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***Roanoke Rapids City Council***

***August 18, 2015***

The regular meeting of the City Council of the City of Roanoke Rapids was held on the above date at 5:15 p.m. at the Lloyd Andrews City Meeting Hall.

 Emery G. Doughtie, Mayor

 Carl Ferebee, Mayor Pro Tem

 Ernest C. Bobbitt)

 Suetta S. Scarbrough)

 Carol H. Cowen)

 Wayne Smith)

 Joseph Scherer, MPA, MS, City Manager

 Gilbert Chichester, City Attorney

 Lisa B. Vincent, MMC, NCCMC, City Clerk

 Kathy Kearney, Deputy City Clerk/Human Resources Manager

 Leigh Etheridge, Finance Director

 Chuck Hasty, Police Chief

 Kelly Lasky, Planning & Development Director

 Larry Chalker, Public Works Director

 John Simeon, Parks & Recreation Director

 Stacy Coggins, Fire Chief

 Christina Caudle, Main Street Director

Mayor Doughtie called the meeting to order and opened the meeting with prayer.

There being no conflict of interest with any of the items on the agenda, motion was made by Councilwoman Cowen, seconded by Councilman Bobbitt and unanimously carried to adopt the business agenda for August 18, 2015 as presented.

Following remarks by Public Works Director Chalker, Mr. John Radford, who recently retired with 25 years of dedicated service to the City of Roanoke Rapids, was presented a retirement clock/plaque.

Following remarks by Police Chief Hasty, Mr. Arthur Sizemore, who recently retired with 10 years of dedicated service to the City of Roanoke Rapids, was presented a retirement plaque.

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Mr. Sizemore stated he is thankful for the opportunity to work for the City. He stated he enjoyed his time with the City and misses everyone.

Following remarks by Fire Chief Coggins, he conducted a promotion and new hire ceremony for the following individuals:

* Newly promoted Hunter Carawan from Firefighter to Engineer
* Newly promoted Michael Butts from Firefighter to Engineer
* Newly promoted William “BJ” Harris from Engineer to Lieutenant
* Newly promoted Tim Gray from Lieutenant to Battalion Chief
* Newly promoted Jason Patrick from Battalion Chief to Assistant Chief
* Newly hired Kyle Horton as Firefighter
* Newly hired Lenny Dube as Firefighter

Following remarks by Police Chief Hasty, he recognized the following new hires in the Police Department:

* Police Officer Ariel Monee Burgess
* Police Officer Natara Deniece Michael-Velazquez
* Police Officer Timothy Dale Strickland
* Animal Control Officer Pete Wilson

Chief Hasty presented a Certificate of Appreciation to Deputy Chief Andy Jackson for his hard work on the very successful “National Night Out” program.

Chief Hasty presented the Purple Heart Award to Officer Adam Salmon in recognition of his personal sacrifice, dedication to duty and conspicuous bravery on April 11 while assisting Sergeant Moseley and Lieutenant Parks with a suspect. Chief Hasty indicated that after being knocked to the floor with a bottle by the suspect and receiving a severe laceration to his head, Officer Salmon continued to aid his fellow officers with the arrest of the suspect.

Chief Hasty presented a Certificate of Commendation to Officer Jamie Hardy for his act of heroism and life-saving on July 27 while serving as a Police Officer for the City of Roanoke Rapids. Chief Hasty gave an emotional recounting of the events of July 27 when Officer Hardy responded to a call of a suicidal subject holding a knife

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with the intention of harming himself. He stated although Officer Hardy tried to calm the subject, a struggle ensued and without hesitation, although his life was in danger, Officer Hardy was able to break the knife from the subject’s grip. Chief Hasty stated Officer Hardy’s courage in the face of danger was an unselfish act and he was able to help the subject without either one of them being hurt.

Chief Hasty also presented Officer Hardy a Certificate of Merit for going above and beyond the call of duty on June 30 when he assisted Mr. Bruce Rakowski, who was traveling through our area, with changing the tire on his RV. Chief Hasty stated Mr. Rakowski was so grateful that he sent the Police Department a check for $500.00. He indicated that they plan to let Officer Hardy decide how to use the funds.

Mayor Doughtie stated he has seen on two occasions the video of Officer Hardy and the man he saved. He stated anyone that does not get emotional when viewing this video must not have any emotions at all. Mayor Doughtie stated people do not realize how fortunate we are to have these young people that put on a uniform and risk everything to keep us safe.

Motion was made by Councilwoman Scarbrough, seconded by Councilwoman Cowen and unanimously carried to approve the August 4, 2015 Council Minutes.

A ballot vote was taken and City Clerk Vincent announced that Joyce Tillery and Steve Holliday received the unanimous vote for reappointment to the Beautification Committee.

Motion was made by Councilman Bobbitt, seconded by Councilman Smith and unanimously carried to reappoint Joyce Tillery and Steve Holliday to the Beautification Committee.

*The following were sworn in by City Clerk Vincent: Planning & Development Director Lasky; Sandra Showalter; Trudy Jones; Joan Peterson; Stephen Stokes; Donald Vincent and James Lander.*

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Planning & Development Director Lasky stated the three public hearings scheduled for tonight are part of a three part process. She stated the first is to consider a Conditional Use Permit request to subdivide 11 acres from the Villages at Cross Creek Planned Unit Development (PUD) Map; the second is to consider rezoning the 11 acres from R-12 and B-4 to R-40 and the third process is to consider another Conditional Use Permit request to expand the Crestview Memorial Cemetery. She indicated that the Planning Board considered all three requests at their July 16 meeting and voted unanimously to recommend approval of the requests. Planning & Development Director Lasky pointed out that if the first request is not approved by City Council, we cannot continue with the next two requests.

Planning & Development Director Lasky reviewed the following staff report, as provided in the Council agenda packets, for the first part of the process:

**MEMORANDUM**

To: Joseph Scherer, City Manager

From: Kelly Lasky, Planning & Development Director/s/

Re: **Conditional Use Permit Application for an Amendment to the Villages at Cross**

 **Creek Planned Unit Development (PUD) Map to Subdivide Approximately 11 Acres**

 **from the Villages at Cross Creek Planned Unit Development (PUD) Map**

Date: August 10, 2015

**Proposed Subdivision**

An application for a Conditional Use Permit was submitted by TAVLOWE DBA Crestview Memorial Cemetery (applicant) to amend the Villages at Cross Creek Planned Unit Development (PUD) Map to subdivide approximately 11 acres from the map and relinquish all ties to the development.

The approximately 11 acres of property (portion of Halifax County Parcel 1205725) is located along Smith Church Road extending east towards the creek. Currently the property is zoned PUD B-4 (Area 3 = 8 acres) and PUD R-12 (Area 4 = approx. 3 acres). Subdivision from the overall Villages at Cross Creek PUD Zoning Map is requested to move forward with a proposal to rezone the property and expand the existing, adjacent Crestview Memorial Cemetery. The subject property is currently undeveloped, wooded land.

The use of the property as a Planned Unit Development (PUD) is a use that is permitted with the approval of a Conditional Use Permit.

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The requested amendment to the existing Conditional Use Permit will not change the zoning classifications or permissible uses within the Villages at Cross Creek. The requested amendment is to subdivide the property and permanently remove it from the PUD map and remove associations with the Villages at Cross Creek.

