

Salisbury, North Carolina
October 5, 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; City Manager, David W. Treme; City Attorney, F. Rivers Lawther, Jr.; and City Clerk, Myra B. Heard.

ABSENT: None.

The meeting was called to order by Mayor Kluttz at 4:00 p.m. The invocation was given by Councilman Burgin.

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.

ADDITIONS/DELETIONS TO THE AGENDA

Mayor Kluttz noted the following changes to the Agenda:

Add item 18 – Request from Councilman Kennedy to discuss a Police matter.

Add a public comment session for item 8 – Council to receive a report from staff regarding traffic calming for Fulton Heights and Sunset Drive.

Add – a closed session to discuss an economic development matter.

PROCLAMATION

Mayor Kluttz proclaimed the following observance:

VETERANS OF FOREIGN WARS DAY

October 10, 2004

CONSENT AGENDA

(a) Minutes

Approve Minutes of the regular meeting of September 21, 2004.

(b) Final Subdivision Plat - S-06-03 - Country Club Hills, Section 7

Approve final subdivision plat S-06-03 for Country Club Hills, Section 7, subject to the receipt of a guarantee of improvements in accordance with Section 5.03.2 of the Subdivision Ordinance.

(c) Lord Salisbury Festival

Approve a request from Downtown Salisbury, Inc. to close the 100 block of East Liberty Street from 4:00 p.m. until 12:00 midnight on

Saturday, October 9, 2004 for the Lord Salisbury Festival.

(d) OctoberTour

Approve a request from the Historic Salisbury Foundation to close the 300 block of West Bank Street from South Jackson Street to South Fulton Street from 6:00 a.m. on Saturday, October 9, 2004 until 7:30 p.m. on Sunday, October 10, 2004 for the OctoberTour.

(e) Pool Hall Application - Charles Leon Valley

Receive an application from Charles Leon Valley for a permit to operate a pool hall, located at 900 Mooresville Highway, and set a public hearing for October 19, 2004.

(f) Special Use District Permit - Z-9S-04 - 602 Hawkinstown Road

Approve a correction to the approved Minutes of August 17, 2004 to add the proper ordinance title for Z-9S-04 - 602 Hawkinstown Road - Special Use District Permit.

AN ORDINANCE GRANTING A SPECIAL USE DISTRICT PERMIT IN ACCORDANCE WITH THE SPECIAL USE DISTRICT ALONG WITH ITS SPECIAL USES AND CONDITIONS AS DESCRIBED IN ORDINANCE NUMBER 2004-55.

(The above Ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page No. 152, and is known as Ordinance No. 2004-64.)

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

GROUP DEVELOPMENT SITE PLAN - G-15-04 - ROMEDICAL

G-15-04 - RoMedical, 1035 Lincolnton Road

(a) Mr. David Phillips, Zoning Administrator, reviewed the revised site plan for RoMedical Center located at 1035 Lincolnton Road. He reviewed photographs of the site and noted that it lies between Lincolnton Road and Mitchell Avenue. He stated that this is a twelve thousand (12,000) square foot, second story addition and will be contained within the existing footprint. Mr. Phillips stated that after receiving input from residents of Fulton Heights the Planning Board sent this issue to a committee for study. The committee met on two (2) occasions to discuss concerns for the driveways located on Mitchell Avenue, and after discussion recommended the site plan with modifications to the driveways. The modification is to make the upper drive on Mitchell Avenue an entrance and right exit only by providing a concrete curb median to direct traffic onto Mitchell Avenue. The driveway closest to Lincolnton Road will be a one-lane right exit only. Mr. Phillips informed Council that the Planning Board approved this recommendation. He stated that the developer is still seeking to have the original site plan approved, but has made the requested changes to coincide with the Planning Board's recommendation.

Councilman Lewis asked Mr. Phillips if the upper driveway will be a shared driveway between the new parcel, which was previously approved, and the development being considered today. Mr. Phillips affirmed that it will be a shared, two-lane drive.

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

Mr. Jay Dees, 612 Mitchell Avenue, noted that when the site plan for the fourteen thousand (14,000) square foot building was approved last year he expressed concerns about the impact of traffic on Mitchell Avenue. He stated that because traffic is being added to Mitchell Avenue he felt the ingress and egress issue should be reviewed. He commented that a traffic count was done on the existing twelve thousand (12,000) square foot structure and there were about forty-three (43) trips per day on Mitchell Avenue generated from this structure. Mr. Dees stated that with the additional twelve thousand (12,000) square feet and the fourteen thousand (14,000) square foot outparcel, this will equal approximately ninety-four (94) cars. He stated that even using a conservative number of sixty (60) cars per day on Mitchell Avenue, he felt it was reasonable to ask the developer to do what he can to reduce the impact on the street. Mr. Dees commented that the neighborhood has requested exit only, right turn only on Mitchell Avenue and added that development can occur from Lincolnton Road. He stated that Council should have all the information and be comfortable with the information before making a decision.

Mr. Andrew Pitner, 320 Mitchell Avenue, stated that he appreciates the services that this development provides to the neighborhood, but the traffic and safety to pedestrians is their main concern. He commented that he does not believe permanent access is needed along Mitchell Avenue and he feels the two access points on Lincolnton Road will be sufficient. He noted that there are nearby developments that have fewer points of ingress and egress. Mr. Pitner referred to Vision 2020 and noted that Lincolnton Road is the clear point of entrance and not Mitchell Avenue.

Dr. Robert Watts, 1035 Lincolnton Road, stated that he had participated in the Planning Board and committee meetings and he fully supports the Fulton Heights neighborhood and their wishes for traffic and speed to be lowered. He commented that people will travel down Lincolnton Road regardless of the development and if people want to go on Mitchell Avenue they will. Dr. Watts stated that many of the cars that come across the RoMedical property do not stop, but cut through to enter Mitchell Avenue. He told Council that his group supports the signage recommended by the Planning Board and noted that at the committee meeting there was no motion made about contouring the curbing, adding that this was added at the last minute. He questioned if this is a viable thing to do on the property. Dr. Watts stated that this group development is part of a promise they made to reface the building and make it aesthetically inviting for the Fulton Heights neighborhood.

Mr. Al Dunn, 628 Mitchell Avenue, agreed with Dr. Watts that people will drive onto Mitchell Avenue if they are determined to do so and this is even more reason to try to cut off some of the egress onto Mitchell Avenue. He stated that over the years the neighborhood has had concerns about noise and light that they will just have to live with and he does not think that it is too much to ask to cut the traffic. Mr. Dunn informed Council that Fulton Heights will soon celebrate its 100th anniversary and noted that it was initially advertised as Salisbury's new and desirable neighborhood. He stated that while the neighborhood is no longer new, it is desirable and asked Council to give the traffic concerns their consideration.

