

Salisbury, North Carolina
August 17, 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 Kennedy.

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.

RECOGNIZE EMPLOYEES OF POLICE DEPARTMENT

Police Chief Mark Wilhelm recognized the following Veteran Officer of the Year, Young Officer of the Year, and Employee of the Year from the Salisbury Police Department.

Veteran Officer of the Year	Master Police Officer Wiley Lamm
Young Officer of the Year	Police Officer Kareem Puranda
Employee of the Year	Master Police Officer Karen Barbee

Mayor Kluttz presented each officer with a plaque and thanked them for their work for the City.

RECOGNIZE EMPLOYEES OF FIRE DEPARTMENT

Fire Chief Bob Parnell recognized the following Veteran Firefighter and Rookie Firefighter of the Year from the Salisbury Fire Department.

Veteran Firefighter of the Year	Captain Paul Rendleman
Rookie Firefighter of the Year	Firefighter Chad Walker

Mayor Kluttz presented a plaque to Firefighter Chad Walker. Chief Parnell noted that Captain Rendleman was unable to attend the meeting.

CONSENT AGENDA

(a) Minutes

Approve Minutes of the regular meeting of August 3, 2004.

(b) Minor Subdivision Plat S-08-04 - Land Trust of North Carolina

Approve minor subdivision plat S-08-04 to create a 9.43 acre tract on Confederate Avenue for the Land Trust of North Carolina.

(c) Voluntary Annexation - Parkdale Heights

Receive a petition for voluntary annexation for a portion of Parkdale Heights located in the 200-300 blocks of American Drive and adopt a **RESOLUTION** directing the City Clerk to investigate the sufficiency of the petition.

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31, FOR VOLUNTARY ANNEXATION.

(The above resolution is recorded in full in Resolution Book No. 12, at page No. 37, and is known as Resolution No. 2004-25.)

(d) Budget Ordinance Amendment - Time Warner Cable TV

Adopt a budget ordinance amendment to the FY2004-2005 budget in the amount of \$10,000 to appropriate a donation received from Time Warner Cable for the purchase of equipment necessary for the start-up of a new government TV channel.

AN ORDINANCE AMENDING THE 2004-2005 BUDGET ORDINANCE OF THE CITY OF SALISBURY, NORTH CAROLINA, TO APPROPRIATE DONATION FOR TECHNOLOGY EQUIPMENT.

(The above ordinance is recorded in full in Ordinance Book No. 20, Budget, at Page No. 140, and is known as Ordinance No. 2004-54.)

(e) Group Development Site Plans

Approve the following group development site plans:

- G-02-00 - Lone Hickory Village, 300 block of Morlan Park Road
- G-14-04 - College Park Apartments, 1710 Old Wilkesboro Road
- G-14-02 - Food Lion Store Support Center, 2110 Executive Drive
- G-07-02 - Drummond Village, 2800 block of Stokes Ferry Road

Mayor Kluttz informed Council that she had received a request to pull G-02-00 Lone Hickory Village from the consent agenda for discussion.

Councilman Lewis indicated that he needed to be excused from G-14-04 College Park Apartments due to a conflict of interest.

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

Thereupon, Mr. Kennedy made a **motion** to adopt the consent agenda with exception of the two items that were withdrawn. Mr. Burgin seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

G-14-04 COLLEGE PARK APARTMENTS

Thereupon, Mr. Burgin made a **motion** to approve G-14-04. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Woodson, and Ms. Kluttz voted AYE. (4-0)

G-02-00 LONE HICKORY VILLAGE

Mayor Kluttz opened the floor for public comment concerning G-02-00. Those addressing Council were:

Mr. Robert Boone stated that he supports the development of the property in question but feels there were many questions raised when the project began in 2000 that have not yet been addressed. He indicated that he would like to know how the property is zoned, what is allowed and how the property will be developed.

Mr. Clyde Miller, 915 Rowan Circle, indicated that he has concerns about water problems and noted that he and his neighbors have had increased water problems since Jake Alexander Boulevard was constructed. He stated that he is not opposed to the development but questions what will be done with the excess water. Mr. Miller presented Council with photographs of the problems created from the water flow.

Since no one else was present to speak to Council concerning this matter, Mayor Kluttz closed the public comment session.

Mr. David Phillips, Zoning Administrator, explained to Council that the property is zoned Residential Development B which allows a developer to establish their own lot size and setbacks. He noted that this property is in a special use district with the permitted uses of single family detached units including accessory structures and family care homes.

Mr. Dan Mikkelsen, Director of Land Management and Development, told Council that the property in question is located uphill from Rowan Terrace and Rowan Circle and the runoff from the site will run into the neighborhoods. He added that there is nothing in Salisbury's regulations that prevent this as it is in accordance with state law. Mr. Mikkelsen noted that the subdivisions are on the edge of an existing regulated flood plain and added that approval of this site plan is separate from any existing drainage problems.

Councilman Lewis commented he understood that the site plan has been brought up to existing standards. Mr. Mikkelson explained that when the site plan was originally approved it was the last plan not required to have sidewalks. The approval expired and staff has recommended they now adhere to the new standards which require sidewalks and the developer has agreed.