**Background (Permitting History & Project Approvals)**

The Villages at Cross Creek was initially approved as one planned unit development project comprehensively addressing traffic, residential density, utilities and infrastructure, and other considerations. During 2005, the City Council approved a Conditional Use Permit authorizing the Villages at Cross Creek as a Planned Unit Development District with various zoning districts to include multi-family, single-family and commercially zoned areas fronting North Carolina Highway 125. The Villages at Cross Creek PUD was approved as a Conditional Use Permit by City Council on March 22, 2005 subject to the following stipulations:

*1.        The Planned Unit Development shall be developed in accordance with the PUD plat prepared by M. S. Consultants, Inc., entitled “Villages @ Cross Creek PUD Zoning Map – City of Roanoke Rapids, Halifax County, North Carolina”, dated February 10, 2005, as kept in the Office of Planning and Development for greater reference.*

*2.         Additional detailed construction drawings shall be provided to the Planning and Development staff, when requested, to determine compliance with any one or more of the provisions of the Land Use Ordinance, Building Code, Fire Code, City Code or other applicable required code or ordinance.*

*3.         Final plat approval of the entire PUD or any phase thereof may be conditioned by developer providing an acceptable performance bond or other security to the City in the amount of 125% of the actual cost of all required improvements in compliance with Section 151-61 of the Land Use Ordinance in lieu of actual installation of improvements.  All requirements shall be fulfilled within not more than 12 months after final plat approval.*

The PUD was approved to be composed of residential areas encompassing multi-family, single-family and commercial uses.  At the time of development approval, the site consisted of a single parcel of land 194.45± acres in size.  The site was approved to be composed of eight (8) designated individual development areas.  The approved PUD map included 48.04 acres of high density multi-family R-3 & R-6 residential property; 59.20 acres of single family R-40 residential property; 67.94 acres of single family R-12 residential property and 19.27 acres of B-4 business commercial property.

The high density multi-family R-3 and R-6 residential areas are to be developed with patio homes and town homes.  Initial plans were approved for thirty-two (32) town home buildings with a total of one hundred-two (102) units and one club house, swimming pool and tennis court.

The Villages at Cross Creek PUD was intended to developed in two phases. After a few years of sales and development, the original developer suffered with the down economy and lost ownership of the property to the bank. Today, the project is less than half-built.

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Planned Unit Development Districts are authorized by conditional use permits which are obtained from City Council. **A Planned Unit Development District requires an overall concept plan for the development of the tract prior to rezoning or establishing the new zoning district.**

An authorized Conditional Use Permit (CUP) is perpetually binding upon the property unless subsequently changed by City Council. The City Council may amend or change any CUP, after a public hearing upon recommendation by the Planning Board and subject to the same consideration for the original issuance of the Permit. Amendments to and modifications of permits are outlined in Section 151-65 of the Land Use Ordinance. The ordinance states that *insignificant deviations from the permit issued by the City Council are permissible and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development. All other requests for changes will be processed as new applications.*

The City Council is now required to hold a public hearing followed by a final decision concerning this matter.

*Planning and Development staff has made the following findings concerning this request:*

**SECTION I:**

**1. The requested permit is within its jurisdiction according to the table of permissible uses; or**

 *The requested permit is within its jurisdiction subject to the approval of a Conditional Use Permit. As indicated in the Table of Permissible Uses (Section 151-149), a planned unit development (use Classification 30.000) is the only permissible use of a PUD zone and planned unit developments are permissible only in such zones. The Villages at Cross Creek PUD map was approved by City Council during 2005. Planned Unit Development Districts are designed to combine the characteristics of multiple zoning districts, including high and low residential densities, commercial and industrial uses.*

###

**2. The application is complete; or**

*The application is complete.*

**3. If completed as proposed in the application, the development will comply with all requirements of the Land Use Ordinance; or**

*The Development will comply with all of the requirements of the Land Use Ordinance if completed as proposed in the application.*

**SECTION II:**

The following seven items were also considered when evaluating item #4 (a), (b), (c) and (d) that follows:

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**1: ingress and egress to the lot and proposed structures, especially by pedestrians and automobiles, is safe and convenient in terms of access and traffic flow; and,**

 *This is probably true; the proposed request includes no changes to the current access or circulation patterns.*

**2: off-street parking and loading affects adjacent property (in terms of traffic generation, economic impact, noise, glare and odor) similar to uses permitted in that zoning district; and,**

 *This is probably true; the requested amendment to the PUD map does not create any additional impact to the existing uses concerning parking, loading, traffic generation, glare or odor.*

*However, all future proposed construction and site plans will be formally evaluated by city staff, the Development Review Committee, including NC Department of Transportation to ensure a proper design. The Development Review Committee includes the Sanitary District, NCDOT, Public Works, NC Dominion Power, Fire Marshal and Code Enforcement.*

**3: refuse disposal affects adjacent property similar to uses permitted in that zoning district; and,**

 *This is probably true; the refuse collection requirements of the City of Roanoke Rapids shall apply to the development.*

**4: utilities are available; and,**

 *This is probably true; all utilities are currently available for the site. Connections and extensions shall be coordinated with appropriate entities. There are no specific utility considerations that should negatively impact this property at the present time. All utilities are readily available to the area. The development will be subject to impact or user fees as established by the appropriate utility entities.*

**5: the type, dimensions and character of screening and buffering satisfactorily screens adjacent property; and,**

 *This is probably true; the parcel of land is zoned PUD and will be compatible to the adjoining uses. The requested amendment to the Villages at Cross Creek PUD map will not change the zoning. Any future uses of the property requested for subdivision will be required to comply with the Land Use Ordinance.*

**6: signs and lighting affect adjacent property similar to uses permitted in that zoning district; and,**

 *This is probably true; the request does not include any signage or lighting.*

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**7: required yards, open space and existing trees and other attractive and natural features of the land are preserved.**

 *This is probably true; the site was originally approved for commercial development and residential development. There are no existing trees identified for preservation within the project area as the land is undeveloped and cleared. Any proposed changes are subject to review by staff.*

**SECTION III:**

Given the preceding, the staff has made the following findings concerning this request:

**4: If completed as proposed, the development, more probably than not:**

 **(a) will not materially endanger the public health or safety; or**

 *The staff has determined this is probably true; the development shall be required to comply with all applicable federal, state and local codes and ordinances. An assessment of the previously referenced seven items used to evaluate 4 (a), (b), (c) & (d) indicates no specific endangerment to the public health or safety that is not adequately addressed.*

 **(b) will not substantially injure the value of the adjoining or abutting property; or**

 *The staff believes this is probably true. Staff cannot determine the impact of value this proposed use would have on surrounding properties; however, based on the seven additional items used to evaluate 4 (a), (b), (c) & (d), any potential negative effects on adjoining or abutting property should be minimal.*

 **(c) will be in harmony with the area in which it is to be located; or**

 *The staff has determined this is probably true; its use as proposed will be in harmony with the existing surrounding uses in the area based on the previously referenced seven items used to evaluate items 4 (a), (b), (c) & (d).*

 **(d) will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or other plan officially adopted by the City Council.**

*The staff has determined this is probably true. The proposed request for an amendment to the PUD zoning map is considered to be reasonable. Reasonableness is determined by considering the size of the area, any special conditions or factors regarding the area, the consistency of the zoning with the land use plan, the degree of the change in the zoning, the degree it allows uses different from the surrounding area, and the relative benefits and/or detriments for the owner, the neighbors, and the surrounding community.*

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*The Comprehensive Development Plan states the following policies should be considered:*

 ***General Land Use***

 *I.1 Support infill development. Infill development is development or redevelopment of land that has been bypassed, remained vacant, undervalued and/or is underused as a result of continuing urban development process. Use of such lands for new housing and/or other urban development is considered a more desirable alternative than to continue to extend the outer development pattern laterally and horizontally thus necessitating a higher expenditure for capital improvements than would be required for infill development.*

 *I.19 Consider allowing different housing densities to abut one another as long as proper buffering and design is provided as needed and traffic generated by such land use does not mix within the neighborhood.*

 *I.20 Encourage developers to utilize thoroughfares and natural topographic features to define the boundaries of a neighborhood and concentrate higher intensity uses at the outer boundaries of the neighborhood.*

 *I.31 Encourage new and expanding industries and businesses.*

 *I.33 Economic development efforts should encourage the revitalization and reuse of currently unused or underutilized structures, sites, and infrastructure in appropriately located areas.*

**SECTION IV:**

The applicant has addressed the requisite questions, which must be answered by the City Council in the application. It is your obligation to ensure each has been adequately addressed after hearing all parties prior to rendering your decision.

