

**REGULAR MEETING
ASHEBORO CITY COUNCIL
THURSDAY, OCTOBER 9, 2003
7:00 PM**

This being the time and place for a Regular Meeting of the Mayor and City Council, a meeting was held with the following officials and members present:

- David Jarrell) –Mayor Presiding

- Talmadge Baker)
- Linda Carter)
- Nancy Hunter)
- John McGlohon) –Council Members Present
- Archie Priest)
- David Smith)
- Paul Trollinger)

- John N. Ogburn, City Manager
- Carol J. Cole, CMC, City Clerk
- Dumont Bunker, P. E., City Engineer
- Debbie Juberg, Finance Director
- Reynolds Neely, Planning Director
- Lynn Priest, CD Director
- John Evans, Code Enforcement Officer
- Jeff Sugg, City Attorney

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

1. Pledge of Allegiance and Invocation.

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend Cheryl Skinner, minister of youth and children of the First United Methodist Church, gave the invocation.

2. Approval of Minutes of Previous Meetings.

The minutes of the regular meeting and closed session of September 4, 2003, were approved as corrected by the city clerk.

3. Approval of Findings of Fact for CUP-03-37.

Upon motion by Mr. McGlohon and seconded by Mr. Priest, council voted unanimously to approve the following Findings of Fact for CUP-03-37:

Case No. CUP-03-37
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF ANDY B. ARCHIBALD FOR AN
AMENDMENT TO AN EXISTING CONDITIONAL USE PERMIT ADOPTING
A MODIFIED SITE PLAN THAT INCLUDES AND REFLECTS THE
ADDITION OF A FOYER, FREESTANDING COOLER, AND
GENERATOR TO THE ZONING LOT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE
AMENDMENT TO THE EXISTING CONDITIONAL USE PERMIT

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the regularly scheduled September meeting of the Council on September 4, 2003. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. Mr. Andy B. Archibald (hereinafter referred to as the "Applicant") properly applied with the Zoning Administrator in the City of Asheboro Planning Department for an amendment to an existing conditional use permit that was originally issued under file number RZ-85-3.

2. The requested amendment of the existing conditional use permit is sought by the Applicant in order to modify the existing site plan by adding and including a foyer, freestanding cooler, and generator to the zoning lot.

3. The Applicant's restaurant, America's Roadhouse, is located on the zoning lot in question.

4. The street address for America's Roadhouse is 818 East Dixie Drive.

5. America's Roadhouse is located upon land owned by the Applicant and his wife, Ms. Dreama Archibald.

6. Said land (hereinafter referred to as the "Lot") is more specifically identified by Randolph County Parcel Identification Number 7760176110.

7. The Applicant has utilized the Lot for a significant period of time as a commercial use that consists solely of the Applicant's restaurant business which primarily serves patrons on the premises and has some incidental take-out business.

8. The Lot consists of approximately 1.34 acres, and the Lot is zoned as a Conditional Use B2 zoning district.

9. The land uses to the north and west of the Lot are commercial uses, while residential land uses exist to the south. The land uses to the east of the Lot are a combination of residential and commercial uses.

10. The Lot's Conditional Use B2 zoning was originally granted by the Council on August 9, 1984, for this lot and for a significant amount of additional land located along East Dixie Drive.

11. The Growth Strategy Map indicates that said Lot is located in an area designated as a "Primary Growth" area, and the Proposed Land Development Plan Map designates the site as "Commercial."

12. East Dixie Drive is a major thoroughfare.

13. The Lot is served by all city services.

14. The character of the area is commercial along Dixie Drive with a residential neighborhood area to the south.

15. The Lot is subject to the provisions of a conditional use permit that was issued in 1985 to cover a range of uses over a large area of property located along East Dixie Drive. As a lot that is subject to this permit, this lot is authorized to have multiple commercial land uses on it, specifically including the existing use as a restaurant. However, due to the fact that the Applicant has now voluntarily come before the Council with this request for an amendment to the existing conditional use permit, the Lot is subject to the current zoning ordinance regulations and practice of the Council in regard to the issuance of conditional use permits as opposed to being governed solely by the regulations and practice of the Council in August 1984 when the original conditional use permit was issued.

16. In contrast to its practice in 1985 when the existing conditional use permit was issued, the Council no longer issues conditional use permits for such a broad range of land uses.

17. The conditions originally imposed on the Lot as a consequence of the conditional use permit issued under file number RZ-85-3 are as follows:

1. The use approved shall be as specified on the application.

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2. The request to rezone areas west of Arrowwood Road is granted only to a depth of 400 feet from the southern right-of-way of Dixie Drive as measured along the easternmost property line of parcel 57A (Lot 21 of Dixieland Acres #5). The southern boundary of the rezoned area shall be

formed by a line that intersects the eastern property line of parcel #57A and forms a right angle with this line.

