Town of Clayton
Regular Town Council Meeting Minutes
Monday, March 1, 2021 @ 6:00 PM
Council Chambers

COUNCIL PRESENT:
Mayor McLeod
Mayor Pro Tem Thompson
Council Member Holder
Council Member Grannis
Council Member Bunn
Council Member Everett

STAFF PRESENT:
JD Solomon, Town Manager
Rich Cappola, D/Town Manager
Dolores Gill, D/Town Manager
Jim Cauley, Town Attorney
Kimberly Moffett, Town Clerk
Heidi Holland, Deputy Town Clerk
Cathy Marraccini, Public Information Officer
Samantha Wullenwaber, Planning Director
Ann Game, Customer Service Director
Lee Barbee, Fire Chief
Joshua Baird, Town Engineer
Liz Jernigan, Sr. Admin Asst. - Fire Dept.
Jeffra Patton, Safety & Wellness Officer
Joy Garretson, Library Director

COUNCIL ABSENT:

1 CALL TO ORDER
Pledge of Allegiance and Invocation

a) Mayor McLeod called the meeting to order at 6:00 p.m. He led everyone in the Pledge of Allegiance as well as offering the Invocation.

2 ADJUSTMENT OF THE AGENDA

a) Mr. Solomon requested we move Item 6d (Buckhorn Annexation) to Item 6a under Public Hearings. Additionally introduction of Dolores Gill, Deputy Town Manager was added to the agenda under Introductions and Special Presentations.

3 CONSENT AGENDA
(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)

a) Warranty Acceptances
- Cameron Crossings Subdivision - Phase II and III
- Highgate Subdivision - Phase III

b) DRAFT Minutes
- February 1, 2021 - Regular Meeting
- February 10, 2021 - Regular Special Meeting
- February 10, 2021 - Closed Session
- February 15, 2021 - Regular Meeting

c) Proclamations
- Traumatic Brain Injury Awareness Month - March 2021
- Developmental Disability Awareness Month - March 2021

d) Resolution Directing Clerk to Certify Sufficiency
- 2020-160-ANX - Riverwood Golf - Section II - Annexation

ACTION: Adoption of Consent Agenda as Presented

Motion: Council Member Holder
Second: Council Member Bunn
Vote: Unanimous

4 ADMINISTRATIVE ITEMS

5 INTRODUCTIONS AND SPECIAL PRESENTATIONS

a) Introduction of Employees
Presenter: Joy Garretson, Library Director, Ann Game, Customer Service Director & JD Solomon, Town Manager
- Grace Davis, Youth Services Supervisor
- Ewa Capabianco, Customer Service Representative
- Dolores Gill, Deputy Town Manager

Ms. Garretson was present and introduced Grace Davis. Ms. Davis is the Youth Services Supervisor in the Library. Ms. Davis come to us from Virginia Beach with a good deal of experience. She stated everyone has been very welcoming and she looks forward to being part of the Clayton team.

Ms. Game was present and introduced Eva Capabianco, who is a Customer Service Representative. Ms. Capabianco has many years of experience in customer service and specifically utility experience. Ms. Capabianco stated she is very happy to here and is appreciative being with the town.

Mr. Solomon introduced Ms. Gill as the second Deputy Town Manager for the town. Ms. Gill joins the town with having many years of experience with Johnston County Schools. Ms. Gill stated she was delighted to be part of the team. She served 30 years with the school district in numerous positions to include serving as an elementary school principal. Ms. Gill is a long time resident of Clayton.

Council welcomed everyone to the team.

6 PUBLIC HEARINGS

a) 2020-142-ANX - Buckhorn Branch
Presenter: Planning Department

Ms. Wullenwaber presented this item. She stated applicant has request to annex property located southwest of US highway 70 Business and southeast of

Iris Street. The property size is 84.73 +/- acres.

There were no questions for staff.

With no one wishing to speak the public hearing was closed at 6:08 p.m. and turned over to council for their deliberation.

