REGULAR MEETING

PRESENT: Mayor Paul B. Woodson, Jr., Presiding; Mayor Pro Tem Maggie A. Blackwell; Council Members Karen Kirks Alexander, William (Pete) Kennedy, and William Brian Miller; City Manager W. Lane Bailey; City Clerk Myra B. Heard; and City Attorney F. Rivers Lawther, Jr.

ABSENT: None.

Salisbury City Council met in Council Chambers in City Hall located at 217 South Main Street. The meeting was called to order by Mayor Woodson at 4:00 p.m. The invocation was given by Mayor Pro Tem Blackwell.

PLEDGE OF ALLEGIANCE

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

RECOGNITION OF VISITORS

Mayor Woodson welcomed all visitors present.

CHANGES TO THE AGENDA

Mayor Woodson noted the following change to the Agenda:
Add – Council to go into a closed session to consult with an attorney as allowed by NCGS 143-318.11(a)(3) and concerning an economic development matter as allowed by NCGS 143-318.11(a)(4).

RECOGNITION – LIVINGSTONE COLLEGE MEN’S BASKETBALL TEAM

Mayor Woodson recognized members of the Livingstone College Men’s Basketball team for winning their second consecutive CIAA Championship. He also recognized Livingstone President Dr. Jimmy Jenkins, Executive Assistant and Public Relations Director State Alexander, Athletic Director Andre Springs, and Assistant Public Relations Director Laurie Willis who were in the audience.

Mayor Woodson read a Proclamation proclaiming April 21, 2015 as Livingstone College Blue Bears Men’s CIAA Championship Day. He then presented a framed copy of the Proclamation to Dr. Jenkins, Coach James Stinson, Mr. Springs, and the team captains.

Members of the Livingstone College Men’s Basketball Team were Juwan Cole, Demarco Sanders, Hakeem Jackson, Eric Dubose, Christian Henry, Valworth Jones, Dwight Williams, Austin Harris, Robert Flint, Daressie Johnson, Ty Newman, Cornelius Johnson, Jimmy Wilson, Eric Mayo, Mark Johnson, Daryl Traynham, and Eric Howell, and Head Coach James Stinson, Assistant Coaches Tony Holliday and Tony Lee.

Dr. Jenkins congratulated Coach Stinson and staff for their work with the Men’s Basketball Team. He recognized the Men’s Basketball Team for achieving academic and athletic success. He thanked the City for its continued support of Livingstone College, and he emphasized the College’s main priority is to provide a quality education for its students.

Mayor Woodson acknowledged Dr. Jenkins’ work with Livingstone College. He congratulated the team and noted Livingstone College continues to make Salisbury proud.

Dr. Jenkins noted North Carolina Governor Pat McCrory will visit the Livingstone College campus Thursday April 30, 2015 from 2:00 p.m. until 3:00 p.m. to recognize the Men’s Basketball Team. He invited Mayor Woodson and Council to attend the celebration.

CONSENT AGENDA

(a) Approval of Minutes

Approve Minutes of the Regular Meeting of April 7, 2015.

(b) Contract – Martin Starnes and Associates, CPA’s, P.A.

Award a contract in the amount of $34,000 to Martin Starnes and Associates, CPA’s, P.A. for auditing services for Year 2015.
Thereupon, Mr. Miller made a motion to adopt the Consent Agenda as presented. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Mses. Alexander and Blackwell voted AYE. (5-0)

**CD-05-2014 – ZAXBY’S**

Mayor Woodson stated Council received a Protest Petition regarding Conditional District (CD) Overlay request CD-05-2014. He explained because the Protest Petition has been validated, adoption of the proposed amendment would require a super-majority, three-fourths vote.

Planning and Development Services Manager Preston Mitchell explained the request is to rezone approximately one acre, two plus parcels, by:

- Changing the zoning from Residential Mixed-Use (RMX) District to Highway Business (HB) District
- Removing a portion of the existing General Development (GD) GD-A-Overlay
- Establishing a CD Overlay to permit development of a drive-through retail/restaurant
  - Zaxby’s is the proposed developer

Mr. Mitchell reviewed the Master Plan, and he pointed out the property is located along Jake Alexander Boulevard across from the Castlewood neighborhood, at the intersection of Jake Alexander Boulevard and Castlewood Drive. He noted the building would be approximately 3,800 square feet, located in the center of the site, and would include a drive-through. He indicated there would be two points of ingress and egress, one to the rear and one to the side, at the private access road off of Jake Alexander Boulevard.

Mr. Mitchell displayed an artist’s rendering of the project and maps of the area. He pointed out development to the north is predominately mixed-use consisting of office and professional, to the rear is single-family residential, to the south is mixed-use consisting of office and medical, and Castlewood is located across Jake Alexander Boulevard along with banks and commercial retail.

Mr. Mitchell noted no requested alternatives are associated with the Master Plan, and he indicated the Plan meets applicable Land Development Ordinance (LDO) provisions for a CD Overlay request.

