

Salisbury, North Carolina
July 20, 2004

REGULAR MEETING

PRESENT: Mayor Susan W. Kluttz, Presiding; Mayor Pro Tem, Paul B. Woodson, Jr.; Councilmen William (Bill) Burgin; William (Pete) Kennedy; Mark N. Lewis; and City Attorney, F. Rivers Lawther, Jr.

ABSENT: David W. Treme, City Manager and Myra B. Heard, City Clerk.

The meeting was called to order by Mayor Kluttz at 4:00 p.m. The invocation was given by Mayor Pro Tem Paul Woodson.

PLEDGE OF ALLEGIANCE

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

RECOGNITION OF VISITORS

Mayor Kluttz recognized all visitors present and welcomed Assistant City Manager Matt Bernhardt who filled in for City Manager David Treme and former City Clerk Swannetta Fink who filled in for City Clerk Myra Heard.

RECOGNIZE FLEET DIVISION- NATIONAL INSTITUTE FOR AUTOMOTIVE SERVICE EXCELLENCE

Mr. Vernon Sherrill, Public Services Director, informed Council that the National Institute for Automotive Service Excellence is known as the leading certification program for technicians and awarded Salisbury's Fleet Division the Blue Seal of Excellence.

To achieve this at least seventy-five percent (75%) of technicians performing diagnosis and repairs must be ASE certified and at least one technician must be ASE certified in each area provided. The City's Fleet Division has all twelve (12) technicians qualified in at least one area. Out of those twelve (12), nine (9) are master certified and seven (7) have more than one master certification. Mr. Sherrill commended Mr. Ted Phillips, Fleet Division Manager, and staff for this achievement.

Mayor Kluttz presented Mr. Ted Phillips, Fleet Division Manager, a plaque acknowledging this outstanding accomplishment.

STAFF PRESENTATION REGARDING THE SUMMER YOUTH EMPLOYMENT PROGRAM AND RECOGNITION OF PARTICIPANTS

Ms. Gail Elder White, Parks and Recreation Director, introduced Mr. Ken Bost, Rowan-Salisbury School System and coordinator of the Summer Youth Employment Program. Ms. White explained that this program is funded through a Community Development Block Grant (CDBG) and is a way to introduce students into the workforce within the community.

Mr. Bost told Council that prospective students are interviewed with consideration given to their grades, attendance, and discipline. Twenty (20) students were selected and twelve (12) were placed within the community. Mr. Bost said the program builds self-esteem for the students, serves as a job reference, makes them self-sufficient, and helps with their interpersonal skills.

Mr. Bost recognized the following Salisbury High School Representatives who worked with the Youth Employment Program: Mr. Chris Boylan, Mr. Roger Withers, Mr. Windsor Eagle, Mr. Eric Leazer, and Ms. Ernette Martin. He also recognized Ms. Zandra Spencer and Mr. Phil Whitesell from Rowan Regional Medical Center who prepared back to school items for each student.

The following employers and students were presented certificates and gifts of appreciation:

<u>Employer</u>	<u>Student</u>
Chick Fil-A	Danyelle Williams
Food Lion Store #10	Genevieve Smith
Foster's Prime Sirloin	Trevacyia Scales

Liberty Commons	Alisha Hartman
Rowan Vocational Opportunities	Yana Romanova
	Abrian Jackson
	Brandon Walker
	Shirlise Walker
Trinity Oaks Retirement	Sayabah Sammy
	Erica Robinson
	Kendra Stout
WSAT	Harshalkumer Patel
Learning Curves	

Mayor Kluttz thanked everyone who worked with the program noting that this is a wonderful opportunity for the children.

RESOLUTION RECOGNIZING HAROLD B. POOLE

Mayor Kluttz read a resolution expressing gratitude to Mr. Harold B. Poole, who is retiring from the City of Salisbury after thirty-six (36) years of service. She stated that in losing someone with thirty-six (36) years of experience, the City not only loses his expertise but someone who knows, understands and is a valuable part of the history of the City.

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

RESOLUTION EXPRESSING GRATITUDE TO HAROLD B. POOLE, SENIOR PLANNER FOR 36 YEARS OF SERVICE TO THE CITY OF SALISBURY.

(The above Resolution is recorded in full in Resolution Book No. 12, Page No. 32, and is known as Resolution No. 2004-21.)

CONSENT AGENDA

(a) Minutes

Approve Minutes of the regular meeting of July 6, 2004.

(b) Approve the following group development site plans:

- G-09-04 Overton Elementary School, 1825 Park Road
- G-10-04 Leatherman Business Park, 400 block of Jake Alexander Boulevard West (East Side)
- G-05-94 Starbucks and Hollywood Video, Towne Creek Commons out parcel 7, 912 and 916 East Innes Street
- G-11-04 Rowan Savings Bank, 1938 Jake Alexander Boulevard, West
- G-01-67 Ketner Center ABC addition, 1636 West Innes Street
- G-13-04 Salisbury-Rowan Community Service Council, Inc. Head Start, 1106 W. Monroe Street.

(c) Receive a petition to close the 2100 block of Executive Drive and adopt a **RESOLUTION** setting a public hearing for August 17, 2004.

RESOLUTION PERTAINING TO THE PROPOSED CLOSING OF THE 2100 BLOCK OF EXECUTIVE DRIVE.

(The above Resolution is recorded in full in Resolution Book No. 12, Page Nos. 33-34, and is known as Resolution No. 2004-22.)

Councilman Lewis asked that he be excused from group development site plan G-10-04 - Leatherman Business Park due to a conflict of interest.

Thereupon, Mr. Woodson made a **motion** to excuse Councilman Lewis. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Woodson, and Ms. Kluttz voted AYE. (4-0)

Councilman Burgin informed Council that he needed to be excused from group development site plan G-09-04 Overton Elementary School and G-11-04 Rowan Savings Bank due to a conflict of interest.

Thereupon, Mr. Kennedy made a **motion** to excuse Councilman Burgin. Mr. Lewis seconded the motion. Messrs. Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (4-0)

Thereupon, Mr. Burgin made a **motion** to approve the remaining parts of the consent agenda that were not previously withdrawn because of conflicts. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

GROUP DEVELOPMENT SITE PLANS G-09-04 OVERTON ELEMENTARY SCHOOL AND G-11-04 ROWAN SAVINGS BANK

Thereupon, Mr. Kennedy made a **motion** to approve G-09-04 Overton Elementary School and G-11-04 Rowan Savings Bank. Mr. Woodson seconded the motion. Messrs. Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (4-0)

GROUP DEVELOPMENT SITE PLAN G-10-04 LEATHERMAN BUSINESS PARK

Thereupon, Mr. Burgin made a **motion** to approve G-10-04 Leatherman Business Park. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Woodson, and Ms. Kluttz voted AYE. (4-0)

REPORT FROM STAFF - ROWAN REGIONAL MEDICAL CENTER TRAFFIC DETOUR

(a) Ms. Wendy Brindle, Traffic Engineer, indicated that on July 6, 2004 Council received a report from Rowan Regional Medical Center about their proposed Emergency Department and Patient Tower expansion. During their presentation, Rowan Regional Medical Center expressed the need to close Mocksville Avenue between Barker Avenue and Rutherford Street. The project will require a crane to be placed adjacent to the construction area at Mocksville Avenue. Ms. Brindle reviewed slides of the area including the crane that will be used and noted that it takes up the entire street. She stated that there is a need to close the street for traffic safety.

Mr. Brindle told Council that Rowan Regional Medical Center hired Kubilins Transportation Group to evaluate detour routes for the project. They propose to have inbound traffic come down Mocksville Avenue to Barker Street to Highland Avenue and out to the signal light intersection at Grove Street. They propose for outbound traffic to turn right onto Rutherford, left onto Henderson Street and left onto Confederate Avenue. She noted that they have also studied the on-street parking currently allowed on Rutherford Street and recommend restricting the on-street parking to improve traffic flow.

Ms. Brindle informed Council that an agreement with Rowan Regional Medical Center will be required to establish a bond amount for the repair of the roads in the construction area and along the detour routes once construction is complete. She stated that the traffic consultants reviewed traffic control at the intersection of Henderson Street and Confederate Avenue and recommend leaving the current two-way stop condition but upgrading advance warning signs in the area. These signs will point out the intersection in the curve and will also include high level warning devices. A supplemental advisory speed of 25 mph will also be denoted. She informed Council that they also recommend monitoring the detour route once it is in place in order to make adjustments as necessary.

Ms. Brindle noted that on July 14, 2004, staff met with the Fire Department and representatives from Rowan Regional Medical Center to discuss emergency access. The Fire Department has requested that parking be restricted along Highland Avenue, as well as on Rutherford Street, so that they can have unobstructed access for emergency vehicles. Ms. Brindle stated that a letter was sent to property owners along Highland Avenue explaining this change and to let them know that the hospital will allow parking in their lot adjacent to Highland Avenue.

Mayor Pro Tem Woodson asked about restricting the on-street parking and if it would be in place at different hours. Ms. Brindle replied that it will be a full restriction, which means no parking at any time during the duration of the construction and detour.

(b) Mayor Kluttz opened the floor to receive public comments.

Dr. Steve Furr, 400 Mocksville Avenue, told Council that more physicians would have been present today but none of them knew about the meeting. He said that he represented his group, which consists of three (3) physicians and a PA. He added that he also has letters from Dr. Farrington and Dr. McNeil. He stated that the loss of traffic flow is going to be unfair because it will personally affect them and their patients, especially those elderly patients who may be more confused about the route. He commented that improving the hospital is definitely needed, but questioned putting a crane on Mocksville Avenue when he felt they could potentially put the crane on the opposite side (Henderson Street) and not block Mocksville Avenue. Dr. Furr commented on the potential to put in power lines and that they may need to create a defect in the road. He stated that the construction would be at least one (1) year and to disrupt traffic for such a long period of time seems unfair to businesses. He told Council that he agrees the hospital needs the improvements but this creates a tremendous hardship. Dr. Furr said he would appreciate Council's consideration to help the businesses of the community.