3. Points of ingress and egress into Dixie Drive shall be limited to a total of five (5), three (3) to be allowed east of Arrowwood Road and two (2) to be allowed west of Arrowwood Road. In addition, one (1) access point shall be allowed on each side of Arrowwood Road and the existing access into Brookdale shall be allowed to remain. All points of access shall be approved by the City Engineering Department and the N.C. Department of Transportation.
4. Access roads and parking areas shall have a paved surface as approved by the City Engineering Department. Parking and loading requirements shall be met as specified in Article 400 of the Asheboro Zoning Ordinance. All parking areas and traffic lanes shall be clearly marked.
5. City water and sewer connections shall be approved by the City Engineering Department.
6. Before any site preparation or grading begins, a Soil Erosion and Sediment Control Plan shall be submitted to and approved by the City Engineering Department.
7. Any outdoor lighting shall be designed and located in such a manner that it will minimize the light overflow onto adjacent residential areas.
8. All signs shall be regulated by the B-2 sign regulations; except only one (1) ground sign shall be permitted for each use and no portable signs shall be permitted.
9. Storm drainage shall be provided. The storm drainage system shall be designed in such a manner that at no time during a 10-year storm will the rate (gallon/minute) of runoff exceed the rate that would normally be expected from the area before any development began. Such drainage system shall be certified that it meets this condition by a registered engineer and approved by the City Engineer.
10. If the proposed use requires a dumpster, it shall be screened and located at least twenty (20) feet from any residential property.
11. No structure shall be located within twenty (20) feet of any residential property.
12. A buffer shall be installed and maintained along all property boundaries that are contiguous to residential property. The buffer shall meet the following standards:
 - A. A chain link fence with opaque slats (of an aesthetically appealing color), at least eight (8) feet in height, shall follow all property boundaries contiguous to a residential zone.
 - B. On the residential side of such fence, an evergreen planting shall be provided. This planting shall be at least ten (10) feet in width and planted with such bushes and/or trees that it will form a dense evergreen hedge and can be expected to reach a minimum height of eight (8) within three (3) years.
 - C. The above shall be modified along the property lines of the Burrows and Phillips tracts as follows:
 - i. Along the Burrows and Overman tracts, a planting of evergreen trees currently exists. These trees shall be left undisturbed and intact for at least twenty (20) feet from the property line. The fence, as described above, shall be on the business zone side of these trees.
 - ii. Along the Phillips tract, evergreen trees and bushes shall be planted randomly on the slope of the embankment both to the rear and the side. At the top of the slope, a fence, as described above, shall be installed. Any existing trees between the fence and the toe of the bank should not be disturbed except as required in condition 13 below.
 - D. A ten (10) foot wide approved landscape area shall be installed and maintained along all property boundaries that are contiguous to Arrowwood Road, Mackie Avenue, and Brookdale Drive. This planting shall be continuous and unbroken except as where required for access and sight distance.
 - E. Both the fences and the plantings shall be in place before any Certificate of Occupancies will be issued.
 - F. Both the fence and plantings shall be continuously maintained.

G. The Planning Board shall have the authority to review the type of fence and plantings specified by the developer on his plans, and to require changes as necessary to ensure compliance with the intent of these conditions.

13. The toe of the bank along the lower half of Phillips' side yard shall be regarded as required for adequate drainage.

14. Plans shall be submitted to the Planning Department which shall show all proposed structures and uses in sufficient detail to determine if all the above conditions and specifications along with all requirements of the Zoning Ordinance will be satisfied. No land disturbing activity shall be allowed until such plans have received approval from the Asheboro Planning Board.

15. This conditional use rezoning shall be contingent upon amending the Land Development Plan.

***** Uses approved under RZ-85-3:**

Bakeries
Banks
Barber Shops
Beauty Shops
Candy & Ice Cream Stores
Contractors' Offices (no outdoor storage)
Drive In Restaurants (on the west side of Arrowwood Road only)
Drugstores
Drygoods Stores
Exhibition Building (merchandise display)
Flowers, Shrubbery, Trees –display and sale
Foods Stores, etc.
Garden Supply and Seed Stores
Government Office Buildings
Hardware Stores
Hobby Shops
Laundry and Dry Cleaning Service Counters
Libraries
Locksmith and Gunsmith
Medical and Dental Clinics
Motels and Hotels (only on the west side of Arrowwood Road)
Paint and Wallpaper Stores
Personal Service (barber shops, etc.)
Photographic Stores (including film development)
Restaurants (no drive in –only to the west of Arrowwood Road)
Retail Sales of Any Item Not Otherwise Prohibited by Law
Shoe Repair Shops
Tailor Shops
Theaters (in enclosed buildings only –only to the west side of Arrowwood Road)
Tobacco Shops
Toy Shops
Unified Business Development
Unified Housing Development
Indoor Commercial Recreation

18. In terms of the present case, the Applicant has submitted for review and consideration a modified site plan that shows as additions to the existing sit down eating establishment a four (4) foot by six (6) foot area for a generator, a five (5) foot by seven (7) foot area for a freestanding cooler, and a six (6) foot by eleven (11) foot foyer.