**Planning & Development Department Review**

After a complete review of the information submitted to date by the applicant, it is the Planning staff’s opinion that the request satisfactorily meets the requirements of Section 151 – 94 of the Land Use Ordinance. The staff recommends; however, if approval of the Permit is recommended, it is subject to the following stipulations:

1. *The Planned Unit Development shall be developed in accordance with the PUD plat prepared by M. S. Consultants, Inc., entitled “Villages @ Cross Creek PUD Zoning Map – City of Roanoke Rapids, Halifax County, North Carolina”, dated February 10, 2005, and revised July 6, 2015 as kept in the Office of Planning and Development for greater reference.*

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1. *Additional detailed construction drawings and building plans shall be provided to the Planning and Development staff, when requested, to determine compliance with any one or more of the provisions of the Land Use Ordinance, Building Code, Fire Code, City Code or other applicable required code or ordinance.*
2. *Required screening between land uses shall be installed prior to issuance of a Certificate of Occupancy.*

**Planning Board Review**

The Roanoke Rapids Area Planning Board reviewed the request on Thursday, July 16, 2015.

**Requested Action by City Council**

***Please refer to the attached Work Sheet to discuss the application and provide a motion, second and a vote concerning the Findings of Fact and a Final Decision.***

Councilman Smith asked if any of this land crosses the creek to the Villages at Cross Creek.

Planning & Development Director Lasky stated no. She stated the subject property is from Smith Church Road to the creek. She stated there are no proposed changes to the area where the homes are located in the Villages at Cross Creek.

Councilman Smith asked if any of the land infringes on the PUD.

Planning & Development Director Lasky stated this public hearing is to consider a request for a Conditional Use Permit to subdivide 11 acres from the PUD map. She stated if approved, these 11 acres will have no further association with the Villages at Cross Creek Planned Unit Development (PUD). She pointed out that there is no proposed access to the property and this change will not conflict with any other development regulations within the PUD.

Councilman Smith asked if there are plans to cut a road to go into the Villages at Cross Creek.

Planning & Development Director Lasky stated no.

Mayor Pro Tem Ferebee asked Planning & Development Director Lasky if she had received any comments from those that were notified.

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Planning & Development Director Lasky reported that she had one phone call for clarification purposes. She stated during the Planning Board meeting a few residents did speak and some of them are here tonight. She stated the general concerns were about property values and also changing the zoning classification. Planning & Development Director Lasky explained that the 11 acres is currently zoned B-4 and R-12 and the requested zoning is R-40. She pointed out that the requested zone allows less intensive uses than what is currently permissible in the current zone.

A public hearing having been advertised and proper notices having been given according to law, Mayor Doughtie opened the public hearing for comments.

Ms. Sandra Showalter of 489 Smith Church Road, Roanoke Rapids, NC stated Crestview Memorial Cemetery has been in existence since 1960 and she and her husband have owned it since 1977. She stated they have been good stewards of the community. Ms. Showalter stated her husband passed away last year and this expansion is something they tried to do before he died. She stated they want this to be a part of their heritage for their children. Ms. Showalter stated they have taken care of everything at the cemetery and pointed out that money is put in a trust fund for the upkeep of the cemetery if she dies. She stated they have no intention of the cemetery expanding into the Villages at Cross Creek. She stated the creek is between the properties. She stated the expanded portion will be like the existing cemetery. She stated they are running out of room and need to expand. Ms. Showalter stated she does not know about the City’s plans to expand Cedarwood Cemetery but Crestview and Cedarwood are the only two cemeteries with the exception of a few family and church cemeteries which people do not take care of like they used to. She stated they would like to continue with what they have. Ms. Showalter indicated that she lives in the cemetery and keeps up the property. She introduced Ms. Trudy Jones who serves as the office manager at the cemetery. She pointed out that they do not have wild parties or want to put up gas stations. Ms. Showalter stated they want to continue with their heritage that will always be maintained.

Mr. Stephen Stokes of 155 Winterberry Lane, Roanoke Rapids, NC stated he lives in the Villages at Cross Creek. He stated this request infringes on this development and that is why he is here. He stated he is one of the youngest tenants in the development. He stated they bought into the idea of this type of PUD community.

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Mr. Stokes stated the cemetery is a nice thing but we have people fighting us on the other end of the development. He stated he is against rezoning the three acres at the creek. He stated he does not see the B-4 zone hurting them but when you get to the R-12, you are chipping away at what they paid for. He stated the tax value will go down. He stated the developer will probably be responsible for paying the residents if the value goes down. He stated the City needs to leave the R-12 alone. Mr. Stokes stated he bought into a certain type area and house. He stated they have their own covenants and the City helped them out by zoning it this way. He stated many would not have moved out there if it was not set up like this. Mr. Stokes stated they bought into a dream to leave to their children. He asked that the Council leave out the three acres that is part of their property. He stated it is probably wetlands so they probably will not be able to use it. Mr. Stokes stated he has no problem with the cemetery but is begging the Council to leave their property alone. He stated it will affect their property values.

Mayor Doughtie stated at the beginning of Mr. Stokes’ comments, he mentioned that he was one of the youngest tenants in the development. He asked Mr. Stokes if he owns his property or if he rents.

Mr. Stokes stated he owns his property. He stated he built his house.

Mr. Donald Vincent of 35 Winterberry Lane, Roanoke Rapids, NC stated he too has a concern about this request. He stated City Council knows that we are still fighting a legal battle on the other side. He stated he is not worried about the cemetery expanding but is worried about it infringing on the R-12. Mr. Vincent stated this will be chipping away at the PUD which City Council unanimously denied the request from MaSuki, Inc. to do. He stated if this is approved, they feel the Council will be setting a precedent for other developers to come in and do the same. He asked that the Council strike out the R-12 from the request and leave it as it is. He stated if Council approves this as is, it will create problems down the road. Mr. Vincent stated this City Council is smart enough to figure out a way to approve this without the three acres next to the creek. He stated they will probably not be able to use it because it is wetlands. He asked that the Council not create another controversy.

***Mr. Lander was next on the list to speak but he had to leave for another engagement.***

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There being no one else to speak, Mayor Doughtie declared the public hearing closed.

Mayor Pro Tem Ferebee asked for a clarification on the zoning of the 11 acres.

Planning & Development Director Lasky explained that 8 of the 11 acres is zoned B-4 Commercial and 3 acres is zoned R-12 Residential. She stated the request is to subdivide the 11 acres from the Villages at Cross Creek Planned Unit Development (PUD) Map. She stated the creek serves as a natural property line boundary between the properties. Planning & Development Director Lasky pointed out that the next item on the agenda is a request to rezone the 11 acres to R-40 Residential.

Councilman Bobbitt asked City Attorney Chichester if he felt rezoning the 3 acres from R-12 to R-40 would be setting a precedent.

City Attorney Chichester stated he does not think that it would because there is already R-40 on the other side and also because this request is not to erect three-story apartments.

Planning & Development Director Lasky pointed out that the Villages at Cross Creek PUD currently has 67.4 acres of R-12 and taking out 3 would bring it to 64.4 acres. She stated that amounts to only a 1% change in density of the district which is not a substantial change to the map.

Mayor Pro Tem Ferebee asked Planning & Development Director Lasky if the applicant can do what she needs to do with just the 8 acres of B-4.

Planning & Development Director Lasky stated no. She stated the property has to be removed from the PUD in order to rezone it for use as a cemetery. She stated the City has no opinion on how much land the applicant needs. She stated that is between the applicant and the property owner. Planning & Development Director Lasky stated this request is to remove the 11 acres from the map to move forward with the expansion of the cemetery.

Mayor Doughtie stated it sounds like those that spoke are concerned about the 3 acres being a buffer. He stated because of the location, a dwelling probably could not be constructed on the 3 acres in question. He stated it seems that it will always be a buffer. Mayor Doughtie stated we need to focus on looking at the request on

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the table and when we move forward to the next item, we can discuss the rezoning. He stated it has already been mentioned that there will be no direct access to the Villages at Cross Creek and there are no plans on file for the development of the 3 acres.

Councilman Smith stated what we are actually doing is taking out the 11 acres from the PUD and then we can consider the rezoning request.

Planning & Development Director Lasky stated that is correct.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Smith and unanimously carried that based on the testimony and evidence presented during the public hearing and the foregoing staff report dated August 10, 2015, the proposed development (request) will not materially endanger the public health or safety.

Motion was made by Mayor Pro Tem Ferebee and seconded by Councilman Bobbitt that based on the testimony and evidence presented during the public hearing and the foregoing staff report dated August 10, 2015, the proposed development (request) will not substantially injure the value of adjoining or abutting property.

