

**AMENDED AGENDA  
REGULAR MEETING  
CITY COUNCIL, CITY OF ASHEBORO  
THURSDAY, AUGUST 8, 2013, 7:00 PM**

1. Call to order.
2. Silent prayer and pledge of allegiance.
3. Consent agenda:
  - (a) Approval of the minutes of the city council's regular meeting on July 11, 2013.
  - (b) Approval of the minutes of the city council's special meeting on July 30, 2013.
  - (c) Approval of the findings, conclusions, and order pertaining to the special use permit issued under Community Development Division File No. SUP-13-04.
  - (d) Approval of the temporary closing of streets for Fall Festival XLI.
  - (e) Acknowledgement of the receipt from the City Manager of the report on surplus property disposed of in accordance with Section 30.07 of the Code of Asheboro between January 1, 2013, and June 30, 2013.
  - (f) Approval of a resolution appointing Brooke Schmidly to a 3-year term as chair of the Asheboro ABC Board.
  - (g) Acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for meetings held on June 3, 2013, and July 1, 2013.
4. Community Development Division Items (Mr. Nuttall will present these items.)
  - (a) Zoning Case RZ/CUP-13-11:A combined hearing on the application filed by Glenn King to rezone the property located at 1000 Park Drive from R15 (low-density residential) to conditional use O&I (office and institutional) zoning and, if the requested rezoning is approved, to obtain a conditional use permit authorizing an office development with multiple uses.

- (b) Zoning Case RZ-13-12: Legislative hearing concerning the application filed by Gary Hall to amend the text of the Asheboro Zoning Ordinance pertaining to kennels.
  - (c) Subdivision Case No. SUB-00-02: Final plat review of Vuncannon Properties, Phase II.
  - (d) Consideration of ordinances pertaining to the demolition of unsafe structures at 832 Peachtree Street and 811 Brewer Street.
5. Report from Kerrin Lowe concerning the display of downtown visitor information in furtherance of the broader wayfinding efforts.
  6. Public comment period.
  7. Acknowledgement of the receipt of \$65,000.00 in financial assistance from the North Carolina Department of Environment and Natural Resources for the Peninsula Park watershed protection project at Lake Lucas. (Mr. Nuttall will present this item.)
  8. Water Resources Division report from Michael Rhoney, PE on the proposed capital improvements for the wastewater treatment system.
    - (a) Outline of needed capital improvements.
    - (b) Consideration of a resolution adopting a capital improvement plan.
  9. Consideration of going into closed session to discuss a potential economic development project with Ms. Bonnie Renfro, President of the Randolph County Economic Development Corporation.
  10. Upcoming events:
    - Unveiling at 10:00 am on August 24, 2013 of a plaque commemorating the civil rights sit-ins held in Asheboro on January 27, 1964.
    - Annual employee appreciation luncheon on Wednesday, August 28<sup>th</sup>, 11:00 am – 1:00 pm at the Public Works Conference Room.
    - NCLM Annual Conference October 12-15, 2013, Hickory, NC.

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11. Discussion of items not on the agenda.
12. Adjournment.

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, JULY 11, 2013  
7:00 p.m.**

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This being the time and place for a regular meeting of the Asheboro City Council, a meeting was held with the following elected officials and staff members present:

- David H. Smith ) – Mayor Presiding
- Talmadge S. Baker )
- Clark R. Bell )
- Edward J. Burks )
- Linda H. Carter ) – Council Members Present
- Michael W. Hunter )
- Walker B. Moffitt )
- Charles A. Swiers )

John N. Ogburn, III, City Manager  
 Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal  
 John L. Evans, Assistant Community Development Director  
 Michael L. Leonard, P.E., City Engineer  
 Justin T. Luck, Zoning Administrator/Planner  
 Ralph W. Norton, Interim Chief of Police  
 Trevor L. Nuttall, Community Development Director  
 Deborah P. Reaves, Finance Director  
 Jeffrey C. Sugg, City Attorney  
 E. Todd Swaney, Police Captain  
 Jody P. Williams, Interim Assistant Chief of Police

**1. Call to order.**

A quorum thus being present, Mayor Smith called the meeting to order for the transaction of business, and business was transacted as follows.

**2. Silent prayer and pledge of allegiance.**

After a moment of silence was observed in order to allow for prayer or meditation, Mayor Smith asked everyone to stand and repeat the pledge of allegiance.

**3. Recognition of Rickey D. Wilson, Chief of Police (Retired), for his years of dedicated service to the City of Asheboro.**

On behalf of the city government, Mayor Smith and Mr. Ogburn expressed sincere appreciation for Chief Wilson’s service to the city. As part this acknowledgement of the Chief’s loyal service, Mr. Ogburn presented Chief Wilson with plaques that included his badge. Interim Chief Norton presented the former chief with the service side arm that he carried at the time of his retirement.

Chief Wilson thanked everyone for allowing him to serve the City of Asheboro.

**4. Consent agenda:**

Upon motion by Mr. Burks and seconded by Ms. Carter, Council voted unanimously to approve the following consent agenda items:

- (a) **The minutes of the City Council’s regular meeting on June 6, 2013.**
- (b) **The minutes of the City Council’s special meeting on June 27, 2013.**
- (c) **The findings of fact, conclusions of law, and order entered under land use case number SUP-13-03.**

IN THE MATTER OF THE APPLICATION BY BRIAN THOMAS FOR A SPECIAL USE PERMIT  
AUTHORIZING A RESIDENTIAL PLANNED UNIT DEVELOPMENT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE REQUESTED SPECIAL  
USE PERMIT

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THIS MATTER was brought before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council that was held on June 6, 2013. After receiving sworn testimony during a combined hearing that was conducted on June the 6<sup>th</sup> as a quasi-judicial proceeding designed to gather competent evidence on the questions of whether the applicant's request for a change in zoning, the issuance of a special use permit, and the approval a subdivision sketch design plat should be granted, the Council, on the basis of competent, material, and substantial evidence, hereby resolves the question of the issuance of the requested special use permit by entering the following:

FINDINGS OF FACT

1. Mr. Brian Thomas (hereinafter referred to as the "Applicant") has submitted an application for a Special Use Permit that would authorize the development of a residential planned unit development on 106.13 acres, more or less, of land currently owned by Ms. Phyllis E. Thomas.

2. The site of the proposed residential planned unit development is located at 2513 Old Cedar Falls Road and consists of a single parcel of land that is more specifically identified by Randolph County Parcel Identification Number 7772117810. This parcel of land will be hereinafter referred to as the "Zoning Lot."

3. A single-family residence is currently located on the Zoning Lot, which also has a significant amount of undeveloped area.

4. When the Applicant's land development approval requests were submitted, the Zoning Lot was located in an R40 (low-density residential) zoning district. In response to a properly filed application for a legislative rezoning, and prior to deliberating on whether the requested special use permit should be approved, the Council placed the Zoning Lot in an R10 (medium-density residential) zoning district.

5. The Asheboro Zoning Ordinance authorizes the location of a residential planned unit development in an R10 zoning district so long as the special use permitting process is utilized to seek approval for such a land use.

6. The existing land uses located within the immediate vicinity of the Zoning Lot are agricultural and low-density residential uses.

7. The Growth Strategy Map identifies the area in which the Zoning Lot is located as an "Economic Development" area, and the Proposed Land Development Plan Map designates this location as a "Neighborhood Residential" area.

8. The Zoning Lot is located within the corporate limits of the City of Asheboro.

9. Municipal water and sanitary sewer lines do not currently extend to the Zoning Lot, but the developer can, and expressed the intent as part of the stated plan of development, to extend these lines to the lot.

10. Old Cedar Falls Road (North Carolina Secondary Road 2216) is a state-maintained major thoroughfare.

11. The site plan submitted by the Applicant indicates two (2) entrances will be utilized to access the Zoning Lot.

12. The City of Asheboro Land Development Plan 2020 proposes the development of a recreational greenway on the Zoning Lot.

13. The Council has previously issued special use permits for this property. The progression of special use permits is as follows:

- (a) Case Number SUP-06-12: This permit authorized the development of a recreational vehicle resort on this parcel of land and an adjoining parcel of land to the northwest with 815 sites within the resort.
- (b) Case Number SUP-07-06: Modified the preceding special use permit to authorize a recreational vehicle resort on the current single lot with 441 sites within the proposed resort.
- (c) Case Number SUP-11-01: Modified the preceding special use permit to authorize a recreational vehicle resort on the current Zoning Lot with 198 sites within the resort.

14. The permit issued under case number SUP-11-01 included an additional change with the proposed development of an agricultural tourism facility as an optional amenity of the resort. The earlier proposals did not include such a facility.

15. The application currently under review (Case No. SUP-13-03) proposes a residential planned unit development on the Zoning Lot with 160 attached dwelling units located within 80 residential structures. The proposed development includes a manager's quarters, community store, and active/passive recreation space.

16. In the form of an amenity, the Applicant's plan of development includes a proposed agricultural tourism facility with a 500-seat banquet facility connected to genuine agricultural uses occurring on the Zoning Lot.

17. There are four accessory residential structures included within the submitted site plan.

18. Private streets, including a gatehouse that would restrict visitor access to the property, are proposed for the development.

19. During the hearing of this matter, the City of Asheboro Community Development Director offered uncontroverted testimony that, with the conditions suggested by the city's community development division staff, the site plan submitted by the Applicant is in compliance with the prescribed regulations and specifications of the Asheboro Zoning Ordinance.

20. The Community Development Director offered for attachment to any permit issued by the Council the following conditions that are designed to ensure that the proposed land use satisfies the standards established for the issuance of a special use permit:

(A) The site plan depicts an agricultural tourism facility within the exterior common area of the residential planned unit development. Due to the fact that the total acreage of the Zoning Lot was utilized by the Applicant to comply with, and in fact exceed, the acreage requirements established in Subsection A of Section 630 of the Asheboro Zoning Ordinance as a baseline for any residential planned unit development land use, the proposed agricultural tourism facility has not been reviewed or approved by the Council as a stand-alone land use. Instead, the agricultural tourism facility depicted on the site plan is hereby expressly approved under this special use permitting process as an optional amenity located within the exterior common area of the approved residential planned unit development land use. As an optional amenity in the exterior common area, the continuing ownership and maintenance responsibilities/obligations associated with the proposed agricultural tourism facility must be addressed by the Applicant in an integrated and comprehensive manner with the ownership and maintenance responsibilities/obligations established for the entirety of the common area located throughout the residential planned unit development. The transfer or conveyance of the proposed agricultural tourism facility as a stand-alone land use will be deemed to be a modification of this permit that requires a new special use permit.

(B) While optional amenities located in the exterior common area such as the proposed agricultural tourism facility do not have to be constructed as a condition precedent to the recordation of a final plat for Phase One of the residential planned unit development, the entirety of the acreage utilized for exterior common area must be included as part of Phase One on the final plat.

(C) The Applicant can continue to engage in the land use activities that are noted on the approved site plan and for which a special use permit is not required so long as such uses are conducted in strict compliance with the zoning ordinance. Any alteration or expansion of these uses that complies with the zoning ordinance will not be deemed to be a modification that requires a new special use permit.

(D) The construction/use of the residential accessory structures noted on the site plan is subject to continuing strict scrutiny. Failure to comply with the requirements of the zoning ordinance shall result in enforcement action, including without limitation the pursuit of equitable relief to authorize the demolition of said structures.

(E) Prior to the issuance of a Certificate of Zoning Compliance for the residential planned unit development, all required amenities in Phase One, as shown on the

approved site plan, shall be built. This requirement pertains to, but is not limited to, recreation courts, pools, and the clubhouse shown on the site plan. Such areas shall be properly graded, stabilized, and seeded for the purpose so indicated.

(F) Prior to the issuance of a Certificate of Zoning Compliance for Phase One, homeowners' association documents, which contain provisions consistent with this order, shall be recorded in the office of the Randolph County Register of Deeds. Such homeowners' documents shall include, but not be limited to, maintenance responsibilities of the association (including specifying maintenance responsibilities for all residential structures and the agricultural tourism facility use within the common area) and a prohibition of on-street parking within the development.

(G) The proposed gravity sewer line along and across Old Cedar Falls Road, which is proposed for eventual maintenance by the City of Asheboro, must be constructed to City of Asheboro standards and specifications and receive the appropriate approvals from the NCDOT and NCDENR. A manhole or cleanout shall be provided on the property line of the Zoning Lot at the street right-of-way to separate the maintenance responsibilities of the City of Asheboro from the perpetual maintenance obligations of the property owner and any successors in interest. The sanitary sewer infrastructure within the Zoning Lot, which includes all of the low-pressure sewer facilities, is not publicly owned and/or maintained and shall be maintained by the property owner and successors in interest.

(H) Due to the fact that the water line to be constructed along Old Cedar Falls Road, as well as the master water meter for the residential planned unit development area and the banquet facility area, are proposed for eventual ownership and maintenance by the City of Asheboro, this infrastructure must be constructed to City of Asheboro standards and specifications, and receive the appropriate approvals from the NCDOT and NCDENR. Maintenance easements for the water meter must be granted to the City of Asheboro.

(I) Significant existing vegetation shall be preserved. Clearing and grading shall be permitted where strictly necessary for construction of the parking areas, installation of water and sewer lines, and/or other infrastructure required for improvements authorized by the special use permit, including the approved site plan.

(J) The proposed buffer plantings as shown on the landscaping plan and located along the Donald Henley property shall be installed as part of Phase One.

(K) An engineering study of storm water runoff shall be made of the Zoning Lot. If this study indicates that post development runoff will exceed predevelopment conditions, plans for runoff control shall be designed and certified by a professional engineer. Such controls shall be designed to reduce the runoff during the occurrence of a 10-year storm to predevelopment volumes and rates. Prior to the issuance of a certificate of occupancy, a professional engineer shall provide certification that the storm water controls were built according to the plans. Any open water retention or drainage areas shall be sprayed regularly for mosquito control. The continued maintenance of all runoff control measures shall be the responsibility of the property owner and any successors in interest.

(L) In order to comply with the fire code, the access road to the accessory residential dwellings shown on the site plan shall, at a minimum, be 20 feet wide and provide all-weather driving capabilities.

(M) The site plan depicts two entrances into the residential planned unit development. Construction of the second entrance shall be required prior to the issuance of a Certificate of Occupancy for any phase in which the total number of units for the development as a whole exceeds 30. The final location of these entrances is subject to NCDOT approval and City of Asheboro approval as it relates to the 2012 Fire Code.

(N) Maintenance of all water lines and fire hydrants shown on the approved site plan shall be the responsibility of the property owner and any successors in interest. Fire hydrants must be maintained as required by the manufacturer's recommendations for the brand of hydrant installed.

(O) Maintenance of all recreation areas, parking lots, roads, and drainage facilities that are not specifically labeled on the approved site plan as publicly owned and maintained shall be the responsibility of the property owner and any successors in interest.

(P) The Land Development Plan 2020 (LDP) identifies a future greenway on these properties. A 20-foot wide greenway/recreation easement shall be provided in the

location recommended by the LDP prior to the final approval of Phase One. These required greenway/recreation easements shall be conveyed to the City by means of instrument(s) approved by the City Attorney. Upon receipt of approval from the City Attorney, the said easements shall be filed with the Zoning Administrator for recordation in the office of the Register of Deeds for Randolph County prior to the recordation of any Final Plat.

(Q) Prior to the issuance of a Zoning Compliance Permit, detailed plans concerning solid waste disposal shall be submitted to city staff and receive the proper approval from the City of Asheboro Environmental Services Department. Individual garbage/recycling container pick-up by the city is not available on privately maintained streets. The number of dumpsters provided for the number of units developed in each phase shall be subject to approval by the city's Environmental Services Department.

(R) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall submit a revised site plan to city staff including the following:

- (i) Location of area(s) for solid waste disposal.
- (ii) Corrections of omissions including labeling of sidewalks connecting all residential units, parking areas, recreation facilities, and trash facilities extending to Old Cedar Falls Road.
- (iii) Corrections of clerical errors including labeling lot requirements, number of lots, and removal of "unsubdivided lots" information as well as references to an RV resort.
- (iv) Additional information regarding building elevations to ensure compliance with residential design standards detailed in the Asheboro Zoning Ordinance.
- (v) A notation on the plan that outdoor storage of recreational vehicles is prohibited.
- (vi) Corrections incorporating inclusion of the secondary access drive to the townhouse portion of the residential planned unit development as shown on the Master Sketch Plan.

(S) In order to remove any ambiguity as to the land use regulations and restrictions applicable to development activities occurring on the Zoning Lot, the Applicant and owners of the Zoning Lot must agree, without reservation, that the only special use permit site plan approval and supplemental conditions applicable to the Zoning Lot as of the issuance date of the requested special use permit are the approval and conditions found under case number SUP-13-03. The Applicant and the owner(s) of the Zoning Lot shall explicitly abandon and relinquish any claim to development rights granted under earlier special use permits, specifically including the permit issued under case number SUP-11-01.