Mr. George Busby, 226 Confederate Avenue, told Council that he was not speaking for or against the proposal but would like to offer Council alternatives. He noted that there are actually three (3) steps: before construction, during construction and after construction but what has been proposed only addresses the construction and does not address when the construction is completed. He commented that many cities have found that when tearing up an area, improvements should be made so that it is not necessary to go back in and tear it up every year. Mr. Busby showed Council slides of the proposed area and made a recommendation that there be a new configuration at the corner of Henderson Street and Confederate Avenue. He suggested widening Grove Street and extending it to Henderson Street as well as installing sidewalks on the right side. Mr. Busby proposed making the changes now so that the community will not have a bad image in their mind about driving in the area.

Ms. Kristine Walls, MOStrack 420 Mocksville Avenue, told Council that if traffic goes down Rutherford Street she is concerned about the parking on the side of the road, which she feels is very dangerous. She stated that their employees, employers, and patients use this road and increasing traffic on this road raises concern for everyone's safety.

Mr. Chuck Elliott, Rowan Regional Medical Center, stated that the comments made today are all valid points and things they have been considering for some time. He noted that planning for the project began in May and he feels the proposed plan is the safest option and the one they feel

most comfortable with as far as the vehicular traffic in and around the hospital. Mr. Elliott stated that the Grove Street extension is a great idea but is a permanent change for something temporary in nature. He stated that they would be willing to work with the City to see if such a change could be implemented, adding that it would impact the use of their property because it would affect any building plans they might have in the future. He questioned the future utility of Rutherford Road if the Grove Street extension is done, and what function it would serve.

Mr. Dan Mikkelson, Director of Land Management & Development, told Council that Mr. David Harrison, who lives at 1019 Highland Avenue, contacted him by telephone because he was unable to attend the meeting. Mr. Mikkelson read a letter from Mr. Harrison stating he is not opposed to the Barker Street to Highland Street detour and he supports the hospital's growth.

Since no one else was present to speak **for** or **against** the above proposal, Mayor Kluttz closed the public comments.

Mayor Pro Tem Woodson said he knows how the businesses feel because when the Innes Street Bridge project started he had similar feelings but over time everything worked out. He commented that Mr. Busby's suggestion is a good idea because he feels Confederate Avenue is a terrible intersection. Mr. Woodson said that he felt Council should support the hospital and their expansion and if the hospital has done all they can to make the plan work, then he can support it. He added that there will be an inconvenience for people but he feels it will work out.

Mayor Kluttz asked staff if they had any comments after hearing from the public and if staff still supported their original recommendation.

Ms. Brindle told Council that staff had discussions with Kubilins Transportation Group and concur that they have chosen the best detour route. She commented that to try to put all the traffic on Henderson Street at this point would create additional conflicts for people and added that staff concurs with the recommendation.

Councilman Burgin expressed his concern and noted that the City had to find a way to work with the hospital to make this work because he feels it is vital for the community and there may not be other options. He stated he feels nervous about the Henderson Street and Confederate Avenue intersection and asked staff if they had done everything possible to make sure that this intersection is not left unguarded.

Mr. Mikkelson stated that the intersection is one of the places staff will monitor and possibly make adjustments as needed. He noted that the most heated debate with the traffic consultant was concerning this intersection. Staff's observation is that people feel uncomfortable at the intersection and he assured Council that staff will continue to monitor it. Mr. Mikkelson explained that staff debated whether to implement a four-way stop but it does not meet the traffic volumes warranted by the Manual on Uniform Traffic Control Devices (MUTCD) for a four-way stop. He noted that for this reason the consultant recommended the change in signage on Confederate Avenue. If the change in signage is not enough staff may come back with a recommendation to do something else at the intersection. Mr. Mikkelson commented that this is also a reason not to use Henderson and Grove Streets as detour routes because it would put twice the traffic through that one intersection.

Mr. Burgin clarified that there will still be two-way traffic in all instances. Mr. Mikkelson responded that this is correct. Mr. Mikkelson noted that the only place where two-way traffic is prohibited is on half of Barker Street and this is due to the placement of the crane.

Mayor Kluttz asked if a stoplight could be considered for the intersection. Mr. Mikkelson said the four-way stop would be the logical progression before considering a traffic signal, adding that the traffic volume does not warrant a traffic signal. He also pointed out that it would be difficult and expensive to put in a temporary signal and then remove it once the detour is complete. Mayor Kluttz stated that she is worried about safety at the intersection. Mr. Mikkelson stated that in all of the traffic evaluations, staff assumes that the traffic currently using this block of Mocksville Avenue will continue to use this block of Mocksville Avenue. He noted that the volumes staff has used in evaluations are the worse case scenario and he feels the actual volumes will probably be less.

Mr. Burgin stated that a year of construction sometimes becomes fifteen (15) months but he knows there are things that can be done in construction that can improve the need to use a certain area. He asked representatives from the hospital if there are things that can be done to keep the impending problems to a minimum amount of time.

Mr. Ken Mowery, Construction Coordinator for Rowan Regional Medical Center, told Council that twelve (12) months is the estimated construction schedule from the general contractor and they believe it to be accurate. He told Council that the contractor will have more than one crane on site at a time using probably three at a time because one crane will not reach the entire project. Mr. Mowery reviewed the sequence of construction and added that no one can positively say the project will take twelve (12) months.

Mr. Burgin asked Mr. Mowery if there would be a time when the crane on Mocksville Avenue would not be in use but remain in place. Mr. Mowery responded that the crane will be used almost continuously. Mr. Burgin asked if it will be used for footings and foundation work. Mr. Mowery responded that it will be used to place the concrete in the stair towers, which go all the way up above the roof level. Mr. Mowery also commented on the power lines. He stated that they will dig into the street to connect to the underground line and noted that the same thing will happen with the water supply and sewer lines. Mr. Burgin asked if the utility work will take place simultaneously within the twelve (12) months use of the crane. Mr. Mowery responded that this is correct.

Councilman Kennedy asked Ms. Brindle if Rutherford Street would still be two-way. Ms. Brindle responded that it will remain two-way. Mr. Kennedy pointed out that people coming out of the hospital parking lot could turn the opposite direction rather than turning towards Confederate Avenue, and added that he supports the recommendations.

Councilman Lewis stated he liked Mr. Busby's recommendation and when he heard there was going to be a hospital detour for one year, this is what he envisioned in his own mind. He commented that it seems issues are being brought before Council without allowing Council enough time to make the right decision. Mr. Lewis commented that knowing the focal point for entry to the hospital it seems extending Grove Street to Henderson Street is the most logical choice. He stated that he thought Barker Street and Highland Avenue were going to be one way streets but they can not because

patients would not be able to get to Rowan Diagnostic Clinic. Mr. Lewis noted that he does not like the detour option but did not have any alternatives except what Mr. Busby presented.

Mr. Matt Bernhardt, Assistant City Manager for Utilities, told Council his department has asked Mr. Elliott not to put the crane on top of the City's raw water line. He stated that he wanted to be sure Council understands that staff does not think the Grove Street extension is a bad idea. He commented that staff does believe this is a good idea but were looking at the proposal that was presented and also realized that the extension could not be constructed quickly.

Mr. Mikkelson told Council that staff did look at the Grove Street alternative and concurs that in the long term that type of planning is needed for the area around the hospital. He stated that for the detour itself they tried to determine the best way to carry traffic and the recommended detour will carry the traffic flow better. Mr. Mikkelson added that as a long term plan extending Grove Street would be a big benefit to the area.

(c) Thereupon, Mr. Burgin made a **motion** to approve the proposed plan for traffic around the hospital for the next twelve (12) months with the addition that staff bring back safety reports telling how the citizens are coping with that and hopefully with the understanding to the hospital that we may have some additional expectations if we can establish that we are having safety problems. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

(d) Thereupon, Mr. Kennedy **moved** to adopt the ordinance amending Section 13-338, Article X, Section 13 of the City Code of Salisbury, relating to parking prohibited at all times on Highland Avenue. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-338, ARTICLE X, CHAPTR 13, OF THE CODE OF THE CITY OF SALISBURY, RELATING TO PARKING PHOBITED AT ALL TIMES.

(The above ordinance is recorded in full in Ordinance Book No. 20, Traffic, Page No. 135, and is known as Ordinance No. 2004-50.)

(e) Thereupon, Mr. Lewis **moved** to adopt an ordinance amending Section 13-343, Article X, Chapter 13 of the code of the City of Salisbury relating to residential parking only. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-343, ARTICLE X, CHAPTER 13, OF THE CODE OF THE CITY OF SALISBURY, RELATING TO RESIDENTIAL PARKING ONLY.

(The above ordinance is recorded in full in Ordinance Book No. 20, Traffic, at Page No. 136, and is known as Ordinance No. 2004-51.)

Mayor Kluttz thanked the hospital for all they do for the community and added that she hopes they understand that Council is very concerned about the situation and safety. Mr. Burgin asked Mayor Kluttz for a report from staff on how the detour is working. Staff will report back as soon as the detour is implemented.

