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**Roanoke Rapids City Council**

**January 6, 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

 Kathy Kearney, Deputy City Clerk/Human Resources Manager

 MeLinda Hite, Finance Director

 Larry Chalker, Public Works Director

 John Simeon, Parks & Recreation Director

 Chuck Hasty, Police Chief

 Stacy Coggins, Fire Chief

 Kelly Lasky, Planning & Development Director

 Christina Caudle, Main Street/Development Director

 Lisa B. Vincent, MMC, NCCMC, City Clerk

Mayor Doughtie called the meeting to order and read from a 205 year-old book for the invocation.

Mayor Doughtie commented that we had a great holiday season and that he is thankful for the people who make a difference in our City. He welcomed Councilman Bobbitt back from his illness and indicated that City Clerk Vincent is out due to illness.

Mayor Doughtie read the conflict of interest statement.

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Councilman Smith (Council Liaison on the Roanoke Rapids Area Planning Board) stated he was at the Planning Board meeting when the MaSuki, Inc. Conditional Use Permit request was discussed but pointed out that he has made no decision on his vote. He did disclose that he received two emails from citizens regarding this matter but did not open them. He stated he sent them to the City Manager to delete. Councilman Smith stated he explained to the citizens that he could not discuss this quasi-judicial matter.

Councilwoman Scarbrough stated she also received two emails.

Mayor Doughtie asked City Attorney Chichester if this would qualify as a conflict of interest.

City Attorney Chichester stated no since they did not respond to the emails.

Mayor Pro Tem Ferebee stated he believes all of the Council members received the emails.

There being no conflict of interest with any of the items on the agenda, motion was made by ­­­­­­­­­­­Mayor Pro Tem Ferebee, seconded by Councilman Smith and unanimously carried to adopt the business agenda for January 6, 2015.

Police Chief Hasty explained that an officer can qualify for the Intermediate Law Enforcement Certificate if he or she:

* has accumulated at least thirty-two (32) education and/or training points and at least eight (8) years’ experience, or
* has accumulated at least forty (40) education and/or training points and at least six (6) years’ experience, or
* has accumulated at least forty-eight (48) education and/or training points and at least four (4) years’ experience, or

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* has an Associate Degree issued by an academic institution recognized by the US Department of Education and the Council for Higher Education Accreditation; has accumulated at least sixteen (16) training points and at least four (4) years’ experience, or
* has a Baccalaureate Degree issued by an academic institution recognized by the US Department of Education and the Council for Higher Education Accreditation; has accumulated at least eight (8) training points and at least two (2) years’ experience.

Police Chief Hasty stated Jason Williams has been with the Roanoke Rapids Police Department since 2006 and is currently a Police Officer 3 and temporarily assigned to the Criminal Investigative Division. He stated Jason is a Roanoke Rapids High School Graduate and attended Halifax Community College pursuing a degree in Graphic Arts. Police Chief Hasty stated Jason also served our country in the Army National Guard during the Iraqi War. He stated Jason received the National Defense Medal, Global War on Terrorism Medal, Armed Forces Reserve Medal and an Army Ribbon. He stated Jason is married to Leah and they have three children: Collin, Kadey and Noah.

Police Chief Hasty presented Officer Jason Williams with his Intermediate Law Enforcement Certificate from the Training & Standards Division of the North Carolina Department of Justice.

Mayor Doughtie thanked Officer Williams for his service.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilwoman Scarbrough and unanimously carried to approve the December 2, 2014 (Special Meeting) and December 2, 2014 (Regular Meeting) Minutes.

A ballot vote was taken and Deputy Clerk Kearney announced that Wes Hux received the unanimous vote for reappointment.

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Motion was made by Councilman Bobbitt, seconded by Councilman Smith and unanimously carried to reappoint Wes Hux to the Firemen’s Relief Fund Board of Trustees.

*Prior to the public hearing, all those signed up to speak and required to do so, were sworn in by Deputy Clerk Kearney.*

Mayor Doughtie opened the public hearing and called on Planning & Development Director Lasky to make the presentation.

Planning & Development Director Lasky reviewed the following staff report and related maps with Council:

**MEMORANDUM**

TO: Joseph Scherer, City Manager

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

DATE: December 29, 2014

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

 **Cross Creek Community Planned Unit Development Map to Change**

 **Approximately 20 Acres from PUD R-12 to PUD R-3 to Permit a Multi-**

 **Family Apartment Development with Amenities**

**Proposed Development by MaSuki, Inc. (2014)**

An Application for a Conditional Use Permit was submitted by MaSuki, Inc. (applicant and property owner) to amend the Villages at Cross Creek Planned Unit Development Map to permit PUD R-3, Residential Zoning to construct apartment buildings and amenities. The approximately 20 acres of property (portion of Halifax County Parcel 1205276) is located at least 500 feet east of Cross Creek Parkway, south of North Carolina Highway 125. Currently the property is zoned PUD R-12, Residential District and PUD R-3, Residential District is requested. The subject property is currently undeveloped and has been used for agricultural purposes.

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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MaSuki, Inc. proposes to construct eight (8) buildings containing a total of 192 residential units.

* Two- and three-bedroom options
* Proposed community amenities include
	+ 3,200 square foot clubhouse
	+ swimming pool
	+ picnic area
	+ playground
	+ dog park
	+ sidewalks
	+ private garage storage
* Direct access to NC Hwy 125

**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 Hwy 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

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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 be 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.

During late 2013, MaSuki, Inc. purchased a 104 acre tract of the property from Benchmark Community Bank and subsequently applied to rezone approximately 25 acres of the 104 acre tract from R-12 to R-3 zoning, which permits multi-family development. Initially, the request was processed as a standard or conventional rezoning. Staff determined that if the zoning districts of the Villages at Cross Creek had been approved as standard zoning districts, then the legislative rezoning process would have been appropriate. However, the standard rezoning process did not apply to the property given the approved Conditional Use Permit for the Villages at Cross Creek PUD Zoning Map. 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 recommendation to City Council 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**

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 *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. The site plan will be required and will go through the formal Development Review Committee process. Once the site plan has been approved and the building plans are reviewed a building permit will be issued. Per the requirements of the Land Use Ordinance, the following conditions apply:*

1. *The minimum required parking spaces be provided for the residential development; no reductions in the required total number are permissible;*
2. *Parking facilities, landscaping and shading provided per Ordinance;*
3. *Parking facilities and lighting provided per Ordinance;*
4. *Dumpster locations screened per Ordinance;*
5. *Sidewalks throughout the development (shown in green on map);*
6. *Parking facilities dimensions per Ordinance;*
7. *Swimming pool barrier provided per Ordinance and NC State Building Code.*

