOCATION AND PLEDGE OF ALLEGIANCE

Commissioner Smith provided the invocation and Mayor Pro-Tem Massengill led the Pledge of Allegiance.

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Virtual Meeting Protocol and Instructions

Mayor Byrne asked Town Manager Mitchell to read aloud the virtual meeting protocol and instructions for public participation. Town Manager Mitchell stated that anyone wishing to participate in the meeting would need to either join using the Zoom media application or call into the Zoom meeting with the provided list of phone numbers on the Town's website. Once joined, their microphones will be muted by the meeting host

(IT Director Scott Clark). Town Manager Mitchell advised that there is a public comment period, and several public hearings are scheduled for tonight's meeting. The only time that the public will be able to address the Town Board will be during the public comments period at the beginning of the meeting and during the public hearings. Mayor Byrne will announce when the public is allowed to speak and when the Town Board is ready to receive comments. If someone from the public wishes to speak they will need to notify the Town's meeting host by pressing the "raise hand" button in the Zoom application or by pressing star 9 (\*9) on their phone keypad. Town Manager Mitchell stated that after someone from the public has raised their hand, they will be entered into a queue. When it is time for someone from the public to speak Mayor Byrne will ask the meeting host to recognize individuals by calling out their name or the last four digits of their phone number. Individuals will be unmuted at this time and allowed to speak. Town Manager Mitchell advised that the Town asks that individuals begin their comments by stating their name and address for the public record. The public is asked to keep all comments to three minutes so that all can be heard in a timely manner. Once an individual has finished addressing the Board they will be muted for the remainder of the meeting.

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APPROVAL OF THE MINUTES

The July 13, 2020 minutes of the regularly scheduled meeting of Town Board of Commissioners were presented and recommended for approval.

MOTION: Mayor Pro-Tem Massengill  
SECOND: Commissioner Smith  
MOTION RESULT: Passed Unanimously (5-0)

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PRESENTATIONS

Agenda Item No. 4A There were no presentations for the August 3, 2020 Town Board meeting.

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PUBLIC COMMENTS:

No one from the public chose to speak during the public comments period.

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ITEMS TABLED FROM PREVIOUS MEETING:

Agenda Item No. 6.A:            There were no items tabled from a previous meeting for the August 3, 2020 Town Board meeting.

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PUBLIC HEARINGS:

Agenda Item No. 7.A:            Development Agreement Regarding Infrastructure Construction and Reimbursement - Bellchase Commercial/Retail Project

Purpose – To consider a development agreement regarding infrastructure construction and reimbursement between the Town of Fuquay-Varina and FV Retail, LLC, for the construction of Bellchase, a regional town center retail-commercial project.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information regarding the Development Agreement Regarding Infrastructure Construction and Reimbursement by making the following remarks.

*The proposed Project consisting of nearly 100 acres, will be constructed as a multi-occupant mixed-use shopping town center development with up to 800,000 square feet of retail, office and multi-family buildings constructed over several phases of development during a 10-year period. The Developer, FV Retail, LLC, intends to design and develop Bellchase as a higher-end integrated mixed-use project consistent with similar projects this firm has constructed throughout the Triangle Region.*

*If approved by the Town Board, the Town and Developer will enter into a Development Agreement Regarding Infrastructure Construction and Reimbursement to construct an open-air, lifestyle center type of mixed-use community capable of attracting high-end retail, commercial, and office type of uses. Under this Agreement, the Developer will be responsible for constructing Public Improvements consisting of public infrastructure needed to support a project of this magnitude. These public improvements will consist of easements, rights of ways, grading and other site preparation, water and sewer installations, public roadways, sidewalks, bike paths, and associated railroad crossings all to the Town's construction specifications. Upon completion of public infrastructure improvements and review by the Town's Engineering Department, the Developer agrees to commit all infrastructure improvements to the Town.*

Under the proposed development agreement, the Developer intends to perform the following obligations:

- 1) Bellchase shall be designed and developed as a higher-end integrated mixed-use project consistent with other projects constructed by the Developer throughout the Triangle market.
- 2) Bellchase shall be styled as a "town center" open-air, lifestyle center mixed-use community to be marketed as a retail/commercial/office destination development.
- 3) The mixed-use (commercial/retail/residential/office) community may consist of vertical development, first-floor commercial/retail, second plus floors may be residential.
- 4) A minimum of two anchor tenants shall be incorporated into this development.
- 5) The tenant mix shall include a combination of the following categories:
  - a) Fast Casual Restaurants
  - b) Casual Dining Restaurants
  - c) Fine Dining Restaurants
  - d) Home Furnishing Stores
  - e) Home Improvement Stores
  - f) Consumer Electronics Department Stores
  - g) Sporting Good Department Stores
  - h) Department Store Anchors
  - i) Specialty Retail and Restaurants
  - j) Grocery/Supermarket Stores
  - k) Full-Inline Department Stores
  - l) Fitness Centers
  - m) Cinemas
  - n) Soft Goods and Accessory Stores
  - o) Office, Medical, and Multi-Family Residential
  - p) Condominium Residential
- 6) Upon obtaining property entitlements, the Developer shall enter into contracts for the engineering and design work for Phase I of the Public Improvements following the adoption of the Capital Reserve Account Resolution (further discussed in staff comments). The Town shall have the right of approval of the engineering/design firm(s) chosen by the Developer.
- 7) Developer and Town shall approve a budget and construction schedule for the Public Improvements necessary to support the development of Bellchase. This budget and schedule shall be reviewed by Town Management and updated annually.
- 8) Developer shall follow the public bidding procedure of NCGS 143.129 and enter into one or more construction contracts with an experienced contractor(s) for the construction of the Public Improvements. The Town shall approve the contractor(s) chosen for the Public Improvements.
- 9) Developer shall not commence construction of Phase I Public Improvements (and subsequent development phases) without first securing sufficient Letters of Intent, Leases, Commitments, and Purchase Agreements for Phase I private construction sufficient to obtain Phase I construction financing for Bellchase on terms reasonably satisfactory to Developer. This documentation shall be reviewed and approved by Town Management before construction commencement.

- 10) Developer shall commence and proceed in an orderly manner to complete construction of the Public Improvements under applicable Town standards. Phase I is projected to include 24.01 acres, including internal and external NCDOT improvements supporting 130,000 square feet of commercial/retail uses slated for occupancy within three (3) years of approval of this Agreement by Developer and Town and the adoption of the Capital Reserve Account Resolution. The projected cost for Phase I private construction is \$25,000,000. The projected cost of Public Improvements associated with Phase I is 5,000,000. The combined cost of proposed improvements for Phase I is estimated to be \$30,000,000.
- 11) Developer shall on each anniversary of the execution of this Agreement, and more often upon reasonable notice provide evidence to the Town that the Developer is making all reasonable efforts to obtain construction loans and entering into leases for the construction and completion of Phase I. Developer shall furnish Town updates regarding leasing progress including the existence of any signed letters of intent and the Town shall have the right to review and approve the proposed "tenant mix."
- 12) After completion of Phase I, if not earlier and subject to market and financial conditions, Developer shall submit appropriate revisions to the site plan and construction budget and schedule for the Public Improvements to support Phase II for Town approval and shall then enter into a contract(s) for the engineering design work for Phase II. The Developer shall then make all reasonable efforts to obtain construction loans and enter into leases for the construction and completion of Phase II of the Project. The current projection for Phase II is 17.97 acres supporting 100,000 square feet of commercial retail floor space occupied within five (5) years of the approval of this Agreement. The projected cost for Phase II private construction is \$18,600,000. The projected cost of Public Improvements associated with Phase II is \$2,000,000. The combined total cost of proposed improvements for Phase II is estimated to be \$20,600,000.
- 13) Each subsequent Phase of Bellchase development shall follow the same protocols in similar construction phases. Any System Development Fees will be due/collected by Town only as each phase is developed on a building by building basis.

**Town Obligations:**

- 1) Town shall provide funds reimbursing the Developer for costs associated with the design (including, without limitation, engineering, surveying, environmental and architectural matters), and construction of the Public Improvements to facilitate the Bellchase Project. The total reimbursement amount shall not exceed \$10,000,000 without formal amendment of this Agreement.
- 2) Following reimbursement for design and construction of Public Improvements, Town will also on a case by case basis consider the payment of incentives including, but not limited to, cash awards or payment or reimbursement of Ad Valorem property taxes levied against the Developer's Property for a particular tenant/land use desired by the Town to locate within the Project. Any such incentive award shall require formal council action following public notice and hearing and be based upon a projected increase in the appraised tax value

of Developer's Property sufficient to generate revenue allowing recoupment by Town of the amount of the incentive within a ten (10) year period.