Upon being put to a vote, Mayor Pro Tem Ferebee, Councilman Bobbitt, Councilwoman Scarbrough and Councilman Smith voted in favor of the motion. Councilwoman Cowen voted against the motion. Mayor Doughtie declared the motion carried by a vote of 4 to 1.

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Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Smith and unanimously carried that based on the testimony and evidence presented during the public hearing and the foregoing staff report dated August 10, 2015, the proposed development (request) will be in harmony with the area in which it is to be located.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried that based on the testimony and evidence presented during the public hearing and the foregoing staff report dated August 10, 2015, the proposed development (request) will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or other plan officially adopted by the City Council.

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Based on the testimony and evidence presented during the public hearing and the foregoing staff report dated August 10, 2015, motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Smith and unanimously carried to grant the Conditional Use Permit to Tavlowe, Inc. (Applicant) to subdivide approximately 11 acres from the Villages at Cross Creek Planned Unit Development (PUD) Map with the following conditions set forth by the Land Use Ordinance and the Planning Department as outlined in the foregoing staff report:

1. *The Planned Unit Development shall be developed in accordance with the PUD plat prepared by M. S. Consultants, Inc., entitled “Villages @ Cross Creek PUD Zoning Map – City of Roanoke Rapids, Halifax County, North Carolina”, dated February 10, 2005, and revised July 6, 2015 as kept in the Office of Planning and Development for greater reference.*
2. *Additional detailed construction drawings and building plans shall be provided to the Planning and Development staff, when requested, to determine compliance with any one or more of the provisions of the Land Use Ordinance, Building Code, Fire Code, City Code or other applicable required code or ordinance.*
3. *Required screening between land uses shall be installed prior to issuance of a Certificate of Occupancy.*

Planning & Development Director Lasky stated with the approval of the Conditional Use Permit to subdivide the 11 acres from the Village at Cross Creek PUD Map, we can move forward with the rezoning request for the 11 acres. She reviewed the following staff report with Council:

**MEMORANDUM**

To: Joseph Scherer, City Manager

From: Kelly Lasky, Planning & Development Director/s/

Re: **Rezoning Request - Amendment to the Roanoke Rapids Zoning Map to Rezone 11**

 **Acres (Portion of Halifax County Parcel 1205725) Located Along Smith Church Road Extending East Towards the Creek from B-4 and R-12 to R-40**

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Date: August 10, 2015

**Summary Overview**

|  |  |  |
| --- | --- | --- |
| **Subject Property** |  |  11 acres of property (portion of Halifax Co. Parcel 1205725) located  along Smith Church Road extending east towards the creek |
| **Proposal** |  |  Rezone from B-4 Commercial District and R-12 Residential District  to R-40 Residential District  |
| **Applicant** |  |  TAVLOWE, Inc. DBA Crestview Memorial Cemetery at 489 Smith  Church Road |
| **Present Use** |  |  Wooded, undeveloped land  |
| **Proposed Use** |  | Cemetery |
| **Staff Recommendation** |  | Approve |

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**Analysis and Detail:**

**1. Applicant(s)**

The applicant is TAVLOWE, Inc. DBA Crestview Memorial Cemetery, Sandra J. Showalter, 489 Smith Church Road, Roanoke Rapids, NC 27870; 252-537-4914.

**2. Location/Area Description**

The approximately 11 acres of property (portion of Halifax County Parcel 1205725) is located along Smith Church Road extending east towards the creek.

Currently the property is zoned PUD B-4 (Area 3 = 8 acres) and PUD R-12 (Area 4 = approx. 3 acres). Subdivision from the overall Villages at Cross Creek PUD Zoning Map is requested to move forward with a proposal to rezone the property and expand the existing, adjacent Crestview Memorial Cemetery. The subject property is currently undeveloped, wooded land.

The property adjacent to the north side of the rezoning area is zoned R-40 Residential District and is developed as a cemetery.

The properties adjacent to the east side of the rezoning area are zoned B-3 Commercial District and R-12 Residential District. The B-3 area to the east side of the rezoning area is developed as *Fairfield Apartments*. The R-12 area to the east side of the rezoning area is undeveloped and zoned for single-family residences within the Village at Cross Creek.

The property adjacent to the south side of the subject property is zoned R-40 Residential District.

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The property to the west of the rezoning area is zoned R-40 and B-3 and is currently developed as medical offices and rural residential.

**3. Existing and Proposed Zoning**

The attached map delineates the existing zoning of the area being considered for rezoning and the zoning of the adjacent parcels. The requested rezoning area is currently zoned B-4 Commercial District and R-12 Residential District. The requested zoning is R-40 Residential District. The following provides the adjacent zoning: North = R-40; South = R-40; East = R-12 and B-3: and West = R-40 and B-3.

**The rezoning request is a change** **from B-4 Commercial District and R-12 Residential District to R-40 Residential District**.

*The following provides general descriptions of the existing and proposed zoning districts:*

The B-4 district is designed to accommodate the widest range of commercial activities.

The B-3 district is designed to accommodate a mixture of residential uses and uses that fall primarily within the 3.000 classification in the Table of Permissible Uses (office, clerical, research, services, etc.). This district will also generally constitute transition or buffer zones between major arterials or more intensively developed commercial areas and residential districts.

The R-12 district is designed to accommodate single family dwelling units with lot sizes of 12,000 square feet.

The R-40 district is designed to protect agricultural lands and woodlands within the city’s planning jurisdiction. For this reason, larger minimum lot sizes are required. This district is intended to accommodate some types of uses that would be appropriate in more sparsely populated areas but would not be appropriate in the more intensely developed residential zones.

The specific uses allowed in each zoning district are identified in Section 151-149 Table of Permitted Uses of the City of Roanoke Rapids Land Use Ordinance. The requested R-40 Residential District permits, but is not limited to, single-family residences, schools, churches, emergency service stations, agricultural operations, cemeteries, greenhouses, accessory energy-related facilities, and open air markets.

**4. Traffic Considerations**

There are no traffic considerations. The proposed zoning change may be accessed by Smith Church Road.

**5. Utility Considerations**

There are no specific utility considerations that should negatively impact this property at the present time. All utilities are readily available to the area.

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**6. Other Considerations**

Future development of the site will be evaluated for appropriate screening, drainage, stormwater retention/detention and other items during the site plan and/or construction plan review process by the Development Review Committee. The proposed request for rezoning is considered to be reasonable. Reasonableness is determined by considering the size of the area, any special conditions or factors regarding the area, the consistency of the zoning with the land use plan, the degree of the change in the zoning, the degree it allows uses different from the surrounding area, and the relative benefits and/or detriments for the owner, the neighbors, and the surrounding community.

**7. Comprehensive Development Plan**

The property is located in the City Limits and the following implementing strategies may be considered from the City of Roanoke Rapids Comprehensive Plan, adopted by City Council on June 17, 2014:

*I.1 Support infill development. Infill development is development or redevelopment of land that has been bypassed, remained vacant, undervalued and/or is underused as a result of continuing urban development process. Use of such lands for new housing and/or other urban development is considered a more desirable alternative than to continue to extend the outer development pattern laterally and horizontally thus necessitating a higher expenditure for capital improvements than would be required for infill development.*

*I.19 Consider allowing different housing densities to abut one another as long as proper buffering and design is provided as needed and traffic generated by such land use does not mix within the neighborhood.*

*I.20 Encourage developers to utilize thoroughfares and natural topographic features to define the boundaries of a neighborhood and concentrate higher intensity uses at the outer boundaries of the neighborhood.*

*I.22 The City Planning Board may consult this plan concerning all decisions, including rezoning and subdivision approvals, which will affect residential land use, including impact on existing residential areas.*

*I.25 Permit residential development to occur in response to market needs provided that the following criteria are met:*

* *Due consideration is offered to all aspects of the environment.*
* *If deficient community facilities and services are identified, the City should attempt to improve such to the point of adequately meeting demands.*
* *Additional residential development should concurrently involve planning for improvements to community facilities and services if excess capacity does not exist within those facilities and services.*
* *Residential development is consistent with other policies and the land use map contained in this plan which reflects adequate suitability analysis.*

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*I.63 Minimize access to arterial streets and restrict excessive development at critical access points.*

**8. Public Response to Notice**

The notice of request and City Council Public Hearing was advertised in the *Daily Herald* on August 2, 9, and 16, 2015.

