

**REGULAR MEETING
ASHEBORO CITY COUNCIL
THURSDAY, AUGUST 10, 2006
7:00 P.M.**

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

David H. Jarrell) – Mayor Presiding

Talmadge Baker)
Linda Carter)
Keith Crisco)
Nancy Hunter) – Council Members Present
Walker Moffitt)
Archie Priest)
David Smith)

John N. Ogburn, III, City Manager
Dumont Bunker, P.E., City Engineer
Holly J. Hartman, City Clerk/Senior Legal Assistant
Foster Hughes, Recreation Director
Deborah P. Juberg, Finance Director
Gary L. Mason, Chief of Police
R. Reynolds Neely, Jr., Planning Director
Trevor L. Nuttall, Planner
Jeffrey C. 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. After a moment of silence in memory of Mr. Smith's father, Reverend Ken Thomas, Pastor of Asheboro Friends Meeting, gave the invocation.

2. Appearance and recognition of guests and citizens.

Mayor Jarrell welcomed everyone in attendance and recognized the North Carolina SWAC Softball State Champions U-16 Girls All-Stars team.

3. Consent Agenda.

Upon motion by Mr. Crisco and seconded by Mr. Baker, Council voted unanimously to approve the following consent agenda items:

- Minutes of the regular meeting of the City Council held on July 13, 2006.
- Findings of fact, conclusions of law, and order in the matter of CUP-06-12.

Case No. CUP-06-12
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF BARNEY L. TROGDON, JR. FOR AN
AMENDED CONDITIONAL USE PERMIT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING AN AMENDED
CONDITIONAL USE PERMIT

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council held on June 8, 2006. 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. Barney L. Trogdon, Jr. (hereinafter referred to as the "Applicant") has properly submitted an application to amend an existing Conditional Use Permit, which was issued under file number CUP-05-13, to allow the enclosure of an existing porch and the addition of a drive up service for an eating establishment operating at 841 Cross Street in Asheboro.

2. The eating establishment, which has been operating pursuant to the active Conditional Use Permit issued under file CUP-05-13, is located upon a twelve thousand three hundred seventy-six (12,376) square foot, more or less, lot that is more specifically identified by Randolph County Parcel Identification Number 7761258757. This lot shall be hereinafter referred to as the "Zoning Lot."

3. The eating establishment currently permitted on the Zoning Lot is a sit down restaurant with seating for up to twenty-five (25) persons.

4. The Zoning Lot is located in a CU-B2 zoning district.

5. The Zoning Lot is located in an area that is designated on the Growth Strategy Map as "Primary Growth," and the said area is identified on the Proposed Land Development Plan Map as "Neighborhood Residential."

6. The land uses immediately surrounding the Zoning Lot are single-family residential to the north and south, undeveloped land to the west, and residential/parking lot uses to the east.

7. The Zoning Lot is located within the corporate limits of the City of Asheboro, and all city services are available to the lot.

8. Cross Street is a local street with a thirty (30) foot right-of-way, and Loach Street is a local street with a fifty (50) foot right-of-way.

9. The area in which the Zoning Lot is located consists of primarily residential uses.

10. The proposed drive-up service will enter and exit from Cross Street.

11. The existing Screen "C" will have to meet current requirements of the zoning ordinance.

12. The zoning history for the Zoning Lot, as it pertains to the current use of the lot, began in 2003 with the issuance of a Conditional Use Permit for a use classified under the zoning ordinance as "Eating Establishment, Walk-in/Carry-out." In 2004, an amended Conditional Use Permit was issued to address changes in the site development plans. The currently active permit (CUP-05-12) was issued to allow seating.

13. The Applicant proposes to enclose the existing porch in order to create an area within the restaurant that is similar to a sunroom.

14. No evidence was introduced during the hearing of this matter to contradict the Applicant's testimony as to his efforts to improve the appearance of the property. Similarly, no evidence was produced to indicate that any negative impacts have been experienced by the area in which the Zoning Lot is located as a consequence of the on-going operation of the existing restaurant.

15. With the benefit of the Board of Adjustment's previous approval of a variance from the setback requirements along a portion of Cross Street, the Applicant's site plan for the proposed modification of his use of the Zoning Lot does comply with the requirements of the zoning ordinance.

16. The only witness to speak in opposition to the Applicant's request was Ms. Mary Freeland, whose property adjoins the north side of the Zoning Lot. Ms. Freeland had generalized concerns about the impact of the proposed drive-up service on her residence.

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

CONCLUSION OF LAW

1. The Council has concluded that the proposed use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted and approved.

2. The evidence received during the public hearing established that the proposed use meets all required conditions and specifications of the Asheboro Zoning Ordinance.
3. The proposed use will not 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 is 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 Applicant is hereby issued a Conditional Use Permit for an "Eating Establishment, Sit Down" that is limited to twenty-five seats. Furthermore, drive-up service is hereby expressly authorized under this permit for the eating establishment. This Conditional Use Permit shall remain valid so long as the approved land use is conducted in compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance, specifically including without limitation the current specifications for a Screen "C," and so long as the Applicant, and his heirs, successors, and assigns, remain in strict compliance with the following conditions:

1. The order station identified on the site plan submitted during the hearing of this matter shall be moved southwest approximately twenty (20) feet in order to mitigate the impact of any noise and light generated by the order station on the adjoining residential property that is located to the north of the Zoning Lot.
2. Operating hours for the business shall be limited to the hours of 6:00 o'clock a.m. to 9:00 o'clock p.m. each day of the week.

Adopted in regular session by the Asheboro City Council on this the 10th day of August, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

- Findings of fact, conclusions of law, and order in the matter of CUP-06-17.

CUP-06-17
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF ERIC DAVIS FOR A CONDITIONAL USE PERMIT
ALLOWING BUSINESS SERVICES AND PROFESSIONAL SERVICES AT 505 NORTH CAROLINA
HIGHWAY 42 NORTH

FINIDNGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING A CONDITIONAL USE
PERMIT

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council held on June 8, 2006. 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. Eric Davis (hereinafter referred to as the "Applicant") has properly filed an application to have his lot located at 505 North Carolina Highway 42 North (hereinafter referred to as the "Zoning Lot") rezoned from an R10 zoning district to a Conditional Use B2 zoning district.
2. In addition to requesting a legislative rezoning of the above-referenced property, the Applicant has also requested that the Council conduct a quasi-judicial proceeding and issue a Conditional Use Permit to allow business and professional services to be located upon the Zoning Lot.

3. The Zoning Lot consists of approximately twenty-two thousand two hundred fifteen (22,215) square feet of land, and Randolph County Parcel Identification Number 7761318346 more specifically identifies the parcel of land.

4. The land uses immediately surrounding the Zoning Lot are single-family residential to the south and west, undeveloped residential to the east, and a mix of church and office uses to the north of the Zoning Lot.

5. The Zoning Lot is located in an area that is designated on the Growth Strategy Map as "Primary Growth" and is identified as "Neighborhood Residential" on the proposed Land Development Plan Map.

6. Prior to discussing the issuance of the requested Conditional Use Permit, the Council adopted the recommendation of the Planning Board and, in a legislative action, placed the Zoning Lot in a CU-B2 zoning district.

7. The Applicant is requesting a Conditional Use Permit that would allow an existing residential dwelling consisting of approximately one thousand two hundred thirty (1,230) square feet to be converted into an office building for business and professional services.

8. Examples of business and professional services include real estate, computer and data processing, insurance, blueprinting and photocopying, detective, management and consulting, accounting, architect, engineering, and legal services. Prohibited uses include barbershops, beauty salons, and health practitioners' offices.