STREET CLOSING – OLD WEST INNES STREET RAILROAD CROSSING

(a) Ms. Wendy Brindle, Traffic Engineer, indicated that on June 15, 2004 Council adopted a Resolution of Intent to close the at-grade railroad crossing on Old West Innes Street. She stated that the initial request was received from the North Carolina Department of Transportation (NCDOT) and Norfolk Southern Railroad. Ms. Brindle reviewed the status of the train tracks on Old West Innes Street noting that it is a double track that carries sixteen (16) freight trains per day. Old West Innes Street carries approximately one thousand six hundred (1,600) vehicles per day. She commented that staff has evaluated the impact of closing the crossing and determined that approximately sixty percent (60%) of the vehicles cross the tracks to get to Innes Street. About fifteen percent (15%) of the vehicles had a destination within the neighborhood and about twenty-five percent (25%) rerouted themselves because of a train. Mr. Brindle stated that during the evaluation it was noted that although the gate arms closed for a train, eleven (11) cars violated the closed gate arms. Ms. Brindle stated that Council had asked staff to evaluate the impact of closing the crossing on the Institute and Innes Streets intersection. She noted that over the past three (3) years there have been four (4) reported accidents at this intersection. Based on staff's projected volumes the crossing closure will have an immeasurable impact on the Institute and Innes Streets intersection. She added that driver complacency at this crossing has become dangerous based on safety issues, staff recommends the crossing be closed. Ms. Brindle noted that the detour for drivers will be approximately four tenths (.4) of a mile. She added that it appears to staff that closing the street will not be contrary to public interest or deprive anyone of a reasonable means of ingress or egress to their property.

Mr. Mike Shumsky, NCDOT Rail Division, informed Council that he is a project engineer dealing with statewide crossing closures. He stated that before NCDOT makes a recommendation for a crossing closing they evaluate six (6) closing criteria. He pointed out that the primary reason for a crossing closure is safety. The other criteria include: existing crossing protection, accident history, train and vehicular traffic, emergency routes, proximity to other crossings, and available alternative access. He stated that as far as the Old West Innes Street crossing NCDOT has existing crossing protection in place and there has been one recorded train and vehicle accident which occurred in 1975. He commented that the number of trains using the line is considered moderate given the location and the vehicular traffic count for the crossing is considered low volume. Mr. Shumsky noted that in discussion with fire and police this is not a primary response route. He stated that there are three (3) school buses that use this route but he will write a letter to the school system asking them to reconsider their bus routes. Mr. Shumsky told Council that there is a grade separated crossing located one (1) block from the Old West Innes Street crossing. He reviewed the incentive offered from Norfolk Southern of \$35,000 with a match from NCDOT of \$7,500 and pointed out that the federal match must be used for highway transportation safety. He reviewed the process for instituting the closing and how it would look after completion.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider closing the Old West Innes Street railroad

crossing.

Mr. John Duke, representing Rowan Decorating, told Council that there are eight (8) to ten (10) businesses in the area that will be impacted by the lack of traffic. He stated that the railroad is of historical significance and he sees no reason to close it. He stated that there have been few to no accidents at the crossing and added that the arms do not work well, staying down when trains are not present. Mr. Duke told Council that the trains do not average twenty-five miles per hour (25mph) but are much slower. He commented that the reason people go around the crossing arms is that most are locals and know the situation of the arms being down with no train on the tracks. Mr. Duke stated that occasionally the trains block Brenner Avenue and traffic detours to Institute Street or across the tracks at Old West Innes Street. He told Council that the intersection of Institute Street and Old West Innes Streets is very dangerous and closing the crossing will create a safety problem not cure one. He added that he feels closing the crossing will devalue the businesses in the area and all are opposed to the closing.

Mr. Glenn Yost, Sign Designs, stated he agrees with what Mr. Duke said. He said that one factor that affects the value of a business property is accessibility and by closing the rail crossing their accessibility will be cut in half. He added that Salisbury is built on its small businesses and asked Council to consider leaving the crossing open.

Mr. Joe Simms, 1015 West Innes Street, stated that this crossing has worked well and it seems the only advantage of the closing will be for the railroad company. He stated that the City should not take money from the railroad to do something that will hurt businesses. Mr. Simms said that it is important to have as much traffic through the area as possible, no matter the route.

Mayor Kluttz stated that she had received comments from two (2) citizens who could not be in attendance. Ms. Nancy Brandt, an employee of the Department of Social Services (DSS) indicated that she was very concerned about the increased traffic at Willow Street. A memo was also received from Ms. Sandra Wilkes, DSS Director, noting the safety concerns of DSS clients and employees. She indicated that closing the crossing will create a dead end street and could double the traffic at the front entrance to the DSS office.

There being no one else to speak **for** or **against** the proposal, Mayor Kluttz closed the public hearing.

Mayor Kluttz indicated that Council is familiar with rail crossing closings as Salisbury has closed eleven (11) in the past few years in preparation for high speed rail. She added that this is not one of those locations. Mayor Kluttz stated that she felt this is an important street to both businesses and DSS. She noted that she was surprised that there were one thousand six hundred (1,600) cars traveling on the street per day and she is concerned with putting these extra vehicles on West Innes Street.

Mayor Pro Tem Woodson stated that cars going through closed gate arms happens all over the City and as a small business owner he would not want to close the crossing. He stated that it appears the problem is that the arms do not work properly. He reiterated that he did not support closing the crossing.

Councilman Lewis noted that the intersection and crossing are not typical. He stated that he feels it is safer to cross the track rather than go through the intersection at Innes Street. He added that he did not think the crossing should be closed.

Councilman Burgin stated that the City has a history of cooperating with NCDOT and will continue to do so as they understand the purpose, but added he feels this is as safe as any crossing in the City. He noted that he did not want to put an additional burden on the businesses in the area and he did not feel this is the time to close the crossing.

(c) Thereupon, Mr. Burgin made a **motion** to extend to NCDOT Rail Division that the City's preference is not to close the rail crossing. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

Mayor Kluttz asked staff to investigate getting the arms fixed at the crossing and report back to Council.

SPECIAL USE PERMIT SUP-03-04 - MICHAEL LEE KING

SUP-03-04 – Michael Lee King, 1131 North Main Street

(a) Swearing In

Mayor Kluttz swore in the following persons to testify in this case:

Mr. David Phillips
Mr. Michael King
Mr. Nathan King, Sr.
Ms. Tamika Michelle King
Mr. Tyler Carolick
Ms. Ruby Beeker
Ms. Susan Hurt
Ms. Pat Sylvester
Ms. Janette Vargas
Mr. Mark Koontz
Mr. Dick Sylvester
Ms. Paula Boland

(b) Evidence Presented

Mayor Kluttz then opened the public hearing and explained that Council will receive evidence from staff.

Mr. David Phillips, Zoning Administrator, told Council that the request today is for a special use permit for 03-04 for property located at 1131 North Main Street. He reviewed a map showing the location of the property and stated that the property is currently zoned Convenience Service Business (B-CS) and is located within a local historic district. Mr. Phillips stated that with the Historic District Overlay the property does fall under regulation of the Historic Preservation Commission (HPC), which means that pretty much anything that happens to the outside of the building or to the premises does require approval from the Historic Preservation Commission. Mr. Phillips told Council that he could not find in his records exactly when the prior business was closed, but at that time, prior to the closing, it was being used as a convenience store, Service Distributing. Mr. Phillips stated that the convenience store which is being asked for with the permit today is allowed with issuance of a special use permit as outlined in Section 7.10 3(f) special use permits. He noted that the section (f) does state that convenience stores in the B-CS district are allowed provided that the following are met:

A special use permit shall be required for:

1. The establishment of any convenience store in the B-CS district.
2. The expansion or enlargement of any convenience store in the B-CS district.
3. The reconstruction through fire, wind damage, etc. that exceeds sixty percent (60%) of the fair market damage in the B-CS district.

Mr. Phillips stated that the request is required to go before the Planning Board and the Planning Board is required to make a recommendation to the City Council. He indicated that through their approval they can also put additional regulations for this use but not limited to: having greater setbacks, more landscaping, reduced signage, more parking, additional specifications for lighting, days and times of operations, and other matters like this. Mr. Phillips told Council that the applicant, Mr. Michael King, President of ATIC, Inc., a corporation owned by Damascus Church, applied for the special use permit in his office on April 22, 2004 for a convenience store to be located on the property known as 1131 North Main Street. A presentation from staff was given to the Planning Board at its May meeting and at that time a courtesy hearing was held for those for or against the special use permit. Mr. Phillips stated that after the courtesy hearing the Planning Board made a recommendation that it go to committee to be further studied. The committee met on three (3) occasions with one meeting being held on site to discuss the matter and to get an idea of exactly what was out there. On June 14, 2004 the Committee met to discuss the findings and make a final recommendation to the Planning Board. The following recommendations were made:

1. Products prohibited to be sold – No alcohol or tobacco shall be sold on the property.
2. Operating Hours – Operating hours for the store and gas pumps shall be between 7:00 a.m and 10:00 p.m.
3. No operating, exterior pay telephone on the premises.
4. Landscaping – The back of the property is zoned residential (SFC) and a planting yard along the top of the hill shall be applicable. The committee recommends a minimum six (6) foot tall opaque fence, with a minimum of a six (6) foot wide planting strip.
5. Ground signage regulations of the B-CS district must be complied with being no larger than 40 square feet and no taller than fifteen (15) feet.
6. Lighting will be directed away from residential uses.

Mr. Phillips noted that because of the recommendations from the Planning Board a second courtesy hearing was held to give the public and neighbors a chance to hear what was being discussed so they could make favorable or negative comments concerning what was being done.

