

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 Wednesday, June 29, 2005, at 1:00 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
City Clerk Bonnie D. White	

Mayor Hester called the meeting to order. Council Member Walter McNeil, Jr. delivered the invocation.

**APPROVAL OF AGENDA**

On motion of Council Member Phil Dusenbury, and seconded by Council Member Walter McNeil, Jr., the agenda was approved.

**CONSENT AGENDA**

Approval of June 7, 2005, City Council Minutes – (Filed in Minute Book 63)

The consent agenda item was approved upon motion of Mayor Pro Tem Joseph Martin. Seconded by Council Member James Williams, the motion carried unanimously.

**CASES FOR PUBLIC HEARING**

Petition by Ricky L. Yarborough - to rezone two tracts totaling approximately 0.89 acre of land with frontage on both the 300 block of School Street and the 2900 block of E. Seawell Street from Residential-12 (R-12) district to General Business (GB) district. The property is the same as depicted on Lee County Tax Map 9651.08, Tax Parcels 9651-89-1784-00 and 9651-89-2841-00, Lee County Land Records.- (Exhibit A)

Planner I Amy Bean explained that the site is currently cleared and vacant. The property uses surrounding the area are a mix of residential and business uses. To the north, there are nine residential houses and one church within the block created by the intersection of Dalrymple Street and School Street. All of the lots within this area are zoned Residential (R-12). A cemetery joins the property to the east and is also zoned Residential (R-12). To the west and southwest are vacant tracts that are zoned Residential (R-12). To the south opposite East Seawell Street is the Southside Plaza Shopping Center which is zoned Shopping Center (SC) and General Business (GB).

Mrs. Bean advised the site is not located within a Scenic Corridor Overlay District, Highway Corridor Overlay District, 421 Bypass Corridor, or an established Historic District.

There are two NCDOT average daily traffic counts within the area. One is along South Horner Boulevard and is just north of the NC 87/US 421 split, and it approaches 34,000 per day. Also on South Horner Boulevard, in the area of the Yamato's Japanese Restaurant, the count approaches 30,000 vehicles per day. There is no traffic related information for the immediate area of the rezoning.

The property is currently zoned Residential (R-12) district and is intended for a variety of residential uses, including single-family homes, duplexes, multi-family buildings and developments. 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. Uses permitted by right and subject to the usual development standards within the zoning ordinance include business and professional offices, banks, convenience food stores, electrical supplies, tire sales within an enclosed building only, farm and garden supply sales, and a variety of retail businesses and service establishments.

Mrs. Bean stated that the 2020 Land Use Plan designates this area within the Mid to High Density Residential-Office classification. The purpose of this classification is to identify areas which are appropriate for medium and high-density residential development including single family, duplexes, and multi-family developments, as well as office development.

Based on the trend of development within the area of the proposed rezoning, staff recommends that the Planning Board support the petition to rezone from Residential (R-12) to General Business (GB). However, information as presented at the public hearing may provide additional information and should be considered regarding a final recommendation on the requested rezoning.

Mayor Hester opened the public hearing. Ricky Yarborough, owner of the property, spoke in favor. He stated that the property is currently Residential and felt that the best use of the property would be for some type of business. He did not have any definite plans for the site. He did not know if he would put a building on it to rent or to use himself, or whether he would sell the property. Mr. Yarborough felt the property should be zoned General Business (GB).

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

Petition by the Sanford Area Chapter No. 3463 N.C. Home Builders Association - to amend the City of Sanford Code of Ordinances, Chapter 42 Zoning Ordinance to create a new R-12 SF Residential Single-family district. The eight (8) sections of the City's Ordinance that will need to be amended include the following: 1.) Article III Districts Established; Permitted Uses, Section 42-171 *Districts established; description of districts*- Amend section to include R-12SF as a single-family residential zoning district. 2.) Article III Districts Established; Permitted Uses, Section 42-173 *Table of residential uses* - Amend section to include the R-12SF classification in Table heading in the same column with the R-14 zoning classification. 3.) Article III Districts Established; Permitted Uses, Section 42-174 *Table of business uses* - Amend section to include the R-12SF classification in Table heading in the same column with the R-14 zoning classification. 4.) Article III Districts Established; Permitted Uses, Section 42-175 *Table of industrial uses* - Amend section to include the R-12SF classification in Table heading in the

