

MINUTES OF
CITY OF CREEDMOOR – BOARD OF COMMISSIONERS
REGULAR MEETING
APRIL 25, 2006
7:30 P.M.

PRESENT:

Mayor Darryl D. Moss, Mayor Pro-tem Tim Karan, Commissioner Angela Mangum, Commissioner Otha Piper, Jr., Commissioner Kent Ray and Commissioner Larry Robinson. Also present was Sandra Harper, City Clerk and Attorney Tom Currin. Absent was Robert A. Schaumleffel, Jr., City Manager.

QUORUM:

Mayor Moss called the meeting to order at 7:30 p.m. in the Commissioner's Room at City Hall.

Mayor Moss announced that Mr. Robert A. Schaumleffel, Jr., City Manger was out of town on a personal matter.

INVOCATION:

Mayor Moss

PLEDGE OF ALLEGIANCE:

Commissioner Ray

PUBLIC HEARINGS:

Landscaping, Screening and Buffering Standards Ordinance:

The Planning Board met on March 9, 2006 with seven members present and voted unanimously to recommend to the Board of Commissioners approval of the proposed Landscaping, Screening and Buffering Standards Ordinance.

Mr. Dave Roesler, Planning Director addressed the Board and said that the Ordinance was well thought out by the Planning Board and he felt that it would be a good addition to the City's Ordinance.

Mayor Moss opened the Public Hearing. No one wished to speak so Mayor Moss closed the Public Hearing.

Planned Unit Development Ordinance:

The Planning Board met on March 20, 2006 with six members present and by unanimous vote recommends to the Board of Commissioners approval of the Planned Unit Development Ordinance.

Mr. Dave Roesler, Planning Director addressed the Board and said that as a result of his review of the proposed PUD Ordinance, he wished to propose several minor changes to be incorporated into the final draft. The changes are contained within Sections 154.406, 154.407, 154.411 and Section 154.419. He explained that his suggested changes were shown highlighted by new wording in italicized text and deleted wording shown with a strikethrough feature. He noted that the proposed revisions were intended to strengthen the City's desire to promote quality development. Mr. Roesler also suggested that references to minimum lot sizes be removed from Section 154.406 and 154.07. The use of a maximum allowable density figure will promote better project design through clustering of buildings to provide more useable open space areas. He noted that the use of a density figure will also help promote the use of more diversified housing types within large developments. Mr. Roesler advised that the changes suggested in Section 154.411 clarify that landscape buffer areas are not to be used for purposes other than landscaping. In Section 154.419 the suggested changes broaden the street standards to include City of Creedmoor street standards.

Mayor Moss opened the Public Hearing.

Attorney Currin said that this particular ordinance does allow flexibility and allows the town to negotiate many of the conditions between the City Manager and the developer. This process should produce better design projects and less maintenance. He said that this Ordinance had been approved by technical review by the Planning Board. Attorney Currin advised that the Board could go ahead and adopt the ordinance as recommended by the Planning Board or with the changes which have been made by the Planning Director or the Board could determine that they are not ready to take action this evening and table or send it back to the Planning Board for further review.

No one else wished to speak so Mayor Moss closed the Public Hearing.

Mayor Moss thanked the Planning Board for all of their work on both of these ordinances.

REQUESTS TO ADDRESS THE BOARD:

No one was scheduled to speak.

MINUTES:

Moved by Commissioner Karan and seconded by Commissioner Robinson approval of the March 28, 2006 minutes. The motion received a unanimous vote.

APPROVAL/ADDITIONS TO AGENDA:

Moved by Commissioner Karan and seconded by Commissioner Mangum to add to the agenda under New Business item 12-g Landscaping, Screening and Buffering Standards Ordinance and item 12-h Planned Unit Development (PUD) Ordinance. The motion received a unanimous vote.

Moved by Commissioner Piper and seconded by Commissioner Karan to adopt the agenda. The motion received a unanimous vote.

POROCLAMATIONS:

A Day of Prayer in Creedmoor:

Mayor Moss announced that Thursday, May 4, 2006 at 8:30 a.m. there would be a silent prayer for our community at the flag pole at City Hall and invited everyone to attend.

Moved by Commissioner Karan and seconded by Commissioner Piper to adopt the Proclamation for A National Day Of Prayer. The motion received a unanimous vote.

