



TOWN OF FUQUAY-VARINA
BOARD OF COMMISSIONERS REGULAR MEETING
OCTOBER 5, 2020

CALL TO ORDER

Mayor John W. Byrne (physically present) called the regular meeting of the Fuquay-Varina Board of Commissioners to order on October 5, 2020 at 7:01 p.m. This meeting was conducted using the Zoom media platform due to state mandates for social distancing and mass gatherings 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

INVOCATION AND PLEDGE OF ALLEGIANCE

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

Virtual Meeting Protocol and Instructions

Mayor Byrne asked Town Manager Mitchell to review the meeting protocol for public participation as it relates to this virtual meeting. Town Manager Mitchell stated that all attendees that have joined the meeting tonight have joined muted. There is both a public comment period near the beginning of the meeting and a public hearing scheduled for tonight; therefore, there will be multiple times for the public to address the Town Board. If the public does wish to address the Town Board related to the public hearing item they should

wait for that portion of the meeting. If the public wishes to address the Town Board they will need to notify the Town host (IT Director Scott Clark) that they wish to speak. For the public's benefit if you are joining the meeting online and wish to speak please press the "raise hand" button in the Zoom application. If you are joining the meeting via telephone, please press star 9 (*9) to raise your hand. After you have raised your hand you will enter into a queue. When the public comment period begins Mayor Byrne will ask the Town host to recognize you to speak by calling out your name or the last four digits of your telephone number. You will be unmuted at that time and allowed to address the Town Board at that time. We ask that you begin your comments by stating your name and address for the public record. The public is asked to keep all comments to three minutes so that all who wish to speak can be heard in a timely manner. Once you have finished addressing the Town Board you will be muted for the remainder of the meeting.

APPROVAL OF THE MINUTES

The September 22, 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 Harris
MOTION RESULT: Passed Unanimously (5-0)

PRESENTATIONS

Agenda Item No. 4A There were no presentations scheduled for the October 5, 2020 meeting.

PUBLIC COMMENTS:

Emily Holloway, 312 Angier Road, stated that she would like to know if the Town and the Chief of Police put any protocols into place to monitor the early voting election site at W.O. Council Gym in case there are any disruptions during early voting that starts October 15th. Mayor Byrne stated that Wake County Board of Elections would make the Town aware of any disruptions and that the Town is prepared.

ITEMS TABLED FROM PREVIOUS MEETING:

Agenda Item No. 6.A: There were no items tabled from a previous meeting for the October 5, 2020 Town Board meeting.

PUBLIC HEARINGS:

Agenda Item No. 7.A: Zoning Map Amendment & Land Use Plan Amendment - Carolina Land Group, LLC - 1408, 1409, 1420, 1501, 1520, 1524, 0, & 0 Rogers Road - PINs 0665245656, 0665341690, 0665144948, 0665148249, 0665142122, 0665258696, 0665340146, and a portion of 0665049250 - REZ-2020-14 - ITEM TO BE TABLED

Purpose – To open and continue the public hearing to the October 20, 2020 Town Board meeting for a requested zoning map amendment for a total of 105.41 acres, located at 1408, 1409, 1420, 1501, 1520, 1524, 0, & 0 Rogers 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 Small-Lot Residential (SLR), Large-Lot Residential (LLR), and Mixed Density Residential (MDR) to Small-Lot Residential (SLR) and 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 stated that the petitioner has requested that the matter be tabled for consideration to the October 20, 2020 Town Board meeting, but for the purpose of this scheduled public hearing, he made the following remarks.

The subject properties total 105.41 acres and are located in the Town's Extraterritorial Jurisdiction (ETJ). The properties are subject to annexation. An annexation petition is not being submitted at this time. These properties are currently a mix of uses, primarily farmland, forested, and a few single-family homes with their associated buildings. A portion of PIN 0665049250 lies across the Harnett County line, which is not considered part of this rezoning. 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. Vinyl siding is not permitted. Vinyl windows, decorative elements, and trim are allowed.
2. Anti-monotony: No unit shall be constructed with an exterior elevation or color palette identical to the unit on either side or directly across the street.
3. ROW Visibility: Any side or rear facade visible from an existing public ROW shall have a covered or enclosed porch or decorative trim or shutters around all windows.
4. Facade Treatment: Minimum of 24" of masonry material at the base along the front facade and surrounding entryway.
5. Garage Doors: Garage doors shall contain windows, decorative details, or carriage style adornments.

6. Glazing: Each unit shall have a front door with a minimum of 25% glazing, transom, or door sidelights.
7. Duplexes are not permitted.

