

Minutes
Regular Board Meeting
Aberdeen Town Board

December 14, 2015
Monday, 6:00 p.m.

Robert N. Page Municipal Building
Aberdeen, North Carolina

The Aberdeen Town Board met Monday, December 14, 2015 at 6:00 p.m. for the Regular Board Meeting. Members present were Mayor Robert A. Farrell, Mayor Pro-tem Jim Thomas, and Commissioners Joe Dannelley, Elease Goodwin, Buck Mims, Pat Ann McMurray, and Ken Byrd. Staff members in attendance were Planning Director Pam Graham, Town Manager Bill Zell, and Town Clerk Regina Rosy. Barbara Allred, Reporter for The Pilot Laura Douglass, Jeff McCluskey, Allan Casavant, Jonathan Rivenbark, Bryan Bowles, Laura Farrell, Boy Scout Troop 800 members, Shane Sanders, Frances Bosworth, and approximately 10 other citizens were also in attendance for the meeting.

1. Call to Order

Mayor Farrell called the meeting to order at 6:00 p.m.

a. Pledge of Allegiance.

Mayor Farrell asked everyone to please stand for the pledge of allegiance, led by Boy Scout Troop 800.

2. Setting of the Agenda

A motion was made by Mayor Pro-tem Thomas, seconded by Commissioner Goodwin, to approve the setting of the agenda as presented. Motion unanimously carried 5-0.

3. Consent Agenda

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held except on request by a member of the Board of Commissioners.

a. Minutes of Board Meeting on November 23, 2015.

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to approve the consent agenda as presented. Motion unanimously carried 5-0.

4. Informal Discussion and Public Comment

- a. Mayor Pro-tem Thomas stated all of the Christmas lights look wonderful.

5. Financial Report

Manager Zell stated he will begin with the revenue and expense summary sheets where you can see the general fund budget is doing very well, even though expenses were almost double our revenues in November. The bottom line for the end of November is we're \$852,258.34 in the black.

Manager Zell stated the Town's largest revenue for the month of November was the sales tax and hold harmless collections for the month of September, which came in at \$126,765. Manager Zell stated sales tax collections lag 45 days from the end of the month they are paid.

Manager Zell stated now looking at the water and sewer revenue and expenditure summary we find that we've almost caught up after only two billing cycles. As you're aware July revenues always go to the former fiscal year and so the months of July and August are all expenses with little to no revenues, so to be only \$3,038.75 short after two billing cycles is great.

Manager Zell stated now if you'll go to the back of the financial report this is where Beth Wentland our Financial Officer has put together several graphs and spreadsheets for us. The first graph is a comparison of our current real and personal tax revenue receipts with last year's receipts for the same period. As you can see this revenue does not come in at the same rate each year, but so far this year we've received \$290,191.79 more through the end of November.

The next set of graphs is for sales tax and hold harmless revenues comparing this year with last year. The bottom line is we have received \$18,501.55 more for the July through September receipts. The last graph is for Utilities Franchise

revenues, but since it is received on a Quarterly basis there isn't anything new to report.

Manager Zell stated now looking at the excel sheets where our first sheet is for vehicle maintenance costs comparisons - as you can see we've almost spent the same amount of dollars through the end of November as we did last year the only issue is that 61.6% of our expenditures this year has been in the Sanitation Department, where last year it was spread out across the departments more equitably. Vehicle maintenance is one of those areas that we just can't control as closely as we'd like.

Manager Zell stated the next excel sheet is comparing our equipment maintenance costs where you can see this year we're spending about \$8,500 less than last year through the same period. This dollar amount represents that we have spent only 26.7% of our budget so far, while we spent 42.6% last year through the same period.

Manager Zell stated the last sheet is comparing the fuel costs. This year's overall budget is down \$3,200 from last year, but with fuel prices down it seems to be working in our favor. We have only spent 24.9% of our budget through 33.3% of the year as opposed to 37.1% this time last year.

6. Public Hearings and New Business

a. Swearing in of New Board Members.

Mayor Farrell recognized Commissioner Pat Ann McMurray for her 22 years of service as Commissioner on the Town Board. Mayor Farrell listed off all of the volunteer Boards she has served on over the years.

Town Clerk Regina Rosy administered the oaths of office for the following Board members:

- (1) Robert A. Farrell, Mayor
- (2) Elease Goodwin, Commissioner
- (3) Jim Thomas, Commissioner

(4) Ken Byrd, Commissioner

b. Appointment of Mayor Pro-tem.