Municipal Clerk's Week:

Mayor Moss announced that April 30, 2006 through May 6, 2006 was Municipal Clerk's Week and recognized Creedmoor's City Clerk, Sandra Harper.

Moved by Commissioner Mangum and seconded by Commissioner Karan to adopt the Proclamation for Municipal Clerks Week April 30, 2006 through May 6, 2006. The motion received a unanimous vote.

PUBLIC COMMENTS:

Ms. Mildred Goss, 322 Aiken Avenue addressed the Board and said that she would like to shed some light on the annexation tonight. She first thanked the Board for putting this annexation plan in process. Ms. Goss said that she, for one has attended all of the meetings that have been held and the Board has stood the test of all of the speeches made by the opponents. She said that she, for one admired the Board for the very professional way that they have handled the situation. She noted that the opponents have been concerned about their fire and police protection. Ms. Goss said that she knew first hand what the fire department and police department can do. She said that if the Fire Department had to be ranked according to their effectiveness, the Creedmoor Fire Department would be on top of the list. Ms. Goss said that they are already protecting the area proposed to be annexed and have for a long time. Ms. Goss said that the Creedmoor Police Department was also at the top of the list. She said when you call them they respond immediately. She said that the people who have signed the lawsuit need to stop and reflect a minute and ask the question, is Creedmoor supporting our business. Ms. Goss said the answer would be yes. She asked what would happen if Creedmoor stopped frequenting their business. Ms. Goss commented that now it is time for the citizens of Creedmoor to let the Board know that we are supporting you in this

annexation process. She said that the citizens of Creedmoor voted the Board into office and now you have been put to the test and we thank you for the outstanding job you are doing. Ms. Goss received a round of applause.

Mr. Guy Smith, 2570 Jasmine Court addressed the Board and said that he would like to echo Ms. Goss's comments. He said that the silent majority thank all of the Board for their efforts to move forward with the process and to endure some of the impugning of your reputations and some of the comments I have found to be reprehensible, at best, and downright malicious. Mr. Smith noted that his neighbors, though they do not attend the meetings, also believe that the annexation is the right thing to do. He also said that some of his neighbors are surprised that it hasn't been done historically. He asked who is supporting who in this regard. Mr. Smith said that when he came to North Carolina in 1991, he thought that Creedmoor did go all the way to I-85. He also thought that Creedmoor not only went to I-85 but continued down West Lyon Station Road to Gate Two Road. Mr. Smith said that he believed the annexation to be the natural progression for the development of the community. Mr. Smith said that his thoughts were that the annexation was going to be in the best interests, both in the short term and the long term. He applauded Commissioner Ray for his comments about our ability as a community to have influence over how our drinking water system is developed. Lastly, he told the Board that he was 100% behind them on this issue and shame on the folks that are making comments as we all know by certain jurisdictional parties may or may not be illegal, but at the very least they are certainly immoral.

No one else wished to speak so Mayor Moss closed the Public Comment section.

MANAGER'S REPORT:

Mayor Moss reiterated that the City Manager was out of town.

OLD BUSINESS:

Department Head Reports:

Provided in the Board packets were monthly reports from the Water Plant, Public Service Director and Police Department.

NEW BUSINESS:

Final Plat Approval – Paddington, Phase I, Section 4 and 5:

Mr. Dave Roesler, Planning Director addressed the Board and said that the Final Plat for Section 4 and 5 was reviewed by the Planning Board April 13, 2006 and they recommend approval with the condition that the streets and public infrastructure be completed to City standards and accepted by the City of Creedmoor prior to the approval of Final Plat. He noted that he and the Public Service Director went to the site yesterday and most all the public improvements are in with the exception of the street lights. Mr. Roesler said that they have been ordered, signed by the City and are awaiting the installation of the

underground wiring by Duke Power. He said that the Board could condition that the street lights be in place prior to any C.O. being issued.

Mr. Rick Grote, 2319 Dupree Point Wake Forest addressed the Board and said that electric with Duke Power is not normally installed until the pins are set for the lock corners in case there are any changes. He noted that because of the way Duke Power does their electric; 45 kv, the boxes are set at property corners and they can't be set until the Board approves the plots. Mr. Grote said that 24 hours after they record, the registered surveyor comes out to set the pins and 24 hours after that Duke Power comes out to set their flags.