Mr. Mitchell explained the proposal does not mandate a CD Overlay because the petitioner is not proposing design alternatives normally associated with a CD Overlay request. He indicated the petitioner is requesting the CD Overlay based upon a Planning Board recommendation. He noted the Planning Board denied the request in August 2014 because it did not include a Master Plan. He pointed out the request was brought back to the Planning Board in January 2015, and the request was again denied.
Mr. Mitchell noted the property is currently zoned RMX with a GD-A Overlay. He pointed out the GD-A Overlay is associated with Zoning Ordinance used before the current LDO was adopted. He stated GD-A Overlays are located in sensitive areas where adjoining neighborhoods or other individuals have expressed concerns regarding future development. He explained the GD-A Overlay guarantees site plan review through the public process. He pointed out if the rezoning is approved, the CD Overlay will replace the GD-A Overlay.

Mr. Mitchell reviewed the surrounding zoning which includes: Corridor Mixed-Use (CMX), HB, RMX, and General Residential (GR). He pointed out commercial development is located primarily along Jake Alexander Boulevard. He noted the petitioners, John and Joan Leatherman, purchased the property in 1983 and began the rezoning process. He noted the proposed uses under the HB-CD:

- Drive-through retail/restaurant only
- All other HB uses will be prohibited
- The CD Master Plan and Overlay establishes the development type and all uses to exactly what is proposed

Mr. Mitchell noted the property is referred to as newer commercial areas in the Vision 2020 Comprehensive Plan. He pointed out newer commercial areas are areas developed after World War II. He added Policies C-8 through C-15 provide goals or objectives relative to large-scale development, infill development, but nothing specifically related to this development, which prompted staff to recommend the request is not inconsistent to the Planning Board. He referenced Policy C-10 which could apply if the total commercial development was being proposed as new development with multiple parcels:

- The City shall encourage the consolidation of commercial driveways onto major streets and the connection of adjacent parking lots

Mr. Mitchell commented the request before Council meets the conditions of Policy C-10, but the proposal is for the last remaining lot and not for the overall area.

Mr. Mitchell reviewed reasons for denying CD-05-2014:

- Continuity of development type
  - Office Institutional (OI) District extends from BB&T past the subject site and past the Pinnacle Office Park
- Not the intersection of two major/minor thoroughfares
  - Parcel is at a signalized intersection
- Buffer against residential areas
  - Area is designed to operate as transitional use

Mr. Mitchell stated Council must determine if the proposal would disrupt development continuity in the area. He noted staff believes the signalized intersection behaves differently than a non-signalized intersection. He pointed out those who oppose the request are concerned about access and through traffic. He added there is a long roadway to the east of the property.
that behaves like an alley, but is actually a driveway. He displayed a map of the area, and he pointed out areas of interconnectivity and three points of ingress and egress along Jake Alexander Boulevard. He indicated the width of the driveway is approximately 21-feet which is substandard to the current driveway requirement of 24-feet. He indicated Council has approved 20-foot driveways in the past, and he pointed out cars can comfortably pass in 10-foot lanes.

Mr. Mitchell commented the Vision 2020 Plan encourages connectivity, and he noted interconnectivity problems are addressed by misaligning or removing straight-shot connectivity. He explained the south side access is one-way and drivers must travel the length of the driveway and turn around to reach their destination.

Mr. Mitchell then reviewed reasons in support of the proposal:

- High traffic volume
  - Jake Alexander Boulevard carries approximately 36,000 vehicles per day, the highest traffic volume of any City surface street and second to Interstate 85
- Five-lane major thoroughfare
- Posted 45 mph
- Various other drive-through restaurants within a one-half mile radius

Mr. Mitchell noted the Planning Board convened January 27, 2015 and recommended the petition is not consistent with the Vision 2020 Plan and voted eight to one to deny the request.

Councilmember Miller asked for clarification regarding the Protest Petition. Mr. Mitchell explained when a Protest Petition is filed, North Carolina General Statutes require consideration of specific buffer conditions. He added anyone who owns at least five percent of the area within a 100-foot buffer of the subject site and signs the petition meets the requirements for a Protest Petition. He indicated the Protest Petition was submitted by Mr. Alan Burke who owns a minimum of five percent of the area, and it is a valid protest petition. He added since the Protest Petition is valid the case must have a minimum of a four to one vote to pass.

(b) Mayor Woodson convened a public hearing, after due notice thereof, to receive comments regarding CD-05-2014. He asked those in support of the request to address Council first followed by those who oppose the request.

