

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
THURSDAY, MAY 8, 2003  
7:00 PM**

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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
- Wendell Holland, Zoning Administrator
- 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. Mark Hall, associate pastor of the First Baptist Church, gave the invocation.
  
- 2. Appearance and Recognition of Guests and Citizens.**  
  
Mayor Jarrell welcomed everyone in attendance and recognized Boy Scout Troops 501 and 527.
  
- 3. Approval of Minutes of Previous Meetings.**  
  
The minutes of the regular meeting and closed session of April 10, 2003, and special meeting and closed session of April 15, 2003, were approved as presented.
  
- 4. Approval of Findings of Fact for CUP-03-27.**  
  
Upon motion by Mr. McGlohon and seconded by Mrs. Carter, council voted unanimously to approve the following Findings of Fact for CUP-03-27:

Case No. CUP-03-27  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF SCHWARZ PROPERTIES, L.L.C.  
FOR A CONDITIONAL USE PERMIT ALLOWING AN INDUSTRIAL  
DEVELOPMENT WITH MULTIPLE USES AND/OR STRUCTURES  
  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE  
REQUESTED CONDITIONAL USE PERMIT

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THIS MATTER was commenced by the filing of an application by Schwarz Properties, L.L.C. to have its property located at 414 East Dixie Drive in Asheboro, North Carolina rezoned to a Conditional Use I2 zoning district and to obtain a Conditional Use Permit allowing an industrial development with multiple uses and/or structures on the property. This matter came before the Asheboro City Council, hereinafter referred to as the "Council," for hearing during the Council's Minutes  
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regularly scheduled meeting on April 10, 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. The applicant, Schwarz Properties, L.L.C., hereinafter referred to as the "Applicant," properly submitted an application to have certain property owned by it and located at 414 East Dixie Drive in Asheboro, North Carolina rezoned to a Conditional Use I2 zoning district. The application further requested the issuance of a Conditional Use Permit that would allow an industrial development with multiple uses and/or structures on the property.

2. The Applicant's property consists of approximately 13 acres of land, and the property is more specifically identified by Randolph County Parcel Identification Numbers 7750868293, 7750859704, and 7750865352.

3. Said property is currently located in a B2 zoning district, and the existing land use on the property is classified as industrial and commercial.

4. The surrounding land uses consist of industrial and commercial uses to the north and south of the property that is the subject of this application for a conditional use permit. Commercial land uses are found to the east and west of said property, hereinafter referred to as the "Zoning Lot."

5. The Growth Strategy Map designates the area in question as a "Primary Growth" area, and the Proposed Land Development Plan Map identifies the area in question as "Commercial."

6. East Dixie Drive is a major thoroughfare.

7. Third Street is a local street.

8. Atlantic Avenue is a local street.

9. The Zoning Lot fronts on East Dixie Drive and is bisected by Third Street and Atlantic Avenue.

10. The Zoning Lot has historically been a manufacturing site with multiple means of ingress and egress.

11. The Zoning Lot was rezoned from an I2 zoning district to a B2 Commercial zoning district on March 4, 1999, after the previous owners made a request for said rezoning.

12. Prior to addressing the question of the issuance of the requested Conditional Use Permit, the Council adopted the recommendation of the Planning Board and rezoned the Zoning Lot from a B2 Commercial zoning district to a Conditional Use I2 Industrial zoning district.

13. The Applicant has submitted a proper application, including a site plan, for a Conditional Use Permit and has worked with the Planning Department's staff to ensure the compliance of the Applicant's proposal with the regulations of the Asheboro Zoning Ordinance. Furthermore, the Applicant's representative testified during the hearing of this matter that the Applicant is prepared to accept reasonable conditions from the Council so as to ensure the Applicant's continued compliance with all of the City's ordinances and regulations.

14. The Applicant's representative testified that the building located on the Zoning Lot has been in existence for a considerable amount of time. The difference today is that multiple tenants are now utilizing the property as opposed to the previous single, large manufacturing occupant.

15. Prior to the demise of the previous manufacturing occupant, offices, manufacturing areas, and a factory outlet store were located on the Zoning Lot and worked together as part of a common manufacturing enterprise. In essence, multiple uses have existed on the Zoning Lot for a significant amount of time.

16. Multiple uses of this Zoning Lot continue today. However, a single Lessor now leases the property to multiple tenants with multiple uses.

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17. No testimony was presented in opposition to the Applicant's request.

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

## CONCLUSIONS OF LAW

1. The Council has concluded that the proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved. The site plan and other documentation submitted by the Applicant have led the Council to conclude that the overall proposal is designed in a manner that poses no material danger to the public health and safety.

2. The evidence received during the public hearing established that the proposed use does meet all of the required conditions and specifications of the Asheboro Zoning Ordinance.