same column with the R-14 zoning classification. 5.) Article IV Development Standards, Section 42-201 *Residential districts*, Subsection (e) (1) - This section establishes the minimum density (lot size, width, etc.) and dimensional standards (setbacks, etc.) for each zoning district. Need to amend section to include the R-12SF classification in Table heading. 6.) Article IV Development Standards, Section 42-203 *Residential planned unit development*, Subsection (f) (2) – This section establishes the standards for calculating density in a residential planned unit development (PUD). Need to amend this section to include R-12SF. 7.) Article V Special Requirements for Certain Uses Permitted by Right, Section 42-243 *Nurseries, day care centers and kindergartens*, Subsection (d) – This section sets forth land area-children density ratios as specific to nurseries/day cares. Need to amend this section to include R-12SF. 8.) Article VII Signs, Section 42-319 *Signs permitted in residential districts*, 1<sup>st</sup> sentence – Amend to include R-12SF. Substantial changes may be made to the proposed amendment after the public hearing. – (Exhibit B)

Assistant Director of Community Development Marshall Downey explained that this request is for a text amendment to create a new R-12 Single Family District. It means modifying the current R-12 District and creating a similar district with a 12,000 SF minimum. The key difference between the two is that the R-12 SF would remove the multi-family component. Some concerns have been expressed about the closeness of the R-12 and R-14 districts, both being for single-family dwellings and similar lot size minimums. Mr. Downey is requesting that Council consider this as a stand-alone amendment on its own merits, and if Council passes this amendment, then to address the R-14 district when the UDO comes up. Part of the reason is that there will need to be a number of administrative rezonings as part of the UDO process. Addressing any changes in the R-14 districting will be easier at that time. He called attention to the (8) eight sections of the City's ordinance that will need to be amended to accommodate this new district. There is a list of permitted uses as well as development standards that establish densities, etc. Council packets include a draft copy of the exact language proposed for this ordinance amendment.

Mayor Hester opened the public hearing. Representing both the Home Builders Association and the Sanford Board of Realtors, Larry Cheatham spoke in favor of the petition. He believes it will be helpful for builders and developers, particularly those who are coming in who are not familiar with our broad R-12 zoning, because there are many kinds of dwellings that may be constructed using current R-12 zoning. With the changes, Mr. Cheatham says that if he comes before council with an R-12 request, they will know he is going to construct multi-family of some type. If he asks for R-12SF, they will know it is going to be a single-family development only. He believes it affords the protection that is needed in our area for the existing homeowners, as well as for our builders. He feels it will make things easier for the council, the planning commission, and the builders of this area.

Council Member James Williams asked, with the way the text is now, if R-12 is the only one that is for building multi-family zoning. Mr. Downey replied that we have several districts that allow for multi-family dwellings, but that R-12 is the first district that transitions between the single-family only districts and multi-family.

Council Member Cornelia Olive asked about requirements for R-12. Mr. Downey explained that in R-12, there are different standards set up for multi-family.

No one spoke in opposition. The mayor closed the public hearing.

Petition by John C. Daniel III - to amend the City of Sanford Code of Ordinances, Chapter 42 Zoning Ordinance, Article V Special Requirements for Certain Uses Permitted by Right, Section 42-252 Animal hospitals, veterinary services and kennels, subsection (a) in order to allow the 300 ft spacing standard that is required between any residential zoning district and animal hospitals, veterinarians' offices and commercial kennels be measured from adjacent residential structures and not from the residential zoning district line. Substantial changes may be made to the proposed amendment after the public hearing.- (Exhibit C)

Assistant Community Development Director Marshall Downey explained that this request is for a text amendment which would revise the method by which the spacing standards are applied for animal hospitals, veterinary services, and kennels as described in above paragraph. Mr. Downey explained that this approach is similar to what is proposed in the draft Unified Development Ordinance, except that the draft UDO proposes a distance of 500 feet.

Council Member James Williams asked if kennels, outside runs, and outside facilities of that nature would be included in the count. Mr. Downey replied that all such outside facilities would have to meet that 300-foot distance requirement.

