

## **REGULAR SESSION OF FEBRUARY 26, 2019**

The City of Kings Mountain, North Carolina met in Regular Session at 6:00 p.m. on Tuesday, February 26, 2019 in the Council Chambers of City Hall with Mayor Scott Neisler presiding.

### **ATTENDANCE**

The following Councilmembers were present: Annie Thombs, Keith Miller, David Allen, Rodney Gordon, Tommy Hawkins, Jay Rhodes, and Mike Butler.

Also present: Mickey Corry, City Attorney, Marilyn Sellers, City Manager and Karen Tucker, City Clerk.

### **INVOCATION**

The invocation was given by Dr. Roger Woodard, Family Worship Center, Kings Mountain, NC.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Neisler.

### **AGENDA ADOPTION**

Upon Motion by Councilmember Keith Miller, seconded by Councilmember David Allen, it was unanimously voted to approve the Agenda, as presented.

### **SPECIAL PRESENTATION AND RECOGNITIONS**

#### City Councilmember's Comments and Remarks:

Councilmember Tommy Hawkins spoke regarding the funeral of Doug Allen stating that it was a beautiful service and that Pastor Allen would be greatly missed.

### **MAYOR'S COMMENTS AND REMARKS**

Mayor Neisler recognized the following City employees for their years of service:

- Chris Swink                      Energy Services                      20 years

Mayor Neisler administered the **Oath of Office** to Cynthia Cash, Deputy City Clerk.

Mayor Neisler read a **Proclamation** in honor of Come Hear North Carolina Year of Music, and recognized Shearra Miller of the Cleveland County Arts Society.

Mayor Neisler read a **Resolution of Gratitude (19-06)** honoring the City of Gastonia for their assistance in the building inspection department. He recognized Mayor Walker Reid and Brian Pruett, Chief Building Inspector for the City of Gastonia.

**SPECIAL EVENTS UPDATE**

Christy Conner, Special Events Coordinator, stated that Earth Day will be held on Saturday, April 13, 2019 at the Gateway Trails. The highlight of the event is the Butterfly Release and this year there will be more butterflies than ever before. Also, the Annual Easter Egg Hunt will be held on Saturday, April 20, 2019 at the Mayor Rick Murphrey Children's Park. Texas Roadhouse is donating 500 Easter eggs with free kids' meal coupons, and the American Legion Riders are donating eggs with cash inside the eggs. Free activities will be provided by the YMCA and the Mauney Memorial Library. Also, Parkwood Baptist Church will be out again providing hotdogs. This year the City is partnering with C.A.R.E., which is a non-profit group that rescues animals in need. Their event will be held at the walking track below the playground during and after the egg hunt.

Christy updated Council about the website that the Special Events department is working on. This will include a Community Calendar, which will allow our community partners to submit events. She stated that she hopes to have a presentation ready about the new website for next month's meeting.

**CITIZEN RECOGNITION**

No one requested to speak.

Steve Padgett, Director of the Small Business Center at Cleveland Community College updated Council of the Certified Entrepreneurial Community Program. He stated that this program is working and it is effective. He also stated that he is working with IPDC and they are partnering with an organization called Mountain Bizworks from Asheville. They are a financial resource for the small business owner, and they are opening a "pop-up" office in Cleveland County in April. He stated that he can see Cleveland County as a strong magnet to draw small business startups.

**CONSENT AGENDA**

Upon motion by Councilmember Rodney Gordon, seconded by Councilmember Annie Thombs, it was unanimously voted to adopt the following Consent Agenda:

- A. Minutes of the Regular Meeting of January 29, 2019 and the Special Meeting of January 31, 2019.

- B.** A Budget Amendment in the amount of \$20,000 to budget additional resources to purchase a work boat at Moss Lake to be used for debris removal. (Council approval is required due to increasing total General Fund budget.)
- C.** A Budget Amendment in the amount of \$50,000 to budget additional resources to complete the roof and audio/video components regarding the amphitheater at Patriots Park. (Council approval is required due to increasing total General Fund budget.)
- D.** A Budget Amendment in the amount of \$125,000 to provide materials and electronic equipment to connect generator at Water Plant to the Energy Department’s existing SCADA system. (Council approval is required due to increasing Water Fund expenditures.)
- E.** A Budget Amendment in the amount of \$28,500 to budget additional resources for the Street Department due to unforeseen circumstances that have arisen due to leaf machine rental, vehicle repairs, and landscaping projects due to storm damage. (Council approval is required due to increasing the total General Fund budget.)
- F.** Approve the following re-appointments to the Kings Mountain ABC Board:

  - David Faunce (Sixth Term) with term expiring 01/31/2022 and Lynn Cheshire (Second Term) with term expiring 03/31/2022
- G.** Approve the following re-appointments to the Moss Lake Commission:

  - Shaun Murphy (Second Term), Steve Marlow (Sixth Term), Carol Gordon Warlick (Third Term), Albert Petty (Fourth Term) as City Representatives with terms expiring 06/30/2019
  - Accept the re-appointment by Moss Lake Property Owners Association of Russell Wingfield (Sixth Term) and Jim Burk (Fifth Term) with terms expiring 06/30/2019
- H.** Receive an Offer to Purchase in the amount of \$25,000 from Robert Bolin on property that adjoins the waste water treatment plant on Potts Creek Road consisting of 13 acres more or less and authorize advertisement to begin upset bid process.

- I.** Adopt an **Ordinance** reaffirming the unanimous vote by Council at the Regular Session of September 27, 2011 removing the two-term limit policy of the Planning and Zoning Board and Moss Lake Commission. (The action on September 27, 2011 validates the reappointments that were made at the meeting of January 29, 2019.)
- J.** Adopt the Economic Development Strategic Plan Concept for the City of Kings Mountain that was presented by Creative Economic Development Consulting and Electricities at the Special Meeting of January 31, 2019.
- K.** Authorize Mayor to execute Software License and Support and Maintenance Agreement and the Hosting Service Provider Agreement between N. Harris Computer Corporation and the City of Kings Mountain for the purchase, license, service and support of the North Star Utility Solution Software. (This item was included in the 2018-19 FY Budget, and financing was approved at the August 28, 2018 Regular Meeting.)
- L.** Authorize Mayor to execute a Resolution Supporting Local Control of School Calendars, as requested by the Cleveland County Board of Education.
- M.** Approve the Downtown Kings Mountain Façade Grant application in the amount of \$6,000 for 133 West Mountain Street, owned by Thoroughbred Partners, Ltd. for the purpose of brick sawing and demolition of front wall, new footing for new front wall, brick and brick labor for front wall, new glass frames and double door for store front will be installed.

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Rodney Gordon, it was unanimously voted to recess the Regular Meeting and enter into a Public Hearing at 6:35 pm.

**PUBLIC HEARING**

Consider a request by Daniel and Heather Joachin to rezone property located at 103 Gethsemane Lane (City of Kings Mountain ETJ) from R-10 to Conditional Use R-20 for the purpose of placing of a HUD approved double wide mobile home for residential use. Property also known as Parcel ID 63935 - Case # CUR 1-1-19 – Stuart Gilbert, Planning and Economic Development Director.

The following people were sworn in to speak at the Public Hearing: Stuart Gilbert, Heather Joachin, Daniel Joachin, Bobby Adams, Phyllis Phillips, Felton Phillips, Albert Perkins, Mary Perkins, and Crystal Adams.

Stuart Gilbert, Planning and Economic Development Director stated that the Planning and Zoning Board heard this case on Tuesday, February 12, 2019. This particular property, and those surrounding it, are located in the zoning district of ETJ R-10. He stated that this property is just a little more than two acres on Gethsemane Lane, which is a road easement adjacent to Crocker Road and Margrace Road. The petitioners have requested to rezone this property from R-10 to Conditional Use R-20 to allow a Class A doublewide mobile home on the proposed site. This application is both a legislative and quasi-judicial action. The legislative action is the rezoning and the quasi-judicial action is the conditional use permit. Mr. Gilbert explained the differences in the types of mobile homes stating that a Class A mobile home is a double wide, whereas Class B is a single wide. The roof on a Class A mobile home has a pitch with a minimum vertical rise and is finished with roofing materials that is commonly used in residential construction. Per the zoning ordinance, if this were allowed, the tongue, wheels, axles and transporting lights would be required to be removed and set up and in the established principles of the Department of Insurance for the State of North Carolina. Masonry underpinning is also required. Mr. Gilbert reviewed applications, the site plan from Cleveland County, and the specifications for the home that were provided by Clayton Homes. He also reviewed the requirements of "SR-5 Class A and Class B Mobile Homes."

Based upon staff perspective that it was in conformance with the surrounding areas, buffering or additional landscaping were not required initially. At the public hearing there were individuals opposing the particular use, so there would be additional landscaping requirements that staff would recommend if Council decides to approve.

Mr. Gilbert showed pictures of the adjacent properties and views of the road from Gethsemane Road.

