

Salisbury, North Carolina

July 16, 2002, 4:00 p.m.

REGULAR MEETING

PRESENT: Mayor, Susan W. Kluttz, Presiding; Mayor Pro Tem, Paul B. Woodson, Jr.; Councilmen William (Bill) Burgin; William (Pete) Kennedy; Robert (Bob) Martin; City Manager, David W. Treme; City Attorney, F Rivers Lawther, Jr.; and City Clerk, Swannetta B. Fink

ABSENT: None

The meeting was called to order by Mayor Kluttz. The invocation was given by Councilmember Kennedy.

**PLEDGE OF ALLEGIANCE**

Mayor Kluttz led those present in the Pledge of Allegiance to the United States flag.

**RECOGNITION OF VISITORS**

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Mayor Kluttz recognized all visitors present.

**CONSENT AGENDA**

(a) Minutes

Minutes of the Regular meeting of July 2, 2002.

(b) Group Development Site Plan

Approve Group Development Site Plan for the following:

- G-2-98 - Carillon Assisted Living of Salisbury, 1915 Mooresville Highway

(N.C. 150).

Thereupon, Mr. Woodson made a **motion** to approve the Consent Agenda. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

#### **STAFF REPORT CONCERNING CLASSIC CUSTOM AUTOMOTIVE, 1035 MOORESVILLE ROAD**

Mr. Hubert Furr, Development Services Manager, informed Council that the last update on Classic Custom Automotive was October, 2001. Mr. Furr showed pictures of the area, indicating it has been spot checked two or three times a week since October 16, 2001. During these many visits, staff was unable to find any violations and did not find cars left outside the fence overnight, he reported. Staff is monitoring the business on a weekly basis, according to Mr. Furr. It was further noted by Mr. Furr that Mr. Vermillion has said, from the beginning, that the cars parked on the outside are driven by his employees and/or vehicles that have been repaired, or are being repaired. Staff found that cars are not left outside the fence overnight.

Mr. Furr reported that the wreckers are parked outside the fence most of the time. Upon checking on this business several nights, no one has been found working there after 7:00 p.m. Staff has found people there at night running the office for the 24-hour wrecker service, but not working on vehicles as far as staff could find, Mr. Furr noted.

Mr. Furr told Council that the only violation found was a large transfer truck parked in front that had been wrecked and was on blocks. Because of having to take his own two trucks for repairs, Mr. Vermillion did not get the transfer truck moved immediately. As of today, Mr. Vermillion is in compliance with the special use permit, reported Mr. Furr.

Mayor Kluttz asked if anyone was present from this neighborhood who would like to speak.

Ms. Glenda Shrewsberry, 1001 Sunset Drive, told Council Mr. Vermillion has so many wreckers he could have pulled that truck (large transfer truck) off and not left it sitting there, she said. Ms. Shrewsberry went on to report:

- a white car that sat there for 5 weeks with no license tag on it
- the fenced in area being so crowded that there is no room to put any more wrecked cars
- on the outside, all of this sets there all night long
- Council set the hours 7:00 a.m. to 7:00 p.m. giving Mr. Vermillion permission to run a small wrecker service and a small business related to motors
- if Mr. Vermillion is running a 24-hour wrecker service, his sign in front of the building has changed. It was previously "small repairs, detailing" but now says "full time wrecker service"
- there are anywhere from 8 trucks setting there sometimes 3-4 nights outside the fence, not inside fence
- at night people are there working and are on lifts working underneath the trucks.

Ms. Shrewsberry said she was told to call the Police Department but they indicate to her there is nothing the Police Department can do.

No one was present from Classic Custom Automotive to speak.

Mayor Kluttz asked Mr. Furr to give the neighborhood a particular person to contact after hours at the Police Department. Mr. Furr agreed that he would. Mayor Pro Tem Woodson observed that Classic Custom Automotive has just outgrown the place. Mr. Furr indicated he told Mr. Vermillion in October, 2001 that his business was too large for this area, and he needed to look for a new location. Mr. Vermillion indicated to Mr. Furr, at that time, that he was already looking but hadn't been able to find another location within the City of Salisbury to stay on the rotation wrecker list, according to Mr. Furr.

Mr. Furr further told Council he has a copy of the ordinance that was approved August 4, 1998. He pointed out that this was when the "S" District was approved (Rezoned from B-RT to B-6-S), and reminded Council the uses are B-RT Retail Trade Business Uses, plus storage of vehicles, and car wrecker service.

### **ZONING MAP AMENDMENT - Z-9-02 - HILDA P. BLOUNT**

Z-9-02 - Hilda P. Blount

Old Mocksville Road near Hawkinstown Road

The request is rezone approximately 33,000 sq. ft. of property, located along the west side of Old Mocksville Road about 300 to 500 feet north of Hawkinstown Road, from R-8 Single-Family-8 Residential to LOI Limited Office Institutional.

(a) Mr. Patrick Kennerly, Planner, informed Council that the request is to rezone one property from R-8 Single Family Residential to LOI Limited Office Institutional. Mr. Kennerly showed Council the location of the property proposed for rezoning and advised that the property is approximately  $\frac{3}{4}$  acre in size. He reminded Council of the present zoning in the area, and showed pictures of what is on this property. There are some small buildings on the property with a driveway that connects to a house at the rear of the property. Across the street is residential property. The existing zoning (R-8) essentially allows only single-family dwellings, as well as a few other closely related uses. The proposed LOI zoning is fairly restrictive zoning and allows only 10 permitted uses: Accessory uses and structures with provisions; Child day care facilities; Dental clinics/offices; Golf courses; Libraries, museums, and art galleries; Medical clinics/offices; Nursing homes, rest homes, convalescent homes, assisted living facilities not used for treatment of contagious diseases, alcoholics, or drug addicts; Offices, business, professional and public; Rides, exhibits, and displays in business districts; and Studios for artists, designers, and photographers. Some of these are permitted and others are permitted with restrictions. Planning Board recommendation was 9-1 to deny the rezoning request. Mr. Kennerly explained their concerns were that given the surrounding residential zoning and land uses, they could not support a request to a non-residential classification.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof on Zoning Map Amendment Z-9-02, Hilda P. Blount, Old Mocksville Road near Hawkinstown Road.