**9. Staff Recommendation**

The Planning and Development staff recommends in favor of the petitioner’s request. The staff finds the proposed rezoning request to be consistent with the surrounding zoning and supported by the Comprehensive Plan. Staff requests that the rezoning be recommended to the City Council for approval.

**10. Planning Board Recommendation**

On July 16, 2015 the Roanoke Rapids Area Planning Board reviewed the subject request and unanimously voted to provide a recommendation for approval of the petitioner’s request. The Planning Board meeting was advertised, affected property owners were notified and the meeting was open to the public.

**11. City Council Action**

**Motion & Vote:** The City Council has several options regarding the Statement of Consistency:

**(1) adoption of the Statement of Consistency;**

(2) denial of the Statement of Consistency;

(3) adoption with revisions to the Statement of Consistency.

**Motion & Vote:** Following the previously detailed actions regarding a Statement of Consistency, the City Council should provide a final decision regarding the rezoning request:

**(1) Approval of the request as submitted;**

(2) Denial of the request.

A public hearing having been advertised and proper notices having been given according to law, Mayor Doughtie opened the public hearing for comments.

There being no one to speak, Mayor Doughtie declared the public hearing closed.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried to adopt the following Statement of Consistency:

**Statement of Consistency with Plans to Amend the Official Zoning Map**

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**Rezoning Request – Amendment to the Roanoke Rapids Zoning Map to rezone 11 acres of property (portion of Halifax County Parcel 1205725) located along Smith Church Road extending east towards the creek from B-4 Commercial and R-12 Residential to R-40 Residential**

The Roanoke Rapids City Council met on Tuesday, August 18, 2015 at 5:15 p.m. and determined that the above mentioned request is consistent with the Roanoke Rapids Comprehensive Plan, adopted by City Council June 17, 2014, and with the Roanoke Rapids Land Use Ordinance. Comprehensive Development Plan Policies:

ADOPTED BY THE ROANOKE RAPIDS CITY COUNCIL ON THE 18TH DAY OF AUGUST 2015.

*I.1 Support infill development. Infill development is development or redevelopment of land that has been bypassed, remained vacant, undervalued and/or is underused as a result of continuing urban development process. Use of such lands for new housing and/or other urban development is considered a more desirable alternative than to continue to extend the outer development pattern laterally and horizontally thus necessitating a higher expenditure for capital improvements than would be required for infill development.*

*I.19 Consider allowing different housing densities to abut one another as long as proper buffering and design is provided as needed and traffic generated by such land use does not mix within the neighborhood.*

*I.20 Encourage developers to utilize thoroughfares and natural topographic features to define the boundaries of a neighborhood and concentrate higher intensity uses at the outer boundaries of the neighborhood.*

*I.22 The City Planning Board may consult this plan concerning all decisions, including rezoning and subdivision approvals, which will affect residential land use, including impact on existing residential areas.*

*I.25 Permit residential development to occur in response to market needs provided that the following criteria are met:*

* *Due consideration is offered to all aspects of the environment.*
* *If deficient community facilities and services are identified, the City should attempt to improve such to the point of adequately meeting demands.*
* *Additional residential development should concurrently involve planning for improvements to community facilities and services if excess capacity does not exist within those facilities and services.*
* *Residential development is consistent with other policies and the land use map contained in this plan which reflects adequate suitability analysis.*

*I.63 Minimize access to arterial streets and restrict excessive development at critical access points.*

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Upon review of the request, it is the City Council’s determination that the above mentioned request is reasonable and in the public interest of the City of Roanoke Rapids in that it provides for the organized residential growth that will help to ensure the health, safety, and general welfare of the citizens of Roanoke Rapids.

Adopted: August 18, 2015

Emery G. Doughtie

Mayor

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Smith and unanimously carried to approve an amendment to the Roanoke Rapids Zoning Map to change the zoning classification from B-4 and R-12 to R-40 for 11 acres of property (portion of Halifax County Parcel 1205725) located along Smith Church Road and described in the foregoing staff report dated August 10, 2015.

Planning & Development Director Lasky stated now that the 11 acres has been rezoned to R-40, we can move forward with consideration of the request for a Conditional Use Permit to expand Crestview Memorial Cemetery. She reviewed the following staff report with Council:

**MEMORANDUM**

To: Joseph Scherer, City Manager

From: Kelly Lasky, Planning & Development Director/s/

Re: **Conditional Use Permit Application for the Expansion of Crestview Memorial**

 **Cemetery at 489 Smith Church Road**

Date: August 10, 2015

**Proposed Request**

An Application for a Conditional Use Permit was submitted by TAVLOWE (applicant) to develop the site as a cemetery contiguous to the existing Crestview Memorial Cemetery.

The approximately 11 acres of property (portion of Halifax County Parcel 1205725) is located along Smith Church Road extending east towards the creek. The subject property is currently undeveloped, wooded land.

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The use of the property as a **cemetery** is a use that is permitted with the approval of a Conditional Use Permit. An authorized Conditional Use Permit (CUP) is perpetually binding upon the property unless subsequently changed by City Council. The City Council may amend or change any CUP, after a public hearing upon recommendation by the Planning Board and subject to the same consideration for the original issuance of the Permit.

The City Council is now required to hold a public hearing followed by a final decision concerning this matter.

*Planning and Development staff has made the following findings concerning this request:*

**SECTION I:**

**1. The requested permit is within its jurisdiction according to the table of permissible uses; or**

 *The requested permit is within its jurisdiction subject to the approval of a Conditional Use Permit, as indicated in the Table of Permissible Uses (Section 151-149), a cemetery (use Classification 21.100).*

**2. The application is complete; or**

*The application is complete.*

**3. If completed as proposed in the application, the development will comply with all requirements of the Land Use Ordinance; or**

*The development will comply with all of the requirements of the Land Use Ordinance if completed as proposed in the application.*

**SECTION II:**

The following seven items were also considered when evaluating item #4 (a), (b), (c) and (d) that follows:

**1: ingress and egress to the lot and proposed structures, especially by pedestrians and automobiles, is safe and convenient in terms of access and traffic flow; and,**

 *This is probably true; the proposed request includes no changes to the current access or circulation patterns.*

**2: off-street parking and loading affects adjacent property (in terms of traffic generation, economic impact, noise, glare and odor) similar to uses permitted in**

 **that zoning district; and,**

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 *This is probably true; the requested use as a cemetery is an expansion of the adjacent cemetery. However, all proposed construction and site plans will be formally evaluated by city staff, the Development Review Committee, including NC Department of Transportation to ensure a proper design. The Development Review Committee includes the Sanitary District, NCDOT, Public Works, NC Dominion Power, Fire Marshal and Code Enforcement.*

**3: refuse disposal affects adjacent property similar to uses permitted in that zoning district; and,**

 *This is probably true; the refuse collection requirements of the City of Roanoke Rapids shall apply to the development.*

**4: utilities are available; and,**

 *This is probably true; all utilities are currently available for the site. Connections and extensions shall be coordinated with appropriate entities. There are no specific utility considerations that should negatively impact this property at the present time. All utilities are readily available to the area.*

**5: the type, dimensions and character of screening and buffering satisfactorily screens adjacent property; and,**

 *This is probably true; the parcel of land is zoned R-40 and will be compatible to the adjoining uses. All proposed future development will be required to comply with the Land Use Ordinance.*

**6: signs and lighting affect adjacent property similar to uses permitted in that zoning district; and,**

 *This is probably true; the request does not include any signage or lighting. All signage and lighting will be required to comply with the Roanoke Rapids Land Use Ordinance.*

**7: required yards, open space and existing trees and other attractive and natural features of the land are preserved.**

 *This is probably true; the site was originally approved for commercial development and residential development. There are no existing trees identified for preservation within the project area as the land is undeveloped and cleared. Any proposed changes are subject to review by staff.*

**SECTION III:**

Given the preceding, the staff has made the following findings concerning this request:

**4: If completed as proposed, the development, more probably than not:**

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 **(a) will not materially endanger the public health or safety; or**

