

\*\*\*\*\*August 10, 2015\*\*\*\*\*

The Signal Mountain Town Council held its regular monthly meeting on Monday, August 10, 2015, at 6:30 p.m. in the Town Hall. Those present were:

Those present were: Mayor Dick Gee  
Vice Mayor Bill Wallace  
Councilmember Chris Howley  
Councilmember Bill Lusk  
Councilmember Robert Spalding

Also present were: Town Manager Boyd Veal  
Attorney Mike McMann  
Town Recorder Carol White  
See attached list for others present

Mayor for a Minute Andy Verneti led the pledge of allegiance.

Mayor Gee read a proclamation naming Andy Verneti as Mayor for a Minute (proclamation attached).

Stacey Seals, Fire Chaplain, gave the invocation.

### Minutes

The minutes for the March 9<sup>th</sup> regular meeting were presented. There being no changes, the minutes were approved.

The minutes for the March 27<sup>th</sup> special agenda meeting were presented. There being no changes, the minutes were approved.

The minutes for the April 13<sup>th</sup> regular meeting were presented. There being no changes, the minutes were approved.

The minutes for the April 24<sup>th</sup> special agenda meeting were presented. There being no changes, the minutes were approved.

The minutes for the May 1<sup>st</sup> special agenda meeting were presented. There being no changes, the minutes were approved.

The minutes for the May 11<sup>th</sup> regular meeting were presented. There being no changes, the minutes were approved.

The minutes for the May 29<sup>th</sup> special agenda meeting were presented. There being no changes, the minutes were approved.

### **Citizen Comments**

Mayor Gee invited comments from the audience. There being no comments, the meeting resumed.

### **Sign Appeal/Variance Request**

Randy Spencer of Domino's Pizza requested a sign variance. He explained that Domino's is in the process of a national rebranding.

Town Manger Boyd Veal explained that the DRC declined to approve a variance as the sign does not meet current requirements. He said Domino's is requesting to replace the existing non-conforming lighted sign with one of like construction but with just a little different look.

Councilmember Spalding made a motion to approve the appeal/variance request. Councilmember Lusk seconded the motion. All present being in favor, the motion was approved.

### **Resolutions**

1. "RESOLUTION AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT WITH THOMPSON ENGINEERING FOR IBC CHAPTER 17 SPECIAL INSPECTIONS DURING THE CONSTRUCTION OF THE PUBLIC WORKS FACILITY, FOR AN AMOUNT NOT TO EXCEED THIRTY THOUSAND DOLLARS (\$30,000.00)."

Councilmember Spalding motioned to approve the resolution. Councilmember Lusk seconded the motion. All present being in favor, the motion was approved.

2. "RESOLUTION AUTHORIZING THE TOWN MANAGER TO ENTER INTO A CONTRACT AMENDMENT WITH ARTECH DESIGN GROUP FOR ARCHITECTURAL SERVICES ON THE NEW PUBLIC WORKS FACILITY FOR AN AMOUNT OF TWENTY FOUR THOUSAND FIVE HUNDRED ONE DOLLARS (\$24,501.00) RESULTING IN A NEW TOTAL CONTRACT AMOUNT OF EIGHTY SIX THOUSAND FORTY DOLLARS (\$86,040.00)."

Councilmember Lusk motioned to approve the resolution. Councilmember Spalding seconded the motion. All present being in favor, the motion was approved.

3. "A RESOLUTION AUTHORIZING THE TOWN MANAGER TO ADD ONE PATROL OFFICER POSITION TO THE AUTHORIZED STAFFING LEVEL OF THE SIGNAL

MOUNTAIN POLICE DEPARTMENT TO FACILITATE ASSIGNING A SCHOOL RESOURCE OFFICER TO THE SIGNAL MOUNTAIN MIDDLE/HIGH SCHOOL.”

Mr. Veal explained that this addition Officer will allow the Police Department to fill the position that will be vacated to provide an SRO Officer at the schools.

Council discussed their disappointment that Hamilton County did not budget sufficient funds to cover the costs of an SRO Officer at the local schools. Councilmember Lusk said that as long as the Town funds this position the County will not fund the SRO. He suggested that the Mountain Education Foundation (MEF) be approached and ask them to support the SRO program. The Council directed Mr. Veal to speak to the MEF regarding this matter.