Surrounding properties are a mix of residential, agricultural, and forested. More specifically, future single-family residential structures will occupy the properties to the north as part of the Geneva subdivision, which is currently under construction. Existing properties to the east are single-family residential and agricultural uses, and the west is vacant and forested lands. Properties to the south are located in Harnett County.

The 2035 Community Vision Land Use Plan (LUP) calls for the Small-Lot Residential (SLR), Large-Lot Residential (LLR), and Mixed-Density Residential (MDR) Classifications at the subject properties. Although the requested zoning district is not consistent with one (1) of the three (3) 2035 LUP classifications, the petitioner has included a Land Use Plan amendment and this zoning map petition, which will be described later in this report.

Public utilities will be installed by the developer in conjunction with future development.

The subject properties have access to Rogers Road. Rogers Road is classified by the 2035 Community Transportation Plan (CTP) as a portion of future Fuquay-Varina Parkway and therefore is designated as a 150-foot right-of-way. The future Fuquay-Varina Parkway is identified as a four (4) lane, median-divided road with side paths, with a carrying capacity of 51,000 average daily trips (ADT). Rogers Road is currently a two (2) lane unimproved roadway. NCDOT traffic counts are not available at this time. The CTP indicates that this portion of the future Fuquay-Varina Parkway crosses four (4) of the subject properties and totals approximately 2,621 feet in length across the subject properties. Future development of the subject properties will require the dedication of 150' of right-of-way and construction of two (2) lanes and a side path of this section of the Fuquay-Varina Parkway. Additionally, the CTP shows a future collector street on the subject properties from Andersonwood Drive to the future Fuquay-Varina Parkway.

The petitioner held the neighborhood meeting on August 17, 2020, via the online conferencing application Zoom. The meeting report was provided, and the Town staff takes no position as to its content.

The 2035 Community Vision Land Use Plan (LUP) calls for the Large-Lot Residential (LLR), Small-Lot Residential (SLR), and Mixed-Density Residential (MDR) Classifications at the subject properties. The Land Use Plan classifications SLR and MDR are compatible with the proposed zoning district, but LLR is not, due to its density requirements. Therefore, the petitioner has proposed a Land Use Plan amendment from LLR to SLR on PIN 0665245656. This amendment supports the LUP's Recommendation, CF.1 - Invest in Existing Growth Areas, which encourages the extension of utilities and growth of development in areas that are already in the growth process to maximize effectiveness. Additionally, the amendment supports H.1 - Provide Mixed Housing & Diversity, which encourages a mix of housing types in development projects. 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 more consistently and appropriately as it relates to the proposed use and surrounding area.

Management and staff recommend further analysis of the proposed zoning map amendment with the corresponding land use plan amendment. While it is not inconsistent with the 2035 Community Vision Land Use Plan and is not unreasonable; following the Planning Board meeting, management and staff recognize that there appears to be an opportunity for further refinement of the petition to address concerns related to density and protections for surrounding properties.

At the September 21, 2020, regular meeting, the Planning Board voted 6-1 in favor to recommend approval, finding it reasonable and in the best interest of the public for reasons identified by staff. Planning Board member Jim Chandler voted in opposition to the request.

Since the Planning Board meeting, the petitioner has requested to table the zoning map and land use plan amendments to the October 20, 2020 in order to further evaluate matters related to future development of the property. Management and staff support continuing the public hearing and tabling consideration to the October 20, 2020 regular meeting, per the petitioner's request.

Public Hearing – The public hearing was opened. No one chose to speak in favor or opposition to the request. The public hearing was not closed.

Discussion – There was no discussion from members of the Town Board regarding the proposed zoning map amendment.

Recommendation – Continue the public hearing and table consideration to the October 20, 2020 meeting for REZ-2020-14, a zoning map amendment at 1408, 1409, 1420, 1501, 1520, 1524, 0, & 0 Rogers 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 Small-Lot Residential (SLR), Large-Lot Residential (LLR), and Mixed Density Residential (MDR) to Small-Lot Residential (SLR) and Mixed Density Residential (MDR), as requested by the petitioner.

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

CONSENT AGENDA

Agenda Item No. 8.A: Budget Amendment - Recognizing Insurance Proceeds - Parks, Recreation and Cultural Resources Department - Unit #46 - BA-21-08 - \$1,594

Purpose – To consider a budget amendment in the amount of \$1,594 that recognizes insurance proceeds from the Federated Mutual Insurance Company for repairs of a Parks, Recreation and Cultural Resources Maintenance Truck (Unit #46).

