Salisbury, North Carolina
January 21, 2020

SPECIAL MEETING

PRESENT: Mayor Karen Alexander, Presiding; Mayor Pro Tem Al Heggins; Council Members William Brian Miller, David Post, and Tamara Sheffield; City Manager W. Lane Bailey; Deputy City Clerk Tiffany Crook; and City Attorney J. Graham Corriher.

ABSENT: City Clerk Diane Gilmore.

Mayor Alexander and members of City Council met in a Special session in Council Chambers at City Hall located at 217 South Main Street. The meeting began at 4:07 p.m.

ADOPTION OF THE AGENDA

Thereupon, Mayor Pro Tem Heggins made a **motion** to adopt the agenda as presented. Mayor Alexander, Mayor Pro Tem Heggins, and Councilmembers Miller, Post, and Sheffield voted AYE. (5-0)

LAND DEVELOPMENT ORDINANCE

Planning Director Hanna Jacobson introduced Mr. Rick Flowe of N-Focus Inc. who conducted an analysis of the City's Land Development Ordinance (LDO). Ms. Jacobson stated the Ordinance has been a topic within the community for many years, and she recognized Planning Board Chair Bill Wagner and Develop Services Manager Teresa Barringer who would be presenting future plans for the LDO.

Mr. Flowe stated his team compared the City's LDO to several jurisdictions including Statesville, Mooresville, Concord, Lexington, and Charlotte. He mentioned the LDO is thorough in terms of policies, but there is an awkwardness and conflicting

standards within the LDO that can negatively affect building and development.

Mr. Flowe stated the LDO contains large amounts of information that cannot be located due to the document's arrangement. He explained defects in the layout may cause confusion and can decrease development activity in the community. He stated if it is hard to find conclusive information it will result in inconsistent interpretation which can discourage professionals from spending time in Salisbury.

Mr. Flowe referenced a copy of the report given to Council prior to the meeting and reviewed its contents related to his observations and peer comparisons of the LDO. He explained an important step in the analysis process was viewing the LDO as an individual document and dissecting it to provide concise feedback on how it can be improved. He stated peer comparisons were conducted to determine how the City's LDO compared to those in surrounding areas.

Mr. Flowe indicated in his review of the LDO he found the General Residential 3 unit per acre (GR3) and General Residential 6 unit per acre (GR6) districts have the same lot sizes, standards, and specifications which is confusing. He mentioned GR3 district zones can potentially be penalized by GR6 district requirements.

Mr. Flowe stated he compared a General Residential district to a 100-acre green field site and examined how a developer would approach development. He mentioned there was a relatively low cost analysis which is very beneficial, but the dimensional criteria included in the LDO could possibly push development out of the price range of a developer. He stated lot sizes are adequate but setbacks do not add up when compared to the size of the lots. He mentioned the current formula includes an increase in setbacks for every increase in lot size which should be changed. He stated people within the same district currently have varied setback requirements based on the size of their lots.

Mr. Flowe explained the Highway Business (HB) district covering older commercial developments is very similar to the City's Corridor Mixed-Use (CMX) district. He noted both districts contain apartments as a listed permitted use and should be reviewed. He mentioned HB and CMX districts have very similar use characteristics except CMX has well-structured development standards and HB has very limited development standards. He stated his recommendations include reducing the oversupply of low quality zoning districts that will decrease the quality and quantity of future development.

Mr. Flowe stated as the City goes through its comprehensive planning process activity centers and places that have the potential of becoming catalyst areas should be reviewed and used to move things in a positive direction. He stated when interest in an area increases, a decision should be made as to whether the district will remain an HB district or if it should be rezoned.

Mayor Alexander asked about the best way to engage property owners in catalyst areas. Mr. Flowe stated districts should reflect the character of the area planning that is

done during comprehensive planning and should serve property owners. He commented business owners want to be treated fairly and feel there is mutual gain.