Mr. Phillips stated that the Planning Board met on June 22, 2004 to discuss the findings of the committee and held a second courtesy hearing to receive both positive and negative comments. At that time additional requirements were placed on the application:

1. Signs requirements – in addition to the ground sign, only one wall sign be allowed and the canopy signs contain only the names of the business or gas distributor.
2. No pool table shall be allowed.
3. Landscaping – Mr. Phillips noted that there were comments received concerning the landscaping along North Main Street which would require an eight (8) foot planting strip required for any new business. Mr. Phillips noted that staff worked with the North Carolina Department of Transportation (NCDOT) and also had problems concerning rulings of the gas pumps. The gas pumps are required to have a minimum of twenty-five (25) foot setback. Staff met with NCDOT on the site and the NCDOT staff measured that the existing pump islands are twenty-eight feet seven inches (28'7") which exceeds their twenty-five (25) foot setback. He noted that with this staff will not require the eight (8) foot landscaping strip because it would take up the use of the passageway.

Mr. Phillips told Council that after the courtesy hearing the Planning Board voted 9-0 to approve the special use permit as described with the restrictions that had been applied by the committee and also what was discussed at their meeting as additions. He stated that the property was properly advertised as far as the public hearings for the Planning Board and City Council, and notification was given to the Historic Preservation Commission as required by the Ordinance.

Mr. Phillips reviewed additional photographs of the site with Council.

Councilman Lewis stated that one of the sentences states that the Salisbury City Council may authorize a special use permit and added that it leads him to believe that they may also deny a special use permit. Mr. Phillips stated that this is correct. Mr. Lewis asked what would be the reasons why City Council could deny a special use permit. Mr. Phillips stated that there is not anything in the Ordinance that strictly gives the conditions to deny,

but it is based on what Council feels the public wants. Mr. Lewis asked if it is fair to say that if Council feels this negatively impacted the neighborhood this would be a reason to deny. Mr. Rivers Lawther, City Attorney, stated that it could be stated as the facts that Council feels it would negatively impact the neighborhood.

Councilman Burgin stated that it is his understanding in the zoning case that it is the request for gasoline that moved it to a special use permit. As far as the convenience store there are some things that can be sold based on the present zoning of B-CS. Mr. Phillips stated that if it were not for the sale of gasoline staff would look at this as a neighborhood grocery store which is permitted by right provided it has no sale of alcohol.

Councilman Kennedy asked what the rationale of the Planning Board was to start the operating hours at 7:00 a.m. He noted that most people have to be at work at 7:00 a.m. and they would miss people going to work if Council decides to approve this. Mr. Phillips stated that at one time they did discuss the hour of 6:00 a.m. but for some reason they stuck at 7:00 a.m. and he has no idea why.

Those speaking in favor of the above proposal were:

Mr. Michael King, President of ATIC, Inc., owned by Damascus Church, stated that they have a permit to operate a grocery and a deli and have already opened the store. He stated that the idea of the gas came because the canopy was already there and from 1976 until 2001 Service Distributing operated a convenience store selling cigarettes, alcohol, gas and other things. He stated that there is a prohibition on the tobacco and alcohol but this was their idea because they did not want to sell tobacco or alcohol. Mr. King noted that when he came in for the permit he informed the Planning Board that they did not want to sell these things. He told Council that by opening it up they have created sixteen (16) jobs and in talking with the staff they are allowed to add one thousand four hundred (1,400) square feet to the building to make a total of two thousand (2,000) square feet and he added it is their intent to do this later. He stated that when this is done they will have a total of thirty (30) jobs and what they are trying to do is not only create jobs for the community but they also do a lot of youth programs. He said that some of the programs the City, County, Banks and Food Lion participate in but there is less money coming in from the foundations so this is a means of generating funds. Mr. King noted the back parking lot where the Planning Board had wanted them to put a planting strip. He noted that this was an easement and the property went all the way down the hill to the fence. He commented that what ever they do with the plantings the phone company will have to have access to the easement. He reviewed photographs of the property and noted that a six (6) foot planting could easily be put in one end of the property but the other side is a drop-off. Mr. King stated they have a concern with the area at the fence and noted one area where the hill is steep and added that you have to stand at the top of the hill and lean over in order to cut the grass. He said that their concern is that when the City works with them to put in the fence they want some leeway to help them to ensure that when the fence is put up it does not prevent them from cleaning the bank because they are responsible for making sure it is clean all the way down to the fence. Mr. King pointed out another problem stating that in the past there was a problem with dumping and referred to a photograph of the property. He stated that with the fence they would like some ideas from the City as to what to do about the possibility of someone dumping and how to get the trash out. He stated that when they initially got the property there was trash all over the lot, including beer bottles and wine bottles. He stated that up until they opened on Saturday they were running people off the property. He told Council that they were buying from across the street and coming on their side to drink. Mr. King stated that the Church congregation began policing the area and began to leave the lights on so that if they were on the lot at least the Police could see them, but they still had a problem with loitering. He stated that they met with a representative from the City and County and came up with an idea to create a Police presence. He added that the idea was that if they can get gas, to get Fuel Man and Fleet One so the Police and Sheriff's cars can come to get gas. He stated that they will also provide coffee and a space for the officers to do their reports and give them an opportunity to hang out at the store. He stated that since they opened three (3) or four (4) cars have come in and it does make a difference because they have not had to run anybody off since Saturday. He stated that before this when members of the Church would come up people would be on the property drinking and they were had to pick up the trash. He stated that they have accepted this challenge and are trying to keep the lot clean. Mr. King stated that they have agreed with everything and he does not know where the pool table issue came up but they do not want a pool table. He added that as far as time, the biggest employee on that side of town is the hospital and they wanted to be able to provide services for them when all three (3) shifts came through. Opening at 6:00 a.m. and closing at 11:30 p.m. would allow them to do this. He noted that most stores that sell gas open before 7:00 a.m. in order to get those that are going to work, adding that if someone is commuting at 7:00 a.m. they are already gone and if they close at 10:00 p.m. people who get off at 11:00 p.m. will be missed. Mr. King stated that they want to make money with the idea that by making money they can do things in the community and continue the things they have been doing such as generating businesses and jobs. He told Council that their Church actually sits in Salisbury and East Spencer and it is under construction. He stated that they actively go after the poor but the poor do not have money or transportation and this is an opportunity to not only continue asking foundations and businesses in Salisbury to help them, but an opportunity to put some of the same folks they are going after to work. He stated that they are asking to be able to sell gas and noted that if they do not sell gas they are still going to open and operate. Mr. King stated that they agreed to all of the things the Planning Board suggested so that they could sell gas but he said that they understand if they do not get gas then they do not have to do any of them. He added that this is not their attitude because all of the things the Planning Board came up with sounded good to them and they did try to work with the neighborhood. He noted that there was a lady with a petition at the first meeting and she said she represented the neighborhood. Mr. King stated that at the second meeting he approached them and asked them to sit down to discuss how to make this a win-win situation. He noted that a young man with the lady said that there was no neighborhood group. Mr. King said that as of today he has not heard from anyone in the neighborhood and added that they do want to work with the neighborhood but at the same time they want to operate the business. He said that they have made an opportunity to try to be good neighbors but some things are out of their control, such as people coming across the street. He said that the loitering has stopped since they have opened but he does not know what will happen in the future. Mr. King commented that the Police have come by and come into the store and this is positive.

Mr. Nathan King, Sr. stated that they had been to the City many times and it appeared to him that the people are opposed because of a racial issue. He stated that they have been called n____ (racial slur) and hoodlums. He added that he did not appreciate the names but did not say anything. Mr. King stated that if someone on the board was opening the service station there would not be anyone opposing it, but since it is them, as black people, everyone is opposed. He stated that he had a white gentleman come onto the scene and call them n____ (racial slur), and this let him know it was racial.

Ms. Tamika Michelle King, 502 East Fisher Street, stated she is for the gas station and convenience store because as Mr. Michael King stated, they are creating jobs and generating funds for the youth programs that they already operate. She told Council that she is over the youth programs so she works hands-on to help train the youth to be responsible in the community and responsible citizens. She noted that they have different programs to help

them to be able to go on interviews, how to dress, and how to apply for a job. They teach skills such as typing skills and customer service and with this gas station and convenience store they will still be able to train but it will be on-site, so when they get to a job in the future they will know how to conduct themselves and present themselves to the different employers. She stated that this is very needed in the community to help in the training process.

Those speaking in **opposition** to the proposal were:

Mr. Tyler Carolick, 925 North Main Street, stated that he wanted to make a note about Servco who was a fixture at the location for a long time. He stated that they tended to do pretty well while Highway 29 was a major thoroughfare but after I-85 came in it seemed to suffer and depend more and more on local traffic and people stopping by. He said that it still did not help them out and they had to ultimately move to Innes Street where there was more supply and demand. He stated that the market in the area has never supported it and he does not believe it ever would. He added that the historic district does not support it either and they would like to have something that is going to be good for the neighborhood and profitable. Mr. Carolick stated that this does not seem to be practical and it is unrealistic to have something in a neighborhood that is already pretty fragile and that is why he opposes bringing a gas station into this area.

Ms. Ruby Beeker, 217 West 11th Street, stated that the request of Michael King to open a convenience at Main and 11th Streets seems to be questionable economical judgment. She stated that the North Main Street neighborhood is not anticipating major growth, contrary to the expected growth of Rowan County. She noted that this immediate local area of the county is all built up and consists primarily of residential property. Ms. Beeker stated that the population locally is not subject to unusual or unexpected growth in numbers, therefore the main hope on Mr. King's part could only be to coax away the customers from the convenience store across the street. She added that the present mini-mart/convenience store originally pumped gas but abandoned that customer service several years ago. She asked if they would have done that if selling gas was so profitable and added that in that location it is very unlikely. Ms. Beeker told Council that crime, loitering and illicit activities abound now on the grounds of the mini-mart and could only increase if Mr. King has his way. She stated that neighbors were frightened recently when two men pulled their cars side by side outside the front door of the mini-mart at 4:00 p.m. and one opened fire with a gun on the other and drove away. She summarized that a second convenience store located at 11th Street and North Main Street is not a wise or practical economic idea and added that it would only increase the environment of crimes and associated illicit activity, all of which could be detrimental to the entire area. She stated that the neighborhood strongly opposes the intended intrusion of the second convenience store less than one hundred (100) yards from the existing mini-mart.