- 3) Town shall adopt a resolution creating a capital reserve account earmarking \$10,000,000 for the design, construction, and permitting of the Public Improvements. The capital reserve account shall receive Town annual appropriations as follows, and funds not drawn upon by Developer in any one fiscal year shall be added to the funds available for reimbursement in following years for a period not to exceed ten (10) years unless the term is extended through subsequent Agreement of the Parties.
  - i. Fiscal Year 2020-21 .....\$3,500,000.00
  - ii. Fiscal Year 2021-22 .....\$3,500,000.00
  - iii. Fiscal Year 2022-23 .....\$3,000,000.00
- 4) The Developer and Town shall approve a construction budget and schedule for the Public Improvements before the withdrawal of any funds from the capital reserve account. Such budget and schedule shall be reviewed and updated annually and, when deemed appropriate by Developer and Town, modified to account for market conditions and the availability of construction financing. The funds shall be disbursed no more than monthly according to Developer's draw requests accompanied by payment invoices and such other information reasonably requested by Town to pay the Public Improvement costs as incurred by the Developer.

The Developer is not permitted to commence construction of the public infrastructure and building improvements as previously described without receiving approval from Town Management. The Developer must furnish to Town Management for review and approval sufficient retailer letters of intent, lease agreements, financial construction commitments and purchase agreement contracts, prior to the Town approving construction commencement. The Developer is required to provide Town Management all construction financial documentation as part of the Developer's submittal of their construction budget and schedule that is subject to Town Management review and approval prior to commencing construction. Throughout the Project, Town Management and Developer will follow these same review and approval protocols prior to letting construction and reimbursement of public infrastructure.

All Town funding participation for this Project will be provided on a reimbursement basis. The Developer is required first to pay all upfront costs of the public infrastructure and only then submit to the Town for eligible reimbursement costs. Only after the Town has reviewed and certified eligible project costs will the Town provide reimbursement funding to the Developer for the public infrastructure improvements.

Bellchase will be designed as an open, multi-model type of development focusing on connecting patrons to a carefully selected tenant mix, offering a wide range of high-end restaurants, retail, and entertainment service and amenities. This type of large scale commercial/retail development is an essential component of the Town's overall economic development strategy that aims to foster a sense of community that closely links the residents and local industries to a contemporary style of community-focused amenities deserving of Fuquay-Varina's prosperous and rapidly growing community.

Public Hearing – The public hearing was opened. Rich Barta, representing Core Properties dba FV Retail, LLC spoke in favor of the Agreement. Mr. Barta stated that he and his team were excited about the opportunity to develop a project in Fuquay-Varina and spoke of the success of the project he and his team developed in Garner, White Oak Crossing. Mr. Barta thanked the Town Board for their interest in working with his company to make the project come to fruition. No one else chose to speak in favor of or in opposition to the agreement. The public hearing was closed.

Discussion – Mayor Pro-Tem Massengill asked the Town Manager to explain what type of retail/commercial investment could be expected from this development. Town Manager Mitchell stated examples of an entertainment venues such as a cinema; large box retailers like Target, Costco, Sam Club; national brand restaurants and specialty retail shops; medical; and perhaps upper story residential. Town Manager Mitchell stated that he expected that private investment in the project for Phase 1 is \$25-million with an overall investment being between \$120-\$150 million at full build-out. Mayor Pro-Tem Massengill noted that at completion, the development could generate as much as \$1-million annually in property tax revenue not to mention the infrastructure that would be added and improved upon as well as job creation. Commissioner Smith stated that he was excited for the project and asked how many years it would take to recoup the Town's investment. Town Manager Mitchell stated there are a number of factors that go into the return on investment calculation, to include market conditions, but that management and staff are expecting a 20 to 22-year payback. Commissioner Wunsch expressed his excitement for the project stating that the project will bring more shopping and restaurant options to the Town. Mayor Byrne agreed with many of the comments made by Town Board members and noted that the timing of Interstate 540 and the proposed project will align well.

Recommendation – 1) Approve the proposed Development Agreement Regarding Infrastructure Construction and Reimbursement between the Town of Fuquay-Varina and FV Retail, LLC, as presented and recommended; 2) Adopt a Resolution creating a capital reserve account earmarking up to \$10,000,000 for the design, construction, and permitting for improvements to support the Bellchase Commercial/Retail Project. This account will allow the Developer to draw upon funds for reimbursement of Public Infrastructure associated with the development and in accordance with the proposed Development Agreement Regarding Infrastructure Construction and Reimbursement; and 3) Approve Budget Amendment BA-21-05 as presented and recommended.

MOTION: Mayor Pro-Tem Massengill  
SECOND: Commissioner Wunsch  
MOTION RESULTS: Passed Unanimously (5-0)

**Resolution No. 20-1678**

Agenda Item No. 7.B: Zoning Map Amendment & Land Use Plan Amendment -  
The Spaulding Group, PA - 917 SE Judd Parkway & 0  
Award Street - PINs 0666030203 & 0666033459 - REZ-2020-  
09

Purpose – To consider a requested zoning map amendment for a total of 6.62 acres, located at 917 SE Judd Parkway and 0 Award Street, from the Residential High Density

Conditional Zoning District (RHD-CZD) and the Office & Institutional (O&I) Zoning District to the Residential Medium Density Conditional Zoning District (RMD-CZD), and the corresponding land use plan amendment from Multifamily Residential (MFR) to Mixed-Density Residential (MDR).

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided information about the agenda item by making the following remarks.

*PROPERTY INFORMATION: The subject properties total 6.62 acres and are located in the Town's corporate limits. The properties are currently vacant and mostly forested.*

*ZONING: The zoning map amendment petition requests approval of the Residential Medium Density Conditional Zoning District (RMD-CZD), which is intended to permit proposed residential development and existing single-family detached, duplex, triplex, or quadplex residential uses.*

*The petitioner has requested the following permitted use conditions be made applicable to the subject properties:*

- 1) *Single-family detached dwellings*
- 2) *Townhomes*

*The petitioner has requested the following site-specific conditions be made applicable to the subject properties:*

- 1) *The minimum amount of open space provided shall be 20% of the total site.*
- 2) *Construction traffic will only access the site through Judd Parkway. Award Street will be barricaded off during construction. The barricade shall be removed at the time the plat is recorded showing the connection to Award Street.*
- 3) *Roofline not in a single mass, broken up horizontally and vertically between units.*
- 4) *Front-loaded units shall utilize a covered porch/stoop area.*
- 5) *Garage doors shall contain either windows, or carriage style adornments.*
- 6) *Required Decorative Features: Each unit shall utilize either: a decorative front door (minimum 25% glazing), window transom, door sidelights, or door transom.*
- 7) *Materials: Siding: At least two (2) of the following materials shall be used on each building: wood, fiber-cement, metal, masonry brick, brick veneer, masonry stone, stone veneer, or synthetic stone. The use of vinyl siding shall be prohibited, except for trim elements of the dwelling unit facade, instead, siding must be fiber cement siding featuring horizontal, shake, or board and batten design.*
- 8) *A minimum 10-foot Type B landscape buffer shall be provided adjacent to all existing single and multi-family residences.*
- 9) *Buildings shall not exceed 3 stories or 40' in height.*

*SURROUNDING USE: Surrounding properties are primarily residential, with a mix of densities, but also some remain undeveloped. The Eagle Springs Townhome Complex is east of the subject properties, and individual single-family homes that make up the*

Village of Charleston and Phillips Pointe subdivisions are to the north, south and west. The referenced property is one of three properties which share ownership of an existing pond. The pond's dam is not located on the subject property.

**LAND USE PLAN:** The 2035 Community Vision Land Use Plan (LUP) calls for the Multifamily Residential (MFR) Classification at the subject properties. The MFR Classification calls for property that supports the highest densities, complexes of 10 to 16 dwelling units per acre. Although the requested zoning district is not consistent with the 2035 LUP classification, the petitioner has included a Land Use Plan Amendment along with this zoning map petition, which will be described later in this report.