Councilmember Lusk made a motion to table this resolution. Councilmember Spalding seconded the motion. The motion to table the resolution passed with a vote of 4 to 1, with Councilmember Howley opposed.

4. “A RESOLUTION AUTHORIZING THE TOWN MANAGER TO PURCHASE THIRTEEN (13) TASER X26P ELECTRICAL LESS-LETHAL WEAPONS AND RELATED EQUIPMENT, FROM GULF STATES DISTRIBUTORS, FOR AN AMOUNT NOT TO EXCEED FOURTEEN THOUSAND THREE HUNDRED (\$14,300.00) DOLLARS TO BE USED BY THE POLICE DEPARTMENT FOR THE TOWN OF SIGNAL MOUNTAIN.”

Councilmember Lusk motioned to approve the resolution. Councilmember Spalding seconded the motion. All present being in favor, the motion was approved.

### **Public Hearing**

The regular meeting was temporarily suspended for the Council to convene a Public Hearing on the proposed Ordinance to amend the Town’s Zoning Ordinance regarding minimum lot size for minor subdivisions.

Bob Griesinger, Carriage Hill, said that the regulations make it clear that individual circumstances should not be taken into consideration when making determinations regarding zoning. He said he was at the previous Council agenda and Planning meetings when many issues about individual circumstances were discussed. Mr. Griesinger said there are valid zoning rules already in effect. He said this change is capricious and arbitrary in that the application of 817 on this lot says that it can be identical to the lot next door and some place in the future it will then restrict the rights of the lot next to it. He said that there cannot be two identical lots with one having one set of circumstances and the other having another. Mr. Griesinger said that this poorly written regulation will be brought to court. He said the Planning Commission took 6 years to get the current zoning regulations and he contends that the Council is making this change with only 2 Planning Commission meetings and 2 Council meetings.

Steve Ruffin, Ohio Avenue, said that as a prior Councilmember he had promised not to rezone any residential property into commercial, and to not change lot size restrictions. He said, in 2006, he was the only Councilmember to oppose changing lot size restrictions for Shackelford Ridge and

that resulted in a recall ballot of the other 4 Councilmembers. He asked the Council to look at the character of the Town and to think about what they do before they do it and to not pass this ordinance.

Wayne Williams, Shoal Creek Falls, said he was at tonight's meeting as the Chairman of the Planning Commission. He said the Commission composed the ordinance and recommended its adoption by the Town Council. He said it was his intent, and thought it was his charge, to protect the character of the existing neighborhoods. Mr. Williams said this ordinance is intended to reconcile the new subdivision regulations and new zoning regulations with the fabric of the existing neighborhoods. He said the ordinance has very limited application and would essentially allow an unusually large lot, within an existing neighborhood, where there is sufficient road frontage already present, to be re-subdivided to match the adjoining lots, so that neighborhoods can look continuous and have the same fabric across their area.

Nancy Caldwell, Brady Point Road, said this ordinance has the potential to completely change her neighborhood. She said no one has educated the residents to the true impact of this action. She asked if the 15 acres across the street from her can be subdivided into  $\frac{1}{4}$  acre lots. She asked if the house on the 2 acre lot behind her could be torn down and 4 or 5 homes placed on it. Ms. Caldwell asked if the Council knows what the consequences of this change will be.

Jo Kellum, Louisiana Avenue, said it is short sighted to say that problems will not happen and that only a few residents will be affected. She said that such claims will provide scant protection against the loss of enjoyment of property if higher density rules have unintended consequences. Ms. Kellum said she lives near a large lot. She said she researched the lot before purchasing her property and found that there is a road that was platted but never built. She said she made sure this road could not be build and houses placed behind her property. She said she was told it would not be financially possible for a developer to develop the road because the lot size requirement was  $\frac{1}{2}$  acre. Ms. Kellum said that to cut the lot size down to  $\frac{1}{4}$  acre makes the property very enticing to builders who could see a higher return on their investment. She said that higher density always results in more traffic and noise.

