



Regular Council - Minutes Monday, July 13, 2020

COUNCIL PRESENT:

Mayor Mulhollem
Mayor Pro Tem Castleberry
Council Member Bruton (Remotely)
Council Member Jackson (Remotely)
Council Member Purvis
Council Member Wilson

STAFF PRESENT:

Mike Gordon, Town Administrator
Julie Maybee, Town Planner
Marcus Burrell, Town Attorney
Al Benshoff, Special Attorney (Remotely)
Kim P. Batten, Finance Officer/Town Clerk

COUNCIL ABSENT:

GUEST PRESENT:

Chuck Hill, Project Engineer, Coulter | Jewell | Thames, PA
Jim Thames, Retired VP/Treasurer, Coulter | Jewell | Thames, PA

1. WELCOME/CALL TO ORDER:

a) Invocation

Mayor Mulhollem called the meeting to order at 6:42 p.m. in the Jeffrey D. Barnes Council Chambers located at 14094 Buffalo Road, Archer Lodge, NC and declared a quorum present. Council Member Jackson offered the invocation.

Due to the State of Emergency, State of NC Guidelines and to limit the spread of Coronavirus (COVID-19), Council Member Bruton and Council Member Jackson attended remotely via Phone Conferencing and Attorney Benshoff attended remotely via Webex Video Conferencing.

b) Pledge of Allegiance

Mayor Mulhollem led in the Pledge of Allegiance to the US Flag.

2. APPROVAL OF AGENDA:

a) No additions or changes noted.

Moved by: Council Member Wilson
Seconded by: Mayor Pro Tem Castleberry

Approved Agenda.

CARRIED UNANIMOUSLY

3. OPEN FORUM/PUBLIC COMMENTS:

(Maximum of 30 minutes allowed, 3 minutes per person)

a) No Public Comments.

4. **CONSENT AGENDA:**

a) **Approval of Minutes:
03 Feb 2020 Regular Council Meeting Minutes**

Moved by Council Member Wilson
Seconded by Council Member Purvis
Approved Consent Agenda.