Ms. Dawn Isenburg, 721 Mitchell Avenue, stated that traffic is a problem in this area. She noted that since she moved to her home in 1976 there has been more business encroachment. She stated that she feels business should serve business and there should be no entrance on Mitchell Avenue and asked Council to let Lincolnton Avenue serve the RoMedical facility.

There being no one else to speak to Council concerning this matter, Mayor Klutz closed the public comment session.

Mayor Pro Tem Woodson stated that he did not see how the medical office will put much more traffic on the street. He commented that Council approved the first group development plan and he feels the second one sounds even better.

Councilman Burgin stated that Council does not want to overburden Mitchell Avenue with traffic but he questions if this development is doing that. He stated that he feels the development on Jake Alexander Boulevard is putting a lot of traffic onto Mitchell Avenue. Mr. Burgin commented that he feels closing the entrance on Mitchell Avenue will not solve the neighborhood's traffic problem. He asked Mr. Dees if he felt the additional ninety (90) cars he referenced will all go through Mitchell Avenue or only a portion of them. Mr. Dan Mikkelson, Director of Land Management and Development, explained that when the previous site plan came before Council staff went to RoMedical, at its existing size, and during their peak hour counted to see what percentage of their traffic travels on Mitchell Avenue. This number was then used to predict how many overall trips will be attributed to the expansion. He noted that as RoMedical exists now it produces about fifty (50) vehicles per day that travel on Mitchell Avenue. Since the expansions are close in size it is estimated that the two (2) additions will generate a combined one hundred (100) vehicles per day, which is approximately ten percent (10%) of the traffic currently using Mitchell Avenue.

Mr. Burgin stated that he felt the developer should be asked to install the right turn only signs with the barrier and allow the one entrance on Mitchell Avenue. He commented that he is comfortable with this proposal as recommended by the Planning Board. Mr. Burgin added that he hopes Council can solve Mitchell Avenue's traffic problem by making the street, not a preference, but only a connector.

Councilman Lewis stated that he feels this is an equity issue. He commented that because the YMCA and Eckerd's generate more trips down Mitchell Avenue that perhaps this development is being penalized for the extra trips that have been generated. He noted that every time there is a new development of retail or commercial there will be more people using Mitchell Avenue unless it is made less desirable. Mr. Lewis stated that the original recommendation from the Planning Board did not include the concrete barrier but required signage. He added that if people want to turn left onto Mitchell Avenue they will turn left and he does not think it is proper to require the right turns. Mr. Lewis pointed out that if people from Fulton Heights want to use RoMedical they will have to circle around the block to get back home and he does not feel this meets Council's goal of connectivity. He added that this is also an issue of micro-managing site plans and expressed his concerns about developing predictability in the development of the community.

Mayor Klutz commented on the issue of fairness and noted that there are differences for this development because it already exists and is located on Mitchell Avenue. She stated that she has a problem with putting one hundred (100) additional cars on Mitchell Avenue. Mayor Klutz noted that she did not think it is unfair to have right turns only, and she did not think the neighbors will mind going around the block to get back to their neighborhood. She stated that she agrees with Councilman Burgin to accept the plan as modified by the Planning Board.

Councilman Kennedy stated that he supports the Planning Board's recommendation of right turn only.

Mr. Woodson commented that as the City grows finding a way to slow traffic will be a problem. He added that he supports the development with the right turn only.

Mr. Burgin commented that some of the problems Council faces now are because the whole City has not been connected. He added that Mitchell Avenue is taking an extra load of the traffic and Council will work to make connectivity an issue across the board.

(c) Thereupon, Mr. Burgin made a **motion** to approve the group development site plan as recommended by the Planning Board, which will include an out only near Lincolnton Road and a right turn only at the second exit and an in at the second exit. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

Mayor Klutz asked those present who supported the right turn only to raise their hands as well as those who are opposed. Councilman Lewis noted that the crowd supported the right turn only plan.

TRAFFIC CALMING - FULTON HEIGHTS AND SUNSET DRIVE

Sunset Drive

Ms. Wendy Brindle, Traffic Engineer, informed Council that in 2000 the residents of Sunset Drive requested the speed limit be posted at 25 mph. She noted that after staff investigation they found that the 85th Percentile Speed on the street was 48 mph and simply posting a new speed limit sign would not slow the traffic. Ms. Brindle explained that 85th Percentile Speed means that eighty-five percent (85%) of the people were doing that speed or below and fifteen percent (15%) were traveling higher than that speed. She stated that at that time staff brought Council short-term recommendations which included increased police enforcement and the addition of fluorescent yellow signs to the existing speed plaques to draw

attention to the speed limit. Ms. Brindle noted that the Police Department did not have the manpower to monitor full-time, so staff recommended a traffic calming study to identify long-term solutions. She explained that the City contracted with Kublins Transportation Group to perform the study and held two (2) neighborhood meetings in 2001. The final recommendations included a traffic circle at Par Drive and the installation of three (3) modified chicanes, which allow for one-way travel. Ms. Brindle noted that because of tight funding the traffic circle was eliminated but the funding was partially restored in FY2003-04 for the chicanes. She stated that testing began in January 2002 with the completion of design in June 2002. Sunset Drive was resurfaced in May 2004 and installation of the chicanes began in August 2004.

Ms. Brindle informed Council that after the installation of the chicanes the 85th Percentile Speed has reduced as much as 9 mph and the highest recorded speed has reduced as much as 20 mph. She noted that there has also been a decrease in the volume of vehicles on Sunset Drive. The chicanes have produced a decrease of approximately eight percent (8%) in the northern end of Sunset Drive and approximately seventeen percent (17%) in the southern end of the street.

Ms. Brindle stated that staff's initial findings are that the chicanes are effective and staff recommends continuing to monitor Sunset Drive and report back to Council in six (6) months.

Fulton Heights

Ms. Brindle explained to Council that Fulton Heights is a historic neighborhood with a traditional grid system street pattern. She noted that Mitchell and Maupin Avenues both have a three thousand (3,000) foot straight section of roadway and pointed out that they have curb and gutter and cross streets. Ms. Brindle stated that because of this chicanes will probably not be an appropriate treatment for traffic calming. She stated that a full study of the street will better identify the traffic concerns and how to address them. She pointed out that Mitchell and Maupin Avenues are currently at the top of the City's traffic calming priority list.

Ms. Brindle stated that residents have had concerns with speed and cut-through traffic. She explained that staff used the Institute of Traffic Engineers (ITE) trip generation manual to estimate the traffic that is currently on Mitchell Avenue that is generated by the homes. Staff estimates between seven (700) and eight hundred (800) vehicles per day come from the homes that front Mitchell Avenue. On Maupin Avenue eight hundred (800) vehicles are estimated to come from homes along the street. She noted that it appears to be less cut-through traffic than neighbors perceive, but a full study will determine if the problem exists. Ms. Brindle stated that staff has baseline data for Mitchell and Maupin Avenues as far as speed and volume counts, and are in the process of updating the data. She stated that the 85th Percentile Speed for both streets is approximately 40 mph with the top recorded speeds as high as 55 mph and noted this is not appropriate for a neighborhood street.