ACTION: Adoption of Ordinance #2021-03-03

Motion: Mayor Pro Tem Thompson
Second: Council Member Holder
Vote: Unanimous

b) 2020-113-PDD - Ashcroft 2
(Continued from February 15, 2021 Council Meeting)
Presenter: Planning Department

Ms. Wullenwaber presented this item. She stated applicant has requested to rezone this property from R-E & PD-R to PD-MU. The property size is 256.15 acres. Property is located on O'Neil Street, south of Neuse River.

Ms. Wullenwaber stated the requested rezoning is inconsistent with Future Land Use, however, staff does support the rezoning due to its proximity to higher density designations and the future northern connector. If approved, Future Land Use map will be automatically updated.

Planning Board and staff recommend approval of the rezoning.

Mayor McLeod opened the public hearing at 6:13 p.m.

On behalf of the applicant, Cindy Schwarzkopf from Stewart Engineering was present. She introduced the development team and expert witnesses that were present this evening. She shared additional information and stated no opposition was heard at September 3, 2020 Neighborhood Meeting. She shared quotes in support of the project as shared from Planning Board members at the September 28, 2020 meeting. Additionally she shared the rezoning approval criteria and stated the rezoning is generally consistent with future land use map, the comprehensive plan, the density guidance and growth plan update.

She also addressed the suitability of the subject property for uses permitted by the current vs. the proposed district.

There were no questions.

With no further comments and no one further wishing to speak, the public hearing was closed at 6:22 p.m. and turned over to council for their deliberation.

ACTION: Adoption of Ordinance #2021-03-01

Motion: Council Member Bunn
Second: Mayor Pro Tem Thompson
Vote: Unanimous

c) 2020-114-SD - Ashcroft 2 (Quasi-Judicial)
(Continued from February 15, 2021 Council Meeting)
Presenter: Planning Department

Attorney Cauley shared details regarding process of a Quasi-Judicial proceeding. He advised the types of testimony that could be considered during deliberation. He advised anyone that wished offer testimony must do so under Oath. Those who wanted to offer testimony were administered the Oath of Affirmation by the Town Clerk.

Ms. Wullenwaber was present. She stated this request is for master plan to develop up to 105,000 sf of commercial development and up to 772 resident units with 5 housing types.

Additional details were provided regarding the residential types to include 293 single family homes, 299 town homes and 180 apartments. All driveways set back 25' from the back of sidewalk. It was stated the apartments would be located adjacent to the commercial pod. It was stated that there would be a total of four design options and that architectural elevations would be provided during the minor sub review. Design standards are outlined in the master plan.

Additional information regarding commercial pod was provided. Some examples of permitted uses include café, office, restaurant, retail sales, day care facility and fitness recreation center.

Open Space and amenities were discussed. It is planned for 72.06 acres of open space with 7.9 acres being active open save. It was stated the amenity center would be a minimum size of 4,000 sf.

Information regarding the phase plan was shared. There will be a total of 10 phases.

Information was shared regarding traffic improvements with build out by 2030. It is estimated there will be 12,282 daily trips with 618 AM Peak trips and 1090 PM Peak trips.

There were two scenarios provided by NCOT for road improvements with scenario #1 being required if Covered Bridge Road realignment is not completed and scenario #2 being required if the alignment is completed.

Additional improvements include turn lanes being required on O'Neil Street and restriping of right turn lane on Main Street to O'Neil Street.

Waiver of curb and gutter was requested on roads 5 and 11. Waiver requested by applicant per 155.602(I) of the UDC. The applicant is subject to the Findings in 155.76 and said findings were addressed in the application. The waiver is requested for the Estate Home section where sidewalk is not proposed, sidewalk is not required for lots greater than 20,000 sf in size.

With reference to Consistency and Compatibility, the project is currently designated low with density residential, which means 3 units/acre. The applicant is proposing 3.30 units/acre. Commercial component not typically permitted in Low Density Residential. If associated rezoning is approved, Future Land Use Map will be automatically updated accordingly (to Medium Density Residential & Neighborhood Center).

Staff is supportive of master plan proposal given proximity to future northern connector.

Applicant has addressed Findings of Fact outlined in the Staff Report. If approved, staff recommended conditions of approval be placed.

Council Member Bunn asked if developer was in agreement with all conditions. Ms. Wullenwaber stated they were.