Mayor Pro Tem Heggins asked for Mr. Flowe's thoughts on how the LDO has impacted segregation and concentrated areas of poverty in the community. Mr. Flowe explained the LDO generally would not have much of an effect on existing areas because lot sizes and other standards in the Ordinance are compact. He stated this would actually benefit older neighborhoods where there is older housing and an increase in poverty. He mentioned setbacks would be the biggest problem creating an increase in non-conformity which can be problematic if combined with low income. He stated issues with non-conformity can easily be corrected and the LDO would be favorable in new developments and will not inhibit affordable housing.

Mayor Pro Tem Heggins asked how the City could use the LDO to assist with affordable housing concerns in the community. Mr. Flowe stated there is a Traditional Neighborhood Development (TND) opportunity in the Ordinance for creating affordable housing. He explained there should be diversity among citizens and price range of homes within a TND. He stated the current TND is not working because it is a primary zoning district and needs to be modified. He stated quantity or the need to increase density should be replaced with focusing on the quality aspects of building a home that is affordable and resilient. He stated the City should create overlay districts where developers can ask for and agree to higher standards.

Mayor Alexander asked if the City's current Ordinance provides the ability to create an overlay using the CD process. Mr. Flowe stated standards should be straight forward and the LDO should have limited amounts of processes that are evidence based or implore subjectivity.

Mr. Flowe stated conditional use zoning works well with concise and unique settings that need to be protected. He stated planning is a very important step in preservation and change and should be used to create a favorable outcome.

Councilmember Miller asked for clarification on whether the LDO is suitable or if restrictions within it are hurting affordability. Mr. Flowe stated the awkwardness of the LDO does not provide clear and consistent answers which is paramount so staff and developers can comprehend it.

Councilmember Post asked about complaints in Mr. Flowe's report regarding developer costs. Mr. Flowe stated specific mandates and standards that are causing issues are pointed out individually in the report. He stated one restriction that hurts affordability is lots are not required to be a certain size and have a direct correlation to development costs. He explained set backs are not in line with lot sizes and are creating problems. He stated if the market was trying to fit current zoning it could easily be done but developers are trying to fit their templates.

Councilmember Miller asked if developer complaints were from an undeveloped site where a road would have to be constructed or on an in-fill site. Mr. Flowe stated the complaints in the report are true for the General Residential (GR) districts, but in the City's Urban Residential (UR) areas where there is more in-fill on existing street infrastructure, the concerns are different. He stated most in-fill sites are either taken up already or have a negative terrain aspect so the development cost report will be lower.

Councilmember Miller asked if having sidewalks in a development is an owner risk, and he questioned if the Hidden Creek and Wellington Hills neighborhoods could not be built today as stated in the report. Mr. Flowe clarified he has not been out to the neighborhoods and the statements were made by members of his team. He mentioned he would have to familiarize himself with the subdivisions in order to answer accurately.

Councilmember Miller asked about building garage-front homes and the possibility of using a Conditional District Overlay (CO) where there is flexibility. Mr. Flowe stated front-loaded homes are potentially problematic which is outlined in the report. He stated these homes are not aesthetic and have heated spaces that could affect public safety. He explained garages should be towards the back on small lots and brought forward on larger lots where there is room to work.

Councilmember Miller asked if the standards within the LDO were adequate with the exception of set-backs which is the major issue. He asked for confirmation that the Ordinance was viewed in comparison to peers, and if there was an analysis done on systems outside of the Ordinance that may affect development patterns. Mr. Flowe stated his analysis did not include outside systems with the exception of reviewing utility participation and off-site improvements. He referenced language in the Ordinance which is very clear that off-site improvements are the developers' responsibility. He stated this section of the Ordinance comes across as obstinate, and he recommended the City create an extension and allocation policy that allows flexibility and shared costs for off-site improvements. He noted this is an issue within the LDO that is not necessarily standard and specification but is policy based.

Councilmember Miller asked for confirmation that Mr. Flowe's work was focused solely on the Ordinance and nothing outside of the development policy. Mr. Flowe stated his analysis involved reviewing the standards, specifications, and user friendliness of the LDO which is the whole process of land development.

Councilmember Miller mentioned he was a part of the LDO review process and stated there was an intent to manage growth in a manner that lifted up the community through quality of development. He stated if the Ordinance can be improved then it must be improved. He asked Mr. Flowe's opinion on how he would characterize the Ordinance the way it currently reads as it relates to encouraging quality development.