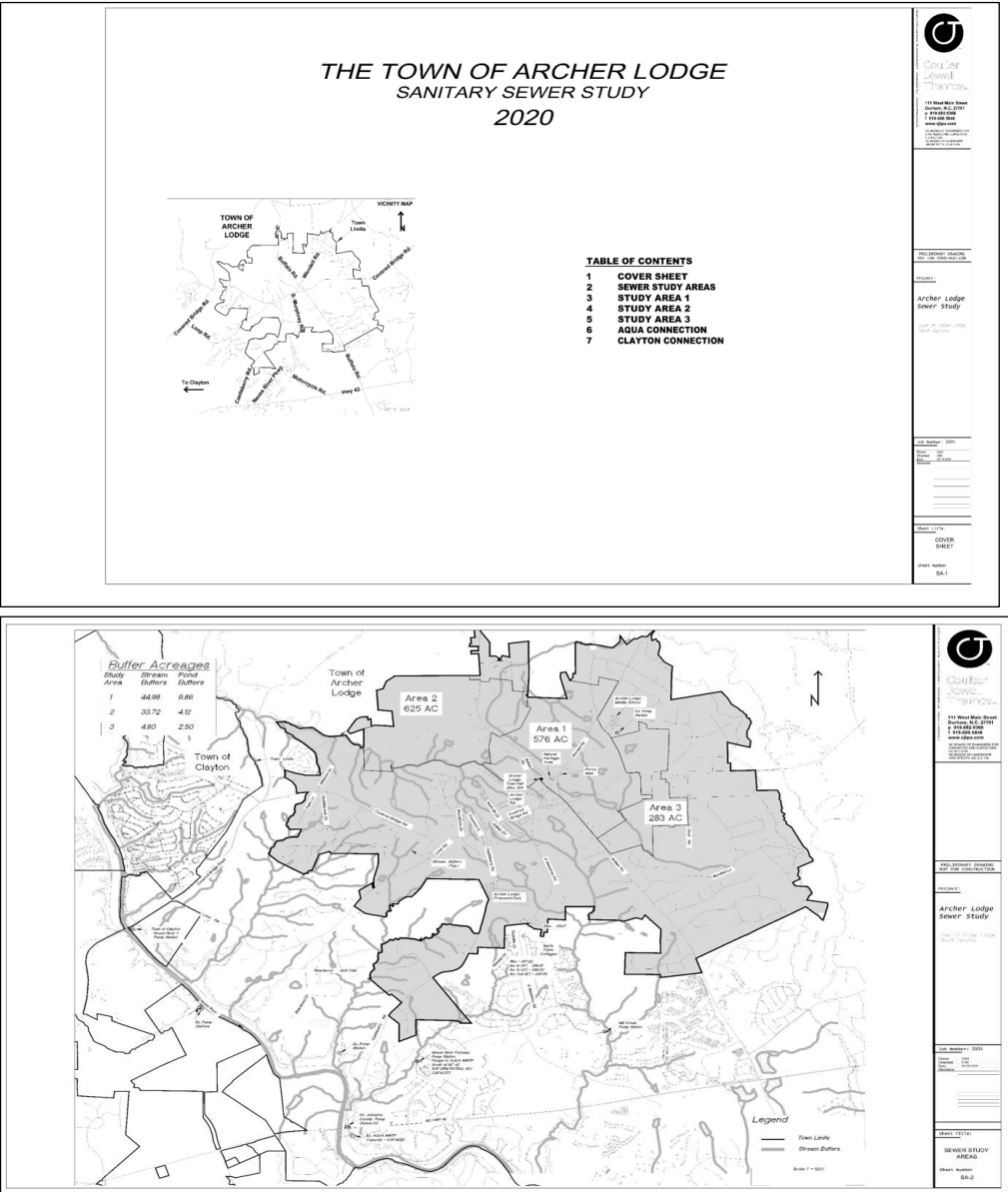
CARRIED UNANIMOUSLY

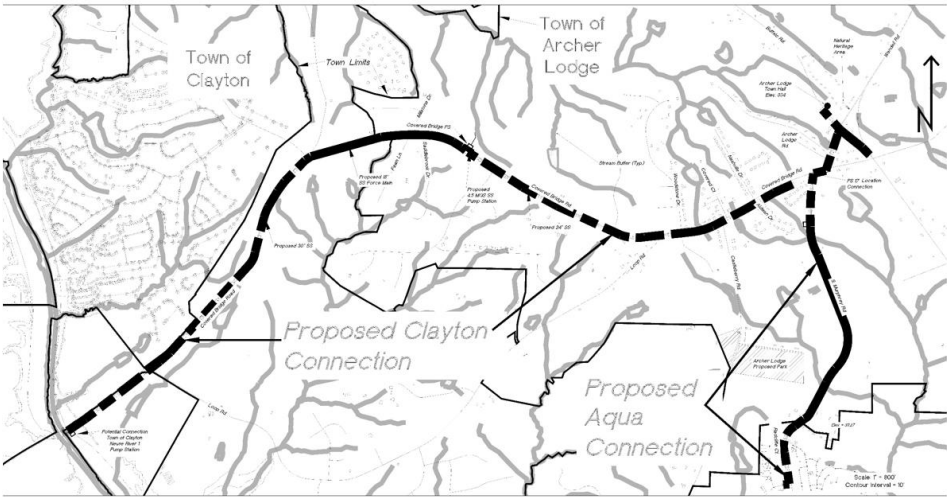
5. **RECOGNITION/PRESENTATION:**

a) **Sewer Feasibility Study Presentation ~ Coulter | Jewell | Thames, PA**

Mike Gordon, Town Administrator, welcomed Mr. Chuck Hill, Project Engineer with Coulter|Jewell|Thames, PA. from Durham, NC to share their results of the Sewer Feasibility Study. Mr. Hill introduced Mr. Jim Thames who recently retired from Coulter|Jewell|Thames, PA as Vice President/Treasurer and added that Mr. Thames was very instrumental in the preparation of the study and chose to attend tonight's meeting in support of the Town.

Following introductions, Mr. Hill shared a PowerPoint presentation to aid him with the Sewer Feasibility Study results and appears as follows:





ESTIMATED CONNECTIONS			
Offices at 25 GPD/Person			
Offices	Staff	Avg Daily Flow (GPD)	
8	4	800	
Restaurant at 40 GPD/Seat			
Restaurants	Seats	Avg Daily Flow (GPD)	
6	20	4800	
Medical/Vet at 250 GPD/Practitioner			
Offices	Staff	Avg Daily Flow (GPD)	
8	4	8000	
Stores at 100 GPD/1000 SF			
Stores	SF	Avg Daily Flow (GPD)	
2	2500	500	
2	4500	900	
2	6500	1300	
Residential at 120 GPD/Bedroom			
Dwellings	Bedrooms	Avg Daily Flow (GPD)	
20	3	7200	
Total Avg Daily Flow		23,500 GPD	
Peaking Factor		4.0	
Peak Flow Rate		94,000 GPD	

Recommendation #1

Design and construction of the Aqua Connection. The implementation of the Aqua Connection is expected to provide several years of sewer service with modest growth in portions of Archer Lodge.

