

D-27151

Summary of Minutes

November 6, 2006

A Regular Meeting of the Winston-Salem City Council was held on Monday, November 6, 2006 at 7:30 p.m. in the Council Chamber at City Hall, Mayor Allen Joines presiding and the following members present:

Council Members:	Molly Leight Robert C. Clark Dan Besse Joycelyn V. Johnson	Vivian H. Burke Nelson L. Malloy, Jr. Wanda Merschel Evelyn A. Terry
Secretaries:	Renée P. Henderson, City Secretary, and Paige L. Deal, Recording Secretary	
Invocation:	Reverend Judson Milam of St. Andrews Presbyterian Church	
Sergeant at Arms:	Lieutenant Connie Southern	

1. PUBLIC HEARING ON ZONING PETITION OF CITY OF WINSTON-SALEM FOR PROPERTY OWNED BY OTHERS FROM COUNTY ZONING JURISDICTION TO CITY ZONING JURISDICTION - Containing approximately 13,850 acres as part of the CITYWIDE ANNEXATION - Zoning Docket W-2889. [Planning Board recommends approval of petition.]

No one heard.

At the request of Mayor Joines, Mr. Paul Norby, City/County Planning Director, explained that this action will change zoning jurisdiction for those areas recently annexed into the City from County jurisdiction to City jurisdiction. He advised that there may be a few situations where certain uses are allowed in the County, but not the City; however, in those instances, those uses would become legally non-conforming, so the property

owner would continue using his/her property according to what was legal before they were annexed into the City.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP

Council Member Merschel: Motion for approval.

Council Member Johnson: Second. Unanimous.

2. PUBLIC HEARING ON ZONING PETITION OF OLD GOLER AME ZION AND GOLER MEMORIAL AME ZION CHURCH FROM LI TO PB: Property located on the southwest corner of Seventh Street and Patterson Avenue - Containing approximately 1.80 acres located in the EAST WARD (Council Member Johnson) - Zoning Docket W-2892. [Planning Board recommends approval of petition.]

No one heard.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP

Council Member Johnson: Motion for approval.

Council Member Burke: Second. Unanimous.

3. PUBLIC HEARING ON ZONING PETITION OF EMMIT E. CLAYTON, JR. AND ALARIS VILLAGE APARTMENTS, LLC FROM RS-9 AND RM-18-S (Residential Building, Multifamily) TO RM-18-S (Residential Building, Multifamily): Property located on the west side of University Parkway, north of Bethabara Park Boulevard - Containing approximately 28.71 acres located in the NORTH WARD (Council Member Malloy) - Zoning Docket W-2893. [Planning Board recommends approval of petition and site plan with staff recommendations.]

No one heard.

At the request of Council Member Malloy, Mr. Norby explained that this petition would combine a very small portion of property with a larger site which was rezoned about a year ago. This would allow the developer to do less grading and construct less of a retaining wall, and would reconfigure access and number of units.

ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING
ORDINANCE AND THE OFFICIAL ZONING MAP

APPROVAL OF SITE PLAN

APPROVAL OF SPECIAL USE DISTRICT PERMIT

Council Member Malloy stated that this petition conforms to Legacy and the North Suburban Area Plan.

Council Member Malloy: Motion for approval.

Council Member Burke: Second. Unanimous.

4. PUBLIC HEARING ON ZONING PETITION OF PHILIP R. S. WAUGH, JR. AND JEAN WILDER WAUGH FROM RS-9 TO RS-20: Property located on the south side of Shattalon Drive, west of Petree Road - Containing approximately 16 acres located in the NORTHWEST WARD (Council Member Merschel) - Zoning Docket W-2890. [Planning Board recommends approval of petition.]

No one heard.

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Council Member Merschel noted that rezoning this property makes it more compatible with surrounding property.

Council Member Merschel: Motion for approval.

Council Member Burke: Second. Unanimous.

5. PUBLIC HEARING ON ZONING PETITION OF DONALD A. AND MAXINE JOYCE FROM RS-9 TO RM-8-S (Child Day Care Center): Property located on the northwest corner of Union Cross Road and Shepard Grove Road - Containing approximately 2.95 acres located in the EAST WARD (Council Member Johnson) - Zoning Docket W-2891. [Planning Board recommends approval of petition and site plan with staff recommendations.]