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19. Since the Lot is in a Conditional Use zoning district and subject to a Conditional Use Permit, the proposed additions listed in finding number eighteen (18) can not be built and installed until the Council approves in accordance with the provisions of the Asheboro Zoning Ordinance the modification of the Lot's existing site plan to reflect the proposed additions and changes.

20. The Applicant proposes to locate the foyer on the north side of the restaurant facing East Dixie Drive. The freestanding cooler and generator are to be located in an area that is currently simply a grassy area that is situated on the east side of the restaurant's main building and slightly to the rear (south) of said building.

21. During the hearing of this matter, questions were propounded by a residential neighbor about the noise and odor that could potentially be created by the proposed generator, but no evidence was introduced to show that the public health would be endangered in any material way by the proposed additions to the Lot.

22. The Applicant proposes to install the generator in an acoustic box designed to enable the generator to comply with the restrictions imposed by Section 317A of the Asheboro Zoning Ordinance. Section 317A of the zoning ordinance sets limitations on the amount of noise that may be received in a residential district at different times of the day from a commercial district. Furthermore, the Applicant and his attorney, Mr. Jonathan Megerian, Esq., testified that the Applicant's contract with the vendor of the generator specifies that the Applicant can return the generator to the vendor without penalty if the proposed generator fails to comply with the provisions of the Asheboro Zoning Ordinance regulating the amount of noise that may be received in a residential district.

23. The Applicant also testified that he will buy a new, not a used four (4) cylinder diesel generator that will meet all of the current federal and state laws and regulations pertaining to emissions from internal combustion engines.

24. The Applicant is purchasing the generator for the purpose of reducing the charges that he pays for electricity at his business and in order to preserve during power outages refrigerated food that he has stored at the restaurant.

25. Randolph Electric Membership Corporation (hereinafter referred to as "REMC") supplies electricity to the Applicant's business, and officials employed by REMC will control the generator by radio. During peak hours of usage for REMC, the generator will be activated by REMC in order to supply the restaurant with the needed electricity from the Applicant's own generator while reducing the load on REMC's system.

26. According to the testimony of the Applicant and Mr. Megerian, the peak hours for REMC are during the morning and afternoon, not late at night. Consequently, the Applicant anticipates that the generator will run two (2) to three (3) hours during the day and, unless there is power outage, not all during the late night and very early morning hours of the day.

27. Furthermore, unless electricity is needed to preserve food during a power outage, the restaurant would have no need for electricity from the generator during the late night hours because the restaurant closes at 9:00 o'clock p.m. each night.

28. The proposed generator and freestanding cooler are to be located on the restaurant's side of an existing fence line.

29. The testimony presented during the hearing indicated that the proposed location for the generator is, at least, two hundred (200) feet away from the nearest residence.

30. The Applicant and his attorney testified as to their belief that the proposed addition of a foyer, freestanding cooler, and generator will not injure to any degree the value of surrounding lots because these limited additions are designed to simply enhance in small ways the restaurant business that has been successfully functioning for a significant period of time on East Dixie Drive as a commercial use of the Lot.

31. The Applicant's proposed additional use of the Lot for a foyer, freestanding cooler, and generator appears from the evidence presented to the Council to comply with all of the other regulations of the Asheboro Zoning Ordinance and is in harmony with the Land Development Plan.

32. Due to the existing development on the Lot and the limited nature of the proposed additions, condition number 6 under file number RZ-85-3 is no longer needed.

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33. Condition number 15 under file number RZ-85-3 is no longer pertinent because the Land Development Plan has in fact been amended as originally contemplated by condition number 15.

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

CONCLUSIONS OF LAW

1. Pursuant to Section 1013 of Article 1000 of the Asheboro Zoning Ordinance, the Council must find that four (4) general standards have been met by the Applicant before an application for a conditional use permit or an amendment to an existing conditional 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 which the ordinance requires for the issuance of a conditional use permit, prima facie the applicant is entitled to the permit or, where a permit is already in existence, the amendment of the existing 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 the present case, the Applicant properly submitted an application for an amendment to an existing conditional use permit adopting a modified site plan for the Lot that includes and reflects the addition of a foyer, freestanding cooler, and generator to the Lot, and, thus, the matter was brought on for hearing before the Council in accordance with the Asheboro Zoning Ordinance.

4. The site plan submitted by the Applicant as part of his application for an amendment to the existing conditional use permit complies with the standard requirements for a site plan and all other applicable requirements of the Asheboro Zoning Ordinance.

5. Given the compliance of the site plan with the requirements of the Asheboro Zoning Ordinance and the totality of the evidence submitted by the Applicant, prima facie the Applicant is entitled to the requested amendment of the existing conditional use permit.

6. 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 conditional use permit. More specifically, the proposed use will not materially endanger the public health or safety, meets all required conditions and specifications, 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 above-listed and described application submitted by Andy B. Archibald for an amendment to an existing conditional use permit adopting a modified site plan that includes and reflects the addition of a foyer, freestanding cooler, and generator to the Lot is hereby approved on the condition that the Applicant and his heirs, executors, administrators, successors, and assigns meet and remain in compliance with the following conditions:

1. With the exception of conditions #6 and #15, all of the numbered conditions imposed under RZ-85-3 shall remain in effect.