Recommendation #2

Design and construction of the Clayton Connection. The implementation of the Clayton Connection is expected to provide many years of sewer service, to potential build-out of the three Study Areas.

Recommendation #3

Utilize the Study provided by Coulter Jewell Thames to manage upcoming system improvements.

Diligent management of the proposed Collection and Pumping Systems will be critical to avoid needless duplications or replacements of these systems in the future.

THANK YOU

Points of Discussion:

- Allows for more development
- Provide residents more goods and services
- Enhance tax base
- Study looked at three areas in Town regarding the following:
 - Areas that are prime for higher development such as commercial or retail, approximately 1,500 acres or 25% of the Town.
 - Location of streams in these areas
 - Number of pump stations and gravity sewers that would be needed.

Recommendations:

- **1st** - Aqua America Sewer System, relatively affordable at a cost of \$1.5M, and allows more goods and services to the residents in the general area for several years of development.
- **2nd** - Town of Clayton Sewer System, higher cost of \$10M but provides a long-term sewer. They are upgrading their plant due to their growth.
- **3rd** - Utilize this Master Plan study to design and plan for upcoming town improvements.

Summary:

- Archer Lodge is a growing area
- Time to plan is now for future years

Mr. Hill expressed appreciation for the opportunity to work with the Town. Discussion followed.

Mr. Thames commended Ms. Maybee, Mr. Gordon, and Ms. Batten for their expertise in working with the Town. He assured everyone that he continued working with Mr. Hill on the study since his retirement. Mr. Thames shared that the purpose of this study was to determine where and how an interceptor sewer system (piping system that carries waste like an interstate to its point of either treatment or the major pump station) can be provided in Archer Lodge. He further added that the town was fortunate to have two ports available: Aqua and Town of Clayton.

Mayor Mulhollem thanked Mr. Thames and Mr. Hill for their work and support. Mr. Gordon asked the Town Council of their thoughts on proceeding forward with the findings and recommendations. Discussion followed.

Town Council agreed for Staff and Legal Counsel to submit a letter of interest to Aqua America, Inc. No action taken.

6. DISCUSSION AND POSSIBLE ACTION ITEMS:

- a) **Discussion and Consideration of Amending Code of Ordinances, Archer Lodge, NC, Chapter 30 - Zoning and Subdivisions, Article VI - Subdivisions, Division 3. Procedures for Approval of a Major and/or Commercial Subdivision, Section 30-348 - Traffic Impact Analysis Submittal Requirements and Setting a Public Hearing for Monday, August 3, 2020**

Ms. Maybee referred to the Traffic Impact Analysis (TIA) memorandum dated June 22, 2020 which reflects alternatives for Section 30-348 that were discussed at the Special Meeting held on Monday, June 15, 2020. The TIA memo appears as follows:



TOWN OF ARCHER LODGE
14094 Buffalo Road
Archer Lodge, NC 27527
Main: 919-359-9727
Fax: 919-359-3333

Mayor:
Matthew B. Mulhollem

Council Members:
Clyde B. Castleberry
Mayor Pro Tem
Teresa M. Bruton
J. Mark Jackson
James (Jim) Purvis, III
Mark B. Wilson

To: Town Council
Date: July 9, 2020
From: Julie Maybee, Town Planner
Cc: Town Administrator, Finance Officer/Town Clerk, Deputy Clerk, Town Attorney, Brough Law Firm
Re: Proposed Revision of Chapter 30 – Zoning and Subdivisions, Article VI – Subdivisions, Division 3. Procedures for approval of a Major and/or Commercial Subdivision, Section 30-348 – Traffic Impact Analysis Submittal Requirements

Background Information:

On Monday, June 15, 2020, the Town Council adopted Ordinance# AL2020-06-1, An Ordinance Amending the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30 – Zoning & Subdivisions, Article VI. Subdivisions and Appendix Section 30-A4.

At the meeting, the Mayor and Council asked staff to develop alternatives to Section 30-348 referenced above pertaining to traffic impact analysis submittal requirements.

Requested Town Council Action:

Staff respectfully requests direction as to whether to pursue options B, or C; and also revisit the issue of requiring off-site improvements to roads identified by the TIA; and, if desired, set a public hearing on an amendments at the next regular Council meeting on Monday, August 3, 2020.