3. No evidence was presented during the course of the hearing of this matter to indicate that the proposed use will substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicant's proposed 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.

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

## ORDER

The above-referenced application submitted by Schwarz Properties, L.L.C. for a Conditional Use Permit that would allow an industrial development with multiple uses and/or structures on the above-described property is hereby approved on the condition that the Applicant and its successors and assigns meet and remain in compliance with the following conditions:

1. The use approved shall be an industrial development with multiple uses and structures. The following specific uses shall not be permitted within the development:

- a. Adult Establishment;
- b. Amusement Park;
- c. Business Primarily Dealing in Sexually Explicit Materials;
- d. Circus, Carnival, Fair, Concerts Limited Duration;
- e. Correctional Facilities;
- f. Drinking Establishments;
- g. Gamerooms;
- h. Junkyards;
- i. Landfills –Clean Material;
- j. Landfills –Sanitary;
- k. Limited Duration Circus, Carnival, Fair, Concerts;
- l. Massagist;
- m. Recreation and Amusement Services Commercial;
- n. Signs, Off Premise Billboards and Poster Panel, etc.;
- o. Places of Assembly (Not Churches);
- p. Vehicle Towing Operation and Storage;
- q. Sales or Rental of Domestic Vehicles; and
- r. Sales or Rental of Heavy Vehicles.

2. The development shall be as per the site plan approved; however, said site plan shall be modified as necessary to reflect these conditions and shall be submitted to the Planning Department's staff for review and approval as being in compliance with these conditions.

3. Off street parking shall be provided in accordance with Article 400 of the Asheboro Zoning Ordinance.

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4. Signage shall be as permitted in Article 500 of the Asheboro Zoning Ordinance, except no roof signs shall be permitted.

5. Buffering and/or screening shall be installed and maintained as required by Article 304A of the Asheboro Zoning Ordinance.

6. Section 316A "Performance Standards for Industrial Districts" of the Asheboro Zoning Ordinance shall be met and maintained as specified by the Section.

7. Current front yard setbacks on the Dixie Drive side of the property shall be maintained for uses, accessories, parking, and additions.

Adopted this 8<sup>th</sup> day of May, 2003.

ATTEST:

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

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

**5. Approval of Findings of Fact for CUP-03-29.**

Upon motion by Mr. Baker and seconded by Mr. Priest, council voted unanimously to approve the following Findings of Fact for CUP-03-29:

Case No. CUP-03-29  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF JAMES SCALES FOR AN  
AMENDMENT TO AN EXISTING CONDITIONAL USE PERMIT IN ORDER TO  
ALLOW THE ADDITION OF A NEW STRUCTURE TO AN EXISTING SITE PLAN  
FOR AN INDUSTRIAL DEVELOPMENT WITH MULTIPLE USES AND/OR STRUCTURES

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING THE  
REQUESTED CONDITIONAL USE PERMIT

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THIS MATTER was commenced by the filing of an application by Mr. James Scales to have an existing Conditional Use Permit for the property located at 1947 North Fayetteville Street amended to allow an additional structure on a previously approved site plan. This matter came before the Asheboro City Council, hereinafter referred to as the "Council," for hearing during the Council's regularly scheduled meeting on April 10, 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. Prior to the hearing of this matter, Schwarz Properties, L.L.C. properly submitted an application to have certain property owned by it and located at 1947 North Fayetteville Street in Asheboro, North Carolina rezoned to a Conditional Use I2 zoning district. Additionally, the application further requested the issuance of a Conditional Use Permit that would allow an industrial development with multiple uses and/or structures on the property.

2. As indicated by an Order that was entered by the Council on January 9, 2003, the previous application under file number CUP-03-16 for a Conditional Use Permit for the property located at 1947 North Fayetteville Street was granted by this Council subsequent to the Council's decision to grant the requested rezoning of the property. The pertinent order issued under file number CUP-03-16 provides as follows:

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The . . . application submitted by Schwarz Properties, L.L.C. for a Conditional Use Permit that would allow an industrial development with multiple uses and/or structures on the property is hereby approved on the condition that the Applicant and its successors and assigns meet and remain in compliance with the following conditions:

1. The use approved shall be an industrial development with multiple uses and structures. The following specific uses shall not be permitted within the development:
  - s. Adult Establishment;
  - t. Amusement Park;
  - u. Business Primarily Dealing in Sexually Explicit Materials;
  - v. Circus, Carnival, Fair, Concerts Limited Duration;

- w. Correctional Facilities;
- x. Drinking Establishments;
- y. Gamerooms;
- z. Junkyards;
- aa. Landfills –Clean Material;
- bb. Landfills –Sanitary;
- cc. Limited Duration Circus, Carnival, Fair, Concerts;
- dd. Massagist;
- ee. Recreation and Amusement Services Commercial;
- ff. Signs, Off Premise Billboards and Poster Panel, etc.;
- gg. Places of Assembly (Not Churches);
- hh. Vehicle Towing Operation and Storage;
- ii. Sales or Rental of Domestic Vehicles; and
- jj. Sales or Rental of Heavy Vehicles.