2. The list of uses permitted on this specific lot, and only on this lot, under RZ-85-3 is hereby declared to be null and void. As of the date of this order, the only permitted use on this specific lot is Eating Establishments-Sit Down.

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3. All design standards for commercial developments shall be met.

4. With the exception of those periods of time when Randolph Electric Membership Corporation or any other electric utility company is unable to supply power to the Applicant's business due to the existence of a power outage, the generator indicated on the modified site plan shall not be run or operated between the hours of 9:00 o'clock p.m. and 7:00 o'clock a.m. on any day of the week.

Adopted this the 9th day of October, 2003.

ATTEST:

S/ David H. Jarrell
David H. Jarrell, Mayor

S/ Carol J. Cole
Carol J. Cole, City Clerk

4. **Appearance and Recognition of Guests and Citizens.**

Mayor Jarrell welcomed everyone in attendance.

5. Consent Agenda.

Upon motion by Mr. Baker and seconded by Mrs. Carter, council voted unanimously to approve the following Consent Agenda items:

- (a) Resolution to Auction Surplus Vehicles and Surplus Personal Property

80 RES 10-03

Resolution to Auction Surplus Vehicles and Other Surplus Personal Property

WHEREAS, the City of Asheboro proposes to sell surplus vehicles and other surplus personal property listed on the attached Schedule "A";

THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the City Manager to dispose of the aforesaid property at public auction as follows:

Date: Saturday, November 22, 2003
Time: 10:00 AM
Place: Round Building behind Municipal Building
146 North Church Street, Asheboro, NC
Terms of Sale: All property will be sold as is to the highest bidder at the sale upon receipt of cash or good check. Any property not removed within ten (10) days of date of sale will revert back to the City of Asheboro for disposal.

Adopted this the 9th day of October, 2003.

S/ Carol J. Cole
City Clerk

(Schedule "A" that is referenced in this resolution is attached to the original resolution on file in the city clerk's office.)

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- (b) Resolution Authorizing the Mayor to Enter Into a Municipal Agreement Between the North Carolina Department of Transportation and the City of Asheboro for Reinspection of Bridges on the Municipal Street System, With 80% Funding by the Federal Highway Administration for the Following Bridges:

- Greenvale Road and Bonkemeyer Drive Crossing Haskett's Creek
- Vance Street Crossing Penwood Branch
- Newbern Avenue Crossing a Tributary to Vestal Creek

81 RES 10-03

**Resolution
(For NCDOT Municipal Agreement on Reinspection of Bridges
on the Municipal Street System)**

WHEREAS, the City of Asheboro has requested the Department of Transportation to perform certain work under the Federal-Aid Highway Bridge Replacement and Rehabilitation Program, said work to consist of the reinspection and analysis of all public bridges on the Municipal Street System in the City of Asheboro; and

WHEREAS, the City of Asheboro proposes to enter into an agreement with the North Carolina Department of Transportation for said work wherein the Department of Transportation or a Consulting Engineering firm retained by the Department of Transportation will reinspect and

prepare the necessary reports for all public bridges on the Municipal Street System in accordance with the National Bridge Inspection Standards; and

WHEREAS, under the proposed agreement the Federal Highway Administration shall reimburse the Department of Transportation for eighty (80) percent of the cost of the work subject to compliance with all applicable federal policy and procedural rules and regulations; and

WHEREAS, under the proposed agreement the City of Asheboro shall reimburse the Department of Transportation for all costs of the work incurred by the Department of Transportation not paid by the Federal Highway Administration.

NOW, THEREFORE, BE IT RESOLVED that the agreement for the hereinabove referenced bridge inspection work is hereby formally approved by the City of Asheboro and the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the required agreement between the City of Asheboro and the Department of Transportation.

S/ Carol J. Cole
 Clerk
 City of Asheboro, North Carolina

- (c) Ordinance to Amend the General Fund Airport Authority Budget Account Number 10-650.6600 to Provide 10% Matching Funds for State and Federal Grants Received to Widen the Airport Runway and Strengthen the Airport Runway, Taxiways and Apron.

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74 ORD 10-03

**ORDINANCE TO AMEND
 THE AIRPORT RUNWAY EXTENSION PHASE III FUND
 FY 2003-2004**

WHEREAS, The City of Asheboro has received additional grant funds, and revenues and expenditures have changed from the amounts shown in the Airport Runway Extension Phase III Fund, and;

WHEREAS, the City Council of the City of Asheboro desires to amend the Budget as required by law;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA: that the following Budget revisions are approved:

Section 1: That the following revenue line items be increased (decreased):

<u>Account #</u>	<u>Revenues Description</u>	<u>Current Appropriation</u>	<u>Increase (Decrease)</u>	<u>New Appropriated Amount</u>
66-349-0800	Federal Grant FY 03-04	\$ -	\$ 150,000.00	\$150,000.00
66-367-1009	Cont. GF (Fed. Match) FY 03-04	\$ -	\$ 16,667.00	\$ 16,667.00
66-349-0900	State Grant FY 03-04	\$ -	\$ 500,000.00	\$500,000.00
66-367-1010	Cont. GF (State match) FY 03-04	\$ -	\$ 55,555.00	\$ 55,555.00
	TOTAL		\$ 722,222.00	

