

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

The City Council met at the Sanford Municipal Center, 225 E. Weatherspoon Street, on Tuesday, April 20, 2004, at 7:00 P.M. The following people were present:

Mayor Winston C. Hester	Council Member Linwood S. Mann, Sr.
Mayor Pro Tem Joseph E. Martin	Council Member James G. Williams
Council Member Clawson Ellis	Council Member Walter H. McNeil, Jr.
Council Member Cornelia P. Olive	Council Member Philip E. Dusenbury
City Manager Leonard Barefoot	City Attorney Susan C. Patterson
Deputy City Clerk Janice Cox	

Absent:
City Clerk Bonnie D. White

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

APPROVAL OF AGENDA

Upon motion of Council Member Walter McNeil and seconded by Mayor Pro Tem Joseph Martin, the agenda was unanimously approved.

CONSENT AGENDA

Approval of April 6, 2004 City Council Minutes-Filed in Minute Book 61

Approval of Ordinance Amending the Annual Operating Budget of the City of Sanford FY 2003-2004—(Exhibit A)

This ordinance amends the annual operating budget. Within the General Fund, \$80,000 is appropriated to funds in the Shop Division due to the increased cost of gasoline and maintenance to vehicles; the revenues will be generated from internal charges. Within the Utility Fund, a transfer of \$84,410 from Contingency is budgeted for overtime costs of \$13,500 in the Engineering Department and \$70,910 in the Water Construction Division. There have been breaks in the 16-inch and 24-inch water lines.

Approval of Ordinance to Erect Stop Signs Within the City of Sanford, Chapter 36, Traffic Code of Ordinances—(Exhibit B)

Due to changing Cross Street from one-way to two-way traffic, a stop sign is necessary on Cross Street at North Vance Street.

Approval of Award of Asbestos Abatement Contract—W. B. Wicker School Renovation—Revitalization Strategies Project—Year 2—(Exhibit C)

This is a project for Year 2 renovations of the Revitalization Strategies Project at W. B. Wicker School. D. L. Restoration is awarded the contract for the asbestos

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abatement project in the amount of \$46,730.00 which covers the Base Bid of \$19,270.00; Alternate Bid 1 in the amount of \$10,660.00; and Alternate 2 in the amount of \$16,800.00.

The consent agenda items were approved upon motion of Council Member Linwood Mann; seconded by Council Member James G. Williams, the motion carried unanimously.

CASES FOR PUBLIC HEARING

Petition by Donald R. Simpson –to rezone from Residential (R-20) and Highway Service District (HS) to Residential (R-14) and Office & Institutional (O&I) District approximately 11.25 acres of land north of Tiffany Drive, south of Erwin Road, east of North Currie Drive, and west of Jefferson Davis Highway/US Highway 1. –(Exhibit D)

Planner I Amy Bean explained that a letter had been received from Donald Simpson requesting that his item be tabled until the May 18 joint City Council/Planning Board meeting because he is out of town.

Mayor Pro Tem Joseph Martin asked if there had been any neighborhood meetings held on this. Mrs. Bean said there had not been. Mr. Martin said his experience was that these meeting were very helpful to give information that might help any controversy go away. He thought they were beneficial for both the developers and the people involved. Sometimes developers will change their plans for a piece of property after hearing the opposition of the community. Council Member Ellis agreed that on particular issues where controversies could arise, it is helpful to get the people involved and hear their views. Mayor Hester expressed that it was better to settle it in those neighborhood meetings than at the public hearing. Council Member Ellis said it gave him a better feeling for what the people want because some people would not come forth to speak at a public hearing before council. Council Member Cornelia Olive agreed, saying that some people are intimidated to speak before council.

Mayor Pro Tem Joseph Martin requested that we be mindful of having neighborhood meetings when the request might be controversial. City Manager Leonard Barefoot said that he would work with Community Development Director Bob Bridwell to take neighborhood meetings into consideration for petitions deemed controversial.

Council Member Clawson Ellis made the motion to table this petition until the May 18 Council Meeting; seconded by Council Member Cornelia Olive, the motion carried unanimously.

