



**Asheboro Planning Board  
Asheboro City Hall (146 N. Church Street)  
Monday, May 2, 2022  
7:00 PM  
AGENDA**

- I. Call to Order
- II. Approval of minutes from April 4, 2022
- III. Approval of Final Decision Document on BOA-22-01: Appeal from a final administrative decision regarding the validity of Special Use Permit CUP-18-10 for property identified by Randolph County PIN# 7762740259
- IV. Review of Cases
- V. New Business: Request by City of Asheboro for text amendments to the zoning ordinance (Chapter 7, Signs)
- VI. Items not on the agenda
- VII. Adjournment

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**MEETING OF THE ASHEBORO PLANNING BOARD**  
**CITY COUNCIL CHAMBERS, 146 N. CHURCH ST.**  
**MONDAY, APRIL 4, 2022**  
**7:00 p.m.**

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This being the time and place for the regular meeting of the Asheboro Planning Board, a meeting was held with the following officials and members present:

Michael O'Kelley ) – Chair  
Pamela Vuncannon ) – Vice Chair

Harold Anderson )  
Ritchie Buffkin )  
David Henderson ) - Members Present  
Van Rich )

Thomas Rush ) – Members Absent

John Evans, Assistant Community Development Division Director  
Justin Luck, Planning and Zoning Administrator  
Bradley Morton, Planner/Deputy City Clerk  
Trevor Nuttall, Community Development Division Director  
Jeff Sugg, City Attorney

**CALL TO ORDER**

Mr. O'Kelley called the Asheboro Planning Board to order.

**APPROVAL OF MINUTES FROM MARCH 7, 2022**

Mr. O'Kelley inquired if there were any corrections or additions to the minutes presented. Hearing no corrections or additions, the minutes were approved as presented.

**REVIEW OF CASES**

Mr. Luck went over the land use cases that the City Council heard at their March Regular Meeting.

**OLD BUSINESS**

**REQUESTS RELATED TO PROPERTY LOCATED WEST OF 2513 OLD CEDAR FALLS ROAD (A PORTION OF RANDOLPH COUNTY PARCEL IDENTIFICATION NUMBER 7772117810)**

**a) CASE NO. RZ-22-03: REQUEST TO REZONE FROM R10 TO R10 (CZ) FOR A RESIDENTIAL PLANNED UNIT DEVELOPMENT**

Mr. O'Kelley re-opened the public hearing for Case No. RZ-22-03. Mr. Evans gave a visual presentation regarding the above referenced case. He gave the overview for the case:

Applicant: Brian Thomas

Location: west of 2513 Old Cedar Falls Road

Request: Rezone from R10 Medium-Density Residential to R10

(CZ) Medium-Density Residential Conditional Zoning for a residential Planned Unit Development  
Randolph County Parcel ID: 7772117810 (portion)  
Size: 50.78 acres +/-  
Existing Land Use: Undeveloped

He showed overview, rezoning, topographic/utilities and aerial maps as well as photographs of the subject property. He also showed a sketch of the proposed site plan including a landscaping and utility plan noting that another alternative for sewer, depending on engineering design, may be to tie into the force main on Old Cedar Falls Road. He also showed proposed building elevations. He then gave the analysis of the request:

1. The applicant is requesting a Conditional Zoning district for a Residential Planned Unit Development.
2. The property, and the adjacent tract to the west, was brought into the city as a satellite annexation in 2006 at the request of a prior owner.
3. Old Cedar Falls Road is a state-maintained minor thoroughfare.
4. The applicant's proposal for a 51 acre Planned Unit Development consists of 85 attached single-family structures and one detached structure (initially to serve as a model home) for a total of 171 dwelling units. In 2013, the same applicant presented a different PUD proposal via a rezoning and special use permit (SUP) with 160 dwelling units, which included an agricultural tourism use, on the entirety of the property. Council did approve that rezoning to R10 and the SUP; the SUP is now considered null and void due to its expiration but the R10 district remains in place.
5. Units are proposed to be single-story dwellings with a one-car garage.
6. The project proposes development with private streets with two entrances serving the development from Old Cedar Falls Road. The developer would also be extending city water and sewer mains to serve the project and constructing a lift station.
7. The R10 Residential District is intended to provide regulations which will produce a moderate intensity of residential uses, usually single family or two family in character and served by central water supply and sewage disposal systems, plus the necessary governmental and other support facilities to service such urban intensity living.
8. The overall net density of the development is approximately 4.2 units per acre (excluding street right-of-way per the city code). Historically, conventional subdivision density within the R10 district averages around 3.8 units per acre.
9. The conditional zoning process allows an applicant to propose a project-specific zoning district that establishes permitted uses, development conditions and site development requirements. The project-specific zoning district is allowed to diverge from the zoning ordinance's predetermined land use requirements.
10. A portion of the property is located within a Special Hazard Flood Area. However, no development is proposed within this area.