**UTILITIES:** Public water and sewer are available to serve the subject properties.

**TRANSPORTATION:** The subject properties have access to SE Judd Parkway and Award Street, the former of which is classified by the 2035 Community Transportation Plan (CTP) as a 100-foot right-of-way. SE Judd Parkway is identified as a three (3) lane, median-divided road with a turn lane and side path and has a carrying capacity of 15,600 average daily trips (ADT). It is currently two lanes with a capacity of 15,600 ADT. 2017 NCDOT traffic counts taken approximately 1/2 a mile east of the subject properties indicate a volume of 12,000 ADT. 2019 traffic counts were not available. Award Street is classified by the 2035 Community Transportation Plan (CTP) as a local street, maintained by the Town and therefore does not have available traffic counts.

**NEIGHBORHOOD MEETING INFORMATION:** The petitioner held the neighborhood meeting on June 22, 2020, via web chat application. The meeting report was provided and staff takes no position as to its content.

**LAND USE PLAN AMENDMENT:** The 2035 Community Vision Land Use Plan (LUP) calls for the Multifamily Residential (MFR) Classification at the subject properties; however, the petitioner is requesting a Land Use Plan amendment to the Mixed-Density Residential (MDR) Classification. As previously described, the MFR classification is incompatible with the petitioner's request of RMD-CZD. The petitioner is requesting an amendment to the 2035 LUP that classifies the subject properties as MDR, which is better suited to accommodate the proposed development. This amendment supports the LUP's Recommendation, LU.4 - Encourage Infill Development & Redevelopment Inside Town Limits which encourages the use and reuse of properties in Town Limits to promote their highest and best use. As such, the requested Land Use Plan amendment is consistent with the 2035 LUP and its vision. The Land Use Plan Amendment, if approved, would allow for the site to be developed in a more consistent and appropriate manner as it relates to the proposed use and surrounding area.

**RECOMMENDATION:** Management and staff recommend approval of the proposed zoning map amendment with the corresponding Land Use Plan amendment. It is consistent with the 2035 Community Vision Land Use Plan and is reasonable and in the best interest of the public for the following reasons:

- 1) Although the requested zoning map amendment is not consistent with the 2035 Community Vision Land Use Plan classification of Multifamily Residential, the petitioner has opted to request a change of the Land Use Plan to Mixed-Density Residential, which is more appropriate to the proposed use and location.

- 2) *The requested zoning map amendment is consistent with the 2035 Community Vision Land Use Plan's recommendations LU.4 - Encourage Infill Development & Redevelopment Inside Town Limits.*
- 3) *The requested zoning map amendment would better conform to the surrounding uses and provide for the ability to better develop the property for its intended use.*

*ADDITIONAL INFORMATION: At the July 20, 2020, regular meeting, the Planning Board unanimously voted to recommend approval, finding it reasonable and in the best interest of the public for reasons identified by staff.*

Public Hearing – The public hearing was opened. Brian Duncan of the Spaulding Group, 1611 Jones Franklin Road, Raleigh, NC, spoke in favor of the petition citing that the request was more in line and consistent with the surrounding land uses. He stated that the petitioner wants to bring the zoning back to a more residential medium density. Sharon Jones, former family property owner, expressed concern about the density and preservation of environmental features, such as the pond. She specifically requested that the pond stay intact. Town Manager Mitchell advised that the developer will be required to comply with town development standards with respect to density and although a site plan has not been submitted it will have to address layout and number of dwelling units per acre as well as comply with setbacks and buffers. He also noted that the zoning conditions state that there will be 20% minimum open space provided that would likely fall in line with environmental features of the property, designated flood zones, and soils. Mr. Duncan was invited to speak again and stated that there are no plans to destroy the pond. He advised that the developer intends to protect and preserve the pond in both its physical form and during construction and noted that the pond is viewed as an amenity to the new proposed development. No one spoke in opposition to the zoning map amendment. The public hearing was closed.

Discussion – Mayor Pro-Tem Massengill noted that the property's current zoning is O&I and residential high density and noted that apartments could be developed on the property currently. He stated that he supports the zoning map amendment because it promotes less dense future development, which is more consistent with surrounding existing development.

Recommendation – Approve REZ-2020-09, a zoning map amendment at 917 SE Judd Parkway and 0 Award Street, from the Residential High Density Conditional Zoning District (RHD-CZD) and the Office & Institutional (O&I) Zoning District to the Residential Medium Density Conditional Zoning District (RMD-CZD), and the corresponding land use plan amendment from Multifamily Residential (MFR) to Mixed-Density Residential (MDR). The proposed zoning map amendment, with corresponding land use plan amendment, is consistent with the 2035 Community Vision Land Use Plan and both are reasonable and in the best interest of the public for the reasons identified by management and staff.

MOTION: Mayor Pro-Tem Massengill  
SECOND: Commissioner Gardner  
MOTION RESULTS: Passed Unanimously (5-0)

Agenda Item No. 7.C: Zoning Map Amendment & Land Use Plan Amendment - Timmons Group - 10212 and 10204 Fayetteville Road, and 3916, 3918, 0 and 0 Hilltop Needmore Road - PINs 0688138207, 0688139036, 0688235515, 0688230732, 0688139546 and portion of 0688330428 - REZ-2020-10

Purpose – To consider the zoning map amendment at 10212 and 10204 Fayetteville Road, and 3916, 3918, and 0 & 0 Hilltop Needmore Road, from the Corridor Commercial (CC) Zoning District, Residential Medium Density (RMD) Zoning District and the Corridor Commercial Conditional Zoning District (CC-CZD) to the Office & Institutional Conditional Zoning District (O&I-CZD), and the corresponding land use plan amendment from Civic & Institutional (CIV), Mixed-Use Neighborhood (MUN), Small-Scale Commercial Center (SSCC), and Small-Lot Residential (SLR) to Civic & Institutional (CIV)..

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided information about the agenda item by making the following remarks.

*PROPERTY INFORMATION: The six (6) subject properties total 26.83 acres and make up the campus of the Hilltop Free Will Baptist Church. Three (3) of the subject properties, 10212 Fayetteville Road and 3918 & 0 Hilltop Needmore Road, are in the Town's corporate limits, and three (3), 10204 Fayetteville Road and 3916 and 0 Hilltop Needmore Road, are in the Town's extraterritorial jurisdiction (ETJ). These ETJ properties are the subject of annexation petition, ANX-2020-10, currently under consideration by the Town Board. The proposed zoning does not include the northeastern portion of 10204 Fayetteville Road, which totals 0.57 acres.*

*ZONING: The zoning map amendment petition requests approval of the Office & Institutional Conditional Zoning District (O&I-CZD) at the subject properties. This district is intended to permit professional and general office and institutional uses. These uses are typically located at intersections and along major and minor thoroughfares.*

*The current Corridor Commercial Conditional Zoning District (CC-CZD) on 3916 and 0 Hilltop Needmore Road was approved in 2016 as part of zoning map amendment REZ-2016-10. The parcel, 0 Hilltop Needmore Rd (PIN 0688139546) is zoned Residential Medium Density (RMD) was rezoned in 2014 as a part of zoning map amendment REZ-2014-07. This petition is necessary to consolidate the multiple zoning districts of the subject properties in support of the future expansion of the campus.*

*The petitioner is requesting the following conditions applicable to use of the subject properties:*

- 1) Proposed permitted allowable uses for this application include church facility, K-12 school facility, athletic facility, all of which are associated with the existing church, as well as other accessory uses, as permitted.*
- 2) The following uses are excluded: hospitals, assisted living facilities, and nursing homes.*

The petitioner is requesting the following conditions applicable to the site-specific standards of the subject properties:

- 1) Prior to the issuance of a Certificate of Occupancy for the school, the Church shall do the following:
  - a) The Church shall dedicate a 75' width of additional public right-of-way along US Highway 401.
  - b) The Church shall construct a private, gated, 2-lane asphalt driveway extending from Macy Grove Lane to the Church's existing west parking lot.
  - c) The Church shall dedicate a variable width conditional cross access easement, which will allow the Town of Fuquay-Varina emergency vehicular access to the Church property from both Macy Grove Lane and US Highway 401. A gate shall be installed at the Church's north boundary. A small portion of the proposed private driveway will connect to Macy Grove Lane through an open space easement located in the future Brighton Ridge Subdivision. The Church will be responsible for obtaining the easement and building the access road to Macy Grove Lane.
- 2) Any outdoor lighting for athletic fields shall be turned off between the hours of 9 pm and 9 am.

*SURROUNDING USE:* Surrounding properties are a mix of undeveloped parcels, as well as commercial and low-density residential uses. A large property located to the west of the subject properties was previously used for agricultural purposes. However, this property now makes up the Brighton Ridge Subdivision, which is currently under construction. The E.B. Banks Subdivision and a vehicle sales lot are located to the northeast of the subject properties. Additional single-family homes are to the south of the subject properties along Hilltop Needmore Road and Fayetteville Road (US 401), with a shopping center located just across Hilltop Needmore Road.