2. The development shall be as per the site plan approved; however, said site plan shall be modified as necessary to reflect these conditions and shall be submitted to the Planning Department's staff for review and approval as being in compliance with these conditions.

3. Off street parking shall be provided in accordance with Article 400 of the Asheboro Zoning Ordinance.

4. Signage shall be as permitted in Article 500, except no roof signs shall be permitted.

5. Buffering and/or screening shall be installed and maintained as required by Article 304A.

6. Section 316A "Performance Standards for Industrial Districts" shall be met and maintained as specified by the Section.

7. Current front yard setbacks on the Fayetteville Street side of the property shall be maintained for uses and additions.

Adopted this 9<sup>th</sup> day of January, 2003.

3. Under file number CUP-03-29, Mr. James Scales filed an application to amend the above-referenced existing Conditional Use Permit by adding a structure to the site plan for the existing permit that was obtained by Schwarz Properties, L.L.C.

4. Section 1013 of the Asheboro Zoning Ordinance provides that any request for a Conditional Use Permit or an amendment to an existing conditional use permit "shall be accompanied by a site plan meeting all the requirements of Section 1005" of the Asheboro Zoning Ordinance.

5. Section 1005 of the Asheboro Zoning Ordinance provides that a site plan shall show the shape, size, and location of all structures already on or to be erected on a lot.

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6. During the hearing of this matter, Council learned that the applicant, Mr. Scales, previously submitted the site plan utilized to obtain the original Conditional Use Permit, but he did not provide proper site plans or building elevations with the proposed additional structure. Thus, without these documents, the Planning Department staff was not able to properly review the application.

7. Mr. Scales did not attend the hearing of this matter, and no one was present at the hearing to speak on behalf of the applicant. Furthermore, no request was received from Mr. Scales for a continuance of this matter.

8. Section 1013.2 of the Asheboro Zoning Ordinance specifies that the proposed use must meet all of the required conditions and specifications of the Asheboro Zoning Ordinance in order for the Council to properly grant a Conditional Use Permit.

9. Section 1013.7 of the Asheboro Zoning Ordinance requires the Council to apply the same standards to an application for an amendment to an existing Conditional Use Permit as were applied to the original application for the issuance of the existing Conditional Use Permit.

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

CONCLUSIONS OF LAW

1. The evidence received during the public hearing failed to establish that the proposed use meets all of the required conditions and specifications of the Asheboro Zoning Ordinance.

2. Therefore, the application by Mr. Scales for an amendment to the existing Conditional Use Permit must be denied.

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

ORDER

The above-referenced application submitted by Mr. James Scales under file number CUP-03-29 for an amendment to an existing Conditional Use Permit is hereby denied.

Adopted this 8<sup>th</sup> day of May, 2003.

ATTEST:

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

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

**6. Consent Agenda.**

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

- (a) Resolution for Designation of Applicant's Agent for North Carolina Division of Emergency Management

**DESIGNATION OF APPLICANT'S AGENT FORM**

<p><b>RESOLUTION</b>  <b>DESIGNATION OF APPLICANT'S AGENT</b>          North Carolina Division of Emergency Management</p>	
Organization Name (hereafter named Organization) <b>City of Asheboro</b>	Disaster Number: <b>FEMA 1448-D R-NC</b>
Applicant's State Cognizant Agency for Single Audit purposes (If Cognizant Agency is not assigned, please indicate):	
Applicant's Fiscal Year (FY) Start July 1, 2002	
Applicant's Federal Employer's Identification Number 56-6001167	
Applicant's Federal Information Processing Standards (FIPS) Number 151-02080-00	
<b>PRIMARY AGENT</b>	<b>SECONDARY AGENT</b>
Agent's Name John N. Ogburn III Organization City of Asheboro	Agent's Name Deborah P. Juberg Organization City of Asheboro
Official Position City Manager Mailing Address P.O. Box 1106 City, State, Zip Asheboro, NC 27204-1106	Official Position Finance Director Mailing Address P.O. Box 1106 City, State, Zip Asheboro, NC 27204-1106
Daytime Telephone 336-626-1201 ext 201	Daytime Telephone 336-626-1201 ext 247
Facsimile Number 336-626-1218 Pager or Cellular Number	Facsimile Number 336-626-1218 Pager or Cellular Number
<p>BE IT RESOLVED BY the governing body of the Organization (a public entity duly organized under the laws of the State of North Carolina) that the above-named Primary and Secondary Agents are hereby authorized to execute and file applications for federal and/or state assistance on behalf of the Organization for the purpose of obtaining certain state and federal financial assistance under the Robert T. Stafford Disaster Relief &amp; Emergency Assistance Act, (Public Law 93-288 as amended) or as otherwise available. BE IT FURTHER RESOLVED that the above-named agents are authorized to represent and act for the Organization in all dealings with the State of North Carolina and the Federal Emergency Management Agency for all matters pertaining to such disaster assistance required by the grant agreements and <b>the assurances printed on the reverse side hereof</b>. BE IT FINALLY RESOLVED THAT the above-named agents are authorized to act severally. PASSE D AND APPROVED this 8th day of May, 2003.</p>	
<b>GOVERNING BODY</b>	<b>CERTIFYING OFFICIAL</b>
City of Asheboro City Council	
Name and Title David H. Jarell, Mayor	Name Carol J. Cole
Name and Title	Official Position City Clerk
Name and Title	Daytime Telephone 336-626-1201 ext. 250
<b>CERTIFICATION</b>	
<p>I, Carol J. Cole (Name) duly appointed and City Clerk (Title) of the Governing Body, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the Governing Body of the City of Asheboro (Organization) on the 8th day of May, 2003.</p>	
Date: <u>  May 8, 2003  </u>	
Signature: _____	