The applicant, Mr. Reid Smith, was present. He offered his appreciation to allow the meetings to continue during the COVID issue. He stated he felt this project would be a great addition to the town. He shared details about the Ashcroft Partners, LLC. He introduced his team of expert witnesses and shared their credentials. They include; Dave DeYoung who is an AICP certified planner with 27 years of experience, Kevin Martin who is a soil and wetland scientist,
Cindy Szwarckop who is an AICP certified planner, Tim Summerville who is a professional engineer 18 years of experience, Travis Fluitt, who is a senior traffic engineer with Kimley Horn and Toby Coleman, attorney.

He provided a project overview. He stated to date they have not heard of any opposition. He further stated they received unanimous recommendation for approval from the Planning Board on September 28, 2021.

He shared background of history of the development plan. He stated this development will include a variety of home types and is excited to be able to offer such a diverse development. He stated he feels this is a unique project and he is very proud and excited about it. He further stated he felt the commercial portion was a real need. He stated there is no current commercial opportunities in this area. He stated the quality of life in this neighborhood would be excellent. He addressed the active green space, the amenities to include amenity center with pool. He shared possibilities of additional features to include, fitness room business center, mail room, lazy river, community lounge bocce courts, etc. He also spoke about the numerous trails that will connect to the Mountain to Sea Trail. He stated he felt this development will be for the town and shared details about impact and development fees. Also stated utilities would be Town of Clayton. Also annual tax base on residential units would be approximately $700-$900,000.

At this time, Mr. Reid addressed the approval criteria regarding Master Plan approval. He read the following into the record:

1) ***Compliance with § 155.203(L) and all other applicable requirements of this chapter;***
-Master Plan includes a comprehensive set of design guidelines consistent with the Planned Development District Standards of the UDC.
-Provides a coordinated mixture of uses as outlined in the Master Plan.

2) ***Consistency with the Clayton General Design Guidelines;***
-Adheres to General Design Guidelines.
-High quality materials will be incorporated into commercial buildings as provided in the Master Plan's design guidelines.
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3) ***Conformance of the proposal with the stated purpose of the requested planned development district;***
-155.203(L) states the purpose of PD-MU is to encourage coordinated mixed-use development.
-The Master Plan includes a mixture of residential unit types and commercial development.

4) ***Compatibility of the proposed development with the adjacent community;***
-Ashcroft 1 is located directly south; includes a mixture of housing unit types.
-Future Steeplechase is located across Covered Bridge, which also includes a mixture of housing types.

5) ***The quality of design intended for each component of the project and the ability of the overall development plan to ensure a unified, cohesive environment at full build-out;***
-Commercial was purposely located along Covered Bridge Road and future Northern Connector.
-Residential pods are well thought out with lower densities adjacent to the Neuse River and higher densities adjacent to commercial uses. and
-Sidewalk connectivity and shared amenities.

6) ***Compatible relationships between each component of the overall project;***
The location and design of each project component was based on compatibility with the surrounding adjacent uses as well as the compatibility of internal uses.

7) ***Self-sufficiency of each phase of the overall project;***
-The overall project has been designed and coordinated with the Town to ensure self-sufficiency and available public facilities.

8) ***Documentation that the proposed infrastructure improvements accommodate the additional impacts caused by the development, or documentation to assure that the development, as proposed, will not overtax***

the existing public infrastructure systems;
-Traffic impacts have been evaluated and will be addressed during construction.
-The development will be phased to ensure adequate public infrastructure will be in place to meet project demands.

9) ***The fiscal impact of the proposal and the proposed financing of required improvements;***
-The development will pay all required System Development Fees and Recreation Fees to the Town of Clayton.
-All required traffic improvements will be performed by the developer.

10) ***The success of the proposal in providing adequate pedestrian and bicycle links within the development and with the adjacent community; and***
-The development will provide a sidewalk network throughout the development as well as greenway connections from the project to existing greenways.
-Sidewalk will connect residences to the commercial pod, and connect to the existing Ashcroft 1 subdivision to the south.

