



MINUTES OF  
CITY OF CREEDMOOR  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
JUNE 21, 2016  
7:00 P.M.

**PRESENT**

Mayor Darryl D. Moss, Mayor Pro Tem Del Mims, Commissioner Ernie Anderson, Commissioner Thomas Jackson, Commissioner Herman Wilkerson, and Commissioner Archer Wilkins. Also present were City Manager Michael P. Bonfield, Assistant City Manager/HR Director Korena Weichel, Planning Director Mike Frangos, Senior Planner/Stormwater Administrator Randy Cahoon, Chief of Police Keith King, City Clerk Kathleen McCorkle, and Attorney T.C. Morphis, Jr.

**ABSENT**

None.

**INVOCATION AND PLEDGE OF ALLEGIANCE**

Mayor Darryl Moss called the meeting to order at 7:05 p.m. and offered the invocation. Commissioner Wilkerson led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

Moved by Commissioner Wilkins to approve the agenda; seconded by Commissioner Wilkerson. The motion received a 5-0 vote.

**APPROVAL OF MINUTES**

Commissioner Anderson moved to approve the minutes of the March 1, 2016 closed session; May 17, 2016 special meeting; May 17, 2016 regular meeting; June 7, 2016 work session; and June 13, 2016 special meeting; seconded by Commissioner Wilkins. The motion received a 5-0 vote.

**REQUESTS TO ADDRESS THE BOARD**

Commissioner Jackson called a point of order when Mayor Moss told Mr. Mims he would have five minutes to speak, citing Ordinance 30.24 (4) which states speakers shall have ten minutes to speak. He also called a point of order following further comment by the Mayor, who then determined Mr. Mims would have ten minutes to speak.

*Mr. Ed Mims, 2204 Regent Court, Creedmoor*

Mr. Mims spoke regarding procedural actions during previous meetings. Following his statement, Mr. Mims requested that a transcript of his remarks be included in the minutes. The Board took no action.

**PUBLIC COMMENT**

None.

**CASE ZMA-2016-02 // JAMES Y. MOORE JR.**

Senior Planner/Stormwater Administrator Randy Cahoon presented background and zoning history regarding zoning amendment request ZMA-2016-02 from James Y. Moore, Jr., concerning 0.455 acres (three parcels) at 113 and 115 East Lyon Street from Residential / Main Street Transitional district to Main Street District. The building currently houses a barber shop, which has been open for 69 years. The property in question lies 91 feet from MSD zoning diagonally, and 316 feet horizontally. Two other businesses located in the building closed voluntarily 24 years ago.



Staff recommended denial of the rezoning request, noting that the change would allow numerous potential uses not consistent with a residential neighborhood; and expansion of the MS district is required by City Plan 2030 to be contiguous. Mr. Cahoon noted that the Planning Board had concluded the rezoning was inconsistent with the 2030 plan, and therefore recommended denial of the request..

After confirming with the city clerk that the hearings were properly noticed in the Butner-Creedmoor News, Mayor Moss opened the public hearing at 7:36 p.m.

*Ms. Beryl Moore Jackson, Huntersville, NC*, (daughter of the applicant) spoke in favor of the rezoning. She asked if the business is grandfathered, and if so, what are the owner's rights? Is the answer based on local decision or N.C. statutes?

*Ms. Stephany Hand Biggs, Durham, NC*, (attorney for the applicant) addressed the Board in support of the rezoning request and recommended that the rezoning be approved. She stated Mr. Moore is seeking to add to the character of Creedmoor and leave a legacy for his family to continue the business.

*Mr. Luther M. Montague Jr., 7 Lakepoint Court, Greensboro NC*

Mr. Montague owns property on Lyon Street close to the subject property and had questions about whether the change would affect his property values and taxes.

*Mr. Joel Panara, Chapel Hill, NC*

Mr. Panara stated he is an adjacent downtown property owner and is opposed to the spot rezoning.

*Ms. Annie Laura Aiken Warren, Lyon Street, Creedmoor*

Ms. Warren spoke in opposition to the rezoning due to a previous history of crime in the vicinity of the location.

*Ms. Beryl Moore Jackson* spoke again, noting she had distributed pictures to the board of what she thinks the business could look like; and she asked if accuracy of previous comments was checked.

Mayor Moss closed the public hearing at 8:04 p.m. and asked City Attorney Morphis to answer Ms. Jackson's questions regarding grandfathering.