Mayor Pro Tem Heggins asked for clarification from Councilmember Miller regarding the type of development to which he was referring. She inquired whether he was asking about residential or commercial development. Mr. Miller stated he was

referring to all types of development and the need to raise the quality of development so that better developed environments are achieved.

Mr. Flowe stated the Ordinance has a clear intent but fears may have brought about changes to the LDO where numbers were thrown in without thought. He stated the specifications for setbacks are probably the result of this. He explained in the Ordinances that he has written, he rarely used even numbers and the human experience is generally not in multiples of five. He stated half-sizes may be appropriate depending on the circumstance. He noted the Ordinance is in fairly good shape with the exception of a few obstacles that are preventing the successes for which the City is striving. He added many of the obstacles can easily be corrected by changing numbers so that they are not random and insuring the specifications are being enforced.

Councilmember Post asked about the concerns and pressing issues discussed about the LDO two years ago. Mr. Flowe stated he did not ask the same questions or conduct the identical surveys but was provided with the results which are in the report. Mr. Post stated the front-loaded housing issue has been adjusted inside the Ordinance, and some of the issues raised during public comment within the report are no longer a problem. Mr. Post asked Planning Board Chair Bill Wagner if he is familiar with current feedback from contractors.

Mr. Wagner stated the LDO is virtually the same as it was 12 months ago with the exception of minute details. He stated in the spring of last year Council indicated the need for the LDO to be reviewed and the Planning Board began engaging in the process. He stated during the Planning Board meetings members were able to locate areas of focus and identify a starting point for the review. He indicated the plan was to speak to users of the Ordinance and identify things that inhibit, prohibit, or create disincentives to capital investment in the City of Salisbury. He stated the report includes feedback from the meetings, letters received, and surveys that were conducted. He mentioned with Mr. Flowe's help the Planning Board is now engaged and involved with his recommendations.

Mr. Post asked if the problems the City faces are a product of the recession or created by the LDO. He stated development issues in the Crescent and Country Club Hills subdivisions may be the result of the community not being able to support two neighborhoods of that size. He stated there is a demand for lower priced homes, and he asked when development will start again in those areas.

Mr. Wagner stated there is renewed emphasis in building and development specifically on Highway 601 which is very active. Mr. Post asked if development was adhering to the LDO. Mr. Wagner stated the Planning Board reviewed the LDO last year and had to work through some of the inhibitions the LDO created for the development in the area. He stated one owner has acquired the property and will now be developing all remaining areas creating a renewed interest in investment within the subdivision.

Mr. Wagner stated amendments were made to the Ordinance to reduce obstacles

that make it difficult for developers. He stated the amendments were specific to the zoning districts being reviewed at that time. He stated the Planning Board recognized in January 2008 that changes would have to be made and there would be conversion issues in the future. He indicated the Planning Board viewed the LDO as a starting point and not a fixed document. He stated there is a need to focus on creating LDO hot spots for capital investment. Mr. Wagner noted the Planning Board is always looking for ways to improve the Ordinance through text or map amendments. He stated many of the pages in the Ordinance have multiple amendment dates and revisions that show an attitude of constant improvement.

Mayor Alexander pointed out during the time the LDO was created the Planning Board and staff focused on small area plans. She stated during the recession there was a loss in staff and very little activity in the development realm so the City took a step back to focus on other areas. She noted she would like to see focus returned to development and LDO hot spots. She mentioned South Main Street should be an area of focus because it is an entry way to the City.

Mr. Wagner indicated the last small area plan included areas on Faith Road and East Innes Street. He mentioned South Main Street has been on the radar from 2008 to 2010 but there were changes in staff that halted action in this area. He commented the City is getting the most from its current Planning staff that the community has ever received. He stated if it is the goal of the City to continue improving the LDO and increase capital investment there needs to be an investment in staff as well.

