



Fuquay-Varina Town Board Meeting

March 1, 2021

John W. Byrne, Mayor
J. Blake Massengill, Mayor Pro Tempore
William H. Harris, Jason O. Wunsch, Marilyn B. Gardner
and Larry W. Smith, Town Board Members
Adam G. Mitchell, Town Manager
Mark D. Matthews, Assistant Town Manager
James (Jim) E. Seymour, Assistant Town Manager
Rose H. Rich, Town Clerk
James S. Adcock, III, Town Attorney

The Regular Meeting of the Fuquay-Varina Town Board scheduled for Tuesday, March 1, 2021 at 7:00 p.m. was held at the Fuquay-Varina Town Hall, 134 N Main Street, Fuquay-Varina, NC.

In attendance were Mayor John W. Byrne, Mayor Pro Tem Blake Massengill, and Commissioners Bill Harris, Jason Wunsch, Marilyn Gardner, and Larry Smith. Also in attendance were Town Manager Adam Mitchell and Information Technology Director Scott Clark. Assistant Town Manager Mark Matthews, Assistant Town Manager Jim Seymour, Town Clerk Rose Rich, and Town Attorney James Adcock attended the meeting virtually.

CALL TO ORDER

Mayor Byrne called the meeting to order at 7:15 p.m following the annual State of the Town presentation.

INVOCATION AND PLEDGE

Commissioner Larry Smith provided the invocation and Commissioner William Harris led the Pledge of Allegiance.

VIRTUAL MEETING PROTOCOL

Town Manager Mitchell advised there is a public comment period at the beginning of the meeting as well as several public hearings. If the public wishes to address the Town Board either during the public comment period or during scheduled public hearings, they will need to notify the Town host that they wish to speak. Those that wish to speak should press the "raise hand" button in the Zoom application or star 9 (*9) to raise hand via telephone. After an individual has raised their hand, they will enter a queue. When the public comment period or the public hearing begins Mayor Byrne will ask the Town host to recognize individuals to speak by calling out their name or the last four digits of their telephone number. Individuals will be unmuted at that time and allowed to address the Town Board at that time. Town Manager Mitchell stated that those

speaking should begin their comments by stating their name and address for the public record. The public is asked to keep all comments to three minutes so that all who wish to speak can be heard in a timely manner.

APPROVAL OF MINUTES

3A The February 16, 2021 minutes of the regularly scheduled meeting of the Town Board of Commissioners.

MOTION: Mayor Pro-Tem Massengill

SECOND: Commissioner Smith

MOTION RESULTS: Passed Unanimously (5-0)

PRESENTATIONS

4A There were no presentations.

PUBLIC COMMENTS

5A There were no public comments.

ITEMS PREVIOUSLY TABLED

6A There were no agenda items previously tabled.

PUBLIC HEARINGS

7A Zoning Map Amendment - Wilbon Properties, LLC - 210 & 0 Coley Farm Road and 0 Longfellow Street - PINs 0656583491, 0656594461, & 0656690567 - REZ-2020-17

Purpose - To consider a requested zoning map amendment for a total of 36.52 acres, located at 210 and 0 Coley Farm Road, and 0 Longfellow Street, from the Residential Agricultural (RA) and Residential Low Density (RLD) Zoning Districts to the Residential Mixed-Use (RMU), Neighborhood Mixed-Use (NMU), and Urban Mixed-Use (UMU) Zoning Districts.

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

The subject properties total 36.52 acres and are partially located in the Town's corporate limits. 0 Coley Farm Road is the subject of annexation ANX-2020-13, currently under consideration by the Town Board. The subject properties are currently vacant consisting of forested agricultural land. The zoning map amendment requests approval of the Residential Mixed-Use (RMU), Neighborhood Mixed-Use (NMU), and Urban Mixed-Use (UMU) Zoning Districts at the subject properties, which are intended to permit a variety of residential and nonresidential uses. These are form-based zoning districts, which require a master plan with the zoning approval. The master plan was provided as part of the agenda materials.

The petitioner has requested the following voluntary conditions be made applicable to the subject properties:

1. Vinyl siding is not permitted. Vinyl windows, decorative elements and trim is permitted.
2. Anti-monotony provisions: In order to promote variation in home appearance, no front elevation & color palette combination (including door color) shall be duplicated for three (3) lots in a row or directly across the street.
3. Roofline: roofline shall be broken up vertically or horizontally along the front facade, such that no roofline is in a single mass.
4. The applicant's vision for overall quality shall be governed by the following architectural themes: Contemporary, Modern Farm, Transitional, Craftsman, or Timeless Designs. At least two (2) of the following materials shall be utilized on each facade: wood or cement board and batten, fiber cement siding, wood or cement shingle, masonry brick, brick veneer, masonry stone, stone veneer, or synthetic stone. Secondary material must comprise at least 20% of the front facade. At least 35% of residential units shall have a full masonry facade extending up to at least the 2nd floor. In addition to these commitments, each residential unit shall contain at least three (3) of the following design features: walkup porch, dormer or gable, 2nd story porch or balcony, bay window, architectural shingles, metal roof accent, cornice, or corbel. All units shall provide a minimum 25% glazing on the front door or provide a transom. Attached townhome buildings shall have front façade modulations minimum 12 inches in depth between each unit.
5. Porches: all units shall contain a covered front porch or entryway.
6. Right-of-way visibility: any front, side, or rear facade visible from a public right-of-way (existing or proposed) shall have decorative trim or shutters on all standard windows.
7. Garages: all residential dwelling units shall contain a garage. All residential garages will be rear loaded except the maximum 25% permitted by the form-based code to be front

loaded. Garage doors shall contain windows, decorative details, and/or carriage style adornments.