Mr. John Leatherman and Ms. Joan Leatherman, 120 Gregory Road, addressed Council regarding CD-05-2014. Ms. Leatherman stated she and her husband are working to bring appropriate businesses to the area that will employ local citizens and expand the tax base. She explained Ms. Gina Dickens contacted her and her husband last summer and asked to purchase the property across from the Bank of North Carolina. She noted the proposed facility would employ 50 to 60 citizens. She added she and Mr. Leatherman feel it is a viable business for their property. She asked Council to support rezoning their property on Jake Alexander Boulevard. Mr. Leatherman noted the proposed development would bring jobs to the area, increase the local property and sales tax base, provide mixed-use development with limited curb cuts, connectivity, and the right business at the right location. He indicated the request before Council is to rezone the last lot in the John Leatherman development. He pointed out office parks are named and
include a unified development plan, such as Pinnacle Development. He explained the property was intentionally not given a name or treated as an office park. He noted an office park would not have a Pizza Hut or a Taco Bell and may not have a bank, but would have a common architectural design and restrictions. He emphasized there is no architectural design or common restrictions for the area. He added Pinnacle Office Park has no input regarding the access road because they do not participate in its maintenance. He explained the property was designed to encourage the development of individual lots without conforming construction restrictions. Mr. Leatherman stated the rezoning request went before the Planning Board in August 2014, and the Planning Board directed him to come back with a CD-Overlay to remove objectionable uses. He added the request was revised to a CD-Overlay with limited use and included a site and landscape plan. He commented he was surprised when the revisions were rejected at the January 2015 Planning Board meeting since the Planning Board gave the direction. He noted he did what he was directed to do and also asked for help from the community with many citizens making phone calls, sending emails, and signing a petition, which he presented to Mr. Mitchell. He added he contacted eight of the residents on Rosemont Street, five of whom signed the petition supporting the request. He noted the value of surrounding properties will not decrease and may be strengthened by the proposed development. He pointed out 57 percent of the Jake Alexander Boulevard Property Owner’s Association support the rezoning request. He requested Council approve the zoning request.

Ms. Gina Dickens, owner of Zaxby’s restaurant, 301 Faith Road, stated she loves the City and has been a local business owner for 10 years. She added she would like to open a second Zaxby’s because of the success of the Faith Road location. She commented she found the only vacant lot located at a traffic signal on this side of town, but the lot must be rezoned to include a drive-through restaurant. She noted at the Planning Board meeting several neighbors expressed concerns regarding the proposed restaurant. She explained a meeting was held in February 2015 to meet with the Property Owner’s Association to answer their questions and address their concerns, but no one came to the meeting. She indicated the original plan has been redesigned to address concerns, and she pointed out Zaxby’s strives to be a good neighbor and an asset to the community. She explained the proposed Zaxby’s would be a family-owned business and not a corporate store. She noted the average wage in the Salisbury store is $9.21 per hour. She commented if the new location is approved, Zaxby’s would hire 50 to 60 additional employees.

Mr. Chuck Hughes, 130 Camelot Road, noted he supports the rezoning request to permit the building of a Zaxby’s restaurant. He pointed out the proposed business would enhance the land value, increase property taxes, generate sales tax from a viable business, and create 50 to 60 jobs. He encouraged Council to welcome the new business on Jake Alexander Boulevard.

Mr. Michael Smith, District Manager of four Zaxby’s locations, 170 Rock Grove Church Road, pointed out Zaxby’s strives to make customers feel like part of the family. He added Zaxby’s maintains an active presence in the community by working with church and civic groups, local schools, area little leagues, and veterans services. He indicated the additional Zaxby’s location would be a win-win situation for the City and its citizens.

Dr. Jim Stringfield, 1228 Maxwell Street, indicated he supports allowing a Zaxby’s restaurant on Jake Alexander Boulevard. He pointed out the Master Plan meets building orientation, type, dimensional standards, and parking provisions for commercial buildings in the...
HB district. He indicated the site faces Jake Alexander Boulevard, one of the heaviest traveled areas in the City, and he added similar restaurants are nearby. Dr. Stringfield stated the traffic light would help control traffic and reduce the chance for accidents. He noted there is a large fence and trees behind the lot that should provide a buffer to the neighboring community. He pointed out the proposed restaurant would create jobs and tax revenue. He noted the plans were approved by the Technical Review Commission (TRC) and to deny the request sends prospective investors the wrong message. He encouraged Council to support the request.

Mr. Harry Garwood, Harold B. Jarrett American Legion, presented Council with a petition from Legion members in support of the proposed Zaxby's restaurant on Jake Alexander Boulevard.

Ms. Jo Jo Rust, Meadowbrook, asked Council to support the request to bring Zaxby’s to Jake Alexander Boulevard. She pointed out she has a distribution center in the same area as the proposed Zaxby’s restaurant. She indicated she could have taken her business anywhere, but she chose the City. She added Zaxby’s would bring jobs to a community that needs them.

Mr. Ahmed Asheik, Charlotte, noted he has worked with Zaxby’s since he was 16. He pointed out Zaxby’s has 680 locations. He asked Council to consider supporting the request for an additional Zaxby’s on Jake Alexander Boulevard.

Mr. James Canup, General Manager of the Faith Road Zaxby’s, 660 Ashview Woods Road, Kernersville, stated after the Planning Board denied the request in January, Zaxby’s generated a petition that has gathered approximately 1,000 signatures in support of the proposed restaurant on Jake Alexander Boulevard. He presented the petition to Council, and he asked Council to support a second Zaxby’s in the City.