Melissa Cantrell, South Drive, said the minimum lot size has been  $\frac{1}{2}$  acre for decades. She said a drafting error was made when the new zoning ordinance was completed which erroneously set the minimum lot size at 1 acre. She said she spoke with the Town Manager about correcting this error. Ms. Cantrell said that instead this amendment was created which, under certain circumstances, allows lot sized smaller than the  $\frac{1}{2}$  acre. She said she has heard various reasons for this departure from the long standing minimum lot size. She said she was told that one reason for this action is to protect Old Town. She said this action affects properties Town wide and not just in Old Town. She said Old Town has a variety of lot sizes and there aren't any specific boundaries for Old Town. She said this ordinance affects low density residential which is a large portion of the entire Town. Ms. Cantrell said she had been told this ordinance was created for one property, but that there are others waiting in the wings. She said she heard this action will expand the tax base and said that it is generally accepted that pure residential construction, in the long run, costs more to serve than the revenue it produces. Ms. Cantrell said that 2 Councilmembers said that property owners should be able to do what they wish with their property. She said she disagrees with that since residents pay a premium to live here, pay additional taxes and assume that zoning laws will protect their investments and quality of life. Ms. Cantrell said she has heard this ordinance only affects a

handful of property owners in Old Town from 25 to 200 lots. She said it has been back to the Planning Commission several times yet this amendment has not been materially changed. She said the word contiguous has not been defined. She asked how to average lots next to high and medium density residential. She said that the word near is listed as a definition of contiguous so there is no way the word contiguous serves any use alone as a control measure. Ms. Cantrell said this amendment gives certain property owners an economic advantage over others who have the same size lot in the same zoning classification. She said it allows for different subdividing criteria in the same zoning classification. She said there is no logical reason to take this action now unless it is to create more marketable lots and she doesn't think that is in the best interest of the other property owners.

Dunn Monroe, Cherokee Lane, asked if a person can build on a ¼ acre lot how can others be kept from doing the same thing. Attorney Mike McMann replied that the ordinance only applies to certain lots. Mr. McMann said a contiguous lot is one that touches the lot in question. He said this means that if a lot would have to be the same or larger than the average of the lots that touch it, which is normally three lots. Mr. Monroe asked if someone building a subdivision could not divide it into ¼ acre lots. Mr. McMann said that would not be possible, as this item applies to minor subdivision which is 5 lots or less and that this action creates a very limited exception to the standard subdivision. Mr. Monroe said he had wanted to say that this action would allow more apartments and condo to be built and allow more green spaces to be lost, but that Mr. McMann may have shot that down. Mr. Monroe said there has been a ½ acre lot size requirement for many years until this wild idea of ¼ acre lots and he is against that. He said that Signal Mountain is a small, uncrowded community.

Mayor Gee said he wanted to read the amendment as he has heard interpretations that he believes are incorrect. He then read the paragraph which states that the minimum lot size for a minor subdivision within an existing subdivision may be reduced to an area not less than the average lot size for contiguous properties provided that no lot shall be created below 10,890 sq. ft. in area. Likewise if street frontage of contiguous lots is less than 100' the street frontage may be reduced to the average frontage of contiguous lots provided that no lot shall have less than 75' of frontage, all lots must have street frontage on a publicly dedicated and accepted street right-of-way, and lots created from this provision shall not be allowed reduced setbacks under Section 817 of this ordinance. Mayor Gee said that those residents who are suggesting that a developer will come and make a major subdivision as a result of this ordinance are simply not correct. He said this action is intended for subdivision of 5 lots or less.

When asked from the audience, Mr. Veal explained that a minor subdivision is generally considered the subdivision of a piece of property that creates 5 or fewer lots. He said that for a piece of property in a subdivision that would be the maximum number of lots that could be created. Mr. Wayne Williams explained that a minor subdivision is 5 or fewer lots, needs no new road construction, and the resulting lots all have to meet minimums for lot sizes, frontages, depth, side yards, rear yards, and front yards without any new road or utility construction. He said that this amendment allows someone who already holds a double lot to subdivide that into two single lots so that it looks like the neighbors lots.