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MEMO

TO: Mayor Matt Mulhollem, Mayor Pro-Tem Clyde Castleberry, Council Members Teresa Bruton, J. Mark Jackson, James Purvis, III, Mark Wilson, Town Attorney Chip Hewett
CC: Town Administrator Mike Gordon, Finance Officer/Town Clerk Kim Batten
FROM: Julie Maybee, Town Planner; Al Benshoff, The Brough Law Firm
RE: CODE OF ORDINANCES Section 30-348 Traffic Impact Analysis (TIA) Submittal Requirement
DATE: June 22, 2020

INTRODUCTION: The Mayor and Council asked the staff to develop alternatives to section 30-348. This memo contains two main alternatives to the adopted ordinance. The recently-adopted ordinance is included for your reference at section A) on page 1. Section B) on page 4 includes a version of Mr. Hewett's suggestions that developers required to select a traffic engineering firm from the Town's short list. In this scenario, the developer will pay for the TIA. One variant not included is Section B) with the developer reimbursing the Town for the cost of the TIA.

Section C) on page 4 is Mrs. Bruton's scenario. In this version the Town selects the traffic engineer and contracts directly with the engineering firm.

The original version of 30-348 appears to have been based on Johnston County's TIA policy. A copy of that policy starts on page 5.

Finally, there is a note from Al Benshoff on page 5 suggesting that we revisit the issue of requiring improvements to roads identified by TIAs.

A) Section 30-348 as adopted with comments by Commissioner Bruton [TB], Al Benshoff [AB] and Julie Maybee [JM].

Sec. 30-348. - Traffic Impact Analysis (TIA) Submittal Requirement.

- (a) *Purpose:* Archer Lodge is committed to maintaining and improving the quality of life for current and future citizens. A major factor affecting the quality of life has become traffic congestion along the major thoroughfares and local streets within urbanizing areas. By requiring a traffic impact analysis (TIA), the Town can evaluate the effect proposed development will have on the Town's existing traffic system and enable the Town to require specific improvements. The intent of this section is to provide developers with a clear policy as to the Town's TIA expectations and to ensure that all developments are treated equally through the establishment of specific guidelines and improvement requirements.

(b) *Requirement thresholds:*

- (1) Residential subdivision proposing 100 lots/units or more, no matter how many phases are proposed.
- (2) Proposed nonresidential subdivision which generates an average daily traffic count of 1,000+ vehicles per day or 100+ trips during peak hour of generator. This traffic count must be based on the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.
- (3) Any residential or nonresidential development requiring a special use permit or site plan approval which generates an average daily traffic count of 1,000+ vehicles per day or 100+ trips during peak hour of generator. This traffic count must be based on the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

Note #1: The count is cumulative; as a proposed development reaches the threshold, a TIA will be required for the entire development. As new phases are proposed and once a development has reached the threshold, an additional TIA will be conducted for each additional phase.

Note #2: Failure to meet all requirements listed within this section may constitute disapproval of the development request.

(c) *Retention of expert assistance and reimbursement by applicant*

- (1) The Town shall hire a consultant and/or expert necessary to assist the Town in preparing, reviewing, and evaluating the traffic impact analysis, and at the request of the Town may be asked to look at other specific issues.
- (2) An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the performance and review of any analysis. The initial deposit shall be established by the Town and may be changed within the discretion of the Town. These funds shall be deposited at the time the subdivision application is submitted and the Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall bill or invoice the Town no more frequently than monthly for its services in reviewing the application and performing its duties. The applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance established by the Town and may be changed within the discretion of the Town. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the subdivision application. In the event that the amount held in escrow by the Town is more than the amount of the actual billing or invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. All invoices submitted by the applicant shall be itemized and be public records available for inspection.
- (3) The total amount of the funds needed as set forth above may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Town or its consultant/expert to complete the necessary review and analysis. Additional escrow funds, as reasonably required and requested by

the Town, shall be paid by the applicant. However, notwithstanding any other provisions of this section, if the total amount paid to the consultant exceeds \$7,500.00 for a single application, such amount shall be subject to review and approval by the Town Council at the request of the applicant.