**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 site has direct access to NC Hwy 125. Traffic control measures and access on NC Hwy 125 are under the jurisdiction of the North Carolina Department of Transportation and subject to its approval.*

*The preliminary site layout shows egress having two lanes for access to NC Hwy 125; this alleviates stacking of egress traffic within the development by allowing separate lanes for left and right turns out of the development. Ingress and egress lanes are divided by a center median.*

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*Pedestrian sidewalks are provided around the perimeter of the parking lots adjacent to the residential apartment buildings. Pedestrian connectivity is provided within the community amenities as well as to NC Hwy 125.*

**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; as currently proposed, the off-street parking requirements for the multi-family residential are provided. The Ordinance requires one-and-a-half (1.5) spaces for each one and two-bedroom units; two 2 spaces for each unit having three or more bedrooms; plus one (1) space for every four units. The minimum required parking for the residential development as proposed is 360 parking spaces; (based on 144 two-bedroom units; 48 three-bedroom units and 192 total units / 4 spaces). Additional parking is being provided for the clubhouse at one space per 200 square feet.*

*The requested permit is of similar land use type to properties along NC Hwy 125. There are other multi-family residential developments accessed by NC Hwy 125 in the vicinity of the proposed development.*

*The proposed change to the development may create some changes in the current traffic patterns. 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.*

*The number of dwelling units proposed for construction is 192 units divided among eight buildings. According to the Institute of Transportation Engineers Trip Generation Manual (7th edition) the residential apartment use proposed is expected to average 6.72 vehicular trips per day per dwelling unit. Based on this manual, which is utilized by NCDOT, approximately 1,290 vehicular trips per day could be added to NC Hwy 125.*

**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. The preliminary site layout shows three separate dumpster locations. Dumpsters are required to be properly screened according to the ordinance.*

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

 *This is probably true; all utilities are currently available for the site. Connections and*

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 *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 Land Use Ordinance requires screening and buffering between neighboring land uses to provide an impression of separation of spaces by lessening any potential visual pollution that may otherwise occur in the urbanized area. Screening is necessary to safeguard public health, safety and welfare.*

*The preliminary site layout for the proposed development is adjacent to several land use types requiring various intensities of screening. The Ordinance requires the multi-family development to install the required screening during the time of building construction. The Ordinance requires Opaque Screen Type A between the requested land use and the existing permitted single-family residential land use (Cross Creek community). The Ordinance requires Opaque Screen Type C between the requested land use and the adjacent church property. The Ordinance does not require screening between the requested land use and the existing adjacent fire station.*

*Descriptions of the screening types are provided below. The applicant will be required to provide an acceptable screening type prior to the issuance of building permits.*

 *Opaque Screen, Type "A". A screen that is opaque from the ground to a height of at least eight feet. An opaque screen is intended to exclude completely all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged based on the average mature height and density of foliage of the subject species or field observation of existing vegetation. The screen must be opaque in all seasons of the year. Suggested planting patterns that will achieve this standard are included in Appendix B of the Land Use Ordinance.*

 *Opaque Screen, Type "C".**A screen that is opaque to a height of at least eight (8) feet. An opaque screen is intended to exclude completely all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, or earth berm.*

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

 *This is probably true; all signage will require a sign permit. All off-street parking areas shall also be lighted to meet Land Use Ordinance requirements by the developer. All proposed signage shall be constructed in accordance with the Land Use Ordinance.*

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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 residential development and residential development is proposed. The proposed site plan includes the required yards and open space based on required building setbacks. 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*

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*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.*

 *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.21 Require residential subdivisions generating 100 or more peak hour trips to prepare a traffic impact analysis/study, including mitigative action to reduce impact.*

**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. *The Planned Unit Development shall be developed in accordance with the Highway 125 Apartments Proposed PUD Modifications plat prepared by DM2 Engineering PLLC, dated 09-26-14, to accommodate the Preliminary Site Layout of the Highway 125 Apartments, dated 09-26-14. The remaining unmodified areas shall remain consistent with the Cross Creek PUD plat prepared by M. S. Consultants, Inc., entitled “Villages @ Cross Creek PUD Zoning Map – City of Roanoke Rapids, Halifax County,*

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*North Carolina”, dated February 10, 2005, as kept in the Office of Planning and Development for greater reference.*

1. *The Highway 125 Apartment development shall remain consistent to the application submitted to the City for the Cross Creek PUD amendment for the development of market value housing units. It is not a violation of North Carolina General Statute Chapter 41A if land-use decisions or permitting of development is based on considerations of limiting high concentrations of affordable housing.*
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. *Obtain all necessary approvals from NCDOT and Health Department prior to issuance of building permits for driveway, buildings, and commercial swimming pool.*
4. *The administrator may authorize the commencement of the intended use or the*

*occupancy of buildings if the permit recipient provides a 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 approval.*

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

**Requested Action**

The City Council has several options regarding this Conditional Use Permit application:

(1) Approval of the request as submitted;

(2) Approval of the request, subject to certain stated conditions;

(3) Denial of the request.

***A worksheet is provided to assist City Council in reviewing the application and necessary motions. Please discuss the application and provide a final decision.***

Planning & Development Director Lasky pointed out that every property owner within 100 feet of this property was notified in writing of this public hearing and as required, the notice of the public hearing ran in the newspaper for the Planning Board and City Council for two consecutive weeks.

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Planning & Development Director Lasky reported that the Planning Board reviewed this request on December 18 and the recommendation of the Planning Board was of denial of the permit. She stated the motion made by Board Member White was made on the basis that he did not feel the proposed development would be in harmony with the original development, and also felt it could be considered spot zoning. She pointed out that the motion passed by a 5 to 3 vote.

Planning & Development Director Lasky indicated that the issue of spot zoning came up during the Planning Board meeting and she explained to the Board that the PUD is designed to accommodate different zonings and different land uses and also that there are other elements to consider in determining spot zoning. She stated one of the key elements to determine spot zoning is that the proposed zoning is different from the zoning of the other surrounding properties and that it is inharmonious with the surrounding area. She stated the proposed zoning is similar to other zonings that are currently allowed in the Planned Unit Development. Planning & Development Director Lasky stated it is staff’s opinion that spot zoning is not an issue for this request since it does not meet the criteria for spot zoning.

Mayor Pro Tem Ferebee stated the Planning Board denied the request based on item 4 (c) of Section III.

Planning & Development Director Lasky stated that is correct. She stated they believed that the requested development would not be in harmony with the surrounding area.