Mr. Gilbert stated that the options of Council are as follows:

- City Council can table this public hearing until after the Planning and Zoning Board provides a recommendation from their March 18, 2019 meeting.
- City Council can approve the attached Ordinance to permit the rezoning and conditional use with the approval of consistency statement #2 or #3.
- City Council can vote against the rezoning with the approval of consistency statement #1.

Staff and the Planning and Zoning Board recommends, if Council decides to vote and approve tonight, that a landscape barrier be required in the form of leland cypress or

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similar at a minimum size of 2.5 feet placed at a distance of thirty feet apart around the perimeter of the property prior to the placement of the mobile home.

Councilmember Keith Miller questioned a photograph of one of the houses that were adjacent to the property, stating that it appears to be a Class A double wide? Mr. Gilbert stated that he did not know if this was the same type of home. He stated that “a modular home is built per building standards that our building department would review. The plaque is on the inside of the house. A mobile home is built per HUD standards. The visual view between a mobile home, which would be a double wide, and a modular home, which is allowed by the ordinance right now is very little. They look very similar on the outside.” Councilmember Miller stated that he understood, but he did not know that Clayton Homes sold mobile homes. He also stated that it was “his understanding that the Planning and Zoning Board may not have completed their deliberation process due to a pending question about the existence of the easement access, and that you now have confirmation that there is a permanent easement.” Mr. Gilbert stated that it is a non-exclusive perpetual easement. Councilmember Miller clarified that Planning and Zoning tabled their deliberations, and did not offer any recommendation one way or another pending the determination of that. Mr. Gilbert stated that this was correct.

Heather Joachin, 2008 Stoney Point Lane, Charlotte, NC spoke in favor of the rezoning and conditional use permit stating that their intention was to place a modular home on the property, however several circumstances, including surrounding property values, prevented them from doing so. Mrs. Joachin stated that they are happy to place a buffer around the perimeter of the property.

Daniel Joachin, 2008 Stoney Point Lane, Charlotte, NC spoke in favor of the rezoning and conditional use permit.

Phyllis Phillips, 531 Crocker Road spoke against the rezoning and conditional permit use stating that the mobile home park that is currently there brought their property values down. The last time that they came before Council was years ago when someone purchased part of the property in question and they attempted to place a mobile home park there. Thankfully, Council denied the request at that time. She stated that most of the homes on Crocker Road are brick, and the residents there have tried very hard to keep the neighborhood clean and respectable. It has been very difficult. The police are constantly at one of the mobile homes that were shown. She stated that the residents were asking Council to help them keep the neighborhood up.

Albert Perkins, 521 Crocker Road spoke against the rezoning and conditional use permit stating there has been an explosion of new construction in this area. He stated that he was called when the other trailers were put in, and the City wanted to keep the area so that homes could be built. He questioned the conditional use permit, stating that his concern was if Council approved this conditional use it would open up

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other types of conditional permits and lower the standards of the area. He stated that this is an older community, so some of the trailers that are there were there before he came. Mayor Neisler stated that each individual land owner would have to come on a case by case basis.

Bobby Adams, 4916 Maplecrest Drive, Gastonia, NC spoke against the rezoning and conditional use permit stating that he owns property adjacent to this property and that he purchased this property because trailers were not permitted. He stated that he knew that the property owner of the surrounding properties could ask for the same conditional use permit. He reiterated that the zoning was changed for a reason, and he hoped that Council would keep it as such and that the petitioner could obtaining financing to do what they need to do.

Felton Phillips, 531 Crocker Road spoke against the rezoning and conditional use permit regarding the depreciation of a mobile home, stating that this is a starter home and that typically the owners move on to a new home eventually or loses the home and a landlord purchases the property and uses it for rental property. He also spoke about the home that was included in the presentation that has a constant police presence, stating that this was the case with this home years ago. Mr. Felton stated that Kings Mountain is a nice place to live and has a good location, and he wants to keep the area around his property nice.

Crystal Adams, 529 Crocker Road spoke against the conditional use permit and rezoning.

Councilmember Keith Miller asked City Attorney Mickey Corry if since a portion of this request is quasi-judicial and any grievance would go before superior court, would he have any advice to Council regarding sending this back to Planning and Zoning so that they can complete the process to put us in a more secure position, should it be challenged in superior court? Mr. Corry stated, "if we're clear that the only thing that we are tabling and continuing in the public hearing was about the easement, if that is in fact the only issue, then I don't think there is any reason to send it back."