- (4) The developer may have a TIA conducted by a consultant of his or her choice but will be required to be submitted for review and evaluation by the Town's consultant. *[TB: Recommend that this not be allowed – if hired by the developer, there could be a conflict of interest. JM: I believe the option should exist. We would hire consultant and still review the TIA.]* Any cost associated with the Town's review shall be paid by the developer as described in subsections (c)(2) and (3).
- (d) *Traffic impact analysis guidelines.* All traffic impact analyses shall be completed in accordance with the guidelines listed in section 3 of the Johnston County Land Design Manual. *[TB: Recommend that all TIAs adhere to the current version of the NCDOT Congestion Management's Capacity Analysis Guidelines. AB: The Johnston County Design Manual provides for some local detail that may not be found in the general state model. Please see Section 3. JM: I concur with utilizing the County Design Manual as well.]*
- (e) *Improvement requirements.*
 - (1) Left turn lane, right turn lane, and/or right turn taper. Based on requirements of the NCDOT Driveway Manual or other NCDOT standards.
 - (2) *Additional right-of-way.* If a subject development falls along a road projected to be widened by NCDOT or an adopted Town or Johnston County plan, additional right-of-way along the development's road frontage shall be dedicated as deemed acceptable by NCDOT.
 - (3) *Offsite improvements.* If a road segment or intersection is currently performing at level of service (LOS) D or better and is projected to perform at LOS E or F at the time of build-out, improvements to maintain the road segment or intersection at LOS D must be included. If a road segment or intersection is currently performing at level of service (LOS) E or F and is projected to continue to perform at LOS E or F at the time of build-out, the TIA shall demonstrate how an LOS D could be achieved and also specify what improvements must be made to ensure that the road segment or intersection is not degraded any further than the current levels. *[TB: Will the applicant be required to make these improvements? If so, need to indicate. AB: This is not the place to indicate that improvements are required. This section deals only with what is in the study. Town needs to be careful about requiring off-site improvements given our Supreme Court's decisions. Under the statutes as amended in 2019, if the Town requires something not clearly legal, the Town may end up paying the plaintiff's lawyer's fees.]*
 - (4) *Other necessary improvements.* Additional improvements may be required based on the TIA recommendations related to topographic/environmental conditions, sight distance, street offsets, conflicting movements, existing traffic accident counts, circulation, and other potential traffic issues resulting from the proposed development.

Additionally, the Planning Board may determine that additional improvements are necessary to ensure the safety and welfare of the Town's citizens and travelers.¹

B) Section 30-348 (c) Retention of Expert Assistance and Reimbursement as suggested by C. Hewett.

(c) Retention of expert assistance and reimbursement by applicant

- (1) The Town shall identify consultants and/or experts who are able to prepare, review and evaluate the traffic impact of the proposed development.
- (2) The Town will present a list of the consultants identified in (a) to the applicant. The applicant shall select one firm from the list to conduct a TIA for the applicant's proposed development at the applicant's expense.
- (3) The Town, applicant and consultant shall agree in writing to the scope of work and costs of the TIA. The selected consultant shall provide draft and final versions of the TIA directly to the Town.
- (4) The Town may retain a consultant to review and evaluate the applicant's TIA. Any cost associated with the Town's review shall be paid by the applicant. The applicant will provide funds for the review at step (2) above. The Town will hold the funds in escrow until either used for a TIA review or returned to the applicant.

C) Section 30-348 (c) Retention of Expert Assistance and Reimbursement as suggested by T. Bruton.

(c) Retention of expert assistance and reimbursement by applicant

- (1) The Town shall hire a consultant and/or expert necessary to assist the Town in preparing, reviewing, and evaluating the traffic impact analysis, and at the request of the Town may be asked to look at other specific issues.
- (2) An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the performance and review of any analysis. The initial deposit shall be established by the Town and may be changed within the discretion of the Town. These funds shall be deposited at the time the subdivision application is submitted and the Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall bill or invoice the Town no more frequently than monthly for its services in reviewing the application and performing its duties. The applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance established by the Town and may be changed within the discretion of the Town. Such additional escrow funds shall be deposited with the Town before any further action or

¹ Adapted from Johnston County ordinances (Amend. of 11-8-2004; Amend. of 02-03-2010(2))

consideration is taken on the subdivision application. In the event that the amount held in escrow by the Town is more than the amount of the actual billing or invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. All invoices submitted by the applicant shall be itemized and be public records available for inspection.

- (3) The total amount of the funds needed as set forth above may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Town or its consultant/expert to complete the necessary review and analysis. Additional escrow funds, as reasonably required and requested by the Town, shall be paid by the applicant. However, notwithstanding any other provisions of this section, if the total amount paid to the consultant exceeds \$7,500.00 for a single application, such amount shall be subject to review and approval by the Town Council at the request of the applicant.

D) A note about Sub-Section 30-348 (e) Improvement Requirements.

There are now strict legal restrictions on requiring off-site improvements. DOT should require improvements to DOT roads, so the City will be left with possibly requiring improvements for private roads. This is a topic for another discussion we can have in the future at the appropriate time. AB

EXCERPT FROM JOHNSTON COUNTY DESIGN MANUAL

SECTION 3 - TRAFFIC IMPACT ANALYSIS GUIDELINES

A. INTENT

The intent of this Section is to provide specific guidelines for the completion of a Traffic Impact Analysis (TIA).