9. The Zoning Lot is located within the city limits, and all city services are available to the Zoning Lot.

10. The Zoning Lot is located at the intersection of a major thoroughfare (Dublin Square Road) and a collector street (North Carolina Highway 42 North), and the lot is also located in close proximity to a minor thoroughfare (Dublin Road).

11. The site plan submitted during the hearing of this matter is in compliance with the requirements of the Asheboro Zoning Ordinance.

12. The site plan submitted during the hearing of this matter had a hand-drawn driveway location that was labeled as a preference of the North Carolina Department of Transportation. However, the Applicant's attorney testified that, as of the date of the hearing, the North Carolina Department of Transportation had approved the Applicant's computer generated depiction of the driveway on the south side of the structure. Consequently, the Applicant has withdrawn from consideration the hand-drawn driveway depicted on the site plan.

12. The Applicant's attorney entered into the record, without objection, a letter from a certified appraiser, Mr. Ben Ramsey, stating the appraiser's opinion that the proposed use of the Zoning Lot would not have a negative impact on the value of adjoining lots.

13. During the hearing of this matter, no evidence was presented in opposition to the Applicant's request for the issuance of a Conditional Use Permit.

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

CONCLUSIONS OF LAW

1. 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.

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. The evidence presented during the course of the hearing of this matter established that the proposed use would not 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 Applicant is hereby issued a Conditional Use Permit allowing business and professional services to be conducted upon the Zoning Lot in accordance with the approved site plan. Due to the withdrawal by the Applicant's attorney of the hand-drawn depiction of a driveway area initially preferred by

the North Carolina Department of Transportation, the hand-drawn driveway location depicted on the site plan is to be disregarded. However, the handwritten reference to a 10-foot type "B" screen on the north side of the Zoning Lot as well as the computed generated depiction of the driveway area on the south side of the Zoning Lot have not been withdrawn and are part of the approved site plan. This Conditional Use Permit shall be valid so long as, and only so long as, the approved land use is developed and conducted in compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance.

Adopted by the Asheboro City Council in regular session on the 10th day of August, 2006.

s/ David H. Jarrell
David H. Jarrell

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

- Closing of Streets for Fall Festival XXXIV. Fayetteville Street from Salisbury Street to Kivett, North Street at Salisbury Street, Sunset Avenue at Church Street, Worth Street, Scarboro Street, East Academy Street and Cranford Streets at Cox Street, West Academy Street at the entrance to the city parking lot, and Bicentennial Park. (A site plan of the streets and sties to be used for the Fall Festival is on file in the City Clerk's Office.)
- Changes in titles and job descriptions for employees in the Systems Maintenance Department of the Division of Water Resources as detailed in the following resolution.

35 RES 8-06

**RESOLUTION APPROVING JOB DESCRIPTIONS AND CLASS ALLOCATIONS
UNDER THE CITY OF ASHEBORO POSITION CLASSIFICATION PLAN FOR
CERTAIN POSITIONS OF EMPLOYMENT WITHIN THE SYSTEMS MAINTENANCE
DEPARTMENT OF THE DIVISION OF WATER RESOURCES**

WHEREAS, the City of Asheboro Personnel Policies and Procedures Manual, which was promulgated by the City Manager and approved by resolution of the City Council of the City of Asheboro on March 4, 2004, provides in Section 1 of Article II of the said manual that a position classification plan shall be prepared by the City Manager and adopted by the City Council; and

WHEREAS, such a position classification plan has been duly adopted by the City Council; and

WHEREAS, under the adopted position classification plan, the classification of Systems Maintenance Supervisor has been established with a pay grade of 19, the classification of Assistant Systems Maintenance Supervisor has been established with a pay grade of 17, the classification of Systems Maintenance Mechanic has been established with a pay grade of 14, the classification of Systems Maintenance Helper II has been established with a pay grade of 10, and the classification of Systems Maintenance Helper I has been established with a pay grade of 8; and

WHEREAS, Section 10 of Article II of the City of Asheboro Personnel Policies and Procedures Manual provides, in pertinent part, as follows:

When . . . the duties of an existing position change, the department head shall submit in writing a comprehensive job description describing in detail the duties of such a position. The city manager shall investigate the actual or suggested duties and recommend the appropriate class allocation or the establishment of a new class to the City Council for approval; and

WHEREAS, the Director of Water Resources has made the determination that the job titles and duties of the Systems Maintenance Supervisor, Assistant Systems Maintenance Supervisor, Systems Maintenance Mechanic, Systems Maintenance Helper II, and Systems Maintenance Helper I should be revised in order to enhance the operations of the Division of Water Resources; and

WHEREAS, the Director of Water Resources has prepared revised comprehensive job descriptions for the positions of Systems Maintenance Manager (formerly Systems Maintenance Supervisor), Assistant Systems Maintenance Manager (formerly Assistant Systems Maintenance Supervisor), Systems Maintenance Mechanic III (formerly Systems Maintenance Mechanic), Systems Maintenance Mechanic II (formerly Systems Maintenance Helper II), and Systems Maintenance Mechanic I (formerly Systems Maintenance Helper I) within the Systems Maintenance Department of the Division of Water Resources; and

WHEREAS, these proposed job descriptions (hereinafter referred to collectively as the "Job Descriptions") have been reviewed and approved by the Director of Human Resources and to the City Manager without modification; and

WHEREAS, the Job Descriptions are attached to this resolution as Exhibit 1 and are hereby incorporated into this resolution by reference as if copied fully herein; and

WHEREAS, the Director of Human Resources and the City Manager have also determined that the requirements and duties prescribed by the Job Descriptions do not materially impact the current classification of the affected positions of employment under the city's position classification plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the Job Descriptions attached hereto as Exhibit 1 are hereby approved; and

BE IT FURTHER RESOLVED that the recommendation of the City Manager to maintain the existing classification and corresponding pay grades of the impacted positions of employment is hereby adopted and approved without modification.

Adopted by the Asheboro City Council in regular session on the 10th day of August, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

(Exhibit 1 that is referred to in this resolution is attached to the original resolution on file in the City Clerk's Office.)

- Resolution per G.S. 143-64.32 exempting the City of Asheboro from advertisement/qualification based selection procedure to contract with Jerry King Surveying, Inc. to survey a cul-de-sac right-of-way at the west end of Sherwood Road, for the contract amount of \$350.

36 RES 8-06

RESOLUTION EXEMPTING A CUL-DE-SAC PROJECT FROM THE PROVISIONS OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES

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

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

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

- Units of local government . . . may in writing exempt particular projects from the provisions of this Article (Article 3D) in the case of:
- (a) Proposed projects where an estimated professional fee is in an amount less than thirty thousand dollars (\$30,000), or
 - (b) Other particular projects exempted in the sole discretion of . . . the unit of local government, stating the reasons therefore and the circumstances attendant thereto; and

WHEREAS, the City of Asheboro desires to construct as part of the municipal street system a cul-de-sac at the west end of Sherwood Road; and

WHEREAS, Jerry A. King, who is a Professional Land Surveyor under the laws of the State of North Carolina and who does business as Jerry King Surveying, Inc., has previously completed a substantial amount of competent survey work in the area of the west end of Sherwood Road; and

WHEREAS, the estimated professional fee for the surveying work needed for the cul-de-sac project is approximately three hundred fifty and no/100 dollars (\$350.00); and

WHEREAS, on the basis of the estimated amount of the professional fee for the surveying services needed for this project in addition to the qualifications and demonstrated suitability of Jerry King Surveying, Inc. for this particular project, the City Manager and the City Engineer have concluded that Jerry King Surveying, Inc. should be utilized to provide the surveying services needed to successfully complete the cul-de-sac project at the west end of Sherwood Road.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the aforementioned cul-de-sac project is hereby exempted on the basis of the above-cited factors from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes.