Petition by Wolfheel Properties, Inc.–to rezone from Residential (R-12) District to General Business (GB) District, approximately 0.54 acre of land located at 1012 Elm Street. –(Exhibit E)

Planner I Amy Bean explained that the property to be rezoned is identified as lots 4 and 5 of the Monroe Addition subdivision. There is an existing single-family dwelling

on site with a cleared front yard area and a wooded rear area. The site is located on Elm Street opposite from the former site of Holt Truck & Tractor and adjacent to one single-family dwelling to the east, two single-family dwellings to the west, and three single-family dwellings to the south. The property has access to city water and city sewer. The site has approximately 120 LF of road frontage on Elm Street. The site is not located within the Scenic Corridor Overlay District, Highway Corridor Overlay District or the 421 Bypass Corridor. If rezoned, however, a buffer strip should be required between residential and non-residential uses. It is not located within an established Historic District.

The primary land uses surrounding the site are single-family dwellings and businesses. Area businesses include the former Holt Truck & Tractor, Mutual of Omaha Insurance, the U. S. Post Office, and Harbour's Car Wash, all of which are zoned General Business (GB). All of the lots which comprise this city block are zoned Residential (R-12), with the exception of Harbour's Car Wash, which is zoned General Business (GB). The property is currently zoned Residential (R-12) District which is intended for a variety of residential uses, including single-family homes, duplexes, and multi-family buildings and developments. Uses permitted by right and subject to the usual development standards within the Zoning Ordinance include single-family detached dwellings, duplexes, town homes, condominiums, and multi-family dwellings

The applicant is petitioning to rezone to General Business (GB) District. The purpose of this district is to create and protect business areas for the retailing of merchandise and for carrying on professional and business services. This type of district will generally be located next to a major thoroughfare. Uses permitted by right include art galleries, bookstores, business & professional offices, florists, automobile service stations, bakeries, banks, funeral homes, and hardware stores. The 2020 Land Use Plan Map has identified this property for Mid/High Density Residential Office. The purpose of this classification is to identify areas which are appropriate for medium and high-density residential development, including single-family dwellings, duplexes, and multi-family developments, as well as office development.

Mrs. Bean verified for Council Member Linwood Mann that there is an existing single family dwelling on that lot. The dwelling has been recently renovated.

Mayor Hester opened the public hearing. No one spoke in favor or in opposition to this petition. Mayor Hester closed the public hearing.

Petition by Doris Hooper—to rezone from Light Industrial (LI) District to Residential (R-12) District, approximately 1.67 acres of land located at the intersection of Cameron Drive and Industrial Drive (SR 1239).—(Exhibit F)

Planner I Amy Bean explained that this petitioner is Pastor Doris Hooper for the property owner Greater Hope Pentecostal Ministries. The property adjoins the city limits and is in the city's extra-territorial jurisdiction. The site requested for rezoning consists of one tract of land, is vacant, and is heavily wooded. The site is opposite from Exhaust

Pro (an automobile service shop) and adjacent to one single-family dwelling to the west. The property has access to city water and an eight-inch sewer line parallels Industrial Drive and a twelve-inch sewer line is located to the rear of the site.

The site has approximately 181 LF of road frontage on Cameron Drive and approximately 140 LF of road frontage on Industrial Drive. It is not located within a Scenic Corridor Overlay District, Highway Corridor Overlay District, the 421 Bypass Corridor, or an established Historic District. There is a mixture of land uses surrounding the site. Residential uses include apartments, duplexes, and a single-family dwelling. There are also a church and a ballpark (Buchanan Park) located in the area. Business uses include Exhaust Pro and Roadway Express.

Currently, the property is zoned Light Industrial (LI) District. This district is intended to create and protect industrial areas for the provision of light manufacturing and the distribution of products at wholesale. Uses permitted by right include appliance stores, automobile and truck sales and rentals, bakeries, beauty shops, billiard parlors, and business and professional offices. The applicant is petitioning to rezone to Residential (R-12) District. This district is intended for a variety of residential uses, including single-family homes, duplexes, and multi-family buildings and developments. Uses permitted by right include single-family houses, town homes, duplexes, condominiums, and planned multi-family developments. The 2020 Land Use Plan has identified this property for Mid/High Density Residential Office. The purpose of this classification is to identify areas, which are appropriate for medium and high-density residential development, including single-family dwellings, duplexes, and multi-family developments, as well as office development.