Rachel Miller, James Boulevard, said that in 2006 the Town Council, for reasons other than the good of the constituents and with as little as possible public input, voted to change lot sizes from ½ to ¼ acre. She said that as a result of that action, the citizens recalled 2 of the Council members. She said the ¼ acre change is a terrible idea for the citizens because of the vulnerable infrastructure, at capacity schools, and failing sewers. Ms. Miller said the ¼ acre size is only a good deal for builders, real estate people, and developers. She asked why this Town Council is doing the exact same thing, in the exact same secretive way. She asked why the Council is rushing such an

incredibly terrible decision which will irreparable change this mountain for the worse and who are they doing it for? She asked if the Council is making this decision for the same builders, real estate people and developers as the 2006 Town Council.

Claire Griesinger, Carriage Hill, said that residents had not attended previous Council or Planning Commission meetings since they had no idea that the Council was discussing and voting on a zoning change. She said that to just list "amend zoning ordinance, minimum lot size, minor subdivisions" as an item on the agenda does not fulfill the obligation to the residents to keep them informed. She said that the Council made no effort to let property owners know they were going to change zoning that had been in effect for almost 40 years. Ms. Griesinger said the Town should have held an open house, placed an article in the paper, placed information on the Town's Facebook page, and the web site. She said that according to Mayor Gee, a variance from the BZA for one individual does not apply, so the only remedy for the Council is to change the zoning Town wide. Ms. Griesinger said that according to the State of Tennessee Planning Commission handbook, this new ordinance does not pass the test for approval. She asked the Council to define the word contiguous in the amendment. She asked how this amendment will affect property that is contiguous to properties that are commercial, town, county, church, national forest, town park land, and Westfield properties. She asked if the Council had addressed the issue of a property owner contiguous to one of these properties who would never be able to subdivide under this amendment. She asked how the Council will draw the line and tell other property owners "no" when they ask for zoning changes. She asked why one person's need is more important than another's. Ms. Griesinger said the Town staff had estimated that there are about 25 lots in Old Town and 100-200 in the rest of the Town. She said that she knows the bulldozers are not moving in on these lots tomorrow, but that the foundation is set with this zoning change. She said that if the 4 Council Members vote to approve this amendment, they will "own" the impact it will have on the Town. She said that she requests that the Council inform citizens of any major issues that they are considering from now on. She suggests a brief explanation be placed on the agenda, website and in an e-mail blast for both the Council and Planning Commission meeting agendas. She points out that a recent item on the agenda for the Planning Commission listed an item as animal livestock discussion and was really about goats.

Dave Evans, James Boulevard, said that this amendment is open to interpretations, and does not know whether the Council has gotten a legal opinion that the citizens can rely upon. He said he is concerned because he could not find a definition of a minor subdivision on the MTAS website. He said that definition should be in the ordinance. He said the Council is in a rush to pass this amendment. Mr. Evans asked what happens if a developer develops ½ acre lots which are sold to builders who subdivided them all into ¼ acre lots. He asked what happens if a homeowners association bounds a 2 foot strip around subdivision land so that they only abutted one another. He said the Council is being extraordinarily reckless and not faithful to their responsibilities. He said the Council should study this amendment more and seek further input from citizens. He said that this action is made to allow one person to get one deal done (which appears to him to be inherently wrong and in violation of their oaths' to the Town). He think the Council should defer action and get more information out to the residents.

Karen Rennick, Texas Avenue, said that the term "contiguous" could be better defined to make it clearer. She said she would not include lots in the rear of a property as contiguous as a rear lot could have a different design and feel than the lots on either side. She said that if the intention is

for the newly created lot to be compatible then adding lots from the rear does not help with the compatibility. Ms. Rennick said not all contiguous properties should be included and sited 2 Town owned properties, one that is 5,900 square feet and another is 4,800 square feet, which she feels should not be considered because of their small size. She said that the Town Planner stated that an average of 100 feet of street frontage is required and does not think this is clear in the ordinance. She asked that a reference to the definition of minor subdivision in the subdivision regulations should be included in this amendment. She said if 2 lots or less do not go to the Planning Commission, she wondered if 3 or more lots do.