Those speaking **in favor** of and **against** the above proposal were:

Dr. John Blount, applicant's husband, told Council he has been a resident of Salisbury since March 4, 1933 (except a few years in Kannapolis) and is approaching 70 years of age. Dr. Blount told Council his current medical practice is located on Woodson Street. He explained he has physical problems as a result of polio in 1955. Over the years, his ability to walk has become progressively worse and also limits his driving to a certain extent. He explained he has, for years, considered moving his office close to his home. He indicated he has 18 plus acres of property located in the area where he is proposing to locate his office. He further gave examples of physicians and dentists offices in residential areas in other cities. He indicated that he plans to build a home that would face toward the road but the parking would be in the back. He sees between 2-3 people an hour which amounts to 15-20 people a day, and works 4 days one week and 4-1/2 days the next week, Dr. Blount noted. This would be convenient for him because he would not have to travel in an automobile. Dr. Blount would appreciate being close to his home, not only for himself, but also to be with his wife, who has some health problems, so he could have frequent visits. He would not cause any disturbance to anyone, he told Council; no loud noise, very few cars coming and going as he limits his practice, he explained. Dr. Blount indicated he became interested in "spot zoning" as he has noticed that seems to be an important matter with the Planning Board. He indicated he was late to the Planning Board meeting regarding this zoning matter due to a patient emergency, but thought no one would object to his request. Dr. Blount proceeded to show Council slides of what he calls "spot zoning" of his

area where businesses are part of a residence and businesses in the residential area such as Ivan's, Ridenhour Supply Company behind Woodfield, a produce stand, a catering service in the back yard area of a home, a florist in a person's home, a lawn mower repair shop, a television repair shop, etc. He showed how he would make the office look like a home.

Mr. Bruce Mason, 302 Hawkinstown Road, told Council that the examples Dr. Blount has shown are not Woodfield, Windmere, Country Club Hills, or Eagle Heights. "This is our residence where we live. We would like to keep it that way," said Mr. Mason. Mr. Mason told Council that Dr. Blount's office is approximately 1-1/2 miles from his home, and that distance should not be a tremendous burden.

Mr. Henry Rufty told Council he lives directly across the street from where Dr. Blount wants to put the office building. He explained this is a very nice, quiet neighborhood in the immediate area, and he did not know the area was that badly polluted with businesses. Mr. Rufty reiterated he would like to keep the area a nice, quiet neighborhood without a lot of people coming through.

Mr. Eric Leach, 1380 Gheen Road, told Council he represents 5 generations of his family who have been patients of Dr. Blount and Dr. Blount saved his life. Mr. Leach suggested the residents might want to look at this situation and realize the importance of Dr. Blount being right there if they need him. He pointed out there is an upholstery shop near Dr. Blount's property.

Ms. Beatrice Blount, 1735 Long Ferry Road, told Council that she is a patient of Dr. Blount and she can depend on him at any time, even weekends. She indicated she feels this would be a convenient move for him to put his office near his home, and would not cause unnecessary noise as people come and go to be treated, but not to congregate. Ms. Blount expressed that even if she lived in the area, she thought she would be in favor of this request.

Ms. Brenda Page, 1775 North Main Street, China Grove, told Council she has been a patient of Dr. Blount for years, wants to continue being his patient, and sees no problem with Dr. Blount doing what he has proposed since he would be seeing only a few patients each day. She expressed that she sees no harm in his having an office at home which would be more convenient for him and his wife.

Ms. Darlene Mason, 302 Hawkinstown Road, told Council she is against the rezoning. She told Council she doesn't have anything against Dr. Blount or his patients, but there is a place for it and it's not exactly there. Ms. Mason indicated she does not want it rezoned and open up doors that later (with 18 acres and other things) that may go on in later years.

Mr. Mark Lewis, 136 Rugby Road, told Council he lives in Country Club Hills and his relatives live across the street in Woodfield. After hearing the comments, he wanted to remind Council of some of the things regarding Vision 2020. Mr. Lewis commented that Dr. Blount is an outstanding man who has given great service to our City and to his patients. Mr. Lewis then pointed out we are not here to discuss Dr. Blount's resume, but to discuss if it is proper to rezone the property being discussed. Mr. Lewis asked staff if any of the businesses which were shown today are in Salisbury's jurisdiction. Mr. Furr responded that he did not recognize all of them. Mr. Poole replied that some are in the ETJ area, some in the county, and some inside the city limits. Mr. Lewis emphasized the point he was trying to make was that this is a classic case of "spot zoning" because it's the first introduction of any commercial activity into a classic neighborhood setting. "Our Salisbury 2020 actually encourages neighborhoods serving businesses to locate along the fringes of neighborhood planning areas", he said. These should be located at the corners of the neighborhood planning areas which would bring it down to Prescott Drive. Other businesses wishing to locate along the fringe areas should be allowed to do so as long as they face the interior, Mr. Lewis explained. It means limiting curb cuts along major thoroughfares and Mocksville Avenue is a major thoroughfare for Salisbury. What Dr. Blount is proposing doesn't seem harmful to the neighborhood. However, that zoning will be LOI, and if he sells that property, the new owner may not be as amenable to the neighbors as Dr. Blount would be, Mr. Lewis stated. Mr. Lewis asked if this would this be the beginning of a commercial office development there.