Ms. Brindle reviewed the use of stop signs in Fulton Heights. She stated that they have to look at the requests for four-way stops using engineering principles. One tool staff uses is the Manual on Uniform Traffic Control Devices (MUTCD), which is a national standard that directs traffic control, etc. She noted that the MUTCD establishes criteria which warrant the use of all-way stops. The criteria include the use as an interim measure in areas where traffic signals are warranted but there will be a delay in the installation of the signals. All-way stops are also warranted to address documented accident problems that would be susceptible to correction by an all-way stop, and when the minimum traffic volumes and pedestrian volumes exist. She stated that based on engineering principles, staff can not recommend four-way stops as a method of traffic calming. She pointed out that numerous studies have shown that four-way stops, when unwarranted, lead to violations of the stops, increased emissions from the delay, increased fuel consumption, and increased noise.

In summary, Ms. Brindle stated that staff feels a full traffic study is warranted and estimates its cost at approximately \$10,000. She added that they feel there are many alternatives available to address the problems.

Mayor Klutz opened the floor to receive public comment.

Mr. Al Dunn, 628 Mitchell Avenue, thanked Council for trying to be proactive with the traffic problems. He stated that all the neighborhood asks is for people to slow down and pay attention, and noted that there were many children in the neighborhood. He commented that he hopes Council will make decisions based on what will help the neighborhood and not on the fact that someone may eventually break the law.

Mr. Brian Miller, 428 Maupin Avenue, stated that there is a desire to slow speeds on the streets in Fulton Heights. He noted that the streets of Fulton Heights serve as connecting streets without any form of calming devices between South Fulton and Jake Alexander Boulevard. He added that with these current conditions it is easier to cut through their neighborhood than to wait at stoplights on Lincolnton Road or NC150. Mr. Miller stated that the primary concern is not the volume of traffic, but the speed of the travel. He commented that because Fulton Heights is a historic neighborhood many of the traffic calming devices available to other neighborhoods are not available to them because he feels they would detract from the character of the neighborhood. He suggested considering the use of cross-walks or stop signs. Mr. Miller said that if the stop signs are installed he believes they will encourage traffic to avoid the neighborhood, which will reduce the traffic volume. He stated that if the stop signs are installed but do not work, they can always be used elsewhere in the City and this would save \$10,000 in the process.

Ms. Maggie Blackwell, 422 Mitchell Avenue, stated that she serves as president of the Fulton Heights Neighborhood Association. She asked the neighborhood representatives to stand to show how many feel strongly about this issue. Ms. Blackwell stated that for many years Fulton Heights was an aging community and many of the elderly residents still exist in the neighborhood. She added that in the last ten (10) years many younger families have moved to the area. She stated that they now have a very rare mix of elderly and a high number of children and many neighborhoods in the City do not have this mix of population. Ms. Blackwell indicated that these are two very high risk populations for high traffic or high speed. She stated that the neighborhood has a traffic calming committee that has worked very hard to research calming options and they are aware of the concerns of the engineers. She added that the neighborhood is who would suffer the noise, pollution, and aggravation and they will let Council know if this becomes a problem. Ms. Blackwell asked Council to allow the neighborhood to have temporary stop signs as an intermediate measure.

Ms. Dawn Isenburg, 721 Mitchell Avenue, noted that in the 1980's the Fulton Heights Neighborhood Association tried to have Mitchell Avenue turned into a cul-de-sac but it was turned down. She stated that a traffic study was performed in the late 1980s to early 1990s which indicated the average speed on Mitchell Avenue was 42 mph. She noted the speed limit on Mitchell and Maupin Avenues is 25 mph now and she feels all of Fulton Heights should have a 25 mph. She asked why there are double yellow lines at the end of Mitchell Avenue and wondered if they encourage motorists to consider Mitchell Avenue as a thoroughfare rather than a neighborhood street. She asked if other neighborhoods had double yellow lines on their streets.

Ms. Shakesha Gray, 425 Elm Street, stated that Fulton Heights includes Wiley Avenue and Elm Street and not just Mitchell and Maupin Avenues. She told Council that she is representing several neighbors on Elm Street that could not attend the meeting. She stated that Elm Street is used as a cut-through from Lincolnton Road. She asked Council to also remember Elm Street when addressing the traffic problem.

Mr. Rodney Queen, 101 Polo Drive, told Council that this problem is not just in the Fulton Heights area, but all over the City, adding he feels a lot of the traffic comes from within the neighborhoods themselves. He stated that he appreciates that Council is recognizing safety issues for the citizens. He commented that he feels if some of the existing City committees can be resolved it would free staff to study this issue, adding that if the problem can be solved in one area it can be more easily solved in the other areas.

Mr. Andrew Pitner, 320 Mitchell Avenue, stated that Council just voted to increase the volume of traffic on Mitchell Avenue and added that the whole neighborhood needs to be concerned. He stated that he knows there is not one single solution to the problems but will take a variety of measures, and asked Council to consider more than one measure.

Ms. Diane Young, 117 Maupin Avenue, stated that she is a member of the Planning Board and they recently received a request for a one-lane bridge in a new development. She noted that staff recognizes the need for traffic calming devices and they are being incorporated into new developments from the beginning, adding that she is confused as to why \$10,000 has to be spent to study the need for traffic calming devices in an existing neighborhood. She stated that the neighborhood is a National Register Historic District and encouraged the use of stop signs. She thanked Council for putting this issue on the Agenda.

Ms. Margaret Young, 709 Maupin Avenue, stated that one thing that should be considered is trades-people who use the streets in Fulton Heights. She commented that there needed to be a way to let these people know they are violating the neighborhood because they are in a hurry, adding that they needed to respect the speed limits.

Ms. Christy Mitchell, 619 Maupin Avenue, commented that the businesses are not the only problem but also the schools buses and police officers. She stated she would appreciate it if they would obey the speed limit as well.

Mr. Robert Whitlock, 708 Maupin Avenue, stated that he is a blind person in a City that he does not really know. He explained that he has been fanned by cars and trucks that have barely missed him. He asked Council to remember that there are children, older people, and handicapped people in the neighborhood and he would appreciate anything Council can do to slow down traffic.

Mr. Owen Miller, 430 Maupin Avenue, stated that some of the streets are narrow and when you open a car door it takes about one-third (1/3) of the space available for cars to drive past.

Mr. Lewis Faucette, 203 Mitchell Avenue, stated that Fulton Heights is a front porch neighborhood. He asked about the possibility of a speed limit lower than the current 25 mph, in an effort to get driver's attention to slow down.