*LAND USE PLAN:* The 2035 Community Vision Land Use Plan (LUP) calls for the Mixed-Use Neighborhood (MUN), Small-Scale Commercial Center (SSCC), Civic & Institutional (CIV), and Small-Lot Residential (SLR) classifications at the subject properties. The MUN classification is intended to provide a live/work/play type development with residential densities between four (4) and 80 units per acre. The SSCC designation is intended to support small-scale commercial centers and provide goods and services to surrounding neighborhoods. The CIV classification is intended to support a variety of public service buildings such as schools, fire departments, and government centers. The SLR classification is intended for neighborhoods of single-family homes, with a density of two (2) to six (6) dwelling units per acre. Although the requested zoning district is not consistent with the 2035 LUP in four (4) of the subject properties, the petitioner has included a land use plan amendment along with this zoning map petition. This request will be described later in the report.

*UTILITIES:* Public water and sewer are currently available to serve the subject properties.

*TRANSPORTATION:* The subject properties are located along and have access to Fayetteville Road (US 401) and Hilltop Needmore Road, the former of which is classified as a 300-foot right-of-way by the 2035 Community Transportation Plan (CTP).

Fayetteville Road (US 401) is identified as a six-lane median-divided road with a carrying capacity of 60,700 average daily trips (ADT). It is currently a four-lane median-divided road with a carrying capacity of 25,500 ADT. 2017 NCDOT traffic counts taken just south of the intersection with Hilltop Needmore Road and Air Park Road indicate a volume of 22,000 ADT. 2019 traffic counts were not available.

Hilltop Needmore Road is classified by the 2035 CTP as a 110-foot right-of-way, and it is identified as a four-lane median-divided road with a carrying capacity of 25,500 ADT. It is currently a two-lane road with a carrying capacity of 12,700 ADT. 2017 NCDOT traffic counts taken west of its intersection with Fayetteville Road (US 401) indicate a volume of 8,700 ADT. 2019 traffic counts were not available.

**NEIGHBORHOOD MEETING INFORMATION:** A neighborhood meeting was held by the petitioner on June 23, 2020 at the Hilltop Free Will Baptist Church, located at 10212 Fayetteville Road, and the neighborhood meeting report is attached. Staff takes no position as to its content.

**LAND USE PLAN AMENDMENT:** The 2035 Community Vision Land Use Plan (LUP) calls for the Mixed-Use Neighborhood (MUN), Small-Scale Commercial Center (SSCC), Civic & Institutional (CIV), and Small-Lot Residential (SLR) classifications at the subject properties. However, the MUN, SSCC, and SLR classifications are incompatible with the proposed uses of the properties, which are a place of worship and education. The petitioner is requesting an LUP amendment to classify the four (4) nonconforming subject properties as CIV, which better conforms to the uses of the surrounding areas and proposed uses of the property. The CIV classification supports land uses that serve a public or institutional purpose, such as a library, place of worship, or school, among others. The subject properties are currently used as a place of worship and, since the properties will continue to serve the community in this capacity, staff agrees that the subject properties would be better suited for the CIV classification. The land use plan amendment, if approved, would allow for the site to be developed in a more consistent and appropriate manner as it relates to the surrounding area.

**RECOMMENDATION:** Management and staff recommend approval of the proposed zoning amendment and corresponding Land Use Plan amendment. Both are consistent with the 2035 Community Vision Land Use Plan and reasonable and in the best interest of the public for the following reasons:

- 1) Although the requested zoning map amendment is not consistent with the 2035 Community Vision Land Use Plan classification of Small-Scale Commercial Center, Small-Lot Residential, and Mixed-Use Neighborhood, the petitioner has opted to request a change of the Land Use Plan to Civic and Institutional, which would be more conducive to the petitioner's request of the O&I-CZD zoning district.
- 2) The requested zoning map amendment is consistent with the 2035 Community Vision Land Use Plan's recommendations CF.3 - Safeguard Our Access to Quality Education.
- 3) The requested zoning map amendment would better conform to the surrounding uses and provide a reasonable transition to the subject properties from the adjacent residential neighborhoods.

*ADDITIONAL INFORMATION: At the July 20, 2020, regular meeting, the Planning Board unanimously voted to recommend approval, finding it reasonable and in the best interest of the public for reasons identified by staff.*

Public Hearing – The public hearing was opened. Pastor Jeffery Jones of 304 Single Bluff Drive, Raleigh, NC spoke in favor of the request. No one chose to speak in opposition to the zoning map amendment. The public hearing was closed.

Discussion – Commissioner Harris requested that Town Manager Mitchell point out on the map where Macy Grove was. Mayor Pro-Tem Massengill asked if water and sewer were available to serve the existing site as well as future development of the property. Town Manager Mitchell stated yes. Commissioner Smith stated that this had been a team effort by staff and the church and thanked all those involved.

Recommendation – Approve REZ-2020-10, a zoning map amendment at 10212 and 10204 Fayetteville Road, and 3916, 3918, 0 and 0 Hilltop Needmore Road, from the Corridor Commercial (CC) Zoning District, Residential Medium Density (RMD) Zoning District and the Corridor Commercial Conditional Zoning District (CC-CZD) to the Office & Institutional Conditional Zoning District (O&I-CZD), and the corresponding land use plan amendment from Civic & Institutional (CIV), Mixed-Use Neighborhood (MUN), Small-Scale Commercial Center (SSCC), and Small-Lot Residential (SLR) to Civic & Institutional (CIV). The proposed zoning map amendment, with corresponding land use plan amendment, is consistent with the 2035 Community Vision Land Use Plan and both are reasonable and in the best interest of the public for the reasons identified by management and staff.

MOTION: Commissioner Smith  
SECOND: Commissioner Wunsch  
MOTION RESULTS: Passed Unanimously (5-0)

Agenda Item No. 7.D: Zoning Map Amendment & Land Use Map Amendment - Bass, Nixon and Kennedy, Inc - 805 Coley Farm Road - Portion of PIN 0657117714 - REZ-2020-11

Purpose – To consider a requested zoning map amendment for a total of 8.423 acres, located at 805 Coley Farm Road, from the Residential Agricultural (RA) Zoning District to the Residential Medium Density Conditional Zoning District (RMD-CZD), and the corresponding land use plan amendment from Rural Residential (RR) to Small-Lot Residential (SLR).

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided information about the agenda item by making the following remarks.

*PROPERTY INFORMATION: The subject property totals 8.423 acres and is located in the Town's Extraterritorial Jurisdiction (ETJ). The property is subject to annexation but has not been submitted by the petitioner at this time. The property is currently cleared and used as farmland.*

*ZONING: The zoning map amendment petition requests approval of the Residential Medium Density Conditional Zoning District (RMD-CZD), which is intended to permit proposed residential development and existing single-family detached, duplex, triplex, or quadplex residential uses.*

*The petitioner has requested the following permitted use conditions be made applicable to the subject property:*

- 1) Open-Space Development*
- 2) Day Care, In Home*
- 3) Accessory Uses*
- 4) Home Occupation*
- 5) Yard Sale*

*The petitioner has requested the following site-specific conditions be made applicable to the subject property:*

- 1) Vinyl siding is not permitted. Vinyl windows, decorative elements, and trim are permitted.*
- 2) Anti-monotony: No unit shall be constructed with an exterior elevation or color palette that is identical to the unit on either side or across the street.*
- 3) Right-Of-Way (ROW) Visibility: Any side or rear facade visible from an existing public ROW shall have a covered or enclosed porch, and/or decorative trim or shutters around all windows.*
- 4) Garage Doors: Garage doors shall contain windows, decorative details and/or carriage style adornments.*
- 5) Porch: All homes shall include a covered porch with decorative posts, to include a minimum of 24 inches massing at the base constructed of masonry material.*
- 6) Glazing: Each unit shall have a front door with a minimum of 25% glazing, transom, and/or door sidelights.*

*SURROUNDING USE: Surrounding properties are primarily residential, but additionally vacant and agricultural uses. More specifically future, and existing single-family residential structures occupy the properties to the north, the east as part of Grays Creek Community subdivision, and the south as part of the Broadwell Trace Subdivision. Property to the west is currently vacant.*