Mayor Kluttz asked what could be done about the water issues. Mr. Mikkelson stated that City staff has met with some of the property owners and the street division has made drainage improvements but storm drainage issues can not be easily answered.

Councilman Burgin asked if there are any places upstream that detention areas can be placed to help mitigate the problem. Mr. Mikkelson stated that this is not something that can be addressed through the current policies and funding and noted that the majority of the water originates from residential development.

Thereupon, Councilman Burgin made a **motion** for approval of G-02-00. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson and Ms. Kluttz voted AYE. (5-0)

PRESENTATION FROM MR. CARL REPSHER REGARDING ROWAN VOCATIONAL OPPORTUNITIES

Mr. Carl Repsher, Director of Rowan Vocational Opportunities (RVO), gave Council a brief overview of the programs at RVO, noting that they are a United Way agency. He stated that RVO employs thirty (30) full time staff and has tripled in size since 1986.

Mr. Repsher described each of the programs offered through Rowan Vocational Opportunities which include a Vocational Rehabilitation Program, a Community Alternative Program, two (2) Adult Developmental Vocational Programs - Work Services and Personal, Social and Community Skills - and a Compensatory Education Program

Mr. Repsher noted that RVO currently serves clients from Rowan, Cabarrus and Davie counties. He introduced Mr. Glenn McDonald, Manufacturing and Marketing Manager, and Ms. Dee Smith, Job Placement Manager. Ms. Smith introduced Mr. Anthony Litaker and Ms. Latrice Kendall, RVO clients who are employed with the City of Salisbury.

Mr. Repsher stated that one of the challenges they face is finding a way to serve an aging population. He explained that the State requires a day program in order for a facility to have group home status and noted that there is no structure to provide for the retirement of disabled citizens.

Mayor Kluttz asked if RVO receives funding from the other counties that are served. Mr. Repsher stated that they receive funding from Davie County but not from Cabarrus County at this time.

Councilman Burgin asked if RVO has been impacted by the statewide changes to mental health services. Mr. Repsher noted that the changes are just beginning to be felt at the local level but it has been going fairly well.

Mayor Kluttz thanked Mr. Repsher for bringing this information to Council.

ZONING MAP AMENDMENT - Z-9S-04 - RODNEY QUEEN

Z-9S-04 - Rodney Queen
602 Hawkinstown Road

(a) Swearing In

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

Ms. Janet Gapen
Mr. Rodney Queen
Ms. Elizabeth Fields
Rev. Jerry Wilkes

(b) Evidence Presented

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

Ms. Janet Gapen, Planner II, noted that the property is located on Hawkinstown Road just outside the City limits, but within the City's Extraterritorial Zoning Jurisdiction. She stated that it is approximately eight (8) acres and the existing zoning is R-6 two family residential, which allows duplexes. Ms. Gapen stated that the request is to rezone the property to a special use district R-6A-S. She commented that the original application was to rezone from R-6 two family residential to R-6A multi-family residential. She explained that this would have allowed multi-family units up to eleven (11) per acre, which with the eight (8) acres on the site, would have been a maximum of eighty-eight (88) multi-family units. Ms. Gapen explained that at the Planning Board courtesy hearing there were quite a few residents expressing concerns and opposition to the request, so the Planning Board sent the issue to a committee. She stated that there were approximately thirty-two (32) residents who attended the committee meeting and there was quite a bit of discussion about the differences between the districts and what the options could be. She explained that at the meeting the applicant offered the option of submitting an application for a special use district with restrictions limiting the development on the property. These include limiting the development to

condominiums, single story construction and a maximum of seven (7) units per acre, which would bring the total units to fifty-six (56). Ms. Gapen noted that this suggestion was better received by the area residents, so subsequent to the committee meeting the applicant changed the request to the current request for R-6A-S with the conditions noted. Ms. Gapen reviewed a map and photographs of the property and surrounding areas. She pointed out that the zoning is R-6 surrounding the property with some R-8 and R-DA across the street. She noted that the aerial map shows that the area is largely wooded and rural in character and the uses are primarily single family. Ms. Gapen stated that the property is a very deep lot and pointed out a vacant home at the entrance to the property.

Councilman Lewis asked if the zoning will still allow single family residential. Ms. Gapen responded that it does.

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

Mr. Gene Wall, 114 Overhill Drive, stated that he moved to Salisbury fourteen (14) months ago from Greenville and looked for a long period of time and decided to build a home in the Woodfield Subdivision. He stated that they were looking primarily for a patio home with less maintenance, a smaller yard and a quiet neighborhood. He stated that they felt like they found it and still believe they have found it in Woodfield. He commented that the majority of the people are retired and it is a quiet neighborhood, peaceful and ideal. Mr. Wall stated that he has spoken with many people in Woodfield prior to today's meeting and he also attended the meeting with the Planning Board. He added that there was a lot of discussion both pro and con. Mr. Wall told Council that most of the people he had spoken to felt that the issues were generally resolved by the Planning Board and their recommendation. He added that the majority of the people he has spoken to in Woodfield are in favor of condominiums as prescribed by the Planning Board. He stated that personally he liked the initial idea of senior citizen housing because he felt it fit in with the general clientele of Woodfield. Mr. Wall stated that he feels the majority of people like the idea of single family housing as opposed to multi-family housing because it fits in and he feels this is why many people are not at the hearing today. He stated that he hopes Council will approve the zoning request as proposed by the Planning Board for condominiums and he believes the developer will work to maintain the integrity of the general area.