Mike Westerman, Mountain Orchard Path, said that this is the same as the Danbury Conservation Subdivision that the Planning Commission recently passed. He said this subdivision places 17 houses on 10 acre ½ lots <unintelligible>. He said these homes face off to a lot of ½ to 1 acre lots. He asks if the Council is trying to make the density like New Jersey. He said this type of density is killing the essence of Signal Mountain.

Charlene Griffin, Druid Drive, said that she agrees with the previous speakers. She said that her house and land are her greatest asset. She said she bought these trusting the Town Council to protect her investment. She said the Council actions and secrecy violates the trust the community has in them.

Ann Miller, Alexian Way, asked if the Town had retained outside legal counsel, with expertise with planning and zoning, to review this amendment. She said that this is a typical case of spot zoning since one lot can subdivide while another of the same size cannot due to the adjoining lot sizes. She also stated that this amendment is arbitrary and capricious.

Pat St. Charles III, Signal Point Circle, said he was aware this issue was being discussed months ago through an e-mail blast. He said he read an insert or article in the newspaper and that there is information on the Towns website. He said the Council and Planning Commission are trying to protect the character on the mountain and the fabric of the subdivision by intentionally putting limiting factors in the ordinance. He said that this is a reasonable approach to address an issue and does not feel that any of this has been done in secrecy or with ill intent. Mr. St. Charles said that he believes the Council has the best interest of the mountain at heart and that so do all the residents at the meeting. He said there is a lot of misconception as to the details and limitations included in this ordinance that needs to be clarified.

Lance Edwards, James Boulevard, said that he has been to every Council meeting since early May. He said that he has also done some research on this issue since he lives next to the lot under discussion. He said that the Planning Commission put forth tough restrictions on this ordinance. He said that the lot will be over 15,740 square feet which is well above the minimum requirement. Mr. Edwards said that the lot to be created looks just like the 2 lots beside it and the one behind it. He said that this ordinance holds with the Old Town look. He said that the WWTA is a county utility and property owners have to petition them to add a house to sewer and a septic system cannot be added. He said a recent homeowner was granted sewer service after 1 ½ years. He said this property already has sewer to it. He said he is not a builder or developer but is just a property owner.

Charlie Poss, Brady Point Road, asked the Council to table this vote and have some open meetings with Town residents. He said this is a very important issue with citizens coming out in force against this ordinance. He said he is on the Planning Commission and was the only one to vote against this item at the last meeting. He said the Council was elected to make the tough decisions and sometimes they have to look the nice guy in the eye and say this isn't in the best interest of the Town. Mr. Poss said he wants the Council to vote against this ordinance, but short of that to table the issue and have public input.

Jo Kellum, Louisiana Avenue, asked why the Town needs this ordinance. She asked the Council what was the point of Mountain Vision. She asked why this item could not just be voted down as it is a change to the current ordinances that property owners were already living with. She said that low density was identified as desirable by the community and does not see why the Council is changing that. Ms. Kellum said that if a ½ acre property has a home, it can be torn down and two houses could be built on ¼ acre lots and that will change the fabric of the neighborhood. She said new homes in historic districts, with mature trees and sidewalks on the front of the mountain are selling well and at a good price. She said this type of building occurs, it is naturally restricted to a nominal amount as on Carolina Avenue where sewer taps already existed. Ms. Kellum said that since sewer taps already exist in Old Town this makes that neighborhood particularly vulnerable and targeted. She said when the rules change and a neighborhood becomes a money making hot spot for speculation, a neighborhood can become re-invented. She said there is a dramatic difference between neighborhood renewal and reinvention. She said the erosion of an older neighborhoods existing character corresponds directly to an increasing percentage of older homes being replaced with new construction. She said this increases homogenization of both architectural styles and wealth levels of residents, which in turn reduces diversification of ages of residents. She said she likes living where young families and retirees are mixed on the same streets. She said this will go away if houses are the same size and price level.

Ron Buchheit, Palisades Drive, said there has already been a discussion about an SRO for the schools that the Town will have to pay for since the county will not. He said there are roads up the mountain that are already at or over capacity. He said by increasing the building by subdividing lots will only increase the number of people and capacity that we cannot sustain. He said if this passes the Town will be in the position of begging the county to expand the schools, which he said would not happen. Mr. Buchheit asked if residents will have to help pay for additional schools because of subdividing lots so small which will increase the capacity of the Town such that it cannot be sustained at the current service level.