Mr. John Burke, 328 Mitchell Avenue, asked if it would be possible to put one of the speed trailers on the streets to see if it slows down traffic. He added that he thinks this might serve to discourage people from speeding.

Mr. Ted Fuller, 303 Heilig Avenue, stated that in England they use electronic devices to photograph the back of cars and send a speeding ticket through the mail. He stated he feels having to pay money will get the speeder's attention. He expressed concerns that stop signs on Maupin or Mitchell Avenues will drive the cars to the other streets. Mr. Fuller stated that he feels the electronic devices will pay for themselves in a very short period of time.

There being no one else to address Council, Mayor Kluttz closed the public comment session.

Mayor Kluttz commented that one of the most wonderful things about Salisbury is the neighborhoods, particularly the neighborhoods that are passionate about where they live. She added that she admires people who live in the older neighborhoods and noted that with these older neighborhoods come busier streets and the need for connectivity. Mayor Kluttz noted that Council has received many wonderful suggestions and suggested having a Council committee to find a quicker solution before beginning a study.

Mayor Pro Tem Woodson stated that this issue came up in his neighborhood several years ago and he feels he is opposed to a \$10,000 study. He noted that he attended many meetings and it all came down to stop signs or speed bumps. He also suggested a Council committee to review stop signs and asked about finding information on the speed cameras.

Councilman Kennedy commented that he supports the Fulton Heights neighborhood and noted that the problems they are having are happening throughout the City. He stated that he supports the study because the results can be used for the whole City adding it would not be money spent for one area, but for all streets in the City. He added that in the meantime he also supports temporary stop signs to deter the volume and speed of traffic in the area.

Councilman Burgin asked staff if the MUTCD addresses the reduction of speed and reducing the endangerment to pedestrians. Mr. Dan Mikkelsen, Director of Land Management and Development, responded that the MUTCD does not, but the Institute of Transportation Engineers (ITE)

is developing a manual of this nature. He noted that he knows, without additional study, that there is a speed problem in this neighborhood. He asked if Council has full flexibility in setting the speed limit. Mr. Mikkelson stated that it is his understanding that City Council can establish any speed limit it wants, but the issue is its enforceability in a court of law. Mr. Burgin asked if the electronic devices require special legislation. Mr. Mikkelson responded that the City of Charlotte just began using these devices for speed enforcement and staff will find out the process they went through.

Mr. Burgin stated that he is comfortable with a Council Committee to review the options and return at the next Council meeting with a recommendation for a temporary solution. He added that even at the appearance of being wrong he knows the neighbors expect an attempt for a solution. Mr. Burgin stated that there is validity to having a study done, but given the financial circumstances, Council will need to weigh this issue over time and it is not an issue Council has time on.

Councilman Lewis stated this is becoming an ever more burdening challenge and Council has to find ways to become creative. He commented that he is not convinced that Council is prepared to pay someone to come in and do a formal traffic study, adding that he feels that four-way stops will be what is used. He agreed with a Council Committee to meet with the neighborhood traffic committee to determine the location of the four-way stops and the size and number of speed limit signs. He added that he is not sure that the Committee will be prepared to make a recommendation to Council in two (2) weeks. He suggested having the Committee begin work to determine feasible recommendations and agree to gather again in six (6) months to see if the recommendations are working. Mr. Lewis added that he would also like to see information on the electronic monitoring devices.

Mr. Kennedy stated that he supports this going to a Council Committee but he feels the neighborhood has already studied this a great deal. He added that he would like to go ahead and install the four-way stops and still have the Council Committee study the issue to see if there are additional measures that can be taken.

Mr. Burgin commented that his only question is where to put the four-way stop signs. He stated he feels the Committee will not have to look hard at a temporary solution but just determine where to put it. Mr. Lewis agreed but expressed concern about making a recommendation in two (2) weeks.

By consensus of the Council, Mayor Klutz appointed Mayor Pro Tem Woodson and Councilman Lewis to serve on the Council Committee to return to Council in two (2) weeks, if ready, to make a recommendation.

Mr. Lewis asked staff if monitoring is presently being done concerning trips per day and speed information in this area. Ms. Brindle responded that the most recent counts are on Mitchell Avenue from 2003, but staff has scheduled to take additional counts. Mr. Lewis also asked about the purpose of the double yellow lines on Mitchell Avenue. Mr. David Treme, City Manager, stated that the lines are most likely in place to establish a center line for traffic because the intersection is wide. Ms. Brindle informed Council that these double yellow lines are also in place in other neighborhoods where the streets connect with major road ways.

POOL HALL PERMIT - JAYSON D. BARBER - 315 EAST COUNCIL STREET

(a) Lt. Hodge Coffield, Special Operations Commander, informed Council that an application for a pool hall permit has been filed by Mr. Jayson D. Barber for a business located at 315 East Council Street. He stated that he has performed a limited background check for Mr. Barber, and to the best of his knowledge Mr. Barber does not meet the criteria for ineligibility as listed in Section 4-53 of the City Code. Lt. Coffield noted that an application must be submitted if an establishment wishes to have two (2) or more pool tables and Mr. Barber is requesting two (2) at his business. He stated that the pool tables can not be operated between 2:00 a.m. and 7:00 a.m. or while the business is closed, and no persons under the age of eighteen (18) is allowed in the business. Lt. Coffield reviewed the calls for service in the location of the business for the past two (2) years and noted that most calls were minor in nature and nothing was out of the ordinary.

(b) Mayor Klutz convened a public hearing, after due notice and advertisement thereof, to consider issuing a permit to operate a pool hall at 315 East Council Street.

Mr. Ron Bowers, Attorney, informed Council that he is speaking for Mr. Barber and that this is an existing business and the only issue before Council is the use of a second pool table. He noted that one pool table is allowed without the permit but Mr. Barber would like to have two (2). Mr. Bowers stated that this is a nice nightclub and has approximately four hundred (400) members. He noted that it is located in a commercial area adding that the majority of the noise generated by the club is by the bands that play inside the fully enclosed building. Mr. Bowers stated that he understands that there is a residential area across the street from the business, but he feels if they moved into this location they knew that they were not moving into a rural area. He stated that Mr. Barber has done a good job of renovating this building and allowing the second pool table will not increase the number or the nature of his customers. He added that this type of business should be encouraged in downtown Salisbury.

Ms. Elizabeth Peeler Bauk, 964 Confederate Avenue, informed Council that her family company is Piedmont Cheerwine Bottling and her family donated the property at 322 East Council Street to the City of Salisbury. The property was subsequently purchased by Mr. Ed Harris who developed the building into condominiums. She stated that she did not feel it is socially responsible to operate a night club near a residential property or homeless shelter. Ms. Bauk read a letter from Mr. Harris expressing his concerns over the noise from the nightclub across the street from the condominium development. He stated that he welcomes Mr. Barber's investment in the neighborhood and encouraged him to exercise proper urban etiquette by investing in security to police the parking lot. He added that this will control the noise, ensure the safety of club patrons and encourage a wider range of clientele. He requested Council to make the approval of the pool hall permit contingent upon Mr. Barber providing a uniformed security guard for his parking lot when the club is operating.