Mr. Jeff Carter, Civil Engineer for Zaxby’s, 1730 Cold Springs Road, Bishop, Georgia, displayed a map with proposed changes to the site plan in response to neighbors’ concerns. He pointed out the menu board was moved to the front of the building so it is away from the office buildings. He indicated another issue was access from the signalized intersection. He pointed out the alley would not serve Zaxby’s. He added all restaurant traffic would enter from the traffic signal, and he indicated customers exiting the restaurant would have a right-turn only forcing them to exit through the traffic signal. He stated there are three lanes at the intersection from Jake Alexander Boulevard, but one of the lanes dead-ends. He explained Zaxby’s would upgrade the road creating a third lane all the way to the alley to eliminate concerns regarding emergency vehicles and peak-hour traffic. He added Zaxby’s would also move the curb cut to assist with left turns. He then reviewed the proposed landscape plan. Mr. Carter indicated Zaxby’s is willing to install a dedicated entrance lane to increase connectivity in the area.

Mayor Pro Tem Blackwell asked about the traffic pattern for delivery trucks bringing food to the restaurant. Mr. Carter noted the trucks would drive around the building. He pointed out there is enough room for a standard Zaxby’s delivery truck to make a delivery. Ms. Blackwell asked if deliveries would be made during off-peak hours so the drive-through is not disrupted. Mr. Carter stated deliveries would be made during off-peak hours. He pointed out the 28-foot lane is wide enough for a tractor trailer truck to park and also have a lane for customers.
Mayor Woodson asked for clarification regarding access to the dumpster. Mr. Carter stated the truck would pick up the trash and drive around the building. He noted the dumpster enclosure would match the building design.

Councilmember Miller questioned the width of the buffer along the side of Mr. Burke’s building. Mr. Carter stated the buffer would be approximately eight feet.

Mr. Albert Patterson, 2225 Statesville Boulevard, noted Zaxby’s would add 50 to 60 jobs to the local economy and increase the local tax base. He asked Council to approve the request.

Mr. Jim Gandy, 326 Riverbirch Drive, pointed out Zaxby's has been successful on Faith Road where another restaurant failed and he supports the request.

Mr. Roy Bentley, 1419 Arbor Drive, commented approving the request is a smart business move for the City. He added denial sends the wrong message to potential investors. He pointed out the character of Jake Alexander Boulevard has changed in the last 30 years, and there is another restaurant at the opposite end of this development that backs up to the same residential area. He indicated it is important for the City to send the right message by approving the request.

Mr. Keith Knight, 104 Gallery Place, stated the beautifully designed building and landscaping is in perfect harmony with the image the City is trying to project. He added Zaxby’s is a small neighborhood restaurant and in perfect integration with the Rosemont community. He pointed out the Zaxby’s on Faith Road is well maintained, and to deny the request sends the wrong message to potential investors. He noted mixed-use development is important to the community.

Mr. Jerry Wood, 531 Muirfield Way, addressed Council as President of Jake Alexander Boulevard Property Owner’s Association which includes properties from Highway 150 to the traffic signal at the Castlewood development. He reviewed ownership percentage in the area, and he noted Taco Bell has 16 percent of the vote, the bank which is owned by Mr. Wood has 14 percent of the vote, and Mr. Leatherman has 27 percent of the vote contributing to the 57 percent, or a majority of the association votes. He noted he has called two meetings in 2015 but some members chose not to attend the meetings regarding the proposed Zaxby’s restaurant.

Ms. Nancy Vick, 302 Windmill Road, noted if the restaurant is approved the property owner would maintain the property, improve the traffic flow, and address public concerns.

Ms. Darlene Blount, 212 Ferncliffe Drive, indicated change is difficult. She noted many people are concerned about how the change will affect them personally. She asked Council to support the request.

Mr. Chris Cohen stated he owns a business off of Jake Alexander Boulevard, and he supports the rezoning request. He pointed out the property has been vacant for far too long and if someone wanted to build an office at this location it would have happened. He noted there is an abundance of empty office space in the community, and a new office building would compete.
with the Salisbury Business Center. He commented the intersection has a traffic signal and a restaurant would be a good use of the property. He asked Council to approve the request.

Mr. Glenn Ketner, Jr., 121 East Kerr Street, addressed Council on behalf of Mr. and Mrs. Leatherman. He presented a map to Council and noted the area has changed drastically in the last 10 years. He displayed an aerial photograph from 1968, and he pointed out there was no connection to the interstate. He presented another aerial photograph from the mid 1990s, and he pointed out a connection to the interstate. He added the area has changed, and Council must embrace the changes in the LDO which allow mixed-use development.

Mayor Woodson asked those in opposition to address Council.

Mr. Alan Burke, 1009 Confederate Avenue, stated he is a Certified Public Accountant, and his business is located next to the proposed restaurant. He noted this particular section of Jake Alexander Boulevard is a neighborhood of similar businesses that share a parking lot, driveway, and right-of-way. He indicated if the request is approved, the shared driveway would be used for a high-traffic business. He stated, as developer of the property, Mr. Leatherman had complete control of the design, and he chose to build a substandard drive in the back of the property. He noted instead of deeding the driveway and having common area parking lots in front of the building, the developer chose to make the property owners responsible for their portion of a shared parking lot and driveway. He added the design is working due to the similarity of the businesses in the area. Mr. Burke pointed out Mr. Leatherman’s choice to save money and maximize profit during development has worked, but now Mr. Leatherman wants to change the dynamic of the office community even though the development is not designed to accommodate a fast-food restaurant. He pointed out the developer did not allocate enough land for a driveway into the office development at the traffic light on Jake Alexander Boulevard. He explained the driveway should have been a stub road requiring traffic to go to the back of the property and then turn right or left, similar to the Castlewood design. He noted the driveway to Pinnacle Park is a few feet away from the entrance, and the addition of a fast-food restaurant would create a traffic nightmare that could have been avoided with proper planning. He asked Council to deny the request. He added he has nothing against a fast food restaurant, jobs, or development, but at the proposed location the restaurant would deny current business owners access to their property.