Section 2: That the following expense line items be increased (decreased):

<u>Account #</u>	<u>Expenses Description</u>	<u>Current Appropriation</u>	<u>Increase (Decrease)</u>	<u>New Appropriated Amount</u>
66-920-4500	Payment to Contractor	\$ -	\$ 166,667.00	\$166,667.00
66-930-4500	Payment to Contractor	\$ -	\$ 555,555.00	\$555,555.00
	TOTAL		\$ 722,222.00	

Adopted this the 9th day of October, 2003

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, City Clerk

- (d) Ordinance to Amend the General Fund Recreation Budget Account Number 10-620.7100 to Purchase Property Adjacent to McCrary Ball Park.

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75 ORD 10-03

**ORDINANCE TO AMEND THE
GENERAL FUND BUDGET
FY 2003-2004**

WHEREAS, the City of Asheboro desires to be in compliance with all generally accepted accounting principals, and;

WHEREAS, the budget as adopted requires amendment to reflect the purchase of land next to McCrary Ballpark and the local match to Federal and State Grants for the Airport Runway Extension Phase III project;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: That the following Revenue item be increased:

LINE ITEM	DESCRIPTION	AMOUNT
10-399-0000	Fund Balance Allocation	\$113,222

Section 2: That the following expenditure line items be increased:

LINE ITEM	DESCRIPTION	AMOUNT
10-620-7100	Capital Outlay - Land	\$ 41,000
10-650-6600	Contribution to: Airport Runway Extension Project Phase III	<u>\$ 72,222</u>
		\$113,222

Adopted this the 9th day of October 2003.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, City Clerk

- (e) Resolution to Make Quality Job Creation and Economic Recovery the Highest Priority of the United States of America and to Align Federal Funding and Policies in Support of Economic Growth and Opportunity.

82 RES 10-03

Resolution of the City Council of the City of Asheboro to make Quality Job Creation and Economic Recovery the Highest Priority of the United States of America and to Align Federal Funding and Policies in Support of Economic Growth and Opportunity

WHEREAS, declines in urban high technology and rural traditional manufacturing have led to a rapid increase in North Carolina's unemployment rate, making the state's ranking the 5th worst in the country for 2002, and;

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WHEREAS, United States trade policies have placed domestically manufactured products such as textiles, furniture, apparel, and electronics at a competitive disadvantage, and;

WHEREAS, these national trade policies have undermined the economic security of Randolph County by erosion of manufacturing and service jobs, resulting in many citizens unable to maintain their quality of life, and;

WHEREAS, the County of Randolph in the State of North Carolina has documented the loss of 3,742 manufacturing and service jobs as a result of business closings and permanent layoffs creating a current unemployment rate of 8.1 percent, and;

WHEREAS, an estimated 42,200 people in North Carolina have exhausted all their unemployment benefits without finding a job, and;

WHEREAS, justice, security, and domestic tranquility are directly linked to the economic well-being of the citizens of Randolph County, North Carolina, and;

WHEREAS, the constitution of the United States was established and ordained in order to promote the general welfare and secure the blessings of liberty to ourselves and our posterity, and;

WHEREAS, we have a responsibility to pass on to our children a country with a sound economic foundation, so that they have the same opportunities previous generations have enjoyed.

NOW THERE BE IT RESOLVED, that the City Council of the City of Asheboro unanimously encourages the Congress of the United States and specifically Senators John Edwards and Elizabeth Dole, Congressman Howard Coble and President George W. Bush to make quality job creation and economic recovery the highest priority of the United States of America and to align federal funding and policies in support of economic growth and opportunity

by enacting legislation and authorizing policies that protect and support the citizens of the County of Randolph in the State of North Carolina.

Adopted this 9th day of October, 2003.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S Carol J. Cole
Carol J. Cole, City Clerk

(f) 2003-2004 Canada Goose & Duck Hunting Season Dates at Lake Reese

Monday, November 10, 2003
Thursday, November 13, 2003
Wednesday, November 19, 2003
Friday, November 21, 2003
Wednesday, November 26, 2003
Friday, November 28, 2003
Wednesday, December 17, 2003
Saturday, December 20, 2003
Saturday, December 27, 2003
Thursday, January 1, 2004
Saturday, January 3, 2004
Wednesday, January 7, 2004
Saturday, January 10, 2004
Wednesday, January 14, 2004
Friday, January 16, 2004
Friday, January 23, 2004

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(g) Ordinance Prohibiting During Certain Hours of the Day the Stopping, Standing, and Parking of Vehicles in the Privately Owned Public Vehicular Area Located at 1136 N. Fayetteville Street

