

REGULAR MEETING - AUGUST 5, 2008

The Mayor and City Council met in regular session on Tuesday, August 5, 2008 at 4:00 p.m. in the Council Chambers of City Hall, located at 114 West Sycamore Street. Mayor Black called the meeting to order and led in the Pledge of Allegiance. The following Council members were in attendance:

HOUSER CLONINGER HEAVNER HOVIS

Councilman Houser made the motion unanimously approved the *Regular Agenda*.

Councilman Heavner made the motion unanimously approved the ***CONSENT AGENDA*** as follows:

- Approved the Minutes of the Regular Meeting – July 3, 2008
- Call to Public Hearing for the September 11th regular meeting: LUPA-1-2008 – Request from the City of Lincoln Planning Department to amend the Lincoln Land Use Plan. The area requested in the amendment is located along McAlister Road and Buffalo Shoals Road and contains property that is within and adjacent to the site of the proposed new medical center. The proposed amendment would change the future land use classification from Residential Suburban and Traditional Single Family to Institutional Office.
- CUP-4-2008 – Application from Hesed House of Hope, Inc. requesting a conditional use permit to construct a homeless shelter in the Residential-8 (R-8) District. The subject property is located on the north side of East Lincoln Street approximately 300 feet west of the intersection of East Lincoln Street and Linden Street.

REGULAR AGENDA:

APPLICATION FROM HESED HOUSE OF HOPE, INC. REQUESTING AN AMENDMENT TO SECTION 7.4.2 (CONDITIONAL USES IN THE RESIDENTIAL-8 ZONING DISTRICT). THE AMENDMENT IF APPROVED WOULD ADD A NEW SUBSECTION 11 THAT WOULD READ: “11. HOMELESS SHELTERS”
(ZTA-1-08)

Mayor Black opened the Public Hearing. Steve Gurley, Planning Director reviewed the above noted request from Hesed House of Hope, Inc. thoroughly. He said currently the LUDO allows family care homes, rest homes, nursing care facilities, continuing care facilities, group homes for at-risk

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youth and domestic violence shelters in the R-8 District. The requested amendment would allow a “Homeless Shelter”, as a conditional use in the Residential-8 (R-8) if approved. The applicant request that section 4.2 of the LUDO be amended by adding a new definition of Homeless Shelter to read as follows: “ HOMELESS SHELTER: A structure providing temporary habitation for not more than thirty-five (35) homeless people. Qualified personnel shall staff homeless shelters on a full-time basis.” In addition, the request would amend Section 7.4.2 (Conditional Uses in the Residential-8 District) be amended by adding a new subsection, “(11) Homeless Shelters”.

Steve concluded saying it appears that “Homeless Shelters” as a conditional use in the R-8 District would be the most appropriate way to deal with such uses in the Unified Development Ordinance, therefore Planning Board and staff recommend that the amendments as proposed by the applicant be approved.

Cathy Davis and Gary Dittman spoke in favor of the request. They felt it would be beneficial to the community, and would address people in their most vulnerable state, would assist people who have been enriched by this program, tax paying working people in the community, and it is their hope that Council would approve this recommendation.

Steve Gurley informed Council that the Planning Board Chair Max Garner approached him to ask that he note the Planning Board recommendation was to create a definition for a maximum of twenty-five, rather than thirty-five. The City Attorney noted that with the recommendation in mind, the ultimate decision for the number would determined by City Council.

Councilman Heavner made the motion unanimously approved to close the Public Hearing.

Councilman Cloninger made the motion unanimously approved to accept the application as presented.

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APPLICATION FROM ROMEG DEVELOPMENT INC., REQUESTING THE RENEWAL OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 33-UNIT CONDOMINIUM COMPLEX. THE SUBJECT PROPERTY IS LOCATED ON LINCOLN COUNTRY CLUB PROPERTY APPROXIMATELY 650 FEET NORTH OF COUNTRY CLUB ROAD AND APPROXIMATELY 450 FEET EAST OF LITHIA INN ROAD NORTH OF THE DRIVING RANGE FACILITY.

CU-ZMA-1-2006R

Steve Gurley, Planning Director, reviewed the above said request from Romeg Development Inc. He said the request is for a renewal of a conditional use permit, the original conditional use permit was issued in July of 2006, and therefore a quasi-judicial mode is unnecessary. City ordinance requires that if a use has not been created on a property within two years the applicant is required to come back and request approval for renewal of the proposed use. City Council after having conducted a Public Hearing to consider the matter may extend the life of the conditional use permit for a specified period of time.

Steve said that Mark McGroarty, of Romeg Development Inc., sent a letter to the Planning Department in June of 2008, requesting an extension of the conditional use permit. He stated the following in regards to their progress in obtaining a building permit:

1. Erosion control permits have been obtained from NCDENR
2. Driveway permits have been applied for through NCDOT
3. Submitted for approval revised water and sewer plans to Lincolnton Director of Public Works & Utilities.
4. Entered into contracts for all horizontal construction of the site.
5. Completed all working drawings for the construction of the town homes.