- (b) Request by Reverend Joseph W. Mack, pastor of Saint Joseph Catholic Church, to temporarily close a portion of West Wainman Avenue between South Park Street and a point 200 feet west of South Park Street from 9:30 AM until 3:30 PM on Sunday, September 7, 2003, for church related activities.
- (c) Resolution requesting the NC Department of Transportation to include construction of sidewalks with the proposed widening of North Fayetteville Street between Old Liberty Road and the Asheboro City Limits at Caudle Road –NCDOT Project #U-3600 (Estimated cost to the City of Asheboro is approximately \$164,000 based on current policy and prices.)

60 RES 5-03

**Resolution Requesting the NC Department of Transportation  
to Include Construction of Sidewalks With the Proposed Widening  
of North Fayetteville Street (US 220 Business, NCDOT Project #U-3600)**

WHEREAS, the NC Department of Transportation (NCDOT) is proposing to widen North Fayetteville Street (US 220 Business) from Old Liberty Road (SR 2261) to Hwy. 311 Extension (SR 2270) designated in the Transportation Improvement Program as Project U-3600 scheduled for construction in 2007; and,

WHEREAS, the estimated cost of sidewalks added to the aforementioned project between Old Liberty Road (SR 2261) and the Asheboro City Limits at Caudle Road (SR 2123) is approximately \$545,000, with the cost to the City of Asheboro being approximately \$164,000, based on the current NCDOT participation policy and present day costs; and,

WHEREAS, for planning and design purposes, the NCDOT needs to know the City of Asheboro's position on including sidewalks in the proposed construction.

NOW, THEREFORE, BE IT RESOLVED by the Asheboro City Council that the City of Asheboro requests that sidewalks be included in the planning and design of Project U-3600, and that the City of Asheboro will consider the appropriation of funds as required.

Adopted this the 8<sup>th</sup> day of May, 2003.

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

ATTEST:

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

**7. Public Hearings on Zoning Matters.**

Mayor Jarrell opened the public hearing on the following request:

- (a) From Randolph County Zoning to R-15 Residential (RZ-03-31): The property of James Worth Heath located at 531 Boundary Drive, totaling approximately .9 acre, more specifically identified by Randolph County Parcel ID Number 7764307155.

Mr. Neely described the aforementioned property and stated that Boundary Drive and Old Castle Drive are local streets. The property has been annexed into the City of Asheboro. The property was previously within the jurisdiction of Randolph County. The City is required to consider a zoning classification for all properties annexed, unless such properties are already within a City zoning district.

The planning board recommended approval, as the zoning classification complies with the Land Development Plan Map.

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

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

Mayor Jarrell opened the public hearing on the following request:

- (b) From CU-R-10 Residential to R-40 Residential (RZ-03-32): The property of Golda L. Wicker located on Henley Country Road, totaling approximately 7.12 acres, more specifically identified by Randolph County Parcel ID Numbers 7772182330 and 7772182500.

Mr. Neely described the aforementioned property and stated that Henley Country Road is a state road (SR 2215). The site is outside of the city limits and is not served by city services. The request includes two tracts. A pond exists on the property. The surrounding area is rural in character, and the properties are zoned R-40. Mr. Neely reported that this property was part of a larger tract, which was zoned CU-R-10 on April 6, 1989. A CU Permit was issued for all R-10 uses and a mobile home park for one (1) unit.

The planning board recommended approval, as the request complies with the goals and policies of the Land Development Plan.

Ms. Golda Wicker, applicant, was present to answer any questions that council might have.