Recommendation – Approve Budget Amendment BA-21-08 as presented and recommended.

Agenda Item No. 8B: Budget Amendment - Community Splash Pad Recycling System
- BA-21-09 - \$156,110

Purpose – To consider a budget amendment in the amount of \$156,110 to appropriate Enterprise Fund balance for completing the Community Splash pad re-circulation water system.

Recommendation – Approve Budget Amendment BA-21-09 as presented and recommended.

Agenda Item No. 8C: Budget Amendment and Loan Agreement – Capital Area Preservation – Strain House - 8536 Lake Wheeler Road - BA-21-10
- \$50,000

Purpose – To consider a loan agreement with Capital Area Preservation and associated budget amendment in the amount of \$50,000 for restoration of the Strain House, located at 8536 Lake Wheeler Road.

Recommendation – Approve a Budget Amendment (BA-21-10) and Loan Agreement for preservation of the Strain House as presented and recommended, subject to Town Attorney review as to form.

Agenda Item No. 8D: Budget Amendment - Recognize Grant Proceeds - United Arts Council - BA-21-11 - \$8,600

Purpose – To consider approval of a budget amendment (BA-21-11) recognizing funds from United Arts Council - Arts for Municipalities grant program in the amount of \$8,600 for programming at the Arts Center.

Recommendation – Approve Budget Amendment BA-21-11 as recommended and presented.

Agenda Item No. 8E: 2021 Town Board Meeting Schedule

Purpose – To consider setting the Town Board's regular meeting schedule for the 2021 calendar year.

Recommendation – Adopt the 2021 Town Board Regular Meeting Schedule as presented and recommended.

Agenda Item No. 8F: Utility Agreement Allocation Request - Rowland's Grant Subdivision

Purpose – To consider a Utility Agreement Allocation Request for the Rowland's Grant Subdivision, Phases 1 and 2 for 31,200 gpd sewer and 37,440 gpd water.

Recommendation – Approve the recommended Utility Agreement Allocation Request for the Rowland's Grant Subdivision, Phases 1 and 2, as presented and recommended.

A motion was made to approve all items (A through F) on the Consent Agenda.

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

ADMINISTRATIVE REPORTS

Agenda Item No. 10A: Preliminary Subdivision Plat - Rowland's Grant - SUB-PR-2020-03

Purpose – To consider a preliminary subdivision plat submitted by the firm, The Nau Company, called Rowland's Grant Subdivision, located at 5840 Hilltop Road.

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 regarding the agenda item as follows:

The submitted preliminary subdivision, Rowland's Grant, is located 5840 Hilltop Road, on 108.67 acres in the Residential Medium Density Conditional Zoning District (RMD-CZD) with the following conditions applicable to the use of subject property: Only Single Family Detached Homes are allowed. The Town Board approved the Residential Medium Density Conditional Zoning District (RMD-CZD) with the following conditions regarding the subject property's site-specific standards:

1. The land shall be developed as an Open Space Development in accordance with Part 9, Article F of the Land Development Ordinance.
2. At least three lot sizes shall be identified on the Approved Site Plan. The minimum lot size shall be 5,200 SF. Lots of at least 6,600 SF and 15,000 SF shall also be provided.
3. Larger lots (minimum of 15,000 SF) or minimum depth of 50 feet of open space shall be located adjacent to properties having the following Wake County PINs: 0677961699, 0677963806, 0677969866, 0677972045, 0677973237, 0677974350, 0677976300, 0677977330, 0677978279, 0677979051, 0677979145, 0687062992, 0687072039, 0687073199, 0687073802, 0687075258, 0687075589, 0687076399, 0687081093, 0687084237

4. No one lot size shall comprise less than 10% of the total platted lot count. No one lot size shall contain more than 55% of the total platted lot count.
5. The density of the development shall be limited to 2.5 dwelling units per gross acre.
6. Connections to the adjacent subdivision via Ken Drive shall be barricaded 90 days after the pre-construction meeting date. The Developer shall remove the barricades with the recordation of the final plat for the corresponding phase of development containing the 120th lot when Town ordinances require the second entrance.
7. Vinyl siding is not permitted; however, vinyl windows, decorative elements, and trim are allowed.
8. Garage doors shall have either windows, decorative details, or carriage style adornments.
9. To promote variety in home appearance, no home can be constructed with an exterior elevation (front façade) or color palette identical to the house on either side or directly across the street from it.
10. At the time that a connection is required to be made to the existing paved Ken Drive, the Developer shall be required to ensure the entire existing paved section of Ken Drive south of Hollow View Court meets NCDOT construction standards and is in an acceptable state of maintenance for addition to the State system.