Mr. Franklin Jones, attorney for MaSuki, Inc., requested permission to ask Planning & Development Director Lasky a few questions. He asked Ms. Lasky to elaborate more about her statement in regards to North Carolina General Statute Chapter 41A.

Planning & Development Director Lasky explained that Chapter 41A concerns affordable housing (also referred to as Section 8 or subsidized housing). She stated it is not permissible for the City to limit or to deny applications based upon whether or not it is affordable housing. She stated the City does have the right to limit the concentration of affordable housing

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and one of the recommended conditions is to uphold the request to develop market value apartments. She stated if in the future, the developer wanted to change to affordable or Section 8 housing, that change would represent a substantial change to what was approved and the owner or applicant would have to come back before the Planning Board for review and City Council for approval.

Mr. Jones stated the applicant would have to go back through this same process.

Planning & Development Director Lasky stated that is correct.

Mayor Doughtie stated in fairness to others that have signed up before Mr. Jones, he asked that Mr. Jones hold any further questions until his name is called.

Mayor Doughtie stated there are many people that have signed up to speak concerning this matter. He pointed out that there is no time limit as there is with public comment but asked those speaking to keep fellow citizens in mind. He stated if something has been said three times, the City Council has heard it three times. Mayor Doughtie pointed out that in this type of hearing, the City Council is here to receive factual information concerning this particular project.

Mr. Donald Sanders of 120 Savannah Circle North, Roanoke Rapids, NC stated he and his brother inherited a townhome at 120 Savannah Circle North. He stated he currently lives in Littleton and his family’s concern is that this proposal is not in harmony with the original plan. He stated for one thing, this would be moving from homeowner properties to rental properties which would be against the original plan adopted by this Council in 2005. He stated this was an attractive purchase for them because of the original plan and this development will change that attractiveness for the current homeowners. Mr. Sanders stated the homeowners before you are not ones that are buying homes and flipping them. He stated many of them are retired and their home is their largest asset. He asked what happens to the value of their home if Council decides to change the nature of the original development. He asked that Council members take this into consideration as they decide how they will vote.

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Mrs. Marge Cohn of 104 Charleston Place, Roanoke Rapids, NC stated she resides with her husband in the Villages of Cross Creek. Reading from a prepared statement entitled *“Response for City Council Meeting January 6, 2015 MaSuki, Inc. Conditional Use Permit Request”* that several other speakers will also read excerpts from, she stated she wants to address the statement that the use or development will not adversely impact surrounding property and will not substantially injure the value of adjoining property. She stated the use and development will adversely impact surrounding property and will substantially injure the value of adjoining property. She stated this finding is based on the following:

*With proposed nearly 200 apartment rentals, the proposal poses an adverse impact to the neighborhood because of the incompatible use and density, reduced levels of homeownership, and increased (and unaddressed) traffic and transportation impacts. The livability of the established single family homeownership that already exists in the area would be diminished with such a massive rental apartment complex. Also, the investments made in real property by the single family development would diminish in value over time due to the adjoining apartment complex, and future single family homeownership investment and development in this area of the city would be discouraged. The proposed development site is a bad location for high density apartments due to the inadequate transportation systems to handle new traffic generated. As well, the streets that will serve the proposed development are not major thoroughfares and a transit system is not available. The development is not being proposed at the end of establish neighborhoods or transition areas where apartments are more suited. The proposal would create a significant “change in use and character” and will alter the essential character of the adjoining neighborhoods in Cross Creek. The scale of the project is extensive, and overburdens the existing densities of residential development in Cross Creek.*

*The proposed project is immediately adjacent to already existing single family homeownership neighborhoods. Homeownership is encouraged by the City’s Comprehensive Development Plan Policy 9.11, and nearly 200 apartments are incompatible with this policy, particularly where the project will be immediately adjoining significant homeowner invested properties.*

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*The tax base created by homeownership development is significantly higher than that with apartment complexes. The investments the existing homeowners have made by investing in this neighborhood will be negatively impacted by rental apartments. The developer cited at the Planning Board meeting that the appraisers noted a 10% decrease in property values of adjoining properties. This is not a minimal impact, but a substantial one. The resulting diminished values of existing property in the area, and the deterrence of future investments in this area that would create higher tax values will eventually diminish the value of the tax base for the City long term. The short term “perceived” increase in tax base and increased tax proceeds from 192 apartments will be insignificant when compared with the whole city tax base. Reserving this developing area for more high-level economic and high-valued development, such as more single family homeownership properties or other more high tax base and revenue producing development is the prudent thing for the City to do; as opposed to taking a short term viewpoint.*

Mrs. Cohn stated she would also like to point out that there are covenants in place for what is already there and for what will be there. She asked that those covenants be honored and that City Council accept the Planning Board’s recommendation by declining this request.

Mrs. Mable Jeffries of 404 Cross Creek Parkway, Roanoke Rapids, NC stated she and her husband were the first couple to buy land in this development. She stated they paid a healthy price for the land and to build the house. She stated they could not get a paved road to their driveway and after going back and forth from Halifax to the City, she went to Attorney General Roy Cooper. She stated she did get her paved driveway to her garage. Mrs. Jeffries mentioned the dead-end street with no sign.

Mayor Doughtie reminded Mrs. Jeffries that she needs to keep her comments focused on the proposed development.

Mrs. Jeffries stated her comments will lead to that. She stated she is just telling the problems she had when purchasing the property. She stated she does not like it over there now. She stated there is no sign on the street and her taxes are tremendous. Mrs. Jeffries stated if MaSuki, Inc. wants to buy 104 acres, tell them they can make it 104 and ¾ acres because she is selling.

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Mrs. Jeffries stated she does not want to live next to a motel.