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

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

Mayor Jarrell opened the public hearing on the following request:

- (c) From R-40 Residential to I-2 Industrial (RZ-03-33): The property of James R. Lucas and wife, Lois D. Lucas, located at 3520 US Hwy. 220 Business South, totaling approximately 2.58 acres, more specifically identified by Randolph County Parcel ID Numbers 7659545268 and 7659543115.

Mr. Neely described the aforementioned property and stated that US 220 Business South (South Fayetteville Street) is a major thoroughfare. The site is outside the city limits. City water and sewerage are available. Connection to these services will require an application for annexation. The area is characterized by a mix of uses. Non-conforming status has existed since 1987 when the ETJ was extended. The property is within the US 64/49 Bypass study corridor. The LDP proposed Land Use Map indicates that an activity center should be located somewhere around the intersection of US 64/49 Bypass, Bell Simmons Road, Crestview Church Road and US 220 Business South.

The planning board recommended approval, as the request complies with the goals and policies of the Land Development Plan.

Ms. Angela Epps, a realtor representing the applicant, stated that her client wants to build a frame shop, but the current zoning will not permit it.

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

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

## **8. Subdivision.**

### Variance Request –Edward S. Turlington (SUB-03-6 Providence Park)

Mr. Neely reported that the applicant is requesting a variance for the length of the cul-de-sac and a variance to the requirement for curb and gutter street.

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The planning board recommended approval of the variance for the length of the cul-de-sac and recommended denial of the variance to the requirement for curb and gutter.

Mr. Rodney Moody of Gateway Properties & Development was representing the applicant and

stated that the property was industrial. Other industrial properties do not have curb and gutter, and he feels that this property does not need curb and gutter. The average frontage is 155 feet.

After discussion, Mr. Smith moved that council accept the recommendation from the planning board to approve the length of the cul-de-sac. Mr. Trollinger seconded the motion, which carried unanimously. Mr. Trollinger moved that council accept the recommendation from the planning board for denial of the variance to the requirement for curb and gutter. Mr. Smith seconded the motion, which carried unanimously.

**9. Public Hearing on Consideration of Petition Received From Leroy M. White Requesting Contiguous Annexation of 1.66 Acres on the North Side of Sherwood Avenue.**

Mayor Jarrell opened the public hearing on the aforementioned.

Mr. Bunker reported that notice of this public hearing was advertised as provided for by law, and this date has been set for the consideration of the adoption of an ordinance annexing said area into the City of Asheboro.

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

Mr. Bunker presented and recommended adoption, by reference, of an ordinance to extend the corporate limits of the City of Asheboro.

Upon motion by Mr. Smith and seconded by Mr. Priest, council voted unanimously to adopt the following ordinance by reference:

52 ORD 5-03

**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE  
CITY OF ASHEBORO  
(1.66 Acres of Land Located on the North Side of Sherwood Avenue)**

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all the real property within the area hereinafter described was heretofore presented to the City Council, by which petition a request was made that an area be annexed to the City of Asheboro; and

WHEREAS, the City Council has by resolution directed the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the City Clerk has certified the sufficiency of said petition; and

WHEREAS, the City Council did publish notice to the public on the 23rd day of April, 2003, in The Randolph Guide, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held at 7:00 o'clock p.m. on the 8th day of May, 2003, at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing said area to the City of Asheboro; and

WHEREAS, during said public hearing that was in fact held on May 8th, 2003, no person owning property within the area to be annexed alleged an error in the petition, and no resident of the municipality questioned the necessity of annexation; and

WHEREAS, the City Council has determined that the petition meets the requirements of Section 160A-31 of the General Statutes of North Carolina.

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

Section 1. By virtue of the authority granted in the General Statutes of North Carolina, Chapter 160A, Article 4A, Part 1, the following area is annexed and attached to, and hereby becomes a part of the City of Asheboro, and is described as follows:

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Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe or pin that is set on the northern right-of-way line of Sherwood Avenue (North Carolina Secondary Road 1204) and is located South 54 degrees 55 minutes 26 seconds West 1,935.65 feet from a point that is identified by the North Carolina Geodetic Survey as "HOLIDAY," said point "HOLIDAY" is located by means of the North Carolina Coordinate System at the coordinates of North 705,572.76 feet and East 1,753,582.54 feet (NAD 83); thence from said Beginning point North 04