 *The staff has determined this is probably true; the development shall be required to comply with all applicable federal, state and local codes and ordinances. An assessment of the previously referenced seven items used to evaluate 4 (a), (b), (c) & (d) indicates no specific endangerment to the public health or safety that is not adequately addressed.*

 **(b) will not substantially injure the value of the adjoining or abutting property; or**

 *The staff believes this is probably true. Staff cannot determine the impact of value this proposed use would have on surrounding properties; however, based on the seven additional items used to evaluate 4 (a), (b), (c) & (d), any potential negative effects on adjoining or abutting property should be minimal.*

 **(c) will be in harmony with the area in which it is to be located; or**

 *The staff has determined this is probably true; its use as proposed will be in harmony with the existing surrounding uses in the area based on the previously referenced seven items used to evaluate items 4 (a), (b), (c) & (d).*

 **(d) will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or other plan officially adopted by the City Council.**

 *The staff has determined this is probably true. The proposed request for use of the property as a cemetery is considered to be reasonable. Reasonableness is determined by considering the size of the area, any special conditions or factors regarding the area, the consistency of the zoning with the land use plan, the degree of the change in the zoning, the degree it allows uses different from the surrounding area, and the relative benefits and/or detriments for the owner, the neighbors, and the surrounding community.*

*The Comprehensive Development Plan states the following policies should be considered:*

 ***General Land Use***

 *I.1 Support infill development. Infill development is development or redevelopment of land that has been bypassed, remained vacant, undervalued and/or is underused as a result of continuing urban development process. Use of such lands for new housing and/or other urban development is considered a more desirable alternative than to continue to extend the outer development pattern laterally and horizontally thus necessitating a higher expenditure for capital improvements than would be required for infill development.*

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 *I.19 Consider allowing different housing densities to abut one another as long as proper buffering and design is provided as needed and traffic generated by such land use does not mix within the neighborhood.*

 *I.20 Encourage developers to utilize thoroughfares and natural topographic features to define the boundaries of a neighborhood and concentrate higher intensity uses at the outer boundaries of the neighborhood.*

 *I.31 Encourage new and expanding industries and businesses.*

 *I.33 Economic development efforts should encourage the revitalization and reuse of currently unused or underutilized structures, sites, and infrastructure in appropriately located areas.*

**SECTION IV:**

The applicant has addressed the requisite questions, which must be answered by the City Council in the application. It is your obligation to ensure each has been adequately addressed after hearing all parties prior to rendering your final decision.

**Planning & Development Department Review**

After a complete review of the information submitted to date by the applicant, it is the Planning staff’s opinion that the request satisfactorily meets the requirements of Section 151 – 94 of the Land Use Ordinance. The staff recommends; however, if approval of the Permit is recommended, it is subject to the following stipulations:

*1. Additional detailed construction drawings and building plans shall be provided to the Planning and Development staff, when requested, to determine compliance with any one or more of the provisions of the Land Use Ordinance, Building Code, Fire Code, City Code or other applicable required code or ordinance.*

*2. Required screening between land uses shall be installed prior to issuance of a Certificate of Occupancy.*

**Planning Board Review**

The Roanoke Rapids Area Planning Board reviewed the request on Thursday, July 16, 2015.

**Requested Action by City Council**

***Please refer to the attached Work Sheet to discuss the application and provide a motion, second and a vote concerning the Findings of Fact and a Final Decision.***

Mayor Pro Tem Ferebee asked Planning & Development Director Lasky about the type of buffer that would be required.

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Planning & Development Director Lasky stated it would have to be a vegetative buffer of at least 8 feet in height or a fence. She stated the requirements are included in the Land Use Ordinance.

A public hearing having been advertised and proper notices having been given according to law, Mayor Doughtie opened the public hearing for comments.

Mr. Stephen Stokes of 155 Winterberry Lane, Roanoke Rapids, NC stated in regards to screening, right now it is wooded land. He stated when someone purchases the property and decides to build, they will cut all of the vegetation and open the area up to the Villages at Cross Creek development. He stated he opposes this. Mr. Stokes stated if you start nibbling away at this area, the cemetery will be visible. He stated he thinks the Council went the wrong route in approving the other requests. He stated Mr. Chichester did not seem real confident when he said the City Council would not be setting a precedent. He stated with Mr. Chichester being the attorney he knows that he is, he wishes he could make him feel a little better about this.

Mayor Doughtie stated if someone did take down the vegetation, the required buffer would take care of this.

Planning & Development Director Lasky stated that is correct. She stated the Land Use Ordinance requires the 8 foot buffer.

Mr. Stokes stated he has no problem with the cemetery--just the rezoning of the 3 acres. He stated taking out those pieces will have a trickle-down effect.

City Attorney Chichester stated this is a public hearing and he does not mind offering an opinion.

Mayor Doughtie stated he does not feel the City Attorney has to justify what City Council is doing as long as we are working in the confines of the information given to us.

Mr. Stokes stated one of the Council members had actually asked Mr. Chichester the question.

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Planning & Development Director Lasky pointed out that if there are any further requests for removal of property from the PUD, the property owners would be notified and a public hearing will be held. She stated at this point, this is what we have.

Mayor Doughtie stated he would like to make one personal comment. He stated he lived across from Cedarwood Cemetery for 8 years. He stated he understands the concerns of Mr. Vincent and Mr. Stokes about other developers saying that we made a change for one and should do it for them. He stated living next to the cemetery did not take anything away from his property. He stated if anything, it had more of a positive effect. Mayor Doughtie stated it was quiet and when he sold the house, there was no problem because of the cemetery.

Mr. Stokes stated this goes deeper than that. He stated he does not have a problem with the cemetery. Mr. Stokes stated Mr. Chichester did not answer his question.

City Attorney Chichester stated to Mr. Stokes that he has known him for a long time and respects him but his role is to advise City Council. He stated Councilman Bobbitt asked him a question and he has an obligation to give a legal opinion. City Attorney Chichester stated as he recalls, Councilman Bobbitt’s question was a little different from what Mr. Stokes had stated earlier. He stated Councilman Bobbitt asked if City Council worked its way through the process and rezoned the property to R-40, if it would set a precedent for other parts of the PUD. City Attorney Chichester stated his response was that since other properties in the area are zoned R-40, in his opinion it would not set a precedent. He pointed out that what was being requested before was to erect three story apartment buildings which is completely different and City Council voted unanimously to deny the request which is now in litigation. City Attorney Chichester stated as mentioned earlier, if someone wants to make a change, we would have to go through this process again and the property owners would have an opportunity to provide input. He stated he does not want Mr. Stokes to think he was not answering his request.

Mr. Stokes stated he is just emotional because he feels he has so much to lose.

Mr. Donald Vincent of 35 Winterberry Lane, Roanoke Rapids, NC stated he does not have anything against the cemetery. He stated his son lives next to the house the Mayor referred to earlier and it is the quietest place in town. Mr. Vincent stated this City Council voted unanimously not to change the other side and he does

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not understand why they want to change the 3 acres on this side. He stated the applicant did not have to purchase the 3 acres.

Ms. Showalter stated that yes she did. She stated she had to purchase the entire 11 acres.

Mr. Vincent stated it is probably wetlands.

Ms. Showalter stated it is not on the wetlands map.

Mr. Vincent stated he has concerns about changing the PUD. He stated it will deteriorate over time. He stated he believes the City needs to find some way to leave the 3 acres in the PUD as it is no good for anything.

Ms. Trudy Jones of 710 Davie School Road, Roanoke Rapids, NC stated she has been the Office Manager at Crestview Memorial Cemetery for 23 years. She stated the cemetery is in harmony with the area. She stated we are already there. She stated they are not talking about building huge buildings and the 3 acres being discussed is not wetlands.

There being no one else to speak, Mayor Doughtie declared the public hearing closed.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilwoman Scarbrough and unanimously carried that based on the testimony and evidence presented during the public hearing and the foregoing staff report dated August 10, 2015, the proposed development (request) will not materially endanger the public health or safety.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilwoman Scarbrough and unanimously carried that based on the testimony and evidence presented during the public hearing and the foregoing staff report dated August 10, 2015, the proposed development (request) will not substantially injure the value of adjoining or abutting property.