He gave the LDP Recommendations:

**Proposed Land Use Map:**

Neighborhood Residential

**Small Area Plan:** East

**Growth Strategy Map:** Primary Growth

**Goals/Policies Supporting Request (4):**

- Checklist Item 1: Complies with LDP proposed land use map
- Checklist Item 5: Complies with Growth Strategy Map
- Checklist Item 7: Compatible with Small Area Plan
- Checklist Item 12: Outside of watershed area

**Goals/Policies Not Supporting Request (3):**

- Checklist Item 5: Not Consistent with Land Category Descriptions
- Checklist Item 13-14: Part of property has steep slopes and is within flood area

He then presented proposed conditions:

- (A) The use approved shall be a Residential Planned Unit Development.
- (B) All parties involved in this request, including the owner, successors, heirs, and assigns, agree to the conditions and approved site plan.
- (C) All required amenities in Phase One, as shown on the approved site plan, shall be built or guaranteed as allowed by the Subdivision Ordinance. This requirement pertains to, but is not limited to, the playground/picnic area, and areas for small and large dogs shown on the site plan. Such areas shall be properly graded, stabilized, and seeded for the purpose so indicated.
- (D) Prior to recording a final plat for any phase of the development, homeowners' association documents, which contain provisions consistent with this order, shall be recorded in the office of the Randolph County Register of Deeds. Such homeowners' documents shall include, but not be limited to, maintenance responsibilities of the association, a release of City of Asheboro from liability due to utility maintenance on private streets, indication that walls between units are party walls, and prohibition of parking recreational vehicles (boats, campers, travel trailers, etc.) outdoors.
- (E) Due to the proposed roadway width, on-street parking shall be prohibited.
- (F) Public infrastructure to be maintained by the city must be constructed to City of Asheboro standards and specifications and receive the appropriate approvals from the NCDOT and NCDEQ. Maintenance easements shall be granted to the city for such infrastructure, including hydrants and meters. A lot containing the lift station shall be platted and conveyed to the city along with an access maintenance. Surveying and construction drawings for state permitting and necessary legal instruments will be the developer's responsibility.
- (G) An engineering study of storm water runoff shall be made of the Zoning Lot. If this study indicates that post development runoff will exceed predevelopment conditions, plans for runoff control shall be designed and certified by a professional engineer. Such controls shall be designed to reduce the runoff during the occurrence of a 10-year storm to predevelopment volumes and rates. A professional engineer shall provide certification that the storm water controls were built according to the plans. Any open water retention or drainage areas shall be sprayed regularly for mosquito control. The continued maintenance of all runoff control measures shall be the responsibility of the property owner and any successors in interest.
- (H) Maintenance of all recreation areas, parking lots, roads, and drainage facilities that are not specifically labeled on the approved site plan as publicly owned and maintained shall be the responsibility of the property owner and any successors in interest.
- (I) The site plan indicates that trash collection will be from mobile toters. Collection must be done by a private entity. The City of Asheboro will not pick up solid waste within the development. All final plats shall state that the City of Asheboro will not pick up individual cans for the development. Prior to issuing a certificate of occupancy for any unit, the developer shall provide evidence of an arrangement for private solid waste disposal service.
- (J) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the applicant shall submit documentation detailing the following approvals:
  - (i) Driveway permit from NCDOT
  - (ii) Erosion control approval from NC Department of Environmental Quality
  - (iii) Preliminary plat approval from City Council
- (K) Pursuant to Section 4.05 (C) (18) of the zoning ordinance, action to obtain a Zoning Compliance Permit shall have commenced for the proposed land use within thirty six (36) months of the City Council's approval of this Conditional Zoning for the Zoning Lot.
- (L) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute, and deliver to the Zoning Administrator for recordation in the office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Conditional Zoning in the chain of title for the Zoning Lot.

He then gave the final analysis:

- Since the 2013 PUD approval, additional non-residential development has occurred within the East Small Area Plan boundaries and late last year Toyota announced plans to build a large manufacturing facility near Liberty approximately 12 miles northeast of the subject property. Such growth likely will necessitate new housing opportunities and the city's Land Development Plan (LDP) advocates for different housing types, including townhome development, as part of the housing inventory.
- The LDP's Neighborhood Residential Future Land Use Designation generally is supportive of PUD development at around 4 units per acre when adequate street connectivity and elements encouraged by the Plan, such as pedestrian amenities, project landscaping, recreation area, and open space are incorporated into project design.
- Staff continues to work with the applicant on project details to make it more consistent with the city's pre-determined land use requirements and LDP objectives. An updated report will be presented at the April 4th Planning Board meeting.

He stated that staff's recommendation is to approve the application, subject to acceptance of the suggested conditions. He stated that if the board had questions he would answer them at this time. Ms. Vuncannon inquired if the Fire Department and the school systems have reviewed this proposal. He stated that both have reviewed and the Fire Department wanted to see two entrances into the development. He stated that the school system did not have any comments. She also mentioned the one car garages and asked how many cars would be able to park on each lot. Mr. Evans stated that the garage will fit one car and the driveway will fit a second car. He also pointed out the visitor parking spaces that were available. Mr. O'Kelley inquired about the density with the Conditional Zoning request. Mr. Evans deferred to the applicant's agent to discuss density.

At this time Mr. Robert Wilhoit, Attorney, gave a presentation on behalf of the applicant outlining the property history, the current conditional zoning process, current zoning request. He stated that the applicant is in acceptance of the conditions and that the notices to adjoining property owners were mailed on March 15<sup>th</sup>, 2022. He expressed the need for housing options in Randolph County due to the demand exceeding the supply of housing. He mentioned that NCDOT has to approve all the driveways as these are state-maintained roads. He stated that Mack Summey, PE, was also available for any questions on the technical site data. He also stated that he would be available for any questions. There were no questions at this time.

Several people spoke in opposition to the rezoning request with concerns over density, traffic, parking, and potential sewer connection issues. Mr. Rich inquired to Mr. Summey about the sewer connections. Mr. Summey stated that he confirmed with the water resources director that the current pump station may be at capacity at this time, but that new impellers or wet wells could alleviate this issue. He said that the plan states that there will be a study on this to explore what is feasible.