Mr. Donald Vincent of 35 Winterberry Lane, Roanoke Rapids, NC stated if this rezoning is approved City Council will be making significant changes to simply meet one out-of-town developer’s request that could greatly harm the value of 100 local homes. He asked how surrounding home owners would benefit or best be served by changing from R-12 to R-3 which is a denser zone. Mr. Vincent mentioned traffic considerations as outlined in the City of Roanoke Rapids memorandum on this request, page 4, section 2 that *“traffic will increase by 1,290 vehicular trips per day.”* He stated this would encroach on their greenspace, adding more dense apartments and asphalt for parking. He stated the rezoning request hinges on possibly being illegal when it appears to solely benefit a specific property owner or a private individual. He stated it could have the same negative affect as spot zoning. Mr. Vincent asked if there is really a need to change zoning for more housing. He asked if the City had substantially changed to justify the need to amend and rezone to accommodate 192 apartments at the expense of surrounding property owners. He asked what has happened in this area to justify this request. He stated changing this zoning from R-12 to R-3 will have an adverse impact on property values of the surrounding property and homes. He stated there is currently an area in this subdivision that is zoned R-3 and it is the proper location for multi-family housing (Villages at Cross Creek Townhomes). Mr. Vincent stated the apartment complex will not be in harmony in the area in which it is to be located. He stated three-story buildings are not in harmony with what we have out there now. He stated he does not care what type of buffering you are going to put around the area, you cannot cover a three-story building. He stated it will be a monstrosity looking out at the field toward the Fire Department. Mr. Vincent stated when we increase the population of this area so dramatically, we are creating the potential for additional crime, noise and adding a visual intrusion for our privacy even with an opaque barrier for this neighborhood. He stated with the additional increase in population, we will need an additional police substation, or two-story ladder trucks to handle three-story apartments. Mr. Vincent stated in 2005 when the Council granted Roanoke Land Development this PUD, he was told this was perpetual and that it would take 25 years to develop it. He stated there is approximately $15 million in taxable property in this development. He stated this development is not a small egg in the basket. He stated they pay a lot of

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property taxes. Mr. Vincent stated they have covenants and everyone out there has certain things they can and cannot do in this subdivision. He stated now this developer wants to come in and put up storage buildings for boat storage or whatever. He stated he cannot put a storage building up unless it meets certain criteria. He stated there are no storage buildings on his block. He stated you will be changing the PUD and the covenants they have to abide by. Mr. Vincent asked the City Council to please consider the Planning Board’s recommendation. He stated the City Council appointed those members and they do a good job. He stated their recommendation was to deny this request and he would respectfully ask the Council to uphold that decision. Mr. Vincent stated as homeowners, we all had justified expectations that the zoning would not change when we purchased our properties. He stated the MaSuki, Inc. proposal is not the originally approved use of the land but is a significant change from the authorized Conditional Use Permit due to change in characteristics of the approved PUD zoning map. Mr. Vincent stated that, in a statement from your own Planning Board, in a letter to Mark Gregory of MaSuki, Inc. dated April 8, 2014, it stated *“Staff has concluded that the proposed rezoning for MaSuki, Inc. is a “significant change” from the authorized conditional use permit due to change in the characteristics of the approved PUD zoning map. Additionally, this proposed change has a potential impact on those who occupy or intend to occupy the development.”* He stated from this letter, we conclude that the Board felt it was a significant deviation and would have an impact on neighboring properties and on all the property owners within the Villages at Cross Creek. Mr. Vincent asked Council to please consider the vote of denial by the Planning Board when making its decision.

Ms. Ella Ross of 130 Savannah Circle, Roanoke Rapids, NC stated she enjoys living in her townhome because of its sound construction and its reputation as a safe place to live. She stated the residents take pride in where they live and agree with the covenants and restrictions. She stated there are spacious common areas where they can walk their pets, they have a parking area for visitors and they enjoy quiet, uncrowded streets. She stated many residents feel safe enough to come to this area to exercise. She stated the area is important to the residents because of its close proximity to shopping, a gym, the hospital, banks, restaurants and to a veterinary office. Ms. Ross stated this is the kind of environment where everyone could live comfortably. She stated in 2005 there was a vision for a much larger

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community where many could have done just that but deep depression severely altered that vision--but that vision is still alive and kicking. Ms. Ross stated a new home is under construction on Winterberry Lane and perhaps with a little more time and patience, more will come and the area will become the asset to the City and County that was first envisioned. She stated this is a rosy picture of the future that she is hoping the Council members can see because in her opinion, the alternative is not rosy. She stated the proposed development with three-story apartment buildings will negatively impact traffic and possibly cause safety and health issues. Ms. Ross stated she would think that the City leaders and planners would prefer long-term investment instead of rental apartments. She stated changing the zoning would make other uses possible that could diminish the tax base. She stated the developer himself cited at the Planning Board meeting that the appraisers noted a 10% decrease in property values of adjoining properties which is a substantial decrease to residential and commercial properties.

Mr. Reggie Baird of 59 Winterberry Lane, Roanoke Rapids, NC distributed copies of photos to Council *(which are on file in the Clerk’s Office)* and stated that he sat on this Council in 2005 when this project was approved. He stated none of the Council members had ever heard of the concept of a PUD. He stated he, along with Councilman Bobbitt and Councilman Ferebee and others at the time, brought up concerns about trash trucks and fire trucks getting in and out of the proposed wacky streets but those street layouts actually became a selling point of the development. Mr. Baird stated the Council approved it and as stated in the minutes of the Planning Board meeting, created a perpetually binding agreement upon the property--unless the Council changes it. He stated it also says in order to change it, it has to be a very insignificant deviation. He stated this proposed change is not insignificant. He stated three-story rental units are definitely not what we signed up for and what you approved. Mr. Baird stated when you discuss this later before the vote, please keep in mind that this proposed development is not in conformity with the surrounding area. He stated one of our neighbors that could not be with us tonight compiled the tax values for this property. He stated it is $14.7 million. He stated the townhomes represent $9.8 million, Appleberry Lane represents $1.3 million and Winterberry Lane represents $3.5 million. Mr. Baird stated since 2005, this development has represented a $14.7 million tax value to the City, the

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County and the Weldon School District. He stated the developer in his own words at the Planning Board meeting stated they anticipate a 10% loss in property values which equates to a $1.4 million loss. He stated that is not a minimal number. He stated on his street, it is a $350,000 property value loss and at his house, a $30,000 loss, and that is definitely not a negligible number. Mr. Baird asked that Council also consider the impact on property values when making a decision and to consider our investment as homeowners. He stated the City has very few issues with us. He stated he has only seen blue lights on his street one time in the eight years he has lived there and they were chasing someone from the apartments across the pond. Mr. Baird stated they all bought into the concept of this PUD. He asked that the Council not change the rules on them now. He stated he does not think they should be punished because the developer may not have done his homework when he purchased this property. He stated he does not know if the developer was aware of the PUD but we were here first. He asked that the City Council let the PUD stand as it intended it to stand and if the developer chooses to proceed with something that is in conformity with what we bought into, we will all stay home on Tuesday night and watch NCIS. Mr. Baird thanked the Council for their time. He stated his neighbors are speaking to the Council from their hearts. He stated the Council appointed the Planning Board and they have done their due diligence. He asked that the Council honor the Board’s recommendation.