Ms. Susan Hurt, 205 East Miller Street, pointed out that in the zoning ordinance, even though a convenience store is available by right, the zoning of B-CS provides that it is to be a retailing of merchandise specifically for the adjacent neighborhood. She asked Council to take note that if they listen to the addresses of the people for and against, the people in the adjacent neighborhood are not for it. She said that they are not saying they want to buy these goods and merchandises under these circumstances. She commented on changing it from a convenience store to a gas station and referenced a safety alert from the National Institute of Occupational Health and Safety called Preventing Homicide in the Work Place. She stated she found national statistics in reporting on high risk workplaces and occupations and that gas stations are third after taxi cabs and liquor stores. She noted that if it is moved from a convenience store to a gas station it makes it a more dangerous work environment for the very people it is providing jobs for in the neighborhood. She added that it does attract more crime to make that transition and some of the risk factors reported by the Federal government are that having it open earlier in the morning and later at night are both increasing risk factors. She said it does make a difference to go from a convenience store to a gas station in terms of safety. Ms. Hurt told Council that it makes a difference to increase the work hours. She pointed out that one of the things that is required for zoning that already exists is that all of the items be kept entirely enclosed within the building and it might be a good idea for a staff person to go out there to the site to see if they think that requirement is actually being met.

Ms. Pat Sylvester stated that she represented the neighborhood association and told Council that they do not need another convenience store for the same reason that they do not need another place for people to hang out because it would mean double trouble for the neighborhood and that is a key factor in this case. She stated that the convenience store in this area attracts troublemakers and gun toting loiterers and she referenced the incident of the two men who pulled up across the street and fired immediately because they encountered each other on the same territory. She added that incidents like this erupt frequently and are terribly frightening to the neighbors, as well as to passerby. She stated that surely Council can understand why they do not want to double their trouble, adding it is bad enough as it is. Ms. Sylvester stated that the corner of 11th Street and North Main Street has a long history of violence and to substantiate the point she provided a Police Department print-out listing calls for officers assistance in and around the M&L Mart. She noted that the calls involved fights, vandalism, assault, robbery, intoxicated persons, drug suspects, larceny, armed subject and shots fired. She stated that they feel the consequences of permitting yet another convenience store at that particular corner would be disastrous for the neighborhood and asked Council to please not let that happen. She presented a copy of the call list to Council.

Mayor Klutz swore in Ms. Clara Jones who wished to testify.

Ms. Clara Jones, 1105 North Jackson Street, stated that she received a letter about the meeting because she lives in the neighborhood. She added that she is not a member of the neighborhood association and was not informed that there is one, but she wanted to say that at this point, having listened to the arguments pro and against, she can not say that she is swayed in favor of this request. She told Council that she thinks the suggestion on the table would be more persuasive if there had been a business plan presented and a needs assessment plan for this particular business in this particular neighborhood. She stated that she had not intended to speak but this is an observation that she has made.

Ms. Janette Vargas, 822 North Main Street, stated that she is concerned because several of them have gone to the property that the church occupies in East Spencer and it is not maintained at all. She stated that the grass is maybe three (3) to five (5) feet tall, there is garbage everywhere and the windows are boarded. She stated that they are concerned because their kids and grandchildren live in this neighborhood and they love the neighborhood and want it to be a place they can be proud of. She stated that she has been there eleven (11) years and several other families have been there working on their properties. She said that several of the properties are historic and are valuable to Salisbury. Ms. Vargas told Council that they are concerned because of what they have seen with the other properties that they are supposedly maintaining, and they are going to come in and try to maintain this one and if it is anything like the others it scares them.

Mr. Mark Koontz, 1022 North Main Street, asked Council to very carefully examine this business they want to put in and the proposed gas station. He stated that he knows they are within their rights to open a community grocery and he is also aware that they are doing this in the name of a church, however he added that he has been to the property that they call their church, and Mr. King says is under construction, but it has been like this for the five (5) years that he has known that it is there. He stated that he has been inside this place and it is not maintained at all and there is garbage dumped outside, broken construction debris, old buses with busted windows, and glass all over the place. He added that if this is the way that they take care of the place that they call their church what they are going to do with a place that they call their gas station that they just want to make money off of. Mr. Koontz stated that he does not think they are concerned with the residents in the neighborhood and since they have been on North Main Street the foot traffic and loitering has increased. He stated that he has had to call the Police several times because of fights and public drunkenness. He added that he knows that they do not plan to sell alcohol but they are providing a place for people to just hang out and he has observed these things already. He stated that the bus that is parked there appears to be the same pattern than they have on their other property. Mr. Koontz told Council that the times that they have been out there they have been working on it late into the night, well past midnight, with small children running around in the corner parking lot. He asked what kind of environment this is setting for the neighborhood. He noted that since the last gas station closed the crime in the area has gone down tremendously. Mr. Koontz stated that the people in the neighborhood have worked very hard to improve the neighborhood and they feel it has improved a great deal over the past three (3) to five (5) years, and they would like to continue to improve it. He referred to a comment made earlier about the history of the City and noted that the history of these houses and this neighborhood means a great deal to the people who own homes and live in this neighborhood. He said that he does not think it means anything to the people who are trying to start a business. He added that the people who actually live in the adjacent neighborhood are not going to patronize this place if it is maintained and run in the way that their pattern has shown already. Mr. Koontz asked Council to consider their request as homeowners and residents and the people who live and work in this neighborhood.

Mr. Dick Sylvester, 820 North Main Street, stated he is speaking against the proposal. He noted that he will present a list of recommendations that the Old North Salisbury Association would suggest be added to the list of Planning Board recommendations comprising the special use permit. He stated that granting Michael King approval to proceed with a proposed gas station/convenience store would devastate this fragile section of the Old North Salisbury neighborhood. He said that it would specifically damage the North Historic Main Street area. He asked Council to consider the hundreds of thousands of dollars that have already been spent over the last twenty-five (25) years by homeowners in the district, restoring their individual homes and added that all of this, plus time, personal energy and imagination would be cast aside in a very short time by the derelict activity under consideration. Mr. Sylvester asked Council to review the time, effort and tax dollars that the City has invested in an attempt to revitalize the Park Avenue Historic District. He stated that if approved by Council, permitting Mr. King's plan to become a reality, within five (5) to ten (10) years or less, the North Main Street Historic District would be left out, hung out to dry, and in desperate need of revitalizing. He added that the bottom line is whether the City can afford to take this kind of risk with our tax dollars. Mr. Sylvester stated that whatever the outcome after Council votes, and subsequent to this meeting, the Old North Salisbury Association requests that Council initiate a small area review study from Lafayette Street to 17th Street with a focus on rezoning this property under discussion today. He then presented the Association's recommendations to Council.

Mayor Klutz then swore in Mr. Nathan J. King who wished to speak.

Mr. Nathan J. King stated that he is for the program and he had been listening to the ones who are complaining about the supposed store. He stated they want to bring a new idea and something fresh. He commented that it is like they are afraid of what could happen and this is not the same thing that was there before. He noted that concerning the property the church already has, it is under construction and it has been for a while because as Attorney King said, funds are not always available and these funds have to be generated. He stated that the people in the area feel like they have no reason to support this because the church is of righteousness and of holiness. It is not worldly. So, the people that are like that would not support the church and they support their own church. He stated that you can not support your own church adequately without supporting the church at large because all of it belongs to God. Mr. King added that when you put your feelings into something and it is not going to help anything, even if you are at your own house, it will not work. He stated that the bus on the church property, the church people did not break the windows in the bus, but the neighborhood children that do not go to church, broke the windows. He stated that they need funds to replace the windows so the youth assembly and the youth programs that they have will be able to use the bus. He told Council that the ATIC program, the store and the selling of gas will all be for the up-building of God's kingdom. He stated that he hopes the Board will take into consideration that this is not just for him to make money, or just for one person to make money, but this program is to help our communities. Not just East Spencer and not just black people but anybody that wants to make better of themselves. He stated that you have to give people a chance or you will have the same thing you have in other countries and other cities.