11) ***The effectiveness with which the proposal protects and preserves the ecologically sensitive areas within the development.***
-The development is partially located in the Watershed Protection Overlay and has been designed to minimize impacts on ecologically sensitive areas
-Resource Conservation Areas are being protected. Slopes greater 25% or 5,000 SF in area within 200' of a buffered stream, within 100' of a floodway, or within 50' of an unbuffered stream are considered steep slopes and are protected with no more than 15% of these areas being disturbed.

Addressed at this time were the Findings of Fact as follows:

FINDING OF FACT #1
Consistency with the adopted plans and of policies of the town.

- Consistent with plans and policies of the Town, including the Comprehensive Plan 2040. Specifically:
- Goal LU2 - Encourage quality development which maximizes existing infrastructure, promotes walking and biking, and enhances travel safety.
- Goal H1- Encourage a range of housing types and lot sizes that meet the needs of various income levels, family sizes, and ages.

Ms. Szwarckop stated he agreed that Finding of Fact #1 was met.

FINDING OF FACT #2
The subdivision meets all required specifications of this chapter.

The subdivision meets the requirements of the UDC, including the provision for a comprehensive set of design guidelines. A waiver from curb and gutter in the Estate Section (18 lots) is requested to minimize stormwater impacts.

Ms. Szwarckop stated she was in agreement that all requirements of the UDO had been met. Mr. Summerville stated he also agreed all requirement had been met and stated he believe the waiver from curb and gutter was appropriate.

FINDING OF FACT #3

The subdivision will not be detrimental to the use or orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area.

The proposed subdivision is consistent and complimentary to the adjacent Steeplechase and Ashcroft subdivisions and enhances the development standards through the comprehensive design guidelines set as a part of the Master Plan.
Ms. Szwarckop stated she agreed and stated this project would be a residential to a residential project.

FINDING OF FACT #4

The subdivision design will provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, will provide for the unified and orderly use of or extension of public infrastructure, and will not materially endanger the environment, public health, safety, or the general welfare.

Traffic distribution and impacts were evaluated by a traffic engineer and reviewed/approved by NCDOT. Phasing has been planned with the availability of public infrastructure and designed to protect the environment, public health, safety and general welfare of the Town.

Mr. Fluitt stated he was in agreement that this Finding of Fact had been met and further stated he had prepared an analysis and further agreed there would no adverse effect.

Council Member Grannis had questions regarding TIA. He asked about specifics with respect to the improvements at the entry point near Ashcroft 1 and Ashcroft 2 on North O'Neil Street. Mr. Summerville stated there were no proposed improvements planned at the Atwood Drive Entrance. He stated there are currently left and right turn lanes onto O'Neil with a wide driveway. He stated there would be 3 additional access points that would include left and right turn lanes onto O'Neil , a left and right exit from the site and a right in and out driveway with a right turn lane on O'Neil. He further stated that with regard to the Covered Bridge extension that would be dependent upon the realignment of Covered Bridge Road and Steeplechase.

Council Member Grannis asked about intersection Covered Bridge & O'Neil. Mr. Summersville stated a traffic light would be installed upon realignment of Covered Bridge. He stated he did not have an estimated timeline for that.

At this time it was noted there was a loud noise being heard. It was determined that there was a cell phone too close to a microphone.

There was discussion regarding modifications especially those that were minor that can be addressed by the Planning Director. Anything other than those listed must come back before council.

Mr. Baird shared details regarding wastewater and capacity. He stated we continue to work through these issues and will keep council updated. Mr. Solomon shared that better master planning would take place between town and county.

Mr. Baird shared information about the scoring process for Wastewater Allocation. This project did score 105 points, minimum is 50 points.

Wastewater allocation total is 252,970 and this includes all residential and commercial. He stated allocation would be done in a phasing process. This will ensure we do not use all available allocation at one time. Council Member Grannis asked for specific amounts at phasing periods. Mr. Baird provided that information.