Ms. Michelle Updike of 103 Savannah Circle, Roanoke Rapids, NC stated she is President of the Community Association. She stated when Mr. Gregory was asking to rezone the property on Highway 125 directly across from the townhomes last year, he was invited to a meeting of the Association to discuss his proposal. She stated Mr. Gregory was asked to get addresses on some of the apartments built by his company in order for them to see the quality and design. She stated Mrs. Gregory became defensive and advised the Association that they were not there to discuss other projects nor would they advise us of the location of their other projects. She stated Council can surely see from their extreme reluctance to be forthcoming why red flags went up for us. Ms. Updike stated she would like to know the worth of Mr. Gregory’s company as well as how many employees he has. She stated she also wants to know if his company could withstand such a large investment that could conceivably take years to fill.

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Mayor Doughtie reminded Ms. Updike to focus on and confine her comments to this particular project.

Ms. Updike stated she thought she was doing that. She stated the Villages at Cross Creek is composed of individual homes and homeowners and this is what our community was intended for.

Mayor Doughtie called on Attorney Franklin Jones who requested to defer until the end.

Mrs. Betty Harris of 924 E. 7th Street, Roanoke Rapids, NC stated she is here to give the City Council some information on the rental market in Roanoke Rapids. She stated there is very little market for $800 and above rentals. She stated she actually has a two bedroom townhome in this subdivision, which is the largest two bedroom unit with a garage that they have, and she has been unable to rent it for $850 a month because there has not been a demand. Mrs. Harris stated we have a number of young professionals that are coming in but there is not a demand for 192 units in that price range. She stated it would be nice to have a development for professionals but we would need to have a lot more growth because most of the people coming in cannot pay that much. She stated she has someone right now that wants to stay at $500 or less. Mrs. Harris stated she spoke with other apartment complexes and one charges about $575 for a two bedroom. She stated she just wanted to let the Council know that there is not a large demand for apartments in the $800 a month range.

Mayor Doughtie again called on Mr. Jones to speak as others had deferred.

Mr. Jones asked if he could call Mr. Bill Dreitzler as an expert witness.

Councilman Smith stated he is opposed to an attorney questioning people. He stated if he could present his questions to our attorney and then let our attorney question these people, it would give him time to review and he probably would not have a problem with that. He stated the other people that spoke tonight have spoken on their own. He stated these people should be able to speak on their own. Councilman Smith stated he does not know whether or not he is correct about this but that is how he feels.

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City Attorney Chichester told Councilman Smith that he is absolutely right. He stated when he spoke to the Mayor a moment ago, his advice to him was that he could proceed either one or two ways--he could require the different witnesses to speak on their own or he has the discretion to allow Mr. Jones to ask questions on a limited basis.

Mayor Doughtie asked the Council how they wanted to proceed.

City Attorney Chichester stated the choice is whether or not to let the attorney examine the witnesses or just call on those witnesses to speak.

Mayor Pro Tem Ferebee stated he concurs with Councilman Smith. He stated Mr. Dreitzler has been before us many times and can speak on the issue.

It was the consensus of Council that each witness speak without examination by Attorney Jones.

Mayor Doughtie called on Mr. Jones as the next speaker but Mr. Jones stated he would like to speak last.

Mayor Doughtie called on Mr. Bill Dreitzler.

Mr. Bill Dreitzler of DM2, 211 E. Quailwood Drive, Fuquay-Varina, NC stated he is here tonight to speak on one part as an expert. He stated he is a licensed professional engineer in the state of North Carolina and is here to speak on the transportation issues. He stated the original PUD approved in 2005 based on the Institute of Transportation Engineers included his estimate of 2,534 trips per day. He stated that was originally approved by Council. He stated based on what is existing out there now, he calculates 452 daily trips. Mr. Dreitzler stated in terms of traffic impact, you are only seeing about 18% of what the Council originally approved. He stated the apartment unit project proposed with the 192 units, using the Institute of Transportation Engineers’ numbers, would generate 1,273 average daily trips. He stated if you add that to the existing trips per day, if all 192 units were built out, you would have about 68% of traffic on NC 125--not on just the Parkway as the project is proposed with access to NC 125. He stated this is still significantly under what was originally approved.

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Mr. Dreitzler stated there has been some discussion about traffic impact. He stated the NCDOT policy on street and driveway access has a guideline of approximately 3,000 vehicles per day before a traffic impact analysis is warranted. He stated this project will require a permit from NCDOT for access to NC 125. He stated they have already had a couple of meetings to determine what will be required. He stated NCDOT has made it clear that both right and left turn lanes will be required so that is being programmed into the project. He stated he believes we are below the threshold for a traffic impact analysis--below the 3,000 per day and below the 100 during peak hours. Mr. Dreitzler stated it is still a DOT guideline and all Mr. Ronnie Keeter with NCDOT has to do is tell us he needs that analysis and we will comply. He stated it must comply with roadway capacity which is a very complicated calculation. He stated there is a Federal Highway Administration formula for calculation but it has multiple components. Mr. Dreiztler stated in his professional opinion, we are clearly under the threshold capacity and it is his opinion that this development would not create any traffic issues.

Councilman Bobbitt asked about all of the people traveling back and forth from the different doctor’s offices and to the veterinarian. He asked if anyone actually counted the cars.

Mr. Dreitzler stated these calculations are based on the study conducted by the Institute of Transportation Engineers for trips per day.

Councilman Bobbitt stated it is possible that the table could be wrong.

Mr. Dreitzler stated he does not believe so.

Mr. Thomas Barrett of 787 Rivers Edge Parkway, Roanoke Rapids, NC stated he is a North Carolina Certified General Appraiser and was asked by Mr. Jones and Mr. Gregory to take a look at this proposed development to give a professional opinion as to its impact on values of surrounding properties. He explained that in his job, he deals with facts and numbers and his professional opinion is based on sales in the City of Roanoke Rapids. Mr. Barrett stated he is not here to be for or against this project. He stated in looking at this, he also took a look at the surrounding property at the end of Hunting Ridge Road, on Greenbriar Road and also on Georgia Avenue behind

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BB&T. He stated he looked at all of these figures over the last 10 or 12 years to see what these houses sold for that backed up to the multi-family apartments and the statistics came out pretty clearly. He explained that there was about 5 to 10% less value if your property was directly adjacent to a multi-family property. He stated when he says directly adjacent, he means backs up to it. He stated if you get two lots away and across the street, there is no factual data that says it has any adverse effect on surrounding properties. Mr. Barrett stated this is based on facts and these numbers are pretty accurate. He stated his professional opinion is that the only property, based on the facts, that should be adversely affected is the property owned by Mr. Gregory. He stated as far as commercial and institutional property is concerned, there are no affects. He stated this only applies to single-family residences.

Councilwoman Scarbrough asked Mr. Barrett if he said it would be a 5% decrease.