Commissioner Karan said the development is very attractive and he is pleased with the aesthetics. He said that he had pulled the special use permit and could not find from the BOA or the City authorizing road widths that are narrower than the City's Ordinance specifies. He asked if Mr. Grote had any documentation substantiating that the City gave them special permission to install the narrower road widths.

Mr. Rick Grote said that the original drawings that were approved were 27' back of curb to back of curb. He said that they use valley curbs, which allows people to park closer to the side. He said that if you measure back to back all of the streets are 27'3". He noted that this could be found on page C1-02 standard for the subdivision. He said that he was not aware of any special permission.

Commissioner Karan asked if the homeowners purchasing lots under the undisturbed vegetation buffers were being made aware of this.

Mr. Grote said that there are deed restrictions stating this and it is also noted in the Home Owner's Association. He said that this evening he rode through the subdivision and noticed that there were a couple of fences.

Commissioner Karan said that is absolutely correct and he drug a tape on that today and by his measurement it is not what it is supposed to be. He said that he did not know if the City was going to be responsible for enforcing this or if it is a deed restrictive covenant that the Home Owner's Association will be governing.

Mr. Rick Grote said that they could work that through whatever is easier for the City. He noted that it is a deed restriction and governed by the HOA. Mr. Grote said that there was a conflict with that homeowner and also the previous homeowner and he thought it had been resolved.

Commissioner Karan said that he appreciated the fact that when the Brame property was brought into the City the Board asked the Weisgerber Group to persuade the Brame family to also incorporate the remaining tract and they did. He also asked the status of closing the access for the Brame property on Hwy. 56 and utilizing a point within the subdivision.

Mr. Grote said they had many discussions with the Brame family about this and have offered to pave to their property. He also said that they have had septic problems on that property and are looking forward to us expanding water and sewer to their property. Mr. Grote said that the Brame family would not make any promises until they see the pavement. He said that his understanding was that once the pavement goes in they would deed it over. He said that it is shown on the plan and is already quoted, designed and ready to go.

Moved by Commissioner Piper and seconded by Commissioner Robinson approval of the Final Plat for Paddington, Phase I, Section 4 and 5 subject to completion of street lights being approved by the City Inspector with no C.O. s to be issued prior to such approval. The motion received a unanimous vote.

Mayor Moss thanked the Planning Board for all of their hard work on this ordinance.

Crawley Car Wash SIBDA Approval Request – Creedmoor Commons:

Mr. Dave Roesler, Planning Director addressed the Board and said that he received an application for approval of a site plan for a proposed car wash located on lot 3 of the Creedmoor Commons Shopping Center. He noted that staff reviewed the plans and found that the proposed site plan was consistent with City of Creedmoor regulations and standards. Mr. Roesler said that the applicant was requesting a Special Intensity Bonus Density Allocation (SIBDA). The applicant submitted a detailed storm water management plan and storm water calculations. Mr. Roesler said that the applicant was requesting a Special Intensity Density Allocation of 7,502 square feet. If granted, this would leave a balance of 6,320,115 square feet of total allocation for future projects. At the April 13, 2006 Planning Board meeting the Board voted 7-0 to recommend to the Board of Commissioners approval of the proposed SIBDA Allocation for the Crawley Car Wash site.

Mr. Jimmy Sisk of Car Wash Concepts, Inc., Thomasville, NC addressed the Board and said that they are going to build a very nice brick modern car wash with roman arched entry ways. He said that this would be a self service car wash and would have a recycle system, which would reclaim at least 70% of the water.

Commissioner Mangum asked if they were aware of the fees they would be paying.

Mr. Sisk said that they were aware of the fees and noted that he had spoken with Mr. Colenda, City Inspector and the previous City Planner about a reduction in those fees.

Ms. Mangum asked if they would be willing to move forward without a reduction in fees.

Mr. Sisk replied yes.

Attorney Currin said that it would not be possible to do a reduction in fees on a case-by-case basis.

Mr. Colenda, City Inspector said that Mr. Sisk was asking for a reduction in the capacity fees not the SIBDA fees.

Moved by Commissioner Karan and seconded by Commissioner Robinson to approve the SIBDA request for the Crawley Car Wash located at Creedmoor Commons. The motion received a unanimous vote.