Ms. Wullenwaber shared introduced Chad Essick, Attorney. Mr. Essick helped to draft the agreement and shared a high level summary of the agreement and exhibits. He stated the agreement is for a total of 10 years, which is the anticipated build out time. He shared details regarding Exhibit "E". He addressed fee in lieu for sidewalk infrastructure along O'Neil. He also shared details regarding Exhibit "F" which addressed Land Development and dedicated land / right of way for roadway expansion. Additionally he shared details regarding wastewater allocation and phasing. He stated Exhibit "H" addressed easements required for existing power lines, which are required to be executed along with Development Agreement upon approval. Mr. Solomon stated that all easements have been signed.

Mr. Essick stated he was happy to answer any questions.

Council Member Bunn stated he had concerns regarding signing agreement based on easements being signed without land being owned by developer. He was concerned about would happen if developer decided to pull out prior to completion of project. Attorney Coleman stated that as part of the agreement, easements state if there are no roads or parking lots built in the easement areas, once the town no longer needs that area, the town would put it back as it was. Council Member Bunn confirmed that if Ashcroft were not to be built, the town would be responsible. Attorney Coleman stated he believed that easements were required for the wastewater project. Council Member Bunn shared his concern about any damages that might occur once land is turned. Mr. Essick stated that per the agreement should there be no development, the town would restore property to similar condition. Mr. Solomon stated it was tried to ensure that land owners would be protected as much as possible. Council Member Bunn asked if all easements were required, could we not go through Ashcroft 1. Mr. Solomon stated that this current option is a bit more expensive but this was the better option for everyone. Council Member Bunn shared his concerns about further delays for the wastewater project and wanted to verify that should this agreement be approved, there would be no delays. Mr. Solomon confirmed that to be the case.

With no one further wishing to speak, the public hearing was closed at 8:00 p.m.

ACTION: Adoption of Ordinance #2021-03-02 (Development Agreement)

Motion: Council Member Bunn
Second: Mayor Pro Tem Thompson
Vote: Unanimous

ACTION: Adoption of Resolution #2021-12 (Wastewater Allocation)

Motion: Council Member Bunn
Second: Council Member Grannis
Vote: Unanimous

7 OLD BUSINESS

a) Land Acquisition - LCWRF Transmission Pipeline Easement Acquisition
Presenter: JD Solomon, Town Manager

Mr. Solomon stated this item may come back to council at a later date. He stated he was recently advised we are close negotiating and no additional action is required at this time.

b) Old Town Hall Update
Presenter: JD Solomon, Town Manager

Mr. Solomon provided a brief history and update regarding this project. He stated he has had numerous conversations with Mr. Smith, who is the current owner of the building. Mr. Smith stated he was now in a position to be able to take control of this project. Mr. Solomon stated we were now at a crossroad with this project. Mr. Solomon stated the question to come before council is whether we wanted to re-negotiate a contract or take the property back. Mr. Solomon further stated this item may need to be discussed in detail during a Closed Session, perhaps at council retreat. We may need to discuss this in a Closed Session possibly at Council Retreat. Mr. Solomon stated Mr. Reid has been very cooperative with this matter.

Mayor McLeod stated he appreciated the update as there has been extensive amount of citizen inquiry on this project.

c) LAPP Grant Update
Presenter: Joshua Baird, Town Engineer

Mr. Baird provided an update on the LAPP Grant. He stated at this time neither of the projects submitted were approved for the grant. He shared details about the projects that were approved. He stated the Northern Connector had been submitted into the SPOT Review.

Council Member Grannis offered his thanks to Mr. Baird and Mr. DeYoung for all the work that went into these projects. He stated that Clayton has received a good deal of LAPP money in the past.

Mr. Solomon agreed and stated that the LAPP Project is not going to be able to support the Northern Connector. He stated we will need to get a more comprehensive plan in place with regard to this project and prioritization.

Council Member Grannis stated he felt that NCDOT is going to push harder for municipalities to take more involvement in roadway projects.

8 NEW BUSINESS

a) SAFER Grant
Presenter: Liz Jernigan, Administrator Coordinator - Fire Department

Ms. Jernigan was present and shared details about the SAFER Grant that was previously received, she stated it was funded at 100%. She stated the new application deadline closes on March 12, 2021 and was asking council for approval to move forward with application process.