Adopted by the Asheboro City Council in regular session on the 10th day of August, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

Upon motion by Ms. Carter and seconded by Mr. Crisco, Council voted unanimously to defer the following consent agenda items to the council's special meeting on August 24, 2006:

- Findings of fact, conclusions of law, and order in the matter of CUP-06-18.
- Findings of fact, conclusions of law, and order in the matter of SUP-06-09.

OLD BUSINESS:

4. Request from Asheboro Copperheads to amend Section 130.03 of the Code of Asheboro and to amend certain provisions in the Asheboro Parks and Recreation Department Policy Manual for the August 11-13 Coastal Plains League Tournament.

Mr. Sugg reviewed the proposed ordinance amending Section 130.03 of the Code of Asheboro and certain provisions in the Asheboro Parks and Recreation Department Policy Manual. Said amendment, which was rejected during the council's meeting on July 13, 2006, would allow a hospitality tent to be located on the premises of McCrary Park in order for alcoholic beverages to be served to certain sponsors and league officials during the Coastal Plains League Tournament from August 11, 2006 to August 13, 2006.

Mayor Jarrell expressed his thoughts and concerns in opposition to the requested amendment.

Mr. Ronnie Pugh, Managing Member of Copperheads Baseball, LLC, reported that the hospitality tent would be isolated and monitored while entrance to the tent would be restricted to the tournament's sponsors and league officials only.

Mr. David Stevens, Mr. Jeff Mabe, Mr. Frank White, Mr. John Shook, Mr. Bobby Baxter, Mr. John Marlowe, Mr. Monte Caviness, and Mr. Boyd Byerly presented comments and concerns in opposition to the requested amendment.

Mr. Priest moved to deny the amendment to Section 130.03 of the Code of Asheboro. Ms. Hunter seconded the motion. Ms. Carter, Ms. Hunter, and Mr. Priest voted in favor of the motion. Mr. Crisco, Mr. Baker, Mr. Smith, and Mr. Moffitt voted no.

Upon motion by Mr. Moffitt and seconded by Mr. Baker, Council voted to amend Section 130.03 of the Code of Asheboro and to amend certain provisions in the Asheboro Parks and Recreation Department Policy Manual for the August 11, 2006 through August 13, 2006 Coastal Plains League Tournament. Ms. Hunter, Ms. Carter, and Mr. Priest voted no.

37 ORD 8-06

**ORDINANCE AMENDING SECTION 130.03 OF THE CODE OF ASHEBORO
AND THE ASHEBORO PARKS AND RECREATION
DEPARTMENT POLICY MANUAL**

WHEREAS, Section 130.03 of the Code of Asheboro provides as follows:

POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES ON CITY PROPERTY

It shall be unlawful for any person to purchase, possess or consume any alcoholic beverage at any city park, recreational area or on any other property owned or occupied by the city. Any person found guilty of violating this section shall be guilty of a misdemeanor; and

WHEREAS, Section 98.01 of the Code of Asheboro provides as follows:

ADOPTION BY REFERENCE

The Parks and Recreation Department Policy Manual, adopted March 5, 1998, and as amended, is hereby adopted by reference and made a part of this code as if set forth at length herein; and

WHEREAS, the Parks and Recreation Department Policy Manual provides that alcoholic beverages are prohibited at recreational facilities such as McCrary Park; and

WHEREAS, the managing member of Copperheads Baseball, LLC has requested that McCrary Park be exempted from the provisions of Section 130.03 of the Code of Asheboro; and

WHEREAS, with a limited exception for August 11-13, 2006 during which time period McCrary Park is to be the host site for the Coastal Plains League Championship Tournament for the Pettitt Cup, the City Council of the City of Asheboro has determined that an insufficient basis exists for a general exemption of McCrary Park from the provisions of Section 130.03 of the Code of Asheboro; and

WHEREAS, the City Council of the City of Asheboro does hereby find that it is in the best interests of the City of Asheboro to facilitate the successful hosting of the Coastal Plains League Championship Tournament for the Pettitt Cup by granting a limited exemption of the premises at McCrary Park from the prohibitions imposed by the Code of Asheboro on alcoholic beverages on city-owned or occupied real property.

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

Section 1. Between 12:01 a.m. on Friday, August 11, 2006 and 11:59 p.m. on Sunday, August 13, 2006, any and all prohibitions of alcoholic beverages on the premises of McCrary Park that are prescribed by the Code of Asheboro, specifically including without limitation Section 130.03 of the Code of Asheboro and Article XIV of the Asheboro Parks and Recreation Department Policy Manual, shall be temporarily suspended and of no effect.

Section 2. Except as specifically prescribed by Section 1 of this ordinance, the provisions of the Code of Asheboro shall be in full force and effect at all times. By way of clarification and without limitation, the prohibitions of alcoholic beverages on the premises of McCrary Park that are prescribed by the Code of Asheboro, specifically including without limitation Section 130.03 of the Code of Asheboro and Article XIV of the Asheboro Parks and Recreation Department Policy Manual, shall be in full force and effect at 12:01 a.m. on Monday August 14, 2006 and thereafter to the same degree and extent as exists on the date of the adoption of this ordinance.

Section 3. This ordinance shall become effective at 12:01 a.m. on Friday, August 11, 2006.

Adopted in regular session by the Asheboro City Council on the 10th day of August, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

5. SUB-95-06: Windcrest Acres Section 2. Final Plat Approval.

Mr. Neely presented the staff's analysis of the request by SMSC Corporation for final plat approval for Windcrest Acres Section 2. This subdivision is located along the south side of Central Falls Road and contains approximately 7.832 acres of land, consisting of approximately nineteen (19) lots.

All departments have reviewed the plat. The Planning Department Staff and the Planning Board recommended approval of the request with the comment that certain items needed to be corrected or completed. The Applicant has now paid the necessary review fees and provided guarantees for the completion of the remaining items that were not corrected or completed at the time of the council's consideration of this matter.

Upon motion by Mr. Smith and seconded by Mr. Crisco, Council accepted the recommendation of the planning Board and approved the final plat.

(The aforementioned final plat and documentation of the applicant's compliance with the review fee and guarantee provisions of the subdivision ordinance are on file in the City Clerk's Office.)

NEW BUSINESS:

6. Land Use Issues:

Mayor Jarrell opened the public hearing on the following request:

- (a) RZ-06-23: Rezone from R10 to B2 / 163 Dublin Road Extension. The property of Wayne and Merle King is located at 163 Dublin Road Extension and consists of approximately 1.17 acres of land. Randolph County Parcel Identification Number 7760382594 more specifically describes the property.

Mr. Neely presented the staff's analysis of the request submitted by Wayne and Merle King to rezone the above-described property from R10 Medium-Density Residential to B2 General Business. The Planning Department Staff recommended denial of the request in that Dublin Road Extension, a local residential street, currently provides the only access to the property and that fact makes the B2 request inconsistent with the district's intent, which advises that the district be applied to properties with access to major and minor thoroughfares. While it is possible that the property may be combined with properties fronting on Dublin Road and East Dixie Drive in order to enlarge a commercial development site, approval of the request would permit the structure to be converted to a general commercial land use without further public review. Therefore, the staff followed the Land Development Plan's recommendation that the property remain residentially zoned.

The Planning Board recommended approval of the request in that the requested rezoning was consistent with the adjoining properties and was "logical" in the opinion of the Planning Board.

