

**MINUTES OF CITY COUNCIL MEETING
SANFORD, NORTH CAROLINA**

The City Council met at the Sanford Municipal Center, 225 E. Weatherspoon Street, on Tuesday, March 19, 2002, at 7:30 P.M. The following people were present:

Mayor Winston C. Hester	Council Member J. T. Kirkman
Mayor Pro Tem Joseph E. Martin	Council Member James G. Williams
Council Member Clawson Ellis	Council Member Walter H. McNeil, Jr.
Council Member Philip E. Dusenbury	Council Member Linwood S. Mann, Sr.
City Manager Leonard Barefoot	City Attorney Susan C. Patterson
City Clerk Bonnie D. White	

Mayor Hester called the meeting to order; Council Member James Williams delivered the invocation.

APPROVAL OF AGENDA

On motion of Council Member Phil Dusenbury, seconded by Council Member James Williams, the agenda was approved as presented.

CONSENT AGENDA

Approval of March 5, 2002, City Council Minutes- Filed in Minute Book 59

The items listed below were discussed in detail at the Law and Finance Meeting held on Wednesday, March 13, 2002.

Consider a Resolution Authorizing the City Council to Enter into a Ten-Year Lease with the Sanford Housing Authority – (Exhibit A)

Resolution authorizes the Council to enter into a ten-year lease with the Sanford Housing Authority allowing the Authority to place an antenna on the City's Spruce Street Water Tank.

Consider Resolution Declaring Cost and Ordering Preparation of Preliminary Assessment Roll and Setting Time and Place for Public Hearing - Lord Ashley Drive 8-Inch Sewer Line Extension – (Exhibit B)

Resolution declares the cost of the sewer line extension on Lord Ashley Drive and sets up a public hearing date of April 16, 2002, so the final assessment can be confirmed. Total cost of the project is \$15,941.03.

Consider Resolution Declaring Cost and Ordering Preparation of Preliminary Assessment Roll and Setting Time and Place for Public Hearing - Crepe Myrtle Drive 8-Inch Sewer Line Extension – (Exhibit C)

Resolution declares the cost of the sewer line extension on Crepe Myrtle Drive and sets up a public hearing date of April 16, 2002, so the final assessment can be confirmed. Total cost of the project is \$47,004.52.

Consider Modification to Tax Collection Agreement – (Exhibit D)

Tax Collection Agreement was approved with modifications as contained in paragraph 2 which calls for a one percent collection fee rather than a 1.5 percent. The City will pay \$150 dollars per property for in rem foreclosure and the sum of \$10 for each account that the County collects by attachment or garnishment.

The consent agenda items were approved upon motion of Mayor Pro Tem Joe Martin. Seconded by Council Member Clawson Ellis, the motion carried unanimously.

SPECIAL AGENDA

Presentation to the City of Sanford Fire Department by the Sanford Association of Professional Fire Fighters

Bobby Riddle, President of the Sanford Association of Professional Fire Fighters, presented City of Sanford Fire Chief Wayne Barber with three defibrillators in memory of Jimmy Haigler. A defibrillator will be located on the first-run trucks at each of the City's three fire stations. Members of the Sanford Association of Professional Fire Fighters raised funds to purchase the equipment for the City.

CASES FOR PUBLIC HEARING

Consider Resolution Directing that the Project be Undertaken – Fields Drive 8” Sewer Line Extension (Public Hearing) – (Exhibit E)

Civil Engineer II Hal Hegwer advised that the public hearing is for citizen input into the proposed 8-inch sewer line extension project abutting property along Fields Drive, Pineland Street and Martin Street. It is a petition assessment project, and a majority of the property owners are interested. The estimated total cost of the project is \$13,600. There are four lots involved which amounts to an estimated cost per lot of \$3,400. Mr. Hegwer advised that after the public hearing, a Resolution Directing that the Project be Undertaken is presented for adoption.

Mayor Hester opened the public hearing. Ralph Watson, spoke in favor of the petition. He said it was a well-needed project.

Keith Fox, representing Jeanette Fox, owns property on Fields Drive. He spoke in favor of the project stating that they pay over \$1,000 in taxes each year, and they have never had access to City sewage. He stated that they deserve to have it and did not mind paying to have it installed.

No one spoke in opposition. The public hearing was closed.