B. STANDARDS

- 1) Prior to beginning a TIA, the preparer must meet with Planning staff to determine the scope of the analysis including the appropriate intersections to study, surrounding factors and future developments to consider, proposed NCDOT road projects and any other concerns which may need to be addressed.
- 2) An executive summary shall be provided with the TIA noting the following:
 - a) Name of Development and township location,
 - b) Property owner and developer names,

- c) Description of uses proposed,
 - d) Number of lots proposed,
 - e) Number of access points proposed and studied,
 - f) Intersections and streets studied,
 - g) Existing traffic count for road(s) and intersection(s) studied and dates/times counts were conducted,
 - h) Existing and future Level of Service for studied intersections,
 - i) AM and PM Peak Hour Trips,
 - j) Average Daily Trips created by the development at build-out,
 - k) Existing Traffic Accident Counts, and
 - l) Any recommended improvements.
- 3) Studied roads and intersections shall be determined based on 10% contribution by the development to the total traffic counts.
- 4) Studied road segments, intersections, and development access points shall be evaluated based on current traffic counts, projected traffic generated by the development at time of build-out, projected background traffic at time of build-out, and projected traffic counts two years beyond build-out.
- 5) The TIA shall take into account the existing background traffic and growth of such traffic at time of build-out and two years beyond build-out with an annual background traffic growth rate based on townships as follows:
- a) Clayton, Cleveland, Pleasant Grove, Wilders: 9% annual growth rate.
 - b) Banner, Beulah, Elevation, Ingrams, Micro, O'Neals, Pine Level, Selma, Smithfield, Wilson Mills: 5% annual growth rate
 - c) Bentonville, Boon Hill, Meadow: 3% annual growth rate
- 6) Traffic counts no older than one year must be provided for all studied intersections, road segments, and development access points and shall be based on the AM and PM peak hour.
- 7) Number of Daily Trips generated by the proposed development along with AM and PM peak hour trips shall be evaluated by the TIA.
- 8) Studied intersections shall be evaluated based on AM and PM peak hour traffic with Level of Service provided at time of build-out and two years beyond build-out.
- 9) Provide trip distribution for access points and studied intersections.
- 10) TIA shall evaluate sight distances at all proposed access points based on the existing speed limit.
- 11) Evaluate the offset of the proposed access points with existing driveways or streets to ensure the reduction of conflicting movements.
- 12) Traffic accident counts for studied intersections and road segments shall

- be evaluated based on the latest records obtained from NCDOT, local law enforcement, and/or the Highway Patrol Office.
- 13) TIA shall take into consideration proposed/planned NCDOT roadway improvement projects, future County Thoroughfare Plan recommendations, and proposed development projects potentially affecting the road network and traffic generation.
- 14) Recommended improvements within the TIA shall take into account the County's *Improvement Requirements* listed in Section 14-366(5) of the Land Development Code. Additional recommended improvements not addressed in the Land Development Code shall be provided to ensure that all the Guidelines within this Section have been addressed.

Mayor Mulhollem referred to the memo and shared that A) was adopted and supplied for reference only. Discussion followed regarding alternatives B) and C). Mayor Mulhollem called for a motion to set a Public Hearing on Monday, August 3, 2020 at the Regular Town Council Meeting.

Moved by: Council Member Wilson
Seconded by: Council Member Purvis

Set a Public Hearing to be held on Monday, August 3, 2020 for the purpose of amending Code of Ordinances, Town of Archer Lodge, NC, Chapter 30 - Zoning and Subdivisions, Article VI - Subdivisions, Division 3. Procedures for Approval of a Major and/or Commercial Subdivision, Section 30-348 - Traffic Impact Analysis Submittal Requirements.

CARRIED UNANIMOUSLY

b) **Discussion and Consideration of Amending Code of Ordinances, Archer Lodge, NC, Chapter 30 - Zoning and Subdivisions, Article VI - Subdivisions, Division 4. Final Plat Approval, Section 30-384 - Required Restrictive Covenants and Review by Town and Setting a Public Hearing for Monday, August 3, 2020**

Ms. Maybee reminded Council that at their June 1, 2020 Regular Council meeting, staff was asked to look at ordinance provisions pertaining to subdivision road maintenance responsibilities. She referred Council to the Restrictive Covenants information provided in the agenda on pages 19-21 which details an Applicant/Developer's responsibility prior to the Town approving any final subdivision plat. Ms. Maybee's background information, staff's request and Section 30-384 appears as follows:



TOWN OF ARCHER LODGE
14094 Buffalo Road
Archer Lodge, NC 27527
Main: 919-359-9727
Fax: 919-359-3333