A motion was made by Commissioner Goodwin, seconded by Commissioner Mims, to reappoint Jim Thomas as Mayor Pro-tem. Motion unanimously carried 5-0.

c. Consider adoption of 2016 Meeting Schedule.

A motion was made by Commissioner Mims, seconded by Commissioner Byrd, to approve the 2016 Meeting Schedule presented. Motion unanimously carried 5-0.

d. Public Hearing for Conditional Use Permit #15-07 Submitted by Bethesda Ives, LLC.

A motion was made by Commissioner Mims, seconded by Commissioner Byrd, to recuse Mayor Farrell from items 7d & 7e. Motion unanimously carried 5-0.

Attorney Morphis stated this is the 2nd application for this project. Attorney Morphis stated the decision needs to be made based on the information in the record and/or presented this evening during the public hearing. Attorney Morphis stated much of what is heard tonight is similar to what has already been heard, but this needs to be treated as a new project. Attorney Morphis also asked any Board members that have had ex-parte communications about this project or a conflict of interest, to state those now.

Commissioner Byrd stated when he was on the Planning Board, he recused himself from participating in this item. Commissioner Byrd stated instead he listened to the presentation on this item from the audience, and he also reviewed a map on this item. Attorney Morphis stated he discussed this item with Commissioner Byrd and this is essentially the first time he has seen this information.

Mayor Pro-tem Thomas opened the public hearing for Conditional Use Permit #15-07 submitted by Bethesda Ives, LLC.

newly elected Town Clerk Regina Rosy swore in Brent Duplessis, Frances Bosworth, Tammy Lyne, Jeff McCluskey, and Allan Casavant.

Director Graham stated this request is for a conditional use permit for a 38 lot single family subdivision on a vacant tract comprising 51.46 acres. The property is accessed from Bethesda Road just north and across from the historic Bethesda Presbyterian Church.

Director Graham stated the applicants seek approval of the use, open space, general layout, and number of lots subject to final engineering through the Site Plan Review process. Additional construction detail will be provided at that time for staff review. Aberdeen's UDO requires that all major subdivisions apply for a conditional use permit.

Director Graham stated the property was previously considered for the same use under Conditional Use Permit CU # 15-03. The application ultimately was denied by the Board of Commissioners for failure to meet the UDO's cul-de-sac maximum length requirement (500 ft. except where no practicable alternative is available, in which case they may not exceed 900 ft.).

Director Graham stated the Town Board ruled that sufficient evidence had not been submitted to prove that no practicable alternatives were available to justify exceeding the 500 ft. length threshold. A revised plan has been submitted with the current application that contains no cul-de-sacs in excess of 500 ft., with a single exception along proposed Road "C", which measures 676.64 ft.

Director Graham stated the Town Board must determine whether no practicable alternative is available to justify the current plan's cul-de-sac on Road "C" extending beyond 500 ft. in length. Director Graham stated the current plan also indicates sidewalks on both sides of all new roads within the subdivision.

Director Graham stated the current plan differs from the previous one as follows:

1. Proposed Road D has been converted from a stub-out road to a cul-de-sac serving lots 25 and 26. The length of Road D is 88.91 feet and is considered a minor street by the UDO. There is no minimum length requirement for cul-de-sacs. *Cul-de-sacs are defined as minor or local streets that terminate in a vehicular turnaround. Minor streets provide access to*

abutting properties and are designed to serve not more than 9 dwelling units and to handle less than 75 trips per day.

2. An additional cul-de-sac is proposed on the plan by Road E, located approximately 236 feet from the end of Road A. The distance between Roads D and E is 986.85 feet. *The UDO calls for streets to be laid out so that residential blocks do not exceed 1,000 ft., unless no other practicable alternative is available.*

3. The proposed open space is reduced from 27.5 acres to 27.1 acres, or 52.7%. *The UDO requires that a minimum of 20% of the development acreage be set aside as permanent open space.*

4. Project phasing has been included in the current plan. Four phases are proposed.

Director Graham stated the property is located in the R20-16 zoning district. This district was established where the principle use of land is for low-density residential or agricultural purposes. The regulations of this district are intended to protect the agricultural sections of the community from an influx of uses that would likely render them undesirable for farms and future development.