Mr. Rodney Queen, 101 Polo Drive, told Council that he purchased the land on Hawkinstown Road for three reasons: because of the zoning, the close proximity to Woodfield and because someone out of Winston-Salem had the property and he was concerned about what they may put in there. He stated that he did not come up with a retirement community out of the blue but he researched what might be best to fit in the community. He stated that because of the narrowness of the entryway and the opening up of the area, he felt like a retirement place for senior citizens would be welcomed with open arms, adding he was surprised that it was not. Mr. Queen commented that we desperately need this type of housing and there is a limited amount offered and few who will step forward to offer it to citizens. He told Council that when he attended the committee meeting he found out that people were concerned about the development because it would be a rental type of thing and they seemed to lean more toward ownership. He stated that he listened to what the people said and tried to work with them the best he could to compromise. Mr. Queen stated he wanted to compromise with the community because he did not want to bring something before City Council that was just in a complete disarray. He noted that as they compromised he looked at condominiums, which he felt would be the pride of ownership, and reduced them from multi-level to single level in order to make them ranch style, and limited the number that would go in. He added that at each step as he worked with the community they seemed open to it and the majority seemed to be comfortable with the compromise. He stated that he would like to have done a senior citizen development but perhaps there will be more of that in the future. He stated that he wanted Council to know that he came forward to compromise and work with the people and he appreciated Council's understanding of what he was trying to do.

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

Ms. Elizabeth Fields, 1009 Hawkinstown Road, told Council that she has been a resident here for over thirty (30) years and is against the proposed condominiums. She stated that they had been given two choices: a bad choice and worse choice. She asked how you chose whether you want to die by bullet or by knife and she felt this is the situation they were faced with. Ms. Fields stated that it is not that they would not like to have lovely homes, like in Woodfield, and any home that could be built in Hawkinstown that is single family detached, they are in favor of it. She told Council that there are no apartments out there now and the co-chair of the Planning Board spoke out vigorously against apartments in the area. Ms. Fields commented that a promise was made to Woodfield that an opening would not go into their area, but no such promise has been made to the people in Hawkinstown. She pointed out that it is a very narrow road and even with the recent widening it is still very narrow. She noted that she realizes that Mr. Queen has tried to compromise but compromising is not enough, adding that they would like to keep their community single family detached homes for sale. Ms. Fields stated that they are working vigorously to get their community rezoned because she did not think most of them knew that you could have duplexes in the area. She commented that when they appeared before the Council in 1986 she thought the area was R-8 and she is not sure how this came about. She stated that they would like to see homes sold as single family detached homes.

Mayor Kluttz then swore in Ms. Debbie Snider and Mr. Robert Cockerl, Jr. who wished to address Council.

Ms. Debbie Snider, 160 Hawkinstown Road, told Council that she has lived at this address all of her life and her parents and grandparents own most of the land. She stated that everyone knows everyone in the area. She commented that Mr. Queen has built a lovely development behind her and she agrees that the people have been very nice and there have been no problems, but she feels when you get into rental properties it will create a whole new atmosphere and added that they will not know who will be there. She stated that the road is a very small road and is like a racetrack because people cut from Spencer to Salisbury. She commented that you could see from the pictures that were shown that the road is horrible. Ms. Snider told Council that she rides a motorcycle and the road is so bad she tries not to go beyond her house because of the conditions. She stated that they have a lot of bad roads right there and pointed out that Old Mocksville Road is a horrible road. Ms. Snider said she felt the road is in bad shape because of all the development that is being put out there. She commented that this is a rural section and they keep bringing in more and more development. She stated that she would like to see Mr. Queen be able to utilize his land but she would also like to see single family homes because she did not feel the property is big enough to handle large development. She stated that it is a very small tract and they will have to bring traffic out onto Hawkinstown Road. She commented that if they put fifty-six (56) units on the property there just is not enough room. Ms. Snider explained that she could see building three (3) or four (4) really nice homes for single families and she thinks Mr. Queen should have the right to build since it is his land, but she would like to see it more family oriented.

Mr. Robert Cockerl, Jr. 502 Hawkinstown Road, stated that he has lived at this residence for about thirty (30) years and as long as he has been there the area has been predominately single family dwellings. He stated that he would like to go on record because his land is adjacent to the tract of land that is proposed to be rezoned. He stated he would like to see it developed, but only as a single family dwelling area. He commented that he thinks the community has always been single family and it has been built towards this and he would like to see it continue.