Mr. Joe Rutledge, 314 Wake Drive, told Council that his biggest concern is that the doors will be opened, and then there will be a business section in Eagle Heights. He reminded Council that piece of property is zoned residential. Mr. Rutledge identified Eagle Heights as a nice community where people do a good job maintaining their homes and grounds and, he said, they don't want to see it destroyed. Mr. Rutledge indicated he thinks Dr. Blount would not intentionally destroy it but that would eventually happen. He spoke in favor of the zoning staying as it is today.

Ms. Dawn Leach, 1380 Gheen Road, told Council this is Dr. Blount's property and expressed that he should be able to build anything he wants on it. She reminded Council this is America.

Mr. Joseph Hurst, 14 Webb Road, told Council that Dr. Blount is his family's doctor. Mr. Hurst expressed support for what Dr. Blount wants to do and indicated he feels it will not be a hindrance to anyone else. He reminded Council if there are future problems they (Council) would be in charge then as well.

No one else was present to speak for or against the above proposal. Mayor Klutz closed the public hearing.

Mayor Klutz clarified that Council is not here to judge Dr. Blount's value to us as a citizen, physician, or his practice. She expressed confidence she could trust what Dr. Blount would do. She also told those present that Council's concern in rezoning property is having to look beyond Dr. Blount's ownership and what will happen after he is gone. Mayor Klutz explained Council is very careful with our neighborhoods, and needs to be very careful when dealing with residential property.

Mayor Pro Tem Woodson expressed surprise at the calls and number of people who have come to see him opposing this rezoning. He indicated one thing that bothers him is that people are supporting Dr. Blount who don't live there. Those people in that neighborhood are opposed to it and once the property is rezoned, someone else can come in and make it whatever they want, Mr. Woodson told those present. He went on to explain he could not support it with the opposition from the neighbors.

Councilman Kennedy said he too has compassion for Dr. Blount and his skills. He said when he first looked at this, with 18 acres of land, the rezoning should not hurt anything because it would not affect the neighbors. However, Mr. Kennedy pointed out, this Council must look at the future and this 18 acres of land could become a business in this community.

Councilman Burgin echoed what other members of Council said. We are talking about zoning the property versus building a doctor's office for Dr. Blount, he said. We have to distinguish between that because we have to live with whatever fits in that zoning, he explained. Mr. Burgin referenced Council having had some rough experiences where they thought they had one thing going in and now find it has grown into another. He said he has some hopes that we will develop communities that will integrate small businesses and neighborhood businesses. But, it's one thing for Council to build that into development and another to plant that into existing development, Mr. Burgin explained. In this situation people have built houses that were independent and separated from businesses, which was their choice, observed Mr. Burgin. For Council to insert businesses into this situation is different from creating zoning capabilities to integrate in appropriate ways businesses with residential where people elect to go in to live, Mr. Burgin said. That is the difference, he noted.

(c) Thereupon, Mr. Burgin made a **motion** to deny the rezoning request. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Klutz voted AYE. (5-0)

## **ZONING MAP AMENDMENT - Z-10-02 - SALISBURY PLANNING BOARD**

Z-10-02 - Salisbury Planning Board

Park Avenue Neighborhood (Phase 2)

The request is to rezone approximately 46 properties on about 13.6 acres of property located in parts of the 400 and 500 blocks of East Council, 400 block of East Liberty, 100, 200, and 300 blocks of North Shaver, 500 and 600 blocks of Park Avenue and 300 block of North Clay Street, from R-6A Multi-Family Residential to R-6 Two-Family Residential.

(a) Mr. Harold Poole, Senior Planner, informed Council that this rezoning case was originated by the Salisbury Planning Board concerning the Park Avenue Neighborhood. Recently, other property in this neighborhood was rezoned from M-1 to R-6, he said. (Phase 1) He pointed out this rezoning request is for Phase 2. The zoning as it exists now has become a mixture between the existing R-6 and R-6A. The Planning Board recommendation is to unify the neighborhood where more R-6 development is. Planning Board also recommended leaving one block (the first block) of Park Avenue R-6A because of the 19 apartments there. It didn't seem reasonable to include this block, Mr. Poole said. The Planning Board Committee met with the Park Avenue Neighborhood Association to talk about their needs and desires, and feels what is proposed is consistent with those needs and

desires of the neighborhood. The Planning Board recommendation was unanimous to rezone.

Councilmen Kennedy and Burgin asked some questions about the apartment area.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, on the following zoning map amendment Z-10-02, Salisbury Planning Board, Park Avenue Neighborhood (Phase 2).

Those speaking **in favor** of the above proposal were;

Mr. Lou Manning, 2354 Statesville Boulevard, told Council that he has 4 apartments (in the area) that could not be re-built if they burnt down. With the neighborhood being single-family and this is also what the neighborhood in general wants, this would be the best thing to do, he said. Mr. Manning expressed that he hopes Council will vote in favor of the proposal.

Ms. Dianne Dillon, Historic Salisbury Foundation, told Council they too are in favor of this rezoning. However, she asked Council to consider instead of leaving the whole 400 block of Park Avenue out of this rezoning, to perhaps just keep the apartment unit out. There are a number of fine historic houses in that block, some of which are being used as boarding houses, she said. If those houses became vacant, they will never have a chance of being turned back into single-family houses if the zoning is left as it is, Ms. Dillon stated. The house on the corner of Shaver and Park Avenue on the south side is a wonderful Victorian house that rivals any Victorian house in the West Square or anywhere in the City, Ms. Dillon said. If these houses are left R-6A with the apartment, they won't have a chance, according to Ms. Dillon. Ms. Dillon asked Council to consider adjusting the rezoning area to include the north and south side of the first block of Park Avenue excepting the apartment complex.