Director Graham displayed the vicinity zoning map of the property. Director Graham stated open space proposed for the project exceeds the 20% requirement, primarily due to the existence of +/- 27.51 acres of wetlands contained within the parcel. The applicant proposes to construct an 8' wide natural walking trail along the existing sewer easement to meet the usability requirements for open space.

Director Graham displayed a site aerial photograph of the property. Director Graham reviewed the Green Growth Toolbox assessment for this project.

Director Graham stated the applicant had originally requested relief from sidewalk requirements for portions of the development by reducing the sidewalks to only one side of the road in those areas. The current plan shows sidewalks on both sides of all new roads. *The UDO does provide some flexibility on the sidewalk requirement: (a) Walkways of an alternate material may be allowed when they would serve the development as adequately, and when they would be more environmentally desirable; (b) A condition may be added that deviates from the requirements when extraordinary circumstances are present – the extensive presence of wetlands constitutes an extraordinary circumstance.*

Director Graham stated concerns from neighbors regarding the possibility of unmarked graves within the development's boundaries have been discussed. The Town Attorney has advised that there are no specific requirements regarding the siting of development in relation to graves, but that a condition could be included that allows for reasonable access for a limited period of time for others to investigate the existence of graves at the site.

Director Graham stated the Town's consulting engineer Gary McCabe provided a review of soils and drainage for the site. In summary, the review states the following (the recommended conditions for approval also reflect his recommendations):

- (1) Based on available data, the entire site appears to be above the nearest base flood elevation;
- (2) It does not appear that the proposed development will significantly alter the overall drainage patterns of the approximately 632 acre drainage area;
- (3) The development will require permitting from NCDENR and possibly the Army Corps of Engineers;
- (4) Soils and stormwater runoff data provided by a concerned citizen was incomplete and contains some inaccuracies which could be misleading;
- (5) A pre vs. post development analysis of stormwater runoff rates is recommended for the site plan review process;
- (6) While soil maps can provide a general sense of existing soils and their characteristics, an evaluation by a licensed geotechnical engineer and/or soil scientist is recommended;
- (7) The 11 proposed lots and the wetland crossing that contain Tillery Silty Loam Soils represent the most marginal soil suitability within the project area. A geotechnical engineer's evaluation should address these lots, design of the roadway and the wetland crossing, and stormwater and utility improvements.

Director Graham stated during the quasi-judicial procedure, the Board must consider the following in their deliberations and may not approve the application if they determine that:

- (1) The application is not complete as submitted, or
- (2) The application does not comply with one or more requirements of the UDO.

Director Graham stated if the Board determines that the application is complete, and complies with the UDO, it may not deny the application unless it finds that, if completed as proposed, the development more probably than not:

- (1) Will endanger the public health or safety, or
- (2) Will substantially injure the value of adjoining property, or
- (3) Will not be in harmony with the area in which it is to be located, or
- (4) Does not generally conform with plans adopted by the Town Board.

Regarding Plan Consistency, staff considers the proposal to be in general conformity with plans adopted by the Town due to the following:

(1) The 2030 Land Development Plan's Future Land Use Map identifies the project area as low-density residential with environmentally sensitive areas evident. Low density residential is consistent with both the current zoning and existing residential uses in the immediate vicinity.

(2) The Land Development Plan also states that conservation subdivisions may be an appropriate development pattern for new development within the Town. Conservation Subdivision design is intended to identify what is important to preserve on a site with development concentrated in the more suitable portions. Considerations such as preserving farmland and environmentally sensitive areas are common elements in conservation subdivisions.

Director Graham stated the Planning Board, during their 11/19/2015 meeting, made a unanimous recommendation for approval, with amended conditions as provided in the staff report in the agenda packet.

Director Graham reviewed the recommended conditions:

1. CUPS run with the land and as such CUP #15-07 applies to the entirety of the property reflected in PID #00054112. An amendment to the CUP is needed to remove property from the CUP or to make changes to the CUP. If an activity is a use by right, it is not subject to the CUP.
2. The proposed use is authorized by the CUP, however approval is contingent on a successful interdepartmental review to ensure that the development has met all Federal, State and local regulations and requirements as well as any conditions attached to the CUP approval. Plans submitted for this review shall include, but not be limited to, tree survey indicating all trees with a dbh of 12" or greater, utility locations including size, material, and vertical alignment of waterlines, engineering calculations

assessing that proposed stormwater measures meet or exceed UDO requirements.