*LAND USE PLAN: The 2035 Community Vision Land Use Plan (LUP) calls for the Rural Residential (RR) Classification at the subject property. Typical densities in this classification accommodate up to three-acre home sites (0.33 dwelling units per acre) and many rural residential areas accommodate much larger home sites, including working farm subdivisions. The requested zoning district is not consistent with the 2035 LUP classification, however the proposed land use of Small-Lot Residential (SLR) will make this consistent and more appropriate for the location. Typical densities in this classification range between two (2) and six (6) dwelling units per acre. Furthermore, the requested zoning district is consistent with the 2035 LUP's Recommendation CF.1 - Invest in Existing Growth Areas, which ensures that development patterns are supported by existing utility services, such as those that exist along Coley Farm Road.*

*UTILITIES: Public water and sewer are available to serve the subject property.*

*TRANSPORTATION: The subject property has access to Coley Farm Road and Glenwyck Court. Coley Farm Road is classified by the 2035 Community Transportation Plan (CTP) as a portion of the future Fuquay-Varina Parkway and therefore an 120-foot right-of-way. The future Fuquay-Varina Parkway is identified as a four (4) lane, median-divided road with sidepaths, with a carrying capacity of 36,600 average daily trips (ADT). Coley Farm Road is currently two (2) lanes with a capacity of 18,300 ADT. 2017 NCDOT traffic counts on Coley Farm Road indicate a volume of 1,100 ADT. 2019 traffic counts are not available at this time. The site additionally has access to Glenwyck Court, which is classified as a local street by the 2035 CTP, and as such, does not have available NCDOT traffic counts.*

*NEIGHBORHOOD MEETING INFORMATION: The petitioner held the neighborhood meeting on June 23, 2020 via the online conferencing application Zoom. The meeting report is attached, and staff takes no position as to its content.*

*RECOMMENDATION: Management and staff recommend approval of the proposed zoning map amendment with the corresponding land use plan amendment. It is consistent with the 2035 Community Vision Land Use Plan and is reasonable and in the best interest of the public for the following reasons:*

- 1) Although the requested zoning map amendment is not consistent with the 2035 Community Vision Land Use Plan classification of Rural Residential, the petitioner has opted to request a change of the Land Use Plan to Small-Lot Residential, which is more appropriate to the surrounding uses and location.*
- 2) The conditions proposed by the petitioner effectively limit future development so that it is compatible with the surrounding areas.*
- 3) The requested zoning map amendment is consistent with the 2035 Community Vision Land Use Plan's Recommendation CF.1 - Invest in Existing Growth Areas.*

*ADDITIONAL INFORMATION: At the July 20, 2020 regular meeting, the Planning Board unanimously voted to recommend approval, finding it reasonable and in the best interest of the public for the reasons identified by staff.*

Public Hearing – The public hearing was opened. Marty Bizzell with Bass Nixon and Kennedy, Inc. – Consulting Engineers, 6310 Chapel Hill Road, Raleigh, spoke in favor of the request on behalf of the property owners and MHB Development. He requested that a condition be substituted. The substitute condition would be a façade treatment that would have a minimum of 24 inches of masonry material at base along the front façade and surrounding entryways. He stated that if approved the petitioner would resubmit the petition to include the new façade condition and delete the porch condition. Town Manager Mitchell stated that management and staff could support the new condition as proposed. Mike Morrison, 208 Forrest Oaks Drive, Clayton, NC, representing MHB Developers, also spoke in favor. Glen Schwietering, 1044 Wilbon Road, whose home is adjacent to the property in question, expressed his desire for the best value in the homes to be built for this project, and he requested that the Town Board keep the porch condition in place. With there being no additional public comments, the public hearing was closed.

Discussion – Mayor Pro-Tem Massengill stated that he would like for the project to have aesthetic variations to enhance the character of the neighborhood. Mayor Pro-Tem Massengill and Commissioner Smith expressed concerns that the Planning Board did not have the opportunity to weigh in on the substitute condition that was offered by the developer, as it is being presented for the first time to the Town Board, and they have a problem voting against the Planning Board recommendation that would eliminate the porch condition. Mike Morrison stated that he would have presented the substitute condition to the Planning Board, but he was confused about the meeting venue and did not have a chance to present it. He stated that it is not his intent to change the quality of homes by eliminating the porch condition, but it is their intent to create a variety of facades for the project. Town Manager Mitchell stated that given the concerns expressed by members of the Town Board and the public, he would recommend the Town Board approve the zoning map amendment as submitted and recommended by the Planning Board.

Recommendation – Approve REZ-2020-11, a zoning map amendment at 805 Coley Farm Road, from the Residential Agricultural (RA) Zoning District to the Residential Medium Density Conditional Zoning District (RMD-CZD), and the corresponding land use plan amendment from Rural Residential (RR) to Small-Lot Residential (SLR). The proposed zoning map amendment, with corresponding land use plan amendment, is consistent with the 2035 Community Vision Land Use Plan and both are reasonable and in the best interest of the public for the reasons identified by management and staff.

MOTION: Mayor Pro-Tem Massengill  
SECOND: Commissioner Wunsch  
MOTION RESULTS: Passed Unanimously (5-0)

Agenda Item No. 7.E: Voluntary Annexation Petition - Hilltop Free Will Baptist Church Property - PINs 0688138207, 0688139036 and portion of 0688330428, located at 3916, 0 Hilltop Needmore Road and 10204 Fayetteville Road - ANX-2020-10

Purpose – To consider an annexation ordinance extending the corporate limits of the Town of Fuquay-Varina following receipt of a petition for voluntary annexation of property owned by Hilltop Free Will Baptist Church, located at 3916, 0 Hilltop Needmore Road and 10204 Fayetteville Road, containing a total of approximately 6.195 acres.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information about the agenda item and made the following remarks.

The property contains approximately 6.195 acres with road access located at 3916, and 0 Hilltop Needmore Road and a portion located at 10204 Fayetteville Road. The property is contiguous to the Town's corporate limits. Water and sewer services are available to the property. During the July 13, 2020 meeting, the Town Board instructed

the Town Clerk to investigate the sufficiency of the applicant's petition for voluntary annexation. The Town Clerk certified at that time that the petition was sufficient and meets the requirements prescribed by the North Carolina General Statutes. The Town Board also adopted a resolution setting a public hearing for the August 3, 2020 Town Board meeting.

Public Hearing – The public hearing was opened. Chris Faulkner 3001 Cinder Bluff Drive, Raleigh, NC spoke in favor. No one spoke in opposition to the voluntary annexation petition. The public hearing was closed.

Discussion – There was no discussion from members of the Town Board.

Recommendation – Approve REZ-2020-08, a Zoning Map Amendment at 7086 & 7088 Kennebec Road and 1729 & 1733 NC 42 Highway, from the Office & Institutional (O&I) Zoning District to the General Commercial Conditional Zoning District (GC-CZD), and the corresponding Land Use Plan Amendment from Small-Scale Commercial Center (SSCC) and Large-Lot Residential (LLR) to entirely Small-Scale Commercial Center (SSCC). The proposed zoning map amendment, with corresponding land use plan amendment, is consistent with the 2035 Community Vision Land Use Plan and both are reasonable and in the best interest of the public for the reasons identified by management and staff.

MOTION: Commissioner Wunsch  
SECOND: Commissioner Smith  
MOTION RESULTS: Passed Unanimously (5-0)

**Ordinance No. N-20-21**

Agenda Item No. 7.F: Voluntary Annexation Petition - Rebecca J. and Jason T. Coble - PIN 0666722013 - 8404 Purfoy Road - ANX-2020-11

Purpose – To consider an annexation ordinance extending the corporate limits of the Town of Fuquay-Varina following the receipt of a petition for voluntary annexation of property owned by Rebecca J. and Jason T. Coble containing a total of approximately 2.407 acres.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information about the agenda item and made the following remarks.

The property contains approximately 2.407 acres with road access at 8404 Purfoy Road. The property is non-contiguous to the Town's corporate limits. Water service is available to the property, but sewer is not yet available. The petitioner has signed an annexation agreement as it relates to the provision of Town services. At the July 13, 2020 meeting, the Town Board instructed the Town Clerk to investigate the sufficiency of the applicant's petition for voluntary annexation. The Town Clerk certified at that time that the petition was sufficient and meets the requirements prescribed by the North Carolina General Statutes. The Town Board also adopted a resolution setting a public hearing for the August 3, 2020 Town Board meeting.

Public Hearing – The public hearing was opened. Wayne Mauldin 1301 Broad Street, Fuquay-Varina, NC spoke in favor. No one chose to speak in opposition to the voluntary annexation petition. The public hearing was closed.