SUFFICIENT PROTEST PETITION

Appearing in favor of the petition was Mr. Mark Paskuly, 1479 Sir Charles, Clemmons. He explained that this proposal is for a day care center which is needed in

this community. He stated that there are thousands of homes in this area, but no day care facilities on this part of Union Cross Road. Mr. Paskuly remarked that the day care center would be operated by Ms. Shanteen Crews, who has considerable experience in running day care centers. He acknowledged that increased traffic is a concern, but traffic is already an issue and DOT has plans for widening of Union Cross Road with a median to prevent certain turning movements. With the overall community growth, increased traffic is unavoidable. Mr. Paskuly explained that he had distributed informational packets to more than 100 homes in the area and then neighbors were surveyed to see if they had any concerns about a proposed day care. He stated that approximately 60 percent of those responding indicated that they did not have a problem with this petition. Mr. Paskuly remarked that this proposed day care center would impact the area far less than a shopping center development.

Appearing in opposition to the petition was Mr. Karim Allah Sharif, 1210 Birch Hill Drive, Kernersville. Mr. Sharif stated that citizens place trust in elected officials to provide for a good economy and to protect communities. He stated that development of a day care center at this location would exacerbate the problems caused by traffic on Union Cross Road. He commented that he would much rather see this property developed as recreational space. As far as the need for a day care in this area, Mr. Sharif stated that this community has mostly all stay-at-home mothers who would not have a need for day care. Therefore, the day care would draw clients from outside the community, which brings more traffic congestion, and which would present a serious safety issue with the proximity of Glenn High School.

Also speaking in opposition to this petition was Ms. Tina Lawrence, 1130 Birch Hill Drive, Kernersville. Ms. Lawrence stated that traffic is a serious concern, especially for adjacent neighborhoods which will see a burdensome increase due to people trying to maneuver movements which will be inhibited by the median construction. She mentioned that there was a community workday in October at which Mr. Paskuly was invited. The information he presented to the neighbors at that time was misleading and there are now neighbors who want to be taken off the record as being in favor of the petition. Ms. Lawrence advised Council that she and her neighbors would much rather have a retail center at this location with more controlled access, and she expressed her concern with there being sufficient room on the property for people to drop off and pick up their children without creating traffic stacking on Union Cross Road.

During the rebuttal time, Mr. Paskuly noted that this property has been vacant for a long time and this proposal was carefully designed after much consultation with DOT and Planning Staff. He stated that a retail center, which frequently contains at least one restaurant, would be far more invasive to the neighborhood than a day care center.

Mr. Sharif stated that he was not opposed to a day care center, but this is not a good location for one.

Mr. Todd Bartlett, 1054 Hastings Hill Road, Kernersville, spoke in opposition to the petition, citing traffic problems, especially with students driving to and from Glenn High School.

Mayor Joines declared the public hearing closed and recognized Mr. Norby for the recommendation of the Planning Board.

Mr. Norby presented the recommendation of the Planning Board which was for approval of the petition. He noted upcoming road improvements on Union Cross Road, and stated that due to the road improvements, the petitioner has agreed to make a payment to the City in lieu of building a sidewalk, which would be premature at this time due to the roadwork.

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Council Member Johnson: Motion for approval.

Council Member Burke: Second.

Council Member Johnson asked Mr. Norby to comment regarding the impact of the road widening.

Mr. Norby responded that with the widening and installation of a median, some traffic maneuvers will be limited. The construction of a deceleration lane plus the dedication of additional right-of-way are also significant factors to be considered. He advised that development of a retail center on this site would generate much more traffic than a day care center.

Council Member Johnson asked about the canopy attached to the building and how stacking of traffic would be handled.

Mr. Norby replied that some stacking room would be lost, but could probably be routed around the side of the building.

Ms. Santeen Crews, 4219 Shadetree Circle, was recognized to respond to Council Member Johnson's question. She explained that there would be no "drop-off" of children,

therefore traffic stacking would not be an issue. All parents will be required to park their cars and walk with their children into the day care center. The canopy is basically for beautification of the building.

The motion was unanimously carried.

6. CONTINUATION OF PUBLIC HEARING ON ZONING PETITION OF GRACE H. CALLOWAY AND SADIE H. HENNING FROM RS-9 TO LO-S (Funeral Home; Medical and Surgical Offices; Non-Store Retailer; Offices, Miscellaneous; Professional Office; and Adult Day Care Center): Property located on the west side of Peace Haven Road south of Robinhood Road - Containing approximately 1.45 acres located in the WEST WARD (Council Member Clark) - Zoning Docket W-2843. [Planning Board recommends approval of petition and site plan with staff recommendations. This item was continued from the October 2, 2006 Council meeting.]