No one else was present to speak for or against the above proposal. Mayor Kluttz closed the public hearing.

Councilman Burgin asked staff to give the logic for leaving that block out. Mr. Poole explained that there was already a significant degree of multi-family in that block. The Planning Board did take a look at this area, and Council has the ability to include all or part of that block, Mr. Poole indicated.

Councilman Martin asked staff about the feeling of the Park Avenue Neighborhood Association. Mr. Poole responded that the Park Avenue Neighborhood Association asked staff to do what they could to create more homeownership. That seemed to be more reasonable in the R-6 than the R-6A, he said.

Councilman Burgin observed that Ms. Dillon hit a nerve when she talked about the Victorian house. Mr. John Ramsay, founder of his (Mr. Burgin's) firm, drove him by that house and said the same thing Ms. Dillon did; that this is probably the very best Victorian house in the City, Mr. Burgin shared. He added it strikes him as a little bit unfortunate that we are not giving this house an opportunity to survive as a single-family dwelling, noted Mr. Burgin. It is interesting to see the revival of a neighborhood. The revival of a neighborhood takes big chunks of land, he said. We have an opportunity to grab a larger piece of land and say to this neighborhood, "we want you to continue on the track of improvement because you are doing a wonderful job of that and we are going to give you another 6 houses of solid stock, beautiful Victorian houses, and we think that will work", he said. Mr. Burgin stated he thinks there is an argument that we ought to take in the rest of these houses. He indicated he doesn't want to put at risk the ones that are being recommended, but certainly wants to grasp the opportunity to say "here are a couple more good houses."

(c) Council agreed this matter should go to a committee. Councilmen Burgin and Kennedy were appointed by Mayor Kluttz to serve on a Council Committee to study this case and report back at the next meeting.

#### **ZONING TEXT AMENDMENT - DOWNTOWN SIGNAGE**

The request is to consider a zoning text amendment to the B-5 Central Business District for changes to the sign regulations.

(a) Mr. Harold Poole, Senior Planner, reviewed with Council the three types of downtown signage: (1) Projecting Signs; (2) A-frame (sandwich board) Signs; and (3) Downtown Pole Displays.

The Proposal for Downtown Signage changes are as follows:

### Projecting Signs

Sign shall be a permitted use; sign shall be permitted in addition to other B-5 signs allowed; sign shall be no larger than six (6) square feet; sign shall be on the 1<sup>st</sup> floor of the façade; sign shall be no less than seven (7) feet above the sidewalk, and no more than 15 feet or below the 2<sup>nd</sup> floor window sash - whichever is more restrictive; sign shall project no more than five (5) feet from the building façade or past the sidewalk line - whichever is more restrictive; sign may be lighted, with external lighting attached to the building, sign, or mounting hardware; signs shall not be plastic, back lit, or internally lit.

Mr. Poole informed Council that these would be requirements for the new type of sign that allows projecting signs. Projecting signs are allowed in some other zoning districts but currently not in the downtown area, he said.

### Sidewalk Signs

Mr. Poole told Council these type of signs are allowed with very few restrictions. Sidewalk signs which are pedestrian oriented shall be permitted, provided they extend no more than 3 feet from the building wall and are adjacent to the building's entranceway.

Sign shall be a permitted use; sign shall be permitted in addition to other B-5 signs allowed; any property, including those containing multiple businesses, may place only one (1) sign per street frontage; any such sign shall not exceed eight (8) square feet in area; any such sign shall not exceed four (4) feet in height; the width of the sign shall not exceed 2-1/2 feet; the sign shall be placed on the sidewalk directly in front of the associated use; the sign shall be placed on the sidewalk between four (4) and seven (7) feet from the curb, or within three (3) feet of the building wall.

The sign shall provide for the following clearances:

Five (5) feet of clear space for the passage of pedestrians between the sign and other obstacles such as signs, poles, street furniture, landscape islands, etc.; five (5) feet of clearance between the sign and any fire hydrant or crosswalk; ten (10) feet of clearance between the sign and intersections or driveways; no sign shall block visibility-vehicular or pedestrian-at any time; the sign shall be constructed of materials that present a finished appearance (e.g., rough cut plywood is not acceptable); the sign shall not be lighted nor have any moving parts; the sign shall be displayed during business hours only.

### Downtown Pole Displays

Mr. Poole informed Council that these downtown pole displays are allowed now but there would be some changes in the regulations.

These signs shall be permitted as temporary signs; pole displays shall be decorative, seasonal, or theme vertical pole banners; individual pole displays shall be allowed a maximum of 180 days (currently the maximum is 45 days - no more than 3 times per calendar year); City Council may allow for an extension of time of up to one year for pole displays, in celebration or recognition of special governmental anniversaries or events; there shall be no commercial advertising message associated with the pole displays, except for the name or logo of sponsors; the number shall be limited to no more than two (2) pole displays per pole; the number shall be limited to no more than eight (8) pole displays per block on each side of the street; the size shall be limited to no more than 25 square feet for each sign; the name or logo of the sponsor shall be limited to no more than 25 percent of the banner; the height shall be limited to no more than 25 feet above sidewalk level, and no less than 10 feet from the bottom of the sign to the sidewalk; pole displays shall not be illuminated.

(b) Mayor Klutz convened a public hearing, after due notice and advertisement thereof, on a zoning text amendment concerning

changes to the sign regulations in the B-5 Central Business District.