Mr. Henderson inquired on the square footage of the homes. Mr. Wilhoit stated that they would be approximately 1400-1500 square feet according to the plans, not including the garages. Mr. Buffkin stated that he would like to see more parking within the development. Ms. Vuncannon stated that the visitor parking locations didn't seem ideal. Mr. Nuttall then outlined the Planning Board's role in the decision making process of a legislative conditional zoning request.

Mr. Henderson moved to recommend approval of Case No. RZ-22-03 with the acceptance of the suggested conditions and entered the following two additional conditions:

1. Reduce the number of units to 160
2. Add additional parking areas to the plan and disperse the location of these areas throughout the project.

Hearing no other discussion, Ms. Vuncannon seconded the motion and the motion carried unanimously.

**b) CASE NO. SUB-22-02: REQUEST FOR A SUBDIVISION SKETCH DESIGN FOR THE THOMAS ESTATES PLANNED UNIT DEVELOPMENT (PUD)**

Mr. Evans went over the above referenced subdivision sketch design. He gave an overview:

Applicant: Brian Thomas

Request: Sketch Design for residential Planned Unit Development

Size: 50.78 acres +/-

Parcel ID #: 7772117810 (portion)

Number of Lots: 171+ common area

Average Lot Size: Pending

He showed overview, rezoning, topographic/utilities and aerial maps as well as subdivision sketch design site plan.

He went over development issues:

1. The development proposes two entrances from Old Cedar Falls Road.
2. The application is showing four phases, with recreational amenities located within the first phase.
3. Streets within the development are proposed to be privately maintained.
4. The developer will be extending water and sewer along Old Cedar Falls Road, and also constructing a lift (pump) station within the development.
5. The Subdivision Ordinance requires Planned Unit Developments to build sidewalks connecting all units with mail facilities, recreation facilities, other amenities and public streets.

He then gave departmental comments:

Engineering: No comments have been offered at this time.

Public Works: Public Works had previously indicated the need for more detail on utilities. The updated plans were sent to Public Works for review. No additional comments were received.

Planning: Plat corrections have been completed.

Fire Department: The development proposes sufficient access from Old Cedar Falls Rd. for emergency services and operations

Water Resources: Water and sewerage is not directly available and requires extension along Old Cedar Falls Road. Such extensions must be consistent with NCDOT and NCDEQ requirements and city policies. Previous comments concerning utilities have also been addressed.

NCDOT: Roadway improvements including turning lanes will likely be required for the site. NCDOT recommended staking of proposed access location so that they can inspect issues such as sight distance prior to site design.

He stated that staff's recommendation is to approve noting the comments. Mr. O'Kelley inquired if the subdivision was meeting minimum city standards for a subdivision. It was confirmed that the sketch design is meeting minimum city standards for a subdivision.

Mr. Anderson moved to recommend approval of Case No. SUB-22-02. Mr. Rich seconded the motion and the motion carried unanimously.

**NEW BUSINESS**

- a) CASE NO. RZ-22-04: REQUEST TO REZONE PROPERTY LOCATED AT 233 WEST KIVETT STREET; 615 AND 617 SOUTH CHURCH STREET; AND 616 AND 622 HAMMER AVENUE (RANDOLPH COUNTY PARCEL IDENTIFICATION NUMBER 7751703525) FROM OA6 ZONING TO OA6 (CZ) ZONING FOR A MULTIPLE FAMILY DWELLING DEVELOPMENT FOR THE ELDERLY THAT IS A WHOLE BLOCK REDEVELOPMENT**

Mr. Nuttall gave a visual presentation of the above referenced rezoning case. He first gave an overview:

Applicant: Wynnefield Forward, LLC

Location: 615 & 617 S. Church St.; 233 W. Kivett St.; 616 & 622 Hammer Ave.

Request: Rezone from OA6 (Office-Apartment) to OA6 (CZ) requesting a whole block redevelopment for a multi-family dwelling development for the elderly

Randolph County Parcel ID: 7751703525

Size: 2.5 acres +/-

Existing Land Use: Single-family (2), two-family (1), multi-family (5 units)

He then showed overview, rezoning, Center City Planning Area, topographic/utilities, and aerial maps of the subject and surrounding properties. He also showed a copy of the proposed site plan and building elevations, followed by photographs of the subject property from all directions. He then gave the analysis:

1. The applicant is requesting a Conditional Zoning requesting a Whole Block Redevelopment for a Multi Family Development for the Elderly.
2. The property is within the city limits.
3. South Church Street is a state-maintained minor thoroughfare. West Kivett Street is a city-maintained minor thoroughfare. Lanier Avenue and Hammer Avenue are city-maintained local streets.
4. The applicant proposes a four story structure with 60 residential dwelling units and associated off-street parking.
5. The OA6 zoning district is described as "intended to produce moderate intensity office and residential development to serve adjacent residential areas and to provide a transition from residential to commercial uses. Land designated OA6 shall normally be located with access to a minor thoroughfare or higher classification street with access to local residential streets discouraged." Multi-family Development for the Elderly is a permitted use within the OA6 district.
6. The property is located within Tier 3 (Commercial and Employment Center) of the Center City Planning Area. Two properties with a B3 (Central Commercial) designation are within 300 feet of the subject property.
7. The application seeks approval of a Whole Block Redevelopment proposal. Whole Block Redevelopment is envisioned to help with the revitalization of neighborhoods, the removal of blighted and unsafe structures, encouragement of reinvestment into properties in the vicinity of the development, stabilization and enhancement of property values, improvement of the City's housing stock, enhancement of the historic integrity of neighborhoods and improvement to public infrastructure.
8. The applicant is requesting conditional zoning due to two deviations the project is seeking from the Ordinance's pre-prescribed requirements. They are: (a) A building height in excess of the 45 feet permitted by the Whole Block Redevelopment standards, and; (b) A front yard setback along South Church Street of less than the 25 feet stipulated by the Whole Block Redevelopment standards.
9. There are currently two single-family dwellings, one two-family (duplex) dwelling, and one multi-family structure with five residential dwelling units. The multi-family structure currently has a 0' setback from South Church Street.