Mr. Henry Isaacson, 101 West Friendly Avenue, Greensboro, appeared on behalf of Dr. Underwood and Vernon Ferrell. He stated that he was accompanied by John Davenport, who conducted traffic studies for the site, and Doug Stimmel, who prepared the site plan. Mr. Isaacson described the long process through which the site plan was changed multiple times in an attempt to address concerns of the Planning staff and neighborhood. The initial site plan called for a 18,000 square foot building, which has been reduced to the present proposal for a 12,500 square foot building, with fewer uses. He stated that this property is no longer desirable for use as residential, given its proximity to Robinhood and Peace Haven Roads and all of the commercial development across the street. However, under this proposal, the new building will have a residential appearance and will blend in very nicely with the neighborhood to the west. Mr. Isaacson expressed his appreciation to the Council for permitting the number of delays this petition needed in order to come up with the best plan for the site.

Mr. David Griffith, 3510 Kittery Court, stated that he was speaking on behalf of his wife, who has been the spokesperson for their neighborhood for a number of years. He stated that this was a difficult and emotional zoning case which has been delayed numerous times and plagued by poor communication between the developer and neighbors and multiple last minute changes. He commented that while he and his wife are not completely happy with the plan, it appears that this may be the best that the neighborhood can expect.

Ms. Suzanne Reed, 1231 Chester Road, spoke in favor of the petition. She stated that the petitioners have made extraordinary concessions to address neighborhood concerns and she believes that the building will be a pleasing addition to the area. She commended Dr. Underwood for quality development of other property in the area.

Also appearing in favor of the petition was Ms. Cynthia Wadkinson, Alistair Road. She stated that she was satisfied with the changes to the site plan, and that this development will blend in well. She also noted that a proposed traffic signal at Chester Road will help with traffic.

Appearing in opposition to the petition was Mr. Robert Lefkowitz, 3500 Brunswick Court. At his request, approximately 25 persons in the audience stood to indicate their opposition to the petition as well. Mr. Lefkowitz stated that this petition has been drawn out for a long time and now this latest proposal has been presented at the 11th hour. He remarked that the developer had plenty of time to work with the neighborhood, but did not. The intersection of Robinhood Road and Peace Haven Road is already at a high level of congestion and additional development such as this will only increase traffic. He requested that the Council deny this petition.

Appearing next in opposition was Ms. Lauren Thach, 3411 York Road. She stated that she and her neighbors are well aware of conditions in this area, but they felt completely uninformed of the developers' intent. She commented that perhaps this site will eventually be developed for a commercial use, but she asked that any development be more carefully planned and communicated with the citizens who are most directly affected.

During rebuttal time, Mr. Isaacson stated that neighborhood meetings were held and the many revisions to the site plan reflect the concerns expressed by the neighbors.

Mr. Lefkowitz stated that it was his understanding that the dentist office to the south of this site opposes this petition as well. He maintained that changes were made at the last minute, and that the developer tried to ignore the neighborhood and keep them uninformed.

Mayor Joines declared the public hearing closed and recognized Mr. Norby for the staff presentation and recommendation of the Planning Board.

Mr. Norby stated that the site plan has gone through a number of changes since it was initially submitted. The latest version shows a 12,500 square foot building, with 73 parking spaces behind the building. With the reduced square footage, the property is estimated to generate about 138 vehicle trips per day as compared with the vehicle count of approximately 67 trips per day if the property was developed at its greatest density under the current zoning. Mr. Norby advised that the Robinhood Road Area Plan shows this particular site as moderate to low intensity office. In response to concerns from staff, the petitioner agreed to drop "banking and financial services" from the uses and move the building closer to the street away from the residences. There have been further

reductions of square footage and requested uses over the past few weeks. Further revised conditions include: the requirement for a driveway permit; the dedication of an additional ten-foot right-of-way on Peace Haven Road; a condition for a stormwater study and implementation of recommendations from that stormwater study; submission of building elevations to the Planning staff to assure compliance with other types of design conditions. Mr. Norby listed the design conditions as follows: the building will have a pitched roof with eaves and/or other decorative cornices; the façade fronting on Peace Haven Road will have at least one pedestrian entrance; the front façade must have windows and doors covering at least 40 percent of the length of that front façade and no more than 20 feet of the façade can be without a window or door; and the primary building materials would have to be brick, wood, or stone. There would be other types of materials allowed for accent as well. Other conditions include the ability to have cross-vehicular access with the property to the south if a mutual agreement can be reached between the two property owners. Lighting restrictions have been added to provide lower 18-foot high lighting standards with a shoebox design that points the light downward, and finally, signage will be restricted to a six-foot high (maximum) monument sign on the property. Mr. Norby also advised Council members that as a matter of course, adjoining property owners are notified by letter of zoning petitions, and zoning signs are now left standing until the appropriate governing board has made the final decision on the zoning matter.