Mayor:
Matthew B. Mulhollem

Council Members:
Clyde B. Castleberry
Mayor Pro Tem
Teresa M. Bruton
J. Mark Jackson
James (Jim) Purvis, III
Mark B. Wilson

To: Town Council
Date: July 9, 2020
From: Julie Maybee, Town Planner
Cc: Town Administrator, Finance Officer/Town Clerk, Deputy Clerk, Town Attorney, Brough Law Firm
Re: Proposed Revision of Chapter 30 – Zoning and Subdivisions, Article VI – Subdivisions, Division 4. Final Plat Approval, Section 30-384 – Required Restrictive Covenants and Review by Town

Background Information:

On Monday, June 15, 2020 the Town Council adopted Ordinance# AL2020-06-1, An Ordinance Amending the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30 – Zoning & Subdivisions, Article VI. Subdivisions and Appendix Section 30-A4.

At the meeting on Monday, June 1, 2020, the Mayor and Council asked staff to look at ordinance provisions pertaining to subdivision road maintenance responsibilities; and also encourage Developers and Homeowner's Associations (HOA) to turn over subdivision roads over to NC Department of Transportation (NCDOT) for maintenance.

On Tuesday, May 19, 2020, Sam Lawhorn, P.E., District 3 Engineer, Highway Division 4, North Carolina Department of Transportation, relayed to staff the following information:

"For a road to be considered for State maintenance, it needs to be a recorded as a public street, have been built to NCDOT standards, meet a minimum housing density of 2 homes

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per 0.10 miles and in a current acceptable state of maintenance. For us to consider adding a street to the system, it is to first be petitioned by the developer or homeowners by completing a NCDOT SR-1 form located on our website. NCDOT does not review the subdivision at all until this official form is submitted to the NCDOT. Once petitioned we will perform an inspection and provide a list of repairs or discrepancies necessary for either an acceptable state of maintenance or to get the street to meet minimum standards. Once the requirements have been provided, repairs must be performed within 90 days and a follow up inspection must be requested. If all requirements have been satisfied and repairs have been made, the petition will be submitted to the local County Commissioners and NCDOT Board of Transportation for final approval. "

It should be noted, it may take years, if at all, before a subdivision road meets NCDOT criteria and turned over to for maintenance. In the meantime, things can happen – death of the developer or bankruptcy, insufficient funds to bring roads up to NCDOT standards, no restrictive covenants or no homeowner's association etc. Consequently, subdivision roads eventually fall into a state of disrepair.

As conveyed by Attorney Benshoff, "... If NCDOT won't accept the roads, then, eventually they become orphaned unless the homeowners maintain the streets...",

Requested Town Council Action:

Staff respectfully requests Council's input on the restrictive covenants attached (blue text is existing language in Section 30-384) to address concerns referenced above. If desired, model covenants can be also be developed.

If Council concurs, staff requests that a public hearing on draft amendments be set for the next regular Council meeting on Monday, August 3, 2020.

Sec. 30-384. - Required Restrictive Covenants and Review by Town.

- (a) Prior to the approval of any final subdivision plat the applicant/developer shall create a homeowner's association to be responsible for the at least the items listed in this section. The restrictive covenants will contain the model language found in Appendix _____. The proposed restrictive covenants will be reviewed and approved by the Town Attorney. The model language need not be followed, if substantial similar covenants accomplishing the goals of this section are proposed and then approved by the Town Attorney. A copy of the recorded covenants will be provided to the Administrator before the final plat is recorded. If a development is built in phases the covenants will be reviewed and approved before the final plat is issued for the first phase.
- (b) Prior to final approval of any residential major subdivision submitted after the effective date of this ordinance, the applicant/developer shall include in the restrictive covenants a provision that mandates the discharge of firearms is strictly prohibited anywhere in the subdivision or on any adjoining property owned by the developer or Homeowner Association (HOA). Discharging of air guns, air pistols and air rifles, not to exceed a caliber of 0.177, is permitted, as they are not considered firearms within the meaning of this section.
- (c) Prior to the final approval of any major subdivision submitted after _____, 2020, the applicant/developer will meet the following goals regarding ownership, maintenance and repair of the subdivision's rights-of-way, roads, sidewalks, greenways:
 - (1) A homeowner's association will be created by the applicant/developer, known in this subsection as the declarant.
 - (2) Membership in the HOA is mandatory for all current and future property owners for the purpose of maintaining the streets, sidewalks, greenways and related drainage infrastructure.
 - (3) The declarant will own and maintain the roads, sidewalks, greenways and associated drainage infrastructure until such time as the ownership interest is transferred to the HOA;
 - (4) The HOA is responsible for the maintenance and repair of the streets, sidewalks and related drainage infrastructure to NC DOT Standards in the current edition of the "Subdivision Roads Minimum Construction Standards."
 - (5) Each member of the HOA will be assessed annually their pro rata share of the costs of road, sidewalks and greenway maintenance, but in no case less than \$ _____.
 - (6) The assessments will be held in an escrow account. Every year the HOA will report to the town the name of this institution holding the escrow account, the account number the total amount held and the total annual contribution.
 - (7) The HOA or Declarant, whichever the case may be, shall either (i) Petition the NC DOT to assume ownership and maintenance of the rights-of-way, roads, sidewalks greenways and related drainage infrastructure or (ii) Provide that the rights-of-way, roads, sidewalks, greenways and related drainage infrastructure be privately owned and maintained to NC DOT standards in perpetuity.
 - (8) To the extent permitted by law, the HOA cannot dissolve without passing road, sidewalk, greenway and related drainage infrastructure to another legal entity.