Mr. Mike Lippard, 322 East Council Street, stated that he owns a unit in the Cheerwine Building and he feels the noise problem in the area is very important. He commented that as more people move downtown to live this problem will be brought back to Council. He stated that most of the noise from the business is not from within the nightclub but from people traveling to and from the parking lot. Mr. Lippard stated that when the police are

called the people are gone and it is not an enforceable issue. He suggested an addendum to the noise ordinance to require businesses who stay open late to hire someone to keep patrons under control and keep the noise down. He added that he thinks this will make downtown more livable in the future.

Dr. Janice Fuller, 322 East Council Street, stated that she owns a condominium in the Cheerwine Building and invested everything she has into the property. She stated that it is because of the renovations to the Cheerwine Building that a bar would want to open in the area. Dr. Fuller showed Council pictures of the Cheerwine Building before and after renovations. She told Council that she has been awakened fourteen (14) times after midnight and had called the Police five (5) times. She stated that she is in favor of mixed use but there has to be mutual respect and advantage and she feels that, so far, only Mr. Barber has gotten the advantage. Dr. Fuller stated that the neighbors have had no success in having Mr. Barber hiring a security guard or doing something to adequately address this problem.

Ms. Diane Dillon, Historic Salisbury Foundation, stated that the Foundation believes in this area and applauds the efforts to revitalize the buildings. She stated that they also have issues with the noise generated in the parking areas. She explained that the Foundation rents the Salisbury Depot for various events and a minimum of one uniformed security guard with arresting authority is required of anyone who rents the facility. She stated that because the guard can arrest any person causing trouble, having a uniformed officer tends to keep everything in control. Ms. Dillon said that they have received complaints from people who have rented the Depot about the noise from the parking area for the nightclub. She commented that she feels there is some responsibility that is part of the issue and asks that Mr. Barber be responsible to the neighborhood.

Mr. Jayson Barber, 315 East Council Street, informed Council that he is the owner of the business and wanted to let Council know that he is in attendance and will be glad to answer any questions Council may have. He stated it is his intention to make the City of Salisbury and this block of Council Street better and better.

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

Mayor Pro Tem Woodson stated that he thinks the building has been renovated nicely but he has received many calls concerning the noise between 12:00 a.m. and 2:30 a.m., and he feels the number of pool tables will not make a difference. He added that he thinks Mr. Barber needs to hire security during these hours to solve the problem.

Councilman Kennedy stated that he applauds the mixed use in this area and noted that the neighbors who are complaining are not complaining about the bar, but about the noise in the parking lot. He added that he felt what is needed is someone to police the parking lot.

Councilman Burgin stated that Council wants mixed use and is struggling to get nightlife in the Downtown area. He noted that what is being asked of the Council is if a pool table can be added. He stated that although it is a simple question it is very difficult for him to award this to someone who has created problems for residents and has not yet gotten a handle on proper urban etiquette. Mr. Burgin commented that if Council agrees to two (2) pool tables they are actually allowing as many as the owner wants and he can not support this. He stated that Council needs Mr. Barber to do better in trying to solve the problem that exists and added that he feels adding a second pool table will contribute to the problem. Mr. Burgin suggested sending the Planning Board a request to review mandates for security in parking lots as part of the noise ordinance.

Mayor Klutz stated that there is definitely a problem and she was alarmed to read a letter by Dr. Janice Fuller concerning her experiences with this. She noted that Council has encouraged downtown development, adaptive reuse, and residential living downtown and she feels the Cheerwine Building is a beautifully restored building. She added that she does not think Council can encourage that type of development and then allow these problems to happen. She asked what rights Council has as far as requiring security and changing the hours of a business because this may also be a problem in other areas of the City. She added that perhaps there should be a study of urban etiquette and how a business and a resident can exist together, particularly in a downtown area. Mayor Klutz stated that right now she can not support adding the pool table because of the existing problems.

Councilman Lewis commented that in the Dance Hall Permit it states that operation of the business can be terminated if found to be in violation of City Ordinances or State law. He added that this may be one way of monitoring a dance club. Mr. Lewis explained that he is in favor of dance clubs because Salisbury has very little nightlife for young adults in the community. He stated that he is thrilled the business is in operation but added that it comes down to responsible operation. He added that if Mr. Barber takes responsibility to take control of the problem he feels the community will support the business.

Mr. Lewis suggested possibly tabling the action giving Mr. Barber thirty (30) days to see if there is an improvement and then considering the application. Mayor Klutz asked Mr. Rivers Lawther, City Attorney, if Council can approve the application with conditions. Mr. Lawther responded that he feels the Ordinance allows Council to do this, but the conditions would only be added as part of the extra pool table. He noted that for further restrictions Council would need to amend the Ordinance.

Mayor Klutz asked Mr. Barber and his Attorney to come forward. Mr. Bowers stated that Mr. Barber has invested a substantial amount of money and understands that the noise problem has to be addressed. After discussing the nights during the week that the noise has been a problem, Mr. Bowers suggested having a security officer during those peak hours for potential problems to begin at 11:00 p.m. on Friday, Saturday, and Sunday. Mayor Klutz asked if 10:00 would be more appropriate. The neighbors agreed to try this to see if it will solve the problem.

(c) Thereupon, Mr. Burgin made **motion** to table the motion to see if Mr. Barber can perform and revisit this issue in thirty (30) days. Mr. Bowers asked Council to consider issuing a temporary permit during the probationary period in order to see if the second pool table will create a problem.

Thereupon, Mr. Burgin modified his previous **motion** to allow for a temporary permit for thirty (30) days for two (2) pool tables and review the performance of the security efforts. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

ZONING MAP AMENDMENT - Z-14-04 - CITY OF SALISBURY PLANNING BOARD

Z-14-04 - City of Salisbury Planning Board
South Main Street between Bank Street and Thomas Street,
Downtown South Phase

(a) Ms. Janet Gapen, Planner II, informed Council that this is the second phase of rezoning for the expansion of the B-5 Central Business District. The area is aligned along South Main Street from Bank Street, South Lee Street, Thomas Street, and approximately half a block into South Church Street. She noted that the current zoning is B-6 and this is the reason for the irregular boundaries. Ms. Gapen explained that one of the principal reasons for initiating this change is because there are some uses allowed in the current zoning that may not be conducive to the downtown environment. She noted that the B-5 District does not carry any setback requirements so new buildings or additions can be built out to the street.