degrees 23 minutes 25 seconds East 197.65 feet along the Larry D. Bowman property described in Deed Book 1420, Page 1183, Randolph County Public Registry to an existing iron pipe or pin; thence North 03 degrees 20 minutes 16 seconds East 99.04 feet along the Kenneth and Lena M. McMasters property described in Deed Book 1268, Page 799, Randolph County Public Registry to an existing iron pipe or pin; thence along the Kenneth and Lena M. McMasters property described in Deed Book 1164, Page 1011, Randolph County Public Registry the following courses and distances: North 03 degrees 36 minutes 14 seconds East 49.73 feet to an existing iron pipe or pin; thence North 02 degrees 47 minutes 25 seconds East 49.91 feet to an existing iron pipe or pin; thence North 02 degrees 29 minutes 13 seconds East 25.23 feet along the George H. and Zena Coble property described in Deed Book 1165, Page 1275, Randolph County Public Registry to an existing iron pipe or pin; thence North 07 degrees 24 minutes 27 seconds East 13.65 feet along the George H. and Zena Coble property described in Deed Book 934, Page 502, Randolph County Public Registry to an existing iron pipe or pin; thence North 87 degrees 27 minutes 16 seconds West 162.92 feet along the Louise S. Duke property described in Deed Book 1210, Page 1403, Randolph County Public Registry to an existing iron pipe or pin; thence South 05 degrees 36 minutes 01 second West 417.67 feet along the existing corporate limits line of the City of Asheboro to an iron pipe located on the northern right-of-way line of Sherwood Avenue and shown on an existing plat that was drawn by Cagle Surveys and dated July 10, 2002; thence along the northern right-of-way line of Sherwood Avenue the following courses and distances: South 82 degrees 07 minutes 45 seconds East 26.74 feet to an iron pipe shown on said existing plat that was drawn by Cagle Surveys; thence South 81 degrees 31 minutes 16 seconds East 149.36 feet to the point and place of the BEGINNING, and containing 1.66 acres, more or less.

This description is in accordance with a plat of survey entitled "Annexation Plat Prepared For City of Asheboro(:) Property of Leroy M. White." This plat of survey, which was dated March 28, 2003, was prepared by the City of Asheboro Engineering Department under the supervision of Philip M. Henley, Professional Land Surveyor with Registration Number L-1494.

Section 2. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

Section 3. The Mayor of the City of Asheboro shall cause to be recorded in the office of the Register of Deeds of Randolph County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Randolph County Board of Elections, as required by Section 163-288.1 of the North Carolina General Statutes.

Section 4. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

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Section 5. This ordinance shall be in full force and effect from the 8th day of May, 2003.

Adopted this the 8th day of May, 2003.

S/ David H. Jarrell  
David H. Jarrell  
Mayor of the City of Asheboro

ATTEST:

S/ Carol J. Cole  
Carol J. Cole  
City Clerk of the City of Asheboro

Approved as to form:

S/ Jeffrey C. Sugg  
Jeffrey C. Sugg  
City Attorney

**10. Public Hearing on Consideration of Petition Received From Joy B. Sawyer Requesting Contiguous Annexation of 0.705 Acre at 786 Honeysuckle Road.**

Mayor Jarrell opened the public hearing on the aforementioned.

Mr. Bunker reported that notice of this public hearing was advertised as provided for by law, and this date has been set for the consideration of the adoption of an ordinance annexing said area into the City of Asheboro.

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

Mr. Bunker presented and recommended adoption, by reference, of an ordinance to extend the corporate limits of the City of Asheboro.

Upon motion by Mr. McGlohon and seconded by Mr. Smith, council voted unanimously to adopt the following ordinance by reference:

53 ORD 5-03

**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE  
CITY OF ASHEBORO  
(0.705 of an Acre of Land Located at 786 Honeysuckle Road)**

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all the real property within the area hereinafter described was heretofore presented to the City Council, by which petition a request was made that an area be annexed to the City of Asheboro; and

WHEREAS, the City Council has by resolution directed the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the City Clerk has certified the sufficiency of said petition; and

WHEREAS, the City Council did publish notice to the public on the 23rd day of April, 2003, in The Randolph Guide, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held at 7:00 o'clock p.m. on the 8th day of May, 2003, at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing said area to the City of Asheboro; and

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WHEREAS, during said public hearing that was in fact held on May 8th, 2003, no person owning property within the area to be annexed alleged an error in the petition, and no resident of the municipality questioned the necessity of annexation; and

WHEREAS, the City Council has determined that the petition meets the requirements of Section 160A-31 of the General Statutes of North Carolina.