Those speaking **in favor** of the above proposal were:

Mr. Randy Hemann, Executive Director of Downtown Salisbury, Inc., reiterated what Mr. Poole said and stated that Downtown Salisbury, Inc. is very much in favor of this. He said when it was first proposed, he thought it was a pretty good ordinance and, once staff and Planning Board looked at it, it became a much better ordinance.

No one else was present to speak for or against the above proposal. Mayor Kluttz closed the public hearing.

Mr. Martin expressed appreciation that the sign ordinance is being reviewed.

(c) Thereupon, Mr. Woodson made a **motion** to approve the text amendment to the B-5 Central Business District for the sign regulations. Mr. Martin seconded the motion. Messrs. Burgin, Kenendy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

**AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA, TO MAKE CHANGES IN THE B-5 CENTRAL BUSINESS SIGN REGULATIONS SECTION**

**OF ARTICLE IX: SIGNS, SPECIFICALLY TO ADD PROJECTING SIGNS AND MAKE CHANGES IN REGULATIONS FOR SIDEWALK SIGNS AND POLE DISPLAYS IN DOWNTOWN.**

(The above ordinance is recorded in full in Ordinance Book No. 18, under Chapter XI - Zoning & Planning, at Page Nos. 75-77, and is known as Ordinance No. 2002-50.)

#### **GROUP DEVELOPMENT SITE PLAN - G-5-79 - WESTLAND CENTER**

#### **FOOD LION STORE #10, 525 JAKE ALEXANDER BOULEVARD WEST**

(a) Hubert Furr, Development Services Manager, informed Council that the Westland Center is an existing shopping center located on the corner of Jake Alexander Boulevard and Highway 150. Mr. Furr showed Council pictures of the existing site plan with an ATM located on the property. The proposal is to change the location of the ATM and to re-stripe the parking lot for more parking. The staff Technical Review Committee and the Planning Board recommend approval as submitted.

(b) Mayor Kluttz announced that comments from the public would be received now.

No one was present to comment on the above proposal.

(c) Thereupon, Mr. Burgin made a **motion** to approve the group development G-05-79 as submitted. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

#### **SPECIAL USE PERMIT - 425 LINCOLNTON ROAD**

(a) Mr. Hubert Furr, Development Services Manager, stated that some time ago Council amended the ordinance to require a special use permit for a convenience store in B-CS zoning Convenience Service Business District. The property in question (located at 425 Lincolnton Road) was a convenience store located at 425 Lincolnton Road and has been vacant for a couple years, he said. The convenience store is a special use permit that has to be approved by City Council with the recommendation from the Planning Board, Mr. Furr advised. The Planning Board voted to deny the request. (10-1)



Mr. Furr told Council that the main reason this needs to be denied is because Planning Board feels a convenience store is a detriment to the neighborhood and to Salisbury High School. He explained that the Planning Board talked about things such as loitering, trash, sale of beer and wine, noise, and crime. For all these reasons, the Planning Board recommended that the request for the special use permit be denied.

(b) Mayor Kluttz announced that comments from the public would be received now.

Mr. Khalid H. Idries, applicant, told Council that he and his wife would like to open a convenience store at 425 Lincolnton Road, and they will run it. He understands the trouble with the previous owners concerning robbers. He said his plan is to open it, make it nice, and help people. The hours are 7:00 a.m. - 8:00 p.m. weekdays and 7:00 a.m. - 9:00 p.m. on weekends. Mr. Idries presented Council with a petition of what he said is 54 signatures in favor. He indicated he would like the chance to prove himself. He said it's his job to make it safe and clean.

Mr. Norde Wilson, 501 Maupin Avenue, told Council he favors a man's right to do what he wants to with his property except when it negatively condemns the character of the neighborhood around it. He said his family owns everything to the east of Salisbury High School, the two blocks that go up to Fulton Street, and have owned most of it for approximately 30 years. Considerable time, effort and money has been spent in trying to straighten the area up, improve the appearance, and keep the negative elements out of the neighborhood, he said. Mr. Wilson stated that he has spoken with Mr. Idries and he would like for him to be able to do something with that property. But, having been there for 30 years and watched 2-3 owners come in with a convenience store, they turn out to be nothing but beer and wine shops, he stated. Mr. Wilson said the high school students gather there during the daytime and drug salesmen are there after school and late at night. They finally did get rid of the pay phone that drug dealers used to make the stops. The neighborhood itself did not trade with that store, he said. Mr. Wilson told Council that a fencing network was built to keep the people from coming out of the store late at night and walking through the neighborhood. These young people (Idries) mean well and seem sincere, he noted.

Ms. Dianne Dillon, Historic Salisbury Foundation, told Council that the Foundation has two houses on Fulton Street in their revitalization project. One has been sold, but part of the holdup for selling either of these two houses, was the fact there was a convenience store in the neighborhood, she said. Ms. Dillon told the owner of one of the properties, that the owner of the convenience store property had said they would not rent to a convenience store again. There are a lot of options (coffee shops, neighborhood grocery stores, specialty shops). Ms. Dillon said she believes Mr. Idries means well, but there are other options, and a convenience store is not the best thing for this location.

Police Chief Herring told Council the Police Department was asked to analyze service in the area. They compared data from the year the store was opened, the following year that the store was closed, and split the years as well, he said. There was a significant decrease in the calls for service after the store closed, Chief Herring stated. Looking at the calls, the calls that were more serious in nature were the calls surrounding the store, he indicated. From this information, Chief Herring recommended that this location not be opened as a convenience store.