8. Construction access shall be restricted from entering the project area from the east along Washington Street.
9. The landscape buffer adjacent to Wake County PIN: 0656695784 (Lincoln Heights Elementary School) shall be increased from a 20' Type 'B' landscape buffer to a 20' Type 'A' landscape buffer. A minimum 4' high earthen berm shall be constructed within the buffer.
10. Apartments, if proposed, shall be vertical mixed use (commercial or office first floor with multi-family above).
11. Each zoning district shall contain a minimum of four (4) different housing widths. Each width offering shall be unique in design and square footage.
12. The minimum qualifying heritage tree size shall be reduced from 24" to 18" diameter breast height.
13. A minimum 6' high privacy fence shall be installed adjacent to existing single-family lots.
14. The eastern side path along NW Judd Parkway shall extend to the intersection with Coley Farm Rd.
15. In order to create a more comprehensive transportation network, improvements along the north side of Coley Farm Rd (including pavement, sidewalk, and curb & gutter) shall extend west beyond the project's frontage and tie to the newly constructed sidewalk, pavement, and curb & gutter at the intersection with NW Judd Parkway.
16. Public water infrastructure: the project shall construct a new 12" public water main from the intersection of NW Judd Parkway and NC HWY 42 approximately 3,260 LF north along NW Judd Parkway and terminate at the project's northmost extents.
17. All non-residential buildings and civic spaces shall contain at least one bicycle rack with parking for at least four bicycles.
18. The NW Judd Parkway thoroughfare buffer shall be increased from a Type 'C' transitional buffer to a Type 'B' semi-opaque buffer if the rear of residential units is visible from the thoroughfare.

The master plan is characterized by a mixture of commercial, civic areas, attached, and detached residential units set close to the street. It provides for an overall flexible design that considers integration of uses, connectivity, character, transportation options, and preservation of natural features. To comply with zoning map amendment petition requirements, the associated master plan (document and related maps) shall identify permitted uses, arrangement of uses, open space, thoroughfare network, utilities, pedestrian network, architectural design, and standards, building layout, and landscaping. The master plan shall also adhere to all other standards provided by Article

Q and Appendix B of the Land Development Ordinance (LDO). The master plan proposes maximum densities of 12 dwelling units per acre in the RMU Zoning District, and 14 units per acre in NMU Zoning District. The proposed densities are less than the maximum allowable densities of 18 dwelling units per acre in the RMU Zoning District, and 22 dwelling units per acre in the NMU Zoning District. The LDO does not implement a maximum density in the UMU Zoning District, however the master plan proposes a maximum density of 16 dwelling units per acre. The location of and reduced density within the RMU and NMU Districts are intended to provide a transitional area from existing single-family neighborhoods to the north of the site to the more commercial and urban character of this form-based project. Nonresidential development is included in all three (3) zoning districts, with nonresidential areas located along the frontages of future NW Judd Parkway and Coley Farm Road. The highest intensity nonresidential uses are located in the UMU and NMU Districts. It is the intention of the LDO to permit the higher density uses furthest from adjacent lower density residential neighbors and in proximity to major thoroughfares, as the master plan proposes. Civic space is green space dedicated for community use and can take many forms, for both active and passive recreation. The master plan proposes a number of civic spaces including playgrounds, squares, greens, and a greenway, the latter of which is intended to connect to the proposed side path infrastructure along future NW Judd Parkway. The minimum civic space required in a form-based zoning district master plan is five percent (5%) of the project area. The proposed master plan provides for dedication of 8.24% of the project area, or a total of three (3) acres.

Surrounding properties are a mix of civic & institutional, residential, and heavy industrial uses. Lincoln Heights Elementary School is directly adjacent to the eastern side of the subject properties. Single-family residential properties are located to the west and northeast of the subject properties, while storage and metal working facilities are located to the southeast. Furthermore, the Summerdale and Union Station developments, both currently under construction, are located to the southeast and southwest respectively of the subject properties.

The 2035 Community Vision Land Use Plan (LUP) calls for the Mixed-Use Neighborhood (MUN) Classification at the subject properties and are classified as being form-based in nature. The MUN Classification calls for a mix of uses that offers residents the opportunity to live, work, shop, and play in one community. Typically, these neighborhoods include a mixture of housing types and residential densities, integrated with goods and services in a walkable center that residents visit on a daily basis. The MUN classification supports and encourages pedestrian and bicycle activity through the use of small blocks and streets and rear parking strategies to minimize the impact of vehicular traffic on the development. Typical densities in a MUN Classification range between 4.0 and 80.0 dwelling units per acre. The requested zoning districts are consistent with the 2035 LUP. Public water and sewer are available to serve the subject properties and will be installed with future development.

The subject properties are located along and have access to future NW Judd Parkway, Coley Farm Road, and Washington Street. The future NW Judd Parkway is identified as a four (4) lane, median-divided road with side paths with a 110-foot right-of-way (ROW). Future NW Judd Parkway is anticipated to have a carrying capacity of 35,100 average daily trips (ADT). Coley Farm Road and Washington Street are both classified as local streets by the Town's 2035 Community Transportation Plan (CTP). As Coley Farm Road is maintained by NCDOT, 2019 traffic counts are available and indicate 1,400 ADT in front of the subject properties. Washington Street is not maintained by NCDOT and as such, traffic counts are not available. It is anticipated that Washington Street will have connection to future NW Judd Parkway as part of this master plan. Additionally, the CTP shows a future collector street on the subject properties connecting the future Washington Street extension to a future extension of Longfellow Street.

The petitioner held a neighborhood meeting on November 10, 2020. The meeting report is attached, and staff takes no position as to its content.

