

are entitled to due process and in that respect they are entitled to be aware if anyone has formed an opinion based on ex-parte communications which would not allow members to fairly judge the matter. He stated non-compliance with that statute and in order to protect everyone's rights, he requested each member of the Council to disclose if they did have ex-parte communications with any parties on this matter by stating yes or no and also indicate whether or not those communications affected their ability to impartially judge the matter.

Mr. Bateman stated a second part involved in the request is that the recreation area not be required and they be allowed to pay a fee "in lieu of" and this was not quasi-judicial.

All Council members disclosed they had discussions with various parties and they all felt their ability to make a fair decision was not affected.

Prior to giving testimony, Attorney representing Old Hillsborough Partners, LLC, Lawson Brown, Licensed Real Estate Appraiser Bob Garrison, Engineer with Summit Engineering Chad Abbott, Contractor with NRV Realtors Matt Winslow were sworn in by City Clerk Stephanie Shaw.

Mr. Brown stated the conditions recommended within the Council's packets related to the amenities issue there has been a decrease in the number of lots from 75 to 73. He stated the original request that came before Council in 2005 dealt with single family lots, 157 in Section 1. A portion of those have been platted and the remaining portion will be platted in the future. The roads that are completed are in the section where the plats have been approved by Council. He stated none of Section 1 is before Council in this request except as it relates to the 1.45 acres which is located in the next phase of Section 1. They are requesting that the \$27,000 is the fee in lieu of be used to enhance the 1.45 acres in addition to that the developer is proposing a gathering area with a gazebo in Section 1 which would be constructed immediately.

He stated the originally approved request in 2005 was for 96 townhomes and based on the extensive amount of time that has passed, the marketing that has been done on the property and the market study that was done on behalf of the developer it has been determined that the townhome concept is no longer marketable.

Mr. Brown called forward Chad Abbott, Licensed Engineer with Summit Engineering, Hillsborough, NC. He stated he has worked on the "Arbor Glen Villas" project by designing a single family layout in order to achieve a better opportunity for an ultimate build out. He stated all the existing streets and infrastructures are in, including stormwater and water/sewer to accommodate the amount of units proposed and in fact there would be a reduction in overall roof top imperviousness going from the 94 to the now 73. Mr. Abbott presented maps depicting the plans designed by Summit Engineering. He stated provisions were made to omit lots 38 & 39 to adjoin open space to a community space with a gazebo to serve as recreational space along with the 1.45 acres located in Section 1. The plans were submitted to city staff and the TRC committee. They will comply with the landscaping requirements.

Mr. Brown questioned, based on the conditions proposed, if Yellow Wood Drive and Palm Court would be one way streets. Mr. Abbott stated yes, in order to address the concerns of city staff in regards to the City's solid waste pick up and on street parking. He stated a circulation pattern was designed for ease of residential traffic and conducive for the trash trucks routes. Council members expressed their concerns with the current proposal of the one way streets. Mr. Abbott stated the streets were built to specifications of the City of Mebane.

Mr. Brown questioned Mr. Abbott, if the design as proposed meets the open space requirements. Mr. Abbott stated it does and would only be increased with the omission of lots 38 & 39.

Mr. Brown asked about the proposed 20' landscaping buffer along the Eastern border and what type of fencing is proposed along that border. Mr. Abbott stated a 4' fence is proposed in conjunction with topography that's already there.

Mr. Brown called forward Matthew Winslow, Owner of NRV Homes. Mr. Winslow is a graduate of ECU and holds a degree as an Urban & Regional Planner. He holds certificates from Home and Energy Star as an Instructor. Mr. Winslow spoke in detail concerning Energy Star rated constructed homes and his companies promise to build nothing but Energy Star rated homes. He gave a presentation featuring numerous benefits of an Energy Star rated home. He stated the homes proposed for this development are custom built, good quality homes. The homes will be a 1500 sq. ft. minimum of heated space and will be compatible with the single family homes in Section 1.