Mr. Barrett stated a 5 to 10% decrease. He stated if you go back and look at historical data, it ranged from a 10% decrease on Autumn Court and about a 7% decrease on Greenbriar Road. He stated he looked back 12 years.

Councilwoman Scarbrough stated if it was her property, 1% would be too much.

Councilman Smith stated going back 12 years was before the turn down in the real estate market and people were buying houses like crazy. He stated you are also talking about houses in the Becker Farms area that were built close to 40 years ago. He stated the houses in there now are probably down 15 to 20%.

Mr. Barrett stated he took a look at properties that were selling right now back to 12 years ago. He stated any time you look at statistics, you want to get as much of a range as you can.

Councilman Smith stated the reason he was questioning this is when he was in the financing business, they would not take an appraisal that was over six months old. He stated Mr. Barrett is giving us figures going way back. He asked Mr. Barrett if he has any information on a sale that has happened

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within the last six months.

Mr. Barrett stated he does not believe they have had a sale in the last six months that he could compare apples to apples. He stated what he is giving Council is his professional opinion on what affect multi-family housing has on adjacent single-family properties.

Councilwoman Cowen asked Mr. Barrett if he has a list of the properties that he surveyed.

Mr. Barrett stated no but he can tell Council where a good chunk of them are located. He stated there is one on Autumn Court that has been sold three times in the last few years. He mentioned the house on Greenbriar Road that Danny Acree used to own, another house on Greenbriar Road and another house at the corner of Greenbriar Road and Deerfield Place. He stated you have to compare that house to the house that backs up to the multi-family housing. Mr. Barrett stated you also have to factor in other things such as garages.

Councilwoman Cowen stated in her opinion, it does not seem that this is the same situation. She stated it is not the same houses with the rules that the people in the Villages at Cross Creek have. She stated it does not appear that Mr. Barrett’s evaluation fits with that property very well.

Mayor Doughtie asked Mr. Barrett if he could get Council a list of the properties he mentioned.

Mr. Mark Gregory of Camden County, North Carolina stated he actually looked at Roanoke Rapids several years ago for an apartment complex but the economy turned down. He explained when they came before the Planning Board the first time, they were told they had to have the property rezoned. He stated at that time it was for the whole piece and the Planning Board approved the rezoning but he was notified two or three days prior to the City Council meeting that a Conditional Use Permit was required for the rezoning. Mr. Gregory stated when he met with the different folks from the neighborhood they were concerned about using Cross Creek Parkway as access to the development. He stated they took that into consideration and then decided to use NC 125 as the access. Mr. Gregory pointed out that the

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apartment complex is a market value complex. He stated it is not subsidized. He stated the Conditional Use Permit, if approved, will be based on the market value. He stated if anyone wanted to change that, it would have to come back before the City Council. He stated if the Conditional Use Permit is approved, it stays solid. He stated there are already townhomes in the development that are in a multi-family situation, and some of those are rentals. He stated there are residential houses in the back and there is nothing to keep them from becoming rental properties. Mr. Gregory stated when they build an apartment complex, they are in control of the complex. He stated everyone has been talking about the value of the homes. He stated when this area was developed, these subsidized apartments (referring to Fairfield Apartments) were already there and it did not seem to affect the value of their property. He stated that, as Mr. Barrett has already mentioned, the property that will be affected by his development is the piece that he owns that is zoned R-12. Mr. Gregory stated he is trying to explain the difference in the current apartment complex and his proposal. He stated they are two different complexes. He stated one is market value and one is subsidized. He stated they do not want to come in here and develop anything that is not appropriate for Roanoke Rapids. He stated some people have said that he is only doing this to make money and that is so far from the truth. He stated he wants this project to be successful. Mr. Gregory stated they did take into consideration the concerns of the neighborhood. He stated they felt this was a really good spot with the hospital out there, commercial businesses nearby, and easy access to I-95 and to town.

Councilwoman Scarbrough asked Mr. Gregory if he has apartment complexes like this in other places.

Mr. Gregory stated yes, in Camden County and Elizabeth City.

Councilwoman Scarbrough asked if they were the size of the one proposed here.

Mr. Gregory stated yes but that he does have some that are smaller.

Councilwoman Scarbrough asked Mr. Gregory how long he has had them.

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Mr. Gregory stated 15 years. He pointed out that they do their own property management. He stated their applications go through a strict application process. He stated they conduct credit checks, criminal background checks and sexual offender checks. He stated this applies to all applicants over the age of 18. Mr. Gregory stated this keeps them safe as well as everyone else in the apartment complex.

Councilman Smith stated we heard earlier that $800 a month is unreasonable for Roanoke Rapids. He asked Mr. Gregory why $800 a month is reasonable for his proposed complex and not the others.

Mr. Gregory stated he is not sure where those facts came from. He stated they had their own market study done. He stated he also met with Ms. Cathy Scott of the Economic Development Commission and talked about the different companies that are projected to come here. Mr. Gregory stated some of the people he has spoken with had been in a situation where they could not find a place to rent that they felt was suitable for them.

Mayor Pro Tem Ferebee stated he believes there was a comment made at the Planning Board meeting about a 10% decrease in property values.

Mr. Gregory stated that was for the properties adjoining multi-family units.

Mayor Pro Tem Ferebee asked Mr. Gregory’s plans for the other property he owns. He asked if he plans to rezone that property to R-3.

Mr. Gregory stated they would probably develop that property as R-12. He stated their intent now is not to change the R-12 or R-40.

Mayor Doughtie stated he thinks the people in the subdivision that purchased property from the previous owner had certain expectations concerning amenities that did not come to fruition. He stated this proposed project does include such amenities. He asked where these amenities would be located should this project be approved.

Mr. Gregory stated they would start building the clubhouse and pool when they start the first building. He stated once they start, they will have an office for people to get applications and see the clubhouse and pool. He

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stated he also wanted to address the comments about storage units. He stated this would be a residential garage for the tenants in the apartment complex. He stated it is not intended for boats or trailers. He stated it is stated in their rental agreement that you cannot have boats or trailers in the

complex and you cannot change oil in the parking lot of the complex.

Mayor Doughtie stated someone in the audience and a Council member asked about other properties. He asked about the possibility of someone wanting to view some of their other properties.

Mr. Gregory stated he does not have a problem with that but he wants people to base their opinions on the project they plan to do here in the City of Roanoke Rapids--not on what he has done somewhere else. He stated his properties are doing fine and they look great. Mr. Gregory stated they want to make sure this development complements what is out there now.