Mayor Hester opened the public hearing. Pastor Johnson of Greater Hope Pentecostal Ministries spoke in favor of the petition. She said the Board of Greater Hope Pentecostal Ministries had decided that they would like to extend single-family homes for low-income families to help the community. No one spoke in opposition. Mayor Hester closed the public hearing.

Petition by Angela O. Kelly – to rezone from Industrial Park (IP) District to Residential (R-6) District, two lots comprising approximately 0.77 acre of land located at 2641 Fayetteville St. and an adjoining lot to the northwest.—(Exhibit G)

Planner I Amy Bean said that Angela O. Kelly, requesting to withdraw this rezoning petition, had contacted her on April 19. Mayor Pro Tem Joe Martin asked if they withdraw, do they have to wait another year for it to be brought back up. Mrs. Bean replied that she believed legally it is once it has been heard and a decision has been made. Council Member Clawson Ellis asked what reasons would an individual have to withdraw, considering all the work done by the Planning Department. Mrs. Bean explained that over the weekend, the owner of the property had interest from someone wishing to purchase the property for Light Industrial use. Council Member James G. Williams asked if the petitioners lost their deposit. Mrs. Bean said that they lost the \$125 fee, which covers advertising cost.

Amendment to the City of Sanford Zoning Ordinance, Article II Administration, Division 2. Amendments by adding the following new Sections: 42-91. Conditional Zoning Districts; 42-92. Application for Conditional Zoning District; 42-93. Conditions; 42-94. Effect of Approval of Conditional Zoning District; 42-95. Reapplication after denial or withdrawal of a Conditional Zoning District application; and 42-96. Protests against a Conditional Zoning District Amendment. Substantial changes may be made to the proposed amendment after the public hearing. –(Exhibit H)

Assistant Community Development Director Marshall Downey reviewed the highlights from the Power Point presentation given to the Law and Finance Committee earlier. He explained that currently the City of Sanford has only one type of zoning, the standard legislative approach or general use zoning whereby a petitioner simply requests rezoning from one city general use district to another (R-20 to R-12, for example). The biggest weakness in this type of approach is that there is no ability for the petitioner and/or the decision-makers to apply conditions that would allow for rezoning in a particular location that may not be most suitable based on current conditions or other types of development around it. As an alternative, other jurisdictions have adopted Conditional Zoning. Under this approach, the property owner can make application for rezoning and make certain development conditions be applied to the property. This could be in different forms. It could be in the form of narrowing the list of possible uses, or it could be simply to focus on what uses are allowed on the property. Other conditions that could be used would be the application of additional buffers, landscaping, certain design elements that would perhaps make the zoning more attractive, considering adjacent properties.

Conditional Zoning is ideal in situations wherein 1) transitions are needed between one or more existing land uses; or when 2) larger, complex mixed-use projects are proposed which cannot be classified within one existing city zoning ordinance. One key limitation on Conditional Zoning is that the property owner is the only party who can place conditions on the rezoning request. The decision-making body and the Planning Board have the right to negotiate and request that certain conditions be required, but only the property owner has the option to place conditions on the final rezoning request. As with any negotiation process, Conditional Rezoning may take longer than typical rezoning, as it is not uncommon for a request to get delayed or take longer than the standard 30-35 day review process that we usually have with general use zoning. If the owner chooses not to accept the desired conditions, the decision-making body has the option to turn down the request.

Conditional Zoning, as proposed for the City of Sanford, will be an entirely legislative process similar to the current review and approval process for a traditional zoning petition. This means the public hearing will be conducted in the same manner except that there will be opportunity to discuss conditions. The Planning Board will take one vote to either recommend approval (with conditions specified) or deny the Conditional Zoning petition. The City Council will take one vote to either approve (with conditions specified) or deny the Conditional Zoning petition. An approved Conditional

Zoning petition will include the ordinance that specifies the conditions to be placed upon the district. Petitioners of Conditional Zoning will be required to submit a detailed narrative listing of conditions for use in the adopting ordinance. This would insure that both council and petitioner know what the conditions are for the property currently, as well as in the future. In most instances, petitioners will also be required to submit a detailed site plan illustrating the same conditions.