Councilmember Jay Rhodes, asked Mr. Gilbert if a modular home is satisfactory on the lot in question, and Mr. Gilbert stated that it is permitted.

Councilmember Annie Thombs asked the community representatives for clarification “what I’m hearing is that your concern is what this would open up for future use of this property, and to protect the value of the property?” The answer from the representatives in the community was affirmative.

Consider a modification of the City of Kings Mountain Zoning Ordinance to require a Conditional Use Permit in the R-10, R-9, RS-8, R-8, RS-6, and R-6 residential districts for the following uses:

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- Recreational Facilities (Public) and include a definition of “active public recreational facilities” that would require a conditional use permit.
- Recreational Facilities (Private) when the principal use is a permitted use in a zone.
- Swim and Tennis Club
- Government Offices-Correctional

and to consider a modification to the City of Kings Mountain Zoning Ordinance to require a Conditional Use Permit in the R-20 residential district for the following uses:

- Amusement and Water Parks
- Miniature Golf Facilities
- Recreational Facilities (Public) and include a definition of “active public recreational facilities” that would require a conditional use permit.
- Recreational Facilities (Private) when the principal use is a permitted use in a zone.
- Swim and Tennis Club
- Government Offices – Correctional

Case No. Z-1-1-19 - Stuart Gilbert, Planning and Economic Development Director.

Stuart Gilbert, Planning and Economic Development Director stated that at the proposed modification of the zoning ordinances includes all of the above listed that were advertised as the initial public hearing. The other uses, which include, golf courses, including a pro shop and golf driving ranges were not included in the notice for the public hearing. They will not be considered at this public hearing because they were not specifically noticed in the published notice. He also stated that the original notice also included government offices – correctional, and the reason was in some documentation that the planning and zoning department had that is over ten years old showed that this use was permitted. The Table of Uses shows that this use is not permitted, so there is no need to include this in the amendment.

Mr. Corry stated that the addition of the golf courses and driving ranges were such a significant change in use, and since they were not listed in the published notice, he

felt that it should not be considered. This may be presented at a later public hearing.

Mr. Gilbert stated that staff's recommendation is that if Council agrees with the original items listed on the notice of public hearing, except for the government offices – correctional that is clearly not needed, that Council may adopt a Consistency Statement that supports the text amendment, and amend the Ordinance by crossing off any reference to golf courses or driving ranges. He added that “active recreational use would bring substantial new traffic to the area on a regular weekday and weekend basis that would cause nearby loud noises for a sustained period of time for six hours

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or more per day. This was the definition that was discussed. Also, private recreational facilities would not be part of a HOA or a new subdivision, but rather ‘for profit’ private recreational facilities. The definition discussed would be private recreational facilities related to a new land development process would be reviewed at the time of a subdivision review and such recreational facilities would not require a separate conditional use permit provided that the subdivision has a HOA and such association would handle maintenance of the private recreational facilities for the benefit of the property owners belonging to the subject HOA.” Mr. Gilbert stated that these definitions are included in the Ordinance that is before Council tonight.

No one requested to speak.

Consider a Zoning Ordinance Text Amendment for Article VIII – “Special Requirements – SR18” – Drive-In Theaters, Case No. Z-3-1-19 – Stuart Gilbert, Planning and Economic Development Director.

Stuart Gilbert, Planning and Economic Development Director stated that the current SR18 requirement requires that “the motion picture screen shall be positioned so that it cannot be seen from the public street or residentially zoned area.” The requested change that was presented to the Planning and Zoning Board was that “the motion picture screen shall be positioned so that no more than 25% of the screen is visible from the public street or residentially zoned area, at least 75% would not be visible from the public street or residentially zoned area. This would be measured during the growing season and when the drive-in is typically in use (May-October) when the deciduous trees are full and green.” Looking at other drive-in theaters, five that were identified on Google, only one other besides the City of Kings Mountain had a requirement that you could not see any part of the screen.

The Planning and Zoning Board recommended a text amendment to fix previous inconsistencies derived from the conditional use permit that highlighted a site plat for drive in theaters, but voted unanimously to deny this text amendment. The current SR regulations would prohibit any type of adult businesses on this site.

Planning staff would recommend that the following be added to the Ordinance:

- Field of view of the drive-in theater motion picture screen at the public road or at the location of residentially zoned properties would be no greater than 2.5 inches by 5 inches, which is about the size of a large cell phone.
- That a drive-in theater motion picture screen shall be minimum of 550 feet to a public street or residentially zoned area.
- That the motion picture side of a drive-in theater motion picture shall be the side of the drive-in theater screen that shall be measured to meet the requirements of this section.