(T) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute for recordation in the office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Special Use Permit in the chain of title for the Zoning Lot.

21. Mr. Scott Eggleston, Esq. represented the Applicant during the hearing of this matter, and he informed the Council of his client's decision to accept and comply with the conditions recommended by the Community Development Division staff.

22. After reviewing the current proposal, Mr. Jim Wright, who is a certified real estate appraiser, offered his unchallenged professional opinion that the proposed land use would not substantially injure or impair the value of adjoining or abutting properties.

23. No evidence was offered during the hearing of this matter to show that any abnormally hazardous activity would be occurring on the Zoning Lot as a consequence of the proposed land use(s).

24. No testimony was offered in opposition to the Applicant's request.

Based on the foregoing findings of fact, the Council makes the following:

#### CONCLUSIONS OF LAW

1. Pursuant to Section 602.1 of the Asheboro Zoning Ordinance, the Council must find that the Applicant has met four (4) general standards before an application for a special use permit may be approved. The four standards are as follows:

- (A) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
- (B) That the use meets all required conditions and specifications.
- (C) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.
- (D) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

2. When an applicant has produced competent, material, and substantial evidence tending to establish the existence of the facts and conditions that the ordinance requires for the issuance of a special use permit, prima facie the applicant is entitled to the permit. A denial of the permit has to be based upon findings contra, which are supported by competent, substantial, and material evidence appearing in the record.

3. In this case, the Applicant has properly submitted an application for a special use permit authorizing the development of a residential planned unit development on the Zoning Lot that is located in an R10 zoning district.

4. In light of the available evidence and the express agreement of the Applicant to accept and comply with the conditions recommended by the Community Development Division staff, the Applicant's site plan for the proposed land use is compliant with the applicable requirements of the Asheboro Zoning Ordinance.

5. On the basis of the evidence presented during the hearing of this matter, the Council has concluded that the proposed use meets the four (4) general standards for the granting of a special use permit. More specifically, the proposed use will not materially endanger the public health or safety, meets all required conditions and specifications of the zoning ordinance, will not substantially injure the value of adjoining or abutting property, and will be in harmony with the area in which it is to be located and is in general conformity with Asheboro's plan of development.

Based on the above-recited findings of fact and conclusions of law, the Council hereby enters the following:

#### ORDER

The Applicant, Mr. Brian Thomas, is hereby issued a special use permit authorizing the development of a residential planned unit development, as defined by the Asheboro Zoning Ordinance, on the Zoning Lot. This Special Use Permit shall be valid so long as, and only so long as, Brian Thomas, and his heirs, successors, and assigns, develop and conduct the approved land use in compliance with the approved site plan, the provisions of the Asheboro Zoning Ordinance, and remain in strict compliance with the following conditions:

- (A) The site plan depicts an agricultural tourism facility within the exterior common area of the residential planned unit development. Due to the fact that the total acreage of the Zoning Lot was utilized by the Applicant to comply with, and in fact exceed, the acreage requirements established in Subsection A of Section 630 of the Asheboro Zoning Ordinance as a baseline for any residential planned unit development land use, the proposed agricultural tourism facility has not been reviewed or approved by the Council as a stand-alone land use. Instead, the agricultural tourism facility depicted on the site plan is hereby expressly approved under this special use permitting process as an optional amenity located within the exterior common area of the approved residential planned unit development land use. As an optional amenity in the exterior common area, the continuing ownership and maintenance responsibilities/obligations associated with the proposed agricultural tourism facility must be addressed by the Applicant in an integrated and comprehensive manner with the ownership and maintenance responsibilities/obligations established for the entirety of the common area located throughout the residential planned unit development. The transfer or conveyance of the proposed agricultural tourism facility as a stand-alone land use will be deemed to be a modification of this permit that requires a new special use permit.
- (B) While optional amenities located in the exterior common area such as the proposed agricultural tourism facility do not have to be constructed as a condition precedent to the recordation of a final plat for Phase One of the residential planned unit development, the entirety of the acreage utilized for exterior common area must be included as part of Phase One on the final plat.

(C) The Applicant can continue to engage in the land use activities that are noted on the approved site plan and for which a special use permit is not required so long as such uses are conducted in strict compliance with the zoning ordinance. Any alteration or expansion of these uses that complies with the zoning ordinance will not be deemed to be a modification that requires a new special use permit.

(D) The construction/use of the residential accessory structures noted on the site plan is subject to continuing strict scrutiny. Failure to comply with the requirements of the zoning ordinance shall result in enforcement action, including without limitation the pursuit of equitable relief to authorize the demolition of said structures.

(E) Prior to the issuance of a Certificate of Zoning Compliance for the residential planned unit development, all required amenities in Phase One, as shown on the approved site plan, shall be built. This requirement pertains to, but is not limited to, recreation courts, pools, and the clubhouse shown on the site plan. Such areas shall be properly graded, stabilized, and seeded for the purpose so indicated.

(F) Prior to the issuance of a Certificate of Zoning Compliance for Phase One, homeowners' association documents, which contain provisions consistent with this order, shall be recorded in the office of the Randolph County Register of Deeds. Such homeowners' documents shall include, but not be limited to, maintenance responsibilities of the association (including specifying maintenance responsibilities for all residential structures and the agricultural tourism facility use within the common area) and a prohibition of on-street parking within the development.

(G) The proposed gravity sewer line along and across Old Cedar Falls Road, which is proposed for eventual maintenance by the City of Asheboro, must be constructed to City of Asheboro standards and specifications and receive the appropriate approvals from the NCDOT and NCDENR. A manhole or cleanout shall be provided on the property line of the Zoning Lot at the street right-of-way to separate the maintenance responsibilities of the City of Asheboro from the perpetual maintenance obligations of the property owner and any successors in interest. The sanitary sewer infrastructure within the Zoning Lot, which includes all of the low-pressure sewer facilities, is not publicly owned and/or maintained and shall be maintained by the property owner and successors in interest.

(H) Due to the fact that the water line to be constructed along Old Cedar Falls Road, as well as the master water meter for the residential planned unit development area and the banquet facility area, are proposed for eventual ownership and maintenance by the City of Asheboro, this infrastructure must be constructed to City of Asheboro standards and specifications, and receive the appropriate approvals from the NCDOT and NCDENR. Maintenance easements for the water meter must be granted to the City of Asheboro.

(I) Significant existing vegetation shall be preserved. Clearing and grading shall be permitted where strictly necessary for construction of the parking areas, installation of water and sewer lines, and/or other infrastructure required for improvements authorized by the special use permit, including the approved site plan.

(J) The proposed buffer plantings as shown on the landscaping plan and located along the Donald Henley property shall be installed as part of Phase One.

(K) An engineering study of storm water runoff shall be made of the Zoning Lot. If this study indicates that post development runoff will exceed predevelopment conditions, plans for runoff control shall be designed and certified by a professional engineer. Such controls shall be designed to reduce the runoff during the occurrence of a 10-year storm to predevelopment volumes and rates. Prior to the issuance of a certificate of occupancy, a professional engineer shall provide certification that the storm water controls were built according to the plans. Any open water retention or drainage areas shall be sprayed regularly for mosquito control. The continued maintenance of all runoff control measures shall be the responsibility of the property owner and any successors in interest.

(L) In order to comply with the fire code, the access road to the accessory residential dwellings shown on the site plan shall, at a minimum, be 20 feet wide and provide all-weather driving capabilities.

(M) The site plan depicts two entrances into the residential planned unit development. Construction of the second entrance shall be required prior to the issuance of a Certificate of Occupancy for any phase in which the total number of units for the development as a whole exceeds 30. The final location of these

entrances is subject to NCDOT approval and City of Asheboro approval as it relates to the 2012 Fire Code.

(N) Maintenance of all water lines and fire hydrants shown on the approved site plan shall be the responsibility of the property owner and any successors in interest. Fire hydrants must be maintained as required by the manufacturer's recommendations for the brand of hydrant installed.

(O) Maintenance of all recreation areas, parking lots, roads, and drainage facilities that are not specifically labeled on the approved site plan as publicly owned and maintained shall be the responsibility of the property owner and any successors in interest.

(P) The Land Development Plan 2020 (LDP) identifies a future greenway on these properties. A 20-foot wide greenway/recreation easement shall be provided in the location recommended by the LDP prior to the final approval of Phase One. These required greenway/recreation easements shall be conveyed to the City by means of instrument(s) approved by the City Attorney. Upon receipt of approval from the City Attorney, the said easements shall be filed with the Zoning Administrator for recordation in the office of the Register of Deeds for Randolph County prior to the recordation of any Final Plat.

(Q) Prior to the issuance of a Zoning Compliance Permit, detailed plans concerning solid waste disposal shall be submitted to city staff and receive the proper approval from the City of Asheboro Environmental Services Department. Individual garbage/recycling container pick-up by the city is not available on privately maintained streets. The number of dumpsters provided for the number of units developed in each phase shall be subject to approval by the city's Environmental Services Department.

(R) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall submit a revised site plan to city staff including the following:

- (i) Location of area(s) for solid waste disposal.
- (ii) Corrections of omissions including labeling of sidewalks connecting all residential units, parking areas, recreation facilities, and trash facilities extending to Old Cedar Falls Road.
- (iii) Corrections of clerical errors including labeling lot requirements, number of lots, and removal of "unsubdivided lots" information as well as references to an RV resort.
- (iv) Additional information regarding building elevations to ensure compliance with residential design standards detailed in the Asheboro Zoning Ordinance.
- (v) A notation on the plan that outdoor storage of recreational vehicles is prohibited.
- (vi) Corrections incorporating inclusion of the secondary access drive to the townhouse portion of the residential planned unit development as shown on the Master Sketch Plan.

(S) In order to remove any ambiguity as to the land use regulations and restrictions applicable to development activities occurring on the Zoning Lot, the Applicant and owners of the Zoning Lot must agree, without reservation, that the only special use permit site plan approval and supplemental conditions applicable to the Zoning Lot as of the issuance date of the requested special use permit are the approval and conditions found under case number SUP-13-03. The Applicant and the owner(s) of the Zoning Lot shall explicitly abandon and relinquish any claim to development rights granted under earlier special use permits, specifically including the permit issued under case number SUP-11-01.

(T) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute for recordation in the office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Special Use Permit in the chain of title for the Zoning Lot.

The foregoing findings, conclusions, and order were adopted by the Asheboro City Council in open session during a regular meeting held on the 11<sup>th</sup> day of July, 2013.

/s/David H. Smith  
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr  
Holly H. Doerr, CMC, NCCMC, City Clerk

- (d) A resolution exempting the city's procurement of engineering services for the Chlorine Dioxide Primary Disinfection System Project at the Asheboro Water Treatment Plant from the provisions of Chapter 143, Article 3D of the North Carolina General Statutes.

32 RES 7-13

**RESOLUTION EXEMPTING THE CHLORINE DIOXIDE PRIMARY DISINFECTION SYSTEM PROJECT AT THE WATER TREATMENT PLANT FROM THE PROVISIONS OF CHAPTER 143, ARTICLE 3D OF THE NORTH CAROLINA GENERAL STATUTES**

**WHEREAS**, Section 143-64.31 of Chapter 143, Article 3D of the North Carolina General Statutes provides in pertinent part as follows:

It is the public policy of this State and all public subdivisions and Local Governmental Units thereof . . . to announce all requirements for architectural, engineering, surveying, and construction management at risk services, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm; and

**WHEREAS**, Section 143-64.32 of the North Carolina General Statutes provides in pertinent part as follows:

Units of local government . . . may in writing exempt particular projects from the provisions of this Article (Article 3D) in the case of:

- (a) Proposed projects where an estimated professional fee is in an amount less than thirty thousand dollars (\$30,000), or
- (b) Other particular projects exempted in the sole discretion of . . . the unit of local government, stating the reasons therefore and the circumstances attendant thereto; and

**WHEREAS**, the city's water resources division is contemplating improvements at the water treatment plant that could include the use of a chlorine dioxide primary disinfection system; and

**WHEREAS**, in order to properly research the available chlorine dioxide systems and, if the decision is made to utilize such a system, to develop construction contract plans that would efficiently facilitate the furnishing and installation of the desired system, the city is going to have to contract for certain professional design services; and

**WHEREAS**, based on staff investigations of the engineering services needed for a chlorine dioxide primary disinfection system, the estimated cost for the required design services will not exceed twelve thousand and no hundredths dollars (\$12,000.00);

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that, due to the fact that the estimated professional engineering services fee for the above-described project at the city's water treatment plant is substantially less than thirty thousand and no hundredths dollars (\$30,000.00), the Chlorine Dioxide Primary Disinfection System Project is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes; and

**BE IT FURTHER RESOLVED** that the City Manager is hereby authorized to execute, in accordance with the applicable laws and the city's standard contracting policies, a contract with a professional engineering firm selected by the City Manager and the Water Resources Director for the provision of the engineering services needed to successfully complete the Chlorine Dioxide Primary Disinfection System Project.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 11<sup>th</sup> day of July, 2013.

/s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr  
Holly H. Doerr, CMC, NCCMC, City Clerk

**5. Community Development Division Items:**

- (a) Zoning Case SUP-13-04: Quasi-judicial hearing concerning the request of Ash Rand Rescue and EMS, Inc. for a Special Use Permit authorizing a public use facility at 805 South Cox Street.**

Mayor Smith opened the public hearing on the following request.

Mr. Nuttall was placed under oath and presented the Community Development Division staff's analysis of the Applicant's request that included a properly submitted site plan. This request pertains to approximately 0.598 acres of land owned by Ash Rand Rescue and EMS, Inc. (the Applicant) that is located at 805 South Cox Street. Randolph County Parcel Identification Numbers 7750892736 and 7750891697 more specifically identify the property.

The Applicant's land is located in an O&I (Office and Institutional) zoning district and is within Tier 3 of the Center City Planning Area (the CCPA). A public use facility is permitted by right at this location so long as the proposed use exhibits compliance with the applicable specifications and regulations of the Asheboro Zoning Ordinance (the Ordinance).

Due to the reality that public use facilities help provide needed public services, the Ordinance allows the development of a public use facility, even when viewed through the prism of the Ordinance's standard specifications and regulations, there are deficiencies in the plan for the proposed use. However, this alternative pathway for the approval of such a public use facility requires the evaluation of the proposal by the Council under the standards prescribed for a quasi-judicial hearing on the question of whether a special use permit for the public use facility is warranted by the evidence.

The Applicant has applied for a special use permit in order to build a 2-story addition with a 6,672 square feet of area to the north of the existing structure that has been in use for a significant period of time as a public use facility. The proposal also calls for additional parking. The special use permit is necessary because of the proposal's failure to satisfy three aspects of the standard regulatory framework.

The deficiencies under the standard regulatory framework are as follows:

1. Within Tier 3 of the CCPA, the maximum lot coverage of impervious surfaces (i.e. buildings, pavement) is 55 percent (Section 200A.E.2(a)(vi)). The applicant proposes 67.19 percent impervious coverage.
2. The maximum driveway width for a commercial driveway is 36 feet (Section 408.L.5). The applicant proposes a driveway approximately 63 feet in width along South Main Street (city-maintained street).
3. The minimum distance between curb cuts is 36 feet (Section 408L.3). The site plan indicates that a proposed curb cut on South Main Street is located approximately 10 feet from an existing curb cut.

On behalf of the Applicant, Mr. Scott Eggleston, Esq. was placed under oath and addressed the tests prescribed for a public use facility. As part of his testimony, Mr. Eggleston expressed that the Applicant is in agreement with the following conditions that were recommended by the Community Development Division staff for attachment to the requested special use permit:

1. The development approvals granted by this permit are issued on the basis of the review and evaluation process authorized by Section 602.2(b) of the Asheboro Zoning Ordinance. Consequently, this review and evaluation process has focused exclusively on the use of the Zoning Lot for a public use facility. If approval is sought in the future for any development activity that is not connected with a public use facility, the findings, conclusions, and order issued under file number SUP-13-04 shall be deemed, with one exception, to be inapplicable to the analysis of such a request. This one exception would be the potential implication of the applicability of Article 800 of the Asheboro Zoning Ordinance to improvements actually constructed on the Zoning Lot in reliance upon the permit

issued under file number SUP-13-04. Otherwise, any such application for a development activity unrelated to the public use facility shall be analyzed by applying the city's land use regulations to the facts of the request as if the approvals granted under SUP-13-04 were never issued by the Council.