Mr. Wagner stated one thing that became apparent in the review process is the need to make certain the LDO is a reflection of market reality. He added the LDO should align with demands from the market and should not inhibit growth and development. He noted the market will change over time and the LDO should be in a form that allows changes in order to keep up with market demand and also stay in-line with the Comprehensive Plan.

Mr. Post pointed out Salisbury is a Certified Retirement Community and there is a change in the City's demographics. He asked if the LDO, along with the market, would allow for the development of senior communities. Mr. Wagner stated there is not a direct answer to the question but there is a path. He stated the City needs to keep an eye on the market and see what the demand is and determine what is needed to meet the demand.

Mayor Alexander asked if staff is currently reviewing the market and the LDO when new projects are brought in to the Technical Review Committee (TRC). Mr. Wagner stated in the last 10 years there has only been one new residential subdivision to come through the TRC.

Mayor Alexander asked if the decrease in development inquiries could be from developers who review the LDO online and find conflicts. Mr. Wagner stated this is quite possible and he speculated there will not be an increase in TRC activity unless developers feel they have invested enough in their design to submit for a TRC review.

Mr. Flowe stated the City needs to create opportunities that meet the goals and objectives the community wants to achieve. He commented in order to create opportunities the City needs to make sure districts have enough incentive in them for developers to move forward rather than having a complicated process. He noted if developers have to go through obstacles to develop then they may be deterred. He stated the City needs to simplify much of what it has because there is a supply of all types of product on the ground.

Mr. Flowe pointed out creating opportunities in hot spots and catalyst areas is critical because this is where seeds can be planted to get things moving in a positive direction. He stated there is a convergence of the millennials and baby boomers headed towards the center of the community. He added it is easier to attract people when there is diversity in housing products which is critical to respond to shifts in the market.

Councilmember Miller asked who would lead the process of making sure there is a diversity in housing products. He stated the process seems to be market driven, and he asked if this is something to which the City would always be reacting.

Mr. Flowe explained the City is reacting to the market and has to look at what creates life within the community, which is its people. He stated if opportunities in housing product are diverse, people will come. He stated the City should encourage people to live in close proximity which will retain both the young and aging populations and will attract jobs and business investments.

Development Services Manager Teresa Barringer stated her team created an LDO matrix identifying three to six month goals and six to twelve month goals in response to the analysis. She noted the goals include minor changes to the Code to correct terminology and verbiage to make it clearer and to verify they are in-line with general statute requirements. She added committees are currently meeting to review each of the tasks and will come back to the Planning Board with recommendations. She stated each item will be dissected and staff will make a plan for the how to continue moving forward.

Mayor Alexander noted she liked the approach and asked if staff is testing as they go and making necessary changes. She questioned if either the GR3 or GR6 district should be eliminated and if the reason there are two districts stemmed from the transition from the old zoning to the new zoning.

Ms. Jacobson stated distinguishing between the two districts fell within the Planning Board committee realm and was not something that was straight forward. She noted there is a Committee reviewing policy-level decisions which include setbacks and building envelops.

Mayor Alexander asked if they will be testing. Ms. Barringer stated the importance comparing any proposed changes to other jurisdictions has been discussed in

Committee meetings. She stated they have come up with examples to determine the best move forward and are testing against different scenarios.

Mayor Alexander commented she is excited to have a sound document that just needs to be updated. She thanked Mr. Flowe for his great work and for being an important part of the City's planning.

City Manager Lane Bailey stated he is impressed with the Planning staff and the leadership within the department. He added they are doing great things but still have a few vacancies, and he asked Ms. Jacobson to speak about the vacancies.

Ms. Jacobson indicated she is excited about the changes in the department, and she noted the current vacancy is for a housing planner which is a new position with the City. She stated this will be a person who understands market analysis and can look at data and trends and come up with policies and programs. She added this person will also be trained in minimum housing.

Ms. Jacobson noted the Planning Department has a new Development Services Manager, Senior Planner, and Development Services Specialist which leaves the need for a Development Services Technician.

ADJOURNMENT

Motion to adjourn the meeting was made by Mayor Pro Tem Heggins. All Council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 6:03 p.m.

Karen Alexander, Mayor

Tiffany Crook, Deputy City Clerk