Staff is recommending two types of conditional zoning for the city:

- 1) Conditional Zoning District, Type 1—This is a stand-alone district with its own unique conditions not associated with city's general use zoning districts. This allows a developer freedom to choose the conditions he wants on the property. It is most suitable with a large, mixed-use project where developer or owner would want maximum freedom to be able to use and integrate different concepts. The key to this approach is that the owner/developer would have to have a clear vision as to how the property is to be developed. They would need to submit a detailed site-specific plan that would address Council concerns.

Council Member Cornelia Olive asked how specific the plan had to get. Mr. Downey replied very specific--location of buildings, square footages, access points, relationships to buffers. Council Member Clawson Ellis asked what prompted staff to ask for a change. Mr. Downey replied that his department has had some people whose goals could not be accomplished with the general use zoning. He believes Sanford needs this type of zoning to be competitive with other communities. Council Member Walter McNeil asked how the public would be educated about this option. Mr. Downey replied mostly through staff when people come in for rezoning options.

Community Development Director Robert Bridwell said that developers could be encouraged to have neighborhood meetings to address citizen concerns. Developers or owners would not be required to use Conditional Zoning if they didn't want to; they could continue on with the traditional process. It just adds one option to assure that we provide for the maximum end product that we want in the community. Mr. Bridwell said the media and our Internet communications would be used to get the word out about Conditional Zoning. He said it would not impact the average home owner/citizen until something is about to happen on a particular piece of property. This process will give them more input, as well.

Mr. McNeil expressed concerns about citizens not knowing what developers are doing. Mr. Bridwell says that his staff informs those who come in about all of their options. Council Member Phil Dusenbury asked how it fit with the UDO. Mr. Downey said the wording in the UDO would be replaced if Conditional Zoning were passed.

Council Member Cornelia Olive said that if presumably the developers were the ones who applied pressure to have this changed, they are going to benefit. How will the public benefit from it? Mr. Downey said the main way is that the site plan would give

them a clear understanding of exactly what the Planning Board or Council approved. They would have a guarantee that this is only what will happen. With general zoning, there is no guarantee that the developer will do exactly what he proposes because in general zoning there is a wide range of uses permitted. Any significant changes would have to be approved by the Council. Mayor Hester stated the public is protected better this way. City Manager Leonard Barefoot added that this is a win-win situation both for developers and people affected by development decisions in that the traditional zoning opportunity is still there. This allows for a binding decision on uses, which adjacent property owners usually appreciate.

Council Member Clawson Ellis asked Council Member Linwood Mann who sat on the Planning Board for many years if he was sure this was the way we should go. Mr. Mann replied that this is what we have been trying to get. It sounds good—would protect builder and residents, letting them know what to expect. Mr. Mann believes it is a good thing.

Council Member Cornelia Olive stated that it sounds funny to her that developers apply pressure to put more limitations on themselves. Mr. Bridwell says that those in the development community understand that they can get more flexibility and consideration by coming up with a better product. Mr. Bridwell doesn't feel they've had a lot of pressure from developers, but he says there is one major project that requires this change in order to happen. It comes more from staff, reflecting the need to change and update to become more modern in our approaches. He is confident that our planners do a good job of trying to help developers do a better job. Council Member Williams says that he sees this as a more defined way of rezoning, observing that often residents don't want multi-family dwellings built in residential areas and Board has been reluctant to change zoning to permit it. Council Member Clawson Ellis inquired if staff had gotten input from the Planning Board about this. Mr. Downey said he would be giving the Power Point presentation and further information to the Planning Board in their meeting tonight. They would have an opportunity to go through a detailed discussion before they had to take action. Council Member McNeil continued to reiterate that he understood this would benefit the developer, but his concerns are for the public knowledge/understanding of Conditional Zoning. The public's receiving this kind of information would help get problems sorted out before the public hearing was held. Mr. Downey said he would try to advertise this as much as possible. He said UDO community meetings were coming up and he would have information stations available and this topic would be included.

2) Conditional Zoning District, Type 2—will be most useful in smaller projects where the general use rezoning would be appropriate, but the number of permitted uses needs to be reduced or narrowed, or where a higher design level is desired than which exists within an equivalent city zoning district. This type of zoning would be practical for situations wherein a property owner does not have a specific site development plan, but would like to designate a zoning district to accommodate a certain style of future development, while protecting the interest and values of the surrounding properties and the community. It would also be practical in situations where a

petitioner desires to install or construct additional buffers or other physical features that would serve to increase the protection afforded neighboring properties and/or the appearance of the proposed development. Under some circumstances, a detailed site plan is not required for Type 2; this is possible if the petitioner desires only to narrow the list of existing land uses.