Discussion – There was no discussion from members of the Town Board.

Recommendation – Adopt the annexation ordinance extending the corporate limits of the Town of Fuquay-Varina following receipt of a petition for voluntary annexation of property owned by Rebecca J. and Jason T. Coble, located at 8404 Purfoy Road, containing approximately 2.407 acres, ANX-2020-11 as presented and recommended.

MOTION: Mayor Pro-Tem Massengill  
SECOND: Commissioner Gardner  
MOTION RESULTS: Passed Unanimously (5-0) **Ordinance No. N-20-22**

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CONSENT AGENDA

Agenda Item No. 8.A: Surety/Letter of Credit - Bent Tree Phase 3 - Landscaping  
Delay of Installation - \$ 30,165,63

Purpose – To consider a surety request for delay of landscaping improvements for Bent Tree Phase 3 in the amount of \$30,165.63.

Recommendation – Approve the underlying agreement and acceptance of a surety for Bent Tree Phase 3 in the amount of \$30,165.63 as presented and recommended subject to Town Attorney review as to form.

Agenda Item No. 8B: Budget Amendment - Roll Forward FY 2020 Commitments  
- BA-21-04 - \$531,874

Purpose – To approve a budget amendment to re-appropriate prior year previously obligated funds that were not received or completed before the fiscal year end.

Recommendation – Approve Budget Amendment BA-21-04 as presented and recommended.

Agenda Item No. 8C: Budget Amendment - Recognizing Insurance Proceeds -  
Police Department - Unit #188 - BA-21-03 - \$17,277

Purpose – To consider a budget amendment that recognizes insurance proceeds from the Interlocal Risk Finance Funds for replacement of Fuquay-Varina Police Department Vehicle (Unit #188).

Recommendation – Approve Budget Amendment BA-21-03 as presented and recommended.

Agenda Item No. 8D: Resolution - Law Enforcement Service Weapon Retirement Award - Captain Jeff Dunn – ***This item was removed from the Consent Agenda for discussion.***

Purpose – To consider adopting a resolution awarding Captain Jeff Dunn his service weapon upon his retirement from the Town of Fuquay-Varina's Police Department.

Recommendation – Adopt the Resolution authorizing the award of a law enforcement service weapon to Captain Jeff Dunn in recognition of retirement from the Town of Fuquay-Varina Police Department as recommended and presented.

Agenda Item No. 8E: Fee Schedule Amendment – Modified Parks, Recreation, and Cultural Resources Program Fees – ***This item was removed from the Consent Agenda for discussion.***

Purpose - To consider amending to the FY 2020-2021 Fee Schedule to provide flexibility in establishing fees for modified program offerings in the Parks, Recreation, and Cultural Resources Department.

Recommendation – Approve amending the FY 2020-2021 Fee Schedule as presented and recommended.

A motion was made to approve items (A, B, and C) on the Consent Agenda.

MOTION: Mayor Pro-Tem Massengill  
SECOND: Commissioner Smith  
MOTION RESULT: Passed Unanimously (5-0)

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ITEM REMOVED FROM CONSENT AGENDA

Agenda Item No. 8D: Resolution - Law Enforcement Service Weapon Retirement Award - Captain Jeff Dunn

Purpose – To consider adopting a resolution awarding Captain Jeff Dunn his service weapon upon his retirement from the Town of Fuquay-Varina's Police Department.

Recommendation – Adopt the Resolution authorizing the award of a law enforcement service weapon to Captain Jeff Dunn in recognition of retirement from the Town of Fuquay-Varina Police Department as recommended and presented.

Discussion – Mayor Pro-Tem Massengill stated that Police Captain Jeff Dunn has been a great asset to the Town of Fuquay-Varina, and he wanted to publicly thank him for his years of service to the Town of Fuquay-Varina. Commissioner Smith stated that while serving as Police Chief it was a privilege to serve with Police Captain Dunn for ten years and he had the opportunity to promote Captain Dunn to the ranks of Lieutenant and Captain. He commended Captain Dunn for his contributions to the Town and congratulated him upon his retirement. Mayor Byrne also commended Captain Dunn for making a difference in the Town of Fuquay-Varina, and he stated that he will be sorely missed.

Town Manager Mitchell stated that the Town Board will be advised of when Captain Dunn's retirement reception will be scheduled.

A motion was made to approve item D on the Consent Agenda.

MOTION: Mayor Pro-Tem Massengill  
SECOND: Commissioner Smith  
MOTION RESULT: Passed Unanimously (5-0) **Resolution No. 20-1679**

Agenda Item No. 8E: Fee Schedule Amendment - Modified Parks, Recreation, and Cultural Resources Program Fees

Purpose – To consider amending to the FY 2020-2021 Fee Schedule to provide flexibility in establishing fees for modified program offerings in the Parks, Recreation, and Cultural Resources Department.

Recommendation – Approve amending the FY 2020-2021 Fee Schedule as presented and recommended.

Discussion – Commissioner Harris stated that in the fee schedule under Adult Athletics, there is a cost and an asterisk for the Tennis League, and he is not able to determine the general cost for participating in the league. Town Manager Mitchell stated that the costs will be determined once we find an instructor and determine the cost to provide the program. He stated that he would get the information back to Commissioner Harris once it is determined.

A motion was made to approve item E on the Consent Agenda.

MOTION: Commissioner Harris  
SECOND: Commissioner Gardner  
MOTION RESULT: Passed Unanimously (5-0) **Ordinance No. N-20-24**

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## ADMINISTRATIVE REPORTS

Agenda Item No. 10A:           Municipal Agreements - Utility Relocation and Sidewalk Construction Agreements - NCDOT Project U-5746

Purpose – To consider approval of the Utility Construction Agreement and Municipal Agreement with Betterments for reimbursement for a portion of the cost of relocating utilities and other infrastructure improvements relating to the NCDOT U-5746 Project.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information regarding agenda item and made the following remarks.

NCDOT's Project U-5746 is designed to make roadway and infrastructure improvements to the portion of U.S. Highway 401 from Allen Street to the northern portion of Ten-Ten Road. As part of the Project, Town water and sewer lines will be relocated. The total cost of the utility relocation is \$271,639.50. The Town funded portion of this project cost is \$75,421.05. Under North Carolina General Statute 136-27.1, NCDOT is required to pay 75% of the utility relocation costs based on the municipal population. The Town's portion of funding includes \$67,909.88 in construction costs and \$7,511.17 in project design and scoping costs.

NCDOT has prepared a Design-Build Utility Construction Agreement, which includes funding a lump-sum reimbursement amount of \$75,421.05 from the Town. Typically, the Town has received these invoices at the end of the Project; therefore, a Project Ordinance is proposed to allocate the reimbursement funds for future years. Town management and staff recommend approval of the NCDOT-Town Utility Construction Agreement, the establishment of a Project Ordinance, and Budget Amendment BA-21-01.

In 2018, NCDOT staff contacted the Town to discuss interest in funding a portion of the Project to install sidewalks as betterment improvement in collaboration with the U-5746 Project. NCDOT offers municipalities similar in size to Fuquay-Varina an opportunity to participate in betterment upgrades, where NCDOT funds 70% of the betterment project costs while 30% is funded by the partnering local municipal. NCDOT performs all design, construction, and project management. The projected betterment cost at the time for U-5746 was between \$10,000 and \$20,000. Town staff instructed NCDOT to include the sidewalk improvements and necessary curb and gutter into the Project.

The length of the proposed sidewalk is approximately 1,000 feet and requires approximately 1,200 feet of curb and gutter. The total construction cost for sidewalk installation is estimated to cost \$58,963.00. The projected cost to the Town is \$17,689 (at 30%) with NCDOT's portion of the cost share to be \$41,274 (at 70%). It should be noted the final cost will be based on a low bidder's unit of prices once NCDOT lets the Project. This bidding procedure could cause the cost of the improvements to be higher or lower than initially estimated. Town staff has negotiated with NCDOT the ability to eliminate sidewalk improvements in the event higher than expected bids are received. The curb and gutter improvement portion of the Project cannot be removed

from the Project. The Town is responsible for funding the cost of the curb and gutter, regardless if the sidewalk improvements are removed from the scope of the Project.

Town Staff considers the cost associated with this Project to be in the best interest of improving pedestrian and vehicular infrastructure access. Town management and staff recommend approval of the NCDOT Municipal Agreement with Betterments, the establishment of a Project Ordinance, and Budget Amendment BA-21-02.

Discussion – There was no discussion from members the Town Board regarding this matter.