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

1. The master plan included with the petition fulfills the intent of the 2035 Community Vision Land Use Plan by establishing viable, nonresidential areas along the NW Judd Parkway creating the opportunity for nonresidential uses to serve residents in a walkable environment.
2. Transitions are proposed between existing and future development, with higher intensity uses located along major thoroughfares and lower intensity uses located adjacent to existing development to improve compatibility.
3. An appropriate internal transportation network is provided throughout the entire development. There are several access points for multiple means of ingress and egress to the subject property, and also an adequate network of internal streets that connect each district within the proposed master plan, through a variety of street types and sizes to adequately carry anticipated traffic, and to provide reasonable vehicular and pedestrian traffic accommodations.
4. The requested zoning map amendment is consistent with the 2035 Community Vision Land Use Plan designation of Mixed-Use Neighborhood and would allow for the proposed uses. Prior to January 12, 2021 regular Planning Board meeting, the petitioner requested this item be postponed until the February 15, 2021 meeting. Since

the public hearing was not opened, the request was re-advertised. At the February 15, 2021 regular meeting, the Planning Board unanimously voted to recommend approval.

Public Hearing - The public hearing was opened. Brian Duncan, 1501 Marinda Woods Lane, Fuquay-Varina spoke in favor of the zoning map amendment and referred to the unique amenities that the development will have. No one spoke in opposition to the zoning map amendment. The public hearing was closed.

Discussion - Commissioner Wunsch stated that the developer has taken the time to put great character, and this should be a wonderful community.

Recommendation - Approve REZ-2020-17, a zoning map amendment at 210 and 0 Coley Farm Road and 0 Longfellow Street, from the Residential Agricultural (RA) and Residential Low Density (RLD) Zoning Districts to the Residential Mixed-Use (RMU), Neighborhood Mixed-Use (NMU), and Urban Mixed-Use (UMU) Zoning Districts, as it is reasonable and in the best interest of the public for reasons identified by management and staff.

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

7B Voluntary Annexation Petition - Currin Heirs, LLC, 0 Coley Farm Road - PIN 0656594461 - ANX-2020-13

Purpose - To consider the adoption of an annexation ordinance extending the corporate limits of the Town of Fuquay-Varina following receipt of a petition for voluntary annexation of property owned by Currin Heirs, LLC containing a total of approximately 28.380 acres.

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

The property contains approximately 28.380 acres with road access at 0 Coley Farm Road. The property is contiguous to the Town's corporate limits where water and sewer is available to the property. At the February 16, 2021 meeting, the Town Board instructed the Town Clerk to investigate the applicant's petition for voluntary annexation. The Town Clerk certified at that time the petition

was sufficient and meets the requirements prescribed by the North Carolina General Statutes. The Town Board also adopted a resolution setting a public hearing for the March 1, 2021 Town Board meeting.

Public Hearing - The public hearing was opened. No one chose to speak in favor of, or opposition to the voluntary annexation petition. The public hearing was closed.

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

Recommendation - Adopt the annexation ordinance to extend the corporate limits of the Town of Fuquay-Varina to include property owned by Currin Heirs, LLC - ANX-2020-13 as presented and recommended.

MOTION:	Commissioner Smith	
SECOND:	Commissioner Harris	
MOTION RESULTS:	Passed Unanimously (5-0)	Ordinance No. N-21-04

7C Zoning Map Amendment - Raleigh Home Group, LLC - 1994 NC 42 Highway - PIN 0687209783 - REZ-2020-21

Purpose - To consider a requested zoning map amendment for a total of 0.66 acres, located at 1994 NC Highway 42 from the Residential Agricultural (RA) Zoning District to the Neighborhood Commercial Conditional (NC-CZD) Zoning District.

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

The subject property totals 0.66 acres and is in the Town's Extraterritorial Jurisdiction (ETJ). The property is the subject of a Voluntary Annexation Petition request (ANX-2020-15). There is currently one structure on the property. ZONING: The zoning map amendment petition requests approval of the Neighborhood Commercial Conditional Zoning District (NC-CZD). This zoning district is intended to permit small-scale, minimal intensity commercial, and office development that primarily serves the immediate surrounding neighborhoods.

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

1. Office, Business/Professional
2. Retail Sales & Services.

Surrounding properties are a mix of cleared agricultural land, single-family residential, retail, and office & institutional. Residential properties are generally to the north and west of the subject property. Retail and office uses are diagonally to the northeast of the property. Furthermore, a church and cemetery are to the east of the property in the Urban Service Area (USA).

The 2035 Community Vision Land Use Plan (LUP) calls for the Small-Scale Commercial Center (SSCC) Classification at the subject property. The LUP's Recommendation, CF.1 - Invest in Existing Growth Areas, which incentivizes development projects in planned growth areas like the NC 42 Hwy corridor. As such, the requested zoning district is consistent with the 2035 LUP classification.

Public water is available to serve the subject property. Public sewer is not available.

The subject property has access to NC 42 Highway and Walter Myatt Road. The 2035 Community Transportation Plan (CTP) classifies NC 42 Highway as a 120-foot right-of-way, while Walter Myatt Road is classified as a 70-foot right-of-way. NC 42 Highway is identified as a four (4)-lane, median divided road with side paths with a carrying capacity of 40,500 ADT. Walter Myatt Road is identified as a two (2)-lane road with a sidewalk and a side path with a carrying capacity of 11,400 ADT. 2018 NCDOT traffic counts indicate a volume of 11,500 ADT on NC 42 Highway and a volume of 1,400 ADT on Walter Myatt Road.

The petitioner held a neighborhood meeting on December 14, 2020 via the Zoom web application. The meeting report is attached, and staff takes no position as to its content.

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

1. The requested zoning map amendment is consistent with the 2035 Community Vision Land Use Plan's designation of Small-Scale Commercial Center.
2. The requested zoning map amendment is consistent with the 2035 Community Vision Land Use Plan's Recommendation CF.1 - Invest in Existing Growth Areas.

3. Conditions proposed by the petitioner effectively limit future development so that it is compatible with the surrounding areas. At the February 15, 2021 regular meeting, the Planning Board unanimously voted to recommend approval.