Dr. Robert Whitaker, 330 Jake Alexander Boulevard, commented the location does not support the development of a drive-through restaurant. He pointed out accidents are common in the area, and he adamantly opposes the proposed zoning change.

Mayor Woodson asked Mr. Carter for clarification regarding revised site plans for the proposed Zaxby’s restaurant. Mr. Carter stated many citizens are concerned about access and cars stopping to turn left. He indicated the site plan would remove the first curb cut to eliminate cars stacking up to turn left.

Dr. Samuel Roy, 310 Jake Alexander Boulevard West, stated he moved into a private, stand-alone surgical center at the Pinnacle Office Park in 2013. He added he chose the Pinnacle Office Park because of its location, and he noted several other health care offices were already in the area. He emphasized he is opposed to the proposed zoning change because of the potential
risk to patient safety. He stated Pinnacle Office Park has traffic flow problems, with one entrance, one exit, and a one-way traffic flow. He explained the proposed plan to put a drive-through restaurant at the office park entrance would increase traffic flow problems and lead to congestion at certain times of the day and evening. He noted when situations occur at health care offices EMS assistance is needed to transport an unstable patient to the hospital, and traffic congestion from a drive-through restaurant could compromise EMS response times. He displayed a photograph taken Saturday, April 11, 2015 at 3:30 p.m. showing an ambulance at the back entrance of the urgent care facility picking up an unstable patient. Dr. Roy pointed out it is not uncommon for EMS to need to get to one of the medical offices seven days a week, and an ambulance takes up most of the exit lane. He pointed out vehicles turning illegally down the one-way lane could lead to a potential disaster for an emergency vehicle on a busy weekday. He emphasized a drive-through restaurant would worsen the traffic situation and could compromise patient safety. He noted the rezoning could hinder local health care provider’s ability to provide the best possible medical care to their patients.

Mayor Pro Tem Blackwell asked Dr. Roy for clarification regarding the photograph. Dr. Roy pointed out the location of his building on the map and where the photograph was taken. He emphasized emergency vehicles could block traffic creating a hazardous situation for everyone. He stated his location is established, and the proposed Zaxby’s restaurant has not been built. He asked Council to consider patient safety and deny the request. He stated an additional access would solve the problem and allow for the proposed development. He asked for a private alley dedicated to EMS vehicles for the health care facilities.

Dr. Ranjan Roy stated he strongly opposes any retail/restaurant development in the area due to the traffic issues. He added as a neurosurgeon he must have immediate access to Jake Alexander Boulevard. He pointed out seconds count when doctors rush to the emergency room to perform emergency surgery. He emphasized patient safety is the most important concern. He pointed out no one in favor of the project is a physician and everyone is a potential patient. He added the physicians could pool their resources to purchase the lot if money is the issue. He asked Council to deny the request.

Mr. Chuck Harris, 614 North Main Street, Fisher-Harris Development stated his company developed Pinnacle Office Park. He agreed with Dr. Roy regarding emergency access points and patient safety. He added he is concerned about access to the site. He pointed out there is one lane into the site from Jake Alexander Boulevard, and he noted traffic will back up onto Jake Alexander Boulevard. He added he prefers the second site plan Mr. Carter presented, but he questioned if the new site plan is part of the request before Council. Mr. Harris urged Council to make sure it has the correct site plan if it approves the request.

Ms. Karen Young, 706 Colby Circle, indicated she is very concerned about the proposed request. She pointed out supporters of the request do not live in the area. She questioned if the Zaxby’s parking lot would have enough room for employee and customer vehicles. She indicated she is concerned about the people who live on the other side of the street. She agreed with the Planning Board that the area is mixed-use, and she pointed out there are 314 residents across the street. She added she lives in the Castlewood townhouses, and Jake Alexander Boulevard is the only means of egress for residents. She noted the Planning Board got it right, and the current
zoning is correct. She presented a petition to Council signed by 32 homeowners in Castlewood in support of the current zoning.

Ms. Cassandra Cunningham, 2015 Rosemont Street, stated she is concerned Council is approving a restaurant and cannot be sure of exactly what will be developed. She asked if the restaurant could it be torn down and something else built in its place in the future if it is approved. She pointed out a fast food restaurant will bring low paying, minimum wage, part-time jobs, with no benefits for most employees. She added the jobs in question will not encourage growth, but will increase dependence on social benefits. She noted she is opposed to any fast food restaurant in the area.