3. Any and all required permits and/or approvals from other regulatory agencies must be in place prior to issuance of a Notice to Proceed.

4. The development is authorized to create a maximum of 38 single family lots and construction documents generally based on the Site Sketch Approval Plan dated October 19, 2015.

5. Open Space shall generally comply with the 12/4/15 Site Sketch Plan, including proposed improvements, and in no case may be reduced to less than 20% of the total land area for the development.

6. Tree harvest and mass grading are not authorized as a result of this approval. Construction documents, including a grading plan, shall be reviewed by staff for compliance with the UDO.

7. The applicant is required to install sidewalks on both sides of all new streets, or provide a guarantee with initiation of each phase of development in accordance with the requirements of the UDO. *(The Board may allow alternate materials if they meet the identified standards, or to allow relief to the requirement due to the presence of extraordinary circumstances.)*

8. The applicant shall supply Planning Staff with an assessment from US Fish and Wildlife Agency with regards to Red Cockaded Woodpecker, or other protected species, activities on the property prior to site disturbance. Evidence of such activities authorizes staff to require amendments to the plan to minimize impacts.

9. Approval is contingent upon a revised site layout plan that shows all rear and/or side lot lines that encroach into the wetlands have been altered to coincide with the wetland boundary when doing so would not make the lot unbuildable. At a minimum lots 1, 6, 12, 29, 30, 31, 32, 33, 34, 35, and 36 shall be adjusted to meet this condition unless the applicant can provide evidence that the lot will be rendered unbuildable by doing so. Additionally, setback lines on lots 5, 17, 27, 28, 37, and 38 are to be adjusted to coincide with the wetland boundary where doing so will increase the setback area rather than lessen it. *"Unbuildable" in this instance refers strictly to the lot's ability to meet the dimensional standards required for the district.*

10. Streets, sidewalks, waterlines, and sewer and stormwater facilities shall meet all UDO requirements and are to be dedicated to the Town of Aberdeen contingent upon inspection and approval by Public Works. Preliminary and Final Plats shall identify any and all Town easements related to these facilities.

11. The Fire Department must sign off on the drawings as well as available capacity for treating fires. Hydrants are required consistent with their

spacing requirements. Adequate turning radius must be provided for the fire trucks currently in use.

12. Prior to approval of the final plat, all infrastructure must be complete or guaranteed per UDO requirements.

13. Street trees shall be installed prior to final plat approval or as a requirement of the building permit for each lot and shall comply with UDO requirements. Plans will be reviewed by staff and staff is authorized to ensure compliance prior to issuing a certificate of occupancy for each lot.

14. Sharrows and marked crosswalks shall be installed or guaranteed prior to final plat approval.

15. All additional conditions or requirements as provided by the UDO are enforceable with regards to the proposal in CU #15-07.

16. Approval of CU #15-07 is contingent on evaluation of soils by a NC Licensed Geotechnical Engineer or Soil Scientist where the proposed roads, houses, and utilities will be constructed prior to site plan approval. Staff is authorized to require amendments to the plan to accommodate/remedy any evidence of soils unsuitable for building as determined by the evaluation. The evaluation shall also include design recommendations for the roadway wetland crossing, and stormwater and utility improvements.

17. Approval of CU #15-07 is contingent on a hydrologic analysis performed by a NC licensed engineer of the downstream unnamed tributary to Aberdeen Creek to determine if it has sufficient capacity to accept the proposed increase in stormwater runoff as a result of the subdivision proposed by CU #15-07.

Commissioner Byrd asked if the Fire Department has approved the turning radius space that will be available in this plan, and if that will work with the equipment. Director Graham stated the Fire Department has signed off on this.

Frances Bosworth read a statement prepared by the Bethesda Cemetery Association. Commissioner Mims asked if any research has been done with cadaver dogs to determine if there are in fact any remains on the proposed property. Ms. Bosworth stated to her knowledge that type of research has not been done.

Brent Duplessis stated the soil in this area is extremely sandy, and he is concerned about when there is heavy rainfall. He was also concerned about sidewalks in the development. He stated when there is heavy rainfall, he is concerned there are going to be problems. Commissioner Mims asked if Mr. Duplessis is aware of any flooding that has happened there in the past.