Nancy Caldwell, Brady Point Road, said she wants to emphasize to the Council that they need to educate the residents that this is a good idea.

Mary Hutson, James Boulevard, said that since the first reading of this ordinance did not take place at the regular July Council meeting, she proposes that the second reading and final vote on this item be deferred to the September meeting. She said this will allow Council members to consider and address concerns brought forward tonight by the citizens, and would give the citizens time to reflect on the intent and the impact on the ordinance as presented by the Council and Planning Commission.

Dun Monroe, Cherokee Lane, said that the main road can last 15 minutes or 15 years. He asked if the Town has done any studies and said that if not they need to do some regarding runoff etc.

John Barlew, Stratford Way, said there is an 87 page regulation document that specifies exactly the ordinances that must be followed to build a home. He said that on page 2 there is a definition of a minor subdivision that it is: a division of land into 5 or fewer lots where the conditions for a major subdivision are not set. He said this does not tell him much, but that anything is possible based on that definition. He said he Googled the definition of contiguous and found that it is any 2 adjoining properties that have separate deeds. He said that north Chattanooga is an example of what happens when developers come in with no interest other than to make money. He said that when he lived on Westwood Avenue a bird sanctuary lot across the street was developed with 7 homes 10 feet off the road frontage. Mr. Barlew said that was the reason why he moved to the mountain and he is concerned that 3 wooded lots across the street from his home could be developed into 9 homes. He said that the Council should get engaged and address the community about this issue.

Pat St. Charles III, Signal Point Circle, asked for clarification as to the existing requirement for a lot under the minor subdivision regulations. Mr. Veal replied that it is currently a ½ acre. Mr. Veal said that when the major subdivision minimum was changed it was also changed for minor subdivisions. He said that a recent amendment corrected this, such that minor subdivisions are now ½ acre.

Anne Hagood, James Boulevard, said she has three questions and they are: 1. what is the rationale behind allowing smaller lots, 2. how many smaller lots could potentially be created, and 3. how does this fit with the land use plan. She said she is not necessarily opposed to the idea but thinks the Council needs to explain it well enough to the citizens that they understand what the objective are and why their being sought, and to exercise due diligence about unanticipated consequences. Ms. Hagood said the town has a 73% tree canopy in town and urges the Council to be very cautious with this type of proposal and to look very carefully at what can happen.

Mayor Gee replied that it is not uncommon for the Town Council, Planning Commission, or any government committee to have request from citizens for special considerations. He said this is why there is a Board of Zoning Appeals. He explained that the question came to the Planning Commission about small lots and where it is consistent with the neighborhood creating infill lots for construction. He said the definition was interpreted to be lot size. He said that when this was discussed in the Planning Commission meetings there was not a lot of opposition to this change.

Mayor Gee said he takes exception to the idea that the Town has been operating in secrecy, as this item was always discussed during public meetings. He said this change did address a specific case where a property owner had 2 lots combined into 1 and now wants to divide them back into 2 lots. He said the lots meet the requirement of consistency according to the ordinance. He said the intent was to make the ordinance as restrictive as possible. He said that Councilmember Lusk has consistently raised the issue of unintended consequences and the Town has tried to come up with an ordinance that meets that goal. Mayor Gee said the intent is simply to use the land. He said this lot is a 1/3 acre lot amongst other 1/3 acre lots. He said that he considered it to be a reasonable request. He said the intent is not nefarious or conspiratorial, but is simply a response to what a citizen asked for. It is not uncommon for one person to make a request.

Mayor Gee said he doesn't know how many lots could be potentially created. He said that it was assumed that the restrictive language, that the adjoining lots have to be the roughly the same size and there must be road frontage, will restrict the number of lots. He said there are no ¼ acre lots in Hidden Brook or in Carriage Hill, or in the newer subdivisions. He said that most of the ¼ acre lots are in the older sections of Town whether it be Palisades or Old Town. Mayor Gee said he does not see that this action will create a greater proliferation of lots. He said he agrees that this is an attempt at spot zoning.