Mr. Morphis stated the structure is non-conforming and the lot isn't large enough to meet parking requirements. If former uses are discontinued for five years, the non-conforming use status is lost. Any new uses would be required to meet current standards, as based on both the Creedmoor Development Ordinance and case law.

Ms. Hand clarified the extra two lots were purchased to address parking issues if needed. Mr. Cahoon confirmed that the parking lot would need to meet development ordinance standards for paving, landscaping and lighting.

Mayor Moss addressed Mr. Montague's question regarding property taxes. The numbers shown on the chart relate specifically to Mr. Moore's property.

Regarding the accuracy of previous comments, Mayor Moss spoke to the burden of having witnessed the history of the location, but said focusing on the past would be counterproductive.

Mayor Pro Tem Mims agreed, stating the request was not made for the purpose of building a commercial business, but an existing business operating as such since 1947, and has never been a private residence.

Mayor Pro Tem Mims moved to approve ZMA 2016-02 to MS District; seconded by Commissioner Jackson.

Further discussion focused on whether the request for rezoning would be considered spot zoning, which would open up the ability to rezone any property anywhere in the city.

Mayor Moss addressed some questions that he thought would likely be challenged in court of law. The questions pertained to spot zoning, and whether one land owner is involved, whether the use is inconsistent with surrounding uses and the master plan; and would denial of the request preclude the property's present use. He asked the Board to consider the policy that would be set for future spot zoning requests, for what appears to be preferential treatment.

Mayor Pro Tem Mims raised concerns about the inconsistency of previous board decisions relating to businesses; and Commissioner Jackson spoke to the current condition of the building and the requirements to meet current codes, and he sought Attorney Morphis' opinion of whether it would be considered spot zoning.

Mr. Morphis opined that more likely than not a court would find it to be unlawful spot zoning, although it may be able to be defended in court. It would be up to the Board to articulate reasons for the rezoning.

Commissioner Wilkins called for the question; seconded by Commissioner Jackson.

When asked by Commissioner Jackson, Mr. Morphis stated that no vote was necessary on the call for the question; and additionally, the ordinance could be voted on prior to the statement of consistency.

Upon call by Commissioner Jackson for an alphabetical roll-call vote by last name, the original motion received the following vote:

Anderson: no  
Jackson: yes  
Mims: yes  
Wilkins: no  
Wilkerson: no

The motion failed 2-3, and the request for rezoning was denied.

Following explanation of the consistency statement by Mr. Morphis, Commissioner Wilkins moved to adopt Resolution 2016-R-14 Consistency Statement for Case ZMA-2016-02; seconded by Commissioner Anderson. The consistency statement, in part, including Board recommendations underlined in bold, reads as follows:

*RESOLUTION 2016-R-14*  
*BOARD OF COMMISSIONERS STATEMENT OF CONSISTENCY*  
*Case No.: ZMA 2016-02*

*WHEREAS, Mr. James Y. Moore, Jr. has applied to have his property located at 113 and 115 E. Lyon St. in Creedmoor rezoned from the Residential Main Street Transitional (R/MST) to Main Street (MS) zoning district; and*

*WHEREAS, N.C. Gen. Stat. § 160A-383, requires the Board of Commissioners to adopt a planning consistency statement whenever it approves or rejects a proposed zoning amendment;*

*NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF CREEDMOOR:*

*Section 1. The Board finds that the requested rezoning is **not** consistent with the Creedmoor City Plan 2030 and for the following reason: **Not contiguous.***

*Section 2. The Board finds that the requested rezoning is **not** reasonable and in the public interest for the following reason: **Out of commercial zoning area.***

The motion passed 3-2 with the following alphabetical roll-call vote as requested by Commissioner Jackson:

Anderson: yes  
Jackson: no  
Mims: no  
Wilkins: yes  
Wilkerson: yes

**CASE ZMA-2016-03 // BRAME-GORDON**

Senior Planner Randy Cahoon presented the request to rezone five parcels totaling 58.98 acres zoned agricultural to single family residential. The property lies to the north of the Paddington subdivision. The property was rezoned agricultural from single family residential in 2012. Staff has recommended approval of the rezoning request, noting that ingress and egress will need to be addressed. The Planning Board recommended approval of the rezoning request at their May 12, 2016 meeting, also including recommendation that ingress and egress be addressed.

Mayor Moss opened the public hearing at 8:45 p.m.



*Mr. Steve Fitzpatrick, 3755 Vincent Drive, Raleigh*

As the potential developer, Mr. Fitzpatrick stated he is prepared to address issues, and is in conversations with adjacent land owners to address ingress and egress challenges.