The preliminary subdivision plat proposes 232 residential lots meeting the standards for open space subdivision developments. The minimum lot size permitted is 5,200 square feet. The minimum provided is 5,400 square feet with an average lot size of 7,982 square feet. Following the 25% open space dedication option, a minimum of 27.08 acres of overall open space with 5.42 acres of the common green area is required. There are 55.40 acres of overall open space, with 5.60 acres of common green area provided. The existing pond on the northwest portion of the property is shown to be removed. While the Town has no jurisdiction over dam regulation and the pond's future is a private property issue, Town staff has been informed that the applicant has been in conversations since March 2020 with the three property owners adjacent to the pond to discuss the pond's future. Adjacent property owners have voiced opposition to the Developer's intent to drain the pond. The Developer has presented to the adjoining property owners information concerning the liability and maintenance obligations of retaining the pond and their plans to drain the pond. The Developer has asked all three property owners to provide information and justification for what they believe to be a fair resolution. The Town is only aware of an acceptable agreement between the Developer and one of the property owners, the property owner to the south. The Town has been informed that two of the adjacent property owners have retained legal counsel to address their concerns pertaining to the Developer's intentions to drain the pond.

Vehicular access to the project area is provided via a connection to Hilltop Road as well as a continuation of the public street Ken Drive from the adjacent Woodsong Subdivision to a stub adjacent to the Ransdell Charitable Lead Trust Parcel, PIN 0677-95-1038, as shown on the proposed preliminary subdivision plan. Collector streets indicated on the CTP are provided, as designed in the proposed preliminary subdivision plan. The 2035 CTP requires installing a side path along Hilltop Road, which is shown on the proposed preliminary subdivision plan. Off-site road improvements are planned, and the Developer is working in conjunction with the developer of the neighboring Bexford Subdivision to complete nearby roadway improvements along Hilltop Road. To allow both developments to move forward and ensuring all off-site road improvements are completed, the developer of Rowland's Grant subdivision will be responsible for adding a right turn lane at the Hilltop Road and US HWY 401 intersection with their first phase of development while the Bexford subdivision developers are

responsible for installing a left-turn lane at the intersection of Hilltop road and NC 42. In the event the Bexford developers do not make the left-turn lane improvements on Hilltop Road and NC HWY 42, the developer of Rowland's Grant Subdivision will make these off-site road improvements before platting their second phase of development.

Public water and sewer are available to serve the subject properties and will be installed by the Developer.

The proposed preliminary subdivision plat meets all Town requirements, and as such, management and staff recommend approval. During the August 17, 2020, regular meeting, the applicant asked the Planning Board to table this agenda item to allow the applicant and staff to comply with the Town's roadway block length standards. Since the August 17, 2020 meeting, the road configuration was revised and resubmitted, meeting the design standards in all but one location. An Administrative Adjustment was submitted and approved for the length of Emeline Way, still exceeding block length standards due to existing environmental features.

At the September 21, 2020, regular meeting, the Planning Board found the subdivision plat consistent with Town requirements and voted unanimously to recommend approval.

Discussion – Mayor Byrne stated that he likes the 25% open space as proposed in this plan. Mayor Pro-Tem Massengill stated that he was glad the developers were able to work things out with the residents. Commissioner Gardner also stated that she was glad that the Town gave the developers time, and they took the time to work out the pond issue.

Recommendation – Approve the Rowland's Grant preliminary subdivision plat SUB-PR-2020-03, as presented and recommended.

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

OTHER BUSINESS

A. Town Manager's Report – a brief report on the following was provided:

- Public Utilities: The first inter-basin transfer public hearing meeting will be held at the Chatham County Agricultural Building on October 14, 2020 at 6:30 pm. More specific information is provided on the Town's website regarding this public hearing.
- Planning: The appeal for the US Census completion date was granted by the courts and the deadline has been extended to October 31, 2020.
- Parks and Recreation: The James A. Campbell Park restroom project will go out for bids on October 6th and the bid opening is scheduled for October 14th. Parks and Recreation staff is discussing options for a modified winter sports menu of programming.