Ms. Gapen noted that there are some taller signs in the area that will become non-conforming, but the signs will be able to remain in place. She stated that there are also some uses that will become non-conforming but can remain in place as long as the business continues in operation, or if the business ceases operation, as long as it resumes within one hundred eighty (180) days the same use can be continued. Mayor Pro Tem Woodson asked if a non-conforming business was sold could the new owner still operate with the non-conforming use. Ms. Gapen responded that this is correct, as long as the business did not close.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider Zoning Map Amendment Z-14-04 City of Salisbury Planning Board, located in the general vicinity of South Main Street between Bank Street and Thomas Street, Downtown South Phase, from B-6 to B-5.

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

(c) Thereupon, Mr. Burgin made a **motion** to approve the zoning Z-14-04 as presented. Mr. Kennedy seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 18 ACRES LOCATED ALONG SOUTH MAIN STREET, WEST THOMAS STREET, WEST MONROE STREET, EAST MONROE STREET AND SOUTH LEE STREET, IDENTIFIED AS PARCELS 348, 349, 369, 367, 368, 364, 363, 362, 361, 385, 395, 396, 397, 398, 399, 531, 354, 358, 347, 36501, 365 AND A PORTION OF PARCELS 350, 356, 530, 371, 372 AND 373 ON SALISBURY TWP. TAX MAP 15, AND BY REZONING APPROXIMATELY 1.8 ACRES LOCATED ALONG SOUTH MAIN STREET, EAST HORAH STREET AND SOUTH LEE STREET IDENTIFIED AS PARCELS 588, 589, 591 AND A PORTION OF PARCELS 587, 590, 598 AND 595 ON SALISBURY TWP. TAX MAP 10-6, AND BY REZONING APPROXIMATELY 4.5 ACRES LOCATED ALONG SOUTH MAIN STREET, SOUTH CHURCH STREET, WEST MONROE STREET, EAST MONROE STREET AND EAST HORAH STREET, IDENTIFIED AS PARCELS 192, 193, 194, 195, 196, 197, 199, 201 202, 206, 214 AND A PORTION OF PARCEL 191 ON SALISBURY TWP. TAX MAP 10, AND BY REZONING APPROXIMATELY 0.4 ACRES LOCATED ALONG SOUTH CHURCH STREET, IDENTIFIED AS PARCEL 596 AND A PORTION OF PARCEL 607 ON SALISBURY TWP. TAX MAP 10-1 , FROM B-6 GENERAL BUSINESS DISTRICT TO B-5 CENTRAL BUSINESS DISTRICT.

(The above ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page Nos. 153-154, and is known as Ordinance No. 2004-65.)

ZONING MAP AMENDMENT - Z-13S-04 - HMC

Z-13S-04 - HMC
1229 and 1231 Statesville Boulevard

(a) Swearing In

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

Ms. Janet Gapen
Mr. Stan Jordan
Dr. John Whitfield

(b) Evidence Presented

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

Ms. Janet Gapen, Planner II, stated that this property is located on Statesville Boulevard just west of Dorsett Drive and east of Colonial Drive. She noted that there are four (4) parcels involved in the rezoning and all are currently zoned R-8. The proposed zoning is B-1S, which is a Special Office Institutional District. She stated that because this is a proposed special use district it carries a list of proposed uses which include:

All uses allowed in R-8, which are all uses currently allowed
Banks and other financial institutions
Community or neighborhood medical centers

Dental clinics

Hospitals and regional medical centers provided:

- 1) They not be primarily for the treatment of contagious diseases, alcoholism or drug addiction.
- 2) They have a height limitation of eighty (80) feet.

Libraries, museums and art galleries

Medical clinics/offices

Mental health clinics

Offices, business, professional and public, but excluding retail trade

Studios for artists, designers, photographers and similar activities

Accessory uses and structures (excluding open storage)

Ms. Gapen noted that there are four (4) parcels that involve just over nine (9) acres and reviewed aerial maps of the property. She pointed out a B-1S zoning designation on Dorsett Drive and noted that it was to allow business and professional offices. She added that there is a group of clinics and professional offices in this area. Ms. Gapen noted a church on property adjacent to the area and pointed out that the topography on the property drops off at the rear of the property towards Grants Creek. She stated that much of the area is in the floodway.

Ms. Gapen stated that in addition to the uses listed with the Special Use District there are conditions listed as well. These conditions include:

1. Reserve along the southern three hundred feet (300') boundary line, a buffer strip, seventy feet (70') wide into which no improvements may be built.
2. In the above buffer strip, the existing vegetation shall remain undisturbed.

Mr. Stan Jordan, 401 Idlewood Drive, stated that he represents HMC Properties and he is in favor of the rezoning. He asked Council to consider that the request is supported by the following: the property fronts on Statesville Boulevard, which is a four (4) lane boulevard and highway; that the corridor has, in recent years, transitioned into a mix of offices and businesses from residential; and that the land to the east is zoned the same, B-1S. He noted the natural separation at the back of the property with the topography and floodway, as well as the vegetation that exists. Mr. Jordan stated that it is not realistically single-family use any more, as it has been vacant for some time. He noted the Vision 2020 Policy, Section N-11, which lends support by stating that the architecturally compatible, residentially scaled Office and Institutional development may be permitted to locate along the sides of neighborhood planning areas. Under specified conditions this policy may be applied to the conversion of pre-existing residential properties located along major streets where, due largely to traffic exposure, homes have become unsuitable for residential occupancy. Mr. Jordan stated that their feedback on the rezoning request has been positive from both the neighbors and the Planning Board. He stated that they met with the neighbors in early September and they were appreciative of the condition put on the back of the property for the seventy (70) foot buffer, where the vegetation will be undisturbed. He added that the neighbors are also appreciative of the special district request, in order to go ahead and remove some of the allowed uses in B-1 that may be undesirable for the neighbors. Mr. Jordan stated that the neighbors were appreciative they were not seeking a rezoning for multi-family and that the only access will be on Statesville Boulevard. He noted that at the Planning Board meeting no one spoke in opposition to the request and one neighbor actually spoke in favor. He added that the Planning Board approved the request unanimously and asked that Council consider doing the same.

Dr. John Whitfield, 1326 Wiltshire Place, stated that his property abuts the property being considered and that he has a house that he built forty (40) years ago. He stated that he has enjoyed the quiet neighborhood and has enjoyed having the farm located behind him. He added that he understands the reality that things will change, and is aware of what the planning is, and is in favor of it. He reiterated that he is in favor of the zoning change.

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

Mayor Kluttz stated that she applauds the developers for coming up with a plan that is so compatible to the neighborhood and one the neighbors are happy with.

(c) Findings of Fact

Councilman Burgin offered the following Findings of Fact:

1. The uses and conditions proposed will not materially endanger the public health or safety if located where proposed and determined according to plan.
2. The uses and conditions will be required to meet all pre-existing conditions and specifications.
3. The uses and conditions will not substantially injure the value of adjoining or abutting properties.
4. The location and character of the use proposed for the site, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the adopted Salisbury Vision 2020 Comprehensive Plan and other plans for the development of the Salisbury area as adopted by the City Council.