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Councilmember Rodney Gordon asked the definition of an adult oriented business due to the age requirement to see an “R-rated” movie. Mr. Gilbert stated that according to SR25, an “X-rated” movie would not be allowed. Preston Brown, who spoke on behalf of the text amendment, stated that there is no law that one must be 18 years of age to watch an R-rated movie. Movie theaters practice this as a general rule.

Councilmember Keith Miller asked a question about the suggested additions stating that if we are going to talk about the motion picture side of the screen occupying no more than your field of vision the size of a cell phone, you should probably specify the distance from your eyes.

Preston Brown, owner/operator of the Hound’s Campground drive-in theater spoke to Council regarding the addition of a third screen. This where the movies will be moved after the first couple of weeks so that new movies can be shown on the two main screens. He stated that this would allow the theater to always have brand new, first run movies playing on screens one and two. While he doesn’t believe that you will be able to see any of the motion picture, he wants to be sure that this text amendment is completed so that they will not be denied opening if a foot of the top of the screen can be seen. He stated that when you stand back, there is only one section coming down from Kings Mountain Blvd. that you can see the screen, maybe two feet of the top of the screen on screen three. The screens have to be built up due to the fact that SUV’s are so prominent, and people raise their hatches and block the people behind them.

No one else requested to speak.

Councilmember Tommy Hawkins spoke regarding the positive impact the drive-in has on Kings Mountain business.

Consider a Zoning Ordinance Text Amendment authorizing restaurants with a drive-thru in the Neighborhood Business District, with a Conditional Use Permit, Case No. Z-2-1-19 – Stuart Gilbert, Planning and Economic Development Director.

Stuart Gilbert, Planning and Economic Development Director stated that the proposed text amendment is intended to allow restaurants with a drive thru with a conditional use permit in such areas that are also located in one of the City of Kings Mountain overlay transportation zoning districts. Each site would be looked at individually. The current zoning ordinance does not allow drive thrus in the Neighborhood Business District classification.

The Planning and Zoning Board unanimously recommends approval of this text amendment and staff concurs. They changed the language just slightly to reflect

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“Food Service Retail Establishments – bakeries, candy stores, dairy product stores (ice cream and smoothies), donut shops, coffee shops, and restaurants - with drive thru.” Some of those uses identified were not in existence when the zoning ordinance was created. This allows a clearer articulation of the types of restaurants.

No one requested to speak.

Upon Motion by Councilmember David Allen, seconded by Councilmember Tommy Hawkins, it was unanimously voted to close the Public Hearing and re-enter the Regular Meeting at 7:53 pm.

### **REGULAR MEETING**

#### **Action on Item 11-A**

Upon Motion by Councilmember Annie Thombs, seconded by Councilmember Rodney Gordon, it was unanimously voted to adopt Consistency Statement #1 “**AGAINST**” a request by Daniel and Heather Joachin to rezone property located at 103 Gethsemane Lane (City of Kings Mountain ETJ) from R-10 to Conditional Use R-20 for the purpose of placing a HUD approved double wide mobile home for residential use reads as follows:

**CONSISTENCY STATE #1 “AGAINST” THE PROPOSED ZONING MAP AMENDMENT** (used when the Proposed zoning amendment is inconsistent with Adopted Comprehensive Plan and other applicable policies.) The proposed amendment to the Kings Mountain Official Zoning Map is inconsistent with the adopted Comprehensive Plan. The action being taken is therefore considered to be reasonable and in the public interest.

Upon Motion by Councilmember Rodney Gordon, seconded by Councilmember Jay Rhodes, it was voted unanimously to deny an Ordinance amending the zoning ordinance to rezone property located at 103 Gethsemane Lane (City of Kings Mountain ETJ) from R-10 to Conditional Use R-20 for the purpose of placing a HUD approved double wide mobile home for residential use.