***­­­­­***Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried that based on the testimony and evidence presented during the public hearing and the foregoing staff report dated August 10, 2015, the

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proposed development (request) will be in harmony with the area in which it is to be located.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilwoman Scarbrough and unanimously carried that based on the testimony and evidence presented during the public hearing and the foregoing staff report dated August 10, 2015, the proposed development (request) will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or other plan officially adopted by the City Council.

Based on the testimony and evidence presented during the public hearing and the foregoing staff report dated August 10, 2015, motion was made by Mayor Pro Tem

Ferebee, seconded by Councilman Bobbitt and unanimously carried to grant the Conditional Use Permit to Tavlowe, Inc. (Applicant) to develop a cemetery on the subject property with the following conditions set forth by the Land Use Ordinance and the Planning Department as outlined in the foregoing staff report:

1. *Additional detailed construction drawings and building plans shall be provided to the Planning and Development staff, when requested, to determine compliance with any one or more of the provisions of the Land Use Ordinance, Building Code, Fire Code, City Code or other applicable required code or ordinance.*
2. *Required screening between land uses shall be installed prior to issuance of a Certificate of Occupancy.*

Discussion followed about the types of buffers.

Planning & Development Director Lasky stated there is a list in the Land Use Ordinance of the types of buffers allowed.

Deputy County Manager Dia Denton stated the City of Roanoke Rapids is a 25% owner of the Halifax-Northampton Regional Airport along with Northampton County (25% owner) and Halifax County (50% owner). She stated this request is to approve a letter of commitment and resolution to enroll the airport in a five-year program that will assist with runway maintenance and safety issues.

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Deputy County Manager Denton stated she has made the same request to both Halifax County and Northampton County. She stated no funds are required for this program.

Motion was made by Councilman Bobbitt, seconded by Councilman Smith and unanimously carried to approve the following Letter of Commitment:

LETTER OF COMMITMENT FOR

AIRPORT SAFETY/MAINTENANCE PROJECTS

(FIVE YEAR TERM)

THIS COMMITMENT is made, this day of August 18, 2015 from the Halifax-Northampton Regional Airport which is herein referred to as “Airport” and the City of Roanoke Rapids, which is hereinafter referred to as “Sponsor,” to the North Carolina Department of Transportation (Division of Aviation), an agency of the State of North Carolina (hereinafter referred to as “Department”), for the purposes of future and as-yet unspecified safety or maintenance services performed by said Department.

W I T N E S S E T H

WHEREAS, the Sponsor and the Department are concerned with maintaining the facilities of the Airport to enhance the safety of the traveling public and flight operations; and

WHEREAS, the Sponsor and the Department may mutually determine that certain paved surfaces and adjacent areas on the airport have aged and deteriorated and/or that other infrastructure is in need of maintenance; and

WHEREAS, pursuant to Article 7 of North Carolina General Statute 63, the Department is authorized to undertake safety improvements of these areas, on publicly owned and operated airports; and

WHEREAS, the Sponsor and the Department desire that the needed improvements be undertaken by the Department in conformance with the provision of North Carolina General Statute 63; and

WHEREAS, the Department requires a Commitment and Release of Liability statement to be on file, in order to provide and oversee maintenance and safety improvements on the operational surfaces.

NOW THEREFORE, the Sponsor does hereby commit to the following measures:

1. The Department, using NCDOT state forces and/or private contractor(s) under a Purchase Order Contract, may perform maintenance and safety improvements to the Sponsor’s airport. This work may include, but not be limited to, Joint and Crack Sealing, Pavement Repairs and Patching, Surface Treatments, Maintenance Overlays, Electrical, Grading, Drainage Improvements, Pavement Markings, or other infrastructure maintenance.

2. The Sponsor would expect notification from the Department prior to any work being performed.

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3. The Sponsor hereby assures the Department that the title to the pavement and adjacent areas are vested under the Sponsor and hereby authorizes the Department and authorized Contractor(s) to enter onto the premises of the Sponsor and accomplish any of the work items as described in Paragraph 1 above.

4. The Sponsor agrees to provide a duly authorized representative who will be present and/or available at all times work is in progress (including nights and weekends, as applicable) to monitor project operations and assist the Department’s representative.

5. The Sponsor agrees to provide a duly qualified operator who will monitor the airport’s UNICOM radio transceiver at all times work is in progress (including nights and weekends, as applicable) and will issue airport advisories as necessary on the UNICOM radio transceiver.

6. The Sponsor agrees, when needed, to formally close any runway, taxiway, or apron at all times work is in progress on that pavement and to take appropriate steps to prohibit use of such areas by aircraft and/or ground vehicles.

7. The Sponsor agrees to issue and keep current the necessary Notices to Airmen (NOTAMS) through the Federal Aviation Administration (FAA) until all work is completed and the Department’s representative notifies the Sponsor’s representative that the affected areas may be returned to service.

8. The sponsor agrees that the Department may, in its sole discretion, determine the design, scope of work, materials to be used, and methods of accomplishing this safety improvement project.

9. To the maximum extent allowed by law, the Sponsor shall indemnify and hold harmless the Department and its officers and employees from all suits, actions, or claims of any character because of injury or damage received or sustained by any person, persons, or property resulting from work performed under this Commitment or on account of, or in consequence of any negligence in safeguarding the performance of said work.

10. The Sponsor agrees that, at its sole and unlimited discretion, the Department shall have the right to immediately stop all work being performed should the Sponsor not comply with provisions pursuant to this Commitment.

11. The Sponsor understands that for the Department to perform maintenance or safety services, the Airport and Sponsor must be in good standing on all State and Federal Grant Requirements and Assurances before any project shall be performed under this Commitment.

12. Subject to the provisions of paragraph 10 above, this Commitment will expire in five years. Subject to the provisions of paragraph 10 above, this Commitment may be terminated by either the Department or the Sponsor by providing written notification of termination. The effective date of termination pursuant to this paragraph shall be the date of receipt of the notice of written termination by the non-terminating party.

IN WITNESS WHEREOF, the Sponsor has executed this Commitment on the date first written on Page 1 of this document.

FOR THE LOCAL AIRPORT SPONSORING AGENCY

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Signed:

Title:

Official Sponsor:

Attest:

Motion was made by Councilman Bobbitt, seconded by Mayor Pro Tem Ferebee and unanimously carried to adopt the following resolution:

**Resolution No. 2015.04**

**Resolution of City of Roanoke Rapids**

**Letter of Commitment for Airport Safety/Maintenance Projects**

 **WHEREAS,** the City of Roanoke Rapids (hereinafter referred to as the “Sponsor”) and the North Carolina Department of Transportation (hereinafter referred to as “Department”) requires a Commitment and Release of Liability statement to be on file, in order to provide and oversee maintenance and safety improvements on the operational surfaces of the Halifax-Northampton Regional Airport; in accordance with the provisions of North Carolina General Statute 63.

 **NOW, THEREFORE, BE IT RESOLVED** that the Mayor of the Sponsor be and is hereby authorized and empowered to enter into a Commitment and Release of Liability with the Department, thereby binding the Sponsor to fulfillment of its obligation as incurred under this resolution and its commitment to the Department.

 **ADOPTED** this 18th day of August, 2015.

 Emery G. Doughtie, Mayor

ATTEST:

 Lisa B. Vincent, City Clerk

Finance Director Etheridge reported that our auditor, Mr. Gregory T. Redman, has advised that the City of Roanoke Rapids was selected this year as one of many municipalities subject to additional testing of pension census data as required by GASB Accounting Statement change numbers 67 and 68. She pointed out that this is a Local Government Commission (LGC) requirement.

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Finance Director Etheridge stated the fee for this additional testing is $5,000.00 and the General Operating budget includes auditing and consulting fees to cover these requirements.

Mayor Pro Tem Ferebee asked if there was any other way to do this without it costing us $5,000.00.

Finance Director Etheridge stated there is no way around this since it is a State requirement.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Smith and unanimously carried to approve the following engagement letter with Gregory T. Redman, CPA, and authorize the Mayor and Finance Director to execute same:

City of Roanoke Rapids, North Carolina

1040 Roanoke Avenue

Roanoke Rapids, NC 27870

I am pleased to confirm my understanding of the services I am to provide the City of Roanoke Rapids, North Carolina regarding the testing of pension census data at the employment participant level as part of the implementation of GASB Statement Nos. 67 and 68.