76 ORD 10-03

**AN ORDINANCE PROHIBITING DURING CERTAIN HOURS OF THE DAY
THE STOPPING, STANDING, AND PARKING OF VEHICLES IN THE PRIVATELY
OWNED PUBLIC VEHICULAR AREA LOCATED AT 1136 NORTH
FAYETTEVILLE STREET**

WHEREAS, Section 160A-301(d) of the North Carolina General Statutes provides that the city council may, by ordinance, prohibit the stopping, standing, or parking of vehicles during any specified hours in a privately owned public vehicular area when the owner or person in general charge and control of such an area requests in writing that such an ordinance be adopted; and

WHEREAS, Section 71.05 of the Code of Asheboro addresses the issue of the posting by city personnel of "No Parking" signs in order to prohibit parking during certain times on private property by stating as follows:

§ 71.05 POSTING OF NO PARKING AREAS ON PRIVATE PROPERTY.

(A) *Parking in violation of signs prohibited.* No person shall stop, leave standing, or park a motor vehicle in the area specified in this section in violation of posted signs, when signs are placed, erected or installed giving notice that stopping, standing or parking is regulated, prohibited, or prohibited during certain hours, in that space or area.

(B) *Locations designated.* The following locations are designated as "no parking" spaces: (Area and time of parking restrictions to be described--Schedule 17 of § 72.02).

(C) *Cost of signs.* The cost of erecting or installing signs, and the cost of all necessary signs as determined by the Chief of Police shall be paid for by the individual requesting regulations.

(D) *Enforcement.* The provisions of this section shall be enforceable in the same manner and in accordance with G.S. § 14-4; and

WHEREAS, Mr. Terry R. Hutchens of TCP Leasing, 8364-102 Six Forks Road, Raleigh, North Carolina, 27615 is the owner of a car wash, which is identified as Asheboro Laser Car Wash, with an associated privately owned public vehicular area that is located at 1136 North Fayetteville Street in Asheboro; and

WHEREAS, Mr. Hutchens has properly submitted a written request to the city council to have the parking of vehicles in said privately owned public vehicular area prohibited during the hours of 6:00 o'clock p.m. and 6:00 o'clock a.m. every day of the week:

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

Section 1. Pursuant to Section 160A-301(d) of the North Carolina General Statutes and Section 71.05 of the Code of Asheboro, the stopping, standing, or parking of vehicles within and upon Asheboro Laser Car Wash's privately owned public vehicular area located at 1136 North Fayetteville Street is hereby prohibited between the hours of 6:00 o'clock p.m. and 6:00 o'clock a.m. every day of the week.

Section 2. The prohibition specified in the immediately preceding paragraph shall not be deemed to be applicable to the stopping, standing, or parking of a vehicle for the exclusive purpose of actively engaging in the utilization of the washing and cleaning apparatus located on the property of Asheboro Laser Car Wash.

Section 3. The number and type of signs necessary to lawfully implement the provisions of this ordinance shall be erected or installed in a manner to be determined by the Chief of Police or his designee, and the entirety of the cost of erecting or installing the necessary signs shall be paid by Mr. Terry R. Hutchens of TCP Leasing as the applicant requesting the adoption of this ordinance.

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Section 4. The city clerk shall enter a description in Schedule 17 of Section 72.02 of the Code of Asheboro of the time of the parking restrictions imposed by this ordinance and a description of the public vehicular area subject to said parking restrictions.

Section 5. This ordinance shall become effective upon adoption.

Adopted this the 9th day of October, 2003.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, City Clerk

6. Public Hearing on the Allocation of Fiscal Year 2003 Local Law Enforcement Block Grant Funds for the Police Department.

Mayor Jarrell opened the public hearing on the aforementioned.

Captain S. A. Vuncannon reported that the Asheboro Police Department was awarded the Local Law Enforcement Block Grant for \$14,333 that it applied for in August. Before the police department can start spending the funds, an advisory board that is non-binding must be appointed to offer suggestions or opinions on the grant and a public hearing must be held. An advisory board has been appointed, which consists of Assistant District Attorney Sonja Holt, District Court Judge Scott Etheridge, Alice Smith of the Randolph County School Board, Iris Voss with the Family Crisis Center, and Captain S. A. Vuncannon.

Captain Vuncannon stated that the funds will be spent on a computer and accessories for a patrol car, which was agreed upon by the advisory board.

There being no comments from the public, Mayor Jarrell closed the public hearing.

7. Public Hearings on Zoning Matters.

Rezoning:

Mayor Jarrell opened the public hearing on the following request:

- (a) From I-2 Industrial to CU-B-3 Commercial (RZ/CUP-03-39): The property of Charles G. Willard located at 209 Summit Avenue and with frontage on Peachtree Street, totaling approximately 1.5238 acres, more specifically identified by Randolph County Parcel ID Numbers 7751546141 and 7751547311.

Mr. Neely was sworn in and submitted the site plan and elevation of building. The site plan

includes two structures for a total of 33,400 sq. ft. He described the property and stated that Summit Avenue and Peachtree Street are local streets. The site is served by all city services. The area is characterized by a mix of industrial, commercial, and residential. The site is not within normal walking distance to public parking areas. The Asheboro Zoning Ordinance states: "The B-3 Central Commercial District is intended to be applied to the traditional commercial, governmental, administrative and service core of Asheboro, commonly known as the central business district." The amended application includes a request for a Conditional Use Permit for Commercial developments with multi use or structures.