At the February 15, 2021 regular meeting, the Planning Board unanimously voted to recommend approval.

Public Hearing - The public hearing was opened. No one chose to speak in favor of, or in opposition to the zoning map amendment. The public hearing was closed.

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

Recommendation - Approve REZ-2020-21, a zoning map amendment at 1994 NC 42 Highway, from the Residential Agricultural (RA) Zoning District to the Neighborhood Commercial Conditional (NC-CZD) Zoning District. The proposed zoning map amendment is consistent with the 2035 Community Vision Land Use Plan and is reasonable and in the best interest of the public for the reasons identified by management and staff.

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

7D Voluntary Annexation Petition - Raleigh Home Group, LLC - PIN 0687209783 - 1994 NC Hwy 42, Willow Spring, NC - ANX-2020-15

Purpose - To consider an annexation ordinance extending the corporate limits of the Town of Fuquay-Varina following receipt of a petition for voluntary annexation of property owned by Raleigh Home Group, LLC containing a total of approximately 0.66 acres, and to approve the Declaration of Annexation Agreement signed by the owner.

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

The property is non-contiguous to the Town's corporate limits. Water is available to the property, but sewer is not. The petitioner has signed a Declaration of Annexation Without Sewer Service

Agreement waiving and releasing the Town from any and all obligations to provide sewer services to the property.

At the February 16, 2021 meeting, the Town Board instructed the Town Clerk to investigate the sufficiency of the applicant's petition for voluntary annexation. The Town Clerk certified at that time that the petition was sufficient and meets the requirements prescribed by the North Carolina General Statutes. The Town Board also adopted a resolution setting a public hearing for the March 1, 2021 Town Board meeting.

Public Hearing - The public hearing was opened. No one chose to speak in favor of, or in opposition to the voluntary annexation petition. The public hearing was closed.

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

Recommendation - Adopt the annexation ordinance to extend the corporate limits of the Town of Fuquay-Varina to include property owned by Raleigh Home Group, LLC - ANX-2020-15 as presented and recommended.

MOTION: Mayor Pro-Tem Massengill

SECOND: Commissioner Harris

MOTION RESULTS: Passed Unanimously (5-0) Ordinance No. N-21-05

7E Town Code Amendment - Town of Fuquay-Varina - Land Development Ordinance (LDO) Amendment #13 - CTA-2020-07

Purpose - To consider a proposed text amendment to the Town Code of Ordinances, Part 9 Land Development Ordinance, Amendment #13 that addresses several areas for improvement.

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

Town staff and the community have gained significant experience using the Land Development Ordinance (LDO) since its adoption in December 2016 and gaining a better understanding of its intent and proper function. As a result, this amendment seeks to harness that experience in the form of clarifications and technical corrections to the LDO's language.

The proposed changes are as follows:

Section 1, Article F: Drive-in Movie Theater has been added as a use to the Permitted Use Table. This use will be permissible by Special Use Permit in the Corridor Commercial (CC), General Commercial (GC), and Research Light Industrial (RLI) zoning districts. Additionally, the following Drive-In Movie Theater development use standards have been added to Article F:

- Minimum lot size no less than five acres
- No amplified sound
- Permanent restrooms shall be provided
- All vehicular driving and parking surfaces shall be paved
- Concession stands, play structures, and mobile restaurants may be incorporated
- Hours of operations shall be between 8:00 AM - 12:00 AM (midnight).

The Drive-In Movie Theater use has been added to this section, and reasonable standards have been outlined to develop this use. This use is permitted by Special Use Permit only to allow development approval to happen on a case-by-case basis to establish additional regulations where they may be necessary to avoid neighbor property nuisance. Additionally, this use provides for another means of public entertainment amenities while still adhering to socially distanced regulations.

Section 2, Article J: Section 9-1462 Recreation Standards, contains guidelines on the Town's ability to require dedication of recreational land, or alternatively, to collect fees-in-lieu of dedication on new development to provide recreation opportunities to future residents. This section has been completely rewritten to provide clarity. Further, changes have been made that provide conformity with the recently adopted North Carolina General Statutes Chapter 160D. Chapter 160D consolidates current city and county statutes for development regulation into a unified chapter along with additional changes.

To provide parks, recreation, open space, or greenway sites to serve the community's future residents, the Town is authorized by statute to require dedication of recreational land or to accept a fee-in-lieu of dedication to be used to develop Town recreation sites. Currently, the Town assesses and collects recreation fees-in-lieu of dedication under Article J, Subdivision Regulations, section 9-1462 Recreation Standards.

The Town's current recreation fees-in-lieu of dedication are \$1,000 per single-family unit and \$25,000 per acre for multi-family developments. The Town's current LDO recreation standards provide for either the dedication of recreation land at 1/35 of an acre or the payment of a fee-in-lieu.

Most developers have opted to pay the \$1,000 per lot fee at the time of plat recordation or \$25,000 per acre for multi-family at building permit.

Chapter 160D is specific about how recreation fees-in-lieu are to be calculated and charged. Staff recommends that the Town's Land Development Ordinance and Fee Schedule be amended to align with the statutory language in 160D. This amendment will allow for a developer's choice of dedicating land at a specified acreage ratio per dwelling unit or paying a fee-in-lieu. The land area to be dedicated shall not be less than the product of the specified acreage ratio and the number of dwelling units. Land located within a 100-year floodplain, with slopes greater than 15%, or that is located within an overhead utility easement will not be approved or accepted for dedication.

Where a fee-in-lieu of land dedication is to be paid, the amount of the fee-in-lieu shall be determined using the property tax value of the land and the number of units proposed. The total fee-in-lieu shall not exceed the land value of that recreational land that would have otherwise been required to be dedicated. The land value shall be determined by the Planning Director utilizing available property tax value information. If there is a disagreement over land value, this dispute shall be settled before a Special Committee as defined in this recommendation.