On behalf of the Applicants Wayne and Merle King, Mr. Richard Cooper, Real Estate Agent, presented comments in support of the requested rezoning. Additionally, the developer, Mr. Frank Edmondson was available to answer questions.

Mr. Martin Kearns and Ms. Peggy Foust presented comments and concerns in opposition to the requested rezoning. Mr. Kearns stated his contention that neighbors do not want commercial zoning more than 300 feet from the center line of Dixie Drive. The requested rezoning would allow a projection of commercial development to a depth of 450 feet from the center line into the existing neighborhood.

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

Mr. Crisco moved to deny the request and this motion was seconded by Mr. Moffitt. After the Applicant requested a deferral of this matter in order to amend his application to request a conditional use district and permit, the Council unanimously defeated the motion to deny the request for B2 zoning.

Upon motion by Mr. Smith and seconded by Ms. Hunter, Council unanimously voted to defer this item to the council's regular September meeting.

Mayor Jarrell opened the public hearing on the following request:

- (b) RZ-06-24: Rezone from RA6 and R7.5 to OA6 / 544 Greensboro Street. The property of NEMO Properties, LLC is located at 544 Greensboro Street and consists of approximately 13,933 square feet of land. Randolph County Parcel Identification Number 7751958835 (a portion) more specifically describes the property.

Mr. Neely presented the staff's analysis of the request submitted by NEMO Properties, LLC to rezone the above-described property from RA6 High-Density Residential and R7.5 Medium-Density Residential to OA6 Office and Apartment. The Planning Department Staff and Planning Board recommended approval of the request based on the following:

"This area continues to slowly transition from primarily residential to a mixture of residential and non-residential. The combination of different zoning districts, the pending development of a medical complex on the north side of East Presnell Street west of Greensboro Street, and the presence of two (2) major

thoroughfares increases the likelihood that residential land uses will convert to commercial land uses at this intersection.

Approval of the request is reasonable as it will allow the portion of the property already zoned OA6 to be more effectively developed while providing more land area for screening and buffering existing residential land uses to the south.”

On behalf of the Applicant, Mr. Martin Kearns presented comments in support of the request.

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

Upon motion by Mr. Baker and seconded by Ms. Carter, Council adopted the recommendation of the Planning Board, and placed the above-described property in an OA6 Office and Apartment district.

Mayor Jarrell opened the public hearing on the following request:

- (c) RZ-06-25: Zone from Randolph County Zoning to City Zoning R40 / South side of Randolph Tabernacle Road at Country Place Road and the north side of Old Cedar Falls Road 4000 feet west of Henley Country Road.

This case was previously withdrawn at the request of the applicant.

Mayor Jarrell opened the public hearing on the following request:

- (d) RZ-06-26: Zoning Ordinance Technical Amendments. Amend the Asheboro Zoning Ordinance to establish new regulations for Recreational Vehicle Resorts.

Mr. Neely reported that the technical amendments to the Asheboro Zoning Ordinance establishing new regulations for Recreational Vehicle Resorts were incomplete and requested that this item be deferred.

Upon motion by Crisco and seconded by Mr. Priest, Council unanimously voted to defer the above-listed item to the council's regular meeting in September .

Mayor Jarrell opened the public hearing on the following request:

- (e) CUP-06-27: Conditional Use Permit Modification / 2118 Old Farmer Road. The property of Branson-McKenzie 1999 Family Limited Partnership is located at 2118 Old Farmer Road and consists of approximately 2.3 acres of land. Randolph County Parcel Identification Number 7750091048 more specifically identifies the property.

Mr. Neely was sworn in and presented the staff's analysis of the Applicant's request including the submitted site plan. The Applicant, Mr. Larry McKenzie, requested that an existing Conditional Use Permit issued under the Planning Department's file number CUP-05-26 be amended for the expansion of a Multi-Family Development, specifically including a two-story brick quadplex to be located on the property.

Mr. Larry McKenzie was sworn in and addressed the four standard tests.

There being no further comments nor opposition from the public, Mayor Jarrell closed the public hearing. An audiotape of the testimony presented during this hearing is on file in the City Clerk's Office.

Upon motion by Ms. Carter and seconded by Ms. Hunter, Council voted unanimously to approve the amended Conditional Use Permit, with the staff recommended condition, to allow for the requested expansion of a Multi-Family Development. The issuance of this permit is based on the four standard tests being met.

The formal Findings of Fact, Conclusions of Law, and Order granting this Conditional Use Permit will be entered by the Council in regular session on September 7, 2006.

- (f) SUB-06-04: William F. Tyler and Janet A. Tyler and Larry W. McKenzie and Christy B. McKenzie. Sketch Design Approval.

Due to its erroneous initial placement on the agenda, the above-referenced item was previously removed from the agenda.

(g) SUB-05-01: Chala Ridge. Preliminary Plat Approval Extension.

Mr. Neely read to the Council the Applicant's written request to extend the preliminary plat approval for an additional year.

Upon motion by Mr. Smith and seconded by Ms. Carter, Council unanimously voted to extend the preliminary plat approval for another year as requested.

A copy of the Applicant's written request is on file in the City Clerk's Office.

7. Consideration of a request by Michael Bryant of Recovery Christian Center to close a portion of Brewer Street between Watkins Street and Cross Street from 7:00 a.m. to 6:00 p.m. on August 26, 2006, for a Drug Awareness and Crime Prevention Community Outreach.

Upon motion by Mr. Smith and seconded by Mr. Crisco, Council unanimously voted to approve the above-referenced request.

8. Public Comment Period.

Mr. John Marlowe, Mr. Boyd Byerly, and Ms. Frances Herring presented comments and concerns in regards to the amendment of Section 130.03 of the Code of Asheboro allowing a hospitality tent to be located on the premises of McCrary Park in order for alcoholic beverages to be served during the Coastal Plains League tournament.

9. Consideration of the granting of a Construction and Demolition Debris Landfill Franchise to Morton and Sewell Land Company, LLC.

Mayor Jarrell opened the public hearing on the request by Morton and Sewell Land Company, LLC for a construction and demolition debris landfill franchise.

Mr. Sugg reported that pursuant to a request by state regulators, Morton and Sewell Land Company is requesting to amend its existing franchise to reflect the future utilization of the landfill and to change the effective date of the franchise to October 17, 2006.

Mr. Al Morton, a representative for Morton and Sewell Land Company, LLC, was available to answer questions. No one spoke in opposition to the granting of the requested franchise.

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

Mr. Sugg presented and recommended adoption by reference of the second reading of an ordinance granting a construction and demolition debris landfill franchise to Morton and Sewell Land Company, LLC.

Upon motion by Mr. Moffitt and seconded by Mr. Smith, Council voted unanimously to adopt the second reading of the following ordinance by reference.

38 ORD 8-06

ORDINANCE GRANTING A CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL FRANCHISE TO MORTON AND SEWELL LAND COMPANY, LLC

WHEREAS, Morton and Sewell Land Company, LLC currently owns and operates a construction and demolition debris landfill (hereinafter referred to as the "Landfill") located at 385 Gold Hill Road, Asheboro, North Carolina (Gold Hill Road Landscape Supply and Landfill); and

WHEREAS, the Landfill is located within the corporate limits of the City of Asheboro (hereinafter referred to as the "City"); and

WHEREAS, the Landfill is operated by Morton and Sewell Land Company, LLC pursuant to a franchise that was granted to the said limited liability company by the City on January 5, 2006; and

WHEREAS, upon the request of regulatory personnel employed by the State of North Carolina, the franchisee has asked the City Council of the City of Asheboro to amend the existing franchise to reflect the acreage that will eventually be utilized by the Landfill as opposed to the acreage that is in actual use and to further amend the existing five-year franchise to have a new effective date of October 17, 2006; and

WHEREAS, upon the recommendation of the City's staff, and after conducting a public hearing on August 10, 2006 on the question of this request for an amended construction and demolition debris

landfill franchise, the City Council of the City of Asheboro has concluded that the granting of the requested amendment to the existing franchise is compatible with the public's interest in this matter.