**Action on Item 11-B**

Upon Motion by Councilmember Keith Miller, seconded by Councilmember David Allen it was unanimously voted to adopt Consistency Statement #1 **“IN FAVOR”** of the Zoning Ordinance Text Amendment, however striking out Government Offices – Correctional, and also not including Golf Courses, Including a Pro Shop and Driving Ranges which were not in the Consistency Statement, but are included in the Ordinance, to require a Conditional Use Permit in the R-10, R-9, RS-8, R-8, RS-6, and R-6 residential districts for the following uses:

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- Recreational Facilities (Public) and include a definition of “active public recreational Facilities that would require a conditional use permit.
- Recreational Facilities (Private) when the principal use is a permitted use in a zone.
- Swim and Tennis Club
- ~~Government Offices-Correctional~~

and a modification to the City of Kings Mountain Zoning Ordinance to require a Conditional Use Permit in the R-20 residential district for the following uses:

- Amusement and Water Parks
- Miniature Golf Facilities
- Recreational Facilities (Public) and include a definition of “active public recreational Facilities that would require a conditional use permit.
- Recreational Facilities (Private) when the principal use is a permitted use in a zone.
- Swim and Tennis Club
- ~~Government Offices-Correctional~~

which reads as follows:

**CONSISTENCY/REASONABLENESS STATEMENT #1 “IN FAVOR” OF THE TEXT AMENDMENT** (Statements is consistent with the Comprehensive Plan and a vote is “reasonable and in the public interest.”) The following changes are deemed

necessary to protect public health and safety and are consistent with the Comprehensive Plan and the vote is reasonable and in the public interest.

- A) The Comprehensive Land Use Plan considers recreational uses in the list of land uses and it is reasonable and in the public interest for the City Council to require a conditional use permit for many active recreational uses that would bring additional traffic and noise to a specific site that would be evaluated by a public hearing for a conditional use permit.

Upon Motion by Councilmember Keith Miller, seconded by Councilmember Tommy Hawkins it was unanimously voted to Approve **Ordinance 19-02** as presented, however striking out Golf Courses, Including Pro Shop and Driving Ranges and not including Government Offices – Correctional, amending the zoning ordinance to require a Conditional Use Permit in the R-10, R-9, RS-8, R-8, RS-6, and R-6 residential districts for the following uses:

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- Recreational Facilities (Public) and include a definition of “active public recreational facilities” that would require a conditional use permit.
- Recreational Facilities (Private) when the principal use is a permitted use in a zone.
- Swim and Tennis Club
- ~~Golf Courses, Including a Pro Shop~~ (Strikeout on Ordinance)
- ~~Government Offices-Correctional~~ (Do Not Include)

and a modification to the City of Kings Mountain Zoning Ordinance to require a Conditional Use Permit in the R-20 residential district for the following uses:

- Amusement and Water Parks
- Miniature Golf Facilities
- Recreational Facilities (Public) and include a definition of “active public recreational facilities” that would require a conditional use permit.
- Recreational Facilities (Private) when the principal use is a permitted use in a zone.
- Swim and Tennis Club
- ~~Golf Courses, Including a Pro Shop~~ (Strikeout on Ordinance)
- ~~Golf Driving Ranges~~ (Strikeout on Ordinance)
- ~~Government Offices-Correctional~~ (Do Not include)

**Action on Item 11-C**

Councilmember Keith Miller offered discussion stating that since he drives through the area a lot, he drove down by Margrace and the back side of screen number two is just across the railroad tracks. He stated that he held up his cell phone, and he covered up the entire screen, and that was at about 600 feet away. He stated that being 500 feet or so away, it is no more visually distracting than having your cell phone in your car going or receiving a text message and your phone lighting up. He stated that he thought Mr. Gilbert was accomplishing a lot by putting in something about the visual field of view being about the size of a cell phone and limitations within a certain distance. Councilmember Miller stated that he also liked the fact that Mr. Gilbert is suggesting that we specify that we're only concerned with the actual projection screen side of the structure. He questioned Mr. Gilbert as to whether or not he believed that the Planning and Zoning Board should or may want to hear these additional recommendations. Mr. Gilbert stated that the Planning and Zoning Board voted one way, and he doesn't believe that they had as much information as he has now. He stated that while he couldn't speak for the Planning and Zoning Board, from an economic development standpoint it is positive to have businesses want to move forward and make investments in the community that benefit the City.

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Councilmember Jay Rhodes stated that "there is a short window on the first screen that you can see from the road. If we do not change the Ordinance, we are putting the Owner and the City in a difficult situation." Councilmember Keith Miller agreed with

this statement. He also stated that he saw the site plan come in, and the third screen is 800-900 feet from the road. It will be a fraction of what we are talking about.

Mayor Neisler stated that the drive-in is such an asset, and he does not see it being a detriment to anything.

Councilmember Rodney Gordon asked Mr. Brown how not allowing this would affect moving forward toward their opening day. Mr. Brown answered that screen three would not be ready by opening night.