Before the Board, the current item is to consider an amendment to provisions in the LDO that prescribe how the Town may assess and collect recreation fees-in-lieu under Article J, Subdivision Regulations, section 9-1462 Recreation Standards. Following action by the Town Board on this amendment's consideration, Town management will be proposing a Fee Schedule Amendment that aligns with the action taken herein by the Board.

Under this proposed LDO amendment, the Town Board is being asked to select one of two options that will be used to determine the ratio of land to be dedicated per residential unit. The fee-in-lieu of land dedication for single-family residential units and multi-family residential units will be calculated according to N.C. Gen. Stat. 160D-804(d) based on a property tax value formula. Town Management is recommending that the Town Board adopt one of the following two options for calculating the size of area required for dedication:

Option 1: Recreational land dedication requirement of 1/20th of an acre of land to be dedicated per residential dwelling unit or payment of a fee-in-lieu of dedication. The fee-in-lieu for the development or subdivision shall be the product of the total number of dwelling units in the subdivision or development times the property tax value of 1/20th of an acre of land.

Option 2: Recreational land dedication requirements being based on an annual increasing ratio of acreage per residential dwelling unit. The fee-in-lieu for the development or subdivision shall be the product of the total number of dwelling units in the development or subdivision times the property tax value of the acreage otherwise required to be dedicated according to the following schedule:

- A. From the approval date of this amendment (March 1, 2021), to June 30, 2022, land meeting the criteria for dedication shall be dedicated at a rate of one thirtieth (1/30) of an acre per residential dwelling unit or the fee-in-lieu of dedication based on property tax value of the land is to be paid.
- B. From July 1, 2022 to June 30, 2023, land meeting the criteria for dedication shall be dedicated at a rate of one twenty-fifth (1/25) of an acre per residential dwelling unit or the fee-in-lieu of dedication based on property tax value of the land is to be paid.
- C. From July 1, 2023, land meeting the criteria for dedication shall be dedicated at a rate of one twentieth (1/20) of an acre per residential dwelling unit or the fee-in-lieu of dedication based on property tax value of the land is to be paid.

Fees collected in lieu of land donation shall be held in one of three capital reserve accounts (Northwest, Northeast, or South) by the Town and used by the Town to acquire and develop public recreation areas as shown in the Town's Parks, Recreation, and Cultural Resources Master Plan Amendment: Recreation Districts and for no other purpose to ensure that fees collected are used in the immediate area of the development.

Section 4, Article P: - Language has been struck from the sections of this Article referring to both the Planning Board and the Board of Adjustment regarding the establishment of the Chair, Vice-Chair, and Acting Chair positions, and now refers the user to the Planning Board or Board of Adjustment by-laws, respectively. These changes are to remove redundancy and avoid conflicting language. All information on these topics will now be contained within the by-laws.

Section 5, Article S: - The definition for Drive-In Movie Theater use has been established in this section.

Section 6, Appendix A: - A grammatical edit wherein the word "for" has been replaced with the word "floor."

Management is recommending the Town Board approve one of the following proposed town code amendments pursuant to the Town Board's determination of the Town's assessment and collection of recreation unit fees under Article J, Subdivision Regulations, section 9-1462 Recreation Standards:

Option 1: CTA-2020-07 Amendment 13. This proposed LDO amendment incorporates land dedication or fee-in-lieu calculated using 1/20th of an acre of land per dwelling unit meeting the criteria for dedication. All other code text amendment recommendations outlined in this proposed amendment shall remain unchanged and incorporated for consideration of the proposed LDO amendment; or

Option 2: CTA-2020-07 Amendment 13. This proposed LDO amendment incorporates land dedication or fee-in-lieu calculated using an annual increasing ratio (described herein) of land meeting the criteria for dedication. All other code text amendment recommendations outlined in this proposed amendment shall remain unchanged and incorporated for consideration of the proposed LDO amendment.

Town management, in consultation and approval of the Town Attorney, find these recommended LDO amendments reasonable and in the public's best interest, as they improve upon the Land Development Ordinance's intent to modernize, provide sustainability, and allows for ease of use and enforcement, specifically concerning the Town's current standards.

At the February 15, 2021, regular meeting, the Planning Board unanimously voted to recommend approval with the recommended language specific to Option A presented herein. Following staff's discussion with the Board during the Town Board retreat, staff is introducing two reasonable LDO amendments for Board consideration.

Public Hearing - The public hearing was opened. No one chose to speak in favor or opposition of the Town Code Amendment. The public hearing was closed.

Discussion - Commissioner Smith asked for clarification on the options. Town Manager Mitchell stated that options A & B are now options 1 & 2. He clarified that the only difference between those options is whether you go straight to the 1/20th of an acre approach for the recreation fee formula or if go with a phased approach for the course of the next three years. Commissioner Harris asked about the rationale for the recreation districts rather than keeping it on an at-large basis. He raised concern that there may be an imbalance as the community continues to grow, and some districts may not receive funding due to lack of growth. Town Manager Mitchell stated the North Carolina General Statutes now require that municipalities identify districts that are reasonable within the proximity of where the funds are collected. He also stated that the Town could add districts or amend these districts if needed. Mayor Pro-Tem Massengill stated that he would like to see a drive-in movie come to the Town. He also stated that the larger districts allow for more flexibility but would

like the rate to be 1/30th. He recommends that the Town implement a hybrid version of options 1 and 2, meaning that recreation fee formula would be 1/30th of an acre and to reevaluate the fees and districts annually. Commissioner Gardner asked that when determining the districts, did the recreation districts take into consideration the preferred growth areas? Town Manager Mitchell stated that the preferred growth areas were not a part of the determination for recreation fee reinvestment due to growth occurring in all areas of the community. He advised that the districts were based on major transportation thoroughfares.