Mr. Franklin Jones, Attorney for MaSuki, Inc., stated he has one or two follow-up questions for Planning & Development Director Lasky. He stated it is his understanding that Ms. Lasky indicated that whatever conditions are attached to the Conditional Use Permit would run with the land.

Planning & Development Director Lasky stated that is correct. She explained that when the Conditional Use Permit is approved it reflects the listed conditions. She stated the permit is signed by the applicant and the Mayor, and then taken to Halifax to be recorded with the land.

Mr. Jones stated in the event the property is ever sold, the new owner would be required to comply with the same conditions.

Planning & Development Director Lasky stated that is correct.

Mr. Jones asked if there would be any danger of a shift or change in the conditions that would allow subsidized housing, or if that would have to be revisited.

Planning & Development Director Lasky stated one of their recommended conditions to the permit is that if a change of that nature would occur, it

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would be a substantial change and would have to come back before the Planning Board. She stated there would also be a public hearing with a final decision by City Council.

Mr. Jones asked about the Planning Board’s denial and the basis of that denial.

City Attorney Chichester stated Planning & Development Director Lasky is not able to answer as to her interpretation of the Planning Board’s decision.

Mr. Jones introduced himself indicating that he is an attorney with an office in Halifax and lives at 222 Old Farm Road in Roanoke Rapids. He reminded Council that this is a quasi-judicial hearing that puts each member in the position of making a decision based on facts and substantial evidence presented in the hearing. He complimented the Planning Department on the information provided as it goes through the exact analysis. Mr. Jones stated it is important to understand that with a Conditional Use Permit, it is a permitted use provided the conditions or standards are met. He stated it is the Council’s responsibility to sit in a judicial manner and decide whether those conditions or standards have been met. Mr. Jones stated the Planning & Development Department has submitted an in-depth report that concludes that the conditions have been met. He stated the Council has heard from a number of people who have come forward to say what they believe or give an opinion. Mr. Jones stated the Council needs to weigh that for what it is which is their opinion. He stated speculative fears about property values and about safety issues that are not borne out by the facts should not be something that should be considered to deny this permit. Mr. Jones pointed out that a number of these people live in the very same zoning district that they are opposing. He stated this is just a change from one residential zoning district to another residential zoning district that allows multi-family housing. He pointed out that this is market value housing. He stated this is not subsidized housing where grants or the government is involved in. Mr. Jones stated Mr. Gregory’s company is prepared to make a sizeable investment in the City of Roanoke Rapids. He stated his impression of this is that everybody wants the development--just not near them. He stated the Council needs to see past that. Mr. Jones stated he thinks most of these things are very clear. He stated the report finds that ingress and egress is safe and convenient in terms of access and

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traffic flow. He stated Mr. Dreitzler testified about the traffic and the increase still falls well within the threshold. He stated it is important to note that Mr. Gregory came and listened to the concerns of the residents and made a change in respect of that concern. He stated that shows good faith on his part. He stated it is very clear that the City has ordinances that regulate parking for additional units which will be complied with. He stated the items in regard to refuse are certainly not an issue. Mr. Jones stated where you get down to brass tacks is in Section III regarding the statement that the development will not materially endanger the public health or safety. He stated there has not been any evidence presented tonight that this development would in any way endanger the public health or safety. He stated again that Mr. Dreitzler commented earlier that there are no issues with traffic. Mr. Jones stated in regards to the statement that the development will not substantially injure the value of adjoining or abutting property, the Planning Department gave their opinion that that is probably true. He stated to further support and to help you make that decision, we brought in a certified appraiser that gave his opinion that the adjoining or abutting properties would not be substantially injured and that the only property that would be affected would be property that is owned by Mr. Gregory’s corporation. He stated he feels the City Council can feel comfortable with that finding based on not what someone thinks or some speculative fear that they have but rather on evidence presented by the appraiser. Mr. Jones stated in regards to the statement that the development will be in harmony with the area in which it is to be located, this PUD has other R-3 zoning in it. He stated this is a permitted use provided the conditions are met. He stated he would submit that all of the conditions are being met and that the development is certainly in harmony with the area. Mr. Jones then referred to a map showing mixed uses in a PUD, the pink areas of the commercial zones. He stated in regards to the statement that the use will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or other plan officially adopted by the City Council, the Thoroughfare Plan and the desire to have some growth is consistent and goes along with having infill development and the benefits of different housing densities and to encourage developers to build along a thoroughfare. He stated he knows that Council has a difficult job and everyone understands that not everyone necessarily wants change; however, it is Council’s responsibility to go through this list of items and to make a decision consistent with the

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credible, material and substantial evidence presented--not just opinion or speculative comments made--but based on evidence from individuals that have expertise in those areas and to make a decision on the Planning Department’s recommendation which is the approval of this Conditional Use Permit.

City Attorney Chichester stated as City Attorney, he would like to have an opportunity to address some of the things Mr. Jones brought up. He stated City Council fully understands that once an applicant has met the standards that are set, that the burden shifts to those that oppose the application. He stated that is why some of the folks came to the meeting and made presentations. City Attorney Chichester stated some of the pictures that were shown by Mr. Baird show that this is a semi-city type of development out there and yes, Mr. Barrett did offer an opinion about the fact that property values are affected over his 12 year study but only adjacent to the property where the permit is sought. He stated a lot of these other people have come up here and testified that this property is their biggest investment and that they bought it because of the restrictions and the rules that were put into play when they purchased the property. He stated he feels the folks out there are entitled to their opinion that the development is not in harmony with the area and many of those people said that it would affect the value of their homes. He stated we realize that these people are not certified appraisers but they are homeowners that seem to be very educated people, and are entitled to their opinion about how this development could affect their property. City Attorney Chichester stated the Council understands the statements they need to take into consideration.

Councilman Smith stated before the public hearing is closed, he would like to make a statement. He stated requiring the decision maker to say why they reached the decision takes away the discretionary power of the decision maker and ties them to statements that may not reflect the full reasoning behind each decision maker’s decision. He stated it probably is not possible to have a statement that captures the entire reason of the decision makers. Councilman Smith asked if all evidence is presented at the hearing, how is a decision maker that has to make a decision immediately, at the public hearing, supposed to wade through and analyze what is and what is not competent substantial evidence. He stated in most hearings

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today, it is not realistic to think it can be done. He stated a spur of the moment decision is very likely to be based on emotions rather than facts. Councilman Smith made a motion to leave the public hearing open until the February 3, 2015 meeting to give Council time to look over the information that has been presented tonight.

Councilman Bobbitt seconded the motion on the floor which carried unanimously.

Mayor Doughtie called for a five minute recess after which the meeting was reconvened.