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

Section 1. Pursuant to and in accordance with Sections 130A-294, 160A-76, 160A-174, and 160A-319 of the North Carolina General Statutes, Morton and Sewell Land Company, LLC (hereinafter referred to as the "Company") is hereby granted a franchise to operate a construction and demolition debris landfill located at 385 Gold Hill Road, Asheboro, North Carolina.

Section 2. The Landfill shall be operated as Gold Hill Road Landscape Supply and Landfill under the direction of Alfred H. Morton of 2280 Stutts Road, Asheboro, North Carolina. The hours of operation shall be Monday through Friday from 7:00 a.m. until 5:00 p.m. and Saturday from 8:00 a.m. until 12:00 p.m.

Section 3. The Landfill shall have available for its use twenty-two (22) acres of land that are permitted in accordance with the laws of the State of North Carolina for use as a construction and demolition debris landfill. Approximately one hundred twenty-five (125) cubic yards of waste will be deposited into the Landfill per day each year, and the Landfill will have an estimated life of ten (10) or more years.

Section 4. Operation of the Landfill shall be contingent upon the Company obtaining and maintaining a permit from the North Carolina Department of Environment and Natural Resources, which will be inspecting said Landfill on a regular basis. Before a permit is issued, monitoring wells shall be installed to insure that ground water will not be contaminated in the area. A plan shall be created to identify ground water users, land use, and zoning information within a one-fourth (1/4) and two (2) mile radius of the Landfill.

Section 5. The Company shall purchase a one million dollar (\$1,000,000.00) environmental liability insurance policy and a one million dollar (\$1,000,000.00) general liability insurance policy, along with automobile and workers' compensation insurance policies that comply with the pertinent provisions of the North Carolina General Statutes. The City shall be named as an additional insured by these policies.

Section 6. The population to be served by the Landfill shall be primarily commercial contractors who specialize in construction and demolition activities. The main waste stream shall primarily come from the City of Asheboro, Randolph County, and from counties contiguous to Randolph County.

Section 7. The waste accepted by the construction and demolition debris landfill shall be composed of waste or debris resulting from roofing, construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures. The Company shall monitor the wastes offered to the Landfill and shall reject any loads of floor tiles, siding, and roofing shingles that are likely to contain significant levels of asbestos. The Company shall also reject other unacceptable waste including without limitation friable asbestos, organic/household waste, waste that has been in contact with petroleum, solvents, or chemicals, waste containing PCB's, and waste that has been in contact with pesticides or herbicides.

Section 8. The fee schedule for the Landfill is attached to this ordinance as Exhibit A and is hereby incorporated into this ordinance by reference as if copied fully herein. The Company shall submit any proposed fee changes to the City for approval within sixty (60) days prior to the proposed effective date of the fee changes.

Section 9. The franchise granted by this ordinance shall have a term of five (5) years.

Section 10. The Company agrees to operate the Landfill in accordance with all applicable laws and regulations and shall comply with any permit(s) issued by the State of North Carolina.

Section 11. The Company shall require anyone using the Landfill to comply with Section 20-116(g) of the North Carolina General Statutes.

Section 12. The effective date of this franchise ordinance shall be October 17, 2006.

Section 13. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed effective October 17, 2006.

Adopted after first reading on the 13th day of July, 2006.

Adopted after second reading on the 10th day of August, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

CERTIFICATION

I, Holly J. Hartman, City Clerk for the City of Asheboro, North Carolina, do hereby certify that this Ordinance Granting a Construction and Demolition Debris Landfill Franchise to Morton and Sewell Land Company, LLC, with an effective date of October 17, 2006, was duly passed by the City Council of the City of Asheboro during the first reading of the ordinance on the 13th day of July, 2006 and during the second reading of the ordinance on the 10th day of August, 2006.

WITNESS my hand and seal, this 10th day of August, 2006.

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

EXHIBIT A

Price List for Construction and Demolition Debris:

- a. Standard Charge = \$30.00 per ton
- b. Roofing = \$34.00 per ton
- c. Clean Concrete = \$10.00 per ton
- d. Minimum Charge = \$10.00 per ton

*This price list, as with the franchise ordinance itself, only addresses the Construction and Demolition Debris Landfill charges and is not inclusive of all user charges incurred at Gold Hill Road Landscape Supply and Landfill.

10. Public Works report from meeting on Tuesday, August 8, 2006, 3:30 p.m.

- **Chandler annexation.**

Mr. Ogburn reported of the staff's concern about the sewer connection at the end of Halifax Street in regards to the petition received from Chandler Legacy Family Limited Partnership and Interact Corporation requesting contiguous annexation of 10.739 acres of land located along Newbern Avenue and Halifax Street. The Public Works Committee met with Mr. Chandler, and he has agreed to grant the city a permanent sewer easement that will address these concerns.

- **Ordinance amendment request by Robert Stillwell.**

Mr. Ogburn reported the Public Works Committee recommended that the Council approve an ordinance amending Section 50.008 of the Code of Asheboro in order to address situations where a property owner cannot meet certain statutory requirements pertaining to satellite annexations and needs to hook to the city's water and sewer system due to environmental concerns.

12. Consideration of a petition received from Chandler Legacy Family Limited Partnership and Interact Corporation requesting contiguous annexation of 10.739 acres along Newbern Avenue and Halifax Street.

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

37 RES 8-06

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE AN ANNEXATION PETITION RECEIVED PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES

(10.739 Acres of Land Located along Newbern Avenue and Halifax Street)

WHEREAS, a petition requesting the annexation of approximately 10.739 acres of land along Newbern Avenue and Halifax Street has been received by the City Council of the City of Asheboro, North Carolina; and

WHEREAS, Section 160A-31 of the North Carolina General Statutes provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Asheboro deems it advisable to proceed in response to this request for annexation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the City Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the City Council the results of her investigation.

Adopted by the Asheboro City Council in regular session on the 10th day of August, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

As a consequence of the receipt of written certification from the City Clerk as to the sufficiency of said annexation petition, and upon motion by Mr. Smith and seconded by Ms. Carter, Council voted unanimously to adopt the following resolution by reference.

38 RES 8-06

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES

(10.739 Acres of Land Located along Newbern Avenue and Halifax Street)

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the City Council of the City of Asheboro, North Carolina has by resolution directed the City Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the City Clerk as to the sufficiency of said petition has been made.

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

Section 1. A public hearing on the question of annexation of the area described herein will be held in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street in the City of Asheboro, North Carolina, at 7:00 o'clock p.m. on the 7th day of September, 2006.

Section 2. The area proposed for annexation is described on the attached sheet that is identified as Exhibit 1 and is hereby incorporated into this resolution by reference as if copied fully herein.