I will examine the employee census data and related underlying payroll records of the City of Roanoke Rapids, North Carolina for the calendar year ended December 31, 2014, to determine the employee census data provided to the Local Government Retirement System is complete and accurate. My examination will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

The objective of my examination will be to provide an opinion that the Local Government Retirement System census data of the City of Roanoke Rapids, North Carolina for the year ended December 31, 2014 is complete and accurate based on the criteria set by the Retirement System’s Handbook revised January 2014. I will not perform an audit of the City’s retirement system, the objective of which is the expression of an opinion regarding that system, and accordingly, I will not express an opinion on it.

You are responsible for designing, implementing and maintaining internal control relevant to the City’s retirement system; preventing and detecting fraud; identifying and ensuring that the City complies with all applicable laws and regulations; and providing me, at the conclusion of the engagement, with a letter that confirms certain representations made during the examination.

I anticipate that I will begin this engagement in August 2015 and will complete the required report by October 1, 2015. My fee for this engagement will be $5,000.

***17945***

***Roanoke Rapids City Council***

***August 18, 2015***

I appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of the engagement. If you have any questions, please let me know. If you agree with the terms of the engagement as described in this letter, please sign the enclosed copy and return it to me.

Sincerely,

Gregory T. Redman, CPA/s/

**Governmental Unit Signatures:**

By By

 Mayor/Chairperson: Type or print name and title Finance Officer: Type or print name and title

Signature of Mayor/Chairperson of Governing Board Signature of Finance Officer

Date Date

City Manager Scherer stated in light of the negative nationwide stories about police officers and the recent recognition of Officer Hardy for his outstanding efforts in dealing with a potentially dangerous situation leading to a positive outcome for both the officer and the civilian, he wants to highlight the work our entire Police Department does for the City.

City Manager Scherer stated the fact is that the work the men and women of our Police Department perform every day is occasionally not appreciated. He stated in 2014, 127 officers nationwide lost their lives in the line of duty, and through June of this year, 16 officers were killed. He stated these numbers serve as a reminder that our officers put their lives on the line every day, oftentimes for people they have never met. He stated their exemplary work is the foundation of trust that must exist between law enforcement and the City they serve.

City Manager Scherer stated as a City, we must never lose sight of the many difficulties that are inherent in the law enforcement profession. He stated when others run from danger, our officers run bravely towards it and face the ugliness that sometimes follows. He stated like any organization, our officers are not flawless, but 99% of them perform their duties professionally, every day, without so much as a whimper of hesitation, using only the force justified by the situation.

***17946***

***Roanoke Rapids City Council***

***August 18, 2015***

City Manager Scherer stated some community members do recognize the excellent work performed by our officers. He reported that AAA of NC has agreed to donate $8,000.00 for the department to purchase 10 more body cameras, and Mr. and Mrs. Harold Massey donated a dozen portable thermal temperature devices for responding to children or animals left unattended in vehicles in the summer heat. He stated earlier this year, Officer Hardy stopped to help an out-of-town visitor change the tire on his RV and refused any gratuity. He stated that gentleman sent $500.00 anyway to the Police Department as his way of saying “thanks”.

City Manager Scherer stated in the Council agenda packet, there is a summary of 911 calls the Police Department responded to in July. He stated the total number of calls is 2,334, an average of almost 80 per day. He stated they range the gamut from shots fired to rape to attempted suicide to subject carrying a weapon to loud noise complaints. He stated the officers are prepared to deal with almost any situation requiring a great deal of training, maturity and experience. He mentioned a news report he saw earlier today about a city in California with many young officers responding to a bank robbery with hostages’ situation. He stated over 600 shots were fired by 33 officers during the event and one hostage was killed by police gunfire. He stated the report cited the lack of more experienced officers, who had left the city due to the city’s financial problems, and lack of training and experience of the current officers for a situation like that.

City Manager Scherer stated he is asking everyone that comes into contact with an officer to thank them and learn to appreciate the job they do. He stated there are many challenges that our City faces and we expect the police officers to have the ability to solve every single one of them. He stated those challenges cannot be met by law enforcement alone. He stated protecting our community is everyone’s responsibility. He stated a police department is only as effective as the community that supports it, and they cannot perform without strong support from all of us.

City Manager Scherer stated we expect our officers to be diplomats yet warriors, kind yet tough, confident yet humble and make instant decisions which get criticized in 20-20 hindsight. He stated it is a thankless job sometimes and one that few are equipped to handle. He asked everyone to please take a moment when you meet an officer to recognize their work and be grateful for their service.

Councilman Smith stated he is still interested to know where we stand on the sale of the Theatre.

***17947***

***Roanoke Rapids City Council***

***August 18, 2015***

City Manager Scherer stated we have sent the information required by the Local Government Commission (LGC) and are waiting to hear back from them.

Councilman Smith asked when the information was sent.

Finance Director Etheridge stated about a week and a half ago.

Councilman Smith stated we need to call and push them.

City Manager Scherer pointed out that we have received confirmation that we can proceed with the sale of the Theatre with the understanding that the proceeds must be used toward paying off the debt.

Councilman Smith asked about the status of the marketing firms.

City Manager Scherer stated he has met with one firm and has plans to meet another firm.

Councilman Smith asked the City Manager if he has taken the time to talk with the property owners on each side of the Theatre to see if they are interested in helping with the marketing.

City Manager Scherer stated no but we can do that.

City Attorney Chichester stated he had not thought about that but reaching out to them would be a proactive approach.

Councilman Smith stated he feels like it would be easier to market if they were involved.

City Attorney Chichester stated he would think all of the property owners out there would have a real financial interest in having the area developed.

City Manager Scherer stated they will reach out to the property owners.

Councilman Smith stated you can tell he is very interested in getting this Theatre marketed and sold. He stated he knows the staff is working hard on this but he is trying to push even harder. He thanked them for what they are doing.

***17948***

***Roanoke Rapids City Council***

***August 18, 2015***

Mayor Doughtie stated he knows that we are all busy working on many things.

City Manager Scherer stated selling the Theatre is his number one priority and we are trying to move along as fast as we can.

Finance Director Etheridge stated this has been a very challenging month which is not unusual for this time of year. She reported that the General Fund year to date receipts totaled $202,356.82 (percentage of actual monies collected of adopted figures stand at 1.3%) and the General Fund year to date expenditures totaled $1,279,821.02 (percentage of actual monies expended of adopted budget figures stand at 8.2%).

Finance Director Etheridge reported that as we close our books on July 31st, the trend continues with expenditures well exceeding revenues at the beginning of the fiscal year. She reported that at this same time last year, the City received $301,867.00 in privilege license revenue that was acted upon and eradicated by the General Assembly for municipal governments. She stated to date, we have expended 8.2% of our operating budget with only 1.3% realized in collections.

Finance Director Etheridge reported that Mr. Greg Redman, CPA and his team are here completing field work for our Fiscal Year 2014 - 2015 Audit. She stated we will be able to provide numbers regarding the Audit at our next Council meeting.

Finance Director Etheridge stated she would be happy to entertain any questions at this time.

Councilman Smith asked about the amount of A/P prior years.

Finance Director Etheridge stated $149,000.00.

Councilman Smith asked if we had received the June sales tax revenue.

Finance Director Etheridge stated yes, in the amount of $262,000.00.

***17949***

***Roanoke Rapids City Council***

***August 18, 2015***

Councilman Smith stated he hopes the rest of the Council members had a chance to read the departmental reports included in the agenda packets. He suggested that we skip the presentation of the reports tonight since we have been here so long.

Motion was made by Councilman Smith, seconded by Councilman Bobbitt and unanimously carried to dispense with the presentation of the departmental reports.

Mayor Doughtie stated that Mayor Pro Tem Ferebee reminded him that we have done this in the past and he wanted to assure everyone that the Council members do not take lightly what the department heads have to say. He stated if any Council members have questions about the various reports, they can contact the department heads.

Motion was made by Councilwoman Scarbrough, seconded by Councilman Bobbitt and unanimously carried to adjourn.

 

 9/1/2015