Mayor Gee said that as to how this affects the land use plan, is that it creates lots similar to lots that already exist, in what the Town believes to be a small number, and they will remain consistent with the character of the neighborhood.

Mayor Gee said that the meeting tonight is part of the process of bringing ordinances through the system. He said that the Town is operating in the same manner as usual, that all meetings are announced, and all are in the paper. He said that sometimes the titles are unclear but the Town has followed the process that it would ordinarily follow and as the Town dealt with the first couple of rounds of discussions the only person really following this was Missy [Cantrell]. He said it was Missy's comments that convinced the Council to send the amendment back to the Planning Commission. Mayor Gee said that resulted in changes to the ordinance, which is the normal process. He said that now there is a public hearing which is the normal part of the process of passing legislation.

Juliana Ratliff, Brady Point Road, asked if a zoning variance is a viable, legal option for the one resident's request. She was told that the Zoning Board of Appeals can only hear cases that are a result of hardship. Ms. Ratliff suggested that this item be tabled and then the Council discuss whether a variance would be in order. Vice Mayor Wallace stated that he had asked for a variance consideration on 3 different occasions.

Ann Miller, Alexian Way, said that her experience is that variances have written standards but there is always some flexibility. She asked that before the Council decide there is no "wiggle room" that they take another look at a variance.

Bill Parker, Fairmount Avenue, said there is no town-wide problem that the proposed change is intended to solve. He said it looks like a solution looking for a problem. He said he received more information about new trash cans than residents have received about this matter. He said there has not been enough advance information. Mr. Parker said he asked why this action was being taken, he was told "why not". He said it is not the residents job to track the Planning Commission meetings or the Council work sessions to try to find out what is going on. He said it is the Councils job, its duty, and responsibility to identify a problem, if there is one, explain to residents in a timely way why it needs to be done, and then find out if the residents support it or not. Mr. Parker said that with the exception of this one meeting, the Council has not done any of those things.

Ann Evans, James Boulevard, said that spot zoning can be illegal. She read a definition that said: "In some areas the courts have found spot zoning illegal on the grounds that it is incompatible with existing land use zoning or with the overall community zoning plan. Whether the exception carved out is reasonable and supported by the particular facts often turns on public interest, the effect spot

zoning has on the current uses of neighboring properties, and any ramifications created by the zoning.”

Attorney Mike McMann said that an example of spot zoning generally refers to changing the zoning of a particular parcel from residential to commercial which is out of character with nearby parcels. He said this ordinance is not applicable to one piece of property, but is broad and covers at least 20 parcels in town. He said this would not constitute spot zoning.

Linda McGann, James Boulevard, said she has realized that she might be able to have 4 houses where 1 stands. She said this frightens her because that would change the character of her neighborhood. She asked if land is split is someone going to make sure the land is viable to build on and the infrastructure is viable.

Kim Fooks, Brady Point Road, said when she saw the e-mail about the ordinance being on the worksession agenda, she was unaware that the Council could vote on an ordinance at a worksession. She said others might have the same misconception and so residents might need some clarity on when the Council can vote on ordinances.

Charles Kent, James Boulevard, said he agrees with previous presenters opposed to the ordinance.

Margo Gardner, Louisiana Avenue, said she has a lot of questions and asked if the Planning Commission could provide a map along with an explanation in layman’s terms about what this ordinance means and what is the reasoning behind doing it.

Councilmember Lusk asked Mr. McMann what spot zoning means in relation to two willing property owners with contiguous properties, one of which wanted to sell the rear portion of their lot and the other one next door who is a willing buyer. He said if that transaction was approved it would not alter the character of the adjoining properties and would in fact be very comparable in nature. He asked if there is a way the Council can do that when it is just affecting those two property owners.

Mr. McMann replied that he does not believe that TCA 13-7-207 would allow a variance under the circumstances he understands about this particular lot. He said that in the question of spot zoning, all the properties are going to remain single family residential (R1) so there is going to be no change in the zoning of any of the properties and it will only be a change in the subdivision regulations which deals with the requirement for the minimum lot size. When asked by an audience member about allowing a variance, Mr. McMann read the applicable portion of TCA 13-7-207 which states:

“Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this part and part 3 of this chapter would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property, authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may be

granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.”