Section 3. Notice of said public hearing shall be published in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of said public hearing.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

EXHIBIT 1

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe control corner that is located by means of the North Carolina Coordinate System at the coordinates of North 701,455.69 feet and East 1,760,162.49 feet (NAD 27) and is set in the existing corporate limits line for the City of Asheboro; thence from said Beginning point following the existing corporate limits line of the City of Asheboro along the Trodgon property described in Deed Book 1682, Page 1150, Randolph County Registry North 00 degrees 30 minutes 48 seconds East 104.01 feet to an existing iron pipe; thence continuing to follow the existing corporate limits line along the McGrath property described in Deed Book 1855, Page 1933, Randolph County Registry North 00 degrees 38 minutes 24 seconds East 126.49 feet to a new iron pipe; thence along the proposed corporate limits line the following courses and distances: North 85 degrees 02 minutes 38 seconds East 465.34 feet to an existing iron pipe; thence North 04 degrees 32 minutes 43 seconds East 38.30 feet to an existing iron pipe control corner set in the existing corporate limits line for the City of Asheboro and located by means of the North Carolina Coordinate System at the coordinates of North 701,764.56 feet and East 1,760,631.48 feet (NAD 27); thence South 85 degrees 53 minutes 30 seconds East 99.97 feet along the existing corporate limits line to an existing iron pipe; thence South 04 degrees 03 minutes 23 seconds West 212.93 feet along the Hope property described in Deed Book 1755, Page 354, Randolph County Registry to a new iron pipe set in the northern margin of the 60-foot right-of-way for Newbern Avenue (North Carolina Secondary Road 2922); thence across Newbern Avenue South 14 degrees 52 minutes 37 seconds West 61.48 feet a new iron pipe; thence along the McArthur property described in Deed Book 1755, Page 335, Randolph County Registry the following courses and distances: South 09 degrees 31 minutes 49 seconds East 94.02 feet to an existing iron pipe; thence South 89 degrees 17 minutes 30 seconds East 43.98 feet to an existing iron pipe; thence South 38 degrees 16 minutes 05 seconds East 93.19 feet to a computed point; thence South 43 degrees 40 minutes 49 seconds East 38.61 feet to an existing iron pipe; thence along the McArthur property described in Deed Book 1926, Page 478, Randolph County Registry South 86 degrees 54 minutes 49 seconds East 106.61 feet to an existing iron pipe; thence North 67 degrees 59 minutes 57 seconds East 131.65 feet to a new iron pipe; thence along a 20-foot utility and service easement North 67 degrees 59 minutes 57 seconds East 20.00 feet to a new iron pipe; thence North 63 degrees 47 minutes 27 seconds East 137.95 feet along the Schalesky property described in Deed Book 1782, Page 1118, Randolph County Registry to an existing iron pipe; thence along the Barker property described in Deed Book 1831, Page 4449, Randolph County Registry the following courses and distances: North 48 degrees 46 minutes 19 seconds East 126.90 feet to an existing iron pipe; thence North 54 degrees 07 minutes 31 seconds West 166.63 feet to an existing iron pipe set in the southern margin of the 60-foot right-of-way for Newbern Avenue; thence along the southern margin of the right-of-way for Newbern Avenue in a northeasterly direction along an arc having a radius of 291.87 feet, an arc distance of 33.89 feet (a chord bearing and distance of North 35 degrees 41 minutes 00 seconds East 33.87 feet) to a computed point; thence continuing along the southern margin of the right-of-way for Newbern Avenue North 32 degrees 23 minutes 14 seconds East 83.65 feet to a new iron pipe; thence along the Harn property described in Deed Book 1442, Page 177, Randolph County Registry the following courses and distances: South 52 degrees 59 minutes 31 seconds East 136.45 feet to an existing iron pipe; thence North 18 degrees 47 minutes 24 seconds East 145.07 feet to an existing iron pipe; thence North 44 degrees 28 minutes 51 seconds West 93.37 feet to a bolt set in the southern margin of the right-of-way for Newbern Avenue; thence following the southern margin of the right-of-way for Newbern Avenue in a northeasterly direction along an arc having a radius of 1046.94 feet, an arc distance of 102.92 feet (a chord bearing and distance of North 44 degrees 02 minutes 22 seconds East 102.88 feet) to a new iron pipe control corner set at the intersection of the southern margin of the right-of-way for Newbern Avenue with the western margin of the 60-foot right-of-way for Halifax Street; thence along the western margin of the right-of-way for Halifax Street the following courses and distances: South 40 degrees 57 minutes 54 seconds East 76.95 feet to a computed point; thence in a southeasterly direction along an arc having a radius of 133.63 feet, an arc distance of 111.01 feet (a chord bearing and distance of South 16 degrees 08 minutes 33 seconds East 107.84 feet) to an existing iron pipe; thence South 05 degrees 56 minutes 28 seconds West 2.45 feet to an existing iron pipe; thence South 11 degrees 56 minutes 57 seconds West 4.03 feet to an existing iron pipe; thence in a southwesterly direction along an arc having a radius of 430.00 feet, an arc distance of 116.11 feet (a chord bearing and distance of South 02 degrees 23 minutes 09 seconds West 115.76 feet) to an existing iron pipe; thence South 05 degrees 22 minutes 07 seconds East 25.90 feet to a computed point; thence in a southeasterly direction along an arc having a radius of 470.00 feet, an arc distance of 13.43 feet (a chord bearing and distance of South 04 degrees 34 minutes 36 seconds East 13.43 feet) to an existing iron pipe; thence along the Beaver property described in Deed Book 1196, Page 945, Randolph County Registry the following courses and distances: South 86 degrees 01 minute 52 seconds West 150.23 feet to an existing iron pipe; thence South 18 degrees 28 minutes 43 seconds West 61.44 feet to an existing iron pipe; thence South 18 degrees 39 minutes 36 seconds West 42.14 feet to an existing iron pipe; thence along the Ward property described in Deed Book 1194, Page 144, Randolph County Registry the following courses and distances: South 18 degrees 44 minutes 59 seconds West 98.11 feet to an existing iron pipe; thence South 18 degrees 44 minutes 59 seconds West 10.23 feet to an existing iron pipe; thence South 85 degrees 55 minutes 21 seconds East 208.38 feet to an existing iron pipe set in the western margin of the right-of-way for Halifax Street; thence South 70 degrees 05 minutes 57 seconds East 63.03 feet across the right-of-way for Halifax Street to a new iron pipe; thence along the Julian property described in Deed Book 1935, Page 3013, Randolph County Registry the following courses and distances: South 85 degrees 28 minutes 10 seconds East 199.22 feet to an existing iron pipe; thence South 04 degrees 30 minutes 29 seconds West 100.14 feet to an existing iron pipe; thence North 85 degrees 32 minutes 36 seconds West 199.58 feet along the Bradley property described in Deed Book 1725, Page 2294, Randolph County Registry to an existing iron pipe; thence South 80 degrees 29 minutes 20 seconds West 61.59 feet across the right-of-way for Halifax Street to an existing iron pipe; thence along the margin of the right-of-way for the cul-