Sexually Oriented Businesses Ordinance:

Mr. Dave Roesler, Planning Director addressed the Board and said that the City of Creedmoor is committed to protecting the general welfare of the City through enforcement of laws prohibiting obscenity, indecency and sexual offenses. He said to further this commitment the City desires to provide a constitutional basis for reasonable regulation of the time, place, and manner under which sexually oriented businesses operate. The Board of Commissioners instructed the City Attorney and the Planning Board to develop an ordinance for persons seeking to operate sexually oriented businesses that would define standards of operation and set specific location requirements. Mr. Roesler advised that at the April 13, 2006 Planning Board meeting they voted 7-0 to recommend to the Board of Commissioners the approval of the proposed Sexually Oriented Businesses Ordinance. As a related item, the Planning Board discussed and recommended placing Sexually Oriented Businesses within a Special Use Zoning District using the underlying zoning standards of the Heavy Industrial - 2 (HI-2) District.

Zoning Ordinance Text Change – Addition of Special Use District Zoning:

Mr. Dave Roesler, Planning Director addressed the Board and said that recent changes to the North Carolina General Statutes allows cities to develop a Special Use Zoning District. Such a district would recognize and permit certain uses and developments that require special review. Once a Special Use District is approved, no use within the district can be established until a Special Use Permit is approved and issued. He noted that this zoning process provided the means to review and evaluate special uses and because of their inherent nature, extent and external effects require special care in the control of their location, design and methods of operation in order to ensure protection of the public welfare. Therefore, staff is proposing that a Special Use District be added to Section 154.027; Districts and Designations as follows:

154.027 (o) Special Use Districts (SUD-__). For the zoning districts herein described, there are hereby established parallel special Use Districts, pursuant to G.S. Section 160A-382. Under each Special Use District, all uses allowed as a permitted use, or Special Use, by this chapter, for the parallel general use district permitted only after issuance of a Special Use Permit pursuant to Section 154.208 of this chapter.

Mr. Roesler advised that at the April 13, 2006 Planning Board meeting, the Planning Board voted 7-0 to recommend to the Board of Commissioners to call a Public Hearing and approve a text change to the Zoning Ordinance to add Special Use Districts.

Zoning Ordinance Text Change – Remove Residential Dwelling Permitted Use from HI-2 & HI-3 Districts:

Mr. Dave Roesler, Planning Director advised that at the April 13, 2006 meeting, the Planning Board discussed the appropriateness of allowing residential units with the heavy industrial zoning districts. Currently, the City of Creedmoor zoning ordinance allows single family dwellings within the Heavy Industrial 2 (HI-2) and Heavy Industrial 3 Districts (HI-3). The Board’s discussion focused on several negative factors of allowing residential in heavy industrial zones as follows:

- Heavy Industrial uses are not compatible to adjacent residential use;
- Industrial uses may not provide a safe and healthy environment for residents;
- Truck traffic related to heavy industrial uses is not desirable for residential streets; and
- Industrial uses adjacent to residential may adversely affect residential property values;

Therefore, the Planning Board wishes to recommend that single family residential uses now allowed in the Heavy Industrial 2 and Heavy Industrial 3 Districts be removed as a permitted use.

Mr. Roesler said that existing residential dwellings now located in the HI-2 and HI-3 Districts would be able to continue under the provisions of the non conforming structures and repairs and maintenance section of the zoning ordinance (SEC.154.055 (E) & (F)). He noted that a filed survey indicated that residential dwellings are currently located in the HI-2 and HI-3 Districts.

Mr. Roesler advised that at the April 13, 2006 meeting, the Planning Board voted 7-0 to recommend to the Board of Commissioners to call a Public Hearing and approve a text change to the Zoning Ordinance, Section 154.040 H-2 (B)(7) and Section 154.041 HI-3 (B)(7) delete dwelling, single family, from the permitted uses.

Moved by Commissioner Piper and seconded by Commissioner Ray to schedule Public Hearings for Sexually Oriented Businesses Ordinance, Zoning Ordinance Text Change for Addition of Special Use District Zoning and Zoning Ordinance Text Change to Remove Residential Dwelling Permitted Use from H-2 and H-3 Districts to be held Tuesday, May 23, 2006 at 7:30 p.m. The motion received a unanimous vote.