*Laura Holloman, 972 Trinity Road, Raleigh*

Applicant representative and land planner with Spaulding and Norris, Ms. Holloman reiterated the applicant's desire to achieve smart growth development with a minimum lot size of 11,600 square feet; also emphasizing adherence to Falls Rules.

Twenty-one residents spoke in opposition to the rezoning:

*Pamela Criswell, 2208 High Court, Creedmoor*

*Charmain Day-Heggie, 2132 Westbourne Drive*

*Jenny Wesley, 2574 Mint Julep Drive, Creedmoor*

*Donna Wayne, 2569 Jasmine Court, Creedmoor*

*Chris Chappa, 2107 Orchard Court, Creedmoor*

*Matt Thompson, 2121 Westbourne Drive, Creedmoor*

*Eddie Smith, 2213 Bayswater Drive*

*Christian Thompson, 2121 Westbourne Drive*

*Matthew Meyer, 2133 Westbourne Drive (left petition with clerk)*

*Mischi Meyer, 2133 Westbourne Drive*

*Darryl Sharkey, 2109 Westbourne Drive*

*Susan Pettis, 2135 Westbourne Drive*

*Kim Miller, 2572 Primrose Lane, Creedmoor*

*Beth Brown, 2225 Bayswater Drive*

*Rodney Gorman, 2136 Westbourne Drive*

*Mandy Atkins, 2207 Regent Court*

*Merrill Pettis, 2135 Westbourne*

*Kimberly Browning, 2105 Orchard Court*

*Sheree Franz, 2215 Bayswater Drive*

*Ed Mims, 2204 Regent Court*

*Tanaya Smith, 2213 Bayswater Drive*

*Mr. Joel Cross, Creedmoor*

Mr. Cross asked for unity within Creedmoor.

*Mr. Sidney Gordon, 2569 Highway 56*

As owner of the property and rezoning applicant, Mr. Gordon assured that the property would be marketed to a developer and options are being looked at for ingress/egress. The rezoning is the first step of the process, and he wants to see the project done right.

Mayor Moss closed the public hearing at 9:55 p.m.

Commissioner Wilkins moved that the map amendment be disapproved as it is not consistent with the City Plan 2030; seconded by Commissioner Anderson.

Mayor Pro Tem Mims offered a substitute motion to remand to City Manager, to be brought back to the board at such time that the parties involved have had an opportunity for open dialogue, every consideration has been made and the potential impact of rezoning has been determined, and requests a comprehensive impact study and further dialogue; seconded by Commissioner Jackson.

Following discussion on what the impact study would include, the substitute motion received a 3-2 vote, with Commissioners Wilkins and Anderson dissenting.

Further discussion took place regarding the opinion that many residents were not opposed to the subdivision itself, but to the access through Paddington, and the need for rezoning to occur before a development plan is provided, which would again be required to go through the approval process.

Discussion then took place regarding road width requirements. Commissioner Wilkins called for the question on the substitute motion. Commissioner Jackson called a point of order. Commissioner Anderson seconded the motion to call for the question.

The substitute motion received a 3-2 vote, with Commissioners Wilkins and Anderson dissenting.

Commissioner Wilkerson stated he voted yes because it appears most objections were to ingress/egress through Paddington, and he's in favor of the subdivision if Paddington is not used as access.

The rezoning request was tabled until the feedback is evaluated.

Mr. Fitzpatrick reiterated that rezoning needs to take place before the plan is submitted to staff for approval.

Commissioner Jackson moved that the city manager study the cost and feasibility of sidewalk from the east end of Bayswater in the Moss Hayes Road right-of-way up to the Paddington Homeowners Association property, and bring that back to us in the nearest available time; seconded by Mayor Pro Tem Mims.

Following discussion on building the sidewalk to an unimproved property and access to the playground, the motion received a 2-3 vote, with Commissioners Anderson, Wilkerson and Wilkins dissenting.

Commissioner Wilkins moved to deny the zoning map amendment 2016-O-08 until the developer can come back with a plan other than using Westbourne Drive. Mr. Morphis responded that the rezoning item has been tabled.

Mayor Pro Tem Mims moved to adjourn, seconded by Commissioner Jackson. The motion received a 2-3 vote, with Commissioners Anderson, Wilkerson and Wilkins dissenting.

The Board took a break from 10:29 to 10:35 p.m.