ACTION: Approval to Proceed with Grant Application

Motion: Council Member Bunn
Second: Council Member Holder
Vote: Unanimous

b) Wellness and Safety Kickoff
Presenter: Jeffra Patton, Safety Officer

Ms. Patton was present and shared details about the Wellness and Safety Program Kickoff. She shared details about the fundamentals of Safety Leadership. She asked that everyone take the National Safety Council *"SafeatWork"* Pledge. She stated there will be Monthly Building Block Safety Topic Emphasis across all town departments and ask that council join in becoming a Safety Leader and take the Pledge. She also shared details about being a Safety Leader and Organizational Goals All council members received a Safety First Water Bottle.

Mayor thanked Jeffra for all her hard work. Mr. Solomon stated this has to start from the top with regard to safety. Ms. Patton offered her thanks and appreciation for the support from Mr. Solomon.

ACTION: None - Informational Only

9 STAFF REPORTS

a) Town Manager

Mr. Solomon offered this thanks and appreciation to Cathy Marraccini for her dedication and assistance in filling in the role of Public Information Officer. He stated that she will remain involved with the Public Information Office. A new PIO will be introduced shortly. Cathy received a round of applause.

Mr. Solomon offered his thanks to Ann Game for all the work that has gone into the AMI meter program. He stated we have received very positive feedback and response from those who signed up on the portal and are now watching their power usage.

Mr. Solomon offered an update regarding the police investigation. He stated improvements at the police department have started to take place. He also shared a photo of the new crime scene investigation van. This van will now allow much of investigative work to now take place directly at the crime scene.

Mr. Solomon stated he has now been in the role of Town Manager for six months. He offered his thanks to the council to have been given the opportunity to use his talents to help his hometown.

Mr. Solomon stated that the new Public Information Officer has been selected. His name is Nathaniel Shelton and currently holds a similar position in Johnston County. He will begin in his role with the town on March 15, 2021.

b) Town Attorney

c) Town Clerk

d) Other Staff

10 OTHER BUSINESS

a) Informal Discussion & Public Comment

b) Council Comments

Council Member Holder stated that Mr. Solomon was hired in January and there was one item left unsettled regarding the residency requirement. He stated that manager does not make decisions regarding taxes, rates, etc., but only makes recommendations to council. Additionally he stated he felt the manager needed to devote his time to doing the work of Clayton and not moving residences.

He recommended we have waiver to the residency requirement for the present town manager.

Mayor McLeod asked the town attorney if this were legal. Attorney feels council has authority to make changes to the ordinance as well as grant a waiver to the ordinance.

Mayor McLeod stated this suggestion was news to him He stated he agreed with statement that town manager does not make decision but does make recommendations. He stated he did not feel this set a good precedence for the town and did not feel this was the right path for Clayton. He stated he felt it was unfortunate that we have had a long standing rule and our town manager was not willing to work this out with us.

Council Member Bunn brought up issues regarding ordinances that are on the books. He addressed an ordinance that was put on the books in 1996 that would charge residents to fix their sewer line. He stated we make changes to the Code of Ordinances all the time. He stated this ordinance was created in 1974 when there wasn't even an ETJ. Since that time we have an ETJ and we include residents from the ETJ in all our advisory boards. He feels the ordinance needs to be updated.

Mayor stated he felt it was a very poor decision. Council Member Holder stated that was his opinion. Mayor stated he felt many citizens would be unhappy.

ACTION: Waive Residency Requirement for Current Town Manager; JD Solomon

Motion: Council Member
Second: Council Member
Vote: 3-2 (against Grannis & Everett)

11 **ADJOURNMENT**

a)

Adjourn the Meeting

With there being nothing further, the meeting was adjourned at 8:44 p.m.

ACTION: Adjourn the Meeting

Motion: Council Member Bunn
Second: Council Member Everett
Vote: Unanimous

Duly adopted this the 15th of March,2021 while in regular session.

JMcLeod

Jody L. McLeod
Mayor

ATTEST:

Kimberly A. Moffett

Kimberly A. Moffett, CMC, NCCMC
Town Clerk

TOWN OF CLAYTON
INCORPORATED APRIL 1869
CLAYTON, N.C.