2. The review and approval by the Council of the site plan submitted under file number SUP-13-04 shall not be deemed to restrict the authority previously granted to city staff members under Section 602.2(a) of the Asheboro Zoning Ordinance. Notwithstanding the fact that subsequent land development activities on the Zoning Lot may necessitate actions that are not reflected on the approved site plan, the Council hereby expressly reaffirms the on-going authority of city-staff members to issue, without seeking further approval from the Council, the necessary permits for the public use facility land use located on the Zoning Lot when, and only if, the development activity for which the permit is requested is compliant with the entirety of the regulatory requirements prescribed by the Asheboro Zoning Ordinance.
3. Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute and deliver to the Zoning Administrator for recordation in the office of the Randolph County Register of Deeds, a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Special Use Permit in the chain of title for the Zoning Lot.

No witnesses came forward in opposition to the Applicant's request for the issuance of a Special Use Permit. There being no comments and no opposition from the public, Mayor Smith transitioned to the deliberative phase of the public hearing.

Upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to approve, with the staff recommended conditions, the requested Special Use Permit. The formal findings of fact, conclusions of law, and order authorizing the Special Use Permit will be entered by the Council during regular session on August 8, 2013. This order will reflect the conditions imposed upon this permit as a consequence of the testimony presented during the public hearing.

**(b) Zoning Case RZ-13-10: Legislative hearing concerning the establishment of city zoning (OA-6 Office Apartment and R40 Low-Density Residential) for the recently annexed Cross Road Retirement Community property.**

Mayor Smith opened the public hearing on the following request.

Mr. Nuttall presented an overview of the Community Development Division staff's proposal to apply city zoning (OA6 Office-Apartment and R40 Low-Density Residential) to property presently subject to Randolph County's zoning jurisdiction (OI Office-Institutional and RR Residential Restricted). This request pertains to approximately 45.952 acres of land owned by The Cross Road Retirement Center, Inc., The Cross Road Rest and Retirement Center, Inc., and Cross Road Village, Inc. and located at 1302, 1306, 1308, 1346, 1368, 1380, and 1402 Old Cox Road. Randolph County Parcel Identification Numbers 7669560493, 7669554855, 7669557913, 7669551809, 7669564321, and 7669653406 more specifically identify the property.

Effective June 30, 2013, the above-referenced property was voluntarily annexed into the city's corporate limits, which necessitated the initiation of city zoning. This zoning amendment request is intended to recognize the current use of the property and appropriate potential uses.

Some of the items noted in the staff report are as follows:

1. The current uses of the property include a mix of institutional uses including a multi-family development for the elderly, nursing home, congregate living facility, child day care center and a single-family residence.
2. The multi-family development, nursing home, child day care center, and congregate living facility are connected to city water and sewer.
3. The city released this property from its extraterritorial zoning jurisdiction on January 1, 2013.
4. The property owner subsequently requested annexation of the property into the city limits which was approved. The annexation became effective on June 30, 2013.
5. The proposal is to rezone the above-described property to OA6 (Office-Apartment), except for Parcel Number 7669653406, which is proposed to be rezoned to R40 (Low-Density Residential). The zoning ordinance describes the OA6 and R40 district as follows:

OA6 District: *Intended to produce moderate intensity office and residential development to serve adjacent residential areas and to provide a transition from residential to*

*commercial uses. Land designated (sic) OA-6 shall normally be located with access to a major or minor thoroughfare with access to local residential streets discouraged.*

*R-40 District: Intended to provide regulations which will produce a low intensity mixture of single family, duplex dwellings, and Class A Mobile Home dwellings usually served by individual wells and/or sewage disposal systems, plus the necessary governmental and other support facilities to provide service to such suburban intensity living.*

The Planning Board concurred with the following Community Development Division staff's analysis and recommended approval of the request:

"Staff believes that the proposed zoning classification is compatible with the existing land uses on the property and surrounding land uses. The parcels proposed to have OA6 (Office-Apartment) zoning have high-density residential, and industrial to the north and west and lower density residential to the east. The parcel that is proposed for R40 (Low-Density Residential) zoning currently is used for low-density residential purposes. Additionally, the R40 designation on the eastern portion of the property is appropriate considering the land development plan's designation of the property as 'conservation residential' which proposes very low density residential uses."

There being no further comments and no opposition from the public, Mayor Smith transitioned to the deliberative phase of the hearing.

Upon motion by Mr. Moffitt and seconded by Mr. Baker, Council voted unanimously to adopt the recommendation/analysis of the Community Development Division staff and the Planning Board and approved the proposed rezoning without modification as well as adopting the following consistency statement:

In consideration of the above factors, the zoning map amendment will allow a reasonable use of the property and ensure consistency with the Land Development Plan.

**(c) Consideration of a resolution authorizing application(s) for grant funding to support the Randolph County SPCA Shelter/Community Center project.**

Mr. Nuttall presented and recommended adoption, by reference, of a resolution authorizing an application for grant funding to support the Randolph County SPCA Shelter and Community Center Project.

Upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to adopt the following resolution by reference.

**33 RES 7-13**

**RESOLUTION FOR THE CITY OF ASHEBORO APPLICATION FOR GRANT FUNDING TO SUPPORT THE RANDOLPH COUNTY SPCA SHELTER AND COMMUNITY CENTER PROJECT**

**WHEREAS**, there may be grant funds available to aid eligible units of government in financing the cost of improvements that will result in job creation, and

**WHEREAS**, The City of Asheboro sees a need and intends to assist in redevelopment of a currently underutilized commercial site, and

**WHEREAS**, The City of Asheboro intends to request grant assistance from programs that may have grant funds available for the project;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO:**

That John Ogburn, City Manager, and successors so titled, is hereby authorized to execute and file an application on behalf of the City of Asheboro for grants to assist in the construction of the project described above.

That John Ogburn, City Manager, and successors so titled, is hereby authorized and directed to furnish information that may be requested in connection with such application or the project; and to execute such other documents as may be required in connection with the application.

That the City of Asheboro has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to the grants pertaining thereto.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 11th of July, 2013.

/s/David H. Smith  
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr  
Holly H. Doerr, CMC, NCCMC, City Clerk

**6. Public comment period.**

Mayor Smith opened the floor for comments from the public, and none were offered.

There being no comments from the public, Mayor Smith closed the public comment period.

**7. Recognition of the Finance Director's recent selection as a financial executive of the year by *The Business Journal*.**

Mr. Ogburn announced that Ms. Reeves has been selected as a financial executive of the year by the *The Business Journal*. A reception to honor the award winners will be hosted by *The Business Journal* on July 25, 2013 in Greensboro.

**8. Consideration of the potential lease to the Randolph County Schools of transmitter and antenna space on a city-owned tower.**

Mr. Sugg presented and recommended adoption, by reference, of a resolution approving a lease agreement between the City of Asheboro and the Randolph County Board of Education.

Upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to adopt the following resolution by reference.

**34 RES 7-13**

**RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF ASHEBORO AND THE RANDOLPH COUNTY BOARD OF EDUCATION**

**WHEREAS**, the City of Asheboro (hereinafter referred to as the "City") owns and operates a tower that is located on Dave's Mountain and is used for the transmission of radio signals needed to efficiently and effectively conduct municipal operations; and

**WHEREAS**, The tower described in the immediately preceding paragraph (hereinafter referred to as the "Tower") is located on a secured parcel of land (Randolph County Parcel Identification Number 7752308105) that is utilized primarily for a water tank which is part of the City's public water supply and distribution system; and

**WHEREAS**, the Randolph County Board of Education (hereinafter referred to as the "County Schools") has asked to use space on the Tower for the transmission of radio signals in furtherance of school operations; and

**WHEREAS**, Section 160A-272 of the North Carolina General Statutes provides that property owned by the City may be leased to a tenant if the desired property will not be needed by the City for the term of the lease; and

**WHEREAS**, on June 29, 2013, notice was published in *The Courier-Tribune* of the Asheboro City Council's intent to consider, during its regular meeting on July 11, 2013, a resolution authorizing the lease of the requested space to the County Schools; and

**WHEREAS**, the City Council of the City of Asheboro is agreeable to leasing space on the Tower to the County Schools so long as the requested space is not needed for the City's operations; and

**WHEREAS**, the proposed lease agreement between the City and the County Schools is attached to this Resolution as EXHIBIT 1 and is hereby incorporated into this Resolution by reference as if copied fully herein;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the proposed lease agreement with the County Schools, which is attached to this resolution as EXHIBIT 1, is hereby approved; and



Section 3. The Lessee shall pay to the Lessor an annual rental fee of three thousand and no hundredths dollars (\$3,000.00) in good funds. The first annual payment shall be paid on or before the 1st day of August, 2013, and the subsequent annual rental payment payments shall be paid on or before the 1st day of August of each succeeding year until this Agreement terminates. The annual rental payments are to be made payable to the City of Asheboro and mailed to the City of Asheboro Finance Department, Post Office 1106, Asheboro, North Carolina 27204-1106 or hand delivered to the Finance Department on the second floor of Asheboro City Hall, 146 North Church Street, Asheboro, North Carolina 27203.

Section 4. Equipment installation, maintenance, replacement, and/or repair work undertaken in any form or to any degree by the Lessee's officials, employees, agents, contractors, and any other representatives shall be made at the sole expense of the Lessee and shall include, but not be limited to, the designing, painting, and/or staining of all equipment so that such equipment is reasonably compatible, both functionally and aesthetically, with the Tower and other improvements located on the Tower premises as of the commencement date of this Agreement.

Section 5. The Lessee shall maintain its equipment in a good and safe operating condition. At the termination of this Agreement's term, the Lessee will, at its sole expense, remove the equipment that it installed and restore the Tower and its associated premises to its original condition, less normal wear and tear and any casualty not caused by the Lessee, within sixty (60) calendar days of the Agreement's date of termination.

Section 6. Lessee agrees to install and maintain equipment only of types and generating frequencies that will not cause interference to transmissions or signals from Lessor. The Lessee agrees and warrants that its equipment shall comply with all noninterference rules of the Federal Communications Commission. Furthermore, Lessee's activities, operations, and equipment shall not interfere with the Lessor's operation, maintenance, and repair of the Tower, the parcel of land upon which the Tower is located, and any improvements located on the said parcel of land, including, without limitation, any and all infrastructure utilized as part of the Lessor's municipal water supply and distribution system.

In the event Lessee fails to comply with the above-stated non-interference provisions, Lessee shall take all steps necessary to correct and eliminate the interference. If such interference cannot be eliminated within 48 hours of Lessee's receipt of written notice from the Lessor of the existence of such interference, Lessee shall temporarily shut down the equipment (except for intermittent operation for the purpose of testing after performing maintenance, repair, modification, replacement, or other action taken for the purpose of correcting such interference). If such interference is not corrected within 30 days after receipt by Lessee of the written notice of the existence of the interference, Lessee agrees to either remove its noncompliant equipment from the Tower, or this Agreement shall terminate as if by expiration and all of the Lessee's equipment shall be removed as provided herein.

Lessee shall be responsible for the testing needed to confirm that its equipment and transmissions are compatible with the Lessor's communications facilities and that no interference will exist. Lessor will not be liable for monetary damages or equitable relief for interference caused by existing or future communications equipment or frequencies used by the Lessor on its premises.

Section 7. The Lessee's officials, employees, agents, contractors, and any other representatives shall notify the on-duty personnel at the City of Asheboro Water Treatment Plant at (336) 626-1215 of the need to access the Tower and receive explicit authorization to enter this critical water supply infrastructure site before accessing the secured premises. Lessor's personnel shall not withhold approval for access to install, maintain, and operate the Lessee's transmitter[s] and antenna[e] unless the Lessor has a good faith basis for believing that the requested access and proposed work will interfere with or be detrimental to the Lessor's use of the Tower and/or the public water supply infrastructure located on the premises.

Section 8. Additionally, prior to beginning any equipment installation, maintenance, replacement, and/or repair work in any form or to any degree, the Lessee shall submit drawings accurately describing the proposed work to the Lessor for review to determine the compatibility of the proposed work with the operation and maintenance of the Tower and the other municipal infrastructure located on the site. Before any of the above-described activities may be commenced, express written approval must be received from the Lessor's Public Works Director and Water Resources Director. Such approval shall not be withheld unless the Lessor's officials have a good faith basis for believing that the proposed work will negatively impact the Lessor's use of the Tower and/or the public water supply infrastructure located on the premises.

Section 9. Any damage to the Tower and/or any other real or personal property of the Lessor that is caused by the Lessee's installation, construction, maintenance, operation, repair, replacement, and upgrade activities on the premises shall be immediately and completely repaired by the Lessee at its sole expense.

Section 10. The Lessee shall comply with all applicable laws, statutes, ordinances, rules, and regulations relating to the use of the Tower and the parcel of land upon which it is located, specifically

including by way of illustration and not limitation occupational health and safety laws and regulations as well as the laws and regulations applicable to the premises because of the presence of the Lessor's public water supply and distribution infrastructure.

Consistent with federal and state work place safety laws, the Lessee shall initiate, maintain, and supervise all safety precautions and programs for its officials, employees, agents, and contractors accessing the Tower to install, maintain, and/or operate the Lessee's transmitter[s] and antenna[e].

Section 11. At a minimum, Lessee shall carry during the term of this Agreement, at the sole cost and expense of the Lessee, general liability insurance with a minimum limit of liability of one million and no hundredths dollars (\$1,000,000.00) combined single limit for bodily injury or death/property damage arising out of any one occurrence. Furthermore, the Lessee shall not allow any of its officials, employees, agents, contractors, and any other representatives onto the Tower and its premises unless such individuals are covered by workers' compensation insurance that has not lapsed and is compliant with North Carolina law.

The Lessee shall furnish to the Lessor, annually and in a form satisfactory to the Lessor, certificates of insurance to demonstrate the maintenance of the insurance coverage specified in the immediately preceding paragraph. All policies shall provide for thirty (30) days advance written notice of material change, cancellation, or renewal.

Section 12. The Lessor shall make arrangements for the provision of all utilities necessary for the operation of the Lessee's equipment. The cost associated with such provision of utilities shall be included within the annual rental rate prescribed by this Agreement.

Section 13. Lessor will provide notice to Lessee of any casualty affecting the demised premises as soon as is practicable. If any part of the Tower or its surrounding premises is damaged by fire or other casualty so as to render, in Lessor's or Lessee's determination, the premises unsuitable for continued use, then either party may terminate this Agreement by providing written notice to the other party, which termination will be effective as of the date of such damage or destruction. Upon such termination, Lessee will be reimbursed for any prepaid rent on a pro rata basis, but Lessor shall not be obligated to provide any other form of monetary relief, compensation, and/or damages to Lessee as a result of such casualty that rendered the premises unsuitable for use.

Section 14. Title to all improvements constructed or installed by Lessee on the demised premises shall remain in Lessee, and all improvements constructed or installed by Lessee shall at all times be and remain the property of Lessee, regardless of whether such improvements are attached or affixed to the Lessor's Tower. Upon the expiration or termination of this Agreement, the Lessee shall, within a reasonable period not to exceed sixty (60) calendar days, remove all improvements, fixtures, and personal property constructed or installed on the Lessor's premises by Lessee and shall restore the Lessor's premises to its original condition, reasonable wear and tear and casualty not caused by the Lessee excepted.

Section 15. If Lessee fails to pay any rental payment when due, or if Lessee fails to perform any of the other covenants, terms, or conditions of this Agreement, prior to exercising any rights or remedies against Lessee on account thereof, Lessor shall first provide Lessee with written notice of the failure and provide Lessee with a 30-calendar day period to cure such failure. Lessee agrees and covenants that, upon such notification of a violation or breach of the terms and conditions of this Agreement, it shall immediately and diligently undertake to correct any such condition. Lessee must, without delay or excuse, absolutely correct the defect or violation on or before the date specified by Lessor. In the event the failure to perform or comply with any term and condition of this Agreement is not cured by Lessee within the above-referenced 30-calendar day period to cure or within any other time period specified by Lessor in its written notice of the breach or failure to perform, whichever is later, the Lessor may, at its option, terminate this Agreement immediately. Upon such termination, this Agreement shall become null and void, and Lessor and Lessee shall have no further obligations to each other, other than Lessee's obligation to remove its property as provided herein.

Furthermore, the Lessor may order the Tower and the parcel of land upon which it is located closed immediately when any condition exists on the premises that an agency or official of the city, county, state, or federal government, which is charged with public health and safety responsibilities, deems to constitute a threat to health or safety.

Any continuing violation or breach by Lessor of any of the terms and conditions of this Agreement shall also be grounds for termination of this Agreement by Lessee upon 30 calendar days written notice to Lessor.

Section 16. Lessee is prohibited from assigning this Agreement or subleasing the area leased to the Lessee, and its rights herein, in whole or in part.

Section 17. With the exception of any loss or damage caused by the negligence or willful misconduct of one of the parties to this Agreement, neither Lessor nor Lessee shall be responsible or liable to the other party to this Agreement for any loss or damage arising from any claim to the extent such loss or damage is attributable to any acts or omissions of other users of the Tower or the parcel of

land upon which it is located, acts of vandalism, structural failures, power failures, or other destruction or damage to the Tower and associated premises.