Ms. Paula Boland, 925 North Main Street, stated that she is a concerned citizen who lives about a block and half from the site and she is also a member of the neighborhood association. She stated that what they are looking at is an organization that is new and was formed in 2004, and whenever there is a new organization, those who are in business and reasonable people look toward the history of what else that organization has done and what they are engaged in and how it is going to work. She stated that what is being considered today is a church organization that is proposing a gas station in a historic district. She stated that with no known other history of endeavors of this type of service project, or project of this nature, what you have to do in looking at the facts, is look at what is known that they have already done. She stated that with no other information, no business plan or anything else, what you have to look at is how they run their organization. Ms. Boland displayed photographs of the Damascus Church in East Spencer and pointed out windows that were boarded and structures on the site. She pointed out that there is a building structure that has boarded up windows and the structure is not complete, whether or not because of funds it still is not complete. She stated that there are at least five (5) buses parked and assorted unused vehicles scattered around the property and they are all in various states of disrepair. She stated that there is debris throughout and there is no signage for the church and it is very cluttered and visually unappealing. She noted the current site and stated that in the last several weeks they have had a concession stand almost continuously, not out of the building itself, but out of a little unit. She stated that they have had a flea market/yard sale running on the weekends where there were clothes and items you would see at a yard sale all over the property. Ms. Boland stated that there is a bus parked in the lot, and during the past weekend they did open, but there is still debris about and the property is not currently put together. She stated that she sees similarities between the ways they have run their business and what they are going to do next where they are moving. She added that there is no indication that the business activities or the behavior of this organization will be different in their community by looking at the facts. She stated that there is no known outline or business plan that tells of this organization's resources, timelines, ability to implement, adding that it costs money to put in a gas station. She questioned that if there is not money to build a church is there money to do this and can it be a viable business. She asked if it is truly in the spirit of a historic district. Ms. Boland stated that the current business practices that have gone on at this site do not seem to be in the best interest of their community safety and the historic district's integrity as it stands right now, and its future development. She stated that the best indicator of future

behavior is past behavior and asked Council to take note of this.

There being no one else to speak for or against the proposal, Mayor Klutz closed the public hearing.

Councilman Lewis stated that he heard a disturbing thing from Mr. King, Sr. and that from the Board's point of view this is not a racial decision. He stated that he was not on Council previously when someone else wanted a parcel of property next to Fulton Heights zoned B-CS, but it was a white developer and a mixed neighborhood and they opposed it. He added that it was a similar sort of response to someone wanting to put a business near their neighborhood. He stated that whenever the issues of racial tension arise it bothers him in his heart and from his point of view race is not going to enter into it. Mr. Lewis stated that when he heard about this request he was concerned about the crime issues and asked the Police Chief to do a little homework to present to Council today. He noted that one of the issues was the convenience store across the street and all of the crime that seems to be located in that intersection.

Police Chief Mark Wilhelm told Council that he asked the crime analyst to go back and compare figures for the last six (6) months and then the last year. The analyst took the calls for service for that immediate area and compared it to an area of similar make-up, choosing the area around Salisbury High School. He stated that for the previous six (6) months the calls for service for the area around Salisbury High School were one hundred seventy-one (171) and in the North Main Street area there were one hundred sixty-one (161) calls. For the past year the Salisbury High School area had three hundred fifty-six (356) calls compared to the area on North Main Street that had three hundred eighteen (318) calls. Chief Wilhelm stated that he could not compare the numbers City-wide but could do so by neighborhood and that is why he tried to pick one of similar size.

Mr. Lewis asked Chief Wilhelm if he would consider this a high call, high crime type area. Chief Wilhelm responded that he would consider it average.

Mr. Lewis stated that one issue discussed in opposition was the economic viability of what the church may be trying to accomplish. He stated that he does not think that it is appropriate for City Council to decide what it economically viable through its zoning ordinance. He added that this is a free market and their current zoning permits them to open a community grocery store or a convenience store. Mr. Lewis said that if it is not economically viable then it will not succeed and he did not think Council could deny a special use permit because they did not think it was economically viable.

Mr. Lewis commented that this is a primarily residential district and the B-CS zoning is for business convenience services for the neighborhood. He stated that if the zoning is supposed to be for the benefit of the neighborhood and the neighborhood says they do not want it, then this seems to be a reason to deny a permit. He asked if the merchandise being sold outside of the building in a flea market style is a permitted use in the B-CS District. Mr. Phillips stated that the City does not regulate yard sales and so therefore it is allowed. Mr. Lewis asked if the concession trailer is allowed in B-CS if it is actively used. Mr. Phillips responded that if it is actively used and is part of the church property, unless it is allowed with the special use permit, staff would look at it as an itinerate merchant from the business license standpoint. In that case they are allowed to have a set-up two (2) days per month. Mr. Lewis asked if that means they would have to be permitted to sell out of the trailer and then could only sell two (2) times a month. Mr. Phillips responded that with a business license this is correct, but it could also be made part of the special use permit.

Mr. Lewis stated that there has been a lot of information presented today and it is difficult to come to a conclusive decision. He noted that he agrees with the neighborhood suggestion that this is a fragile area and that it is very appropriate for the Planning Board to initiate a small area plan. He commented that no one was present from the school system to give their opinion and he would like to hear from the school system. He suggested sending this to a committee for further study or tabling it in order to ask the Planning Board to do a small area plan. He added that he is not in a position at this point where he could support the special use permit. Mr. Lewis explained that he wants to give every small business an opportunity to exist and be successful and if there is other information that would help him approve the special use permit he would like to hear it.

Councilman Burgin stated that the question before Council is what is best for the neighborhood given the two (2) options Council has. He noted that Mr. King has a piece of property that, by rights, he has the ability to put a store and he hopes Mr. King does a good job. He asked if it is better for the neighborhood for Council to have the conditional use where there could be conditions to improve the circumstance. By allowing the sale of gas Council has some ability to have extra expectations. He noted that the Planning Board has recommended conditions and for the most part the applicant has agreed. He added that he thinks there are a couple of additional conditions Council may want to request such as completion dates for work to occur and if they are going to put gas at the station that there be no above ground tanks. Mr. Burgin stated that as he asked himself what was best for the neighborhood he is not sure he knows the answer. He noted that statistically it is a higher risk for employees if it is a gas station and he would like to know more about the statistical information. He commented that the statistically higher risk for longer hours would explain to him the 7:00 a.m. to 10:00 p.m. hours recommended by the Planning Board. Mr. Burgin pointed out that information was given that crime was down since the last gas station closed and asked if indeed the crime has gone down with the absence of gas sales. He said that he would like to have additional information and suggested Council create a committee and wait two (2) weeks in order to find this information.

Mr. King pointed out that the Planning Board studied the request from April until the end of June and that the longer it is put off the longer it will take to complete the work. Mr. Burgin stated that an answer of no gas today would be permanent but giving Council two (2) weeks to look at the statistics might possibly give a chance at approval for the sale of gas. He added that he sees promise in allowing gas if the conditions improve the circumstances, but if it does not then the answer is only the business that is allowed by right.

Mayor Klutz stated that she felt Council needs time to be careful about this decision. She added that she felt they owed this to the neighborhood that has worked very hard and commented that the City is built on the strength of its neighborhoods. Mayor Klutz explained that because there are questions that Council needs to have answered before making the decision she agrees to waiting two (2) weeks to study.

Councilman Kennedy stated that the Planning Board, the petitioners, the neighborhood and staff have worked very hard on this issue. He noted that the Planning Board met several times and came back with conditions and held two public hearings to hear from the neighborhood. He pointed out that the Planning Board voted 9-0 for the recommendations and he would support what the Planning Board has done, although he does not mind going to a committee for further study. He added that at this point he would support the request because they are already open as a store.

Mayor Pro Tem Woodson agreed that two (2) weeks is fine. He stated that he drove by the church and the condition of the church and yard bothered him. He added that he did not want the North Main Street area to look this way and he knows the citizens who have invested in their homes do not. Mr. Woodson stated that in order for him to vote in favor of the gas there would have to be conditions that the property be kept clean. Mr. King told Council that East Spencer does not police the area and there is a problem with vandalism. He stated that during the past month someone vandalized the property and it has nothing to do with the permit that they are requesting. He added that Salisbury already has enforcement and it has nothing at all to do with this business. Mr. King pointed out that the problems come from the sale of alcohol and they do not sale alcohol.

Mr. Lewis asked those who are in favor of the special use permit to stand and then those who are against so that he could gain a head count of those present. He noted that his count shows nine (9) adults and two (2) children and one (1) conditional in favor of the permit and fourteen (14) opposed.

By consensus Council agreed to send this issue to a committee with Councilmen Burgin and Lewis serving on the committee.

Mayor Kluttz thanked everyone for their attendance and for their patience. She thanked Mr. King for what he does for the community and noted that many times when there are neighborhoods as organized as historic district neighborhoods there is a problem of compatibility.

SPECIAL USE PERMIT SUP-04-04 TONIA C. DAVIS

SUP-04-04 – Tonia C. Davis
719 East Liberty Street

(a) Swearing In

Mr. David Phillips
Ms. Tonia C. Davis

(b) Evidence Presented

Mr. David Phillips, Zoning Administrator, distributed information to Council concerning the request for a special use permit. He stated that the request is for a special use permit for a child daycare facility located at 719 East Liberty Street. Mr. Phillips reviewed slides showing the vicinity map of the property. He pointed out the structure which will be used as a daycare facility and noted it will be used for infant care. He told Council that the applicant is licensed for twenty-four (24) infants. The property was previously used as a single-family residence and is zoned R-6 which does allow a child daycare facility as permitted with a special use permit. He stated that they have to have neighborhood acceptance as part of the special use permit. The Planning Board has reviewed the request and there was no opposition. He informed Council that the Planning Board recommended this for approval by a vote of 9-0 and added that it does meet all zoning requirements.

Ms. Tonia C. Davis, applicant, told Council that she owns the daycare center at 727 East Liberty Street. She stated that currently they are licensed for fifty-two (52) children at the center and they want to expand because there has been a great demand for childcare in this area. She said that they have thirteen (13) full time employees at this center and will be hiring six (6) to seven (7) more because she is also trying to get property at 725 E. Liberty Street zoned for an after school building. She noted that this will add more jobs to the community and also enable more parents to work. Ms. Davis stated that the daycare center is open seven (7) days a week and benefits the surrounding fast food restaurants and other people that have to work seven (7) days a week.

Since no one else was present to speak **for** or **against** the above proposal, Mayor Kluttz closed the public hearing.

