

AMENDED AGENDA
REGULAR MEETING
CITY COUNCIL, CITY OF ASHEBORO
THURSDAY, APRIL 9, 2020, 7:00 PM

1. Call to order.
2. Silent prayer and pledge of allegiance.
3. Public comment period.
4. Franchise to operate a construction and demolition debris landfill:
 - (a) Public hearing; and
 - (b) Final action on the proposed franchise ordinance.
5. Consent Agenda:
 - (a) Approval of the meeting minutes for the special city council meeting held on March 4, 2020.
 - (b) Approval of the minutes and general account of the closed session held during the special city council meeting on March 4, 2020.
 - (c) Approval of a resolution sealing the general account of the closed session held on March 4, 2020.
 - (d) Approval of the meeting minutes for the regular city council meeting held on March 5, 2020.
 - (e) Acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for February 3, 2020.
 - (f) Approval of the community development division's request to schedule and advertise quasi-judicial hearings on the following land use cases that have been submitted for consideration on May 7, 2020:
 - (i) A combined hearing to consider a request to rezone property from R10 (Medium-Density Residential) to CU-I2 (Conditional Use General Industrial) and to obtain a conditional use permit authorizing Motor Vehicle Repair, Major and Rental/Sales of Domestic Vehicles land uses. The property is located at 1420 East Salisbury Street and 358 Patton Avenue (Randolph County Parcel Identification Number 7761513992).

- (ii) A quasi-judicial hearing on the applicant's request for a conditional use permit authorizing a land use identified as a Multi-Use Commercial Development on the property located at 1226 East Dixie Drive (Randolph County Parcel Identification Number 7760584122).
 - (g) Approval of a contract amendment to extend the termination date from October 18, 2020, to October 18, 2021, for the PEMMCO grant agreement between the city and the North Carolina Department of Commerce.
 - (h) Approval of the 2020 Downtown Farmers' Market operational days and hours, including special events, listed on the attachment with this agenda.
 - (i) Acknowledgement of the receipt and acceptance of the operational hours proposed by the Recreation Services Director for the city-owned pools during the 2020 season.
 - (j) Approval of a lease agreement with Randolph County pertaining to office space for the police department at 1453 North Fayetteville Street (the former Wachovia/Wells Fargo building).
6. Community Development Director Trevor Nuttall will introduce the following items:
- (a) SUP-20-01 (quasi-judicial hearing): An application for a Special Use Permit authorizing a Manufacturing, Processing, and Assembly (Light) land use on property, which is zoned (B2 General Commercial), at 468 North Fayetteville Street (Randolph County Parcel Identification Number 7751859284).

{This request has been withdrawn by the applicant.}

- (b) RZ-20-01 (public hearing): An application to rezone property located at 137 North Randolph Avenue (Randolph County Parcel Identification Number 7761027972) from R7.5 (Medium-Density Residential) to B2 (General Commercial).

{The applicant has requested a continuance to May 7, 2020.}

Amended Agenda

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- (c) RZ-20-02 (public hearing): A zoning ordinance text amendment application related to Recreational Vehicle/Travel Park/Camp uses in the B2 and TH zoning districts, including but not limited to Article 200, Table 200-2 (Table of Permitted Uses) and Article 300A.
 - (d) SUB-19-02: A request for preliminary plat approval for the Hillcrest Subdivision (Breeze Hill Road and Fermer Road).
- 7. Water Resources Director Michael Rhoney, PE will present the following items.
 - (a) Summary of bids received for chemical purchases April 16, 2020 –April 15, 2021 and recommended award of contract.
 - (b) Summary of bids received for Wastewater Treatment Plant Paving Improvements received April 3, 2020, and recommended award of contract.
 - (c) Resolution supporting and authorizing an application for a state loan for the Sanitary Sewer Lift Station No. 3 Improvements Project.
 - (d) Consideration of Supplemental Design-Build Utility Agreement between North Carolina DOT and the City for the Asheboro Southern By-Pass.
- 8. The City Manager will present amendments to the FBO agreement at the Asheboro Regional Airport for final approval.
- 9. Along with the city attorney, the public works director and assistant public works director will present for council action the proposed City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance.
- 10. The city attorney will present additional proposed updates to Chapter 50 (Water and Sewers) of the Code of Asheboro.
- 11. The city attorney will present proposed updates to Chapter 93 (Civil Emergencies) of the Code of Asheboro.
- 12. The city attorney will present a resolution seeking the council's concurrence with the manager's decision to offer a limited, temporary form of employee leave related to the current public health crisis.
- 13. Adjournment.