Recommendation - Approve CTA-2020-07 Amendment #13, an amendment to the Town Code of Ordinances, Part 9 Land Development Ordinance incorporating Option #1 for recreation fee-in-lieu implementation, with the fee being calculated at 1/30th of an acre, and to reevaluate the matter in a year. The text amendment improves upon the Land Development Ordinance and is reasonable and in the best interest of the public for the reasons identified by management and staff.

MOTION: Mayor Pro-Tem Massengill
SECOND: Commissioner Smith
MOTION RESULTS: Passed Unanimously (5-0) Ordinance No. PZ-21-01

7F Fee Schedule Amendment - Modified Parks, Recreation and Cultural Resources Fee-In-Lieu

Purpose - To consider a fee schedule amendment to the FY 2020-2021 Fee Schedule for Parks, Recreation and Cultural Resources - Unit Fees.

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

Currently, the Town assesses and collects recreation fees under Article J, Subdivision Regulations, section 9-1462 Recreation Standards, where the Town is authorized and requires the dedication of land and/or a fee-in-lieu. The recreation fee, to be paid in-lieu of land dedication, is reflected in the adopted fee schedule for that fiscal year. The current fee is \$1,000 per single family residential unit and \$25,000 per acre for multi-family residential uses. The Town's current recreation standards provides for dedication of recreation land at a rate of 1/35th of an acre per dwelling unit.

NCGS 160D is specific to how recreation fees-in-lieu of dedication are calculated. Staff recommends that the Town's Land Development Ordinance and Fee Schedule be amended to align with the

statutory language included in the new statute. When a fee-in-lieu of land dedication is paid, the amount of the fee shall be determined using the development's property tax value. The property value shall be determined by the Planning Director based on available property tax value information in accordance with statute. The total fee-in-lieu shall not exceed the value of the land that would otherwise be required to be dedicated.

Town Management recommends a Fee Schedule Amendment to more closely align with statutory language included in NCGS 160D. This recommendation provides a developer the option of recreational land dedication or payment of a fee-in-lieu of dedication. The Town Board will have the ultimate authority to accept a proposed land dedication or require a payment of the fee-in-lieu. Staff research has determined that our neighboring jurisdictions use various methods to calculate recreation fees.

Following consultation and approval by the Town Attorney, Town Management and staff recommend approval of the proposed Fee Schedule Amendment.

Fiscal Note - Town Management in consultation with the Town Attorney recommends that the Town Board adopt one of the following two options for required recreation land dedication and the respective fees-in-lieu of dedication:

Option 1: Recreational land dedication requirement of 1/30th of an acre of land to be dedicated per residential dwelling unit or payment of a fee-in-lieu of dedication. The fee-in-lieu for the development or subdivision shall be the product of the total number of dwelling units in the subdivision or development times the property tax value of 1/30th of an acre of land.

Option 2: Recreational land dedication requirements being based on an annual increasing ratio of acreage per residential dwelling unit. The fee-in-lieu for the development or subdivision shall be the product of the total number of dwelling units in the development or subdivision times the property tax value of the acreage otherwise required to be dedicated according to the following schedule:

- A. From the approval date of this amendment (March 1, 2021), to June 30, 2022, land meeting the criteria for dedication shall be dedicated at a rate of one thirtieth (1/30) of an acre per residential dwelling unit or the fee-in-lieu of dedication based on property tax value of the land is to be paid.

- B. From July 1, 2022 to June 30, 2023, land meeting the criteria for dedication shall be dedicated at a rate of one twenty-fifth (1/25) of an acre per residential dwelling unit or the fee-in-lieu of dedication based on property tax value of the land is to be paid.
- C. From July 1, 2023, land meeting the criteria for dedication shall be dedicated at a rate of one twentieth (1/20) of an acre per residential dwelling unit or the fee-in-lieu of dedication based on property tax value of the land is to be paid.

For subdivisions involving fewer than twenty (20) lots or dwelling units, the payment of fee-in-lieu shall be required.

Fees collected in lieu of land donation shall be held in one of three capital reserve accounts (Northwest, Northeast, or South) by the Town and used by the Town to acquire and develop public recreation areas as shown in the Town's Parks, Recreation, and Cultural Resources Master Plan Amendment: Recreation Districts and for no other purpose. Attached are the resolutions setting up the three capital reserve accounts.

Public Hearing - The public hearing was opened. No one chose to speak in favor or opposition of the fee schedule amendment. The public hearing was closed.

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

Recommendation - Approve amending the FY 2020-2021 Fee Schedule and associated resolutions which serve to establish calculating a fee-in-lieu to be paid in lieu of land dedication pursuant to N.C. Gen. Stat. 160D-804(d) based on a property tax value formula and three capitol reserve accounts as presented and recommended. The motion included Option 1 to be calculated at 1/30th of an acre.

MOTION:	Mayor Pro-Tem Massengill	Ordinance No. N-21-06
SECOND:	Commissioner Wunsch	Resolution No. 21-1693
MOTION RESULTS:	Passed Unanimously (5-0)	Resolution No. 21-1694
		Resolution No. 21-1695

CONSENT AGENDA

- 8A Budget Amendment - Recognizing Insurance Proceeds - Parks, Recreation & Cultural Resources Department - Unit #42 - BA-21-24 - \$4,720.00

Purpose - To consider a budget amendment that recognizes insurance proceeds in the amount of \$4,720.00 from the NC League of Municipalities Interlocal Risk Financing Fund for repairs of a Parks, Recreation, and Cultural Resources Maintenance Truck (Unit #42).

Recommendation - Approve Budget Amendment BA-21-24 as presented and recommended.