Mayor Hester opened the public hearing on this amendment. No one spoke in favor or opposition. Mayor Hester closed the public hearing.

The Planning Board retired to the West Conference Room. Mayor Hester invited anyone having questions about the amendment to attend the Planning Board meeting at this time.

REGULAR AGENDA

Consider Award of Roof Replacement Contract—W. B. Wicker School Renovation-Revitalized Strategies Project—Year 2—(Exhibit I)

Planner II Karen Kennedy explained that per City Attorney and Board's request at the Law & Finance meeting, she had investigated the need for performance and payment bond, and due to the amount of the contract we did not need it for the asbestos award, so that went on Consent Agenda. We did need it for the roofing contract award. By doing that and taking an alternate bid with the bond, the award of bid recommendation is changed. We recommend you award the project to Baker Roofing. The construction manager, Todd Snyder, who handled the bid process is available to answer questions, as well as Kate Rumely, Director of Brick Capital Community Development. Council Member James Williams asked what happened to change the bid award. Mrs. Kennedy explained that because we had to take the bid with the bond, Baker Roofing became the low bidder.

Council Member Linwood Mann made the motion to award the contract to the low bidder. Seconded by Council Member James Williams, the motion carried unanimously.

Resolution Regarding the City of Sanford's Submittal of a Pre-application and Application to the Economic Development Administration, U. S. Department of Commerce—(Exhibit J)

City Manager Leonard Barefoot explained that this concerns several grants the City has been trying to obtain for sewer improvements.

Public Works Administrator Laura Spivey explained that this is a \$2 million project with Wyeth properties. This resolution allows Mayor Hester to sign a pre-application or application to apply for the \$1 million that we will be getting from EDA. We also will be getting \$500,000 from the Commerce Finance Center and \$400,000 from the Rural Center. City money will fund \$106,000. This application needs to go in now because changes in the employment rates can reduce our chances of getting the grants. City Manager Barefoot inquired if a public hearing were required. Public Works Director Larry Thomas replied no.

Council Member Phil Dusenbury made the motion to approve the resolution; seconded by Council Member Walter McNeil, the motion passed unanimously.

ALL EXHIBITS CONTAINED HEREIN ARE HEREBY INCORPORATED BY REFERENCE AND MADE A PART OF THESE MINUTES.

OTHER BUSINESS

Mayor Pro Tem Joe Martin said he attended the ADA meeting today. He reported that Karen Murphy, who works with the Department of Insurance, indicated that through the ADA member from last year, Sanford's accessibility as far as ramps, sidewalks, etc. are more pro-active than Raleigh and Cumberland County. He gave accolades to the Public Works Department.

Council Member Linwood Mann mentioned the improvements in paving at the railroad crossing at Wenger's Restaurant.

Council Member Phil Dusenbury asked for a report on Depot Park. Community Development Director Bob Bridwell said all the difficult issues regarding underground work with sewer lines, extensions of water, and electrical conduits have been solved. Probably this week the parking lot will start to be paved. Within the next several months, you should start to see substantial progress above ground as well. Mr. Dusenbury inquired about work on the water fountain. Electrical work and water work have been accomplished for the fountain, and construction of the fountain can begin. Council Member Cornelia Olive asked if that had been cleared with the Historical Association. The bathhouse is fine with the Historical Association, but they are working on clearing the fountain with the Historical Association. Council Member Clawson Ellis asked with whom we were negotiating. Mr. Bridwell replied that the state Historical Association had reached a preliminary decision that the fountain itself was not historic, but we believe we can figure that one out. Mr. Dusenbury encouraged everyone to participate in Depot Park events this summer.

ADJOURNMENT

With no further business to come before the council, the meeting was adjourned on motion of Council Member Cornelia Olive; seconded by Council Linwood Mann, the motion carried unanimously.

Respectfully submitted,

WINSTON C. HESTER, MAYOR

ATTEST:

JANICE COX, DEPUTY CITY CLERK

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