He then gave the Land Development Plan (LDP) map recommendations:

**Proposed Land Use Map:** Center City Planning Area

**Small Area Plan:** Central

**Growth Strategy Map:** Primary Growth

He then gave the LDP Goals and Policies recommendations:

**Goals/Policies Supporting Request (7):**

- Checklist Item 1: Complies with LDP proposed land use map
- Checklist Item 3: Complies with zoning ordinance statement of intent
- Checklist Item 5: Complies with Growth Strategy Map
- Checklist Item 7: Compatible with Small Area Plan

- Checklist Item 8: Request is adaptive reuse of a vacant lot
- Checklist Items 12-13: Property is located outside of watershed and flood areas
- Policy 2.1.5: Transitional location between commercial/industrial and lower intensity residential

**Goals/Policies Not Supporting Request (1):**

- Checklist Item 14: Located in area with steep slopes (>20%)

He then listed proposed conditions:

(A) The use approved shall be a Residential Planned Unit Development.

(B) All parties involved in this request, including the owner, successors, heirs, and assigns, agree to the conditions and approved site plan.

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

He then gave staff's final analysis regarding the rezoning request:

- Whole Block Redevelopment options were incorporated into the zoning ordinance less than 15 years ago to facilitate large-scale revitalization projects that are consistent with city policy by streamlining the zoning approval of such proposals. The ordinance identifies specific development standards, and provided an applicant complies with the predetermined zoning requirements, project approval is administrative in nature and does not require city council review and action. Due to at least two deviations from these predetermined standards, one pertaining to building height and one related to minimum building setback, the applicant is requesting accommodation through this conditional zoning application.
- The primary reason for the proposal to reduce the building setback on S. Church St. is to maximize separation between the proposed building and the railroad right-of-way. Reduced building setbacks are design characteristics encouraged, and in some areas of the city such as the central business district two blocks to the north, generally mandated by the development codes. When reviewing development proposals with lesser street setbacks, impacts to future right-of-way needs and transportation improvements should be considered. In this location, the S. Church St. right-of-way is 50' - 60' in width and is designated as adequate in the city's Transportation Plan; no transportation improvements are proposed. In fact, the last improvement to S. Church St. was a lane reduction project designed to reduce speeds on the roadway and improve safety. Similarly, a deviation of less than a story from the ordinance's predetermined standard for a Whole Block Redevelopment project is not out of character for this area of the city, which is within a designated activity center that includes other buildings of similar or greater height.

He stated that staff's recommendation is to approve the application, subject to acceptance of the suggested conditions. He stated that on Thursday, May 5, 2022, City Council will consider the rezoning request. He then stated that he would answer any questions from the board at this time. Mr. O'Kelley asked if the existing structures were nonconforming. Mr. Nuttall stated that some of the structures are nonconforming with respect to setbacks, and that an almost zero lot line setback is occurring on at least one of the existing structures, with a stairway that was previously encroaching onto the S. Church Street sidewalk. Ms. Vuncannon asked about the proposed height of the structure. Mr. Nuttall stated that 48 feet is proposed at the current proposal, however there may be a change to the roof style which could increase or decrease the proposed height.

Mr. Davis Ray with Wynnefield Forward, LLC spoke in favor of this request. He stated that notices were mailed to adjoining property owners on March 16<sup>th</sup>, 2022 and he received no feedback from any adjoining owner. He addressed the roof height, stated that the parapet roof will be 43'. Mr. Buffkin made a comment

regarding other senior housing developments in the immediate area. There were no further questions or comments for Mr. Ray.

Mr. O'Kelley inquired if there was anyone to speak in opposition to the case. There was no one to speak in opposition to the case.

Hearing no further discussion, Mr. Anderson moved to recommend approval of Case No. RZ-22-04. Mr. Rich seconded the motion and the motion carried unanimously.

**b) SUB-22-03: SUBDIVISION SKETCH DESIGN FOR TIMBER RIDGE (EAST ALLRED STREET)**

Mr. Evans gave a visual presentation of the above referenced subdivision sketch design case. He started the presentation with an overview:

Applicant: Davidson Land Development  
Request: Sketch Design for Conventional Subdivision  
Size: 20.44 acres +/-  
Parcel ID #: 7762401107  
Number of Lots: 36  
Average Lot Size: 0.47 acres

He then showed overview, topographic/utilities, and an aerial map of the subject and surrounding properties. He also showed the proposed sketch design plan. He then listed the development issues:

1. The property is outside the city limits. Access to city services (water/sewer) requires annexation of the property.
2. The subdivision plat does not include sidewalks. While the subdivision ordinance encourages sidewalks, it does not require them for a residential subdivision that is not a planned unit development.
3. The property includes one point of access from East Allred Street.
4. The physical characteristics and development patterns of the adjoining properties make having a future connection impractical.
5. This property was part of a previously submitted and approved sketch (2017). That included additional property to the north. That sketch included a second entrance and a street network in closer proximity to the North Shore neighborhood.