Board of Adjustment – City Alternate:

Mayor Moss advised that the City needed to fill the position of BOA City Alternate and there was an application submitted by Mr. David Forsythe.

Moved by Commissioner Piper and seconded by Commissioner Ray to appoint Mr. David Forsythe as a Board of Adjustment City Alternate. The motion received a unanimous vote.

Landscaping, Screening and Buffering Standards Ordinance:

Attorney Currin said that in its current form the Landscaping, Screening and Buffering Standards Ordinance was ready to be adopted.

Commissioner Mangum inquired about the terminology of 154.309 Buffer Yard Design Standards (A) 9, Common Access Drives.

Mr. Dave Roesler, Planning Director said that this paragraph talks about a common access drive between servicing more than one property. He noted that it is saying that it is a permitted use in the buffer.

Commissioner Mangum inquired about 154.309 Buffer Yard Design Standards, (A) 1, Prohibited Use. She read, "Signs may be placed within the buffer yard consistent with the regulations of Section on (Signage Standards)."

Attorney Currin said that the parenthesis around the Signage Standards should be deleted.

Moved by Commissioner Karan and seconded by Commissioner Ray to adopt the Landscaping, Screening and buffering Standards Ordinance. The motion received a unanimous vote.

Planned Unit Development Ordinance:

Mayor Moss reiterated what Attorney Currin said earlier during the Public Hearing as to the options the Board could take this evening.

Moved by Commissioner Karan and seconded by Commissioner Piper to adopt the Planned Unit Development Ordinance with the italicized changes made by the Planning Director. The motion received a unanimous vote.

Commissioner Robinson asked if the Planning Board had seen the italicized changes.

Mr. Dave Roesler, Planning Director replied that they had not.

Commissioner Robinson said that the Planning Board put a lot of time and effort into this ordinance and he felt the Planning Board should review the changes before adoption.

Attorney Currin said that it could be adopted this evening and the Board could ask the Planning Board for comments in reference to the changes and in the event the Planning Board had comments that this Board thought would be necessary changes you could enact on them. He noted that the changes were minor.

Commissioner Karan amended his motion and it was seconded by Commissioner Ray to adopt the Planned Unit Development Ordinance and to send it back to the Planning Board

for review of the language changes by the Planning Director. The motion received a unanimous vote.

MAYOR'S REPORT:

Mayor Moss announced that the Litter Sweep would be Sunday, April 30, 2006 from 1:00 until 3:00 p.m. He said that anyone wanting to participate should meet at City Hall at 1:00 p.m.

Mayor Moss announced that he and Commissioner Piper would be participating in a basketball game with Creedmoor Elementary. He said this would be a fundraiser and it was scheduled for Friday, April 28, 2006 at South Granville High School at 6:00 p.m. and invited everyone to come out and have a good laugh.

COMMISSIONER REPORTS:

Commissioner Piper said that he had a concern of what side of the road the sidewalks would be on along Hwy. 50.

Commissioner Karan said that Commissioner Piper was referring to the Congestion Mitigation and Air Quality (CMAQ) Grant that the City has received from the Federal Government. He said that because the property had not been surveyed there was a question as to which side of the road the sidewalks would be going on. He assured Commissioner Piper that they would go on the side that best serves the citizens of the City. He said that he was not 100% sure but he thought the sidewalks would go on the right hand side of the road as you head to Hwy. 50 south.

Commissioner Karan announced that the YMCA Steering Committee was doing a fundraiser and thanked the City Attorney for donating. He said anyone wishing to donate can do so by mailing to the South Granville YMCA fund at P.O. Box 171, Creedmoor, NC, 27522. He said that a company out of Florida will be doing a site analysis in the near future.

Commissioner Karan said that from an Economic Development standpoint the City is trying to encourage growth and development in this community. He said that he would like the Board to look at what the City can offer from an Economic Development standpoint to increase the amount of businesses that we have coming into town. He said that he realizes that we are struggling with capacity infrastructure but felt that the tax benefit and economic incentives that would be brought by businesses would outweigh the small amount contributed by capacity fees and SIBDA fees. Commissioner Karan said that as the Board begins the budget process he would like discussion of economic development.

Commissioner Karan inquired if at the time a developer applies for a Special Use Permit and their plan shows an item in fine print that is contrary to our ordinance would they need to get a variance or would the plan suffice.