Rev. Jerry Wilkes, 304 West Thomas Street, informed Council that he is a member of the Salisbury Planning Board and the person who chaired the Board committee discussing this particular request. He stated that he wanted to clarify a couple of things as Council considers the request. Rev. Wilkes explained that the committee looked at this request for the fact that it is currently zoned R-6, which allows two (2) family residential housing, and the request was to rezone to R-6A multi-family residential district. He noted that throughout this particular process the Planning Board sought to involve the neighbors who attended the meeting. He pointed out that in committee meetings of the Planning Board they do not have to allow the public to speak but they chose, for an hour, to allow the public to speak and he believes everyone had their opportunity. He stated that as a result of the public input the developer made a great number of concessions and pointed out that duplexes could have been built on the property as it is zoned. He told Council that when he asked the residents who were present if they wanted duplexes the resounding answer was no. He stated that when he asked about the R-6A, which would allow multi-family and the senior citizen housing apartments which would have been rentals, the resounding answer was no. Rev. Wilkes explained that they then began to look at and consider the fact that the developer said he would take an R-6A-S which would have limited what he would have done, but eventually they got to this. He commented that no one wanted double or two-story buildings so they asked if the neighbors would accept single story and the resounding answer was yes, so the developer made the concession. He noted that everyone was afraid of rentals so they went to condominiums which implies selling of the units and that seemed to satisfy the majority of the people who were in the meeting. Rev. Wilkes commented that the developer was even agreeable to a concession of fifty-six (56) units whereas he could have had seventy-seven (77) units as proposed. He stated that this seemed to make people happy that there would be fewer units. He noted that over and over the developer made concessions and the people who attended the meeting were involved in the process. They felt this was the best situation since this was his property; the property's existing zoning and single family zoning was not sought. He stated that he just wanted to bring to Council's attention these items that were a part of the committee's decision for the particular zoning that they recommended. He commented that he personally continues to recommend the R-6A-S as a very reasonable zoning for this property.

Since no one else was present to speak in favor or against the proposal, Mayor Klutz closed the public hearing.

Councilman Burgin commented that in looking at zoning cases within the City, particularly residential, he appreciates that everyone can not live the same way. He stated that experience has shown that as a City, there is a struggle when there is talk of apartments and he feels this is because there is no ownership there. He added that in this case Council is looking at condominiums with an agreed limitation on the number, which he feels is significant. Mr. Burgin commented that even with single family detached houses there could probably be forty (40) single family houses on eight (8) acres in R-8 zoning. He stated that he thinks the developer has made a great effort to compromise and has listened to the neighbors. He added that he could not ask the developer to do more and is supportive of the Planning Board's recommendation. Mr. Burgin commented that he hopes the neighbors will find, over time, that the condominium owners who are investing in the property will be very good neighbors and will be very good citizens of the City. He stated that he is happy with the proposal and will support the recommendation from Planning Board.

Councilman Kennedy stated that he is familiar with Mr. Queen's developments and he has done a very good job in the areas he has developed, but he is concerned with Hawkinstown Road. He commented that it is a very narrow street and something needs to be done to improve the road before any development goes in. Mr. Kennedy stated that the City has always talked about connectivity and connecting communities together. He pointed out that the Planning Board has agreed not to connect the proposed community with Woodfield and he feels this is going against something that Council has done in other communities. He added that he felt connecting the communities together would take some of the pressure off of Hawkinstown Road and by not recommending this he is against the proposal at this particular time because of the safety issue.

Councilman Lewis disclosed to Council that he and Mr. Queen have a banking relationship but his bank has no interest in this property as collateral in any way.

Mr. Lewis asked Mr. Dan Mikkelson, Director of Land Management and Development, when Hawkinstown Road is scheduled for repaving. Mr. Mikkelson stated that the North Carolina Department of Transportation (NCDOT) has funds set aside to resurface Hawkinstown Road. He pointed out that in the photographs that were shown there was different paving on the shoulder of the road than on the center of the road and this is preparation for widening the road. He stated that the contractor who will be doing the resurfacing is the same contractor who will be resurfacing Main Street, adding that it is under the same contract. He stated that it should be done some time in this construction year but he did not know the exact schedule. Mr. Mikkelson added that the State is planning to resurface and widen Hawkinstown Road and it will be standard lane width which is twelve (12) feet wide. Currently the road is closer to twenty (20) feet or two (2) ten (10) foot lanes.

Mr. Lewis asked Mr. Mikkelson what type of thoroughfare the street is designated as in the City's plan. Mr. Mikkelson responded that it is a minor thoroughfare. Mr. Lewis asked Mr. Mikkelson to define a minor thoroughfare. Mr. Mikkelson stated that a minor thoroughfare shares the purpose of providing access to adjacent properties and providing through movements to traffic.

Mr. Lewis commented that Hawkinstown Road will be better than Old Mocksville Road and noted that streets are meant to move people. He added that he realizes that Hawkinstown Road is used as a cut-through but that is the purpose of the road. He noted that there are single family residences on the road and he has concerns about the speed at which people travel.

Mr. Lewis referred to a map of the proposed property and pointed out that there is a parcel of property located between the Woodfield Subdivision and the property in question owned by Mr. Queen. He commented that when dealing with connectivity they are specifically dealing with proposed subdivisions and Woodfield is an existing subdivision. Mr. Lewis commented that he did not see any way that the Council could require Mr. Queen to put in a road from his property to Woodfield since the subdivision has already been approved. He noted that the property located between Woodfield and Mr. Queen's property is a virtual gully and he could not see interconnectivity in the back part of the property.