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

Section 1. By virtue of the authority granted in the General Statutes of North Carolina, Chapter 160A, Article 4A, Part 1, the following area is annexed and attached to, and hereby becomes a part of the City of Asheboro, and is described as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a PK Nail that is set on the southern right-of-way line of Honeysuckle Road (North Carolina Secondary Road 2293) and is located South 88 degrees 47 minutes 12 seconds East 20.00 feet from an existing iron pipe that is also located on the southern right-of-way line of Honeysuckle Road and is set South 88 degrees 53 minutes 51 seconds East 100.00 feet from another existing iron pipe that is also located on the southern right-of-way line of Honeysuckle Road, the aforementioned second existing iron pipe is itself located South 33 degrees 55 minutes 36 seconds East 2,323.35 feet from City of Asheboro Monument 60, which is located by means of the North Carolina Coordinate System at the coordinates of North 725,295.474 feet and East 1,761,137.379 feet (NAD 27); thence from said Beginning point following the southern right-of-way line of Honeysuckle Road the following courses and distances: South 89 degrees 06 minutes 30 seconds East 40.10 feet to an existing iron rod; thence South 88 degrees 49 minutes 53 seconds East 99.97 feet to an existing iron rod; thence South 01 degree 12 minutes 29 seconds West 219.66 feet along the Cranford Enterprises property described in Deed Book 1142, Page 303, Randolph County Public Registry to an existing iron pipe; thence along the Bobby Cranford property described in Deed Book 1416, Page 846, Randolph County Public Registry the following courses and distances: North 88 degrees 44 minutes 17 seconds West 99.87 feet to an existing iron pipe; thence North 88 degrees 54 minutes 31 seconds West 39.98 feet to an existing iron rod; thence North 01 degree 08 minutes 58 seconds East 219.36 feet along the existing corporate limits line of the City of Asheboro to the point and place of the BEGINNING, and containing 0.705 of an acre, more or less.

This description is in accordance with a plat of survey entitled "Annexation Plat Prepared For City of Asheboro(;) Property of Joy B. Sawyer." This plat of survey, which was dated March 27, 2003, was prepared by the City of Asheboro Engineering Department under the supervision of Philip M. Henley, Professional Land Surveyor with Registration Number L-1494.

Section 2. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

Section 3. The Mayor of the City of Asheboro shall cause to be recorded in the office of the Register of Deeds of Randolph County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Randolph County Board of Elections, as required by Section 163-288.1 of the North Carolina General Statutes.

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Section 4. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 5. This ordinance shall be in full force and effect from the 8th day of May, 2003.

Adopted this the 8th day of May, 2003.

S/ David H. Jarrell  
David H. Jarrell,  
Mayor of the City of Asheboro

ATTEST:

S/ Carol J. Cole  
Carol J. Cole,  
City Clerk of the City of Asheboro

Approved as to form:

S/ Jeffrey C. Sugg  
Jeffrey C. Sugg,  
City Attorney

11. **Consideration of a Petition Received From D & L Investments and NSHE Hampton, LLC, Requesting Contiguous Annexation of 6.5644 Acres at the Intersection of East Dixie Drive and East Salisbury Street. (Proposed Honda, Mazda, Nissan and Mitsubishi Dealers)**

Mr. Bunker recommended that this item be deferred until the June 5<sup>th</sup> council meeting, as all of the property owners have not signed the petition. Council concurred.

12. **Resolution Authorizing the Mayor to Enter Into an Easement Agreement Requested by Progress Energy to Construct, Maintain, and Operate Electric Facilities on City Owned Property at 146 North Church Street as Part of the Site Improvements Under Construction.**

Mr. Sugg reviewed the easement agreement. He presented and recommended adoption, by reference, of the aforementioned resolution.

Upon motion by Mr. Smith and seconded by Mrs. Hunter, council voted unanimously to adopt the following resolution by reference:

61 RES 5-03

**RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT AGREEMENT ON BEHALF OF THE CITY OF ASHEBORO**

WHEREAS, Section 160A-272 of the North Carolina General Statutes provides that a city is authorized to grant easements over, through, under, or across any city property; and

WHEREAS, the City of Asheboro is undertaking a project which is designed to make certain site improvements to city-owned real property that is located at 146 North Church Street in Asheboro, North Carolina; and

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WHEREAS, as part of the above-referenced project, certain electric facilities will have to be constructed, maintained, and operated by Progress Energy Carolinas, Inc., a North Carolina Public Service Corporation; and

WHEREAS, Progress Energy Carolinas, Inc., hereinafter referred to as "PEC," has requested that the City of Asheboro execute a certain easement agreement in order to authorize PEC to go in and upon certain city-owned land in order to construct, maintain, and operate the above-referenced electric facilities as part of the city's site improvement project at 146 North Church Street; and

WHEREAS, said easement agreement, which is attached to this resolution as EXHIBIT 1 and is incorporated by reference as if copied fully herein, has been reviewed by members of the city's engineering and legal services departments and forwarded to the City Council for approval.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, this 8<sup>th</sup> day of May, 2003, as follows:

Section 1. The City Council finds the terms and conditions of the easement agreement attached to this resolution as Exhibit 1 to be reasonable and to satisfactorily address the desire of the City of Asheboro to make certain site improvements to the city-owned property located at 146 North Church Street in Asheboro, North Carolina.

Section 2. The Mayor of the City of Asheboro is hereby authorized and directed to execute on behalf of the City of Asheboro the easement agreement attached to this resolution as Exhibit 1.

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

ATTEST:

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

(The easement agreement (Exhibit 1) is attached to the original resolution on file in the city clerk's office.)