Council Member James Williams made the motion to approve the resolution. Seconded by Council Member J. T. Kirkman, the motion carried unanimously.

Petition by Eddy Ray Thomas - (Exhibit F) - to rezone from Residential (R-20) District to General Business (GB) District a 1.39-acre tract of land located on the western side of Lee Avenue approximately 241 feet north of the intersection of Cedarhurst Drive and Lee Avenue.

Planner I Mark Helmer advised that the property is located at 3906 Lee Avenue and is currently the home of the Olde South Diesel. The area considered for rezoning is bordered to the east and west by land used for agricultural endeavors, a single-family dwelling owned by the applicant to the north, and a single-family dwelling to the south. The site is served by individual well and septic systems, and all newly proposed structures will require approval by the Lee County Department of Environment Health. There are no traffic counts available for Lee Avenue.

Mr. Helmer added that the property is currently zoned Residential Agricultural (R-20) District, and this district is intended primarily for single-family homes. With the current zoning, some permitted uses would include churches, synagogues, and police and fire stations. However, general retail sales or auto part sales and salvage are not permitted.

The petitioner is requesting the property to be rezoned to General Business (GB) District. This district is intended to create and protect business areas for the retailing of merchandise and for carrying on professional and business services, and in some cases, wholesaling for large populations. If rezoned, some of the specific permitted uses would include churches, hardware stores, dry cleaners and retail business or service establishments whose principle activity is conducted within an enclosed building. General Business (GB) zoning district does not permit variety stores over 15,000 square feet. All non-residential uses would be required to be buffered from any adjacent residential uses or zoning districts.

The area proposed for rezoning is not designated in the 2020 Land Use Plan. The 2020 land Use Plan map has not classified this property for any particular development. When considering the zoning of the property, current development trends should continued to be applied.

Council Member Linwood Mann asked if the property is now being used as a garage. Mr. Helmer replied yes. Mr. Mann asked if rezoning the property would bring it into compliance. Mr. Helmer replied yes.

Mayor Hester opened the public hearing. Eddy Ray Thomas spoke in favor of the petition. Mr. Thomas stated that he is petitioning the property to be rezoned for the purpose of constructing a shelter for his farm equipment.

No one spoke in opposition. Mayor Hester closed the public hearing.

Petition by Donald R. Simpson – (Exhibit G) - to rezone from Shopping Center (SH-C) District to Office and Institutional Multifamily (O&I MF) District approximately 13.78 acres of land located on the southern side of Riverbirch Shopping Center. The area considered is bordered to the west by Wilkins Drive, US Highway 1 to the east, and Old Carbonton Road to the south.

City Manager Leonard Barefoot announced it was brought to his attention immediately before the Council meeting began that the protest petition (Exhibit H) that was received in opposition to this rezoning matter was invalid. He said protest petitions require that 20 percent of the people that immediately border the property, or are within 100 feet of the property, sign a valid petition; it requires a three-fourths vote by the City Council to be approved. This means that six of the seven council members would have to approve the rezoning. The petition contains the requisite number of residents who abut the property; however, it is invalid because it is not completely filled out as required by the ordinance which says the petition must state what the opposition to the rezoning is, and that section is not filled out. He said it is too late for it to be corrected; it is required to be submitted two working days before the public hearing. Mr. Barefoot added that for the record, the effect would be that without the petition, a simple majority of council could approve the rezoning request, being four members rather than six.

Planner I Mark Helmer advised that the property is currently an undeveloped wooded lot with approximately 2,000 feet of road frontage on Wilkins Drive and 600 feet of road frontage on Old Carbonton Road. The adjacent land uses include single-family homes to the west and across Wilkins Drive, a single-family home to the south and across Old Carbonton Road, Riverbirch Shopping Center to the north, and undeveloped land to the east.

Mr. Helmer stated the property is currently served by a sewer main which runs through the property. A six-inch water main exists in the right-of-way of Wilkins Drive and a two-inch water main in the right-of-way of Old Carbonton Road. NCDOT Daily Traffic Counts average approximately 2,800 vehicles per day on Wilkins Drive near the intersection with Spring Lane and 3,600 on Carbonton Road near US Highway 1.