Mr. Lewis stated that as the property is zoned and platted right now one duplex can be constructed, or the developer could submit a subdivision plat which would allow an increased number of duplexes as allowed by the acreage. He noted that this would require it to come through a public process. Mr. Lewis commented that if the developer had requested R-DA zoning for the property it would have allowed eleven (11) units per acre or about eighty-eight (88) units for this eight (8) acre parcel. He stated that if it was zoned R-DB five (5) units per acre or (40) units could be built. Mr. Lewis pointed out that the proposal is for single level condominiums. He noted that there will be an opportunity to maintain open space in the development and he feels this is important for everyone. He stated that he supports the rezoning. Mr. Lewis added that he feels there is a significant need for senior housing, adding that the City needs to recognize the need for affordable housing because seniors are on fixed incomes.

Mayor Pro Tem Woodson stated that he understands that the neighbors want single family housing but he feels that Mr. Queen bought the property zoned R-6 and this is a good compromise. He commented that he received calls from residents who wished the proposal could go back to senior citizen housing because seniors do not drive a lot or make much noise. He stated that he feels a compromise has been made for condominiums and feels it will be a nice development. Mr. Woodson added that he is glad to know the road will be expanded. He commented that he feels Mr. Queen has made a good compromise and he will support the proposal.

Mayor Kluttz commented that zoning issues are always the hardest that Council faces and she feels it is very important to always listen to the neighbors and what the neighborhood wants. She stated that she feels very strongly that zoning should not be changed unless there is a compelling reason to do so, but this is not being changed from single family housing. She noted that after all of the time put in by the Planning Board she feels this is the best answer and will support the recommendation.

Mr. Kennedy noted that senior citizens do not have much of an income and he wonders how they will be able to buy a condominium. Mr. Lewis pointed out that while most of the condominiums will be privately owned there is no guarantee that the units will not be rented. He clarified that this proposal is not specifically for senior citizens.

Mayor Kluttz asked those present who were opposed to raise their hands, as well as those who supported the proposal. Mr. Woodson commented that the show of hands was close to equal.

(c) Findings of Fact

- Councilman Burgin read the following Findings of Fact:

1. The owner-occupied nature of condominium development would help maintain neighborhood stability in the Hawkinstown community.
2. The condition limiting the overall density to seven (7) units per acre minimizes the potential for traffic impacts on Hawkinstown Road.
3. The height restriction of single-story construction ensures that the development is not intrusive to surrounding residences and the Woodfield neighborhood.

- Mr. Kennedy asked to clarify that the Findings of Fact state the units are owner occupied and asked if this means the developer can not rent the condominiums. Mr. Lewis stated that it refers to the owner occupied nature of the condominiums and Council can not restrict anyone from renting.

(d) Decision

Thereupon, Mr. Burgin made a **motion** that Council vote to rezone the property as recommended by the Planning Board for case Z-9S-04 from R-6 to R-6A-S, with the restrictions. Mr. Lewis seconded the motion. Messrs. Burgin, Lewis, Woodson, and Ms. Kluttz voted AYE. Mr. Kennedy voted NAY. (4-1)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SALISBURY, NORTH CAROLINA, BY REZONING APPROXIMATELY 8 ACRES LOCATED AT 602 HAWKINSTOWN ROAD, FURTHER IDENTIFIED AS PARCEL 82 ON FRANKLIN TOWNSHIP TAX MAP 324, FROM R-6 TWO-FAMILY RESIDENTIAL DISTRICT TO R-6A-S SPECIAL MULTI-FAMILY RESIDENTIAL DISTRICT.

(The above ordinance is recorded in full in Ordinance Book No. 20, Zoning & Planning, at Page Nos. 141-142, and is known as Ordinance No. 2004-55.)

(e) Special Use District Permit

Thereupon, Mr. Burgin made a **motion** that a Special Use District permit be issued based on the three (3) Findings of Fact read earlier. Mr. Lewis seconded the motion. Messrs. Burgin, Lewis, Woodson, and Ms. Kluttz voted AYE. Mr. Kennedy voted NAY (4-1)

STREET CLOSING - 2100 BLOCK OF EXECUTIVE DRIVE

(a) Ms. Wendy Brindle, Traffic Engineer, noted that on July 20, 2004 Council adopted a Resolution of Intent to close the 2100 block of Executive Drive. She stated that notification has been made to the public and staff has found that closing the street will not be contrary to the public interest and will not deprive anyone of ingress or egress to their property. Ms. Brindle stated that in order to close this section of Executive Drive, Food Lion will be

required to combine two parcels of land and they will maintain the existing sixty (60) foot right-of-way as a utility easement.

(b) Mayor Kluttz convened a public hearing, after due notice and advertisement thereof, to consider closing the 2100 block of Executive Drive.

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

(c) Thereupon, Mr. Lewis made a **motion** to adopt the resolution pertaining to the acceptance of an offer of dedication for public use of the 2100 block of Executive Drive. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

RESOLUTION PERTAINING TO THE ACCEPTANCE OF AN OFFER OF DEDICATION FOR PUBLIC USE OF THE 2100 BLOCK OF EXECUTIVE DRIVE.