(d) Decision

Thereupon, Mr. Burgin made a **motion** to approve Z-13S-04 rezoning this property from R-8 Single Family to B-1S Special Office Institutional

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

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 9.22 ACRES LOCATED ON THE SOUTH SIDE OF STATESVILLE BOULEVARD APPROXIMATELY 700 FEET EAST OF ITS INTERSECTION WITH COLONIAL DRIVE, IDENTIFIED AS PARCELS 62, 72 AND 83 ON FRANKLIN TWP. TAX MAP 332, AND PARCEL 67 ON FRANKLIN TWP. TAX MAP 332A, FROM R-8 SINGLE-FAMILY RESIDENTIAL TO B-1-S SPECIAL OFFICE INSTITUTIONAL.

(The above ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page Nos. 155-156, and is known as Ordinance No. 2004-66.)

(e) Special Use District Permit

Thereupon, Mr. Woodson made a **motion** to take action to issue a Special Use District Permit for Z-13S-04. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE GRANTING A SPECIAL USE DISTRICT PERMIT IN ACCORDANCE WITH THE SPECIAL USE DISTRICT ALONG WITH ITS SPECIAL USES AND CONDITIONS AS DESCRIBED IN ORDINANCE NUMBER 2004-66.

(The above ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page No. 157, and is known as Ordinance No. 2004-67.)

ZONING TEXT AMENDMENT -PARKING SPACES IN B-1 AND LOI

(a) Ms. Janet Gapen, Planner II, informed Council that this proposed text amendment resulted from a zoning case that involves the conversion of residential property to Office and Institutional use. She explained that the current Ordinance requires parking spaces to be installed to the extent that the Planning Board felt it would impact the residential character of the property. She stated that the Planning Board felt the use in this case is appropriate but the impact to the residential character and loss of vegetation on the property would be negative for the neighborhood. The text amendment will allow for a case-by-case analysis of parking when converting residential property to Office and Institutional use in B-1 and LOI Districts. She stated that the decision will be made by the Zoning Administrator and noted that the Planning Board recommended approval of this change by a unanimous vote.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider a zoning text amendment to allow reduction in required parking spaces when converting residential property for office use in B-1 and LOI Districts.

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

(c) Thereupon, Mr. Lewis made a **motion** to adopt an Ordinance amending Appendix B, Zoning, of the Code of Ordinances of the City of Salisbury, North Carolina, to add a provision to Section 7.07 allowing reduced parking space requirements when residential property is converted for office uses in B-1 Office Institutional and LOI Limited Office Institutional Districts. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA, TO ADD A PROVISION TO SECTION 7.07 ALLOWING REDUCED PARKING SPACE REQUIREMENTS WHEN RESIDENTIAL PROPERTY IS CONVERTED FOR OFFICE USES IN B-1 OFFICE INSTITUTIONAL AND LOI LIMITED OFFICE INSTITUTIONAL DISTRICTS.

(The above ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page No. 158, and is known as Ordinance No. 2004-68.)

ZONING MAP AMENDMENT - Z-12-04 - D. SMITH AND M. OLEEN

Z-12-04 - D. Smith and M. Oleen
216 North Jackson Street

(a) Ms. Janet Gapen, Planner II, explained to Council that this is the property in question from the previous Agenda item and is located at 216 North Jackson Street. She noted that the area is currently zoned R-6A Multi-family and the proposed rezoning is to B-1 Office Institutional, adding that it is just outside the Historic Overlay. She reviewed maps of the area and noted that the property is located behind First Baptist Church and adjacent to the church's parking area. The Blanton Law Firm is located across the street from the property.

Councilman Burgin asked how the Blanton Law Firm handled this issue. Mr. David Phillips, Zoning Administrator, responded that the property was most likely grandfathered and noted that the property was owned by the City at one time.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider Zoning Map Amendment Z-12-04 D. Smith and M. Oleen, 216 North Jackson Street.

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

(c) Thereupon, Mr. Burgin made a **motion** to approve Z-12-04 to change the property from R-6A Multi-family to B-1. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 0.18 ACRES LOCATED ON THE WEST SIDE OF NORTH JACKSON STREET, IDENTIFIED AS 216 NORTH

JACKSON STREET, AND FURTHER IDENTIFIED AS PARCEL 111 ON SALISBURY TWP. TAX MAP 10, FROM R6A MULTI-FAMILY RESIDENTIAL TO B-1 OFFICE INSTITUTIONAL.

(The above ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page No. 159, and is known as Ordinance No. 2004-69.)

ZONING TEXT AMENDMENT - PROHIBITED SIGNS

To list additional types of prohibited portable signs

- (a) Ms. Janet Gapen, Planner II, informed Council that this amendment is to clarify text that airborne signs, as part of the prohibited types of portable signs, will include unmanned airships, blimps and tethered balloons.
- (b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider zoning text amendment to list additional types of prohibited portable signs.

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

- (c) Thereupon, Mr. Lewis made a **motion** to adopt the zoning text amendment to list the additional types of prohibited portable signs. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA, TO AMEND THE DEFINITION "PORTABLE SIGN" IN SECTION 9.02 DEFINITIONS, (23).

(The above ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page No. 160, and is known as Ordinance No. 2004-70.)

ZONING TEXT AMENDMENT - ADVERTISING ON SEASONAL POLE DISPLAYS

To allow smaller advertising banners on shopping center pole displays

- (a) Ms. Janet Gapen, Planner II, stated that this text amendment is the result of a request from the Salisbury Mall. They wish to advertise their merchants but felt they did not have enough space on their exterior ground sign. This request is to allow, as part of the seasonal pole displays, attached smaller advertising banners. She stated the smaller banners will be twenty-five percent (25%) of the size of the seasonal banners and noted that with this text amendment the smaller banners will be allowed in all commercial group developments.
- (b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider a zoning text amendment to allow smaller advertising banners on shopping center pole displays.

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

- (c) Thereupon, Mr. Woodson made a **motion** to make a zoning text amendment to allow smaller advertising banners on shopping center pole displays. Mr. Lewis seconded the motion, pointing out that no advertising copy is allowed on the banner and it is limited to twenty-five percent (25%) of the primary banner. Councilman Burgin asked about the length of time allowed for the banners. Ms. Gapen replied that there was a concern over the significant cost associated with installation of the banners and the Committee felt a seasonal display might be more appropriate. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

AN ORDINANCE AMENDING APPENDIX B, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF SALISBURY, NORTH CAROLINA, TO AMEND SECTION 9.06 SPECIAL SIGN PROVISIONS TO ALLOW ADD-ON BANNERS ADVERTISING SHOPPING CENTER MERCHANTS ON SEASONAL POLE DISPLAYS AND TO EXTEND THE TIME PER DISPLAY.