- 8B Utility Agreement Allocation Request - Aviator Brewing Company

Purpose - To consider a Utility Agreement Allocation Request for the Aviator Brewing Company, 18,140 gpd sewer and 18,140 gpd water.

Recommendation - Approve the Utility Agreement Allocation Request for Aviator Brewing Company as presented and recommended.

- 8C Budget Amendment - Recognizing Revenue - Wake County COVID-19 Reimbursement Funding - \$30,000.00 - Town Board Room Audio-Video Improvements - BA-21-25

Purpose - To consider approval of budget amendment, BA-21-25 in the amount of \$30,000.00, that recognizes revenue from Wake County COVID-19 reimbursement funds to be allocated towards purchasing new audio and video technology equipment needed to upgrade the Town Hall Board Room.

Recommendation - Approve budget amendment, BA-21-25, as recommended and presented.

- 8D Voluntary Annexation Petition - Northgate Subdivision - 102, 104, 105, 108, and 109 Oaklake Court and 105, 106, 107, 109, 110, 111, 113, 115, 117, 118, 119, 120, 121, 122, 123, 124, and 125 Riding Ridge Road. PIN'S 0657983164, 0657982293, 0657980161, 0657981373, 0657889279, 0657987373, 0657987222, 0657985420, 0657986163, 0657984258, 0657986005, 0657985020, 0657974943, 0657973875, 0657981070, 0657972799, 0657970929, 0657971667, 0657879942, 0657970579, 0657878798 and 0657879611 - ANX-2021-02

Purpose - To consider the adoption of a resolution instructing the Town Clerk to investigate an annexation petition and to adopt a resolution setting a public hearing for March 16, 2021, following

the receipt of a petition for voluntary annexation of property owned by individuals of the Northgate Subdivision containing a total of approximately 16.126 acres.

Recommendation - Adopt the resolution instructing the Town Clerk to investigate the voluntary annexation petition, and adopt the resolution setting the public hearing for a voluntary annexation petition on March 16, 2021, for property owned by Northgate Subdivision - ANX-2021-02 as presented and recommended. Resolution No. 21-1696
Resolution No. 21-1697

A motion was made to approve all items (8A - 8D) on the Consent Agenda.

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

ITEMS REMOVED FROM CONSENT

There were no items removed from the Consent Agenda for separate consideration.

ADMINISTRATIVE REPORTS

10A Preliminary Subdivision Plat - Lakestone Tract 5 - SUB-PR-2020-09

Purpose -To consider a preliminary subdivision plat submitted by George Finch/Boney and Associates, P.A., called Lakestone Tract 5, located at 635 Lakestone Commons Avenue.

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

The submitted preliminary subdivision, Lakestone Tract 5, is located at 635 Lakestone Commons Avenue, on 9.538 acres in the Corridor Commercial (CC) zoning district.

The preliminary subdivision plat proposes a mixed-use development with 48 townhouses on a residential area of 7.07 acres and two future commercial lots on a combined commercial area of 2.468 acres. The minimum provided townhouse lot size is 1,260 square feet and the maximum

provided townhouse lot size is 1,999 square feet. Following the 15% open space requirement for townhouse developments, a minimum of 1.06 acres of overall open space is required. This proposed subdivision is providing 3.634 acres of overall open space.

Vehicular access to the project area is provided by two (2) connections to the extended Commercial Service Road and one (1) connection to Lakestone Commons Avenue. The Commercial Service Road is a private road and Lakestone Commons Avenue is a local street. The Commercial Service Road has two (2) lanes and Lakestone Commons Avenue has four (4) lanes with a median and side paths. A street stub will be provided to the west of the site.

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, as such management and staff recommend approval.

At the February 15th, 2021 regular meeting, the Planning Board found the subdivision plat consistent with Town requirements and voted unanimously to recommend approval.

Discussion - Mayor Pro-Tem Massengill stated that he would like to table this item so that he could get some questions answered to make sure that the proposed subdivision is going to continue the style of the existing subdivision. Town Manager Mitchell stated that it would not be his recommendation to table the matter, but the Town Board may choose to table. He stated that the subdivision plat as submitted will conform with the Town's code of ordinance as well as any applicable neighborhood covenants. Town Attorney Adcock stated that it is within the Town Board's authority to table the matter to the next meeting if they wish, but approving the subdivision plat is a ministerial decision, and we do not have a lot of discretion, it either meets our standards or it does not, and he recommends that the Town Board take action. Planning Director Pam Davison stated that because this is a mixed-use project, the developers submitted a declaration of mixed-use development that included unified development standards for materials and colors.

Recommendation - The proposed preliminary subdivision plat meets all Town requirements, as such management and staff recommend approval.

Motion to table the item for further study until the March 16, 2021 Town Board meeting.

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

10B 2020 Comprehensive Systemwide Parks, Recreation, and Cultural Resources Master Plan
Amendment- Recreation Unit Fee District Map

Purpose - To consider an amendment to the 2020 Comprehensive Systemwide Parks, Recreation, and Cultural Resources Master Plan.

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

The Town of Fuquay-Varina recently updated the Land Development Ordinance to better clarify the collection and utilization of Recreation Unit fees that provide conformity with the recently established North Carolina General Statutes Chapter 160D. The new NCGS 160D is specific to how rec unit fees are to be calculated and charged. The newly revised Town's Land Development Ordinance and Fee Schedule aligns with the statutory language included in the new general statute. The newly adopted amendment will allow for a developer's choice of dedicating and/or developing land per acre dwelling unit or paying a fee-in-lieu. Fees collected in lieu of land donation shall be held in a special fund by the Town and used by the Town to acquire and develop public recreation areas as identified in the Town's Parks, Recreation, and Cultural Resources Master Plan.