Mayor Kluttz said she has strong feelings about this and it has nothing to do with the applicant personally. It's no secret how this Council feels about Salisbury High School, its neighborhood, and the commitment Council has made, she said. We are not doing our job if we don't always look for ways to improve all of our neighborhoods, Mayor Kluttz stated. A commitment has been made to this particular one because Council does feel so strongly about Salisbury High School. There is no question that the problems that come along with selling alcohol across from a school is inexcusable to do that if you can avoid it, Mayor Kluttz stated. She went on to note she cannot see putting anything across the street from the school that sells alcohol. A convenience store or any type of business that is allowed to go in a neighborhood is for the convenience of the neighbors that live there, she noted. When it scares the neighbors and they don't want it, she doesn't want it either, she emphasized.

Councilman Martin stated that with the number of calls for service the police department has had, closeness to the high school, and the neighbors opposing it, he doesn't see any point to going further. He is in favor of denying it, he said.

(c) Thereupon, Mr. Burgin made a **motion** to deny the special use permit for the property on Lincolnton Road. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

## **REPORT FROM DOWNTOWN SALISBURY, INC. CONCERNING ON STREET PARKING**

Mr. Steve Fisher, President of Downtown Salisbury, Inc., thanked Council for assisting Downtown Salisbury, Inc. (DSI) in some of the projects they have going on in Salisbury. He also thanked Council for purchasing the parking lot at the corner of Bank and Main Streets and said this is a wonderful step in the progress of the downtown. Mr. Fisher told Council that DSI formed a Parking Task Force a year and half ago with Mr. Gray Stout as Chairman of the DSI Parking Committee.

Mr. Gray Stout, Chairman of Downtown Salisbury, Inc. (DSI) Parking Committee informed Council that currently there are 3,481 parking spaces downtown either on street or off street. During a study these spaces were monitored to determine the usage. They also calculated the parking needs based on current square foot usage and projections on future square foot usage in the downtown, he said. Rowan County is also developing a parking lot on North Main Street that will assist in some of the parking problems to accommodate county staff and jurors. A feasibility study is being conducted to consider a parking deck in the downtown area, Mr. Stout said. The study indicates there are enough parking spaces for current needs if ways can be found to better utilize off street parking, he said. From the report, by John Edwards, Traffic and Parking Consultant, it was found that there is enough two-hour parking to support existing businesses if the two-hour parking violations can be further reduced, he noted. The committee has focused on how the violators can be caught because they are repeat offenders, he said.

Mr. Stout asked Council for help in the following two areas concerning parking in the downtown area:

(1) an ordinance that will better address the issue of repeat offenders

(2) held hand computer to better track the repeat offenders

Mr. Stout told Council that the parking report encouraged DSI to look at existing street spaces and find ways to add "on street" parking either by reconfiguring what is there, looking at existing travel lanes and traffic patterns, and reassessing those. Mr. Stout's request is to create some "on street" spaces where there currently aren't any. Mr. Stout showed a diagram of the 100 block of West Fisher Street near the Wachovia parking lot and mural. Mr. Dan Mikkelson, City Engineer, has been asked to look at the proposal and see if there is a way to create more parking spaces at this location. The City and DSI Parking Committee agree that there is no need for two travel lanes in the same direction on this street. An additional 10 spaces can be obtained here at a cost of less than \$385.00 per space for a total of \$3,847.00 for the project, Mr. Stout stated. Downtown Salisbury, Inc. is requesting that the City of Salisbury partner with the DSI Parking Committee on this project.

Thereupon, Mr. Kennedy **moved** to partner with Downtown Salisbury, Inc. and provide these 10 parking spaces. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Klutz voted AYE. (5-0)

#### **TEXT AMENDMENT - CHAPTER 25, SECTION 25-88 - CONNECTIONS OUTSIDE CITY**

Mr. John Vest, Director of Utilities, informed Council that all outside water and sewer connections are approved by City Council. Because of our historic agreement with Rowan County and our growth and expansion, we are becoming a regional provider and serve a good portion of Rowan County. We are seeing growth corridors on U.S. 70, Highway 29, and U.S. 52, he said. There will be more as these projects are completed for outside connections. Staff is recommending a text amendment to have outside connections approved within the department as an administrative task rather than burden the Council with outside connections listed under the Consent Agenda each time.

Thereupon, Mr. Kennedy **moved** to adopt the changes proposed by our director. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING CHAPTER 25, UTILITIES, OF THE CODE

OF THE CITY OF SALISBURY, NORTH CAROLINA, SECTION 25-88 CONNECTIONS OUTSIDE CITY.

(The above ordinance is recorded in full in Ordinance Book No. 18, under Chapter VII - Municipally Owned Facilities, at Page No. 1, and is known as Ordinance No. 2002-51.)

## **INNES STREET BRIDGE REPLACEMENT UPDATE**

Mr. Dan Mikkelson, City Engineer, informed Council that in May when the bridge replacement project was discussed, it was identified that the likely probability was that Innes Street was going to be disrupted both at the interstate and at the railroad bridge at the same time. Council felt very strongly the need to return to the North Carolina Department of Transportation (NCDOT) to request they change this timetable, he said. As a result, NCDOT has agreed to delay construction on the railroad bridge until March, 2003. It is a good faith effort on their part, and if they can stick to their current schedule, they will be able to restore the travel lanes on Innes Street near the interstate before we have to implement the detour near the railroad bridge, Mr. Mikkelson informed Council.