de-sac located at the southern terminus of Halifax Street the following courses and distances: a southwesterly direction along an arc having a radius of 50.00 feet, an arc distance of 52.89 feet (a chord bearing and distance of South 27 degrees 12 minutes 00 seconds West 50.46 feet) to an existing iron pipe; thence in a southeasterly direction along an arc having a radius of 50.00 feet, an arc distance of 39.56 feet (a chord bearing and distance of South 25 degrees 41 minutes 39 seconds East 38.54 feet) to an existing iron pipe; thence in a southeasterly direction along an arc having a radius of 50.00 feet, an arc distance of 51.59 feet (a chord bearing and distance of South 77 degrees 50 minutes 02 seconds East 49.33 feet) to an existing iron pipe; thence in a northeasterly direction along an arc having a radius of 50.00 feet, an arc distance of 40.14 feet (a chord bearing and distance of North 49 degrees 24 minutes 56 seconds East 39.07 feet) to an existing iron pipe; thence South 62 degrees 59 minutes 45 seconds East 199.93 feet along the Bradley property described in Deed Book 1725, Page 2294, Randolph County Registry to an existing iron pipe; thence South 03 degrees 43 minutes 44 seconds West 45.82 feet to an existing iron pipe; thence South 04 degrees 47 minutes 36 seconds West 125.69 feet to an existing iron pipe control corner located by means of the North Carolina Coordinate System at the coordinates of North 700,862.05 feet and East 1,761,693.34 feet (NAD 27); thence North 71 degrees 01 minutes 03 seconds West 144.20 feet to an existing iron pipe; thence North 68 degrees 17 minutes 33 seconds West 225.54 feet to an existing iron pipe; thence North 68 degrees 10 minutes 40 seconds West 86.22 feet to a point not set in the center of a creek; thence along the centerline of the creek the following courses and distances: South 43 degrees 28 minutes 21 seconds West 75.63 feet to a point not set; thence North 40 degrees 20 minutes 01 second West 97.41 feet to a point not set; thence North 52 degrees 27 minutes 18 seconds West 104.56 feet to a point not set; thence North 74 degrees 47 minutes 59 seconds West 43.10 feet to a point not set; thence North 26 degrees 15 minutes 00 seconds West 75.78 feet to a point not set; thence North 69 degrees 57 minutes 54 seconds West 77.27 feet to a computed point; thence North 55 degrees 17 minutes 05 seconds West 274.76 feet to an existing iron pipe; thence South 40 degrees 54 minutes 43 seconds West 126.35 feet to an existing iron pipe; thence North 20 degrees 18 minutes 01 second West 230.48 feet along the Jarrett property described in Deed Book 1170, Page 751, Randolph County Registry to an existing iron pipe set in the southern margin of the right-of-way for Newbern Avenue; thence along the southern margin of the right-of-way for Newbern Avenue the following courses and distances: North 88 degrees 51 minutes 30 seconds West 51.20 feet to a computed point; thence in a southwesterly direction along an arc having a radius of 247.04 feet, an arc distance of 325.14 feet (a chord bearing and distance of South 53 degrees 25 minutes 19 seconds West 302.17 feet) to a computed point; thence South 15 degrees 46 minutes 56 seconds West 78.37 feet to a computed point; thence North 74 degrees 13 minutes 04 seconds West 60.00 feet across the right-of-way for Newbern Avenue to an existing pipe; thence North 00 degrees 37 minutes 58 seconds East 203.44 feet along the Trodgon property described in Deed Book 1150, Page 305, Randolph County Registry to the point and place of the BEGINNING, and containing 10.739 acres of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "ANNEXATION PLAT PREPARED FOR City of Asheboro Newbern Ave. & Halifax St. Area" that was drawn under the supervision of Glenn Lee Brown, Professional Land Surveyor with Registration No. L-3663. Said plat of survey, which consisted of two (2) sheets, was dated July 28, 2006 and was identified as Job No. G06089AX.

13. Consideration of an ordinance amending Section 50.008 of the Code of Asheboro.

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

39 ORD 8-06

ORDINANCE AMENDING CHAPTER 50 OF THE CODE OF ASHEBORO

WHEREAS, Section 160A-312(a) of the North Carolina General Statutes authorizes the City of Asheboro to "acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of any or all of the public enterprises . . ." defined in Article 16 of Chapter 160A of the North Carolina General Statutes for the purpose of furnishing "services to the city and its citizens"; and

WHEREAS, Section 160A-311 of the North Carolina General Statutes defines the term "public enterprise" to include water supply and distribution systems as well as wastewater collection, treatment, and disposal systems of all types; and

WHEREAS, Section 160A-312(a) of the North Carolina General Statutes further provides that the City of Asheboro "may acquire, construct, establish, enlarge, improve, maintain, own, and operate any public enterprise outside its corporate limits, within reasonable limitations, but in no case shall a city be held liable for damages to those outside the corporate limits for failure to furnish any public enterprise service"; and

WHEREAS, Chapter 50 of the Code of Asheboro prescribes regulations governing the operation of the City of Asheboro water and sewer systems; and

WHEREAS, Section 50.008 of the Code of Asheboro prescribes the circumstances under which property owners located outside of the corporate limits of the City of Asheboro must submit a petition for

voluntary annexation and be annexed into the City of Asheboro prior to connecting to the city's water and sanitary sewer facilities; and

WHEREAS, the City Council of the City of Asheboro has determined that Section 50.008(D) of the Code of Asheboro needs to be amended in order to address hardships created by the inability of property owner(s) to successfully submit a petition for voluntary satellite annexation despite their good faith, albeit unsuccessful, efforts to comply with the pertinent section of the North Carolina General Statutes.

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

Section 1. Section **50.008** of the Code of Asheboro, which is entitled "**CONNECTIONS OUTSIDE CITY LIMITS**", is hereby amended to provide as follows:

(A) On or after July 1, 2004, owner(s) of real property located outside the city limits must petition the city for annexation and be annexed into the city before connections to the city's water and sewer facilities are allowed.

(B) Unless compliance with one of the conditions specified by division (C) of this section is demonstrated by an applicant, owner(s) of real property located outside the city limits seeking to connect to the city's water and sewer facilities must connect to both facilities and shall not have the option of connecting to one facility without the other.

(C) Owner(s) of real property located outside the city limits may connect to either the city water facilities or the city sewer facilities and not be subject to the requirement of petitioning for annexation before making the requested connection if any one of the following conditions is met.

1. The real property for which application is made for connection to either the city water facilities or the city sewer facilities consists of one and only one parcel of land that immediately adjoins an existing water or sewer line that is owned, operated, and maintained by the City of Asheboro; or
2. Authorization has been granted by the City Council of the City of Asheboro for the connection of certain real property to either the city water facilities or the city sewer facilities. Such authorization shall only be granted upon written request submitted to the council through the City Manager, who shall act as the council's agent, and upon a finding by the council that the requested authorization is warranted in light of severe topographical conditions or other conditions peculiar to the site that would cause an undue hardship if the applicant were required to connect to both the city's water and sewer facilities.

(D) Unless the City Council of the City of Asheboro has exercised its discretion in accordance with the provisions of this Division to grant an exemption from the following annexation requirement, if at any point and time the owner(s) of real property that is connected to either only the city water facilities or the city sewer facilities seeks to connect to the previously unutilized facilities, such owner(s) and who are seeking to connect to a previously unutilized city water/sewer facility must petition the city for annexation and be annexed into the city before the requested connection will be permitted to the requested facilities. An exemption from this requirement may only be granted upon written request of the property owner(s) and upon the entry by the City Council of a finding that the noncontiguous area proposed for annexation by petition does not meet the standards prescribed by Section 160A-58.1(b) of the North Carolina General Statutes.

(E) As used in this section:

1. "Water line" means any water distribution line built to utility standards.
2. "Sewer line" means any sanitary sewer collector, interceptor, and outfall line built to utility standards.

(F) Notwithstanding the provisions of this section, when any real property located outside the city limits is subject to a major subdivision of land plat governed by the Subdivision Ordinance of the City of Asheboro, North Carolina, any application or request for connection to the city water and sewer facilities shall

be subject to and reviewed in accordance with the provisions of the Subdivision Ordinance pertaining to water and sewerage system improvements.

Section 2. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 3. This ordinance shall become effective on August 10, 2006.

Adopted in regular session by the City Council of the City of Asheboro on this 10th day of August, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

14. Consideration of a petition received from Waterford Meadows Development Company, LLC requesting contiguous annexation of 3.971 acres along the west side of Forest Park Drive (Proposed Waterford Meadows Planned Unit Development).