(The above resolution is recorded in full in Resolution Book No. 12, Page Nos. 38-39, and is known as Resolution No. 2004-26.)

(d) Thereupon, Mr. Lewis made a **motion** to adopt an **ORDER** closing the street pursuant to the General Statutes of North Carolina, Section 160A-299. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson, and Ms. Kluttz voted AYE. (5-0)

NORTH CAROLINA	*	BEFORE THE CITY COUNCIL OF
ROWAN COUNTY	*	THE CITY OF SALISBURY
	*	NORTH CAROLINA
IN THE MATTER OF:	*	
	*	ORDER CLOSING STREET
CLOSING THE 2100 BLOCK OF	*	PURSUANT TO GENERAL STATUTE
EXECUTIVE DRIVE	*	OF NORTH CAROLINA SECTION
	*	160A-299

THIS CAUSE, coming on to be heard and being heard before the City Council of the City of Salisbury, Rowan County, North Carolina, at the regular meeting of said Council held on August 17th at 4:00 p.m., in the City Office Building at 217 South Main Street, Salisbury, North Carolina, and it appearing to the Council that all persons, firms and corporations owning property adjoining the street described in the Petition filed in this cause are parties to this proceeding; and it further appearing that said street is not maintained by the Department of Transportation; and it further appearing that notice of this hearing was duly published in THE SALISBURY POST on July 23, 30, August 6, 13, 2004.

And it further appearing to the Council and the Council finding as a fact, that the closing of the street, as described in the Petition filed in this cause, is not contrary to the public interest or the property rights of any individual, and that no individual owning property in the vicinity of said street or in the subdivision in which they are located will be deprived of reasonable means of ingress and egress to his property by the closing of said street; and it further appearing to this Council that the relief prayed in the Petition should be granted.

IT IS NOW, THEREFORE, ORDERED AND DECREED by the City Council of the City of Salisbury, Rowan County, North Carolina, pursuant to and in accordance with the authority vested in this Council by the General Statutes of North Carolina, Section 160A-299:

BEING that entire 69,179 square foot portion of Executive Drive (a 60 foot wide public right-of-way) comprised of portions of the following three properties:

- Food Lion Inc. 76.51 acre Tax Parcel 450-008 as recorded in Book 640, Page 158,
 - Food Lion LLC 8.82 acre Tax Parcel 450-009 as recorded in Book 885, Page 198,
 - Food Lion LLC 10.01 acre Tax Parcel 450-010 as recorded in Book 885, Page 199,
- all of the Rowan County Registry (hence RCR) and being more particularly described by metes and bounds as follows:

BEGINNING at a PK nail marking the intersection of the centerline of Executive Drive and the centerline of a 200 foot wide Norfolk Southern Railroad right-of-way at their common point of intersection with the southwesterly right-of-way line of Jake Alexander Boulevard (U.S. Highway 601), a 100 foot wide public right-of-way, which point is also the common easterly corner of that Food Lion Inc. 76.51 acre tract as recorded in Book 640, Page 158 (RCR) and that Food Lion LLC 10.01 acre tract as recorded in Book 885, Page 199 (RCR):

THENCE, along the southwesterly right-of-way line of Jake Alexander Boulevard, S 13° 13' 33" E, 30.00 feet to a calculated point in the southerly right-of-way line of Executive Drive, which point is also in the easterly line of that Food Lion LLC 10.01 acre tract as recorded in Book 885, Page 199 (RCR);

THENCE, along the southerly right-of-way line of Executive Drive, S 75° 47' 43" W, 137.97 feet to a calculated point of curvature;

Thence, continuing along the southerly right-of-way line of Executive Drive with a curve to the left having a radius of 630.00 feet through a central angle of 17° 25' 37" for an arc length of 191.62 feet, with a chord of 190.88 feet bearing S 67° 04' 54" W, to a calculated point of tangency;

THENCE, continuing along the southerly right-of-way line of Executive Drive, S 58° 22' 06" W, 262.04 feet to a calculated point;

THENCE, continuing along the southerly right-of-way line of Executive Drive, S 58° 15' 26" W, crossing the easterly property line of that Food Lion LLC 8.82 acre tract as recorded in Book 885, Page 198 (RCR) at 5.10 feet and continuing an additional 552.12 feet for a total distance of 557.22 feet to a calculated point in the westerly line of that Food Lion LLC 8.82 acre tract as recorded

in Book 885, Page 198 (RCR);

THENCE, along said westerly property line, N 21° 14' 19" W, 30.51 feet to a calculated point in the centerline of Executive Drive 60 foot wide public right-of-way and the northwest corner of that Food Lion LLC 8.82 acre tract as recorded in Book 885, Page 198 (RCR), which point is in the southerly line of that Food Lion Inc. 76.51 acre tract as recorded in Book 640, Page 158;

THENCE, with a new line (being a projection of said westerly line), N 21° 14' 19" W, 30.51 feet to a calculated point in the northerly right-of-way line of Executive Drive;