**13. Resolution Authorizing the Mayor and City Clerk to Execute an Instrument Granting a Limited Access Easement From the City of Asheboro to Charles E. Greer and Barbara S. Greer.**

Mr. Sugg stated that he has revised the sanitary sewer easement agreement between the City of Asheboro and the Greers, which he reviewed for council's consideration. He presented and recommended adoption, by reference, of the aforementioned resolution.

Upon motion by Mr. Smith and seconded by Mr. Priest, council voted unanimously to adopt the following resolution by reference:

62 RES 5-03

**RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INSTRUMENT GRANTING AN ACCESS EASEMENT FROM THE CITY OF ASHEBORO TO CHARLES E. GREER AND BARBARA S. GREER**

WHEREAS, the City of Asheboro, hereinafter referred to as the "City," is currently engaged in a project designed to enhance the capabilities of Sewer Pump Station Number 2 located at 1229 East Dixie Drive and to install a gravity sewer line and parallel sewer pump line between East Dixie Drive and Martin Luther King, Jr. Drive; and

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WHEREAS, as part of this project, the City needs to acquire a 632.80 square foot construction easement, a 2,672.66 square foot permanent sewer line easement, and a 1,236.14 square foot permanent access easement from the owners, Charles E. Greer and wife, Barbara S. Greer, of certain real property described in Deed Book 1254, Page 1252, Randolph County Registry; and

WHEREAS, Section 160A-273 of the North Carolina General Statutes provides that a city has the authority to grant easements over, through, under, or across any city property; and

WHEREAS, pursuant to a resolution (Resolution Number 38 RES 11-02) adopted on November 7, 2002, the City Council of the City of Asheboro, hereinafter referred to as the "Council," previously approved the granting of an access easement by the City to Charles E. Greer and wife, Barbara S. Greer, hereinafter referred to as the "Greers," in exchange for the Greers granting to the City the above-described easements sought by the City as part of its current efforts to enhance the municipal sanitary sewer system; and

WHEREAS, prior to the execution of any legal instrument conveying said easements between the City and the Greers, Charles E. Greer physically inspected the real property at issue and determined that the Greers required an access easement that encompasses a larger area of City-owned real property than was originally envisioned when the Council adopted Resolution Number 38 RES 11-02; and

WHEREAS, the Council responded positively to the Greers' request for an enlarged access easement by adopting Resolution Number 51 RES 3-03 on March 20, 2003, and thereby authorizing the granting of the requested easement; and

WHEREAS, during a conference call in April 2003 between Charles E. Greer, Mr. Greer's attorney in Hattiesburg, Mississippi, and the City Attorney, Mr. Greer once again stated that he was not satisfied with the exact configuration and size of the area encompassed by the access easement that the City proposed to convey to him in exchange for the easements sought by the City; and

WHEREAS, the City's professional staff and the Council have determined that the access easement sought by the Greers is not detrimental to the interests of the City, even with the augmentation sought by Mr. Greer of the proposed easement area during

his April 2003 telephone conversation with the City Attorney, so long as certain limitations on the activities that can be undertaken by the Greers in the proposed easement area are incorporated into the deed of easement; and

WHEREAS, the granting of the requested easements by the City and the Greers is a sufficient quid pro quo to support the proposed transaction as valid and binding.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, this 8<sup>th</sup> day of May, 2003, as follows:

Section 1. The granting of a limited access easement by the City of Asheboro to Charles E. Greer and wife, Barbara S. Greer as shown on a plat of survey with a revision date of April 30, 2003, and entitled "Limited Access Easement For Charles E. Greer & Wife Barbara S. Greer" is hereby approved, said plat of survey is attached to this resolution as Exhibit 1 and is incorporated by reference as if copied fully herein.

Section 2. In order to effectuate the above-described transaction, the Mayor and the City Clerk of the City of Asheboro are hereby authorized and directed to execute on behalf of the City of Asheboro a legal instrument prepared by the City Attorney that is substantially similar to the document attached to this resolution as Exhibit 2, said document is incorporated by reference as if copied fully herein.

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

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

(The aforementioned Exhibits 1 and 2 are attached to the original resolution on file in the city clerk's office.)

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**14. Consideration of an Ordinance Amending Chapter 52 of the Code of Asheboro.**

Mr. Ogburn announced that this item will be deferred until the council's planning retreat scheduled for May 15<sup>th</sup> and 16<sup>th</sup>.

**15. Announcement of Town Hall Day.**

Mayor Jarrell announced that Town Hall Day is scheduled for Wednesday, May 21, 2003, in Raleigh, NC.

**16. Finance and Public Safety & Public Works Matters.**

No official meetings were held.

There being no further business, the meeting was adjourned at 7:40 PM.

Carol J. Cole, CMC, City Clerk

David H. Jarrell, Mayor

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