Mr. Brown called forward Bob Garrison, Licensed Real Estate Broker and Certified Appraiser in Alamance, Guilford and Orange Counties. Mr. Garrison stated he has been a real estate appraiser for over 30 years and has completed thousands of appraisals. Mr. Brown questioned if Mr. Garrison has had the opportunity to hear the presentation before the Council, he stated he had. Mr. Brown questioned if he had a chance to review the market data for the area around Arbor Creek Section 1 and Section 2, he stated he had. Mr. Brown questioned, based on Mr. Garrison's education, experience and training, if he had an opinion to whether the reduction from 94 townhomes to 73 lots would materially endanger the public health and safety. Mr. Garrison said he had an opinion that it would not materially endanger the public health and safety. Mr. Brown questioned if he had a professional opinion satisfactory to himself if the change would be in harmony within the area it is located. Mr. Garrison stated not only did he feel it would be in harmony, he felt it would be an improvement. Mr. Brown questioned if he had a professional opinion satisfactory to himself as to whether the proposed plan would be in general conformity with the city's land use plan or any other plans adopted by the city. Mr. Garrison stated it would be in conformity. Mr. Brown questioned if he had a professional opinion satisfactory to himself as to whether this would substantially injure the value of adjoining or abutting properties. Mr. Garrison stated it is his professional opinion it would not have any adverse effect on market values in the neighborhood. Mr. Brown questioned why he said that. Mr. Garrison stated it would be an improvement to the predominant values that he witnessed when inspecting the neighborhood value wise and aesthetically.

Mr. Brown gave closing statements on behalf of Old Hillsborough Partners, LLC.

Mary McFarland, 307 Wilba Road, questioned the one way streets directional flow. She also commented on the proposed green space and the placement of the gazebo.

City Manager Robert Wilson stated that the city's garbage trucks are one arm bandits to the right. He suggested that the subdivision HOA should make sure residents residing on the one way streets bring their trash cans to the opposite side for trash pickup. Mr. Brown stated they would be happy to make that a condition.

Councilmember Philipps addressed several concerns including the green space and gazebo placement, the correct amount discussed in relation to the payment in lieu of (\$27,000) and the condition provided in writing which states construction of the recreational area and improvements to the 1.45 acres upon sale of 75% of the lots in Section 1, at present 30% of the lots have been sold. She feels waiting that long is troublesome and would like the recreational area to be in place sooner than later. Mr. Brown stated they can begin construction of the recreational area and improvements to the 1.45 acres at the time of the platting of Section 1 lots contiguous to the 1.45 acres.

Council discussed the issue of the recreational area and the \$27,000 payment in lieu of in greater detail. Council questioned if it's necessary to have the one way streets within the subdivision. Mr. Bateman stated staff feels it is not necessary to have one way streets. Mr. Brown stated they are comfortable with modifying that condition so those one way streets will now be two way streets with no parking on the streets enforced by the HOA.

Mayor Stephenson closed the Public Hearing. City Attorney Charles Bateman stated, in consideration of the approval or denial of the permit based on the evidence submitted, there are also discretionary items which they have asked for which are 1) city solid waste pick up on private streets, 2) allow \$27,000 payment in lieu of for recreational area.

Councilmember Philipps made a motion, seconded by Councilmember Auditori, to approve the request to amend the CU-R-8 (Conditional Use – Multi-Family/Two Family Residential) rezoning and conditions to allow Townhomes and the Preliminary Subdivision Plat of “Arbor Creek Townhomes” – Phase II previously approved by the City Council on April 4, 2005 to CU-R-8 (Conditional Use – Multi-Family/Two Family Residential) a Special Use Permit to allow Patio Homes – Single Family and the Preliminary Subdivision Plat to “Arbor Glen Villas” a subdivision located along Old Hillsborough Road. The evidence offered in support of the request did establish the following **four** items as listed in **Article 2, Section 2-20 - Additional Requirements on Special Use Permits, p. 18, 19 in the Unified Development Ordinance (UDO):**

1. Will not endanger the public health or safety
2. Will not injure the value of adjoining or abutting property
3. Will be in harmony with the area in which it is located; and
4. Will be in conformity with the land development plan, thoroughfare plan, or other plan officially adopted by the City Council

The motion carried unanimously.