Councilman Lewis asked staff if the child care center is regulated by the State. Mr. Phillips responded that they are regulated by the State and they have to meet all of the State requirements, one of which is approval by the City.

Mayor Kluttz commented that it is wonderful when a business is compatible with a neighborhood. She stated that normally if neighbors do not say anything they are not opposed, and it does provide a wonderful service to the community and to people who work.

(c) Findings of Fact

Thereupon, Mr. Burgin made **motion** to approve the special use permit and stated the Findings of Fact as follows:

1. That the applicant, Tonia C. Davis, of 727 East Liberty Street, Salisbury, has applied for a Special Use Permit to establish a child day care facility to be located at 719 East Liberty Street.
2. That the property meets all zoning requirements.
3. That it meets the definitions of a child day care as stated in Section 4.02 Definitions that are listed Child day care facility, a daycare facility that may have six or more preschool aged children and as many above preschool age children as long as other requirements of the State are met.

4. That after the hearing from the Planning Board it was voted unanimously (9-0) to approve this particular zoning case.

Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

SPECIAL USE PERMIT SUP-05-04 TONIA C. DAVIS

SUP-05-04 – Tonia C. Davis
725 East Liberty Street

(a) Swearing In

David Phillips
Tonia C. Davis

(b) Evidence Presented

Mr. David Phillips, Zoning Administrator, informed Council that this is another special use permit for 725 East Liberty Street for Tonia C. Davis and the after school daycare that was previously mentioned. He noted that the property in question is next door to the one previously approved. Mr. Phillips indicated that at some point in time this property was a day care but since the ordinance has changed it has to go back through the special use process because it did not go through it initially and has ceased to be used as a day care since that time. He stated that the property is zoned R-6, two family residential, and it is a permitted use with the special use permit. He stated that it meets the neighborhood acceptance as being compatible and there was no opposition at the Planning Board. They voted unanimously 9-0 to approve.

Since no one was else was present to speak **for** or **against** the above proposal, Mayor Kluttz closed the public hearing.

(c) Findings of Fact

Thereupon, Mr. Kennedy made a **motion** to approve the special use permit and stated the Findings of Fact as follows:

1. That the applicant, Tonia C. Davis, of 727 East Liberty Street, has applied for a Special Use Permit to establish a child day care facility to be located at 725 East Liberty Street.
2. That the property meets all zoning requirements.
3. That the definition of child day care home as stated in Section 4.02 Definitions is as follows: Child day care facility - a daycare facility may have six or more preschool aged children and as many above preschool age children as long as all other requirements of the State are met.
4. After hearing no negative discussion the Planning Board voted unanimously (9-0) to approve SUP-05-04 to allow a child day care facility.

Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

GROUP DEVELOPMENT SITE PLAN G-01-00 – FIRST BANK

G-01-00 – First Bank
1503 Old Concord Road

(a) Mr. David Phillips, Zoning Administrator, informed Council that Group Development Site Plan G-01-00 for First Bank at 1503 Old Concord Road was one of three (3) group development site plans that included recommendations for sidewalks. Mr. Phillips reviewed photographs of the area in question and noted that the facility is a house that has been converted into a temporary facility for the bank. The bank now wishes to construct a permanent facility. He stated that the parking, setback, and landscaping requirements have been met. The Technical Review Committee (TRC) recommended a sidewalk be installed along Jake Alexander Boulevard. This recommendation was presented to the Planning Board who modified the recommendation to include not only sidewalks along Jake Alexander Boulevard but also along Old Concord Road. He informed Council that staff recommends approval of the site plan with the recommendation of sidewalks along Jake Alexander Boulevard and Old Concord Road.

(b) Mayor Kluttz opened the floor to receive public comments on the proposed group development site plan G-01-00, First Bank, 1503 Old Concord Road.

Mr. Rodney Queen, Polo Drive, spoke to Council concerning sidewalks. He stated that he feels like he made an error on the Planning Board with Manning Park. Mr. Queen stated that he is pro-sidewalks and has worked hard to accomplish the objective in the community. He told Council that when the sidewalk issue came up at the Planning Board meeting they had already approved two sidewalks that evening and he felt that in order to be consistent they should support the sidewalks. After the Planning Board meeting Mr. Queen stated that he went out to Jake Alexander Boulevard to take a look at the Manning Park site. He noted that the theory of the City is that if enough sections of sidewalk are built throughout the City then the City will support the sidewalks by fill-in. He said that there are sections throughout the City that have not been filled in over 30 years and the City needs an organized plan for sidewalks. Mr. Queen noted that with Manning Park it seems better to have sidewalks on the opposite side of Jake Alexander Boulevard because it is flat and would serve people walking to the mall. He told Council that he feels he made an error in voting to support the section of sidewalk on Manning Park and he does not feel it is fair when they did not have to install them on the upper half. He pointed out that at Towne Creek Commons sidewalks are not required because in the initial stages they were not required and it would not be fair to the new people coming in. He stated that he did not think there is a need for sections of sidewalks in an area that is highly unlikely to be supported by fill-in in the future.

Mr. Boyd Hough, 1505 Old Concord Road, told Council that he owns property adjacent to First Bank. He stated that he does not want the bank to be required to install a sidewalk along Old Concord Road. His concern is that if this unneeded sidewalk is required he might also have to install an unwanted and unneeded sidewalk one day and he would like to stop a bad precedent from being set. Mr. Hough noted that the property is three tenths (.3) of a mile from the City limits and there is not a sidewalk on either side of the street. The nearest sidewalk on Old Concord Road is one (1) mile in the other direction. He stated that having sidewalks in a high density residential neighborhood is a good thing, but this is not that kind of neighborhood. Mr. Huff commented that he feels it is wrong to require private property owners to install sidewalks in areas where it is highly unlikely anyone will ever walk on them. He stated that the requirement of sidewalk along Old Concord Road was added without any discussion or consideration as to the practicality or whether it was likely to be used. He commented that he feels Council should consider the location of the property and the likely amount of usage of the proposed sidewalk and whether it justifies expense. Mr. Hough pointed out that the Rowan Salisbury School System was not required to install a sidewalk along Jake Alexander Boulevard when the new addition to Isenberg Elementary School was approved because it did not make sense and the cost was not deemed to be a good use of taxpayer dollars. He stated that the City and State spent \$339,000 to install sidewalks along Brenner Avenue but to be fair to all property owners the City and State should pay for all sidewalks along major roads or streets where they deem a sidewalk is in the public's best interest. Mr. Hough commented that if the City wants a sidewalk along a street that is not part of a new residential subdivision then the City should pay for the installation, but if the City can not justify using taxpayer dollars for the sidewalks then they should not be built.

Mr. Brian Miller, 428 Maupin Avenue and representing First Bank, told Council he supports Vision 2020 and sidewalks and he personally is not opposed to sidewalks in this issue, but First Bank feels this is a waste and creates sidewalks which go no where and therefore they would like Council to consider this as they consider approval.

Mayor Kluttz asked Mr. Miller if he was opposed to sidewalks on both streets or just one. Mr. Miller replied that he does not personally have a problem with either one. He noted that there are no worn paths along the grass in the area and he feels worn paths are a good indication of whether a sidewalk is needed. Mr. Miller stated that this area is not a pedestrian corridor at this time and the bank does not want to install the sidewalks if not necessary.

Since no one else was present to speak **for** or **against** the proposal, Mayor Kluttz then closed the public comment session.

Mayor Kluttz noted that Rowan-Cabarrus Community College (RCCC) will have a second entrance on Old Concord Road. Mr. Dan Mikkelson told Council that the City requested sidewalks along the new entrance. Mayor Kluttz questioned if students would be walking through this area in the future.

Councilman Burgin stated that as there is more development this will become an issue. He commented that introducing sidewalks to a community by its very nature will mean the City will have sections of sidewalk not going anywhere. He noted that he could support the sidewalk proposed by staff on Jake Alexander Boulevard. Mr. Burgin stated that if the City does not begin to generate a network for sidewalks, citizens will continue to drive cars, to burn gas and to have air quality problems until the North Carolina Department of Transportation (NCDOT) takes the City's highway money away. He noted that if this happens there will not be any improvements to the roadway system for development and support of businesses. He added that Council has to try to find a balance and he is willing, in the absence of a plan, to say that if sidewalks are only installed at Jake Alexander Boulevard he would feel satisfied.

Councilman Lewis referred to the Vision 2020 plan relating to sidewalks. He noted that prior to people moving out of the City, sidewalks were always a basic infrastructure of the City. He added that as the City became a sprawling community the sidewalks were lost. Mr. Lewis stated that the citizens adopted the Vision 2020 plan and a great deal of pain and suffering was felt prior to the codification of sidewalks into the residential subdivision ordinance. He commented that this is now an issue for commercial development and he feels there needs to be an ordinance adopted that deals with this issue specifically. Mr. Lewis indicated that he agrees that a sidewalk plan should be adopted.

Mr. Lewis told Council he felt this site should have sidewalks because it is a retail facility oriented toward the thoroughfare. He commented that he can not understand why a bank would not want a sidewalk to bring people into their front door. He pointed out that across Jake Alexander Boulevard is commercial property for sale and if a major retail facility locates there sidewalks will definitely be needed. He added that this is a perfect example of where sidewalks are needed.

Mayor Pro Tem Woodson said that banking is retail and he could see sidewalks there. He noted he agrees with Councilman Burgin for sidewalks on one side.

Councilman Kennedy said this is definitely a mixed bag. He stated he has noticed that where sidewalks have been located people use them, and added that he could support sidewalks.