Mr. McMann said that he does not believe that a variance would be lawful.

Claire Griesinger, Carriage Hill, said that a buyer of a ¼ acre lot on Shackelford Ridge knows what they are buying into an area of ¼ acre lots and it is not a surprise. She asked Mr. McMann if once the originating requester’s property has been sold, the Council can go back and rescind this ordinance. Mr. McMann said that would be possible.

Jo Kellum, Louisiana Avenue, asked Councilmember Lusk if he believes that if this ordinance passes the Town can avoid unintended consequences. Councilmember Lusk replied that he does not.

Charlene Griffin, Druid Drive, asked if the Council can give this much effort and involvement into one request to change the law, can they honor the amount of effort and time all of the audience have given to be at the meeting and speak.

Vice Mayor Wallace said that some residents had implied that the Council was not properly publicizing the discussions about this ordinance amendment. He informed the audience that he had met for 1 hour the previous day with a reporter and shared the language of the ordinance and the plat and there has not been one word published. He said he has been trying to get out as much information as possible. He said that efforts to communicate this issue had been made for months.

Mayor Gee stated that the meeting had been very productive and some excellent points had been made. He said he wanted to congratulate the audience on their conduct and the way they and the Council had addressed this issue.

There being no further public comment, the meeting was resumed.

### **Ordinance**

1. “AN ORDINANCE TO AMEND THE TOWN OF SIGNAL MOUNTAIN ZONING ORDINANCE REGARDING MINIMUM LOT SIZE FOR MINOR SUBDIVISIONS.”

Mayor Gee said he disagrees with the notion that this action was done in secret. He said that this has been done according to the process that the Council follows every day when they meet. He said if it appears that the process is going too fast, then the residents must accept some responsibility for that themselves. He said he does not believe it is the responsibility of the Council to feed the residents information. Mayor Gee said the Town does provide information and meetings are held in public. He said the public has an obligation to stay informed and not feel like it has to be spoon fed information on everything that is going on. He said it is not them verses us. He said that he is persuaded by the arguments that residents don’t have enough information on this ordinance. He said he sensed too much misinterpretation and confusion to believe there is a cohesive understanding of what the Council is getting ready to do. Mayor Gee said he believes the Council should table the decision at this time.

Councilmember Lusk said that where the Town has failed the citizens and why, even though the issue has been well and thoroughly discussed during open meetings, there might be a perception of secrecy. He said the Council has just approved the May 22 meeting minutes which if they had been available to residents on-line would have informed them of the ongoing discussion. He said that he is still firmly opposed to the ordinance and will vote no unless the Council can figure out a way to make it applicable to this one situation, he feels the public needs more time to digest it. He said the Council heard from 2 professional planners at this meeting, both of whom raised points that require clarification and he agrees with those points.

Councilmember Spalding said he campaigned on video conferencing so that this would not happen. He said it is well taken that the perception is the Town is rushing and for that reason he supports a motion to table this ordinance and let people digest it further. He said that Councilmember Wallace has tried to get this handled through a variance from day one.

Mayor Gee motioned to table the second reading of the ordinance. Councilmember Lusk seconded the motion. All present being in favor, the motion to table the second reading of the ordinance was approved.

Councilmember Howley said that there had been a previous estimate of 200 properties affected by this action. He asked that staff review properties based on the current revised language and provide the number of properties that will be impacted by this ordinance. Mr. Veal explained that the initial figures provided were based on the original proposed language which was based on abandoned lot lines. He said the number of impacted properties has been a moving target. Mr. Veal said that now that the language is in this final form, it might be easier to get a general number, though it will be hard to pin down a specific number.

#### **Discussions/Other Business**

Councilmember Lusk said that as the Planning Commission discusses changing the animal control ordinance, he wanted to make them aware that there are different types of goats and some of them scream and smell.

Councilmember Howley asked that a flag be placed on the pole at Adams Park next to the dry cleaners. The Council discussed the need for lighting. Mr. Veal said that staff would look into the matter.

There being no further business, the meeting was adjourned.

  
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Dick Gee, Mayor

  
\_\_\_\_\_  
Recorder