Ms. Diane Greene, 409 Rivera Drive, indicated she owns property at 474 Jake Alexander Boulevard. She commented the property owners in the office park are responsible for maintaining every entrance into the complex. She added if Council denies this rezoning request, Zaxby’s will build in another location on Jake Alexander Boulevard that is zoned for a drive-through restaurant.

Mr. Donald Osborne, 165 Copperleaf Lane, noted he works with Alan Burke, CPAs, and the request before Council does not meet the definition of context sensitive in the Vision 2020 Plan. He questioned how a building that is 72 feet in front of the other buildings fits into the complex or meets the definition of context sensitive. He stated the Vision 2020 Plan is consistent with the current zoning that governs the property. He noted the Planning Board found that CD-05-2014 is not consistent with the goals, objectives and policies of the Vision 2020 Comprehensive Plan and recommended denial.

Ms. Ada Smith, 1922 Rosemont Street, commented Mr. Leatherman was required to plant trees at the rear of the development. She pointed out the trees died and were never replaced. She noted lights from the restaurant would come into her home. She agreed with Ms. Young and stated the people who support the proposed Zaxby’s restaurant do not live in the area. She asked Council to deny the request.

Mr. James Foust, attorney representing Alan Burke CPAs and area property owners, 125 East Council Street, noted the members of the Property Owner’s Association in support of the project are a majority by percentage, but they only consist of three entities: Taco Bell, Jerry Wood, and John Leatherman. He added there are six other lots with 12 additional property owners who oppose the request. He indicated the other property owners did not receive any notice of the Property Owner’s Association meetings to vote on officers. He pointed out the petition brought before the Planning Board in August 2014 was denied. He added the request was again brought to the Planning Board on January 2015 and was also denied. He stated the reasons for denial at the Planning Board meetings have not changed. He pointed out the complex has design and architectural requirements in its restrictions which state the purposes are for the benefit and compliment of all of the lots in the development in order to promote the best interest and to protect the investment of the developer and the property owners. He asked Council to deny the request.

Mr. David Post, 121 East Corriher Avenue, Planning Board member, noted he has a great deal of respect for Mr. Leatherman and the development he has completed along Jake Alexander
Boulevard. He noted there is no right turn lane onto Jake Alexander Boulevard coming from Interstate-85 which could cause a problem turning into the site. He indicated there is a 75-foot area between the back of Zaxby's and the Rosemont neighborhood. He pointed out the request before Council is an exception to an existing rule, and he added there must be a compelling reason for Council to change the existing zoning.

Ms. Gretta Saunders, 1832 Rosemont Street, indicated she delivered a petition to the City Clerk. She noted the neighborhood is opposed to the request.

There being no one else to address Council, Mayor Woodson closed the public hearing.

Mayor Pro Blackwell noted she appreciates Mr. Leatherman's tenacity in pursuit of the project. She added hundreds of community leaders were invited to contact Council in support of the project. She stated Council cannot be swayed by how many or who contacted them and must focus on the facts. She added Mr. Mitchell advised Council to consider the project on its merits and not on the site plan because it may or may not be a Zaxby's. She pointed out the Zaxby's engineer has shown the company is sensitive to the neighbors' concerns through the redesigned project, but Council must consider the project on its merits. She indicated Council's commitment is to the future of the City, and it must focus on the facts. She commented many of the emails Council received stated if Council votes against the project it is anti-business. She added she is pro-business and plans to support the businesses that have invested millions of dollars on this corridor and are already providing jobs that increase the City's tax base. She commented she is also pro-neighborhood. She added she likes Zaxby's and hopes they will build on another location in the City. She stated she does not feel this location is appropriate, and she intends to vote against the rezoning request.

Councilmember Kennedy thanked Mr. and Ms. Leatherman for their development throughout the City. He pointed out the City needs the jobs and tax base increase. He added he supports mixed-use, but he is concerned about traffic and safety issues. He indicated this is not a good location for a restaurant, and he would not support the rezoning request. He commented he was in the area on Monday, and there is a vacant restaurant at the intersection of Jake Alexander Boulevard and Lincoln Road that is an ideal location for another restaurant.

Mr. Mitchell clarified conditional rezoning considers the rezoning and the Master Plan. He emphasized the Master Plan is permanently married to the rezoning by the Ordinance. He added only the use can be legislated and not a particular business. He indicated Zaxby's the corporation could withdraw if the rezoning is approved, but the site plan would forever be a part of the rezoning.

Mayor Woodson clarified Zaxby's could not sell the property to another entity to build anything but what is shown on the Master Plan if the rezoning is approved. Mr. Miller noted another drive-through establishment could locate there. He added Council cannot require that Zaxby's remain at the location forever. He emphasized Council cannot legislate by corporate name.
Mr. Kennedy clarified he opposes a restaurant in the proposed location, and he will not vote for the rezoning.