Mr. Duplessis stated he has not, but his neighbor has seen heavy rainfall in the area and when all of this impervious surface is added he feels there will be a problem.

Jeff McCluskey stated the plan shows sidewalks will be on both sides of the road, no exceptions asked for. Mr. McCluskey stated the Planning Board even does not recommend sidewalks on both sides of the road. Mr. McCluskey stated an alternate plan was put together. Mr. McCluskey stated if a development is not approved for this site, then the property will be clear cut for timber proceeds. Mr. McCluskey stated the developers are more than willing to work with the Bethesda Cemetery Association, and the intent is to not disturb any unmarked graves. Mr. McCluskey stated there is a big difference between wetlands and floodplains, and this property is not in a floodplain. Mr. McCluskey stated houses will not be built on the wetlands. Mr. McCluskey discussed the pond located at the corner of Road A and Road B – Mr. McCluskey stated even with the heavy rainfall we have received recently, the pond is still a foot to a foot and a half below grade. Commissioner Byrd asked about the wetland crossing on Road A – Mr. McCluskey stated the plan would be to bring in stone bedding material, that would ultimately meet the requirements and specifications of the Town and the NCDOT. Commissioner Mims asked how Mr. McCluskey is sure that what he is saying is correct. Mr. McCluskey stated the Army Corps of Engineers is responsible for overseeing wetlands and there are requirements that have to be met. Mr. McCluskey stated if any other houses were to be built in this area, then individual permits would have to be approved, one at a time. Commissioner Byrd asked what kinds of studies have been done to show what happens when you build roads over wetlands. Commissioner Byrd stated he is concerned about the liability to the Town down the road regarding the roads to be built in this development. Mr. McCluskey stated a geotechnical engineer has visited the site and hand bored different areas to determine soil suitability, bearing capacity, and evaluated those soils. Mr. McCluskey stated it is hard to say there would never be a road failure, but there are a lot of steps that have to be completed to ensure the construction of the roads is satisfactory. Commissioner Byrd asked again about what kinds of studies have been done that back up what was just described so the Board members could read. Mr. McCluskey described the process again that would be used, which includes a study that would be completed by a licensed engineer. Mayor Pro-tem Thomas asked about the area on the map in gray that is designated as wetlands – and he wanted to know who determined where the wetlands are. Mr. McCluskey stated the developer hired an environmental scientist to visit the site and evaluate it to determine where it

is determined there are wetlands. A letter of determination was then submitted to the Army Corps of Engineers to either sign off on the work, or come and visit the site first. The Army Corps of Engineers actually visited the site and agreed with the contractor, as to where the wetlands are located.

Tammy Lyne stated in May 2015 the Planning Board voted unanimously to approve this CUP. Ms. Lyne stated as a taxpayer she is very discouraged about this process. She stated there are wetlands in almost every subdivision in Moore County, and this is not something new to Aberdeen or this area. Ms. Lyne stated every bogus concern that has been raised, she has come back and done everything possible to comply with all suggestions and requirements. Ms. Lyne stated she has recently heard from neighbors in the community that they do not want this area developed, because military families will move in, and they don't want transient neighbors. Ms. Lyne stated she will build all the sidewalks the Board wants, but the Board is really punishing taxpayers more than anyone, because those sidewalks will have to be maintained. Ms. Lyne stated based on past actions and comments by Mayor Pro-tem Thomas, she believes he should be recused from this item, and by him not being recused, she feels her constitutional rights are being violated.

Christine Ganti stated she is not a resident of Aberdeen, but she has a good friend that is a resident in Aberdeen. She stated there is technology available to do ground penetrating radar to test for graves. Ms. Ganti stated two professors at UNC Pembroke have done this type of work, and perhaps they would do this work for this project for a small stipend. She stated if there are unmarked graves on this property, then that would be a problem for the owners of the property. Commissioner Mims stated Ms. Lyne previously stated that the first 3 lots would be sold to the Bethesda Cemetery Association if requested. Ms. Ganti stated a fire came through that destroyed the wooden markers that did mark the graves in question.

Allan Casavant stated this process actually started over 2 years ago when Kathy Liles was here. And he is trying to be a good neighbor and build a nice community for Aberdeen. The original plan was to give the front piece of the property to the Bethesda Cemetery Association, but now because the Board passed the cluster zoning, he can no longer afford to donate the property, but he is willing to sell the first 1-3 lots to the Cemetery Association. Mr. Casavant stated it really hurts his feelings that there is so much opposition to this project.