City Manager Leonard Barefoot asked that under this amendment, if a party built an animal hospital on a parcel of land adjacent to a vacant building, how close to the property line could he build. Mr. Downey said he would be able to build under the current set back depending on the zoning district; the 300-foot requirement would be applied if this change were made. If the adjoining property is undeveloped, but is zoned residential, there would be no 300-foot spacing because there would be no structure. He could build within the set back regulations for that particular zoning. Mr. Barefoot asked when the adjacent property owner builds on the property, would he then have to provide a 270-foot buffer. Mr. Downey said no, the 300-foot distance would be applied only to the kennel side. Mr. Barefoot clarified that then the second person to build could build within 50 feet of the animal hospital. Mr. Downey said that was the way they interpreted it.

Council Member Clawson Ellis asked Mr. Downey if it was his opinion that 300 feet was enough to set these apart. What about barking dogs at night at a veterinary kennel? Mr. Downey replied that the UDO had a distance of 500 feet, and that is what they proposed. He isn't sure what is the right number, but 500 feet is what the City proposed in the UDO.

Council Member Williams commented that he thought the distance consideration should apply to the property line, not the adjacent property structure because some adjacent properties would be vacant, and that could penalize the person who builds later on the adjacent property. Mr. Downey replied that the way the ordinance is written now, zoning districts typically follow property lines.

Council Member Ellis said that he just didn't want us to create something that, in six months, we would have many complaints about barking dogs. He believes that would happen using the 300-foot distance.

Mayor Pro Tem Joe Martin asked for clarification of distance requirements for properties having no adjacent structures. Mr. Downey replied that if the kennel is built first and the adjacent property is undeveloped, under this amendment there would be no 300-foot spacing, because there is no adjacent structure to buffer off of. They would simply be allowed to build as close to the property line as any other business would, perhaps 20 feet. In this case, the adjacent property builder would not have to build to meet the 300-foot distance requirement. This applies only to the kennel.

Council Member Linwood Mann asked why the amendment included fencing because fences could be moved. Mr. Downey said this fencing is referred to for what would hold the animals, such as runs. The buffer would start at the end of the kennel or at the fence.

Council Member Cornelia Olive clarified with Mr. Downey that our Planning Board believed the UDO recommendation of 500 foot was superior to the 300- foot distance requested in this amendment and that kennels are not permitted in residential zoning.

Mayor Hester asked if this would be in conflict with our UDO. Mr. Downey replied that if council adopts this new policy, the UDO would be updated to reflect that. Council Member Williams clarified that the 300- foot distance applies only when there are existing adjacent structures. Mr. Downey agreed. He pointed out that you may have a business or industrial zoning that is adjoining a residential zoning, and that is the situation that the petitioner, Mr. Daniel, has at this time.

Mayor Hester opened the public hearing. Petitioner John C. Daniel III spoke in favor of the petition. He explained that Dr. Shontz, who operates two separate veterinary hospitals in town, has a piece of property on Hwy. 421 that is adjacent to the county/city line. He is applying for annexation into the city at the same time. The challenge is that the property to the west of them remains RA. That is how they are coming up with the new distance request. Mr. Daniels says that his experience tells him that the best use along Highway 421 is not residential any more, but that property is still zoned RA. Dr. Shontz has about 7.4 acres of land in that location, but under current zoning, he will be able to use only about an acre and a half of that land. He thought this proposal would allow Dr. Shontz to stay in keeping with the residential zoning beside him, but still have a good looking structure such as what is proposed in building this animal hospital.

Mayor Pro Tem Joe Martin clarified that the only property that is residential is to the west; everything else around is already light industrial or general business. The property in question belongs to George Perkins who has agreed to an easement off the rear of his property to allow Dr. Shontz to connect to sewer. There are no plans for any residential subdivision on that property. He feels the animal hospital would be in keeping with what is already out there.

Council Member Cornelia Olive said she would like to understand a little better why the choice of a text amendment in this situation. Mr. Marshall explained that one option was to rezone Mr. Perkins's property, but Mr. Perkins was not interested in that option at this time. His not having any specific development plans, the taxes would likely outweigh the need to rezone it. A second option was to consider a text amendment. It seemed to be the option that would work

for Mr. Daniel. Mayor Pro Tem Martin inquired whether the Conditional Use Zoning might work in this case. Mr. Downey said it could. Mr. Martin said he felt more comfortable making this applicable in this one situation and not set it in a text amendment. Council Member Ellis said that he thinks Conditional Use Zoning would be preferable. Council Member Williams confirmed that there was rental property adjacent to the property in question. He asked if that property owner had been notified of the public hearing. Mr. Downey said yes, that we do a notice in the paper for a text amendment because it is not a rezoning of the land.