Mr. Miller stated he has had many conversations about this item, and he noted this is the first opportunity he has had to view the case and hear both points of view. He pointed out with the types of uses in close proximity to the site, he does not find the petition to be inappropriate or spot zoning. He indicated the CD Overlay offers Master Plan protection that the lot could only be developed as stated. Mr. Miller stated if the intersection did not have a traffic signal he would not support the request, but the traffic signal makes a difference. He added whatever issues exist in the Pinnacle Office Park already exist in the one-way strip whether Zaxby’s is there or not, but he is not convinced moving forward with the request is the right thing to do. He stated he has encouraged neighbors and developers to reach a compromise. He added the revised site plan would address comments regarding connectivity. He indicated he could support the item going to a Council Committee for more discussion and to try to reach a compromise. He commented until there is compromise, he cannot support the request. He emphasized he could support the item going to Committee, but he is not sure Council shares the same thought.

Councilmember Alexander stated she has spent a great deal of time visiting the site at various times. She added important points have been made by both sides, and it appears there is no right answer. She pointed out she could not support the rezoning request today due to safety concerns. She indicated the Zaxby’s team wants to be a good neighbor and proceed with their project. She agreed with Mr. Miller and noted Council has to be careful its decisions do not infringe on property owners’ rights. She indicated she supports tabling the item or sending it to a Committee with a commitment from both sides to work toward a compromise. She noted there are many unanswered questions and possibly unintended consequences.

Mayor Woodson commended the speakers on both sides of the issue for their preparation. He noted the City needs the jobs and the additional tax base, but he does not think the item is ready for a vote due to the limited access to and from the complex. He stated he does not want to take the item to Committee until another access is built for the property. He indicated he cannot support the request at this time.

Thereupon, Mr. Miller made a motion to send the item to Committee. Ms. Alexander seconded the motion.

Mr. Mitchell explained a vote to send the item to Committee must be simple majority not a super majority. Mayor Woodson stated he is not objecting, but he would like another way to exit the property. He stated if those wanting the Zaxby’s would be willing to install another road to the area then he would consider the request.


Mayor Woodson stated for the item to come back before Council a better access route would be required. He noted the other businesses in the area are established and have a right to be protected. He commented additional plans are needed for ingress and egress to the property.
Mr. Mitchell pointed out if the request is denied the petitioner cannot bring the matter back to Council for one year, even if an access route is determined. He indicated the petitioner could withdraw the petition if Council agreed.

Mayor Woodson asked the developer if he would like to withdraw the petition. Mr. Ketner indicated his client would like to withdraw the petition and hopes to resolve the issues.

Thereupon, Ms. Alexander made a motion to approve a withdrawal by the client. Mr. Miller seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Mses. Alexander and Blackwell voted AYE. (5-0)

Mayor Woodson thanked Mr. and Mrs. Leatherman for all they do for the City.

COMMUNITY DEVELOPMENT BLOCK GRANT – TIME LENGTH AMENDMENT

Planning and Development Services Director Janet Gapen explained cities that receive Community Development Block Grant (CDBG) funding must certify that at least 70 percent of the funding is used for activities that benefit low-to-moderate income families. She stated the percentage can be composed of a one, two, or three year period, but in most cases the City selects the one year option.

Ms. Gapen noted the City came in just under the 70 percent threshold in 2012 due to planning for the West End neighborhood transformation. She added staff would like to amend the Five Year Plan to select the three-year option. She explained the change would apply to the calculation for the combined years of 2012, 2013 and 2014. She pointed out in 2012 the percentage for low-to-moderate income families was at 63.97 percent, while the 2013 percentage was at 87.53 percent, and the 2014 percentage is at 99.47 percent. She pointed out if the change is made to three-year certification, the percentage would be approximately 80.20 percent.

Councilmember Alexander requested information detailing how the funds were spent. Ms. Gapen stated staff can provide the information to Council. She added the planning cost from 2012 for the West End neighborhood transformation was considered as an indirect benefit for low-to-moderate income families causing the percentage to drop below 70 percent.

(b) Mayor Woodson convened a public hearing, after due notice thereof, to receive comments regarding amending the length of time used to calculate CDBG low-to-moderate income benefits from 2012 until 2014.

There being no one to address Council, Mayor Woodson closed the public hearing.

Thereupon, Ms. Alexander made a motion to amend the 2010 through 2014 Consolidated Plan to certify that at least 70 percent of Community Development Block Grant funds will be used to benefit low-to-moderate income households for the period 2012 through 2014. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Mses. Alexander and Blackwell voted AYE. (5-0)
APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

Parks and Recreation Advisory Board

Upon a motion by Mr. Kennedy, seconded by Mr. Miller, and with Messrs. Miller and Woodson and Ms. Blackwell voting AYE, the following appointments were made to the Parks and Recreation Advisory Board:

Mr. Glenwood Oats, Jr.              Term Expires 03/31/18

PUBLIC COMMENTS

Mayor Woodson opened the floor for public comment.