With no further discussion, Mayor Pro-tem Thomas closed the public hearing for Conditional Use Permit #15-07.

e. Consider action on Conditional Use Permit #15-07 Submitted by Bethesda Medical Services, LLC.

Commissioner Dannelley stated there has been a lot of discussion on additional considerations that were not presented in the packet materials to the Board. Commissioner Dannelley asked what is staff's recommendation to the Board tonight, since changes have been presented this evening. Director Graham stated the only change for tonight's plan for consideration is the sidewalks on both sides of all streets in the project. Commissioner Dannelley clarified the only item not compliant with the UDO is Road C. Director Graham stated that is correct. Mr. Casavant stated there is another plan that fully meets the UDO, but is not as friendly to neighbors in the adjoining neighborhood. Commissioner Mims stated what he is hearing is that the current plan does not connect the neighborhoods, which is what the neighbors would prefer. Attorney Morphis stated the Board could deny the CUP as proposed, and state there are other alternatives. Or the Board could approve the proposal this evening. Commissioner Mims asked if there are not sidewalks on both sides of the road, what will the alternative walkways be made of. Director Graham displayed the map that shows where sidewalks could be removed. Director Graham stated typically all of the development details are not provided during the CUP process, and those details are provided in the site plan review step of the process. A CUP is typically used to approve the use for the project.

Commissioner Dannelley asked the Board members to think about Finding #3 to determine if this development is in harmony with the area in which it is located. Commissioner Dannelley stated he feels this property is historical in nature, and he thinks the Board should determine if that even warrants moving forward with the project. Commissioner Byrd stated the other thing that causes him concern is that in Phase 2, there are 5 lots that are off by themselves. Mr. Casavant stated that actually helps the neighborhood with fire safety. Mr. Casavant stated it really does separate the homes into 2 separate subdivisions; but it was done for safety reasons. Mr. Casavant stated they understand the historical nature of the cemetery, and that is why they are trying to work with them. Mr. Casavant stated the development is harmonious. Commissioner Byrd stated he would like to see the additional flushing out of the alternatives that were slipped in this evening. Commissioner Byrd stated he does not feel like there is enough

information to make a decision this evening. There was discussion about the cul-de-sac and if it meets the UDO or not. Commissioner Byrd stated he feels there needs to be some input from the neighbors on E.L. Ives Drive. Commissioner Mims stated a lot of things the Board does are subjective, and are open to interpretation. Commissioner Mims stated the Board is here to enforce the ordinances, and the Board needs to be careful to not protect one area more than another, and if the Board did not want this residentially zoned, then it should not be zoned R20-16. Commissioner Mims stated he would like to hear some feedback from residents on E.L. Ives Drive as well before making a decision. Attorney Morphis advised the Board that the proper way to handle this matter would be to re-open the public hearing and continue the public hearing to the January 11, 2016 meeting so that feedback can be received from the residents on E.L. Ives Drive.

A motion was made by Commissioner Byrd, seconded by Commissioner Goodwin, to re-open the public hearing and continue to the January 11, 2016 meeting to get input from the neighbors on E.L. Ives Drive. Motion unanimously carried 5-0.

7. Other Business

Mayor Farrell rejoined the podium.

Discussion on Proposed Modification to Legacy Lakes Conditional Use Permit.

Director Graham stated LSTAR Management is requesting modifications to the CUP for Legacy Lakes to facilitate future development and adapt to market changes since the original approval. Director Graham stated staff seeks direction from the Board on whether the following items constitute a minor modification to the conditional use permit. The UDO defines minor modifications as those whose impact is discernable but not substantial. CU #07-04 required that 50% of an active phase be complete prior to approval of a final plat for the next sequential phase, with one exception: Phase IV may be developed out of sequence provided that 50% of Phase I is complete and the final plat for Phase 2 has been approved.

1. The developer is requesting flexibility in the phase sequencing to allow future phases to begin development when opportunities arise. CU #07-04 included approval of specific residential categories and density allotments.
2. Townhomes allotted to Phase I be transferred to Phase IV (only 3 townhomes have been constructed in Phase I and no additional ones are planned); Reduce the number of categories of SFD to permit greater

flexibility.

3. CU #07-04 required that townhomes be grouped in buildings of no more than four units. The developer requests that the number of units be increased to 6.