Mayor Pro Tem Woodson stated that Ms. Wendy Brindle had mentioned earlier that the culvert in front of Dunkin Donuts was to begin in May. Mr. Mikkelson noted this is the specific phase that staff is concerned about. When they start the culvert replacement, NCDOT will need to interrupt travel on Innes Street for six months, he said. They have continued to delay that phase and it now appears this phase will start in September. At this point, the bridge is unlikely to be delayed, Mr. Mikkelson said. With the work on Innes Street, NCDOT is allowing several months lead time before they disturb Innes Street at the creek. Mr. Mikkelson indicated all this will be very close.

Mr. Mikkelson said in a similar, but unrelated issue, dealing with the bridge replacement, the State, since it is using federal transportation money to do the bridge replacement, has to document that the transportation project is not creating an unacceptable impact to park property. Mr. Mikkelson stated staff has been working with the State on the design of the bridge to raise the bridge approximately 2 feet. The sidewalk that approaches the bridge will be 2 feet higher than it is today, he said. That sidewalk is actually in a public street right of way but it's the top of those terrace walls that go down into the Robertson-Eastern Gateway Park. Mr. Mikkelson explained how this part of the project will likely be done. NCDOT has not actually done a design for this, he said. NCDOT has agreed for the field adjustments to be done in consultation with the City, Mr. Mikkelson reported. The Resident Engineer's Office who is responsible for doing the construction will be working with the City to make the day-to-day decisions on where to put the terrace wall, where the 2 foot step down will occur, whether it will be necessary to put up a handrail, and what the design of handrail will be, Mr. Mikkelson told Council.

NCDOT has also agreed they would restore any impacted area with matching material. Where the City already has the sidewalk pavers, they will pull them up, do re-grading, and put back the same pavers or matching pavers, he said. Where there is vegetation, NCDOT will replace it with matching vegetation. Where there is a retaining wall that has a stone façade on it, they will replace it with a retaining wall with a stone façade on it. The one thing staff has specifically asked NCDOT not to do is to put in fill slopes because that changes the character of the park, he said. With those conditions, and the State agreeing with them, staff recommends that Council authorize temporary use of the park for the replacement of the bridge. A letter will be sent to the State, if Council concurs, advising them that with those 3 conditions, Council has authorized the temporary use of the park for the bridge replacement, Mr. Mikkelson said.

Mayor Pro Tem Woodson asked Mr. Mikkelson if this would basically almost destroy that park with the construction. Mr. Mikkelson responded that NCDOT will be using other areas for staging where the beams will be stored and other construction materials. There is a paved parking lot next to Ray's Transmission and they have acquired a construction easement over the property to be used for storage and staging, he indicated. There is another lot between the bridge and NSSA where they will also be obtaining an easement to do staging and storage.

City Manager Treme reminded Council the City needs to make sure when we send NCDOT the letter, that we have approval on those things they are doing. He said he doesn't want NCDOT to be short on time, or too busy, not have enough money, or be concerned about their schedule when they are putting our things back like we want it. He doesn't want to get into an issue with NCDOT over this matter. We want it put back like it was, Mr. Treme emphasized.

Mayor Klutz noted that if the City agrees to do this, she would like City Attorney, Rivers Lawther, to be sure we are legally covered. This is important to us and we don't want to lose what we have now, she said.

Councilman Burgin expressed interest in seeing a plan/design of what the NCDOT is proposing. City Manager Treme advised that having a clear understanding of what is being proposed should reduce future disagreements. He expressed a need to protect the character and integrity of the Robertson-Eastern Gateway Park.

Thereupon, Mr. Kennedy **moved** to authorize the use of the Robertson-Eastern Gateway Park by NCDOT with the conditions

mentioned by staff, the safeguards mentioned by the City Manager, the legal opinion by our attorney, and final approval by the City for the plan. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

## **NEW TRAIN SPEED LIMITS**

Mr. Dan Mikkelson, City Engineer, informed Council that in 1992 there was a federal initiative to promote high speed rail on 5 corridors throughout the country, and one of those corridors comes through Salisbury. The last 10 years and \$2 Million have been spent preparing for higher train speeds, he said. During this period Boundary Street was extended south to Jake Alexander Boulevard. Military Avenue was realigned. Lumber Street was extended east to Boundary Street, and Railroad Street was connected between Lumber and Harrison Streets. Nine at-grade crossings were closed. Three crossings received median barriers, two crossings received long gate arms, and two crossings will receive four quadrant gates. All at-grade crossings on the Norfolk-Southern Mainline have automatic cross arms with updated circuitry.

Mr. Mikkelson told Council that the new train speeds will go into effect on August 1, 2002. For freight trains, the speed limit will increase from 45 mph to 55 mph. For passenger trains, the speed limit will increase to 55 mph north of Monroe Street, and up to 79 mph south of Monroe Street. Speed limits on the minor rail lines will not be changing, he said.

Mr. Mikkelson told Council they do not need to take any action. The City of Salisbury has no authority over train speed limits; that is set by federal agency, he said. The safety improvements the City has done over the last 10 years have been in preparation for this event.

## **REPORT FROM CITY MANAGER**

### **(a) Planning Board Recommendations**

Council received the Planning Board recommendations as information only.

### **(b) Request from Habitat**

City Manager Treme informed Council that he has received a request from Habitat concerning water and sewer connection fees for their houses. Since the connection fees have increased, Mr. Treme is recommending 50% matching from the Community Development Corporation to defray some of the costs of water and sewer connection fees for the housing.

It was the consensus of Council for City Manager Treme to proceed with the recommendation.

### **(c) Water Conservation and Drought Preparedness**

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Mr. John Vest, Director of Utilities, and Mr. Matt Bernhardt, Assistant Utilities Director, gave Council a presentation on Water Conservation and Drought Preparedness. Mr. Bernhardt told Council this county, region and state are currently experiencing the drought of record. Area reservoirs, rivers, and streams within Rowan County and the region are being significantly impacted by this drought. Many communities within the state are under either voluntary or mandatory water use restrictions.