Mr. Helmer explained that a portion of the property considered for rezoning is in the 100-year flood plain. The flood hazard prevention ordinance permits new residential development within the 100-year flood plain provided the lowest floor (including basements) is elevated at least two feet above the base flood elevation. Before a building permit is issued for structures located within the 100-year flood plain, a pre-construction flood elevation certificate prepared by an engineer or surveyor must be submitted verifying that the lowest floor is elevated above a minimum of two feet above the base flood elevation.

Mr. Helmer stated that the property is currently zoned Shopping Center (Sh-C) District. This district would allow for a variety of retail and service establishments including drug stores with retail sales over 15,000 square feet, indoor theaters, and variety or department stores over 15,000 square feet. Office and Institutional Multi-Family zoning districts are established to provide areas that are conducive to office and professional buildings and commercial activities not involving retail sales. O&I MF Districts traditionally serve as buffer zones between residential and commercially zoned neighborhoods. Uses permitted in the O&I MF zoning

district include single-family dwellings, planned multi-family developments, medical and professional offices, beauty salons, and funeral homes.

Mr. Helmer advised that multi-family developments may be developed at a density of approximately 17 units per acre in the O&I MF zoning districts. Based on the raw density requirements outlined in the zoning ordinance, this 13.77-acre tract could possibly accommodate as many as 236 apartment units. However, actual obtainable densities may be considerably less. Multi-family developments require all buildings to be a minimum of 30 feet from the front property line and 20 feet from the rear and side property lines. The City Planning Board must approve all plans for multi-family developments.

Rezoning the property would conform to the 2020 Land Use Plan. The area is classified as low to mid-density residential and is intended for areas comprised of single-family homes, duplexes, and town homes.

Mayor Hester opened the public hearing. Attorney Eddie Winstead spoke on behalf of Donnie Simpson in favor of the petition. He said the purpose of the rezoning is to construct apartment home complexes on the property. Mr. Winstead restated what Mr. Helmer said that O&I MF Districts traditionally serve as buffer zones between residential and commercially zoned neighborhoods. He noted that the east side of Wilkins Drive is zoned Shopping Center where Riverbirch Shopping Center is located. The property requesting to be rezoned is directly behind Riverbirch. He said you have a transition that goes from a shopping center/commercial type district immediately into R-20 with no type of buffer; and it also conforms to the 2020 Land Use Plan.

Mr. Winstead stated that under the current zoning, a shopping center could be constructed on the property without the necessity of coming before Council and seeking any type of zoning modification. Businesses permitted in shopping center districts include ABC stores, a convenience store, nightclubs, motels, service stations, department stores, car dealers, and auto part stores. The intended result of rezoning the property to multi-family housing would be landscaped apartment homes, catering primarily to upscale tenants. There would be tree-line buffers against adjoining properties, greenways and sidewalks, paved parking lots, and for the people who live on Wilkins Drive -- neighbors that are people, and not businesses. He said if you talk to real estate appraisers having residential property adjoining or located directly across from a commercial type property, it has an adverse effect on the valuation of that property. O&I MF zoning is more compatible with residential zoning and would not have any substantial impact on the property values in the area.

Mr. Winstead said there are other items of consideration. If businesses were built under the current shopping center, there would be substantial traffic increases, neighbors having problems with nighttime ambient light, negative impact of property values, noise, appearance, and odors if food services were involved. With apartment home situations -- multi-family housing, there would not be a substantial traffic increase; little if any ambient light to disturb neighbors; probably little or no effect on property values; no noise problems and certainly no aesthetics or visual problems with the appearance of the property; and no potential for any type of odor or other environmental problems.

Mr. Winstead pointed out that zoning staff indicated that the 1999 Traffic Count reported that Wilkins Drive has a traffic count of 2,800 cars per day over a 24-hour period. Spring Lane 4,600 per day and Carbonton Road 3,300. Based upon housing industry standards, the project that is contemplated on this property would reflect an increase of approximately 500 vehicles a day. He said that this is not 500 new cars; it is how many times a car went by a guy sitting there counting the traffic. Mr. Winstead said this amounts to an increase of one car every three minutes, and this is purely if you are talking about all the traffic being on Wilkins Drive.