#### **CITY MANAGER'S REPORT**

Mr. Bonfield asked the Board to clarify the expectations of the requested impact study. Although there is no plan yet to study, some questions on traffic counts and access without using Westbourne may be able to be answered. A formal traffic study will need to be performed by an engineer, but staff may be able to provide ballpark figures at a future meeting.

Discussion turned to eminent domain as a way to gain access to the property via Moss Hayes Road, and Mr. Bonfield requested further clarification on what staff should study. Items to be studied include traffic and schools.

Mayor Pro Tem Mims moved to adjourn, seconded by Commissioner Jackson. The motion received a 2-3 vote, with Commissioners Anderson, Wilkerson and Wilkins dissenting.

Following further discussion on the impact study, and after further clarification of the rezoning process by the city attorney, Commissioner Wilkerson, having voted in the majority previously, moved to reconsider the motion directing the city manager to perform an impact study; seconded by Commissioner Wilkins. The motion received a 2-3 vote, with Commissioners Jackson, Mims and Anderson dissenting.

The motion to rezone remained tabled.

The city manager will notify Mr. Gordon and will present information requested for consideration at the August regular meeting.

Mr. Bonfield then provided updates on the following items: *Creedmoor* | *Forward* comment period is open until July 19; staff is in discussions with Pine Valley developer on road repairs; Dollar General opening is scheduled for next week; staff is meeting with engineers on the road project; the animal ordinance is scheduled to be on the July 19 agenda; no progress has been made on the Rogers Pointe dam situation; the Durham street lighting project has been approved by NC DOT and is awaiting installation by Duke Energy; August 2 is National Night Out, and upon the manager's request, the Board agreed to cancel the August 2 work session meeting.

The July 5 meeting agenda tentatively includes public hearings on firing range zoning districts and subdivisions and open space; initial scheduling resolutions on annexation of Outparcels LLC and Goad tracts; contracts for the water treatment plant and raw water intake repair; and a CMAQ-LAPP update.



**COMMISSIONERS' REPORTS**

*Commissioner Jackson* reported on his attendance at the Tar-Pamlico Basin Association meeting, and will speak with the City Manager regarding the City's participation in the Association.

*Commissioner Wilkerson* asked staff to look into getting topsoil left over from the new O'Reilly Auto Parts. He then confirmed that it is lawful to discharge pellet and BB guns inside city limits; and he asked about the progress replacing Roberts Rules of Order, to which Attorney Morphis replied that the draft ordinance will be presented at the next meeting. He also inquired regarding covering of the rocks at the dam with grass.

*Commissioner Anderson* resigned from his appointments from CAMPO and UNRBA committees due to personal reasons.

Commissioner Wilkins moved to accept Commissioner Anderson's resignation from the two boards; seconded by Commissioner Wilkerson. The motion received a 5-0 vote.

Commissioner Wilkins moved that Mayor Darryl Moss be named as the Upper Neuse River Basin Association representative; seconded by Commissioner Anderson. During discussion to clarify the position as chair, Commissioner Mims moved to be made chair of the committee to represent Creedmoor at the UNRBA meetings. Upon further clarification, there followed no second to, nor disposition of her motion.

The original motion received a 4-1 vote, with Commissioner Mims dissenting.

A replacement CAMPO alternate will be discussed at the next meeting.

*Mayor Pro Tem Mims* reported on her attendance at the UNRBA meeting; and the Central Children's home event June 18, where she assisted at the Granville County Veterans Affairs table.

*Commissioner Wilkins* provided no report.

**MAYOR'S REPORT**

In response to a public records request received by Stem Mayor Renee Green, Mayor Moss asked the Board if they had received any communications with Nicole Steele. None were noted. The Mayor directed the Clerk to respond to the request.

Mayor Moss asked the board to correct an error made earlier in the meeting regarding the resolution on the Moore rezoning question, which while reading he incorrectly dated June 22, 2016. Moved by Commissioner Anderson; seconded by Commissioner Wilkins to correct the date on the resolution from June 22 to June 21, 2016. The motion received a 5-0 vote.

Additionally, Commissioner Wilkerson noted that SGWASA recently tested the water in Golden Pond and all 20 tests came back good. The process will be repeated in six months.

**ADJOURNMENT**

There being no additional business before the Board, it was moved by Commissioner Wilkins to adjourn the meeting; seconded by Commissioner Anderson. The motion received a unanimous vote and the meeting was adjourned at 11:31 p.m.

ATTEST:

  
Kathleen J. McCorkle, City Clerk



Darryl D. Moss, Mayor