Councilmember Keith Miller asked Mr. Gilbert, "what we are really talking about right now is dealing with the current language which seems inadequate and whether we would like to make some changes to make the current language more functional or more adequate; however, the development of screen three on the site plan, that has to run through a separate conditional use process?" Mr. Gilbert stated this would be a separate process and he has identified that with Mr. Brown. The issue right now is the text amendment, if it is not permitted it will be an issue for him because the current ordinance is not consistent with what is already there and what could be there in the future.

Upon Motion Councilmember Mike Butler, seconded by Councilmember Keith Miller by to adopt Consistency Statement #1 **“IN FAVOR”** of the Zoning Ordinance Text Amendment, adding the three items that are recommended by staff Article VIII – “Special Requirements – SR18” – Drive-In Theaters, which reads as follows:

**CONSISTENCY/REASONABLENESS STATEMENT #1 “IN FAVOR” OF THE TEXT AMENDMENT** (Statement 1 is consistent with the Comprehensive Plan and a vote for b) is “reasonable and in the public interest.”) The following changes are deemed necessary to protect public health and safety and are consistent with the Comprehensive Plan and the vote is reasonable and in the public interest.

- A) The SR18 Drive in Theaters text amendment allows the current growth of the existing regional drive in theaters providing citizens with outdoor recreation in the City of Kings Mountain.
- B) The SR18 Drive In theater text amendment is consistent with the Comprehensive Plan to allow a conditional use permit with conditions for a drive-in theater and protects the public health and safety of citizens.

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember Tommy Hawkins it was unanimously voted to Approve **Ordinance 19-03**, amending the

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zoning ordinance text Article VIII – “Special Requirements – SR18” – Drive-In Theaters with the addition of the following staff recommendations:

- Field of view of the drive-in theater motion picture screen at the public road or at the location of residentially zoned properties would be no great than 2.5 inches by 5 inches, which is about the size of a large cell phone.
- That a drive-in theater motion picture screen shall be minimum of 550 feet to a public street or residentially zoned area.
- That the motion picture side of a drive-in theater motion picture shall be the side of the drive-in theater screen that shall be measured to meet the requirements of this section.

**Action on Item 11-D**

Upon Motion by Councilmember Mike Butler, seconded by Councilmember Annie Thombs to adopt a Consistency Statement #1 **“IN FAVOR”** of Zoning Ordinance Text Amendment authorizing Food Retail Establishments - Bakeries Candy Stores, Dairy Product Stores (Ice Cream and Smoothies), Donut Shops, Coffee Shops, and Restaurants with a drive-thru in the Neighborhood Business District, with a Conditional Use Permit which reads as follows:

**CONSISTENCY/REASONABLENESS STATEMENT #1 “IN FAVOR” OF THE TEXT AMENDMENT** (Statement 1 is consistent with the Comprehensive Plan and a vote for b) is “reasonable and in the public interest.”) The following changes are deemed necessary to protect public health and safety and are consistent with the Comprehensive Plan and the vote is reasonable and in the public interest.

- A) The additions of drive thru with the approval of a Conditional use permit for Food Service Retail Establishments – Bakeries Candy Stores, Dairy Product Stores (Ice Cream and Smoothies), Donut Shops, Coffee Shops, and Restaurants provides for public health by allowing citizens the public convenience and (for disabled persons the opportunity) to obtain food service retail products without leaving the comfort of their personal vehicles.
- B) The addition of drive thru in one of the overlay transportation districts allows more neighborhood businesses to compete for citizens business in areas where adequate transportation facilities on major transportation roads allow a business to provide adequate details through the conditional use permit process to verify that the internal transportation network is safe and that access to the transportation thoroughfare is safe, thereby assuring for public safety.

Upon Motion by Councilmember David Allen, seconded by Councilmember Jay Rhodes to Approve/Deny **Ordinance 19-04** amending the zoning ordinance authorizing Food Retail Establishments - Bakeries Candy Stores, Dairy Product Stores

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(Ice Cream and Smoothies), Donut Shops, Coffee Shops, and Restaurants with a drive-thru in the Neighborhood Business District, with a Conditional Use Permit.

**Item 17**

Councilmember Keith Miller stated that a copy of a red-lined Policy for City Council Appointments, Boards, Commissions, and Committees was distributed prior to the meeting. This copy corrects typographical errors due to “copy and paste” functions in part (B). Also, in the original draft, specifically part (E), the wording allowed for a board or commission to create by-laws that could override City Council. This correction allows for the policy deal with term limits, unless they are otherwise specified by statute. The purpose of this policy is to find a process that allows the Mayor to maintain all of his powers to appoint Ad Hoc committees and have a voice in every committee member being appointed, and we have a process of Council and Mayor working together. The committee, if approved and appointed, can develop recommendations for the boards, then present them to the Mayor for review. The Mayor would either present them to Council or send them back for additional review. If the second review occurs, the committee can keep the recommendation and the Mayor would pass this recommendation back to Council and may add his own recommendation.