ORDINANCE NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**AN ORDINANCE GRANTING A CONSTRUCTION AND DEMOLITION
DEBRIS LANDFILL FRANCHISE TO MORTON & SEWELL
DEVELOPMENT COMPANY, INC.**

WHEREAS, in compliance with a franchise initially granted by the Asheboro City Council (the “Council”) in 2006, Morton and Sewell Land Company, LLC operates a construction and demolition debris landfill within the corporate limits of the City of Asheboro (the “City”) at 385 Gold Hill Road, Asheboro, North Carolina 27203; and

WHEREAS, the current franchisee has asked to change the existing franchise to reflect alterations in the corporate identity of the franchisee, the term of the franchise, the footprint of the facility, the unit of measurement for incoming waste, and the service area; and

WHEREAS, immediately prior to taking final action on this request, the Council utilized a properly advertised public hearing to obtain comments from interested parties on the question of granting the requested franchise; and

WHEREAS, after reviewing the available information, the City Council of the City of Asheboro has concluded that granting the requested franchise is in the public interest.

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 and 160A-319 of the North Carolina General Statutes, Morton & Sewell Development Company, Inc. (the “Franchisee”) is hereby granted a franchise to operate a construction and demolition debris landfill at 385 Gold Hill Road, Asheboro, North Carolina 27203 (the “Landfill”).

Section 2. The Landfill shall have available for its use approximately 30 acres of land permitted in accordance with the laws of the State of North Carolina for use as a construction and demolition debris landfill.

Section 3. No more than 500 tons of waste shall be deposited into the Landfill per day. With this amount of incoming waste, the Landfill will have an estimated life of 20 years.

Section 4. With the submittal of data and mapping from its engineers, the Franchisee has provided to the City a facility plan for the Landfill that includes the boundaries of the proposed facility, the proposed development of the facility, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the Landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility as well as the proposed location of soil borrow areas and all other facilities and infrastructure, including ingress and egress to the facility. No leachate facilities are needed for this construction and demolition debris landfill.

A copy of the facility plan is on file in the city clerk's office and is available for public inspection. The facility plan submitted by the Franchisee is hereby incorporated into this Ordinance by reference as if copied fully herein.

Section 5. Throughout the duration of the franchise granted by this Ordinance, the Franchisee shall purchase and maintain a \$1,000,000 environmental liability insurance policy, a \$1,000,000 general liability insurance policy, and workers' compensation insurance coverage that complies with the applicable provisions of the North Carolina General Statutes. The City shall be named as an additional insured under the environmental liability insurance and general liability insurance policies.

On an annual basis, the City shall be furnished with Certificates of Insurance in a form satisfactory to the City for the purpose of verifying the existence of the insurance coverage required by this section. The insurance policies mandated by this section shall provide for 30 days advance written notice of material change, cancellation, or non-renewal.

Section 6. The population to be served by the Landfill will be primarily commercial contractors who specialize in construction and demolition activities. The main waste stream will primarily come from the City of Asheboro and Randolph County, but all counties in North Carolina are included in the Landfill's service area.

Section 7. As part of its efforts to reduce, reuse, and recycle as much solid waste as possible, the City has worked in a cooperative manner with the Landfill to dispose of the following materials: brush, tree trimmings, leaves, yard waste, and stumps as well as clean concrete, building materials, and construction and demolition materials. After these materials are taken to the facility by city personnel and/or others, the materials are processed in a variety of ways and, if possible, resold to the public. Therefore, the continued successful operation of the Landfill will have a positive impact on the City's efforts to reduce, reuse, and recycle solid waste.

With specific regard to the disposal of construction and demolition waste, the Landfill is a vital actor in the process. The granting of the requested franchise so as to maintain a privately owned and properly permitted construction and demolition debris landfill in Asheboro is critical to providing cost-effective disposal options to meet the needs of the municipality's citizens.