Section 18. Time shall be of the essence of this Agreement and each and every term and condition thereof.

Section 19. Both Lessor and Lessee acknowledge and stipulate that this Agreement is the product of mutual negotiation and bargaining and that counsel has drafted it for both Lessor and Lessee. As such, the doctrine of construction against the drafter shall have no application to this Agreement.

Section 20. Except as the same may be subsequently modified by means of a legal instrument signed by authorized officials of the Lessor and Lessee, this Agreement as set out herein constitutes the total understanding between the parties with respect to this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

**LESSOR:**

**THE CITY OF ASHEBORO, a North Carolina municipal corporation**

CITY SEAL

By: \_\_\_\_\_  
David H. Smith, Mayor

ATTEST:

\_\_\_\_\_  
Holly H. Doerr, CMC, NCCMC, City Clerk

**STATE OF NORTH CAROLINA  
COUNTY OF RANDOLPH**

I do hereby certify that I am a Notary Public of the County and State aforesaid, and I do hereby further certify that Holly H. Doerr, who is personally known to me, voluntarily and personally appeared before me this day and acknowledged that she is the City Clerk for the City of Asheboro and that, by authority duly given, the Mayor of the City of Asheboro voluntarily executed the foregoing instrument on behalf of the city for the purposes stated therein, Ms. Doerr sealed the instrument with the municipal seal, and she attested the instrument as the City Clerk.

**WITNESS** my hand and notarial stamp or seal, this the \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

OFFICIAL SEAL

\_\_\_\_\_  
(Printed or Typed Name of Notary Public)

My commission expires:

\_\_\_\_\_

**LESSEE:**

**THE RANDOLPH COUNTY BOARD OF EDUCATION, a body corporate under the North Carolina General Statutes**

CORPORATE SEAL

By: \_\_\_\_\_  
Tommy McDonald, Chairperson

ATTEST:

\_\_\_\_\_  
Secretary

**STATE OF NORTH CAROLINA  
COUNTY OF RANDOLPH**

I do hereby certify that I am a Notary Public of the County and State aforesaid, and I do hereby further certify that \_\_\_\_\_, who is personally known to me, voluntarily and personally appeared before me this day and acknowledged that he is the Secretary of The Randolph County Board of Education, a body corporate, and that, by authority duly given and as the act of the corporation, the Chairperson of The Randolph County Board of Education voluntarily executed the foregoing instrument on behalf of the corporation for the purposes stated therein with the Board Secretary sealing and attesting the instrument.

**WITNESS** my hand and notarial stamp or seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

OFFICIAL SEAL

\_\_\_\_\_  
(Printed or Typed Name of Notary Public)

My commission expires:

\_\_\_\_\_

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Finance Officer

**9. Discussion of items not on the agenda.**

- **Upcoming Events:**
- **-July 17, 2013 – Retirement reception for Terry Reeder.**
- **-July 30, 2013 at 4:00 p.m.– Special Council meeting for a tour of the Sunset Theatre**

There being no further business, the meeting was adjourned at 7:49 p.m.

These minutes were approved by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2013.

\_\_\_\_\_  
Holly H. Doerr, CMC, NCCMC, City Clerk

\_\_\_\_\_  
David H. Smith, Mayor

**NOTICE OF A SPECIAL MEETING OF THE ASHEBORO CITY COUNCIL**

**Tuesday, July 30, 2013**

**4:00 p.m.**

Notice is hereby given of a special meeting of the Asheboro City Council that will be held on Tuesday, July 30, 2013, for the purpose of allowing the city's elected officials to obtain first hand impressions of the progress and pending completion of the renovation project at the Sunset Theatre, 234 Sunset Avenue, Asheboro, North Carolina 27203.

At 4:00 p.m. on July the 30<sup>th</sup>, Mayor Smith and the members of the Asheboro City Council will assemble, along with the Sunset Theatre Capital Campaign Committee members and city staff, in the conference room of the City of Asheboro Cultural and Recreation Services Division Office Building (the old federal building) located at 241 Sunset Avenue, Asheboro, North Carolina 27203. This group of elected officials, capital campaign committee members, and city staff will then walk across Sunset Avenue to tour the Sunset Theatre.

No formal action will be taken on any matter during this tour. Members of the press are invited to participate in the tour.

This notice is issued on July 26, 2013, in accordance with the laws and ordinances of the State of North Carolina and the City of Asheboro.

/s/ David H. Smith  
David H. Smith, Mayor  
City of Asheboro, North Carolina

# # # # # # # # # # # #

**SPECIAL MEETING  
ASHEBORO CITY COUNCIL  
CULTURAL AND RECREATION SERVICES DIVISION OFFICE BUILDING, 241 SUNSET AVENUE  
TUESDAY, JULY 30, 2013  
4:00 p.m.**

This being the time and place for a special meeting of the Asheboro City Council, a meeting was held with the following elected officials and staff members present:

- Talmadge S. Baker ) – Mayor Pro Tempore Presiding
- Clark R. Bell )
- Edward J. Burks )
- Michael W. Hunter ) – Additional Council Members Present
- Walker B. Moffitt )
- Charles A. Swiers )
- David H. Smith ) – Mayor Absent
- Linda H. Carter ) – Council Member Absent

- John N. Ogburn, III, City Manager
- Jimmy L. Cagle, Facilities Maintenance Superintendent
- Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
- John L. Evans, Assistant Community Development Director
- Michael L. Leonard, P.E., City Engineer
- Kerrin E. Lowe, Community Development Division Intern
- Deborah P. Reaves, Finance Director
- Thomas Scaramastra, Engineering Surveyor, III
- Jonathan M. Sermon, Recreation Services Superintendent
- Felix L. Ward, Cultural and Recreation Services Director

The sole purpose of this special meeting was to obtain first hand impressions of the progress of the renovation of the Sunset Theatre. The project architect's representative, Craig Pritchard, and a

representative from Rehab Builders, Will Anderson, were present for this review of the progress of the work.

These city officials and contractors were joined by Randolph County Manager Richard T. Wells, three citizens, and members of the Sunset Theatre Capital Campaign Committee. The committee members present for the tour were as follows: Claire Davis, Ross Holt, David Jarrell, Reynolds Lisk, and Philip Shore.

After assembling in the Cultural and Recreation Services Division Building, Mayor Pro Tem Baker called the meeting to order and turned it over to Mr. Ogburn, who then led everyone across the street to the Sunset Theatre for a walking tour of the Theatre's recent renovations. At the conclusion of the tour, the meeting was adjourned. No formal action was taken during this meeting. The meeting was deemed to be adjourned at 4:55 p.m.

These minutes were approved by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2013.

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Holly H. Doerr, CMC, NCCMC, City Clerk

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David H. Smith, Mayor



APPLICATION FOR PARADE PERMIT

In accordance with the Asheboro City Code, Section 97.04, application is hereby made for a parade permit. This permit must be received fourteen (14) days prior to the day of the parade.

Fall Festival

Contact Name: Derrick Sides

Address: 1247 Sunset Dr. Asheboro NC 27205

Phone: 336-848-0140 E-mail: dsides@asheboro.com

Organization: The Randolph Arts Guild

Address: 123 Sunset Ave. Asheboro NC 27203

Phone: 336-629-0399

Date of Parade: 10/4/13 Start Time: 7:00 pm End Time: 8:30 pm

Number of Persons: 2,000+ Number of Vehicles: 100+

Streets Involved: Church St., Sunset Ave., Fayetteville St.

Special officials and/or guests: N/A

Insurance Company & Policy Number: Travelers Ins I-660-179R7697-TCT

Any additional information: Thank You for all of your past & present support.

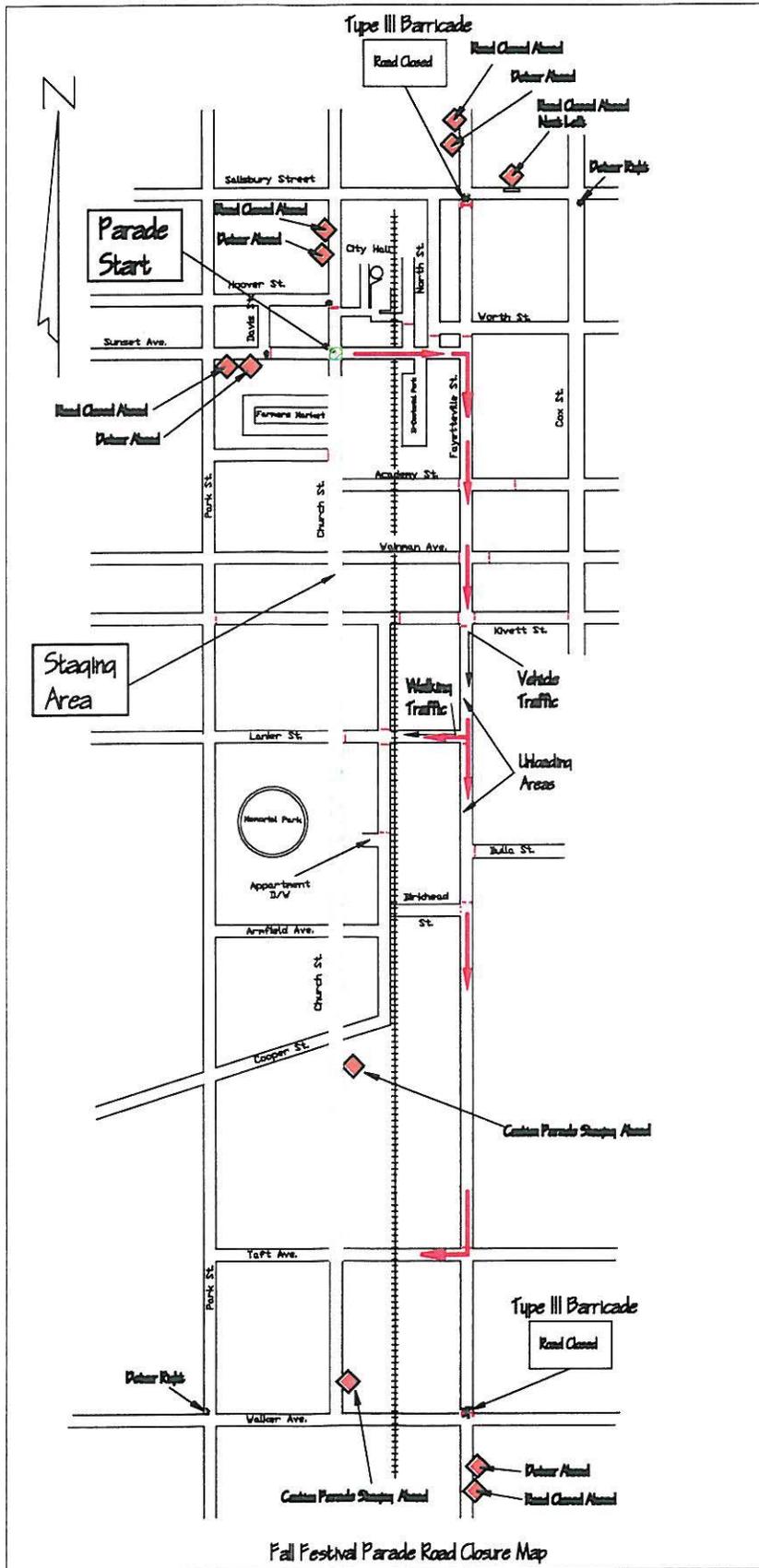
The undersigned agrees to hold the City of Asheboro and its officers, employees and agents free and harmless from and against any and all claims, losses, damages and settlements arising out of or relating to this parade. The undersigned agrees to investigate and provide defense for and defend any such claims at his/her (?) sole expense and agrees to bear all other costs and expenses related thereto, even if the claims are groundless or false.

Signature of Authorized Representative: [Handwritten Signature]

Internal Use Only

Police Department Recommendation:

City of Asheboro Approval By: Date:



Fall Festival Parade Road Closure Map

**City of Asheboro  
Finance Office**

**To:** John Ogburn, City Manager  
**From:** Debbie Reaves, Finance Director   
**Date:** 8/1/13  
**Re:** SALE OF CITY PROPERTY under \$5,000 Threshold

As per Section 30.07 of the City Code of Ordinances for the City of Asheboro, the below City assets have been sold and subsequently need to be reported to the City Council. This list includes all assets under the \$5,000 threshold that were sold / disposed of January 1, 2013 through June 30, 2013. The original documentation supporting each of these transactions is in the Finance Office and is available to review at anytime.

<u>Date</u>	<u>Description</u>	<u>Purchaser</u>	<u>Amount</u>
1/17/13	129 lbs #1 steel & 1544 lbs ebony	Hayes iron & metal	4,118.40
1/28/13	1997 ford crown vic #2FALP71W4VX117454	Hunts auto parts inc	250.00
1/28/13	1999 ford crown vic #2FAFP71W6XX163738	Hunts auto parts inc	250.00
1/28/13	2001 ford crown vic #2FAFP71W21X137449	Hunts auto parts inc	350.00
2/5/13	Cast iron scrap	Cranford Iron & Metal	272.00
2/5/13	Long steel mix scrap	Cranford Iron & Metal	406.00
2/5/13	Scrap Metal	Asheboro Recycling Ctr	957.60
2/15/13	1 Easter Bunny Costume	Michele Dawes	20.00
3/22/13	1750 lbs scrap metal	CUOC (bollards)	175.00
3/22/13	2007 Dodge Charger #2B3KA42HX7H770874	Hunts auto parts inc	1,500.00
3/28/13	Wood form one cut down tree	Jamie Chriscoe	10.00
4/11/13	Glass front bookcase	Debbie Reaves	50.00
4/16/13	Copper scraps and assorted metal	Cranford Iron & Metal	534.30
4/17/13	Assorted Aluminum	Cranford Iron & Metal	413.47
5/7/13	Terra cotta roof coping	Louis Bivins	2.80
5/10/13	100 scored * chipped brick pavers	Pam Morgan	10.00
5/10/13	29 First aid kit for \$1 each	Various employees	29.00
5/10/13	Scrap metal	Alan Kinney	20.00
5/23/13	102 lbs copper, 56 lbs shred, 2227 lbs Ebony	Hayes Iron & Metal	5,095.00
6/12/13	Electric motors	Cranford Iron & Metal	210.00
6/12/13	Cast iron	Cranford Iron & Metal	174.30
6/30/13	Scrap Settl	Asheboro Recycling Center	827.75
		<b>Total</b>	<b>\$15,675.62</b>

Notes:

**RESOLUTION APPOINTING J. BROOKE SCHMIDLY TO A NEW  
THREE-YEAR TERM ON THE ASHEBORO ABC BOARD**

**WHEREAS**, in accordance with Section 18B-700 of the North Carolina General Statutes, the Asheboro ABC Board consists of three (3) members that are appointed by the Asheboro City Council; and

**WHEREAS**, Section 18B-700(a) of the North Carolina General Statutes provides in pertinent part as follows:

One member of the initial board of a newly created ABC system shall be appointed for a three-year term, one member for a two-year term, and one member for a one-year term. As the terms of the initial board members expire, their successors shall each be appointed for three-year terms. The appointing authority shall designate one member of the local board as chairman; and

**WHEREAS**, J. Brooke Schmidly was first appointed to the Asheboro ABC Board for a two-year term on August 12, 2008, when the initial local board was appointed by the Asheboro City Council; and

**WHEREAS**, at the conclusion of her initial two-year term, Ms. Schmidly was appointed, effective August 12, 2010, to a three-year term of office on the Asheboro ABC Board; and

**WHEREAS**, when the initial Board Chair, the Honorable Russell G. Walker, Jr., announced that he did not wish to be reappointed to the Asheboro ABC Board for another term, this Council designated, effective August 13, 2012, J. Brooke Schmidly as Board Chair; and

**WHEREAS**, from the time of its initial creation to the present, the Asheboro ABC Board has performed its duties in a very efficient and professional manner; and

**WHEREAS**, the Asheboro City Council believes that it is in the best interest of the Asheboro ABC system and the municipal corporation to reappoint Ms. Schmidly to the Asheboro ABC Board for a full three-year term and to continue her designation as Board Chair; and

**WHEREAS**, Ms. Schmidly has expressed a willingness to continue her service on the Board;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro, North Carolina that, effective August 12, 2013, J. Brooke Schmidly is appointed to a new three-year term on the Asheboro ABC Board; and

**BE IT FURTHER RESOLVED** that, effective August 12, 2013, the continuing validity of the designation of J. Brooke Schmidly as the member of the Asheboro ABC Board who is to serve as the Board Chair is confirmed.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2013.

---

David H. Smith, Mayor

ATTEST:

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Holly H. Doerr, CMC, NCCMC, City Clerk

## **Minutes of the meeting of the Asheboro Alcoholic Beverage Control Board held on June 3, 2013**

The Asheboro ABC Board met on June 3, 2013, at 5:30 PM, in the Board office, 700 South Fayetteville Street, Asheboro, NC.