He concluded saying the applicant is not requesting any changes to the permit or conditions, as previously determined by the City Council, therefore the Planning Board and staff recommended that the permit be extended for a period of two (2) years.

Shelia Rudisill was in attendance in support of the renewal, and offered to answer any questions from Council.

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Having no questions, Councilman Houser made the motion unanimously approved to close the Public Hearing.

Councilman Heavner made the motion unanimously approved to extend the permit, as recommended, for a two (2) year period.

RESCIND (R-07-08) RESOLUTION OF INTENT TO CLOSE A PORTION OF SMITH STREET LOCATED BEHIND BOGER CITY BAPTIST CHURCH, AND CONSIDER ADOPTION OF (R-08-08) RESOLUTION OF INTENT, OUTLINING CONDITIONS STATING NEW TIME FRAME FOR CLOSING SMITH STREET:

At the July 3rd regular meeting of the Lincoln City Council a resolution (R-07-08) of Intent to close a portion of Smith Street, was adopted. At that time City Council unanimously voted that all costs associated with the closing of said street shall be paid by the Church. As directed, the City Manager contacted the church relaying City Councils action. They verbally agreed to pay the entire cost, estimated to be between \$ 8,000 and \$ 10,000. To date the City Manager is waiting for formal approval, in writing, as to the action taken from the Church Council. Because the public advertisement to close the street must be done four consecutive weeks, we will not be able to have the public hearing at the September meeting.

The revised resolution also includes that the street will be closed January 2009, which allow all work to be completed to close the street, rather than upon adoption of the Street Closing Order. This relieves the City of any liabilities that could occur with the work not being complete to actually close the street.

Councilman Houser made the motion unanimously approved to rescind resolution (R-07-08).

Councilman Houser made the motion unanimously approved to adopt resolution (R-08-08) which will state the City's intent to close Smith Street in January 2009.

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UPDATE ON STATUS OF MARCIA H. CLONINGER RAIL/TRAIL EXPANSION:

Steve Gurley, Planning Director, provided Council with a brief update on the progress on the rail/trail since their last meeting. He said the City did not get the Recreational Trails Program grant which we applied for earlier this year. He said he understands there may be another opportunity to apply for CMAQ funds in the next several years.

Also, the City Attorney and his staff are preparing warranty deeds and other legal information for all the remaining properties. Once prepared, it is staff's plan to send offers to all the remaining property owners along the corridor. He said allocated funds will pay for the properties as offers are accepted.

CONSIDERATION OF SIDEWALK PROJECTS:

City Manager Jeff Emory told Council that in the 2008-09 fiscal year budget \$ 100,000 of the Powell Bill Fund is earmarked for sidewalk improvements. Two potential projects have been identified. One is to replace the sidewalk along the north side of the 100 block of West Main Street. This is an area from the intersection of Government Street extending along the front of the Presbyterian Church back to the Court Square. It is estimated that this project will cost \$ 22,100.00. The other project is to replace sections of sidewalk, and install new sidewalk from Flint Street to General Blvd., on East Main Street.

This project was discussed during budget deliberations. If we install a monolithic style sidewalk with curb and gutter from Flint to Generals Blvd., it is estimated to cost approximately \$ 86,500.00. This type of sidewalk will provide curb and gutter extending to the highway right-of-way, and will not include a grass strip between the sidewalk and highway. He said this type sidewalk is recommended primarily because less maintenance is required.

Completing this project will cost approximately \$ 108,500.00. While this is \$ 8,500.00 more than allocated, I would recommend we proceed with each project. Jeff said a budget amendment is probably not necessary as the Powell Bill Fund has a miscellaneous expenditures account that these additional monies can be taken from. While this money is included in the budget, Jeff wanted to make Council aware of the two proposed locations, and gain approval prior to proceeding.

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Councilman Hovis made the motion unanimously approved to accept these locations and expend an additional \$ 8,500.00 as recommended by the City Manager.

CONSIDERATION OF POTENTIAL ELECTRIC SYSTEM EXTENSION:

City Manager Jeff Emory told Council that this project was discussed at the City's Annual Planning Retreat, and does involve a potential electric system expansion. He said Mr. Steve Peeler, Director of Public Works & Utilities, has done a lot of work on the proposed extension, and he asked that Steve officially present his findings.

Mr. Peeler said he has been, along with Mr. Mike Dougherty of Southeastern Consulting Engineers, looking at the City of Lincolnton's potential to provide electric service to the Anderson Property behind Lowe's Hardware on Roper Drive. The property has been annexed into the City, thereby creating an opportunity for the City to provide electric service to the property. Duke Energy is the provider of electric service in the surrounding area.

The City, by way of annexation of a property(s), is given exclusive right to provide electric service, with some exceptions.

Another electric utility that has lines on the property(s), or lines on adjoining property(s) at the time of the annexation have a 300' corridor on either side of that electric line that is reserved as theirs, by right, to provide service. The customer has the option of customer choice for the electric provider should the building footprint needing electric service be partially within the 300' corridor.