He then listed Department comments:

Engineering: Plat comments have been addressed

Public Works: Public works reviewed and has suggested no changes.

Planning:

1. Road names will need to be approved by Randolph County Emergency Services.
2. Final hydrant locations will be subject to Fire Department review with preliminary plat.

Other:

- NCDOT asked that the property be staked to ensure driveway location complies with NCDOT requirements.
- The US Post Office indicated that a community mail box may be required. Design of this will be needed at the Preliminary Plat review.
- Asheboro City Schools had no specific comment.

He then stated that staff's recommendation is to approve noting the departmental comments. He stated that if there were any questions from the board that he would answer them at this time. There were no questions for Mr. Evans. Mr. Evans noted that the applicant's design team is available for questions also.

Mr. Christian Vestal with Summey Engineering, representing Davidson Land Development, was present and asked the board if there were any technical questions on the sketch design. The board had no questions for Mr. Vestal.

Mr. O'Kelley inquired if there was anyone else that would like to speak for or against the subdivision sketch design. Ms. Pam Wiggins, an adjoining property owner, had concerns with the development and stated that she was not notified for this project. Mr. Nuttall stated that the current R15 zoning permits subdivision development and if the standards are complied with then there is no public hearing for the development. He stated that if there was a deficiency in the plan, then such deficiency needs to be identified and the project denied. In the absence of such deficiency, the project must be approved. Ms. Wiggins also asked if the development would have an entrance on Northshore Drive. Mr. Nuttall stated that there is no entrance into the subdivision on Northshore Drive.

Hearing no further questions or concerns, Ms. Vuncannon moved to recommend approval of Case No. SUB-22-03. Mr. Henderson seconded the motion and the motion carried unanimously.

**c) PLANNING BOARD FUNCTIONING AS BOARD OF ADJUSTMENT: BOA-22-01: APPEAL FROM A FINAL ADMINISTRATIVE DECISION REGARDING THE VALIDITY OF SPECIAL USE PERMIT CUP-18-10 FOR PROPERTY IDENTIFIED BY RANDOLPH COUNTY PARCEL IDENTIFICATION NUMBER 7762740259**

Mr. Luck was placed under oath and then gave a visual presentation of the above referenced appeal case. He began with outlining the appeal process. The entire visual presentation is available, including all mentioned attachments, in the office of the Planning Board secretary.

**Quasi-judicial procedure (oaths, evidence)**

**Simple majority vote**

**Board of Adjustment makes final decision (generally, affirm or reverse)**

He then proceeded with the analysis of the case:

**Location:** East Allred St.

**Parcel Identification Number:** 7762740259

**Property Size:** 4.02 Acres

**Zoning:** RA6 (CZ)

**Surrounding Land Use:**

**North:** Undeveloped/Residential **East:** Residential

**South:** Undeveloped/Residential **West:** Residential

**LDP Recommendations:**

**Growth Strategy:** Primary Growth

**Proposed Land Use Map:** Neighborhood Residential

He presented an aerial map of the property along with photos of the property which had been posted with the official City of Asheboro notice of appeal. He then gave the property history:

On August 9, 2018, CUP-18-10 was approved by the Asheboro City Council

On September 6, 2018, the final decision document was adopted by the Asheboro City Council

He then gave the requested administrative decision:

On November 23, 2021, the City of Asheboro Zoning Administrator received a request for an administrative decision as to whether Special Use Permit CUP-18-10 was still valid from Summey Engineering Associates (See Attachment A). The request was sent on behalf of the property owner, Davidson Land Development, LLC, who was copied on the email.

After review of the zoning ordinance, the final decision document for CUP-18-10, and documentation provided by the property owner, a Notice of Decision was mailed to Davidson Land Development on December 30, 2021 (Attachment B) stating that CUP-18-10 has not expired and is valid.

The ordinance provision cited in the decision letter states, in pertinent part, as follows:

**1013.8 Discontinuance of Permitted Activity or Failure to Act on a Conditional Use Permit**

If any Conditional Use is discontinued for a period of 180 days; or the permit is not initiated within 180 days; or replaced by a use otherwise permitted in the zoning district, it shall be deemed abandoned and the Conditional Use Permit shall be null and void and of no effect.

The owner shall demonstrate that the Conditional Use has not been discontinued for a period exceeding 180 days; the project has been started within 180 days; or has not been replaced by a use otherwise permitted to maintain a valid Conditional Use Permit. (7/10/97)

He stated that on February 14, 2022, notice of the final administrative decision was posted on the property by the property owner in compliance with 160D-403(b) (Attachment D). On February 22, 2022, a Notice of Appeal (Attachment E) was submitted to the City Clerk.

He then informed the board that at this time, he would give the applicant the option to proceed or allow him to continue with his presentation. The applicant of the appeal, Ms. Hilda DeCortez, was placed under oath and gave her testimony. Ms. DeCortez stated that she lives at 1591 East Allred Street. She stated that she was unaware of the proposal in 2018. She stated that she is concerned with the traffic and the parking of vehicles which will directly impact her. She stated that due to her proximity, the proposal causes special damages due to the 4 acres proposing to be developed. She is concerned that the area being in a floodzone will negatively impact her residence and expressed concerns about road conditions. Mr. Carlos Maldonado was placed under oath to give his testimony. Mr. Maldonado also resides at 1591 East Allred Street. He expressed his concerns for the proposed development from an environmental and construction standpoint. He also expressed concerns with the lack of notice given in 2018 and the presence of new traffic from domestic vehicles as well as school buses, trash, and mail trucks.