Attorney Currin said that the developer would need to get a variance.

Commissioner Karan said that he was asking because the subdivision that they approved earlier this evening was given a variance for buffering and sidewalks on one side of the road and street widths that are critically important to this community was not addressed as a variance but was indicated as a very small number on a map that may have been missed by staff and he does not want to see that happen in the future.

Attorney Currin referred to a case out of Raleigh where someone paid the fee and was issued a permit to do a remodel that was not allowed and staff realized that they had made a mistake and issued a stop order. The applicant took the City of Raleigh to court and it went on to the NC Supreme Court and the court ruled that it was an error and even though she had a building permit and had paid the fees it did not make it legal.

Commissioner Karan said that the road was already in and it was well constructed. He also advised that they used full depth asphalt and the roads would not fail but he just wanted to make sure that this did not happen in the future.

Commissioner Karan reiterated that the Beautification Committee was doing Litter Sweep this Sunday from 1:00 until 3:00 p.m. He noted that all the supplies would be provided along with snacks.

Commissioner Ray thanked the citizens that spoke on behalf of the Board.

Commissioner Ray said that he had gone to the County Commissioner's meeting recently and requested a meeting between the County Commissioners and the Creedmoor Board of Commissioners and had not received a response. He said that the Oxford Ledger decided to lambaste him because we have meetings that are taking place. Commissioner Ray noted that those meetings are amongst staff and there are three County Commissioners there. He said that his request was for the elected Boards to meet.

Commissioner Ray read, "I appreciate the quarterly meetings being hosted by the County for planning purposes. Unfortunately, our former City Planner chose not to attend for reasons unknown. I was not aware of these meetings until Wednesday after my request on Monday and I appreciate and support these meetings. Mr. Dave Roesler, our new Planning Director, who has had contact with the County, has assured me that Creedmoor will be represented in the future. My request to the County Commissioners was for the elected boards to have an open meeting with the public present and invited, not just staff and three of the seven County Commissioners. I still would like to see the full boards meet and I am still waiting for a response from the County. "

ATTORNEY'S REPORT:

Attorney Currin said that last night the Board met in Closed Session and received communications from him with regard to the case of Goldsboro Properties et al vs. the City of Creedmoor. He said this was an appeal to the Superior Court of your action to annex Area 1 with regard to the Ordinance passed February 28, 2006 and becomes

effective at the end of this month. Attorney Currin said they discussed in Closed Session the law status of the appeal. He said there was a request made by Petitioners that was made to Superior Court for entry of a Stay that would make it clear that the City would not be extending services to that area during the pending of this appeal in court. Attorney Currin said that there was a provision of the law as we discussed last night which states that if there is an appeal of an annexation ordinance that the annexation ordinance is automatically amended by statutory language to become effective on the last day of the month from when the court action is over. Attorney Currin said therefore, it is appropriate that a Stay be entered so that the individuals that are parties to the suit, citizens of the City and other interested people understand that during the pending of this appeal the annexation ordinances operation is stayed. He noted that the ordinance passed and we believe that the action of the City will be sustained. Attorney Currin said that we feel that we have followed the proper procedures and that the area that has been annexed meets all the required characteristics. However, for everyone to know what all the rules are we did enter into a Stay as you instructed me when negotiating the terms of the Stay. The Stay was entered on terms which we believe are favorable to the City and not on the terms that were first recommended. Attorney Currin said that it included the language that we discussed that we wanted included and that Stay was entered by consent by Judge Badour this afternoon and has been made a matter of public record. He said because of that he recommends that the Board unseal the minutes of last night's meeting.

Moved by Commissioner Mangum and seconded by Commissioner Ray to unseal the minutes of the Closed Session of April 24, 2006. The motion received a unanimous vote.

Attorney Currin read the minutes of the Closed Session as follows:

The Board heard a report from Attorney Currin regarding the status of the matter of Goldsboro Properties et al vs. the City of Creedmoor. The Board by motion authorized Attorney Currin to negotiate with Council for the Petitioners and enter into an order providing for a Stay of the operation of the annexation ordinance as to Area I.

Moved by Commissioner Ray and seconded by Commissioner Piper to adjourn. The motion received a unanimous vote.

Mayor

City Clerk