Recommendation – 1) Approve the proposed Utility Construction Agreement and the Municipal Agreement with Betterments between the Town of Fuquay-Varina and the North Carolina Department of Transportation (NCDOT) as presented and recommended and to authorize the Town Manager to execute the Agreements. The agreements have been reviewed by the Town Attorney as to form and they are in the best interest of the public. 2) Approve the Project Ordinance for the Utility Construction Agreement and the Municipal Agreement with Betterments as presented and recommended. 3) Approve Budget Amendment BA-21-01 and Budget Amendment BA-21-02 to fund the Utility Construction Agreement and the Municipal Agreement with Betterments as presented and recommended.

MOTION: Commissioner Gardner  
SECOND: Commissioner Harris  
MOTION RESULTS: Passed Unanimously (5-0)

**Ordinance No. N-20-23**

Agenda Item No. 10B: Approval of Design-Build Construction Method - Fuquay-Varina Fire Station #4

Purpose – To consider the establishment of criteria for selection of a Design-Build Project Delivery Method and consider Design-Build as the appropriate delivery method for construction of Town of Fuquay-Varina Fire Station #4.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information regarding the agenda item and made the following remarks.

N.C.G.S. 143-128.1A permits governmental entities to utilize the design-build delivery method for construction contracts. Under the design-build method, project specifications are not designed prior to initiating the contracting process. Instead, the Town advertises general project information and selects the design-builder firm based on its qualifications to design and construct the project. Once under contract, the design-builder (a team comprised of the designer and the general contractor) works with the Town to design the project based on the Town's project criteria. This is facilitated by preparing a preliminary design scope of work followed by detailed specifications after the Town's approval of the preliminary design. This delivery method will provide the needed flexibility to complete the project in a timely manner and hopefully within budget without sacrificing quality.

The first step in the process for utilizing the design-build delivery method is for the governmental entity to establish in writing the criteria used to determine if the design-build method is appropriate for a project, then apply those criteria to the project and decide if the design-build method is a viable option. The six criteria points as listed in G.S. 143-128.1A, an explanation of each criteria, and the Town's project application to those criteria are listed below:

Criteria 1: The extent to which the Town can adequately and thoroughly define the project requirements prior to the issuance of the request for qualifications (RFQ) for a design builder.

Explanation: The design-build delivery method may be used if it is determined that, for the project, the Town has professional personnel that are both qualified and experienced to thoroughly define project requirements prior to the issuance of a request for qualifications for a design-builder.

Project Application: Through the Fire Department, Engineering Department, and Inspections Department, the Town has professional personnel that are both qualified and experienced to thoroughly define project requirements prior to the issuance of a request for qualifications for a design-builder. Additionally, staff personnel are available in the areas of purchasing, finance, and legal to assist in the development of an RFQ.

Criteria 2: The time constraints for the delivery of the project.

Explanation: The design-build delivery method may be used if a project has a firm date by which a facility must be operational and normal delivery method is likely not to be timely (typically RFQ, study, design, bid, and construct). The size and cost of a project will dictate complexity and schedule.

Project Application: Due to the possibility of Wake County providing a significant funding stream for the Fire Station #4 Project, the ability to complete the entire project in 18-24 months is vital in all associated parties' budget processes. Typical procedure would be to procure a design consultant, complete design, and then undertake construction. This process would take approximately 24-36 months. The Design-Build process provides the best option for the Town to meet this timeframe.

Criteria 3: The ability to ensure that a quality project can be delivered.

Explanation: The design-build delivery method may be used if it is determined that, for the project, the Town has professional and experienced personnel to ensure that the design-build firm will provide a quality project within the budget constraints established by the Board of Commissioners.

Project Application: Within the Fire Department, the Town has professional and experienced personnel to ensure that the design-build firm will provide a quality project within the budget constraints established by the Board of Commissioners.

Criteria 4: The capability of the Town to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery.

Explanation: The design-build delivery method may be used if it is determined that, for the project, the Town has professional and experienced personnel that are knowledgeable of design-build projects, or in the alternative, experienced consultants local to the area are available to be retained to perform the construction management of a design-build contract.

Project Application: Within the Fire Department, the Town has professional and experienced personnel that are knowledgeable of design-build projects. Should it become necessary to contract the construction management of a design-build contract, there are experienced consultants local to the Triangle Area that are available.

Criteria 5: A good-faith effort to comply with G.S. 143-128.2. Minority business participation goals, G.S. 143-128.4. Historically underutilized business, and to recruit and select small-business entities.

Explanation: The design-build delivery method may be used if it is determined that, for the project, requirements will be imposed which ensure that contractors will comply with the goals set by the Board of Commissioners.

Project Application: The Town complies with G.S. 143-128.2. Minority business participation goals and G.S. 143-128.4. Historically underutilized business. The Town of Fuquay-Varina is an Equal Opportunity Employer. Small businesses, minority owned businesses, women owned businesses, and businesses owned by low and moderate-income persons are encouraged to bid.

Criteria 6: The criteria utilized by the Town, including a comparison of the costs and benefits of using the design-build delivery method for a given project in lieu of the other delivery methods identified.

Explanation: Some sample measurements used when considering a design-build delivery method for a project are as follows:

- Is the project well defined and does it include qualitative and quantitative characteristics that make a design-build contract more appropriate than other methods of delivery?
- Is the project timeline condensed and will it be necessary to have the facility complete and operational within a reasonably short timeframe?
- Given the scope of the project, is there a maximum budget that must be adhered to allow negotiations and flexibility to make appropriate decisions on scope as the project progresses?
- Does the design-build delivery method meet the ultimate operational goals established for the given facility and the quality of product achieved because of a more fluid and flexible delivery method?
- If it is determined that the expected expense of a design-build project will be no more than ten percent (10%) greater than the expected expense of a

traditional RFQ study, design, bid, and construction project, the design-build delivery method may be utilized.

Project Application: A major benefit of the Design-Build process is that it may reduce the overall project schedule by 6 to 12 months. This has a direct benefit on the project budget. The design-build delivery method is not expected to involve any additional expense than the expected expense of a traditional RFQ, study, design, bid, and construction project. By reducing the time frame by up to 12 months, we are eliminating the price escalation that would typically occur within that year. In many cases, the design-build process enables up to 5% of existing funds to be allocated to the construction over what traditional design-bid-build processes allow. These benefits to both the project schedule and cost make the design-build option more appealing than the more conventional design-bid-build in this instance.

Management and staff recommend the Town Board concur with the use of these criteria for determining Design Build is the appropriate delivery method for this project and authorize the use of Design Build for the Fire Station #4 project.

Discussion – There was no discussion from members the Town Board regarding this matter.

Recommendation – Authorize the Town Manager to move forward with use of the design-build delivery method for the construction of the Town of Fuquay-Varina Fire Station #4. The Town Board concurs with the criteria identified by management and staff and has determined the design-build method is appropriate for this project based on this criterion.

MOTION: Mayor Pro-Tem Massengill  
SECOND: Commissioner Smith  
MOTION RESULTS: Passed Unanimously (5-0)

Agenda Item No. 10C: Purchase and Sale of Real Property Agreement - 110 and 0 N Main Street and Assignment Agreements and subsequent Purchase and Sale of Real Property and Lease Agreement - 122 North Main Street, Fuquay-Varina, NC

Purpose – To consider approval of Offer to Purchase and Sale of Real Property Agreements for property located at 1) 122 N Main Street (Wake County PIN 0656986039); and 2) 110 N & 0 N Main Street (Wake County PINs 0656976853 & 0656977850). Additionally, the purpose is to consider entering into assignment agreements with SDA Development, LLC for the assignment of their rights as purchaser and lessor under that Agreement for Purchase and Sale of Real Property and Lease Agreement included in the agenda materials.

Staff Comments – Town Manager Mitchell entered the agenda abstract and supporting documents for this agenda item into the official record of the Town. He then provided general information regarding the agenda item and made the following remarks.

The subject property located at 122 N Main Street is located in a strategic development area for the for the Town in that it abuts the Town Hall property and the former Town police station. Multiple attempts to secure the subject property for purchase have taken place between Town management and the property owner in the past several years. It is in the Town's best interest to secure the opportunity to purchase the property now that it is available.

The subject property located at 110 & 0 N Main Street, formally known as the Parker Property has recently been included in the Town's downtown mixed-use development site consisting of approximately 3.5 acres of assembled property slated for a large-scale mixed-use development project consisting of residential and commercial uses. This property is located adjacent to the Town's current Police Department building and the Town's Centennial Park.