Mr. Bernhardt showed Council a chart of the flow data from 1928 to the present for the Yadkin River. These were readings from the Yadkin College Station upstream of the intake. The low points were in 1954, 1956, 1981, 1986, 1988, and NOW. He indicated 50 counties are under voluntary conservation and 36 counties are under mandatory conservation restrictions.

Mr. Bernhardt told Council that Governor Easley recently requested all systems in the extreme and exceptional drought areas, as well as the entire Yadkin/Pee-Dee and Cape Fear River Basins, to reduce their water use by at least 20%.

The Salisbury-Rowan Utilities Department has significant concerns related to Governor Easley's request. They are as follows:

- SALISBURY HAS ALREADY EXPERIENCED CONSERVATION

- conservation was one of the factors in the \$3 Million Deficit of two years ago
- the difference in production volume between 1997 and now (have lost large users)
- average 1997 Daily Demand = 8.50 MGD (million gallons per day)
- average 2002 Daily Demand = 6.22 MGD (million gallons per day)
- this is a 27% reduction.

- RETURN OF FLOW

- 4 Wastewater Treatment Plants: (Grant Creek, Town Creek, Spencer Plant, Package Plant - Highway 70)
- Additional Wastewater Flow from:
  - Rockwell/China Grove/Landis

Average Water Plant Production = 6.22 MGD (based on 12 month period)

Average Wastewater Discharge = 6.50 MGD " "

(we return an average of 4.5% more than we withdraw).

Mr. Bernhardt showed Council how water returned to the Yadkin River is in better shape than that taken from the Yadkin.

- DIFFERENT ROLE

- we are being asked to utilize capacity and capabilities to aid drought-stricken communities of southern Rowan County.

- FEASIBILITY

- previous reductions (27%)
- expansions underway (drought relief)
- shift in customer base (primarily domestic use with no large users to restrict)
- supply is being monitored daily.

- CONCLUSIONS

- we currently have an adequate water supply for our current needs and commitments
- we cause no measurable impact on High Rock Lake Reservoir

(water level 17" above the bottom of the original grates).

Mr. Bernhard presented Council with the following facts:

- 1.3 billion gallons per day (BGD) = normal river flow coming past the City Of Salisbury intake
- 470 million gallons per day (MGD) = current flow past the intake
- 775 MGD = APGI revised minimum release
- 185 MGD = minimum recorded flow (6-25-02)
- 9.5 MGD = current peak withdrawal.

Mr. Bernhardt reviewed with Council the action plan proposed by the Salisbury-Rowan Utilities Department:

- intake modifications have been completed (lowered the pipes)
- continued close monitoring of river levels and system demands
- ask customers to use water wisely and responsibly
- recommends the following action levels as triggers for our City's Water Emergency Management Plan as contained in the City Code of Ordinances. Mr. Bernhardt

explained we are not yet at what we consider to be the trigger for that.

- Level I - 6" of water above original bottom grates
- Level II - water level at bottom of original grates on top of new intake openings
- Level III - 7" below new openings
- Level IV - 15" above pipe openings.

City Manager Treme told Council that there are few cities that have had a 27% reduction in the usage of water over the last 5 years, and even fewer cities than that over the last 12 months that have returned 104% of what has been taken out back into the river, he said. This Council had great insight in terms of spending \$360,000.00 to lower our intake, Mr. Treme pointed out. He said "water is the gold of the 21<sup>st</sup> century." The conservation of our citizens, even without restrictions, has been outstanding. Another important factor is the role Salisbury plays within our county, according to Mr. Treme. To have an additional 20% reduction in water usage would put a financial hardship on our utility and our rate payers, who have already been conservative, he said.

Mayor Klutz noted that Council acted on excellent recommendations from the utility staff and she thanked them for their vision and insight in recommending that the input be lowered. Even though the Governor is asking for these restrictions, we, as a City, at this time, will not be implementing mandatory restrictions, Mayor Klutz said.

Councilman Burgin emphasized letting the Governor know we have already reduced water use by 27%. Mr. Treme stated that Council wants this information known to the citizens of Salisbury and that we are aware of what's happening on the Yadkin River. Then, Councilman Kennedy expressed agreement with the Mayor's earlier statement.

Mr. Bernhardt recognized Mr. Jim Behmer, Engineering Manager; Mr. Mike West, Utility Finance and Administration Manager; and Mr. Randy Cauble, Plants Manager for the exceptional job they do.

## **MAYOR ANNOUNCEMENTS**

(a) North Carolina League of Municipalities Emergency Rally of Mayors and City Managers

Mayor Kluttz announced that she and City Manager Treme will be going to Raleigh July 17 to join other Mayors and City Managers for a N.C. League of Municipalities sponsored lobbying effort at the legislature. The lobbying effort is to secure the funds previously coming to municipalities which may be held for balancing the North Carolina budget.

**TEXT AMENDMENT - REZONING PROPERTY**

Councilman Burgin asked permission to work with the Land Management & Development Department concerning text amendments dealing with conditional use and what happens in the process of rezoning property, and possibly close some loopholes which occur.

Thereupon, Mr. Burgin made a **motion** to allow us to look at conditional text to see if improvements could be made to invoke the changes. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Martin, Woodson, and Ms. Kluttz voted AYE. (5-0)

**ADJOURNMENT**

**Motion** to adjourn the meeting was made by Mr. Burgin, seconded by Mr. Woodson. All members agreed unanimously to adjourn. The meeting was adjourned at 7:03 p.m.

Mayor

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City Clerk