City Manager Barefoot clarified that they were talking about Conditional Use Zoning, not the Conditional Use Permit Ordinance. Mr. Downey said that was an option they had not looked at, but if they did, the applicants would need to be positive that was what they wanted because they would be locked into it. Council Member Linwood Mann said he agreed that Conditional Zoning was the sensible way to go. There was a procedural discussion about whether Mr. Daniel should withdraw his petition. It was decided that he would have the matter discussed in the Planning Board meeting. City Attorney Susan Patterson advised that the sequence to follow would be to get the property annexed and then make the rezoning request.

Mayor Hester closed the public hearing.

The Planning Board retired to the West End Conference Room.

## **REGULAR AGENDA**

### Cool Springs/Valley Road Contiguous Voluntary Annexation

- Receive Certificate of Sufficiency - (Exhibit D)  
Planner II Liz Whitmore informed council that the Certificate of Sufficiency had been received and certified by the city clerk.
- Consider Adoption of Resolution Fixing Date for Public Hearing – (Exhibit E)  
Ms. Whitmore advised that the resolution fixes the date of the public hearing for July 19, 2005 at 7:00 P.M. at the City of Sanford Municipal Building. It will be advertised in the *Sanford Herald* on July 6, which will give 12 days notice. This is an annexation for about 222 acres. Mr. Albert Adcock owns the bulk of the property, approximately 199 acres. The other property owners are Mr. Tim Shaw and his wife; Charles Douglas Goodwin, Jr. and wife; and Gerald J. Womble (deceased) and wife Sheila T. Womble. The City of Sanford owns a small piece where a water valve is located. Mr. Adcock wants to develop his parcel into a single-family subdivision and the preliminary plan, that was originally submitted, indicates 316 single-family homes with lot sizes varying from 20,000 SF to 44,712 SF. That is in the process of being revised. This property is located within the West Sanford Fire District. Ms. Whitmore reports she has notified the Fire Department.

Council Member Mann made the motion to approve the resolution; seconded by Council Member McNeill, the motion carried unanimously.

Chancellor's Ridge Phase II Satellite Annexation

- Consider Adoption of Resolution Fixing Date for Public Hearing – (Exhibit F)  
Planner II Liz Whitmore explained that this resolution sets the public hearing for July 19, 2005, at 7:00 P.M. at the Municipal Building. The certificate of sufficiency has been received at a previous hearing. The public hearing was advertised on July 6, 2005.

Council Member Walter McNeil, Jr. made the motion to pass the resolution; seconded by Council Member Williams, the motion carried unanimously.

Green Valley Phase V (4 Lots) Statutory Annexation

- Consider Ordinance To Extend the Corporate Limits of the City of Sanford, Under the Authority Granted by Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina – (Exhibit G)  
Planner II Liz Whitmore explained that the area to be annexed is adjacent and contiguous to the City of Sanford municipal boundary. The area is subdivided into four residentially developed parcels less than three acres in size. Total acreage is 1.31 acres. The public hearing was held for this statutory annexation on April 5, 2005. No one spoke in favor or against. In addition, there was a public informational meeting held on March 10, 2005, and no one attended that meeting.

City Manager Barefoot emphasized that this ordinance establishes the date of this annexation for July 1, 2006—a year away. This is the way the law reads.

Mayor Pro Tem Martin made the motion to pass the ordinance; seconded by Council Member Olive, the motion carried unanimously.

Consider Award of Bids for CDBG Rehabilitation Strategies WB Wicker School Project

- Site Demolition Work – (Exhibit H)  
Planner II Karen Kennedy said that five bids were received for the site demolition work associated with the renovations to W.B. Wicker School. Community Development recommends that Council accept the low bid of \$13,800 by JC Construction and authorize the award of site demolition work using funds from Year 3 of the CDBG Revitalization Strategies Program. Council Member Williams asked what they were going to tear up. Todd Snyder, with Progressive Contracting Company, explained what the work involved. This includes a brick sidewalk out back with the brick to be salvaged and reused on the front of the building; some asphalt parking will come up; and some of the stairs that were added and not original construction.

Council Member McNeil made the motion to accept the low bid of \$13,800 by JC Construction; seconded by Council Member Olive, the motion carried unanimously.