The Town has budgeted \$1,600,000 in capital funding for the Town's Downtown Mixed-Use Development Project. These project funds had originally been appropriated to support improvements that would support a commercial and residential mixed-use project.

The agreed to purchase price for the property located at 122 N Main Street is \$650,000.00 and the purchase price for 110 & 0 Main Street is also \$650,000.00. Funds for the acquisition of these properties has been identified in the Town's General Fund - Downtown Development Capital Projects.

The cost of acquisition for these properties totals \$1,300,000.00.

Upon assignment of the Agreement for Purchase and Sale of Real Property and Lease Agreement for 122 N. Main Street, the Town will proceed to purchase the real property located at 122 North Main Street, Fuquay-Varina, NC under the terms of the Agreement for Purchase and Sale of Real Property. The Town will refund any deposit made by SDA Development, LLC at closing.

Discussion – Mayor Pro-Tem Massengill asked what the appraisal was for these two properties. Town Manager Mitchell stated that for 110 and 0 N. Main Street the 2020 Wake County appraisal was for \$491,393 and the Town's 2020 appraisal was \$488,000. The property owner's representative also evaluated comps and determined that the value of the property was \$800,000. Wake County's appraised value was \$553,198 for the property located at 122 N. Main Street, and the property owner's appraisal was \$750,000. Mayor Pro-Tem Massengill stated that he recalls the land value (minus the buildings) is approximately \$440,000 for each. Mayor Pro-Tem Massengill stated that there are no other competitive offers for the properties. Mayor Pro-Tem Massengill stated that he is not in favor of spending 50% over the appraisal cost of the property with taxpayer dollars. Mayor Byrne stated that the location is what the Town has worked to accomplish negotiating, and that these properties are very important pieces to the overall project for downtown development. Commissioner Wunsch offered that the intent is for the Town to eventually sell the property to a developer and the Town would be able to recoup their money; therefore, after careful thought and consideration he stated that he was in favor of purchasing the property. Commissioner Gardner stated that she was in favor of the project, and that if we are

to ever have a cohesive vision for our downtown, we need take this opportunity to achieve our goal. Commissioner Smith stated that he has always felt that it would be good to have control on these parcels of land for some type of development so that the Town can recoup its investment, and he stated that he is in favor of the purchase. Commissioner Harris stated that it seems as if the time is right to put the Town in the driver's seat to determine the type of economic development that occurs in the downtown area; therefore, he is in favor of the purchase. Mayor Pro-Tem Massengill stated that he is in favor of the property assemblage, but he is not in favor paying 50% over the valued price of the property.

Recommendation – 1) Approve the Agreement for Purchase and Sale of Real Property for the properties located at 110 & 0 N Main Street (PINs 0656976853 & 0656977850) for the purchase price of \$650,000 and under certain terms and conditions as presented and recommended subject to Town Attorney review and approval; and 2) Approve the attached assignment and assumption agreements between SDA Development, LLC and the Town of Fuquay-Varina assigning the Agreement for Purchase and Sale of Real Property and assigning that Lease Agreement by and between SDA Development, LLC and JPM Investments, LLC for that property located at 122 North Main Street, Fuquay-Varina, NC bearing Wake County PIN 0656986039 and approve the purchase of the real property and lease agreement under the terms set forth in the Agreement for Purchase and Sale of Real Property and Lease Agreement for the purchase price of \$650,000.00 as presented and recommended subject to Town Attorney review and approval.

MOTION: Commissioner Gardner  
SECOND: Commissioner Wunsch  
MOTION RESULTS: Passed (4-1) - Mayor Pro-Tem Massengill voted against the motion.

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OTHER BUSINESS

- A. Town Manager's Report – a brief report on the following was provided:
- Reported that Parks and Recreation Department is in the process of putting in sod and irrigation at Willow Lakes Town Park.
  - Reported that Planning is in the process of filling the Infrastructure Plan Reviewer position.
  - Reported that Public Works has added 11 miles of new town streets, bringing the total to 131.94 miles of town streets that are Powell Bill eligible.
  - Reported that the Public Utilities Department has filled the Treatment Plant Operator position.
  - Reported that the Communications Department is wrapping up the 2020 Census challenge this week with the Town of Wake Forest. The department is also getting ready to start a social media campaign that will highlight Town employees.
  - Reported that the Finance Department is working on the FY20 audit.

- Reported that the Inspections Department set a new monthly record of 90 single family permits issued for July. This is 144 permits more than issued this time last year. The department also filled the position of Permit Technician (Danielle Collins) and are working to fill a Field Inspector position.
- Reported that the Engineering Department is in the process of filling the vacant Engineering Inspector position. Also, the construction of NW Judd Parkway continues to progress, and Wilbon Road was closed on July 29<sup>th</sup> and will remain closed for the next 30 days (weather permitting). The project is still on schedule and ahead of budget.
- Reported that IT Department is working on 8 major projects including security cameras at Fleming Loop Park and the Police Department. The department also filled the vacant IT Technician position.
- Reported that the HR Department has been busy with new hires as well as establishing safety procedures and protocols as it relates to COVID-19.
- Reported that the Police Department is working through the new hire process. Chief Fahnestock also has participated in online forums and community group discussions in an effort to promote positive relationships within the community. There will be a Black Lives Matter "Stand Against Social Injustices" event at Falcon Park on August 22<sup>nd</sup> from 4:00 – 6:00 pm. Emmanuel Holland is the event organizer and there is expected to be between 100 and 150 people to attend.
- Reported that the Police Department also participated in a data collection program that is sponsored by the FBI and this program may become a requirement by all police departments across the country.
- Reported that the Fire Department has hired 4 new firefighters. The department will also be working on developing the criteria for Station #4 and the replacement of Ladder Truck No. 1.
- Reported that construction on the new Herbert Akins Road Middle School is getting ready to start. The Board has asked that staff monitor the traffic patterns with respect to stacking and make sure that sidewalks are installed.

B. Project Status Report – July 2020

C. New Hire Report - Economic Development Director - Town Manager Mitchell reported that he has hired Allyssa Byrd to fill the vacant Economic Development Director position. Ms. Byrd's first day will be August 31.

D. Quarterly Report – 4<sup>th</sup> Quarter FY 2020

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TOWN BOARD MEMBER COMMENTS

Mayor Pro-Tem Massengill stated that the Emergency Operation Command Center will be working tonight due to the Hurricane Isaias and asked that everyone be safe including Fire and Police.

Commissioner Smith had no comments.

Commissioner Harris had no comments.

Commissioner Wunsch offered prayers for safety during the storm.

Commissioner Gardner also offered prayers for safety tonight during the hurricane. She stated that the League of Women's Voters will be celebrating their centennial anniversary in a virtual meeting on August 25<sup>th</sup>. She also stated that tonight's meeting has been a night for milestone projects for the Town and she is excited about the Bellchase commercial/retail project.

Mayor Byrne reported that he has asked Town Manager Mitchell to be a part of the WebEx meeting with WakeMed since he will be out of town. He also stated that the Town of Fuquay-Varina will be hosting the Wake County Mayor's Association in September and they will be touring Town Hall. He then reviewed other meetings that he attended in the previous week as well as upcoming events as follows:

**Past Events**

- 7/15 – CAMPO Meeting
- 7/21 – NCLM Mayors Zoom meeting

**Upcoming Events**

- 8/6 – Centennial Authority Meeting
- 8/12 – WebEx Meeting with WakeMed
- 8/17 – Meeting with Auditors
- 8/17 – Wake County Mayors Association meeting

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**CLOSED SESSION** – Pursuant to N.C.G.S. 143-318.11 (a) (3) - Attorney Client Privilege

A motion to hold a closed session meeting at 10:02 p.m.

MOTION: Mayor Pro-Tem Massengill  
SECOND: Commissioner Wunsch  
MOTION RESULT: Passed Unanimously (5-0)

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**RETURN TO OPEN SESSION**

The Town Board returned to Open Session with nothing to report out at 10:29 p.m.

**ADJOURN**

A motion was made to adjourn the meeting at 10:29 p.m.

MOTION: Mayor Pro-Tem Massengill  
SECOND: Commissioner Wunsch  
MOTION RESULT: Passed Unanimously (5-0)

Adopted this the 18<sup>th</sup> day of August 2020 in Fuquay-Varina, North Carolina.

FUQUAY-VARINA, NORTH CAROLINA

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John W. Byrne, Mayor

ATTEST:

(TOWN SEAL)

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Rose H. Rich, Town Clerk