Present were Chair Brooke Schmidly, Board Member Steve Knight, Board Member Bob Morrison and General Manager Rodney Johnson (GM). No other persons were present. A quorum being present, the Chair called the meeting to order for the transaction of business and business transacted as follows:

The Chair inquired as to any known conflict of interest, appearance of a conflict of interest, or objections concerning agenda items before the Board; after the Chair and both Board members voiced having no conflict, and there being no objection, the agenda was adopted.

The Board reviewed and there being no objection, approved and signed the Minutes from the May 8, 2013, regular meeting.

Steve Knight and the GM reviewed Board finances and reported all finances remain consistent. Based upon current revenues and expected expenses through the end of the fiscal year, funds in excess of the \$186,000 budgeted for distribution to the City of Asheboro are now available. Upon motion by Steve Knight, the Board unanimously approved the distribution of an additional \$44,000 to the City.

Following up on unfinished business from the May 2013 meeting, the GM discussed a proposal from the Board's landlord to reduce the monthly rental rate in exchange for an extended rental term. After discussing the cost benefits of a continued lease versus purchasing property, the Board directed the GM continue negotiations with the landlord and report back to the Board at its July meeting.

### **Budget Hearing (§18B-702):**

All Board members acknowledged receipt of the Budget Message and Budget for Fiscal Year 2013-2014 sent by the GM via email May 23, 2013. The GM advised that on May 23, 2013, the Courier Tribune was also notified a hearing on the Budget would be held at the June 3, 2013, regular meeting of the Board.

The Budget Message and Proposed Annual Budget for Fiscal Year 2013-2014 was reviewed, discussed and upon motion by Bob Morrison unanimously adopted. A copy of the approved budget is attached hereto and incorporated herein by reference as "Asheboro ABC Board Annual Budget for Fiscal Year 2013-2014."

The Board heard reports from the General Manager concerning the following issues:

1. The Change-Fund Report ending May 2013 was reviewed with nothing remarkable noted.

2. Statutory changes to current law require the Board begin contributing to the unemployment insurance fund effective July 1, 2013. The Board's Fiscal Year 2013-2014 Budget includes funding for the new requirement.
3. An independent annual audit of the Board's finances will begin June 30, 2013.
4. Asheboro ABC sales statistics comparing:
  - May 2013 sales with the previous month indicate:
    - An overall +12.2% change (all sales and tax collections)
  - May 2013 sales with sales from the same month last year indicate:
    - Retail Sales: +9.5%
    - Mixed Beverage Sales: +11.1%
    - Sales Tax Collections: +8.80%
    - Overall Collections: +9.6%
  - May 2013 bottle sales with bottle sales from the same month last year indicate:
    - Retail Bottle Sales: +11.2%
    - Mixed Beverage Bottle Sales: +8.8%
    - Overall Bottle Sales: +11%

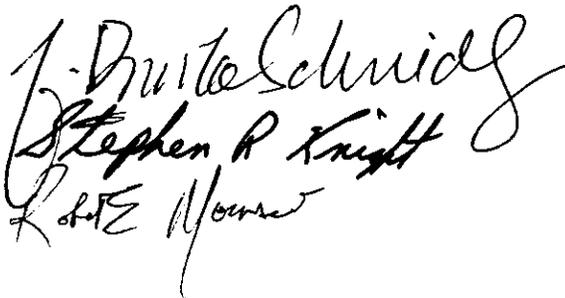
Charts reflecting sales histories were handed out to Board members for review and discussion.

The next regular Asheboro ABC Board meeting will be held on Monday, July 1, 2013.

There being no further business, the meeting was adjourned.

Prepared by Rodney Johnson, GM, and Approved by the Board 7-2-13

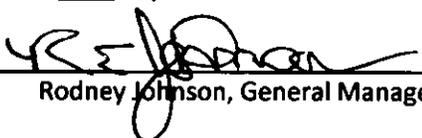
  
GM



ASHEBORO ABC BOARD  
ANNUAL BUDGET FOR FISCAL YEAR  
**2013-2014**

Sales	3,142,400.00
Other Income	300.00
<b>Total</b>	<u><b>\$3,142,700.00</b></u>
Less Taxes	892,527.00
<b>Net Sales</b>	<u><b>\$2,250,173.00</b></u>
Less:	
Cost of Sales	<u>1,539,199.00</u>
<b>Gross Profit</b>	<b>\$710,974.00</b>
Less:	
<u>Operating Expenses</u>	
Salaries, benefits and fees	246,870.00
Payroll taxes	19,997.00
Rent	71,953.00
Repairs and maintenance	7,400.00
Utilities	21,080.00
Insurance - general and bonds	14,700.00
Supplies and janitorial	13,699.00
Travel and training	3,200.00
Professional services	8,870.00
Dues and subscriptions	1,755.00
Bank fees and charges	38,950.00
Miscellaneous expense	8,000.00
Contingencies	8,000.00
<b>Total Operating Expenses</b>	<u><b>\$464,474.00</b></u>
<b>Operating Income</b>	<u><b>\$246,500.00</b></u>
Less:	
<b>Capital Expenditures</b>	<u>25,000.00</u>
<b>Net Income before Distributions</b>	<u><b>\$221,500.00</b></u>
Less:	
<u>Distributions</u>	
Law Enforcement	16,500.00
Alcohol Education and Rehab	19,000.00
City of Asheboro General Fund	<u>186,000.00</u>
<b>Total Distributions</b>	<u><b>\$221,500.00</b></u>
<b>Net Income after Distributions</b>	<u><u>-</u></u>

Adopted by the Asheboro ABC Board this 3<sup>rd</sup> day of June 2013.

  
\_\_\_\_\_  
Rodney Johnson, General Manager

## **Minutes of the meeting of the Asheboro Alcoholic Beverage Control Board held on July 1, 2013**

The Asheboro ABC Board met on July 1, 2013, at 5:30 PM, in the Board office, 700 South Fayetteville Street, Asheboro, NC.

Present were Board Member Steve Knight and General Manager Rodney Johnson (GM). Chair Brooke Schmidly and Board Member Bob Morrison attended via telephone conference call. A quorum being present, the Chair called the meeting to order for the transaction of business and business transacted as follows:

The Chair inquired as to any known conflict of interest, appearance of a conflict of interest, or objections concerning agenda items before the Board; after the Chair and both Board members voiced having no conflict, and there being no objection, the agenda was adopted.

The Board reviewed and there being no objection, approved the Minutes from the June 3, 2013, regular meeting.

Steve Knight and the GM reviewed Board finances and reported all finances remain consistent.

Following up on unfinished business from the June 2013 meeting, the GM reviewed negotiations with the Board's landlord to reduce the monthly rental rate in exchange for an extended rental term. After discussion, the Chair moved to accept the new extended rental agreement and the Board approved the motion. The GM was directed to obtain a written copy of the proposed lease for final review and signature at the August meeting.

Asheboro ABC Board Policy Section 33 provides that the Board in its sole discretion shall approve or disapprove any pay adjustments. Employees are eligible for an Annual Performance Based Merit Increase upon the anniversary of their original hire-date or upon the anniversary of the employee's last promotion which resulted in a pay increase. After discussion, Brooke Schmidly moved approval of a 5% maximum merit pay increase for Fiscal Year 2013-2014. The motion was approved by the Board.

The Board heard reports from the General Manager concerning the following issues:

1. Public notice will be provided to the Courier Tribune by July 15 advertising the availability and approximate amount of 3<sup>rd</sup> and 4<sup>th</sup> Quarter 2013 18B-805(h) education grants. Grant applications will be due by July 31, 2013, for review and selection by the Board at its August meeting.
2. There has been some recent publicity about hackers accessing the computer systems of several ABC boards across the state and stealing customer credit card information. The Asheboro ABC Board has not experienced such a breach and has several systems in place to fight such attempts.

3. The Change-Fund Report ending June 2013 was reviewed with nothing remarkable noted.
4. Asheboro ABC sales statistics comparing:
  - June 2013 sales with the previous month indicate:
    - An overall -5.4% change (all sales and tax collections)
  - June 2013 sales with sales from the same month last year indicate:
    - Retail Sales: -1.1%
    - Mixed Beverage Sales: -13.9%
    - Sales Tax Collections: -2.81%
    - Overall Collections: -2.6%
  - June 2013 bottle sales with bottle sales from the same month last year indicate:
    - Retail Bottle Sales: +2.1%
    - Mixed Beverage Bottle Sales: -14.2%
    - Overall Bottle Sales: +1.0%

Charts reflecting sales histories were handed out to Board members for review and discussion.

The next regular Asheboro ABC Board meeting will be held on Monday, August 5, 2013.

There being no further business, the meeting was adjourned.

Prepared by Rodney Johnson, GM, and Approved by the Board ~~8-5-2013~~   
GM

*J. Bruce Schmid*  
*Stephen R. Knight*  
*Rodney Johnson*



**RZ/CUP-13-11 Request for the following at 1000 Park Drive**

**i.) Rezoning from R15 Low-Density Residential to  
CU O&I Conditional Use Office and Institutional**

**ii.) Conditional Use Permit for Office Development  
with Multiple Uses**

(Glenn King)

**Planning Board Recommendation (concerning rezoning) and Staff Report**

## Planning Board Recommendation & Comments to City Council

**NOTE: Have applicant Certify to Council mailings to all adjoining property owners.**

**Case #** RZ-13  
-11

**Date** 7-8-2013 PB

**Applicant** Glenn King

### **Legal Description**

The property of B & G Properties, located at 1000 Park Drive more specifically identified by Randolph County Parcel Identification Numbers 7751484500 and the parcel adjoining to the east, more specifically identified by Randolph County Parcel Identification Number 7751485415. These two parcels of land total approximately 2.897 acres (+/-).

**Requested Action** Rezone from R15 Low-Density Residential to CUO&I Conditional Use Office and Institutional

**Existing Zone** R15

**Land Development Plan** See Rezoning Staff  
Report

### **Planning Board Recommendation**

Approve (5-2 vote)

### **Reason for Recommendation**

The Planning Board reasoned that the designation of US Hwy 220 as an interstate highway (I-73/I-74) was a significant changing condition of the property, and considering the property's location adjacent to an interstate interchange, rezoning to the requested CU O&I district would allow a more viable use of the property.

### **Planning Board Comments**

## Rezoning Staff Report

RZ Case # **RZ/CUP-13-11**

Date 7/8/13 PB

8/8/13 CC

### General Information

**Applicant** Glenn King

**Address** 1000 N. Fayetteville Street

**City** Asheboro NC 27203

**Phone** 736-6725

**Location** 1000 Park Drive and vacant parcel adjoining to the east.

**Requested Action** Rezone from R15 (Low-Density Residential) to CUO & I (Conditional Use Office and Institutional).

**Existing Zone** R15

**Existing Land Use** Undeveloped (previously single-family- has been removed)

**Size** 2.897 acres

**Pin #** 7751484500 and 7751485415

### Applicant's Reasons as stated on application

See attached application.

### **Surrounding Land Use**

**North** Low-Density Residential

**East** Highway Right-of-way

**South** Medium-Density Residential

**West** Low-Density Residential

**Zoning History** **2006:** A rezoning application (RZ-06-19) for a CU B1 (District Only) was requested and denied on a portion of this property (Parcel 775148415- 2.17 acres). **2007:** A rezoning application to CUO&I and a CUP application for office development (RZ/CUP-08-05) was filed and withdrawn. **2008/2010:** Requests to rezone from R15 to CU O&I were denied. Therefore, the Conditional Use Permit requests filed concurrently with the rezoning were not considered (RZ-08-37, RZ-10-14).

### **Legal Description**

The property of B & G Properties, located at 1000 Park Drive more specifically identified by Randolph County Parcel Identification Numbers 7751484500 and the parcel adjoining to the east, more specifically identified by Randolph County Parcel Identification Number 7751485415. These two parcels of land total approximately 2.897 acres (+/-).

### **Analysis**

1. The property is outside of but contiguous to the city limits. City services are located adjacent to the site. Connection to water and sewer will require annexation.
2. The property is near the intersection of a freeway (US Hwy 220 Bypass/I-73/I-74) and a major thoroughfare (when Park Drive becomes W. Presnell St. east of US 220/I-73/I-74). Park Drive and North Park Drive are state maintained roads.
3. Zoning in the vicinity is generally designated R15 (Low-Density Residential) north of Park Drive and R10 (Medium-Density Residential) south of Park Drive. No commercial zoning is in close proximity to this property.
4. The property is located within the US 220 Overlay zone.
5. The existing R15 zoning district is intended to provide regulations that will produce a low intensity of single-family residential uses. The zoning ordinance describes the Office and Institutional district as *intended to produce moderate intensity office and institutional development to serve adjacent residential areas and to provide a transition from residential to commercial uses. Land designed (sic) O & I shall normally be located with access to a major or minor thoroughfare with access to local residential streets discouraged.*
6. The applicant has also submitted an application for a conditional use permit for an office development that will be reviewed by City Council in addition to the rezoning request.

# Rezoning Staff Report

RZ Case # RZ/CUP-13-11

Page 2

## Consistency with the 2020 LDP Growth Strategy designations

*In reviewing this request, careful consideration is given to each Goal and Policy as outlined in the Land Development Plan. Some Goals and Policies will either support or will not support the request, while others will be neutral or will not apply. Only those Goals and Policies that support or do not support the request will be shown.*

**Growth Strategy Map Designation** Adjacent Developed

**Proposed Land Use Map Designation** Suburban Residential

**Small Area Plan** Northwest

## LDP Goals/Policies Which Support Request

Checklist Item #12 The property is located outside of the watershed area.

Checklist Item #13 The property is located outside of a Special Hazard Flood Area.

## Rezoning Staff Report

RZ Case # RZ/CUP-13-11

Page 3

### LDP Goals/Policies Which Do Not Support Request

Checklist Rezoning is not compliant with the Proposed Land Use Map.

Item #1

Checklist Rezoning is not consistent with Land Category Descriptions

Item #10

Checklist Rezoning is located on property with steep slopes (>20 %).

Item #14

### Recommendation

Deny

### Reason for Recommendation

Although the property is located along an interstate highway corridor and is at an interchange (I-73/I-74/US Hwy. 220 Bypass and Presnell Street/Park Drive) and the conditional use permitting process may help mitigate incompatible development, the absence of any non-residential zoning makes the requested CU O & I district inconsistent with the area. The Land Development Plan recommends that office and institutional land uses generally develop in areas with existing office and institutional uses or in locations designated as employment or activity centers. Staff believes that the proposed rezoning does not fit these criteria.

It is also important to note state limitations on "spot zoning", which generally is defined as the application of a zoning district to a relatively small parcel or area of land that permits development not authorized on surrounding properties unless the new district is consistent with the Land Development Plan and surrounding uses or is otherwise deemed to be reasonable and not contrary to public's interest. The Land Development's Proposed Land Use proposes "suburban residential" development for the property consistent with the area's established development pattern.

Additionally, the zoning ordinance states that changing conditions are a key factor when determining whether a rezoning should be granted. Except for the conversion of US Hwy. 220 Bypass to an interstate (resulting in higher speeds, greater volume), staff cannot identify any other major changing conditions in the vicinity since the request was denied in 2008 and 2010.

Due to these factors, staff recommends denial of the request.

### Evaluation of Consistency with Adopted Comprehensive Plans/Reasonableness and Public Interest

Considering the above factors, staff believes that the existing R15 (Low-Density Residential) is consistent with the adopted comprehensive plans and is therefore reasonable and in the public interest.

Application for Zoning Ordinance Amendment

APPLICANT INFORMATION

Applicant Glenn R. King
Applicant's Phone # 336-736-6725
Applicant's Address 1000 N. Fayetteville St.
Asheboro, NC 27203

PROPERTY INFORMATION FOR MAP AMENDMENTS

Property Owner's Name B: G Properties
Location of Property intersection of Park Dr. & Bypass South
Property Size (ac. or s.f.) 2.897
Randolph County Property Identification Number (PIN#) 7751484500 & 7751485415
Current Zoning District R15
Requested Zoning District CUOT
Date Property Title Acquired 10-17-2007
Deed Book 2047 Page 952 & 954
Subdivision Dogwood Acres MP4 Section N/A Lot # N/A
Plat Book 113 Page 72

ORDINANCE AMENDMENT INFORMATION

Section 1011.2 of the Asheboro Zoning Ordinance requires the applicant to answer the following questions. Application will not be accepted unless all questions are completed.

1. Are there alleged errors in this Ordinance that would be corrected by the proposed amendment? If so, give a detailed explanation of such error and detailed reasons how the proposed amendment will correct the errors.