4. The original approval required that townhomes contain a minimum of 1,200 sf per unit. The developer requests that the requirement be reduced to 1,000 sf.

In addition to items 1-4 above, the Board is advised of the following, with staff inviting input:

- An additional request by the developer is that the approved phases be broken into sections to allow for approvals of final plats by staff for smaller geographic areas. Staff considers this to be an insignificant deviation that may be approved by the Planning Director.

A Stay and Play concept is being proposed for an approximately 3.4 acre portion of Phase IV, fronting the entry drive into Legacy Links Clubhouse. Staff interprets the concept to fall within the Townhome category of development approvals and within the UDO's definition of townhome. *A principle structure containing three (3) or more single-family attached dwelling units with each unit on its own individual lot and in approved zero lot line developments. No dwelling unit may be located over another unit. All townhome developments shall be subject to multi-family dwelling provisions of the zoning ordinance. For the purposes of this chapter, townhouses are considered to be multi-family development.*

Director Graham displayed a sketch plan of how this 3.4 acre tract of land might be developed.

Shane Sanders stated he is here on behalf of SNS Engineering, and he is representing LSTAR Management. Mr. Sanders stated they are just asking to reallocate from Phase I to Phase IV.

Director Graham stated if it is determined that these are minor modifications, then it will come back to the Board for consideration in January. But if it is considered a major change, then it will have to go through the whole CUP process and will be lengthier. Commissioner Dannelley stated he likes what he is seeing, and he thinks this is a premier site. Commissioner Dannelley stated this area is so critical to show the vibrancy of this town, and to take something pre-2008 and move it forward. Commissioner Dannelley stated he feels this all would be treated as a minor modification. Mayor Farrell asked if all of these properties are zoned R20-16. Director Graham

stated back when this was approved, there was deviation from the standard for the approval.

There was a lot of discussion from the representative, who was speaking on behalf of the property owner, and he provided greater detail on the Stay and Play concept. The Board agreed they think it is minor. A motion was made by Commissioner Mims, seconded by Commissioner Byrd, to approve these changes being classified as minor modifications to the CUP. Motion unanimously carried 5-0.

b. Update on Strategic Planning Process.

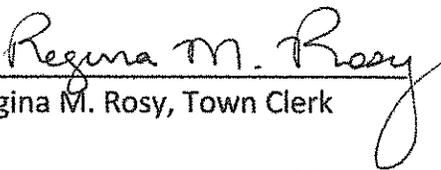
Commissioner Dannelley stated in the packet are the 2015-2016 departmental goals. A motion was made by Commissioner Dannelley, seconded by Commissioner Mims, for these goals to remain intact for 2016 to allow for a full year to work on these goals, and next year in October – reassess goals, discuss successes and shortcomings, etc. Approve 2015 goals and move them into 2016. Motion unanimously carried 5-0.

c. Question from Commissioner Mims.

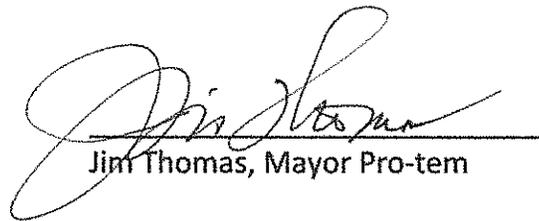
Mayor Farrell left the meeting and recused himself. Commissioner Mims asked for guidance on who is going to drive the process for receiving input from residents on E.L. Ives Drive. Attorney Morphis stated it would be completely appropriate if the developer wanted to visit the residents and invite them to come to the continued public hearing. Attorney Morphis suggested Director Graham get up with Mr. Casavant or Ms. Lyne and have them handle this process by sending out a form letter asking for input from residents. Mayor Pro-tem Thomas stated Plan A was voted down, at the same time Plan B was presented. Tonight Plan B was being considered, and then Plan C was presented tonight. Attorney Morphis stated any new discussion on this item will need to be discussed during the Public Hearing which has been continued to January 11, 2016.

8. Adjournment

A motion was made by Commissioner Mims, seconded by Commissioner Goodwin, to adjourn the Board Meeting. Motion unanimously carried 5-0.


Regina M. Rosy, Town Clerk

Minutes were completed in
Draft form on December 14, 2015


Jim Thomas, Mayor Pro-tem

Minutes were approved
on January 25, 2016