This amendment to the 2020 Comprehensive Systemwide Parks, Recreation and Cultural Resources Master Plan reflects the newly identified Recreation Unit Fee Districts. Three Recreation Districts have been established and a map reflecting the update is included in the master plan's appendix. The new recreation districts are identified as follows Northeast, Northwest and South. Recreation Unit Fees collected in each district, will only qualify to be invested within projects that fall within the same district.

Following consultation and approval by the Town Attorney, Town Management and staff recommend approval of the proposed amendment to the 2020 Comprehensive Systemwide Parks, Recreation, and Cultural Resources Master Plan.

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

Recommendation - Approve the 2020 Comprehensive Systemwide Parks, Recreation, and Cultural Resources Master Plan amendment as presented and recommended.

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

OTHER BUSINESS

11A Town Manager's Report

- Wake County will be conducting COVID-19 testing at Fleming Loop Park on March 8-14, 2021.
- The Police Department recently received 100 bicycle helmets through the NCDOT Watch Me Grant and will be coordinating an outreach event in the future to promote bicycle safety and distribute the helmets.

Mayor Pro-Tem Massengill expressed his gratitude for the many community outreach programs that the Police Department host throughout the year and highlighted the following: Police Explorers Program, Barber Shop Rap Sessions, Coffee with A Cop, Christmas Wish Programs, Shopping with The Cops, FaceBook & Nextdoor Outreach Programs and Teen Day (prior to COVID-19).

- Inspections Department set another record for single family permits at 161 for the month of February.
- Finance Department - Town Departments are finalizing budget requests for the upcoming FY 2021-2022 budget. He will be sending out an email with possibly budget workshop dates.

11B Project Status Report - March 2021.

11C Drive-up Medicine Drop Event - Fuquay-Varina Police Department - Friday, March 26, 2021 - 2:00 pm - 5:00 pm

11D State of the Town Address - March 1, 2021 - Town Hall Board Room - Live Stream and Zoom - 6:30 p.m.

BOARD MEMBER COMMENTS

Mayor Pro-Tem Massengill thanked the staff and the Mayor for the State of the Town address.

Commissioner Smith had no further comments.

Commissioner Harris attended the NCLM racial equity task force meeting last week, and they are moving forward with formation of recommendations for member communities to consider. He also attended the NCLM Board meeting and will be attending the State & Town virtual social meeting. He stated that one of the topics for discussion with the NC League of Municipalities Racial Equity Task Force was the hard task of what is called leveling or awareness. He stated that one of the things that the Public Safety Committee should consider is that there are some citizens who do not trust the Police Department, notwithstanding all the accolades heard tonight about our Police Department. He stated that he feels that we have an outstanding Police Department, but there is always room for improvement. He stated that it is important to build up the image of law enforcement for everyone in the community.

Commissioner Wunsch stated that he appreciates comments made earlier by Mayor Pro-Tem Massengill regarding the amount of community involvement and programs established by the Police Department and he thanked Police Chief Fahnestock for her leadership over the past 6 years. He stated that Fuquay-Varina has been ranked, in several publications, most recently the safest small city in North Carolina. He then mentioned that the Fuquay-Varina High School Basketball team made the playoff and came very close to winning the championship. He stated that the High School's Lacrosse Team is currently ranked as one of the best teams in the state. He stated that on Thursday, March 4, 2021, at 7:00 pm the Public Safety Committee will meet, and will be addressing community relations between the town and the community. He stated that the Fuquay-Varina Police Department has worked hard to build positive relations with our entire town through extensive programming, hiring practices, transparency, and community policing, and has always strived to treat everyone equally and with respect. He stated that the committee's work will build upon this tremendous work that has been done by the Police Department and Chief Fahnestock. The Committee will also address any areas that the community feels can be improved.

Commissioner Gardner stated that the State of the Town video was awesome again this year. She also stated that she is excited to see some increased standards for appearance in the zoning petitions that were presented.

Mayor Byrne stated that he was very proud of the work that the Police Department and Police Chief Fahnestock has done, and he stated that some of the outreach programs were started under the leadership of former Police Chief Larry Smith. He also stated that he is proud of what our staff has done and is able to do during the pandemic. He then reviewed other meetings that he attended in the previous week as well as upcoming events as follows:

Past Events

2/17 - Police Oath of Office

2/2 - CAMPO Meeting

2/23 - Fuquay- Varina High School Focus Group Meeting

2/26 - Metro Mayors Weekly Legislative Update Call

Upcoming Events

3/3 - NCLM Town and State Social

3/5 - NC Metro Mayors Weekly Legislative Call

3/12 - NC Metro Mayors Weekly Legislative Call

3/15 - Wake County Mayor's Association Meeting

CLOSED SESSION

Pursuant to N.C.G.S. 143-318.11 (a) (3) - Attorney Client Privilege, N.C.G.S. 143-318.11 (a) (7) - Report Concerning Investigation, and N.C.G.S. 143-318.11 (a)(10) - to view a recording released pursuant to G.S. 132-1.4A.

A motion was made to hold a closed session meeting at 9:11 p.m.

MOTION: Mayor Pro-Tem Massengill

SECOND: Commissioner Wunsch

MOTION RESULT: Passed Unanimously (5-0)

OPEN SESSION

Upon return to open session, Mayor Pro-Tem Massengill asked that the minutes reflect that at the regular Fuquay-Varina Town Board meeting on February 16, 2021 that Police Chief Laura Fahnestock was accused of dereliction of duty and she did not get a chance to defend herself, and that it was wrong that no one defended her.

ADJOURNMENT

A motion was made to adjourn the meeting at 11:51 p.m.

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

The minutes from the March 1, 2021 Town Board of Commissioners regularly scheduled meeting are adopted this 16th day of March in the year 2021 in Fuquay-Varina, North Carolina.

FUQUAY-VARINA, NORTH CAROLINA

John W. Byrne, Mayor

ATTEST

(TOWN SEAL)

Rose H. Rich, Town Clerk