Mayor Kluttz said she feels strongly about sidewalks and as Councilman Kennedy said, if sidewalks are present people will walk on them, which is what Council is trying to encourage. She said she would like to see sidewalks on both streets but she is concerned about being fair since there is not a plan in place. Mayor Kluttz added that she would like to see a plan in place as soon as possible.

(c) Thereupon, Mr. Lewis made a **motion** to approve the Group Development Site Plan G-01-00 for First Bank to include the Planning Board recommendation that sidewalks be extended the entire perimeter of the property along Jake Alexander Boulevard and Old Concord Road. Mr. Kennedy seconded the motion. Councilman Burgin asked to amend the motion. He said it is hard to vote against the bank plan because Council is supportive of the bank being there. He offered an amendment to the motion that sidewalks be required only on Jake Alexander Boulevard. Councilman Kennedy stated that he misunderstood Mr. Lewis's motion. Councilman Lewis said he would accept the amendment. Mayor Pro Tem Woodson seconded accepting the amendment. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0). Thereupon the original **motion** by Mr. Lewis was amended to only have sidewalks on Jake Alexander Boulevard. Messrs. Burgin, Kennedy, Lewis, Woodson and Ms. Kluttz voted AYE. (5-0)

GROUP DEVELOPMENT SITE PLAN G-05-01 – MANNING PARK

G-05-01 – Manning Park phases 3, 4, and 5
1910 Jake Alexander Blvd. West

(a) Mr. David Phillips, Zoning Administrator, told Council that the first phase of Manning Park has been completed and phase 2 is under construction. He reviewed photographs of the area on Jake Alexander Boulevard and noted that the site plan calls for three (3) buildings for a total of thirty-two thousand (32,000) square feet. It will use an existing driveway but the developer is also seeking a permit from the North Carolina Department of Transportation (NCDOT) for a new driveway. He noted that the project meets the landscaping requirements. The plan is zoned LOI and R-8 and Mr. Phillips commented that the developer has stated the natural vegetations along the portion of the property zoned R-8 will not be disturbed. Mr. Phillips told Council that after the Technical Review Committee staff recommended some parking be eliminated and bonus landscaping be put in its place, along with the installation of sidewalk on Jake Alexander Boulevard. When the issue went to the Planning Board they felt there was no need to remove the parking and made the recommendation not to omit it. The Planning Board did recommend the installation of sidewalk by a vote of 5-4. Mr. Phillips told Council that prior to the meeting he received a telephone call from a neighboring property that is concerned about the water run-off from the development. He pointed out that during the rezoning of the property it was noted that as long as the property owner is not redirecting the water onto someone else's property, and it is still flowing through its natural course, there is nothing staff can do.

(b) Mayor Kluttz opened the floor to receive public comments on the proposed group development site plan G-05-01, Manning Park phases 3, 4, 5, 1910 Jake Alexander Blvd. West.

Those speaking in **favor** or **against** the above proposal were:

Mr. Jake Alexander, 8 Woodland Road, told Council that he and his partners Mr. John Henderlite and Mr. Clay Lindsay are developing phases 3, 4, and 5 of Manning Park. He stated that they agree a long term plan needs to be implemented in the City Code to deal with unusual situations such as theirs. He explained that when the property was rezoned five (5) years ago they made a conscious decision to separate Manning Park from the neighborhood. He stated that by design there is no easy access to Manning Park and the buildings are directed towards the interior to create a campus environment. Mr. Alexander told Council that they will spend between \$300,000-\$400,000 dollars on landscaping for this project. He stated that to require them to put in a sidewalk over an eight hundred (800) foot area is short sighted because there is no planning to go with it. He pointed out that beyond Spring Drive there is industrial property for two (2) miles and they do not feel there will ever be a need for sidewalk there, adding that if there is a need on Jake Alexander Boulevard, it is on the opposite side of the street. Mr. Alexander suggested Council ask the Planning Board and staff to undertake a review so that when property looks like it might require sidewalk, it be looked at as a whole rather than in a choppy basis. He asked Council not to require the sidewalk on this site. Mr. Alexander noted that in regards to water run-off, it is their intention to direct the water into the retention pond on the property.

Mr. John Henderlite, 3 North Road, stated that in submitting the phase 2 group development plan he was surprised to learn that the Technical Review Committee had recommended sidewalk for this phase. He stated that he is aware of the Vision 2020 Plan for sidewalks but added that they do not perceive their development to be accessible by foot traffic except within the interior of the campus. He added that the design of the park was not intended to be accommodating for pedestrian access to the park. Mr. Henderlite stated that phase 2 of the park is designed to pull the buildings toward the street with parking in the rear. He referred to Policy S-W1 of the Vision 2020 Plan, to connect residential areas to major pedestrian destinations, and reiterated that Manning Park is designed to accommodate vehicular traffic and to separate the park from the residential area behind it. He told Council that they can not find any criteria for having sidewalk in front of their park. Mr. Henderlite said that there is no worn path that leads to the intersection of Statesville Boulevard and Jake Alexander Boulevard and there seems to be no study or evidence that pedestrian traffic exists on this part of Jake Alexander Boulevard. Mr. Henderlite stated that they feel they will spend money to create a sidewalk that does not connect to any area.

There being no one else to speak **for** or **against** the proposal, Mayor Kluttz closed the public hearing.

Mayor Pro Tem Woodson stated that he looked at the area and did see new development on the other side of Jake Alexander without sidewalks and he felt the City was not consistent. Mr. Phillips noted that the new development was only five thousand (5,000) square feet and was not required to come through the Technical Review Committee. Mr. Woodson stated that he did not think the property in question was retail and was in a different situation adding it would seem to be a sidewalk to no where.

Councilman Kennedy stated that he loved consistency but he would have to vote against requiring a sidewalk and Council should strongly encourage the Planning Board to look at the sidewalk issue.

Mayor Kluttz stated that she felt this is a fairness issue and when there is no plan in place and the City has not been consistent she did not feel this was fair and because it faces the interior it was hard for her to support.

Councilman Lewis stated that he felt this is a development oriented toward a water amenity and they do not invite pedestrian traffic. He stated that he could not support the sidewalks and the developers have a compelling argument. Mr. Lewis saluted the developers for creating open space in their development.

Councilman Burgin commented that he felt requiring sidewalks across the second phase was too much. He stated that he would have loved to have seen a section of sidewalk from the corner of phase 1 of the entry into their development to support sidewalks going up to the corner of Jake Alexander and Statesville Boulevards. He pointed out that there will be a bank in that area that will have a section of sidewalk and as property is developed from the bank to Statesville Boulevard, Council will probably expect sidewalks. Mr. Burgin stated that he understands that it will be unfair, if not impractical to put the requirement on this section of Manning Park, but he hopes that in the future there is some consideration for the section of phase 1 to get them more connected to the corner.

(c) Thereupon, Mr. Kennedy made a **motion** to approve group development site plan G-05-01 Manning Park phases 3, 4, and 5, 1910 Jake Alexander Boulevard West without the sidewalks. Mr. Lewis seconded the motion. Messrs. Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. Mr. Burgin voted NAY. (4-1)

SALE OF PROPERTY – HIGHWAY 70 AND NC HIGHWAY 801 TO NCDOT

Mr. John Vest, Deputy Utilities Director, informed Council that this site is the location of the water booster pump station that serves Freightliner and the western part of the county. He noted that as part of the widening of Highway 70, the North Carolina Department of Transportation (NCDOT) has requested to purchase a right-of-way on both Highway 801 and Highway 70 off of this property. Mr. Vest stated that staff has negotiated the price above the appraised value and recommends the sale of the property to NCDOT subject to getting a release of rights by A.R.T.E.V.A., Inc. He noted that A.R.T.E.V.A., Inc. is the holding company for Invista (Kosa) who originally sold the property to the City and they retain some rights and will have to sign off on the sale.

Councilman Burgin asked if any portion of the sale price is at risk to go to A.R.T.E.V.A., Inc. Mr. Matt Bernhardt responded that staff's intention is to come back to Council at a later date for a budget amendment to apply the funds to the inner connection project, which will be a benefit to A.R.T.E.V.A., Inc.

Thereupon, Mr. Woodson made a **motion** to sell the property for \$21,650 to North Carolina Department of Transportation, Tax Map 827, Parcel 023 subject to getting a release from A.R.T.E.V.A., Inc. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

COMMENTS FROM THE CITY MANAGER

(a) Planning Board Recommendations

Council received the Planning Board recommendations and comments from their July 13, 2004 meeting.

MAYOR'S ANNOUNCEMENTS

(a) England Boy Scouts Luncheon

Mayor Kluttz announced that City Council will host a luncheon for the England Boy Scouts on July 29, 2004 at 12:00 p.m. in City Council Chambers.

(b) 846th Army Reserve Unit

Mayor Kluttz announced that the 846th Army Reserve Unit based in Salisbury is coming home after serving a year and half in Iraq. She noted that they are tentatively expected to ride through downtown Salisbury at 12:00 noon on Wednesday, July 21, 2004. She invited all council members to join her at the square at 11:45 a.m. to welcome home the troops.

CONDEMNATION OF PROPERTY

Mr. Matt Bernhardt, Assistant City Manager for Utilities, informed Council that the property known as tax map 330, parcel 119 is a condemnation from the Highway 70 water/sewer installation. He noted that this individual refuses to talk to staff under any circumstances. Staff has made an offer for this undeveloped piece of property and a certified letter was sent which acknowledged his receipt.

Thereupon, Mr. Burgin made a **motion** to begin condemnation proceedings for the piece of property in question, Tax Map 330, Parcel 119 for \$4,620. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Woodson, seconded by Mr. Burgin. All council members agreed unanimously to adjourn. The meeting was adjourned at 8:36 p.m.

Mayor

City Clerk