The planning board recommended denial of the B-2 rezoning but did not consider the amended request for a CU-B-3 use.

Mr. Neely stated that the staff has some suggested conditions for council's consideration if it finds in favor of the request.

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Mr. Jeff Passmore, who was representing Mr. Charles Willard, the applicant, was sworn in. Mr. Passmore stated that a Conditional Use Permit is being requested for the construction of medical offices. He addressed the four standard tests as follows: (1) The use will not endanger the public health or safety, as the medical offices will be regulated by the medical code. The structure will have ramps, rails, a circular drive around the building, sufficient egress and ingress, and there will be no dangerous products. (2) The use will meet all required conditions and specifications of the Asheboro Zoning Ordinance. Mr. Passmore noted that the medical code requirements are more stringent than the city's requirements. (3) The use will not substantially injure the value of adjoining or abutting property. In Mr. Passmore's opinion, the surrounding property value will be increased. The lot will be improved; it is close to the hospital; and there is ample parking.

Ms. Lori Lowe was sworn in and stated that she is the owner of rental property at 225 Summit Avenue. Mr. Willard has placed a buffer (fence) along the property, and she wants to make sure that he maintains the fence. Ms. Lowe also asked if the parking would interfere with her property.

Mrs. Toni Routh, a resident of 310 Peachtree Street, was sworn in and stated that she wants the huge berm removed. She does not feel that the property will accommodate 167 parking spaces. Mr. Passmore responded to Mrs. Routh's concerns and stated that they were going to move the berm and use the top soil. The lot has been measured and he feels that there is ample room for 167 parking spaces. They are trying to get parking off of summit Avenue. There will be three separate offices (two ends and a middle), and they are in the process of moving the logs (berm), which is part of the plan.

Council discussed the conditions that Mr. Neely suggested and amended Condition No. 1 to read "The use approved shall be a mixed use commercial development with multiple units and/or structures, limited to health practitioners and health related services."

Mayor Jarrell asked Mr. Passmore if he would accept the conditions as stated. Mr. Passmore replied that he would.

There being no further comments, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Smith and seconded by Mr. Priest, council unanimously ordained that the district rezoning to CU-B-3 be approved.

Upon motion by Mr. Trollinger and seconded by Mr. Smith, council voted unanimously to approve the Conditional Use Permit, with the conditions as stated by Mr. Neely and amended, based on the four standard tests being met per testimony by Mr. Passmore.

The conditions will be further detailed in the city attorney's Findings of Fact, Conclusions of Law, and Order Granting the Conditional Use Permit to be approved by council at its November meeting.

Conditional Use Permits:

Mayor Jarrell opened the public hearing on the following request:

- (a) Amend Existing Conditional Use Permit to Add/Relocate a Sign (CUP-03-40):
The property of Red Dirt LLC and Vuncannon Properties and Others located at 881 Curry Drive and other property off Curry Drive, totaling approximately 39 acres, more specifically identified by Randolph County Parcel ID Numbers 7750202308, 7750218632, 7750206537, 7750205951, and 7750202738.

Mr. Neely was sworn in and submitted the amended site plan. He described the aforementioned property and stated that the K & W Cafeteria is located on this property. The applicant is

requesting that the existing Conditional Use Permit be amended to add/relocate a sign. If council finds in favor of the request, Mr. Neely recommended that all conditions remain in effect for the entire property, except that for the property identified by PIN #7750202308; Condition #1 shall read: "The uses approved shall be Eating Establishments –Sit Down." Another condition for this request is that "An amended site plan be approved."

Mr. Mike Vuncannon, one of the property owners, was sworn in and stated that he wants to erect a sign on the property. Mr. Vuncannon addressed the four standard tests. The sign will meet all required conditions and specifications of the Asheboro Zoning Ordinance. The sign will not

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endanger the public health or safety or injure the value of adjoining or abutting property. The sign will be in harmony with the area.

Mayor Jarrell asked Mr. Vuncannon if he accepted the conditions as stated by Mr. Neely. Mr. Vuncannon accepted the conditions.

There being no further comments nor opposition, Mayor Jarrell closed the public hearing.

Upon motion by Mr. McGlohon and seconded by Mr. Priest, council voted unanimously to approve the request, with conditions, based on the four standard tests being met per testimony by Mr. Vuncannon.

The conditions will be further detailed in the city attorney's Findings of Fact, Conclusions of Law, and Order Granting the Amendment to the Existing Conditional Use Permit to be approved by council at its November meeting.

Mayor Jarrell opened the public hearing on the following request:

- (b) Conditional Use Permit to Allow Eating Establishment, Walk-in/Carry-out (CUP-03-41):
The property of Reverend Barney L. Trogdon, Jr. located on Cross Street, totaling approximately .284 acre, more specifically identified by Randolph County Parcel ID Number 7761258757.