Motion was made by Councilwoman Scarbrough, seconded by Mayor Pro Tem Ferebee and unanimously carried to adopt the following Fiscal Year 2015 - 2016 Budget Calendar:

**City of Roanoke Rapids**

**Budget Calendar**

**FY 2015 – 2016**

**Date Budget Procedures Action By**

January 5th Provides on-line operational and capital budget Finance Director

 forms and instructions to Department Heads.

January – February Departments prepare budget requests including Department Heads

 all departmental and capital expenditures.

January – February City Manager and Finance Director prepare City Manager

 departmental salaries and benefits, and debt Finance Director

 payments.

January – February City Manager and Finance Director prepare City Manager

 General Fund revenue estimates. Finance Director

March 6th Departmental Budget Requests due to the Department Heads

 City Manager and Finance Director.

March 16th – 20th Departmental Budget Conferences with City City Manager

 Manager and Finance Director. Finance Director

 Department Heads

March 31st City Manager and Finance Director make City Manager

 revisions to the budget and prepare first Finance Director

 draft for submittal to Mayor and City Council.

**April - May Budget Work Sessions with Mayor and City Council**

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April 9th Introduction City Manager

(Thursday, 3 p.m.) Preliminary Revenue Estimates Finance Director

 Administration, Finance, and Governmental Human Resources Manager

April 14th Police Department Police Chief

(Tuesday, 3 p.m.) Fire Department Fire Chief

April 16th Public Works Public Works Director

(Thursday, 3 p.m.)

April 23rd Parks & Recreation Parks & Recreation Director

(Thursday, 3 p.m.) Planning & Development Planning & Development Director

May 7th CIP (Capital Improvement Plans) - General Capital City Manager

(Thursday, 3 p.m.)

May 12th As needed

(Tuesday, 3 p.m.)

May 19th Presentation of recommended budget and budget City Manager

 message to City Council. Copy filed with City

 Clerk. Public Hearing date set for June 2nd.

June 2nd Public Hearing on budget. Mayor & City Council

 Citizens

June 16th 2015-2016 Budget Ordinance presented to City City Manager

Final Date Council for final review and adoption.

(June 30th)

City Manager Scherer stated according to City Council policy, all Closed Session Minutes are sealed until such time as public inspection would not frustrate the purpose of the Closed Session. He stated City Attorney Chichester has reviewed the sets of Closed Session Minutes listed in the following memorandum and determined that they may be unsealed:

**MEMORANDUM**

TO: Mayor and City Council

FROM: Lisa B. Vincent, City Clerk/s/

DATE: December 19, 2014

**RE: UNSEALING CLOSED SESSION MINUTES**

According to City Council policy, all Closed Session Minutes are sealed until such time as public inspection would not frustrate the purpose of the Closed Session.

**17550**

**Roanoke Rapids City Council**

**January 6, 2015**

City Attorney Chichester has reviewed the following sets of Closed Session Minutes (previously approved by Council) and determined that they may be unsealed:

 **Minute Book Page No.** **Date of Meeting**

 15717 & 15718 October 12, 2010

 15721 - 15723 October 14, 2010

 15739 - 15742 November 2, 2010

 15760 - 15763 November 9, 2010

 15779 & 15781 December 7, 2010

 15815 - 15817 December 14, 2010

 15838 - 15840, 15842 - 15846 January 4, 2011

 15977 & 15978 March 8, 2011

 16029 & 16032 April 12, 2011

 16122 May 10, 2011

 16174 & 16175 June 14, 2011

 16279 & 16280 September 6, 2011

 16306 & 16308 October 4, 2011

 16319 & 16320, 16324 & 16325 October 11, 2011

 16343 - 16346 November 1, 2011

 16368 - 16370 November 8, 2011

 16374 - 16376 November 15, 2011

 16379 - 16381 December 1, 2011

 16414 - 16416 December 13, 2011

 16430 January 10, 2012

 16433 - 16443 January 19, 2012

 16454 - 16462 February 7, 2012

 16482 - 16485 March 6, 2012

 16525 - 16530 April 3, 2012

 16547 - 16550 May 1, 2012

 16570 - 16574 May 8, 2012

 16591 - 16600 May 29, 2012

 16617 - 16621 June 5, 2012

 16677 - 16680 June 12, 2012

Thank you.

cc: City Manager

 City Attorney

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilwoman Cowen and unanimously carried to unseal the Closed Session Minutes as listed in the foregoing memorandum dated December 19, 2014 from City Clerk Vincent.

City Manager Scherer congratulated Parks & Recreation Director Simeon and his staff on the Christmas Parade.

**17551**

**Roanoke Rapids City Council**

**January 6, 2015**

City Manager Scherer reported that the City was notified that we would receive $13,000 from the recent sale of surplus property through GovDeals.

City Manager Scherer reported that sales tax is up 17.3% compared to the same time last year.

City Manager Scherer recognized Human Resources Manager Kearney and BARC for the Christmas luncheon and what they do for employee morale.

City Manager Scherer reported that the Public Works Department is working on the concrete slab at the Aquatic Center and the installation of the new dehumidification unit is on track for completion in mid-February.

City Manager Scherer reported on the initiation of the recycling program at all City facilities. He stated it is a good idea and will improve the environment and reduce landfill fees.

City Manager Scherer reported that the alleys are next on the leaf season schedule. He stated staff has been busy maintaining the leaf machines.

City Manager Scherer reported that parts for the Rochelle Pond dam project will be in by the end of the month.

City Manager Scherer reported that the new website for Main Street Roanoke Rapids will be up in about two to three weeks. He stated this website will be useful for business development and to aid in the sale of properties. He pointed out that there are some businesses that are closing and some for sale.

City Manager Scherer reported that Detective Corey Dixon attended the funerals of both recently slain NYPD officers.

Mayor Doughtie asked the City Manager to introduce the new Police Chief at the next meeting.

Mayor Doughtie reminded everyone that the public hearing on the conditional use permit request is still open.

**17552**

**Roanoke Rapids City Council**

**January 6, 2015**

City Attorney Chichester stated he realizes that all people interested in this matter will try to talk about this matter. He stated the hearing is not complete and it is crucial that this matter not be discussed.

Councilwoman Scarbrough stated this was a good first meeting of the year. She stated we have hard decisions to make and wanted to take this opportunity to thank each department head for making our job much easier.

Planning & Development Director Lasky reminded everyone that the City Council will accept comments on the pending Conditional Use Permit request at the February 3 public hearing.

Councilman Smith indicated that he has been appointed to the Tax & Finance Legislative Action Committee of the North Carolina League of Municipalities.

There being no further business, motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Smith and unanimously carried to adjourn.

 

 1/20/15