Mr. Winstead stated that the apartments would be one, two and three bedrooms and would not be like anything currently available in Sanford. They will be marketed toward upscale clientele, and they would not be rent subsidized. The rent would be over \$600 a month to the high end of \$900 per month. The apartments would have 9-foot ceilings and intended for people that want to get out of household maintenance. The lighting in the parking areas will be for security purposes and designed in such a way it does not bleed over or provide ambient light to surrounding neighborhoods. There would be greenways, pedestrian bridges, curb and gutter, sidewalks, storm drainage and water runoff, regular landscaping and building maintenance being performed. He said what is being requested is downzoning; going from a less restrictive to a more restrictive type of land use. Mr. Winstead noted that he lives within 150 yards in a straight line through the woods of this property on Stuart Drive. He said before he would want to see commercial development on the property, he had much rather see some type of multi-family housing in preference to a shopping center, car lot, auto parts store or a convenience store. He concluded by saying that not changing the zoning is not going to prevent or prohibit development on the property. It is developable, prime property with easy access to major thoroughfares.

Ivon D. Rohrer, Jr. from Charlotte, North Carolina, spoke in favor. He is a owner along with two other individuals of Riverbirch Shopping Center. He felt very positive about the opportunity to have a good living community next door and of having additional customers instead of competition at his backdoor. He felt it would be good for the neighborhood.

Doug Gay, commercial lender with BB&T Bank spoke in favor. He stated they have a branch in the Riverbirch Shopping Center. He stated the primary issue he wanted to add to Mr. Winstead's comments is in regard to supply and demand. There is ample shopping center space in the immediate area and this property would not be beneficial to the businesses in the surrounding area as commercial property. The need is residential availability. Based on being more than ample shopping center space, it really meets the needs of diversification of real estate in that immediate area. As a result, he felt it is in the best interest of that immediate area. He said the normal positioning of properties in an area around commercial is such that the buffer is typically either multi-purpose type of commercial or multi-family to buffer residential homes from a shopping area. He said it would stimulate activity in the immediate area. Mr. Gay stated that Mr. Simpson's properties are very well maintained. He is a quality builder, and you can see that in the construction. Mr. Gay said that owners of the residential homes in the immediate area will find that they will be very good neighbors and will maintain the property in an excellent manner.

George Riddle spoke in favor of the proposal and stated that he has property adjoining the proposal. He felt it was very much needed and would be beneficial to the community. He concluded by saying that progress is what we need.

David Beal spoke in favor of the proposal. He represented the group that sold Donnie Simpson the property on Wilkins Drive and provided background on the property. He advised that they acquired the Wilkins Drive property from the estate of the late Bryant Johnson in the early 1980s. He pointed out that the property under consideration was originally zoned Office and Institutional and was later rezoned by Bryant Johnson to Commercial Shopping Center. He felt the property would tie in much better with the surrounding neighborhoods being developed as O&I MF rather than another strip shopping center located in a residential neighborhood. Mr. Beal stated that you would create a good transitional buffer between Riverbirch Shopping Center and the surrounding residential area.

Hayden Lutterloh III spoke in favor of the project on behalf of the Emmanuel United Church of Christ located on the corner of Wilkins Drive and Spring Lane. He said Mr. Winstead answered most of his questions. Mr. Lutterloh pointed out that a couple of things in the current shopping center allowances that would not be in the O&I could be automobile sales and rentals, car washes, beverage stores, billiard parlors, cafeteria and snack bars, convenience stores, fertilizer retail sales, mail order houses, pawn shops and variety stores. This is according to the City of Sanford list he received at the neighborhood meeting last Wednesday night. The Church has been located at the corner opposite the property for 25 years. They feel they have been a good neighbor to the area and do not feel that a strip type of shopping center would be beneficial to the neighborhood.

Kel Normann spoke in favor of the petition. He owns a building on the corner of Spring Lane and Wilkins Drive. He said in a perfect world he would like to leave the trees there; however, you cannot stop growth. He felt it was the lesser of two evils if you have the opportunity to pick your neighbor and know who it is going to be. Mr. Simpson has a great reputation for providing good, residential communities. It would be consistent neighbors that we would know who were coming in and out all the time versus commercial property where there are new people every day. He said you cannot stop growth, and felt Mr. Simpson would provide a good community there.

Leopold Cohen, spoke in favor of the petition. He owns two homes on Wilkins Drive and he is for progress and the betterment of Sanford and Lee County, and felt this project would benefit everyone tremendously.

Mayor Hester asked the citizens in the audience that were supportive of the project to stand upon a request made by Paige Simpson.