The board emphasized that the decision they were making would be to either affirm or reverse the decision of the zoning administrator that the permit for CUP-18-10 is still valid.

After hearing no other testimony, Mr. Luck continued to discuss his rationale of the administrative decision that was reached:

When interpreting the zoning ordinance, words not expressly defined by the ordinance "shall have the meaning commonly assigned to them" (AZO Section 1.01). Webster's New World Dictionary of the American Language shall be the reference. Webster's defines the following terms:

**Initiate:** to cause or facilitate the beginning of: set going

**Start:** to come into being, activity, or operation; to begin a course or journey; to begin an activity or undertaking, especially: to begin work

**Discontinue:** to break the continuity of: cease to operate, administer, use, produce, or take

**Use:** to put into action or service: avail oneself of: EMPLOY; to carry out a purpose or action by means of: UTILIZE

Documentation (Attachment C) provided from the property owner demonstrated that CUP-18-10 was started within 180 days of approval, was not discontinued for a period exceeding 180 days, and was not replaced by a use otherwise permitted. The following facts were found in the final decision:

On September 21, 2018, as required by the conditions of CUP-18-10, a properly executed Memorandum of Land Use Restrictions by the previous property owner, McDowell Timber Company, was recorded in the office of the Randolph County Register of Deeds.

Rationale: Planning and Zoning staff view the recordation to the Memorandum of Land Use Restrictions as “starting” or “initiating” CUP-18-10 as it is the first step and beginning of the zoning compliance permitting process. A zoning compliance permit cannot be issued until the Memorandum is recorded. Condition (F) of CUP-18-10 states: “Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute and deliver to the Zoning Administrator for recordation in the office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to the Conditional Use Permit in the chain of title for the Zoning Lot.

On October 26, 2018, McDowell Timber Company made an expenditure of \$2,997.50 to Summey Engineering Associates, PLLC for professional services, including site plan revisions, for CUP-18-10. On December 10, 2018, on site surveying work executed by Survey Carolina was requested by Summey Engineering Associates for the CUP-18-10 property.

Rationale: Planning and Zoning staff view financial expenditures made in reliance of an approved permit as utilizing CUP-18-10. Staff conclude that this view is consistent with UNC School of Government analysis.

On March 23, 2019, McDowell Timber Company listed the CUP-18-10 property for sale. In their listing through Triad MLS, Inc., McDowell stated “Builders/Developers take a look. Property has been approved by City of Asheboro for 10 townhomes,” showing reliance on the CUP-18-10 approval. This language demonstrating reliance on the CUP-18-10 approval was also included in a listing on the Lands of America real estate website. Further, McDowell included a map in the listings showing the site plan configuration approved as part of CUP-18-10.

Rationale: Planning and Zoning Staff view the listing of property for sale, specifically for the use and site configuration approved as part of CUP-18-10, as utilizing CUP-18-10. Staff conclude that this view is consistent with UNC School of Government analysis.

The CUP-18-10 property was continuously marketed for sale by McDowell Timber Company until, on October 12, 2020, the property was sold to the current owner, Davidson Land Development, LLC.

To relieve downward economic pressures on land development resulting from the COVID-19 pandemic, the North Carolina General Assembly extended the term of development approvals, including CUP-18-10, three times: on May 4, 2020, on September 4, 2020, and on March 11, 2021.

Rationale: Being that the property was listed for sale specifically for the use and site configuration approved as part of CUP-18-10 on the date of the first development approval extension (May 4, 2020), it is the opinion of Planning & Zoning Staff that CUP-18-10 was active and in use on the date of development approval extension by the General Assembly, and its active status has been maintained by the development approval extension. This development approval extension has not been rescinded by the General Assembly.

The use of the CUP-18-10 property has not been replaced by a use otherwise permitted in the zoning district for which the property is located.

Mr. O'Kelley asked if the permit extension is still in effect today or if it has been rescinded. Mr. Luck stated that the permit extension is still in effect.

At this time Mr. Thomas Tennison, an adjoining property owner, was placed under oath and gave his testimony that since the permit extension is still valid, it would appear that the permit is still valid.

Hearing no further discussion on the matter, Mr. Rich moved to affirm the decision of the zoning administrator. Ms. Vuncannon seconded the motion and the motion carried unanimously.

#### **ITEMS NOT ON THE AGENDA**

There were no items at this time.

#### **ADJOURNMENT**

With no further business to come before the board, Mr. O'Kelley adjourned the meeting.

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Bradley Morton, Planning Board Secretary

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Michael O'Kelley, Planning Board Chair



**RZ-22-05:** Text amendments to the zoning ordinance regarding signs (Chapter 7 of zoning ordinance) filed by the City of Asheboro

**Staff Report**

# Rezoning Staff Report

**RZ Case # RZ-22-05**

**Date 5/2/2022 Planning Board**

## General Information

**Applicant** City of Asheboro

**Address** 146 North Church Street

**City** Asheboro NC 27203

**Phone** 336-626-1201 Ext. 225

**Location** N/A- This is a zoning text amendment

**Requested Action** Text amendments are proposed to the Zoning Ordinance to adjust sign area and illumination provisions.