Steve said the property has nine lots. It is rumored to potentially have a hotel, a restaurant, and seven commercial establishments. Duke Power provides service to Lowe's (to the south), residential properties on the west side of Roper Drive, NCDOT and NCDOC (to the north), and NCDOT directional signs on US 321 (to the east). The lines serving the customers to the west, north and east are all located outside of the corporate limits, and therefore provide no service right to Duke Energy. The line serving the shopping center in which Lowe's is located was in the corporate limits before the annexation in February of 2004, and therefore provides a 300' service corridor to Duke Energy.

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Investigations lead us to conclude that the City has exclusive rights to provide service to lots 5, 6, 7, 8 and 9. Lots 1, 2, and 3 are probably customer choice, and depending upon the location of the building footprint lot 4 may be customer choice.

Steve said Mr. Anderson has verbally told him that he would prefer the City of Lincoln as electric service provider for the property. The ultimate decision for the customer choice lots would be made by the developing end customer.

Mr. Peeler asked Southeastern Consulting Engineers to provide costs estimates to provide service to the development, not including the cost to provide service within the development, using three (3) scenarios for the potential three (3) routes.

Steve said none of these estimates/scenarios include the price to serve the development itself. The total cost to serve the interior development is estimated to be \$ 175,000.00.

They were described as follows:

(Scenario # 1) Extend underground primary along Wilma Sigmon from Lincoln Meadows to US 321. Extend overhead 3-phase primary behind the western right-of-way of US 321 to the Anderson Property. NCDOT will allow electric utilities to install facilities running parallel to US 321, within the right-of-way. This will require obtaining an Easement for NCDOT for Wilma Sigmon Road, and individual property owners along US 321.

Using this scenario allows us to extend electric facilities to US 321, thereby providing a starting point to extend facilities to the north. The northern extension would allow us to service customers in the area we received as our by right to service during our negotiations with Rutherford Electric Membership Cooperative (REMC). It would also allow us to serve the Anderson Property and future areas of adjoining annexation.

The estimated cost of scenario # 1 is \$ 315,000.00. (\$ 490,000 total if the City serves the interior development)

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(Scenario # 2) Extend existing overhead facilities from the intersection of Generals Blvd and East Main Street to Roper Drive. Then proceed on Roper Drive to the Anderson Property. This will require obtaining an easement from NCDOT. This will provide the ability to serve the Anderson Property and future adjoining areas of annexation. **The estimated cost of scenario # 2 is \$ 114,000.00. (\$289,000 total if the City serves the interior development)**

(Scenario # 3) Reconductor approximately 600' of existing overhead 3-phase line from the intersection of Generals Blvd and East Main Street to an underground dip pole at Newbold Street. From this point the extension would transition to underground and proceed to Roper Drive where it would transition to overhead and extend to the Anderson Property. This extension would require right-of-way from individual property owners from the dip pole on Newbold Street to Roper Drive, and an easement from NCDOT along Roper Drive to the Anderson Property. This will provide the ability to serve the Anderson Property and future adjoining areas of annexation. **The estimated cost of scenario # 3 is \$ 232,800.00. (\$ 407,800.00 total if the City serves the interior development)**

Steve said if the City should decide to serve the Anderson Property then he felt, scenario # 1, should seriously be considered. This would serve the dual purpose of getting us onto US 321 and open not only the REMC area, but also the potential for area to the south of Wilma Sigmon Road.

Steve said there is a potential for System Expansion rebate/funding through NCMPA#1 in the range of \$ 40,000. Steve was not sure if the entire \$ 40,000 could be received.

Cost recovery to the City for expansion of electrical was discussed. Several options were noted, including full build out and options where full build out may not occur. Steve said the key to the City recovering its cost is the location of the hotel and the restaurant, and six of the commercial sites.

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Steve said there will be lead time on the project as we would have to have it engineered, bid the project and then have it constructed.

This item generated some discussion. Councilman Heavner felt the least expensive route would be the route to take until the City confirms what will be located on which lot.

Councilman Houser felt the third scenario, second highest cost, may be the route to take.

Councilman Cloninger said he would like to have a little more information for a project of this magnitude, when you are talking about spending a half million dollars. Mr. Peeler said he had nothing concrete to bring to Council.

Upon conclusion of the discussions, Councilman Cloninger made the motion that the City fund scenario # 1, for a total cost of \$ 315,000, plus \$ 175,000 for interior development for a total cost of \$ 490,000.00. Councilman Houser voted against this motion.

The motion carried by a three to one vote, with Councilmen Cloninger, Heavner and Hovis voting in favor and Councilman Houser opposed.

The City Manager said this authorizes design to begin. Once contracts are let for bid, the bids would be brought before Council for action to officially award the bid and enter into a contract.

PUBLIC COMMENT:

No one spoke during the public comment portion of the meeting.

NEWS MEDIA:

There were no questions from the news media.

ADJOURNMENT:

Being no further business, Councilman Hovis made the motion unanimously approved to adjourn the meeting.

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**DONNA C. FLOWERS, CMC
CITY CLERK**

**DAVID M. BLACK
MAYOR**