Mr. Brian Davis, 215 Depot Street, Executive Director Historic Salisbury Foundation (HSF), updated Council regarding negotiations between St. John's Lutheran Church and the HSF concerning the proposed demolition of the 1870s Marsh-Ward house located at 125 North Fulton Street. He indicated HSF learned about the proposed demolition in April 2014 and reached out to the Church. He added the HSF is continuing to work with the Church to develop a compromise that will allow the Marsh-Ward house to remain in its current location. He commented the Church has no official plans for parking on the location although the possibility has been considered. He indicated the HSF feels demolishing the home for parking would be in opposition to the Vision 2020 Plan. He noted the current condition of the Marsh-Ward house does not present a threat to public safety, and its loss would be detrimental to the character of the City and neighboring property values. He added in a 2001 survey the Marsh-Ward house was identified as potentially eligible for listing on the National Register of Historic Places. He added the HSF offered to purchase the front portion of the property from St. John's Lutheran Church ensuring the Marsh-Ward house is maintained for generations to come.

Ms. Dee Dee Wright, 418 South Caldwell Street, requested an update in writing regarding lighting and sidewalks along Old Concord Road.

Mayor Woodson stated the cost of the project is approximately $550,000 and at this time funding is the issue. He indicated staff will be meeting with the North Carolina Department of Transportation (NCDOT) to see if they could assist with the project. He stated Council will work with City Manager Lane Bailey on the issue.

Mayor Pro Tem Blackwell pointed out Council is working diligently on the issue.

Councilmember Alexander stated other citizens have shared their concerns with Council regarding safety on Old Concord Road. Ms. Blackwell added Council is concerned because the situation presents a safety issue for citizens. Mayor Woodson indicated Council is in full agreement and looking for ways to proceed with the project.

There being no one else to speak, Mayor Woodson closed the public comment session.
CITY MANAGER’S COMMENTS

(a) Old Concord Road

City Manager Lane Bailey indicated he read about conditions on Old Concord Road in the Salisbury Post and drove through the area. He added he understands Ms. Wright’s concerns, and staff will continue to address the issue.

(a) Transit Update

City Manager Lane Bailey stated the 2010 Census verified the City has over 30,000 citizens meaning the transit system is considered an urban system instead of a rural system. He asked Transit Manager Rodney Harrison to update Council regarding the changes to the transit system.

Mr. Harrison explained as a result of the Moving Ahead for Progress in the 21st Century (MAP-21) initiative and the 2010 Census, major funding sources have shifted from the 5311 Rural Program to 5307 Urbanized Area Program funding requiring the City to become a new grantee through the Federal Transit Administration (FTA). He noted staff received confirmation on April 3, 2015 that the request has been approved, and the City can apply for Federal funds through the FTA. He indicated staff will continue to work with the Concord Transit System, the Concord-Kannapolis Rider Transit System, and the Cabarrus-Rowan Metropolitan Planning Organization (MPO) to determine the allocation of Federal funds.

Mr. Harrison stated staff is receiving assistance from the North Carolina Department of Transportation (NCDOT) Public Transportation Division regarding the transition. He thanked everyone who has helped with the transition.

Mayor Woodson thanked Public Services Director Tony Cinquemani and Mr. Harrison for all they do for the transit system and the City.

MAYOR’S ANNOUNCEMENTS

(a) Spring Family Campout

Mayor Woodson announced the Salisbury Parks and Recreation Department Spring Family Campout will be held Friday, April 24, 2015 at 3:00 p.m. until Saturday, April 25, 2015 at 10:00 a.m. at the Salisbury Community Park. The cost is $20 per tent for the first four people and $5 for each additional person. Pre-registration is required. For more information call 704-216-PLAY.
(b) **9th Annual Mother/Son Luau**

Mayor Woodson announced the Salisbury Parks and Recreation Department will host the 9th Annual Mother/Son Luau, for ages 4-13, Saturday, May 2, 2015 from 6:00 p.m. until 9:00 p.m. at the Civic Center, 315 Martin Luther King Jr. Avenue. Tickets are $8 for mothers and $6 for sons, and available by calling 704-216-PLAY.

(c) **9th Annual Middle School Prom**

Mayor Woodson announced the Salisbury Parks and Recreation Department will host the 9th Annual Middle School Prom Saturday, May 16, 2015 from 6:00 p.m. until 9:00 p.m. at the Salisbury Civic Center. Tickets are $10 per person and must be purchased in advance. For more information call 704-216-PLAY.

**CLOSED SESSION**

Mayor Woodson requested Council go into a closed session to consult with an attorney as allowed by NCGS 143-318.11(a)(3) and concerning an economic development matter as allowed by NCGS 143-318.11(a)(4).

Thereupon, Ms. Blackwell made a motion to go into closed session to consult with an attorney as allowed by NCGS 143-318.11(a)(3) and concerning an economic development matter as allowed by NCGS 143-318.11(a)(4). Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Mses. Alexander and Blackwell voted AYE. (5-0)

**RETURN TO OPEN SESSION**

Thereupon, Mr. Miller made a motion for Council to return to open session. Mr. Kennedy seconded the motion. Messrs. Kennedy, Miller, and Woodson, and Mses. Alexander and Blackwell voted AYE. (5-0)

Mayor Woodson announced no action was taken in closed session.

**ADJOURNMENT**

Motion to adjourn the meeting was made by Mr. Miller seconded by Mr. Kennedy. All council members in attendance agreed unanimously to adjourn. The meeting was adjourned at 8:27 p.m.

![Signature]

Paul B. Woodson, Jr., Mayor

Myra B. Heard, City Clerk