**Existing Zone** N/A

**Existing Land Use** N/A

**Size** N/A

**Pin #** N/A

## Applicant's Reasons as stated on application

See attached.

## **Surrounding Land Use**

**North** N/A

**East** N/A

**South** N/A

**West** N/A

**Zoning History** The sign ordinance was last amended in June, 2021 to comply with federal case law (RZ-21-02).

## **Legal Description**

Text amendments to the Asheboro Zoning Ordinance (Chapter 7, Signs) related to signs.

## **Analysis**

1. The zoning ordinance related to signs was last updated in 2021, which was prompted by changes in federal case law.
2. It was recently noted at a City Council meeting that questions had arisen about permissible sign types, sizes and illumination. Staff was directed to present the City Council with a report on sign issues that had emerged since adoption of the 2021 amendments and to provide an opportunity to change sign ordinance elements that were determined to not align with public expectations.
3. Staff notes that it has received inquiries related to city sign regulations that generally can be characterized as:
  - (a) How does the city code now address electronic changeable copy signs?
  - (b) To what extent did wall sign allowances change with adoption of the 2021 amendment?
  - (c) How does the city code regulate signage associated with vehicles and vehicle appurtenances?
  - (d) To what extent does the city code address sign illumination?
3. Sign regulations are for "ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment on historic convenience to citizens and encouraging economic development."
4. This is an opportunity to discuss and review information and determine if there is any particular area of concern that warrants a code amendment.

# Rezoning Staff Report

RZ Case # RZ-22-05

## Consistency with the 2020 LDP Growth Strategy designations

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

Proposed Land Use Map Designation N/A

Small Area Plan N/A

Growth Strategy Map Designation N/A

## LDP Goals/Policies Which Support Request

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

**3.2.3:** *The City will require signs that blend harmoniously with the surrounding streetscape and other architectural elements of a site, such as requiring monument style signs that match building architecture, landscaping around signs, and unified sign plans for large-scale developments.*

**Design Principle #1** (LDP Design Principles) states that commercial centers need to have “signs and buildings at a more human scale.”

## Rezoning Staff Report

**RZ Case #**      **RZ-22-05**

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

#### **Staff's Final Analysis Concerning Consistency with Adopted Comprehensive Plans, Reasonableness and Public Interest**

The Land Development Plan supports periodic review of different zoning provisions to ensure that emerging issues related to signs are adequately contemplated and appropriately regulated consistent with the purpose and intent of the sign code.

Staff seeks input from the Planning Board and the public related to these matters and is deferring the presentation of any potential amendment until after such feedback is received.

**Recommendation**      In light of the above analysis, staff's recommendation is to continue the request until the June 6, 2022 Planning Board meeting.



## **Application for Zoning Ordinance/Map Amendment**

### **APPLICATION FEE**

A \$200 filing fee is required for any amendment.

### **APPLICATION INSTRUCTIONS**

The rezoning process can be complex. It is highly recommended that the applicant speak with Planning and Zoning Department staff prior to submitting the application and paying the filing fee. Contact staff at (336) 626-1201 ext. 225 to ensure application requirements are satisfied.

### **REQUIRED APPLICATION CONTENTS**

- 1) A dimensional map, at a scale of not more than 200 feet to the inch, showing the land that would be covered by the proposed amendment, if the amendment would require a change in the zoning atlas.
- 2) A legal description/deed reference of such land.
- 3) Letter to be mailed by applicant notifying neighboring property owners of the request. Consistent with Section 160D-602(e) of the North Carolina General Statutes, the applicant shall notify neighboring property owners of the requested conditional zoning as well as the location, time, and date on which the Planning Board will hold a legislative hearing on the request. This notice must be in the form of a mailed notice provided in compliance with the guidance found in Section 160D-602(a) of the North Carolina General Statutes. During the legislative hearing, the applicant shall report to the Planning Board on the delivery of the required notice and any communication with neighboring property owners and residents concerning the requested conditional zoning.

### **APPLICATION DEADLINES AND MEETING DATES**

The deadline for filing of applications for legislative hearings will be the day which is 55 days prior to the date of the City Council meeting for which the public hearing is to be set, provided that the deadline is no less than 17 days prior to the Planning Board's required legislative hearing; in these instances, the deadline will be 62 days prior to the date of the City Council meeting for which the public hearing is to be set. If five (5) applications have been received prior to the cut-off date, the request will be heard the following month.

| <b><i>Application Deadline</i></b>                       | <b><i>Planning Board Meeting</i></b>                      | <b><i>City Council Meeting</i></b>              |
|----------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------|
| December 17, 2021                                        | Monday, January 3, 2022                                   | Thursday, February 10, 2022                     |
| January 14, 2022                                         | Monday, February 7, 2022                                  | Thursday, March 10, 2022                        |
| February 11, 2022                                        | Monday, March 7, 2022                                     | Thursday, April 7, 2022                         |
| March 11, 2022                                           | Monday, April 4, 2022                                     | Thursday, May 5, 2022                           |
| April 15, 2022                                           | Monday, May 2, 2022                                       | Thursday, June 9, 2022                          |
| May 20, 2022                                             | Monday, June 6, 2022                                      | Thursday, July 14, 2022                         |
| June 10, 2022                                            | Monday, July 11, 2022                                     | Thursday, August 4, 2022                        |
| July 15, 2022                                            | Monday, August 1, 2022                                    | Thursday, September 8, 2022                     |
| August 12, 2022                                          | Tuesday, September 6, 2022                                | Thursday, October 6, 2022                       |
| September 16, 2022                                       | Monday, October 3, 2022                                   | Thursday, November 10, 2022                     |
| October 14, 2022                                         | Monday, November 7, 2022                                  | Thursday, December 8, 2022                      |
| *November, 2022: Confirm application deadline with staff | Monday, December 5, 2022. Confirm meeting date with staff | *January, 2023: Confirm meeting date with staff |