Donnie Simpson, owner of the property, advised that he will do a good job with the project if Council could see fit to rezone the property. He felt it was a softer issue with a little better sensitivity to the area than any type of strip area that he could do. He pointed out that the property is valuable. Mr. Simpson noted that the fact it has not been developed does not mean it will not be developed. With the location of the property and progress that is being made with the

road systems in Sanford, someone will develop it due to the location. They will manage the property and try their best to appease their neighbors and to be a good neighbor.

Mayor Hester asked the citizens in the audience that were in opposition to stand.

Rebecca Johnson, residing at 939 Wilkins Drive, spoke in opposition. She stated that she did not want 100 plus apartments built in her face. She did not mind a shopping center being built there. One of the entrances will almost be in her driveway. It is hectic to get on the road now. Ms. Johnson said in reference to commercial traffic with a shopping center, you will still have food stores delivering to the apartments, moving trucks, and people moving their own personal items. She said in reference to lighting being different, lighting is lighting; "if it lights up, it lights up." There are already numerous lights with Riverbirch Shopping Center; but to have more people is not what they want. With only two driveway entrances, one of them is surely to come out where her driveway is located. Ms. Johnson stated that progress is progress; she wants it and expects it. She does not want 200 or more people at her front door.

Ms. Johnson submitted the protest petition and did not understand why the petition was invalid. Mr. Barefoot told Ms. Johnson what makes the petition invalid is in the middle of the page, where it states, "We the undersigned property owners, hereby protest the proposed rezoning from blank zone to blank zone the following described area." Mr. Barefoot said this should have been filled out, and it was not. Ms. Johnson expressed that she thought that was what staff was there to do. She stated that he showed her plans of the proposed apartments, but did not help her get the petition filled out properly. Mr. Barefoot noted that the last sentence in the first paragraph says all information must be furnished as indicated. Mr. Barefoot reiterated that the effect of a valid petition is that it requires six yes votes by the Council to rezone the property; by it now being invalid it would only require four votes.

Ms. Johnson stated she was still not sure what she did not fill out on the petition. She stated that she read the paragraph on the front page and thought she had read everything properly. She did not go to the first meeting that was held.

Sharon Simerson, residing at 931 Wilkins Drive, spoke in opposition. She cited problems with the increase of traffic and trying to get out of their driveways. Ms. Simerson told Mr. Simpson that he does a good job with his housing projects; however, they do not mind having a shopping center. The shopping center would add more jobs and benefit the homeowners better.

Rosemary Imberman, residing at 1700 Old Carbonton Road, spoke in opposition. She was concerned about the increase in traffic. She also noted that it was hard to get out of her driveway. Ms. Imberman also expressed concern about the viability of the creek that runs through the property and what they plan to do with it. She walks the creek and did not want to see it destroyed.

Darrell Mullins, owner of the 1503 Carbonton Road property, spoke in opposition. His primary concern was the flood situation. He said his property is in the flood district and when the shopping center was built, it raised the 25-year flood one foot on his property. They have built seawalls and installed valves in sewer lines to protect themselves. Mr. Mullins concluded

that whatever happens to the property, to take the utmost care to see that the flood plain is evaluated and maintained properly.

Fred Von Canon expressed that he was neutral concerning the project. He said that he lived on Park Avenue for several years when Mr. Simpson was proposing the Timberwood Apartments on Wicker Street. That property is also located in a flood plain area and 10 years after the construction, the property is thriving. He added there was also a lot of opposition to the traffic congestion when the Timberwood Apartments were proposed. The community has overcome those concerns. He concluded Mr. Simpson could sell the property to someone that would not be as sympathetic to the neighbors.

The mayor closed the public hearing. The Planning Board retired to the West Conference Room.

OTHER BUSINESS

City Manager Leonard Barefoot reminded Council and the public that the meeting needed to be recessed until Thursday morning at 8:00 A.M. in the West End Conference Room for the Council retreat.

RECESS

Council Member Walter McNeil made the motion to recess the Council meeting until Thursday morning, March 21, at 8:00 A.M., in the West Conference Room for the retreat. Seconded by Mayor Pro Tem Joe Martin, the motion carried unanimously.

All exhibits are incorporated herein and made a part of these minutes.

Respectfully submitted,

WINSTON C. HESTER, MAYOR

ATTEST:

BONNIE D. WHITE, CITY CLERK