Councilmember Philipps made a motion, seconded by Councilmember Bradley, to accept the payment in lieu of recreational area in the amount of \$27,000 as set forth in the conditions and to allow the City of Mebane to provide solid waste pickup services along the private drives provided on the plans subject to applicant executing the City’s standard indemnity agreement. The motion carried unanimously.

Councilmember Greene made a motion, seconded by Councilmember Bradley, to approve the request from Old Hillsborough Partners, LLC to amend the preliminary subdivision plat of “Arbor Creek Townhomes”- Phase II previously approved by the Council on April 4, 2005 to “Arbor Glen Villas” a subdivision located along Old Hillsborough Road. The motion carried unanimously.

A Public Hearing was held on a request from city staff for the adoption of a temporary moratorium on city issuance of development permits to allow the consideration of specific development standards for the south Fifth Street & I-85/40 Corridor Study Area. City Attorney Charles Bateman spoke concerning the request. He referred to a map of the study area which contains approximately +/-241 acres and 65 parcels. He stated the moratorium would allow the City to delay development within the study area until the study is complete. The moratorium cannot extend past 12 months but staff hopes to complete the study within 90-120 days. He stated staff has concerns with the various types of zoning that lies within this area which could allow uses that are not compatible with the best land use for the properties. At the end of the study staff would be directed to develop a comprehensive zoning plan for the identified area which would fully utilize the property for the best development for the benefit of Mebane.

Mayor Stephenson questioned how the land owners would be involved in the process. City Manager Robert Wilson stated they would be allowed to attend any meetings concerning the study. City Attorney Charles Bateman stated landowners would have a chance to give their input.

Tom Boney, Editor of Alamance News, questioned if the properties identified on the map which lie in the study area are currently zoned. Staff replied yes. Mr. Boney questioned if the Planning Board had considered this matter yet. City Manager Robert Wilson answered not yet because staff requested Council to look at this issue. City Attorney Charles Bateman stated one Public Hearing would take place but all properties would be incorporated, each parcel will be identified separately. Mr. Boney questioned why the study couldn’t take place without the moratorium. City Manager Robert Wilson stated there are mixed use zonings in this area which may not be best uses for the properties and a developer could come in and the city could not deny them.

Karen Oldham, property owner of 1206 S. Fifth Street, questioned how much of the “study area” will be impacted by the 119 Bypass (alternate 5th Street). Mr. Wilson referred to the map and stated all the areas in red. She questioned why the city would want to rezone property that the state will be taking for the bypass. Mr. Wilson stated staff listed all parcels as a whole because the exact lines for the bypass are unknown based on metes and

bounds descriptions of the properties and if the state took the bypass across a certain property the zoning will remain the same on either side of the bypass.

Tom Boney, questioned if each property owners listed within the metes and bounds description of the study area notified individually. Mr. Bateman stated notice was advertised as required by law.

Mayor Stephenson closed the Public Hearing. Councilmember Bradley made a motion, seconded by Councilmember Hooks, to approve the request to adopt a temporary moratorium on city issuance of development permits to allow the consideration of specific development standards for the south Fifth Street & I-85/40 Corridor Study Area. The motion carried unanimously.

Councilmember Philipps made a motion, seconded Councilmember Hooks, to approve the Tax Releases and Refunds. The motion carried unanimously.

The Council received a report that unpaid taxes that are liens on Real Property on the second Monday in February, 2012 totaled \$309,488.51. By motion of Councilmember Hooks, seconded by Councilmember Bradley, the Council voted unanimously to advertise the tax liens on April 11, 2012.

The minutes from the February 6, 2012 meeting and the February 13, 2012 regular meeting were approved as presented.

There being no further business, the meeting was adjourned.

Glendel Stephenson, Mayor

ATTEST:

Stephanie W. Shaw, City Clerk