No, no errors in this ordinance

2. What are the changed or changing conditions, if any, in the jurisdiction of the City of Asheboro generally, which would make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare?

this lot has in the past been eyesore in the community and safety has been an issue from the disposal illegally of trash onto this site, i.e. the abandoned boat located there presently. If professional offices are allowed the landscaping

it would entail will beautiful such a visible spot as people come into Asheboro, as well as support the ongoing expense of maintaining it.

3. In what manner will the proposed amendment carry out the intent of the Land Development Plan?

The request if approved would provide a transition from residential to commercial providing offices that will serve the adjacent residential area and the offices will have access directly to m. thoroughfare without impacting local residential streets.

4. Are there any other circumstances, factors, or reasons that the applicant offers in support of the proposed amendment?

Without this change, to property's use would be only for single family; therefore its location next to 220 Bypass off ramp would continue to lessen its value due to no interest in building home in that location due to proximity to 220 Bypass.

**APPLICANT AND AGENT SIGNATURES**

It is understood by the undersigned that while this application will be carefully reviewed and considered, the burden of proving the need for the proposed amendment rests with the applicant.

The applicant for rezoning to any district other than a conditional use district shall be prohibited from offering any testimony or evidence concerning the specific manner in which he or she intends to use or develop the property.

By pass. which is now interstate Hwy when as before it was not

Name of Agent (if any)

\_\_\_\_\_

Agent's Address

\_\_\_\_\_  
\_\_\_\_\_

Telephone Number

\_\_\_\_\_

Agent Signature

\_\_\_\_\_

Name of Applicant or Owner

Glenn R. King

Applicant or Owner's Address

1000 N. Faye Heville St.  
Asheboro, NC 27203

Telephone Number

336-736-6725

Applicant or Owner Signature

*Glenn R. King*

Received by: John Grant Date: 6-13-13 Case Number: RZ/CP 13-11

JOHN MENIUS, III, D.D.S.  
208 FOUST STREET  
ASHEBORO, NORTH CAROLINA 27203

DENTISTRY

336-625-3081

July 23, 2013

Asheboro City Council  
146 N. Church St.  
Asheboro, N.C. 27203

Dear Sirs and Madams:

This correspondence is to lend our opposition as neighbors to the rezoning of 1000 Park Drive to CUOI. Our concerns are the usual ones. They include additional traffic, increased noise, lowered property values, safety issues, and the commercial impingement upon our residential neighborhood.

Please consider our input when this matter is decided.

Sincerely,



Joy Menius



John Menius

# Conditional Use Permit Staff Report

8/8/13 City Council

**CUP Case No.** CUP-13-11

## General Information

**Name** Glenn King  
**Address** 1000 N. Fayetteville Street  
Asheboro NC 27203  
**Phone** 736-6725  
**Pin #** 7751484500 and 7751484515  
**Location** 1000 Park Drive

**Requested Action:** Issue a Conditional Use Permit for an Office Development with Multi-uses (see RZ-13-11 for corresponding rezoning request).

**Existing Zone** R-15 **Existing Land Use** Undeveloped property  
**Size** 2.897 acres

## Applicant's Reason as stated on application

Professional Office Complex- See attached drawing - **Staff Note: The attached drawing refers to the site plan provided with the application.**

## Surrounding Land Use

**North** Low-Density Residential **East** Highway Right-of-way  
**South** Medium-Density Residential **West** Low-Density Residential

**Zoning History** **2006:** A rezoning application (RZ-06-19) for a CU B1 (District Only) was requested and denied on a portion of this property (Parcel 775148415- 2.17 acres). **2007:** A rezoning application to CUO&I and a CUP application for office development (RZ/CUP-08-05) was filed and withdrawn. **2008/2010:** Requests to rezone from R15 to CU O&I were denied. Therefore, the Conditional Use Permit requests filed concurrently with the rezoning were not considered (RZ-08-37 RZ-10-14)

**Growth Strategy Map** Adjacent Developed **Proposed L D P Map** Suburban Residential

## Legal Description

The property of B & G Properties, located at the 1000 Park Drive more specifically identified by Randolph County Parcel Identification Numbers 7751484515 and the parcel adjoining to the east, more specifically identified by Randolph County Parcel Identification Number 7751484500. These two parcels of land total 2.897 acres.

## Analysis

1. This request is made concurrently with a rezoning request of the property from R15 (Low-Density Residential) to CU-O&I (Conditional Use Office and Institutional).
2. The applicant proposes a 9,000 square foot one-story office structure with multiple office uses. A larger multiple use office structure was proposed in previous requests.
3. The applicant proposes one access driveway on Park Drive. No access driveway is proposed on North Park Drive.
4. The property is located within the US 220 Bypass Overlay District.
5. The site plan and building elevations comply with the requirements of the Zoning Ordinance, subject to approval of the US 220 Bypass Overlay District landscaping plan by the Planning Board.

## LDP Conformity Issues

# Conditional Use Permit Staff Report

8/8/13 City Council

See rezoning report.

CUP Case No. CUP-13-11

Page 2

**NOTE: Applicant shall certify to Council mailings to all adjoining property owners.**

## Staff Comments

### Suggested Conditions

(A) Existing significant vegetation if retained and in an appropriate location may count on a 1:1 basis towards meeting front yard landscaping requirements.

(B) This Conditional Use Permit shall not become effective unless and until the Applicant obtains the required approval from the Planning Board in accordance with Article 300A, Section 302A (US 220 Bypass Overlay Zone). If the Planning Board's review deems additional landscaping necessary to satisfy the provisions of the above Section 302A, the applicant shall submit a revised site plan to staff reflecting any requirements mandated by the Planning Board as part of this subsection for review and inclusion in the file without further review by City Council.

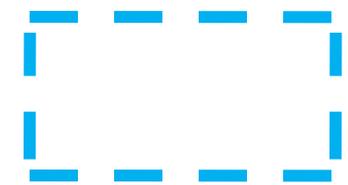
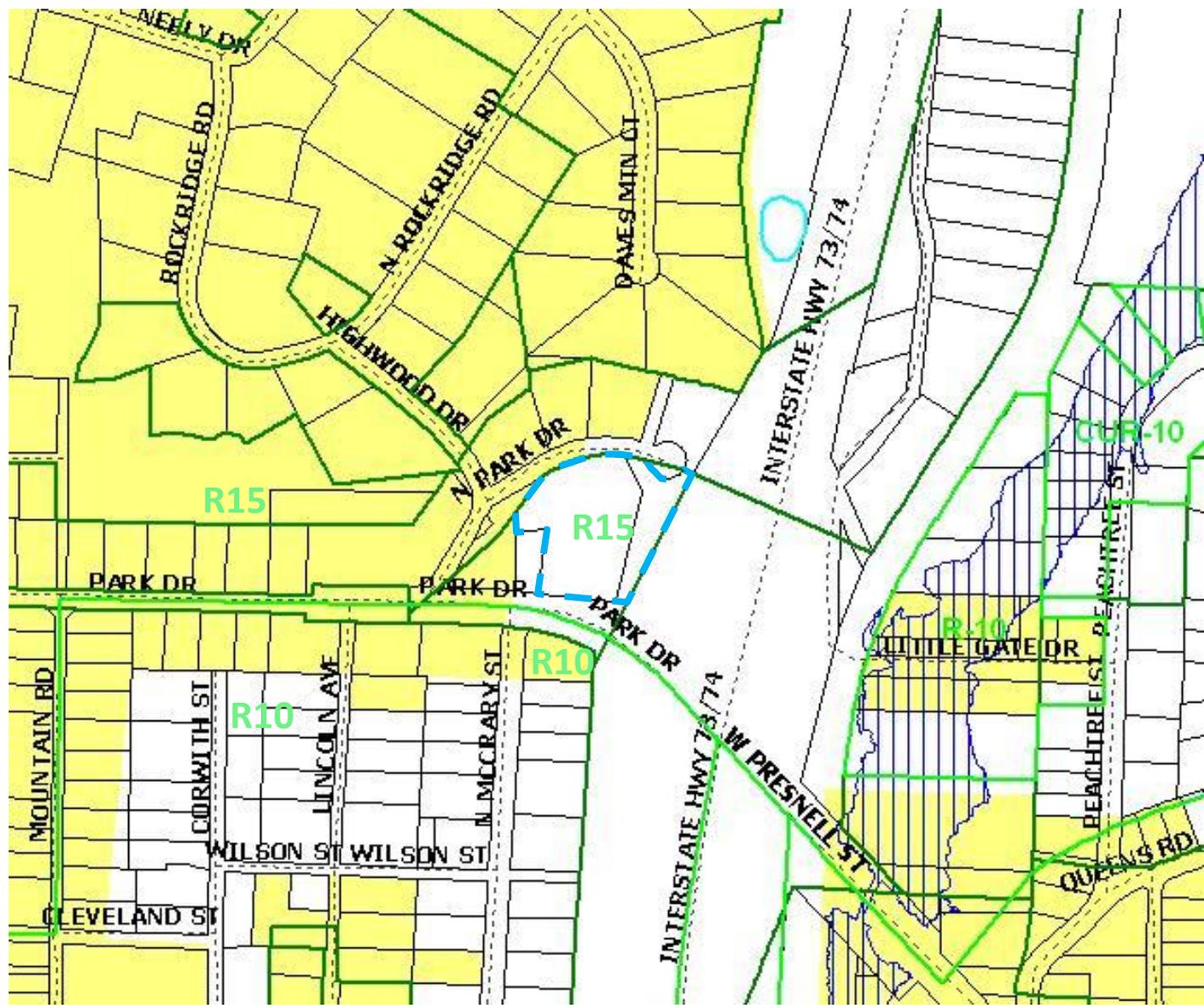
(C) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute, and deliver to the Zoning Administrator for recordation in the office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Conditional Use Permit in the chain of title for the Zoning Lot.

### For Conditional Use Permit Hearings:

**The following tests shall be found in favor of the applicant by the City Council.**

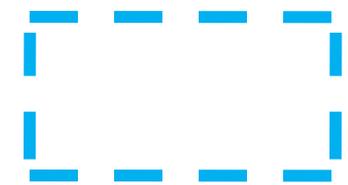
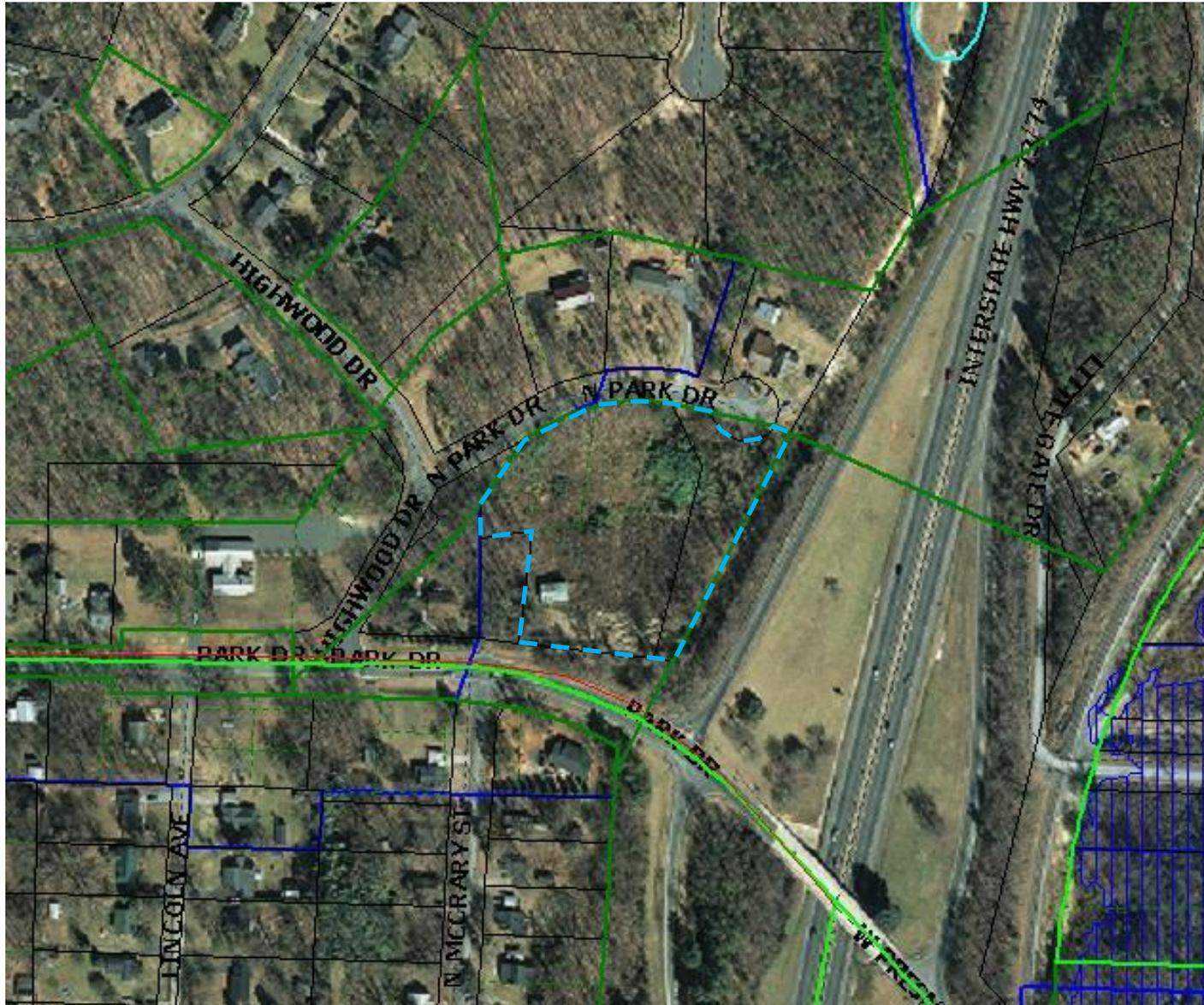
1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
2. That the use meets all required conditions and specifications of the Asheboro Zoning Ordinance.
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity,
4. That the location and character of the use if developed according to the plan as submitted and approved is in harmony with