THENCE, along the northerly right-of-way line of Executive Drive, N 58° 15' 26" E, 546.16 feet to a calculated point;

THENCE, continuing along the northerly right-of-way line of Executive Drive, N 58° 22' 06" E, 262.10 feet to a calculated point of curvature;

THENCE, continuing along the northerly right-of-way line of Executive Drive with a curve to the right having a radius of 690.00 feet through a central angle of 17° 25' 37" for an arc length of 209.87 feet, with a chord of 209.06 feet bearing N 67° 04' 54" E, to a calculated point of tangency;

THENCE, continuing along the northerly right-of-way line of Executive Drive, N 75° 47' 43" E, 138.99 feet to a calculated point in the southwesterly right-of-way line of Jake Alexander Boulevard;

THENCE, along the southwesterly right-of-way line of Jake Alexander Boulevard, S 13° 13' 33" E, 30.00 feet to THE POINT OF BEGINNING and containing 69,179 square feet or 1.59 acres more or less as shown on that "Right-of-Way Abandonment Map – Food Lion Corporation – A Portion of Executive Drive", prepared by The Survey Company, Inc., dated July 8, 2004 and signed by Michael C. Sawhill, PLS No. 3223, to which reference is hereby made.

Be and the same is hereby forever closed with the existing 60' right-of-way reserved as a 60' utility easement.

This the 17th day of August, 2004

CITY COUNCIL OF THE CITY OF
SALISBURY, NORTH CAROLINA

BY: s/s Susan W. Kluttz
Mayor

s/s Myra B. Heard
City Clerk

STAFF RECOMMENDATIONS - OLD WEST INNES STREET AT-GRADE RAILROAD CROSSING

Ms. Wendy Brindle, Traffic Engineer, noted that on July 20, 2004 Council received a presentation from staff and from the North Carolina Department of Transportation (NCDOT) concerning the at-grade railroad crossing on Old West Innes Street. She commented that during the presentation staff noted driver complacency and violation of the automatic gate-arms at the crossing. As a result, Council asked staff to look at ways to improve the safety while leaving the crossing open.

Mr. Brindle stated that Norfolk Southern will be inspecting the warning devices to ensure proper operation, and staff recommends the installation of a median barrier to deter people from violating the arms. She noted that median barriers have shown to reduce gate-arm violations by approximately seventy-seven percent (77%). Ms. Brindle informed Council that on the north side of the track a standard one hundred (100) foot long barrier could be installed, but it would convert Roy Street to right in, right out only. She pointed out that residents on Roy Street will have alternative routes to Old West Innes Street. On the south side of the tracks there is only enough room for a thirty-five (35) foot median. A longer median would block the driveway for property located adjacent to the tracks, which is the property's only means of access. She pointed out that even with the shorter median it will prevent the first two (2) cars sitting in line from violating the arms. Ms. Brindle presented estimates for two (2) types of medians. She explained that the cost for the installation of a planted median on both sides would be approximately \$20,000 plus \$2,500-\$3,000 for the plantings. The second type of median is a reflective delineator median which is estimated to cost \$8,000. Based on the current budget, staff recommends the installation of the reflective delineator medians at the Old West Innes Street Crossing.

Councilman Kennedy asked if there are funds in the budget for this project. Mr. Dan Mikkelson, Director of Land Management and Development, responded that there are no funds set aside in the budget and he will have to make adjustments. Mayor Kluttz commented that Council made a commitment when they decided not to close the crossing to address the safety issue.

Council discussed the appearance of the reflective delineator medians and Ms. Brindle noted that they can be easily removed and replaced at a later date.

Councilman Burgin stated that he feels if the arms are working properly he considers the crossing safe and does not feel obligated to do anything further. Mayor Kluttz pointed out that the arms are not working. Mr. Mikkelson stated that staff has observed that the arms stay down for an extended period of time. He noted that sometimes this is because there is a train resting on the tracks which activates the crossing circuitry. He pointed out that staff has also observed a train clearing the tracks with no other train coming but the arms remained down. Norfolk Southern is going to check to see if there is a malfunction in this case. Ms. Brindle pointed out that there are two (2) sets of tracks so one train could be stopped on the tracks while another

train passes.

Mayor Pro Tem Woodson asked about the number of accidents at this site. Mr. Mikkelson stated there has been one (1) accident in a twenty-five (25) year period, but the accident history should not be viewed as a safety guide. Mayor Kluttz pointed out that NCDOT requested the crossing be closed. Mr. Mikkelson explained that staff has looked at this crossing, observed a problem and asked the railroad to inspect the operation of the cross-arms. If there is an accident at the crossing the City will most likely be drawn into a lawsuit. He added that given the specific problem of cars driving around the cross-arms, staff recommends the median barriers as an appropriate treatment.

Mr. Woodson noted that people drive around cross-arms throughout the City and not just at this intersection. Mr. Burgin stated that he does not object to spending \$8,000 to make this safer but he knows there are worse train crossings in the City. Councilman Kennedy commented that Council could have made this safe by closing the crossing and would have also added \$35,000 to the budget, but now Council is going to spend \$8,000 and it still will not be safe.