- Grading and Storm Water – (Exhibit I)  
Planner II Karen Kennedy said that on June 8, 2005, bids were accepted for the grading and storm water work associated with the renovations to W.B. Wicker

School. One bid was received and the packages were re-advertised for June 16, 2005. On June 16, 2005, four proposals were received and Community Development recommends that Council accept the low bid of \$87,795 of Page Construction and authorize the award of site grading and storm water work using funds from Year 3 of the CDBG Revitalization Strategies Program. Council Member Cornelia Olive asked the location of Page Construction. Mrs. Kennedy replied Kernersville.

Council Member Walter McNeil, Jr. made the motion to accept the low bid of \$87,795 of Page Construction for combined grading and storm water; seconded by Mayor Pro Tem Martin, the motion carried unanimously.

- Site Utilities (fire water, domestic water, sanitary) – (Exhibit J)  
Planner II Karen Kennedy explained that on June 8, 2005, bids were accepted for the site utilities work associated with the renovations to W.B. Wicker School. One bid was received and the packages were readvertised for June 16, 2005. On June 16, 2005, three proposals were received for the site utilities work (fire line, domestic water line, and sanitary piping). Nall Construction came in with the lowest bid, but had to withdraw because of an error on the bid sheet. Community Development recommends that Council accept the second lowest bid from Page Construction at \$73,094 and authorize the contract award of the site utilities contingent upon release of Year 4 CDBG Revitalization Strategies funds (release expected late August).

Council Member James Williams made the motion to accept the second lowest bid of Page Construction for \$73,094 for the site utilities work; seconded by Mayor Pro Tem Martin, the motion carried unanimously.

Council Member Clawson Ellis asked if Mrs. Kennedy had any information on the companies we had not worked with previously. Todd Snyder of Progressive Contracting explained that he had worked with Page Construction on two previous projects. He said that both projects went smoothly and the quality of his work is excellent. Community Director Bob Bridwell said that Community Development typically checks out the credentials of bidders along with their bids and analyzes their bids carefully.

- Site Concrete (sidewalks, stairs, and ramps) – (Exhibit K)  
Planner II Karen Kennedy explained that on June 8, 2005, bids were accepted for the site concrete work associated with the renovations to W.B. Wicker School. No bids were received and the packages were readvertised for June 16, 2005. On June 16, 2005, two proposals were received. Community Development recommends that Council accept the low bid of Lowery Custom Construction for \$55,607 and authorize the contract award of the site concrete work contingent upon release of Year 4 CDBG Revitalization Strategies funds (release expected late August).

Council Member Phil Dusenbury made the motion to accept the low bid of Lowery Custom Construction for \$55,607; seconded by Council Member Walter McNeil, the motion carried unanimously.

- Asphalt Paving and Curb & Gutter – (Exhibit L)  
Planner II Karen Kennedy explained that on June 8, 2005, two bids were received for the asphalt paving and concrete curb and gutter work associated with the renovations to W.B. Wicker School. Community Development recommends that Council accept the low bid of \$91,290.50 by Nu-Tech Paving Co., Inc. and authorize the contract award of the site paving contingent upon release of Year 4 CDBG Revitalization Strategies funds (release expected late August).

Council Member Williams inquired as to the reputation of Nu-Tech Paving because he was not familiar with them. Todd Snyder advised they were good people. Council Member Olive asked about the two bidders listed with no bids submitted. Mrs. Kennedy explained that they were on their bid list, but did not receive bids from them.

City Attorney Patterson asked Mrs. Kennedy if this grant required three bids. Mrs. Kennedy replied that according to The Wooten Company, the bids can be opened with two bids.

Council Member Cornelia Olive made the motion to accept the low bid of \$91,290.50 by Nu-Tech Paving Co.; seconded by Council Member Linwood Mann, the motion carried unanimously.

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

### **OTHER BUSINESS**

City Manager Barefoot reminded Council that there will not be a Council meeting next Tuesday, July 5, 2005. He also explained that National Night Out will be held on August 2, which is a regularly scheduled meeting night for the Council. Council agreed to meet that day (August 2) at 1:00 P.M. instead of 7:00 P.M. if a meeting was needed.

### **ADJOURNMENT**

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

Respectfully submitted,

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WINSTON C. HESTER, MAYOR

ATTEST:

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BONNIE D. WHITE, CITY CLERK