# Zoning Map

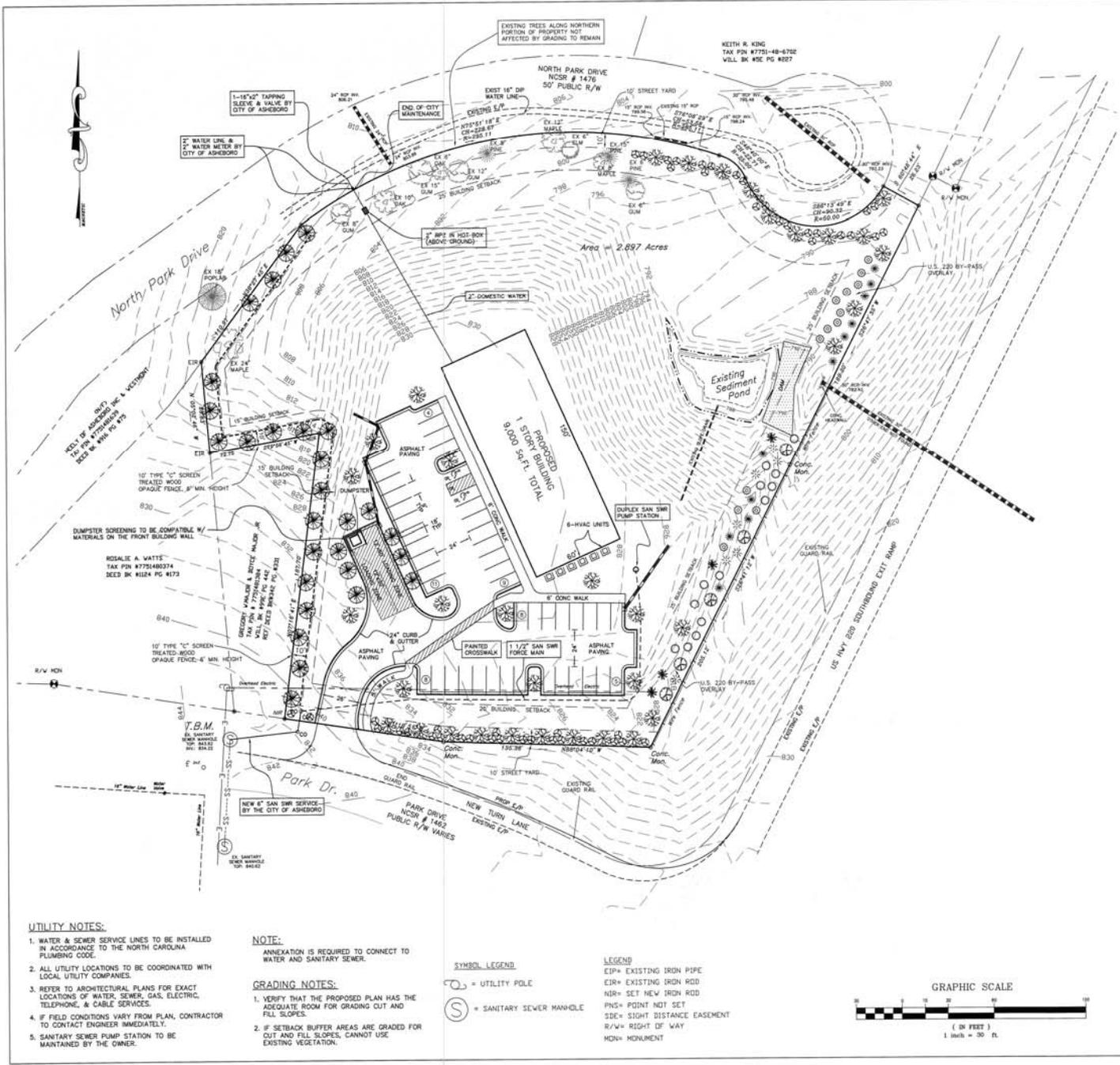


Subject  
Property

# Aerial Map



Subject  
Property



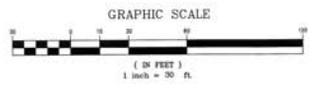
- CITY OF ASHEBORO NOTES**
- 1) PARKING & LOADING: TOTAL NUMBER OF PARKING SPACES = 9000/200=45 SPACES (INCLUDES 5 HANDICAP) REQUIRED BY SECTION 400-1.
  - 2) PAVING: PAVED PARKING SHALL BE 4" ABC 2" 1-2 (MIN) ASPHALT AND SHALL BE IN COMPLIANCE WITH SECTION 408-E.
  - 3) NOISE: NOISE FROM THE PROPOSED DEVELOPMENT SHALL MEET SECTION 317A.
  - 4) GRADING: GRADE SEPARATION OF BUILDING AND PARKING AREAS SHALL BE REQUIRED BY SECTION 409 B.1. (4"MIN).
  - 5) WATER & SEWER: WATER & SEWER SHALL BE PROVIDED FROM THE CITY OF ASHEBORO UTILITY SYSTEM.
  - 6) LIGHTING: ALL AREA LIGHTING SHALL BE DIFFUSED TYPE DESIGNATED TO LIMIT THE FOOT CANDLES AT ALL PROPERTY LINES TO A VALUE NOT TO EXCEED 2.0 FOOT-CANDLE AT THE LOT LINE AND OTHER REQUIREMENTS OF 317A.
  - 7) SIGNS: LOCATION AND SIZE OF ANY SIGNS WILL BE DETERMINED BY OWNER IN ACCORDANCE WITH ARTICLE 500.
  - 8) BUFFER: BUFFER AS PER ARTICLE 300A AND 308A.
  - 9) LANDSCAPING: LANDSCAPING AS REQUIRED BY SECTION 308 WITHIN THE FIRST 10 FEET OF ANY REQUIRED FRONT YARD AND 409 B.2 IN PARKING LOTS.
  - 10) SCREENING OF MECHANICAL EQUIPMENT: MECHANICAL EQUIPMENT SHALL BE SCREENED AS PER ARTICLE 306A. DUMPSTER ENCLOSURE TO MATCH BUILDING MATERIAL.
  - 11) SCREENING OF SOLID WASTE AREAS: SOLID WASTE AREAS SHALL COMPLY WITH ARTICLE 307A.
  - 12) PERFORMANCE STANDARDS: AS PER SECTION 317A.
  - 13) THIS AREA IS NOT LOCATED WITHIN ANY KNOWN FLOOD ZONE OR WATERSHED AREA.

- GENERAL SITE NOTES**
- 1) BOUNDARY AND TOPOGRAPHIC SURVEY BY DAVID WARD SURVEYING DATED OCT. 16, 2007.
  - 2) DEED REFERENCE: D.B. 2047 PG. 952, D.B. 2047 PG. 954, P.B. 113 PG. 72.
  - 3) TOTAL SITE AREA: 2.897 ACRES IS SUBJECT TO CONDITIONAL USE PERMIT. (PIN 7751484500 = 2.18 AC. PIN 7751485415 = 0.68 AC.)
  - 4) ALL BEARINGS ARE GRID BEARINGS.
  - 5) IRON PIPES AT ALL CORNERS UNLESS OTHERWISE NOTED.
  - 6) CURRENT ZONING: R-15
  - 7) PROPOSED ZONING: CU-O
  - 8) EXISTING LAND USE: RESIDENTIAL, VACANT
  - 9) PROPOSED LAND USE: OFFICE
  - 10) UNDERGROUND UTILITIES, WHERE DISCERNABLE BY SURFACE APPURTENANCES (MANHOLES, CATCH BASINS, VALVES, ECT.), ARE SHOWN PER INFORMATION OBTAINED FROM ENGINEERING PLANS, UTILITY ENTITIES, SITE PLANS & OTHERS. THEY SHOULD BE CONSIDERED APPROXIMATE.
  - 11) SHOULD EXISTING CONDITIONS DIFFER FROM WHAT IS SHOWN ON THESE PLANS, CONTACT ENGINEER IMMEDIATELY. ADDITIONAL WORK PERFORMED WITHOUT OWNERS, ENGINEERS & ARCHITECTS KNOWLEDGE & APPROVAL WILL BE DEEMED INCIDENTAL WORK WITH NO EXTRA PAYMENTS MADE.
  - 12) LANDSCAPE REQUIREMENTS PER CITY OF ASHEBORO STANDARDS.

- UTILITY NOTES:**
1. WATER & SEWER SERVICE LINES TO BE INSTALLED IN ACCORDANCE TO THE NORTH CAROLINA PLUMBING CODE.
  2. ALL UTILITY LOCATIONS TO BE COORDINATED WITH LOCAL UTILITY COMPANIES.
  3. REFER TO ARCHITECTURAL PLANS FOR EXACT LOCATIONS OF WATER, SEWER, GAS, ELECTRIC, TELEPHONE, & CABLE SERVICES.
  4. IF FIELD CONDITIONS VARY FROM PLAN, CONTRACTOR TO CONTACT ENGINEER IMMEDIATELY.
  5. SANITARY SEWER PUMP STATION TO BE MAINTAINED BY THE OWNER.

- NOTE:**  
ANNEXATION IS REQUIRED TO CONNECT TO WATER AND SANITARY SEWER.
- GRADING NOTES:**
1. VERIFY THAT THE PROPOSED PLAN HAS THE ADEQUATE ROOM FOR GRADING OUT AND FILL SLOPES.
  2. IF SETBACK BUFFER AREAS ARE GRADED FOR CUT AND FILL SLOPES, CANNOT USE EXISTING VEGETATION.

- SYMBOL LEGEND**
- = UTILITY POLE
  - ⊙ = SANITARY SEWER MANHOLE
- LEGEND**
- EIP = EXISTING IRON PIPE
  - EIR = EXISTING IRON ROD
  - NIR = SET NEW IRON ROD
  - PNS = POINT NOT SET
  - SDE = SIGHT DISTANCE EASEMENT
  - R/W = RIGHT OF WAY
  - MON = MONUMENT

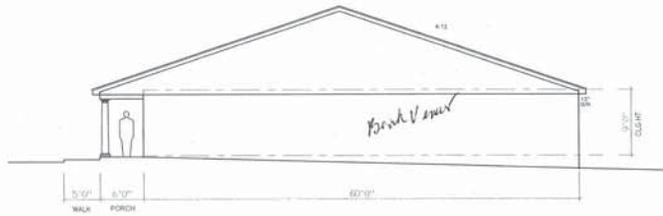


Summy Engineering Associates, PLLC  
 Engineers - Land Planning - Consulting  
 F.O.B. # 2008  
 Asheville, NC 28804  
 Phone: 828.232.9707 Fax: 828.232.9722  
 Email: summy@summy.com

No.	Date	Revision

PRELIMINARY SITE PLAN  
**KINGS COMMONS**  
 ASHEBORO TOWNSHIP - RANDOLPH COUNTY - NORTH CAROLINA

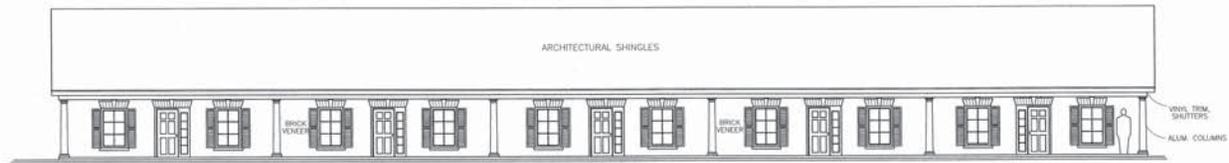
Scale	1" = 50'
Date	MM/DD/YYYY
Drawn By	JK
Checked By	(initials)
Plot No.	E-2404
Sheet No.	



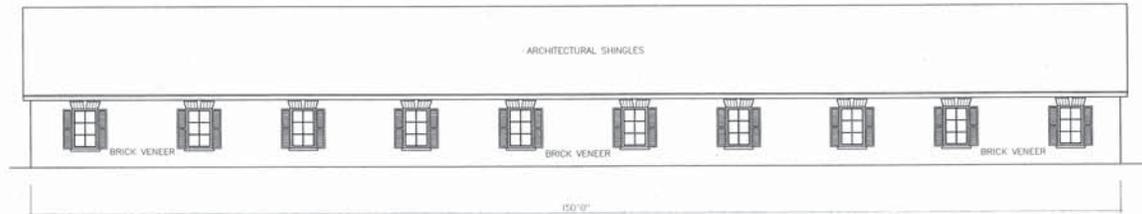
LFT. SIDE ELEVATION



RT. SIDE ELEVATION



FRONT ELEVATION



REAR ELEVATION

KING COMMONS  
EXTERIOR ELEVATIONS

PLANS FOR:  
GLENN KING CONSTRUCTION  
1000 N FAYETTEVILLE ST.  
ASHEBORO, NC 27203  
(336)625-0853

DRAWN BY:  
DESIGNIT SOLUTIONS  
PAULA YORK  
729 UMWARRE ST.  
ASHEBORO, NC 27203  
(336)683-0411

DATE:  
7/2013

SCALE:  
1/8" = 1'-0"

1 of 1



**RZ/CUP-13-12 Request for Text Amendments to the Zoning Ordinance  
regarding kennels**

(Gary Hall, President, Randolph County Society for Prevention of Cruelty to Animals (SPCA))

**Planning Board Recommendation and Staff Report**

## Planning Board Recommendation & Comments to City Council

**NOTE: Have applicant Certify to Council mailings to all adjoining property owners.**

**Case #** RZ-13  
-12

**Date** 7-8-2013 PB

**Applicant** Gary Hall, President- Randolph County SPCA

**Legal Description**

Text Amendments to the Zoning Ordinance (Note 21 to Table 200-2- Table of Uses) concerning setback requirements for animal exercise areas at kennels.

**Requested Action** See legal description above

**Existing Zone** N/A

**Land Development Plan** See Staff  
Report

**Planning Board Recommendation**

Approve

**Reason for Recommendation**

The Planning Board concurred with staff reasoning

**Planning Board Comments**

## Rezoning Staff Report

RZ Case # RZ-13-12

Date 7/8/13 PB

8/8/13 CC

### General Information

**Applicant** Gary Hall

**Address** 160 North Park Street

**City** Asheboro NC 27203

**Phone** 336-328-0077

**Location** N/A

**Requested Action** Amend Notes to Table 200-2, Note 21 concerning kennels, specifically concerning the setback requirements for exercise areas.

**Existing Zone** N/A

**Existing Land Use** N/A

**Size** N/A

**Pin #** N/A

### Applicant's Reasons as stated on application

We believe that Notes to Table 200-2, Note 21 should have been intended for residential rather than industrial. Noise ordinances have been modernized since the adoption of standards for kennels. Requirements for kennels need to be updated.

### **Surrounding Land Use**

**North** N/A

**East** N/A

**South** N/A

**West** N/A

### **Zoning History**

### **Legal Description**

Amend Notes to Table 200-2 (Note 21) specifying the minimum setback of animal exercise areas of kennels from lot lines.

### **Analysis**

1. The applicant is proposing an amendment to Notes to Table 200-2, Note 21, which contains supplemental regulations for kennels. A kennel is defined by Article 1100 as *an establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming breeding, boarding, training, or selling of animals is conducted as a business.*
2. The current regulation states that "exercise areas shall observe a setback of 200 feet from any lot lines", which currently applies to all zoning districts.
3. The applicant is proposing an amendment to require this 200' setback only when a kennel is adjacent to residentially zoned property lines.
4. Other provisions of the zoning ordinance (i.e. Performance Standards) address external effects that are likely to be present when outdoor animal exercise areas exist at kennels. Provisions in the zoning ordinance and other ordinances (City Code, County Animal Control Ordinance that applies in the City limits) address noise, containment (of animals), dangerous animals, and sanitary conditions and animal welfare at kennels.

# Rezoning Staff Report

RZ Case # RZ-13-12

Page 2

## Consistency with the 2020 LDP Growth Strategy designations

*In reviewing this request, careful consideration is given to each Goal and Policy as outlined in the Land Development Plan. Some Goals and Policies will either support or will not support the request, while others will be neutral or will not apply. Only those Goals and Policies that support or do not support the request will be shown.*

**Growth Strategy Map Designation** N/A

**Proposed Land Use Map Designation** N/A

**Small Area Plan** N/A

## LDP Goals/Policies Which Support Request

2.1.1 The Zoning Ordinance will periodically be reviewed to ensure that the specific regulations for each Zoning District are aligned with the desired character and focus of each district.

**LDP Goals/Policies Which Do Not Support Request**

**Recommendation**

Approve

**Reason for Recommendation**

The setback provisions for kennels were in place prior to 1993, when Performance Standards to address noise and other negative external effects from kennels and other uses, was adopted in the zoning ordinance. Additionally, as stated in the analysis, other provisions, such as the Randolph County Animal Control Ordinance are better equipped to address issues related to the management of animals. Staff concurs with the applicant's proposal to leave the setback provision for animal exercise areas in place when kennels are adjacent to residentially zoned properties as an additional safeguard to protect residential property owners and occupants from negative external effects of kennels.

**Evaluation of Consistency with Adopted Comprehensive Plans/Reasonableness and Public Interest**

Considering these factors, staff believes that the proposed text amendments are supported by the Land Development Plan and are therefore in the public interest in supporting a reasonable use of property.

Applicant Proposal (underlined text denotes new text):

Notes to Table 200-2 (Note 21- Supplemental Regulation for Kennels)

21. All activities, with the exception of animal exercise areas, shall be conducted within an enclosed, soundproofed building. Exercise areas shall observe a 200 foot setback from any residentially zoned lot lines. The disposal methods for wastes generated shall be reviewed and approved by the appropriate Department of Health. No noise levels above surrounding ambient levels shall be detectable at the zoning lot boundaries of the lot containing the kennel. No odors greater than ambient odors shall be detectable at the zoning lot boundaries of the lot containing the kennel.



**SUB-00-02: Request for Final Plat Certification**

(Vuncannon Properties, Phase II: Mike Vuncannon)

**Planning Board Recommendation and Staff Report**

**SUBDIVISION STAFF REPORT**  
Final Plat

**CASE #** SUB-00-02

**Date** 10/1/2012 PB;  
10/4/2012 CC

**GENERAL INFORMATION**

**Subdivision Name** McDowell Road Commercial Park (AKA Vuncannon Properties)  
**Requested Action** Preliminary Plat Request  
**Applicant** Vuncannon Properties: c/o Mike Vuncannon  
**Address** 1110 Rockridge Road  
**Phone** 430-0263  
**Location** Curry Drive (off McDowell Road)

**PARCEL INFORMATION**

**PIN** 7750218633

**Size** 24.87 acres (+/-)

**Number of Lots** 3

**Average Lot Size** 7.92 acres (+/-)

**Existing Zoning** CUB2

**Existing Land Use** Institutional (under construction)/undeveloped commercial

**Surrounding Land Use**

**North** Residential

**East** US 220 Bypass/I-73/I-74

**South** Commercial and Office

**West** Residential

**LAND DEVELOPMENT PLAN**

**Growth Strategy Map** Primary Growth

**Proposed Land Use Map** Commercial

**Small Area Plan Map** Southwest

**Identified Activity Center?** No

**Development Issues**

1. The property is subject to a Conditional Use Permit, which restricts certain uses that are normally permitted in the B2 district.
2. A final plat has been recorded for Phase I of the property. Improvements for this phase have been installed.
3. A portion of the property is within the US Highway 220 Bypass Overlay Zone.
4. A zoning compliance permit has been issued for a health services use (PACE Center). Issuance of the permit was based on the entire acreage included in the subdivision.