**\*January, 2023 Council meeting date is not set by Council until December, 2022.**

## **APPLICANT INFORMATION**

Applicant: **City of Asheboro**

Applicant's Phone #: **336-626-1201 Ext. 225**

Applicant's Address: **146 North Church Street; Asheboro, NC 27203**

Applicant Email Address: **jevans@ci.asheboro.nc.us**

## **PROPERTY INFORMATION FOR MAP AMENDMENTS** Text Amendment-NOT APPLICABLE

Property Owner's Name \_\_\_\_\_

Location of Property \_\_\_\_\_

Property Size (ac. or s.f.) \_\_\_\_\_

Randolph County Property Identification Number (PIN#) \_\_\_\_\_

Current Zoning District \_\_\_\_\_

Requested Zoning District \_\_\_\_\_

Date Property Title Acquired \_\_\_\_\_

Deed Book \_\_\_\_\_ Page \_\_\_\_\_

Subdivision \_\_\_\_\_ Section \_\_\_\_\_ Lot # \_\_\_\_\_

Plat Book \_\_\_\_\_ Page \_\_\_\_\_

## **ORDINANCE AMENDMENT INFORMATION** (responses italicized)

1. In what manner will the proposed amendment carry out the intent of the Land Development Plan? ***The LDP calls for periodic updates to the zoning ordinance to address arising issues. In this case, text amendments are proposed to address sign area and illumination provisions.***

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

***3.2.3 The City will require signs that blend harmoniously with the surrounding streetscape and other architectural elements of a site, such as requiring monument style signs that match building architecture, landscaping around signs, and unified sign plans for large-scale developments.***

***Design Principle #1 (LDP Design Principles) states that commercial centers need to have "signs and buildings at a more human scale."***

**For questions (2) and (3), if either of these questions apply, please state a reason. If you believe these do not apply, please check "does not apply".**

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

*There is not a specific error in the Ordinance that has been identified as of the time this application is filed. The review process, which will finalize a proposed text amendment, may propose corrections to any errors if they are identified.*

Does not apply ☐

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

*Staff periodically reviews the zoning ordinance to evaluate how effective it is to promote public health, safety, and general welfare. A more detailed analysis of this process will be detailed in the staff report attached to the text amendment case once that becomes available.*

Does not apply ☐

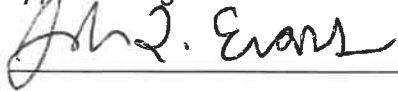
4. Are there any other circumstances, factors, or reasons that the applicant offers in support of the proposed amendment?

*Additional information will be provided with staff's analysis once the staff report becomes available.*

### **APPLICATION SIGNATURES**

It is understood by the undersigned that while this application will be carefully reviewed and considered, the burden of proving the need for the proposed amendment rests with the applicant. The applicant for rezoning to any district other than a conditional use district shall be prohibited from offering any testimony or evidence concerning the specific manner in which he or she intends to use or develop the property.

*Applicant Signature*



*Owner Signature (if different than Applicant)*

*Printed Name of Authorized Signatory (if  
different from Applicant)*

*Owner Address*

*(City offices) 146 North Church Street;  
Asheboro, NC 27203*

*Position/Relationship of Authorized  
Signatory to Applicant*

*Telephone Number*

*336-626-1201 Ext. 225*

*Printed Name of Authorized Signatory (if  
different from Owner)*

*Position/Relationship of Authorized  
Signatory to Owner*

### **STAFF USE**

***Received by: (JE- Filed) Date: 4-12-22 Case Number: RZ-22-05***

**CITY OF ASHEBORO**  
**NOTICE OF ZONING HEARING**  
***NOTIFICATION LETTER NOT APPLICABLE IN THIS CASE (RZ-22-05)***

This is to notify you that I (we) \_\_\_\_\_ have filed an application with the City of Asheboro for to rezone property located at

\_\_\_\_\_

from \_\_\_\_\_ to \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_, 2022, at 7:00 PM, the Planning Board will review the zoning request and forward its recommendation to City Council. As part of this process, you and others will have an opportunity to speak concerning the request and offer input.

On Thursday, \_\_\_\_\_, 2022, at 7:00 pm the City Council will hold a public hearing on the zoning request. As part of this process, you and others again will have an opportunity to speak concerning the request and offer input.

The meetings will be held in the City Council Chambers, 146 North Church Street, Asheboro, NC. The Council, after considering the information/testimony presented during the public hearing and reviewing the report of the Planning and Zoning Department and recommendation of the Planning Board, will take action on the application. Such action may include approval of the request, denial of the request, or approval of a modified version of the request on the basis of the Council's determination that such action is reasonably necessary to promote the public health, safety, or general welfare and to achieve the purposes of the adopted Land Development Plan. The meeting is open to the public and your participation is encouraged. If you have any questions, please contact the Planning and Zoning Department at 336-626-1201 Ext. 225. In addition, you may contact me (or my representative)

\_\_\_\_\_ at \_\_\_\_\_.