City Manager David Treme commented that there are competing interests with the businesses and the safety issue. He added that the barriers have been shown to work and he considers this a risk management issue.

Mayor Kluttz commented that there are other places that are dangerous but this one has been brought to Council's attention and the railroad and State have requested it be closed for safety reasons.

Thereupon, Mr. Burgin made a **motion** to apply the \$8,000 solution to the railroad crossing. Mr. Woodson seconded the motion. Messrs. Burgin, Kennedy, Lewis, Woodson and Ms. Kluttz voted AYE. (5-0)

STAFF UPDATE - KLUMAC ROAD GRADE SEPARATION - PROJECT U-3459

Mr. Dan Mikkelson, Director of Land Management and Development, stated that the City conducted a long-range rail corridor safety improvement plan focusing on the main tracks that are parallel to Main Street. He noted that as a result of the study, the City closed nine (9) railroad crossings which forced more traffic to use the Klumac Road crossing. He explained that in the long-term the City wanted to seek a separated grade crossing at the Klumac site. Mr. Mikkelson commented that approximately one year ago, the North Carolina Department of Transportation (NCDOT) presented three (3) proposals for the crossing, but based on public input, Council requested NCDOT prepare a fourth (4th) alignment in order to find a way to avoid impact to Johnson Concrete. Mr. Mikkelson explained that the new alignment, Alignment D, would tie into N.C. 150 and would follow the property line beyond the storage yard for Johnson Concrete and cross Boundary Street before tying back into Klumac Road. He noted that while building the new structure for the crossing, NCDOT will have to build a train detour proposed for the west side using the right-of-way for Old South Main Street. This will not impact Johnson Concrete, the raw material area or access. He noted that there is an existing business on the corner of A Avenue and Old South Main Street, along with a Duke Power substation and several residential properties that have primary access on Old South Main. He added that NCDOT will have to perform additional study during the design to determine the impact on these properties.

Mayor Kluttz thanked Councilman Burgin for finding a logical solution that will have the least impact and added that she thinks this is a wonderful solution.

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

COMMENTS FROM THE CITY MANAGER

(a) Planning Board Recommendations

Council received the Planning Board recommendations and comments from their August 10, 2004 meeting.

(b) Results from Annual Surplus Sale

City Manager Treme informed Council that the annual surplus sale was held on July 30, 2004 and \$37,740.49 was raised.

(c) Mission Possible Goals Review Update

City Manager Treme spoke with Council regarding the Mission Possible Goals Review. He reviewed the outcome for a citizen's survey and stated that the survey was sent out in July 2004. One thousand (1,000) surveys were randomly distributed and, to date, thirty percent (30%) have been returned. He stated that the result will be published for the public and noted that the City received a Trailblazer Grant to fund the survey.

Mr. Treme showed Council the software developed by staff to track and maintain the goals of Council on a continuous basis. He stated that he hopes to update Council on a few goals at each meeting and he hopes the software will soon be available to allow Council to monitor progress on the approximately seventy (70) goals.

Mr. Treme reviewed the Civic Center study goal and noted that the committee has met and visited various locations to view their civic centers and to determine what type of civic center might be feasible in Salisbury. He added that civic centers are meant for economic development and the City knew it wanted to study the need before spending a great deal of money.

Mr. Treme noted that one of the questions on the citizen's survey asks the citizens which program of service they would like to eliminate in a tight

budget year. He added that he felt the City would be challenged next year to cut some levels of service in order to minimize costs.

Mr. Treme told Council that he had attended the Chamber of Commerce's board meeting and Council received many compliments for trying to create a more positive business climate.

Councilman Kennedy asked if there would be any follow-up with the survey to get more responses. Mr. Treme responded that twenty-five percent (25%) to forty (40%) is considered a good response and staff feels the thirty percent (30%) received will be a good indication of the public's perception of the City.

MAYOR'S ANNOUNCEMENTS

(a) Tour of Salisbury-Rowan Utilities Water Plant

Mayor Kluttz announced that Council has been invited to tour the new water treatment facility. Council agreed to tour on Thursday, August 19, 2004 at 8:30 a.m.

(b) Project SAFE Salisbury

Mayor Kluttz informed Council that she, City Manager David Treme, Police Chief Mark Wilhelm, Lt. David Belk, Ms. Teresa Vinson, Mr. Henry Diggs and District Attorney Bill Kennerly met with representatives from Burlington, North Carolina to discuss the Project SAFE Salisbury program.

(c) Channel 14

Mayor Kluttz stated that she is very disappointed that news Channel 14 will be leaving Salisbury. She noted that Mr. Ira Quillen has done an excellent job covering Salisbury and she feels it will be a great loss to the City when the office closes. By consensus Council agreed to communicate to Time Warner that the loss is very disappointing.

(e) Kannapolis Intimidator's Game

Mayor Kluttz announced that the Kannapolis Intimidators will honor local police and fire departments at their game on Saturday, September 11, 2004. City Council has been invited to participate in the program.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Woodson, seconded by Mr. Burgin. All council members agreed unanimously to adjourn. The meeting was adjourned at 6:16 p.m.

Mayor

City Clerk