Discussion followed about subdivision roads being discussed years ago; however, staff suggested revising the ordinance to include required restrictive covenants which protects the town further. Mayor Mulhollem called for a motion to set a Public Hearing on Monday, August 3, 2020 at the Regular Town Council meeting.

Moved by: Council Member Wilson
Seconded by: Council Member Purvis

Set a Public Hearing to be held on Monday, August 3, 2020 for the propose of amending Code of Ordinances, Town of Archer Lodge, NC, Chapter 30 - Zoning and Subdivisions, Article VI - Subdivisions, Division 4. Final Plat Approval, Section 30-384 - Required Restrictive Covenants and include any reference items as presented by Staff.

CARRIED UNANIMOUSLY

7. TOWN ATTORNEY'S REPORT:

- a) Attorney Burrell and Special Attorney Benshoff had no reports.**
-

8. TOWN ADMINISTRATOR'S REPORT:

- a)** Mr. Gordon shared the following:
- Obtaining quotes to connect the sidewalk at the back of Town Hall to the AL Veterans Memorial
 - Planning to place borders around the Veterans Memorial Site as a barrier
 - Advised Council to contact him with any questions/concerns
-

9. PLANNING/ZONING REPORT:

a) Planning Activity

Ms. Maybee reported the following:

- 41 Zoning Permits issued in FY2019-2020
 - Planning & Zoning emails:
Incoming: 11,859
Responded: 4,181
-

b) Projects

Ms. Maybee reported the following:

- Updated 2020 Census Information
- Permit Software is being implemented
- Planning Board accomplished their goals for the year
- Continuing to update the Town Ordinances
- Planning to present the proposed Commercial Design Standards at the July 15, 2020 Planning Board Meeting
- Planning to present the proposed Commercial Design Standards to the Town Council for consideration at the September 8, 2020 Regular Meeting if the Planning Board recommends approval

c) Code Enforcement

Ms. Maybee provided an updated Code Report and explained the color coding which identifies the status. She asked Council to review and if they have any questions/comments, please contact her.

10. MAYOR'S REPORT:

- a) **Mayor Mulhollem had no report. He thanked Staff for their extra hard work over the past several months during the Coronavirus Pandemic and in doing so, the Town Council continued to meet and conduct the Town's business.**
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11. COUNCIL MEMBERS' REMARKS:

(town related, non-agenda items)

- a) **Council Member Wilson asked everyone to stay safe and if possible, please stay at home due to COVID-19.**
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- b) **Council Member Bruton asked Staff to review the time frame in the ordinances that allow citizens time to transition from a single-wide to a double-wide manufactured home.**
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- c) **Council Member Jackson shared that he will have the honor of participating in an Award Ceremony for the WWII Army National Guard unit, 30th Infantry Division, nicknamed "Old Hickory," who after 75 years, will be recognized and awarded the Presidential Unit Citation for their extraordinary heroism at the Battle of Mortain, France in 1944.**
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- d) **Mayor Pro Tem Castleberry mentioned that several homes in the area had been vandalized recently.**
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- e) **Council Member Purvis reminded everyone that early voting begins on October 15, 2020 at the Archer Lodge Community Center and encouraged all to vote.**
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12. ADJOURNMENT:

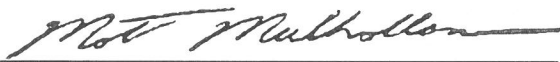
- a) **Having no further business, Mayor Mulhollem called for a motion to adjourn the meeting.**

Moved by: Council Member Wilson

Seconded by: Mayor Pro Tem Castleberry

Adjourned meeting at 8:45 p.m.

CARRIED UNANIMOUSLY


Matthew B. Mulhollem, Mayor


Kim B. Batten, Town Clerk