Mr. Neely was sworn in and submitted the site plan. He described the aforementioned property and stated that Loach and Cross Streets are local streets. The site is within the corporate limits and is served by all city services. The character of the area is residential. The request is for a Conditional Use Permit allowing an Eating Establishment, Walk-in/Carry-out. On October 7, 1982, said property was zoned CU-B-1 with a CU Permit for any B-1 use. The permit has expired.

Mr. Neely stated that the staff has some suggested conditions for council's consideration if it finds in favor of the request.

Reverend Barney Trogdon affirmed and stated that he bought the land from the city to establish a business. However, Reverend Trogdon was unable to pursue the business because of his ministry work, and the permit expired. He addressed the four standard tests as follows: (1) The use will not endanger the public health or safety. (2) The use will meet all required conditions and specifications of the Asheboro Zoning Ordinance. (3) The use will not injure the value of adjoining or abutting property. He and the church own the adjoining property, and he feels that the use will enhance the community. (4) The use will be in harmony with the area.

Mr. Neely stated the suggested conditions.

After council's discussion, it agreed to the six conditions as stated by Mr. Neely and added Condition No. 7 to read: "The hours of operation shall be from 6:00 AM to 11:00 PM."

Mayor Jarrell asked Reverend Trogdon if he accepted these conditions. Reverend Trogdon replied in the affirmative.

There being no further comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Upon motion by Mr. McGlohon and seconded by Mrs. Hunter, council voted unanimously to approve the request, with the conditions as stated, based on the four standard tests being met per testimony by Reverend Trogdon.

The conditions will be further detailed in the city attorney's Findings of Fact, Conclusion of Law, and Order Granting the Conditional Use Permit to be approved by council at its November meeting.

Special Use Permits:

Mayor Jarrell opened the public hearing on the following request:

- (a) Special Use Permit to Allow a Home Occupation (SUP-03-10): The property of Kenneth Shawn & Michelle S. Race located at 1028 Snowden Court, totaling approximately 1.2 acres, more specifically identified by Randolph County Parcel ID Number 7762511815.

Mr. Race withdrew his request after several of his neighbors expressed their opposition to the request.

Mayor Jarrell opened the public hearing on the following request:

- (b) Special Use Permit to Allow a Church in a Residential District (SUP-03-11): The property of Episcopal Church of the Good Shepherd located at 505 Mountain Road, totaling approximately 3.22 acres, more specifically identified by Randolph County Parcel ID Number 7751267022.

Mr. Neely was sworn in and submitted the site plan. He described the aforementioned property and stated that Mountain Road is a local street. The site is within the corporate limits and is served by all city services. The area is characterized by residential use. A church is presently on the site. The request is for a Church in a Residential District—to allow future additions.

Mr. Neely stated some suggested conditions for council's consideration if it finds in favor of the request.

Mr. Rob Reese, representative for the church, was sworn in and stated that the Episcopal Church of the Good Shepherd was built in 1937 out of Randolph County stone. The church was expanded in 1951 and again in 1976. The church wishes to add a 30' x 34' choir room onto the back of the church. Mr. Reese addressed the four standard tests. (1) The use will not endanger the public health or safety, as the use is not changing. (2) The use will meet all required conditions and specifications of the Asheboro Zoning Ordinance. The church will add 30 additional parking spaces. (3) The use will not injure the value of adjoining or abutting property. (4) The use will be in harmony with the area.

Mayor Jarrell asked Mr. Reese if he accepted the conditions as stated by Mr. Neely. Mr. Reese accepted the conditions.

There being no further comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Priest and seconded by Mrs. Hunter, council voted unanimously to approve the request, with the conditions as stated by Mr. Neely, based on the four standard tests being met as per testimony by Mr. Reese.

The conditions will be detailed in the city attorney's Findings of Fact, Conclusions of Law, and Order Granting the Special Use Permit to be approved by council at its November meeting.

8. Subdivisions.

Final Plat Approval for Sherwood Oaks Townhomes, Phase 1, Section 2 (SUB-01-5)

Mr. Neely submitted the final plat of the aforementioned subdivision, which is located on Sherwood Avenue, and stated that the planning board recommended approval of the final plat. The applicant has submitted an irrevocable Standby Letter of Credit for items that are not completed.

Mr. Jim Routh, developer, was present to answer any questions.

Upon motion by Mr. McGlohon and seconded by Mr. Baker, council voted unanimously to accept the recommendation from the planning board for approval.

9. Upcoming Events.

Mayor Jarrell announced the upcoming events as follows:

- (1) NCLM Annual Conference October 12-14 in Winston-Salem
- (2) Richard Petty Museum Opening, October 17, 10:00 AM in Randleman
- (3) Veterans Parade, November 11, 5:00 PM, Church Street to end at Cox Street

10. Public Works and Finance & Public Safety Matters.

No official meetings were held.

There being no further business, the meeting was adjourned at 8:55 PM.

Carol J. Cole, CMC, City Clerk

David H. Jarrell, Mayor

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