**SUBDIVISION STAFF REPORT**  
Final Plat

**DEPARTMENT COMMENTS**

**Engineering**            Verification of As-Built Engineering and Plat Corrections are Pending

**Public Works**        Plat corrections and review of checklist items are pending.

**Planning**             Plat corrections are pending.

**Other**

**Staff Recommendation**        Approve pending staff approval of outstanding map and / or checklist items.

**Planning Board  
Recommendation**



# City Of Asheboro

Asheboro, North Carolina

*Street & Utility Inspection Division*

Phone: 626-1234

## Punch List

July 30, 2013

Mr. Michael VunCannon  
1110 Rock Ridge Rd.  
Asheboro, North Carolina 27203

Re: Pace Medical Center

Dear Mr. VunCannon:

We have performed an inspection of the referenced project and have determined that the items listed below remain to be completed and/or corrected.

### Water System

1. Install new valve box over valve at tie-in to existing water line (broken box).  
Raise valve box to finished grade, center over operating nut, clean out debris.  
Install concrete collar around valve box to City of Asheboro specifications.
2. Raise valve box at first Fire Hydrant to finished grade, center over operating nut, clean out debris. Install concrete collar to City of Asheboro specifications. Make sure valve is in open position, and hydrant is closed.
3. Raise valve box at second hydrant to finished grade and install concrete collar to City of Asheboro Specifications.
4. Valves for fire line (2); raise to finished grade, clean out debris, install concrete collar to C.O.A. specifications.
5. Valve at blow off; raise to finished grade, clean out debris, install concrete collar to C.O.A. specifications.
6. Blow off (end of the line); raise to finished grade, install concrete collar to C.O.A. specifications.

**Storm Sewer System**

1. Make sure all debris is cleaned out of all catch basins.

Please contact our office when this work is scheduled. If you have any questions, please contact me (336) 626-1234.

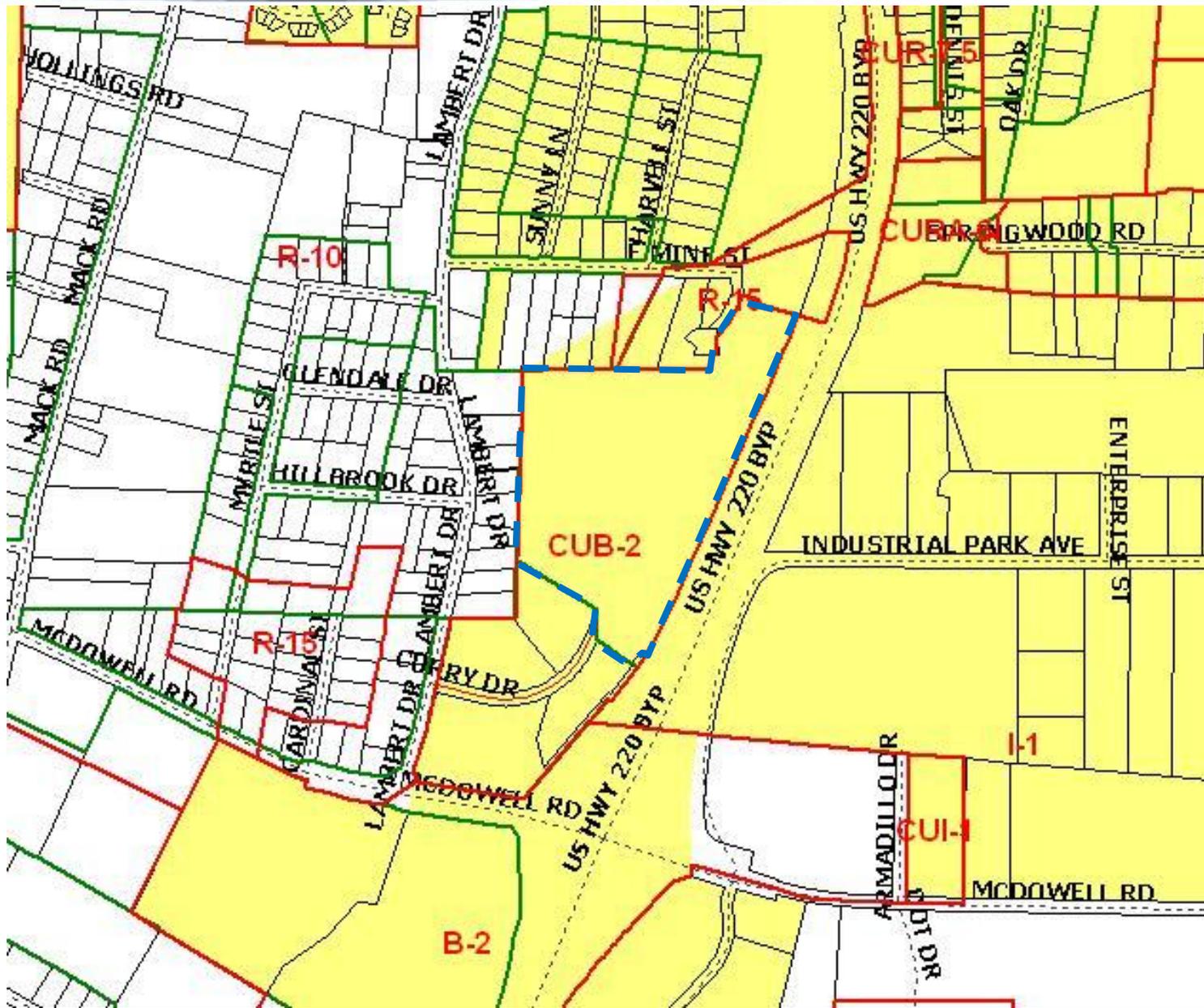
Sincerely,

A handwritten signature in black ink that reads "Nick Hylton". The signature is written in a cursive style with a long horizontal stroke extending from the end of the name.

Nick Hylton  
General Operations Supervisor

Cc: Michael Leonard, PE., City Engineer  
David Hutchins, Public Works Director

# Zoning Map



Subject  
Property

# Aerial Map



Subject  
Property

**ORDINANCE DIRECTING THE CHIEF BUILDING INSPECTOR TO DEMOLISH A PARTIALLY BURNED STRUCTURE LOCATED AT 832 PEACHTREE STREET**

**WHEREAS**, pursuant to Section 160A-426(a) of the North Carolina General Statutes, the inspectors in the City of Asheboro Building Inspections Department have affixed a sign to the exterior of a partially burned residence at 832 Peachtree Street in order to give notice of the dangerous character of the intact portion of the structure that is located on a parcel of land more specifically identified by Randolph County Parcel Identification Number 7751578743; and

**WHEREAS**, subsequent to the initiation of the condemnation process for this unsafe structure at 832 Peachtree Street (hereinafter referred to as the “Condemned Structure”), notice was given and two hearings were held on April 19, 2013, and May 8, 2013, respectively, in accordance with Section 160A-428 of the North Carolina General Statutes in order to determine if corrective action was to be ordered as a consequence of the failure of any person with an interest in the property to take corrective action in response to the posting of the unsafe structure notice; and

**WHEREAS**, on May 17, 2013, after considering the evidence heard during the above-referenced hearings, which were not attended by any owners or representatives of parties with a purported interest in the Condemned Structure, the Chief Building Inspector for the City of Asheboro (hereinafter referred to as the “Inspector”) issued, pursuant to Section 160A-429 of the North Carolina General Statutes, an order to remedy the hazardous conditions existing at 832 Peachtree Street by demolishing, removing, and properly disposing of the Condemned Structure on or before July 19, 2013; and

**WHEREAS**, the demolition order, which included findings, entered by the Inspector was not appealed by any party claiming an interest in the Condemned Structure, and, consequently, the Council adopts as its own these uncontested findings; and

**WHEREAS**, no remedial actions to abate the hazardous conditions associated with the Condemned Structure have been taken as of the date of the Council’s consideration of this matter on August 8, 2013;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Asheboro, North Carolina as follows:

**Section 1.** In accordance with Section 160A-432(b) of the North Carolina General Statutes, the Inspector is hereby ordered to cause the Condemned Structure located at 832 Peachtree Street, Asheboro, North Carolina 27203 to be demolished and the debris to be properly removed from the premises so as to abate the hazardous conditions currently existing on the lot.

**Section 2.** In accordance with Section 160A-432(b) of the North Carolina General Statutes, the costs incurred by the City of Asheboro in connection with the demolition project described above in Section 1 of this Ordinance shall be a lien against the real property upon which the cost was incurred.

**Section 3.** In accordance with Section 160A-432(b1) of the North Carolina General Statutes, the costs incurred by the City of Asheboro in connection with the demolition project described above in Section 1 of this Ordinance shall, with the exception of the owner's primary residence, also be a lien against any other real property of the owner of the Condemned Structure that is located within the city limits or within one mile of the city limits.

**Section 4.** This Ordinance shall become effective upon its adoption.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2013.

---

David H. Smith, Mayor

ATTEST:

---

Holly H. Doerr, CMC, NCCMC, City Clerk

**ORDINANCE DIRECTING THE CHIEF BUILDING INSPECTOR TO DEMOLISH A PARTIALLY BURNED STRUCTURE LOCATED AT 811 BREWER STREET**

**WHEREAS**, pursuant to Section 160A-426(a) of the North Carolina General Statutes, the inspectors in the City of Asheboro Building Inspections Department have affixed a sign to the exterior of a partially burned residence at 811 Brewer Street in order to give notice of the dangerous character of the intact portion of the structure that is located on a parcel of land more specifically identified by Randolph County Parcel Identification Number 7761243861; and

**WHEREAS**, subsequent to the initiation of the condemnation process for this unsafe structure at 811 Brewer Street (hereinafter referred to as the “Condemned Structure”), notice was given and two hearings were held on April 19, 2013, and May 8, 2013, respectively, in accordance with Section 160A-428 of the North Carolina General Statutes in order to determine if corrective action was to be ordered as a consequence of the failure of any person with an interest in the property to take corrective action in response to the posting of the unsafe structure notice; and

**WHEREAS**, on May 17, 2013, after considering the evidence heard during the above-referenced hearings, which were not attended by any owners or representatives of parties with a purported interest in the Condemned Structure, the Chief Building Inspector for the City of Asheboro (hereinafter referred to as the “Inspector”) issued, pursuant to Section 160A-429 of the North Carolina General Statutes, an order to remedy the hazardous conditions existing at 811 Brewer Street by demolishing, removing, and properly disposing of the Condemned Structure on or before July 19, 2013; and

**WHEREAS**, the demolition order, which included findings, entered by the Inspector was not appealed by any party claiming an interest in the Condemned Structure, and, consequently, the Council adopts as its own these uncontested findings; and

**WHEREAS**, no remedial actions to abate the hazardous conditions associated with the Condemned Structure have been taken as of the date of the Council’s consideration of this matter on August 8, 2013;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Asheboro, North Carolina as follows:

**Section 1.** In accordance with Section 160A-432(b) of the North Carolina General Statutes, the Inspector is hereby ordered to cause the Condemned Structure located at 811 Brewer Street, Asheboro, North Carolina 27203 to be demolished and the debris to be properly removed from the premises so as to abate the hazardous conditions currently existing on the lot.

**Section 2.** In accordance with Section 160A-432(b) of the North Carolina General Statutes, the costs incurred by the City of Asheboro in connection with the demolition project described above in Section 1 of this Ordinance shall be a lien against the real property upon which the cost was incurred.

**Section 3.** In accordance with Section 160A-432(b1) of the North Carolina General Statutes, the costs incurred by the City of Asheboro in connection with the demolition project described above in Section 1 of this Ordinance shall, with the exception of the owner's primary residence, also be a lien against any other real property of the owner of the Condemned Structure that is located within the city limits or within one mile of the city limits.

**Section 4.** This Ordinance shall become effective upon its adoption.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2013.

---

David H. Smith, Mayor

ATTEST:

---

Holly H. Doerr, CMC, NCCMC, City Clerk



STATE OF NORTH CAROLINA  
OFFICE OF THE GOVERNOR

PAT MCCRORY  
GOVERNOR

July 15, 2013

The Honorable David H. Smith, Mayor  
City of Asheboro  
Post Office Box 1106  
Asheboro, North Carolina 27204

Dear Mayor Smith,

I am pleased to announce that \$65,000 in financial assistance for a project located in your community has been approved by the State of North Carolina.

I congratulate the Asheboro City Council on its sponsorship of the Peninsula Park watershed protection at Lake Lucas project. The grant will provide financial assistance to the city for acquiring 33 acres of lake front property and developing a low impact water based recreation facility. Your efforts to protect a water supply while providing water based recreation opportunities in the city are to be commended.

The Division of Water Resources of the Department of Environment and Natural Resources will be contacting the city manager concerning the administrative requirements for the use of state funds for this project.

Sincerely,

A handwritten signature in black ink that reads "Pat McCrory". The signature is stylized with a large initial "P" and a long, sweeping underline.

Pat McCrory  
Governor of the State of North Carolina

cc: Mr. John Ogburn  
Mr. Chris Kennedy  
Sec. John E. Skvarla, III  
Rep. Pat Hurley  
Rep. Allen McNeill  
Sen. Rick Gunn  
Sen. Jerry Tillman

**RESOLUTION TO ADOPT THE CAPITAL IMPROVEMENT PLAN FOR THE  
SANITARY SEWER COLLECTION SYSTEM PERMIT**

**WHEREAS**, a capital improvement plan is a policy document created to assist in guiding decision concerning the short range and long range planning of future infrastructure capital expenditures; and

**WHEREAS**, a capital improvement plans is used as a comprehensive guide for policy decisions, and serves as a means to identify, prioritize, and plan for capital improvements; and

**WHEREAS**, the NCDENR Wastewater Collection System Permit requires adoption of a 3-5 year capital improvement plan; and

**WHEREAS**, City Staff have worked to develop a plan to address wastewater collection system needs over the next 5 years.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro, that the attached Exhibit A is hereby adopted as the Wastewater Collection System Capital Improvement Plan by this Resolution.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2013.

---

David H. Smith, Mayor

ATTEST:

---

Holly H. Doerr, CMC, NCCMC, City Clerk

**CAPITAL IMPROVEMENTS BUDGET**

DEPARTMENT: Systems Maint Dept      FUND-DEPT CODE: 30-870

DEPARTMENT: Systems Maint Dept	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	TOTALS
<b>CAPITAL COST PROJECTION</b>						
Service Truck			\$40,000.00			\$40,000
Pipe and fittings for Godwin Pump						\$0
Generator Lift Station # 16	\$60,000.00					\$60,000
Lift Station Flow Meter	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$12,500
Lift Station Flow Meter	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$12,500
Lift Station Flow Meter	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$12,500
Lift Station Flow Meter	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$12,500
Generator Lift Station # 12 w/Pump Upgrades		\$70,000.00				\$70,000
Upgrade LS # 3				\$1,000,000.00		\$1,000,000
Upgrade LS # 13 Force Main					\$250,000.00	\$250,000
<b>TOTAL COST PROJECTIONS</b>	\$70,000	\$80,000	\$50,000	\$1,010,000		\$1,470,000
<b>FUNDING SOURCES</b>						
General Fund						\$0
Water & Sewer Fund						\$470,000
Bonds to be Authorized						\$0
Installment Financing						\$1,000,000
Intergovernmental Funds						\$0
<b>TOTAL FUNDING SOURCES</b>	\$0	\$0	\$0	\$0		\$1,470,000

**CAPITAL IMPROVEMENTS BUDGET**

DEPARTMENT: SEWER MAINT DEPT.		FUND-DEPT CODE: 30-850				
<b>CAPITAL COST PROJECTION</b>						
DESCRIPTION	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	TOTALS
F 150 Pickup truck	\$28,000					\$28,000
CAMERA FOR CAMERA TRUCK	\$50,000					\$50,000
BACKHOE	\$100,000					\$100,000
WACKER TAMP		\$3,000				\$3,000
FLAT BED		\$70,000				\$70,000
OUTFALL MOWING TRACTOR		\$40,000				\$40,000
BUSH HOG		\$5,000				\$5,000
8" BYPASS PUMP			\$67,000			\$67,000
OUTFALL MOWING TRACTOR			\$40,000			\$40,000
BUSH HOG			\$5,000			\$5,000
F 150 Pickup truck			\$28,000			\$28,000
CAMERA FOR CAMERA TRUCK				\$50,000		\$50,000
FLATBED				\$70,000		\$70,000
VACTOR TRUCK					\$275,000	\$275,000
<b>TOTAL COST PROJECTIONS</b>	\$178,000	\$118,000	\$140,000	\$120,000	\$275,000	\$831,000
<b>FUNDING SOURCES</b>						\$831,000
General Fund						\$0
Water & Sewer Fund						\$431,000
Bonds to be Authorized						\$0
Installment Financing						\$400,000
Intergovernmental Funds						\$0
<b>TOTAL FUNDING SOURCES</b>	\$0	\$0	\$0	\$0	\$0	\$831,000