In response to Council Member Clark, Mr. Greg Turner, Assistant City Manager, stated that the site plan requires the developer to submit a stormwater plan which calls for stormwater to be retained and released at the pre-development level under a ten-year

storm standard. In contrast, a two-year storm standard would protect more against erosion problems, and would be a more stringent requirement.

Council Member Clark asked if the water could be directed to Brunswick Court.

Mr. Turner responded that an underground conveyance piping system can be installed if the adjacent property owner is agreeable.

Council Member Clark commented that the basic question is what is the appropriate use of this property. He stated that he told the developers from the very beginning that an 18,000 square foot building was too large and that it was important for this building to have a residential look, since it would serve as a transition from commercial to residential uses. He acknowledged that there has been some frustration on the part of some neighbors that the building is not more specifically defined, but there are conditions on the site plan that will address building materials, signage, lighting, and landscaping. Council Member Clark stated that there are severe traffic problems in this area, but this property did not create them. A major contributing factor to traffic congestion at this intersection is the development of residential subdivisions with one entrance/exit. He agreed that delivery trucks pose a specific problem, but this building is designed with a loading/unloading area, and he plans to work diligently to see that a traffic signal is installed at Chester Road as soon as possible. He asked also for City DOT to look at the traffic light cycles at the intersection of Robinhood and Peace Haven to see if any improvement can be achieved. Council Member Clark remarked that he thought that the developer has handled the matter poorly, but he believes that the neighbors' concerns have been heard and addressed.

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Council Member Clark: Motion for approval with all conditions on the revised site plan and as stated by Mr. Norby with the addition of the following: the elimination of dental office and funeral home from the permitted uses; that timers be placed on the back lights so that they will be turned off at a reasonable time; that the City DOT review the driveway plans to ensure that delivery trucks can access the site appropriately; and that the developer be required to install a two-year stormwater management plan with an underground pipe to the drain on Brunswick Court, provided that the developers can get approval from the adjoining property owners.

Council Member Leight: Second.

Council Member Leight agreed that the developers could have done a better job in communicating with the neighbors. She commented that this area urgently needs an updated area plan because the existing 20-year plan is outdated.

In response to Council Member Johnson, Mr. Norby confirmed that this petition and site plan does conform to Legacy.

Council Member Merschel remarked that she thought it was a good idea for Planning to keep the zoning sign up until after final action is taken on a petition. She stated that she was surprised that there are still some petitioners and/or developers who view neighborhoods as adversaries when it comes to zoning matters. She commented that it has been her experience that if neighbors are involved in the process, a petition is more likely to have support than opposition, and she recommended that staff do all it can

to encourage developer/neighborhood dialogue. She commended Council Member Clark for his work on this very difficult zoning case.

Council Member Burke stated that she is aware that sometimes staff does not communicate as well as it should when it comes to petitioners/developers contacting Council Members and neighbors, and she asked that this be given special attention.

Council Member Terry asked that staff work with neighborhoods to address concerns regarding stormwater which would be more neighborhood-friendly.

Upon recommendation from Mr. Norby, Mayor Joines asked the developers' representative if he was agreeable with all of the stated conditions.

Mr. Isaacson indicated agreement with the conditions as stated by Mr. Norby and Council Member Clark.

The motion was unanimously carried.

7. APPROVAL OF SUMMARY OF MINUTES - October 23, 2006.

Council Member Burke: Motion for approval.

Council Member Johnson: Second. Unanimous.

Council Member Besse reminded residents of the Southwest Ward and any other interested persons of the Talk of the Town scheduled for Thursday, November 8, 2006 at 6:30 p.m. at the Bolton Street campus of Forsyth Technical Community College.

Council Members Terry and Burke reminded everyone to vote tomorrow and if possible, give someone a ride to the polls.

ADJOURNMENT: 9:25 p.m.