(The above ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page No. 161, and is known as Ordinance No. 2004-71.)

TRAFFIC CONTROL - LEE STREET AND COUNCIL STREET AND LEE STREET AND LIBERTY STREET

Mr. Dan Mikkelson, Director of Land Management and Development, informed Council that staff has been evaluating all-way stops at the intersections of Lee and Council Streets and Lee and Liberty Streets. He stated that staff is still observing violations at the intersection of Lee and Council Streets and are not ready to make it permanent at this time. He noted that it appears that traffic is abiding by the all-way stop at the intersection of Lee and Liberty Streets. He recommended Council make this all-way stop permanent. Mr. Mikkelson noted that before the stops are implemented small traffic islands will need to be constructed to support the stops signs and because of the on-street parking and the location in a historic district, this will have to go to the Historic Preservation Commission.

Mayor Kluttz asked about the covered signal lights at the intersection of Lee and Council Streets. Mr. Mikkelson explained that staff feels the covered signals are adding to the confusion at the intersection and drivers are focused on the signal rather than the stop signs. He stated that staff will take down the signals and feels this will help with the confusion at the intersection.

Thereupon, Mr. Kennedy made a **motion** to amend Section 13-326, Article X, Chapter 13 of the Code of the City of Salisbury related to

traffic-control signals by deleting the traffic signals at Lee and Liberty Streets. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-326, ARTICLE X, CHAPTER 13, OF THE CODE OF THE CITY OF SALISBURY, RELATING TO TRAFFIC-CONTROL SIGNAL LIGHTS.

(The above ordinance is recorded in full in Ordinance Book No. 20, Traffic, at Page No. 162, and is known as Ordinance No. 2004-72.)

Thereupon, Mr. Kennedy made a **motion** to amend Section 13-332, Article X, Chapter 13 by establishing stop signs at the corner of Liberty and Lee Streets and Lee and Liberty Streets. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

AN ORDINANCE AMENDING SECTION 13-332, ARTICLE X, CHAPTER 13, OF THE CODE OF THE CITY OF SALISBURY, RELATING TO STOP SIGNS.

(The above ordinance is recorded in full in Ordinance Book No. 20, Traffic, at Page No. 163, and is known as Ordinance No. 2004-73.)

HIGH DENSITY POLYETHYLENE PIPE - THE GABLES DEVELOPMENT

Mr. Shawn Coombs and Mr. Dave Walsh of Advanced Drainage Systems, Inc. (ADS) presented Council with information concerning High Density Polyethylene (HDPE) pipe and Drainage Basins. Mr. Coombs noted that this product is not new and has been in existence for over thirty-eight (38) years. He stated that most recently the highway department has used the material for side-line, cross-line, and outfalls for storm drainage systems. He added that the material is approved by the North Carolina Department of Transportation for use in subdivisions unconditionally, which means no review is required. He asked Council to allow the use of the pipe and associated basins as a test project in the community in order to view the potential benefits it can provide as an alternate in the free market system. Mr. Coombs stated that he hopes it will provide lower overall piping costs while providing a viable system for moving storm water. He reviewed other governmental units who use the product and will provide a reference for it.

Mr. Dan Mikkelson, Director of Land Management and Development, informed Council that there have been many discussions on this product and staff feels it is appropriate to test it. He noted that staff has some concerns and will place five conditions on the test which include:

1. The construction documents shall include manufacturer's specifications and details for installation, minimum/maximum cover, compaction, etc.
2. An agreed upon detail shall be developed to reduce potential for trenching "dig ins" where HDPE pipe crosses the shoulder of the road. Staff is skeptical of caution tape alone, and prefers stone backfill to a height of six (6) inches above the pipe in combination with caution tape.
3. Reinforced concrete pipe shall be required at any exposed pipe ends to reduce potential for vandalism.
4. Shop drawings shall be submitted for each Nyloplast structure.
5. The "test" shall be authorized for Phase I only and shall include observations of the installation and performance before any decision is made to amend current policy.

Thereupon, Mr. Burgin made a **motion** to allow the test subject to the five (5) conditions that staff recommends and to get a report back after adequate time. Mr. Lewis seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

POLICE MATTER

Councilman Kennedy stated that he is concerned about the increase of aggravated assaults in the City and the fact that a Police Officer was assaulted trying to enforce the law. He noted that a Police Officer in New York City was recently assaulted and killed and was buried in Salisbury. He asked for Council's consensus to speak with Chief Wilhelm to see what Council can do to support Police endeavors. He added that he knows Council supports the Police Department but he wants to determine what Council can do to show the public that they support them. Mr. Kennedy stated that he wants the public to know that City Officers are not to be taken for granted or assaulted.

Councilman Burgin agreed and noted that Council needs to establish in a firm way that assaulting a Police Officer is never an option. By consensus, Council agreed for Mr. Kennedy to speak with Chief Wilhelm.

COMMENTS FROM THE CITY MANAGER

(a) Planning Board Recommendations

Council received the Planning Board recommendations and comments from their September 28, 2004 meeting.

(b) Landis Water System

City Manager David Treme informed Council that a letter has been received from Landis Town Administrator Reid Linn, on behalf of the Mayor and Town Alderman. Mr. Linn noted that he has been instructed to begin initial discussions concerning the possibility of Salisbury assuming the operations of Landis' water and sewer system. Mr. Treme noted that staff has had preliminary meetings and will set up a meeting to begin the discussion process with town representatives. By consensus, Council agreed with staff to proceed with discussion with the Town of Landis.

MAYOR'S ANNOUNCEMENTS

(a) Lord Salisbury Festival

Mayor Klutz announced that the Lord Salisbury Festival's October Night Out will be held Friday, October 8, 2004 in Downtown Salisbury.

(b) OctoberTour

Mayor Klutz announced that OctoberTour will take place Saturday, October 9, 2004 and Sunday, October 10, 2004.

(b) Pan-American Day Festival

Mayor Klutz announced that the Pan American Day Festival will be held Saturday, October 9, 2004 from 10:00 a.m. – 2:00 p.m. at the Salisbury Civic Center.

CLOSED SESSION

Mayor Klutz informed Council that she would entertain a motion for the Council to go into closed session concerning an economic development matter as allowed by NCGS 143-318.11(4).

Thereupon, Mr. Burgin made a **motion** to go into closed session concerning an economic development matter as allowed by NCGS 143-318.11(4). Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

RETURN TO OPEN SESSION

Mr. Woodson made a **motion** to return to open session. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Klutz voted AYE. (5-0)

Mayor Klutz stated that no action was taken in closed session.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Burgin, seconded by Mr. Lewis. All council members agreed unanimously to adjourn. The meeting was adjourned at 7:55 p.m.

Mayor

City Clerk