Mr. Bunker presented and recommended adoption, by reference, of a resolution directing the city clerk to investigate a petition requesting contiguous annexation of 3.971 acres of land located along the west side of Forest Park Drive (Proposed Waterford Meadows Planned Unit Development).

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

39 RES 8-06

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE AN ANNEXATION PETITION RECEIVED PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES

(3.971 Acres of Land Located along the West Side of Forest Park Drive)

WHEREAS, a petition requesting the annexation of approximately 3.971 acres of land located along the west side of Forest Park Drive has been received by the City Council of the City of Asheboro, North Carolina from Waterford Meadows Development Company, LLC; and

WHEREAS, Section 160A-31 of the North Carolina General Statutes provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Asheboro deems it advisable to proceed in response to this request for annexation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the City Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the City Council the results of her investigation.

Adopted by the Asheboro City Council in regular session on the 10th day of August, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

As a consequence of the receipt of written certification from the City Clerk as to the sufficiency of said annexation petition, Mr. Bunker presented and recommended adoption, by reference, of a resolution fixing the date for a public hearing on the question of annexation.

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

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES

(3.971 Acres of Land Located along the West Side of Forest Park Drive)

WHEREAS, a petition requesting annexation of the area described herein has been received;
and

WHEREAS, the City Council of the City of Asheboro, North Carolina has by resolution directed the City Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the City Clerk as to the sufficiency of said petition has been made.

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

Section 1. A public hearing on the question of annexation of the area described herein will be held in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street in the City of Asheboro, North Carolina, at 7:00 o'clock p.m. on the 7th day of September, 2006.

Section 2. The area proposed for annexation is described on the attached sheet that is identified as Exhibit 1 and is hereby incorporated into this resolution by reference as if copied fully herein.

Section 3. Notice of said public hearing shall be published in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of said public hearing.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

EXHIBIT 1

Randleman Township, Randolph County, North Carolina:

BEGINNING at a point, which is not set, on the existing corporate limits line of the City of Asheboro, said point is located by means of the North Carolina Coordinate System at the coordinates of North 737,484.86379 feet and East 1,761,766.7757 feet (NAD 83); thence from said Beginning point North 66 degrees 53 minutes 39 seconds East 68.14 feet along the Diza Kemp property described in Deed Book 644, Page 381, Randolph County Registry to an existing iron pipe; thence North 67 degrees 09 minutes 09 seconds East 194.91 feet along the Victor Romero property described in Deed Book 1892, Page 3068, Randolph County Registry to an existing iron pipe; thence North 67 degrees 02 minutes 30 seconds East 303.99 feet to an existing iron pipe; thence along the Sidney Russell property described in Deed Book 1634, Page 1012, Randolph County Registry the following courses and distances: North 66 degrees 57 minutes 11 seconds East 99.86 feet to an existing iron pipe; thence North 66 degrees 15 minutes 05 seconds East 50.19 feet to an existing iron rod; thence along the Wesley Sexton property described in Deed Book 1012, Page 8, Randolph County Registry the following courses and distances: North 66 degrees 51 minutes 58 seconds East 76.29 feet to an existing iron pipe; thence North 67 degrees 05 minutes 25 seconds East 23.63 feet to an existing iron rod; thence North 67 degrees 11 minutes 21 seconds East 174.93 feet along the Gabriel Ortiz property described in Deed Book 1875, Page 68, Randolph County Registry to an existing iron pipe set in the western margin of the 60-foot right-of-way for Forest Park Drive (North Carolina Secondary Road 2150); thence along the western margin of the right-of-way for Forest Park Drive the following courses and distances: South 21 degrees 26 minutes 56 seconds East 106.75 feet to a point not set; thence in a southeasterly direction along an arc having a radius of 598.73 feet, an arc distance of 93.15 feet (Chord Bearing and Distance = South 16 degrees 06 minutes 09 seconds East 93.05 feet, Delta Angle = 8 degrees 54 minutes 50 seconds, Tangent = 46.67 feet) to an existing iron pipe; thence South 75 degrees 49 minutes 29 seconds West 264.41 feet along the Willa Brown property described in Deed Book 1080, Page 938, Randolph County Registry to a new iron rod; thence South 02 degrees 47 minutes 54 seconds West 140.18 feet to a point not set; thence North 89 degrees 30 minutes 00 seconds West 714.87 feet along the existing corporate limits line for the City of Asheboro to the point and place of the BEGINNING, and containing 3.971 acres of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "ANNEXATION MAP FOR CITY OF ASHEBORO" that was drawn under the supervision of Jerry A. King, Professional Land Surveyor with Registration No. L-3373. The said plat of survey was dated July 27, 2006 and was identified as Job # 4817 A 10.

15. Consideration of an ordinance amending Section 114.57 of the Code of Asheboro.

Mr. Sugg presented and recommended adoption by reference of and ordinance amending Section 114.57 of the Code of Asheboro.

Upon motion by Mr. Priest and seconded by Ms. Hunter, Council unanimously adopted the following ordinance by reference.

40 ORD 8-06

AN ORDINANCE AMENDING § 114.57 OF THE CODE OF ASHEBORO

WHEREAS, the City Council is authorized by Section 160A-304(a) of the North Carolina General Statutes to regulate all vehicles operated for hire in the city and to establish the maximum rates that may be charged by taxicab operators; and

WHEREAS, Asheboro Taxi Service has requested that the current taxicab rates be increased as follows: (a) \$2.00 to get in the cab, (b) \$2.10 per mile, (c) \$18.00 per hour wait.

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

Section 1. Section 114.57 of Chapter 114 of the Code of Asheboro is hereby amended to provide as follows:

§ 114.57 AUTHORIZED RATES; METER TO DETERMINE RATES.

(A) No person owning, driving or controlling any taxicab within the city shall charge so as to exceed the following rates, to be determined by the taximeter:

- (1) ~~\$2.00 per call.~~ Two dollars (\$2.00) for the first one-tenth mile or fraction thereof.
- (2) ~~\$.15-.21~~ for each additional one-tenth mile.
- (3) An additional charge for package and grocery tips at \$.25 each.
- (4) An additional fee for moving heavy or bulky items may be charged at \$1.00 each.

(B) Waiting time shall be at the rate of ~~\$.25~~ .30 per minute.

Section 2. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 3. This ordinance shall become effective upon adoption.

Adopted in regular session on this the 10th day of August, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, City Clerk

16. Update on downtown parking and enhanced police presence.

Mr. Ogburn presented a downtown-parking map depicting the different parking times within the downtown area.

Chief Mason addressed certain issues in regards to enhanced police presence within the downtown area. In response to recent inquiries of police presence within the downtown area, specifically including Sunset Avenue and Worth Street, Chief Mason is preparing a policy that would allow a fully uniformed sworn officer to patrol the area on foot. This foot patrol officer may, at different times, be a new recruit or a paid part-time reserve officer.

The consensus of the Council was for staff to proceed with drafting an ordinance addressing consistency and uniformity issues with existing parking regulations in the downtown area. Additionally, the council expressed its support for the Chief's efforts to develop a policy implementing the police foot patrol program in the downtown area.

17. Discussion of items not on the agenda.

- Special Council Meeting – Thursday, August 24, 2006 at 7 :00 p.m. in the Council Chamber.
- Watermelon Seed Spitting Contest – Saturday, August 26, 2006.

There being no further business, the meeting was adjourned at 10:30 p.m.

Holly J. Hartman, City Clerk

David H. Jarrell, Mayor