- Arts Center: The Arts Center, the Downtown Development Department and Fuquay-Varina Downtown Revitalization are making plans for upcoming Christmas celebrations in downtown.
- Police Department: Police Chief Fahnestock is now a committee member for the North Carolina Criminal Justice Education and Training Standards Commission. This is a joint in-service training committee that determines mandatory training for officers, deputies and telecommunicators for the entire state of North Carolina. The Police Department has updated their Recruitment Brochure and some of the staff have been sent to basic law enforcement training schools in North Carolina to recruit new officers with a focus on hiring a diverse workforce. Some Police Officers have participated in a Firearms Reality-based Situational Awareness Training provided by Wake Tech, this is additional training apart from state mandated training.
- NCLM Legislative Advocacy Goals. Town Manager Mitchell gave detailed information on the following proposed 2021-2022 Advocacy Goals for the Town to submit to the NC League of Municipalities for the League staff to advocate to the NC General Assembly on their behalf.
 - Seek legislation that provides express statutory authority for municipalities to build broadband infrastructure and to partner with private internet providers using long-term leases for fiber and/or conduit assets.
 - Seek legislation to preserve municipal authority to ensure safe and reliable transportation access to schools for vehicles and pedestrians without shifting the fiscal burden of school construction to municipalities.
 - Only support legislation providing additional post-employment benefits to public employees that includes a funding mechanism to fully support the cost and liability of the benefit, such as special separation allowance programs, to ensure that the liability of providing the benefit isn't solely borne by the last employer.
 - Seek legislation that provides a viable alternative method to provide cost of living adjustments for local government retirees.
 - Seek legislation that generates new transportation revenues that boost funding to NCDOT or directly to municipalities.
 - Seek and support legislation that funds law enforcement training.
 - Support legislation that protects law enforcement professionals.
 - Support legislation that makes it illegal for units of local government, or their insurance providers, to pay a ransom to cyber criminals.
 - Support legislation that recognizes certain technology purchases and specifications as not being a public record.
 - Support legislation to revise the current methods of determining economic needs that are used by the state to allocate funds so that additional areas of the state in need may benefit from increased economic development, jobs, and see more entrepreneurial innovation.

Town Manager Mitchell recommended that the Town Board adopt the proposed legislative goals as well as any other goals that the Town Board deems appropriate and submit to the NC League of Municipalities by October 15, 2020 for their consideration.

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

- B. Project Status Report – October 2020.
- C. Terrible Creek WWTP Reconciliation of capacity for the WWTP was provided in a report. No action was needed by the Town Board regarding the report.

TOWN BOARD MEMBER COMMENTS

Mayor Pro-Tem Massengill stated that he enjoys getting emails regarding the great work provided by various departmental staff, especially during the pandemic.

Commissioner Smith echoed the statement of Mayor Pro-Tem Massengill and he added that the yard debris staff in the Public Works Department are helpful, happy and friendly guys who enjoy their work.

Commissioner Harris stated that he has been enjoying Fleming Loop Park, which is well kept and well utilized.

Commissioner Wunsch also echoed the comments made by Mayor Pro-Tem Massengill regarding great feedback from citizens on the great work of various Town staff. He also stated that he is delighted to see people enjoying the walking trails at the Hilltop Needmore Town Park and Preserve.

Commissioner Gardner also echoed the comments made by Mayor Pro-Tem Massengill regarding the great job that staff is doing. She stated that she had a minor vehicle accident last week and Police Officer Boyd was very efficient and helpful.

Mayor Byrne also commended Town staff for the great job that they do, and he stated that the Town staff is our most important asset. He then reported on various meetings that he attended in the previous week as well as upcoming events as follows:

Past Events

- 9/25 – NC Metro Mayors
- 9/27 – Spoke at Piney Grove Baptist Church 200th Anniversary Celebration
- 9/28 – Police Officer Swearing In
- 9/29 – Spoke to Cub Scouts Pack #320
- 10/1 – Centennial Authority Meeting

Upcoming Events

- 10/6 – Lincoln Heights Elementary Video Taping
- 10/8 – Downtown Nominating Committee
- 10/8 – Blue Star Program Meeting
- 10/19 – Wake County Mayor's Association Meeting

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

A motion was made to hold a closed session meeting at 8:08 p.m.

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

RETURN TO OPEN SESSION

The Town Board returned to open session with nothing to report out from the closed session meeting.

ADJOURN

A motion was then made to adjourn the meeting at 8:32 p.m.

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

Adopted this the 20th day of October 2020 in Fuquay-Varina, North Carolina.

FUQUAY-VARINA, NORTH CAROLINA

John W. Byrne, Mayor

ATTEST:

(TOWN SEAL)

Rose H. Rich, Town Clerk