Mayor Neisler stated that he believed that it is important for everyone to be in the loop. He stated that we hope to have a future Citizen's Academy to recruit people to serve. As our demographic changes, with more young people moving to Kings Mountain, it would be nice to get them involved in what Kings Mountain will be for the future.

Councilmember David Allen stated that since we have vacancies, there is urgency in getting this committee started. These vacancies are on key boards. He thanked Keith for all of his work on the committee.

Councilmember Keith Miller stated that he would like to serve on the committee initially so that he could help with additional work that needs to be completed on some of the boards.

Mayor Neisler asked if there were others to volunteer for the committee. Councilmember Annie Thombs and Councilmember Mike Butler volunteered to be part of the committee.

Upon Motion by David Allen, seconded by Councilmember Jay Rhodes it was unanimously voted to adopt the "red-lined" version of the Policy for City Council Appointments to Authorities, Boards, Commissions, and Committee and name the first committee consisting of Councilmember Keith Miller, Councilmember Annie Thombs, and Councilmember Mike Butler.

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**Item 18**

Councilmember David Allen stated that he and the Mayor have been talking about this committee for some time. He stated that perpetually there is someone that is talking about recreation in town, and we felt that it is important to get some citizen input. The first step is to form a sub-committee through this Council to define the parameters of what we need to determine what the citizens want for recreation in the future. This sub-committee would present this to Council by the next Council meeting. By the March meeting, everyone should bring at least two names to populate a Recreation Committee. Council would then allow them 90 days to collect information and they would in turn present their report to Council by July 1, 2019 on their findings. Councilmember Allen stated that the idea is that we perpetually hear "likes" and "dislikes" about what we are doing, and it would be nice to hear if there is a consensus that they want something different and open up communication to get better input for future guidance.

Councilmember Rodney Gordon stated that most of Council are approached by citizens regarding concerns about the recreation program. This is not necessarily to look at the YMCA programs, but we would challenge the committee to look at the City's relationship with the Y and see how satisfied the citizens of Kings Mountain

are with this relationship. He reiterated that this committee would be responsible for determining where the citizens would like to see our recreation in one, five or ten years. It may be “stay the course” of what is happening now. He stated that he would like to look at recreation in the different communities. We have a lot going for us in Kings Mountain, and we need to take a step back and look at recreation in its entirety. This committee cannot take action, but should get recommendations from Council regarding citizens who are passionate about recreation to serve. Councilmember David Allen reiterated that it would be appropriate for each Councilmember to recommend two people and that we need to be sure that we cross all socio-economic strata in Kings Mountain so that we get a real picture of what they want. On July 1, 2019 the committee will dissolve. Councilmember Rodney Gordon agreed that the time line of the committee was good.

Mayor Scott Neisler stated that he would like for the YMCA to be included because it is important that they know what the citizens want for the future. Councilmember David Allen stated that they deserve to hear as much as anyone else about how things are going. Councilmember Rodney Gordon stated that he felt it was important to hear how the taxpayers want Council to spend their tax dollars when it comes to recreation.

Upon Motion by Councilmember Keith Miller, seconded by Councilmember Mike Butler it was unanimously voted to create the Ad Hoc Citizen Recreation Committee and name the Council sub-committee to develop the recreation committee consisting

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of Councilmember David Allen, Councilmember Rodney Gordon, and Councilmember Jay Rhodes.

Upon Motion by Councilmember Jay Rhodes, seconded by Councilmember David Allen it was unanimously voted to close the Regular Meeting at 8:30 pm and enter into a Closed Session pursuant to N.C.G.S. § 143-318.11 (4) – to discuss economic development locations.

**CLOSED SESSION**

Upon Motion by Councilmember David Allen, seconded by Councilmember Mike Butler, it was unanimously voted to close the Closed Session and re-enter the Regular Meeting at 9:09 pm.

No action was taken in Closed Session.

**ADJOURNMENT**

Upon Motion by Councilmember Mike Butler, seconded by Councilmember Jay Rhodes, it was unanimously voted to adjourn at 9:10 pm.

BY: \_\_\_\_\_  
G. Scott Neisler, Mayor

ATTEST:

\_\_\_\_\_  
Karen A. Tucker, CMC