Section 8. The waste accepted by the Landfill shall be composed of waste or debris resulting from roofing, construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures. In furtherance of the City's goal to promote and make available to its citizens cost-effective disposal options that are environmentally sustainable, the Franchisee is authorized, by way of illustration and not limitation, to accept waste containing asbestos. However, the Franchisee shall monitor the waste offered to the Landfill and shall reject any unacceptable waste including without limitation 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 9. 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. Beginning in the 2021 calendar year and continuing thereafter, this fee schedule may be adjusted by the Franchisee on an annual basis in accordance with the Consumer Price Index - All Urban Consumers, U.S. City Average, All Items (not seasonally adjusted) as published by the U. S. Department of Labor, Bureau of Labor Statistics with an index base period of 1982-84 = 100. Such an adjustment shall be made on the 1st day of July of each year that this franchise is in full force and effect. On the adjustment date, the above-referenced fee schedule may be increased by a percentage equal to the cumulative percentage increase, if any, in the above-cited consumer price index (the "CPI"). The cumulative percentage increase in the CPI means the percentage increase, if any, in the CPI for the month of May immediately preceding the adjustment date over the CPI recorded for the month of May during the preceding calendar year.

If the CPI ceases to use as the basis of calculation the standard of 1982-84 = 100, or if a change is made in the items contained in the CPI, or if the CPI is altered, modified, converted, or revised in any other manner, then the foregoing computations shall be made with the use of such conversion factor, formula, or table for converting the CPI as may be published by the Bureau of Labor Statistics. If the Bureau of Labor Statistics does not publish such conversion information, then the foregoing computations shall be made with the use of a conversion factor that adjusts the modified CPI to the figure that would have been calculated had the manner of computing the CPI not been altered.

Section 10. The franchise granted by this Ordinance is granted for the Landfill's life-of-site, but this period shall not exceed 60 years. The term "life-of-site" is defined in Section 130A-294(a2) of the North Carolina General Statutes.

Section 11. The Franchisee 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 12. The Franchisee shall require anyone using the Landfill to comply with Section 20-116(g) of the North Carolina General Statutes.

Section 13. The effective date of this Ordinance shall be April 15, 2020.

Section 14. All ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed effective April 15, 2020.

This Ordinance was initially adopted by the Asheboro City Council during a regular meeting held on the 6th day of February, 2020.

The Asheboro City Council granted final approval of the Ordinance after a public hearing and second reading of the Ordinance during the Council's regular meeting on the 9th day of April, 2020.

David H. Smith, Mayor

ATTEST:

Holly H. Doerr, CMC, NCCMC, City Clerk

EXHIBIT A

Price List for Construction and Demolition Debris:

- a. Standard Charge = \$38.00 per ton
- b. Clean Concrete = \$15.00 per ton
- c. Asbestos = \$75.00 per cubic yard
- d. Minimum Charge = \$15.00 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 the Landfill.

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

MEETING DATE: WEDNESDAY, MARCH 04, 2020

MEETING TIME: 6:00 PM

LOCATION: RANDOLPH COUNTY
EMERGENCY SERVICES BUILDING,
760 NEW CENTURY DRIVE, ASHEBORO, NORTH
CAROLINA 27205

At 6:00 p.m. on Wednesday, March 4, 2020, the City Council of the City of Asheboro will convene for a special meeting in the conference room of the Randolph County Emergency Services Building, 760 New Century Drive, Asheboro, North Carolina 27205. This special meeting will be held as a joint meeting with the Randolph County Board of Commissioners.

This special joint meeting has been called for the purpose of discussing competitive healthcare activities by or on behalf of Randolph Health. The only agenda items planned for the meeting’s open session are the convening of the special joint meeting, action on motions for each governing board to go into closed session, and the adjournment of the meeting.

The discussion concerning Randolph Health and competitive healthcare activities will be conducted in closed session. No final action is anticipated at this meeting.

This special meeting notice is issued on the 24th day of February, 2020.

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

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**SPECIAL JOINT MEETING
ASHEBORO CITY COUNCIL
RANDOLPH COUNTY BOARD OF COMMISSIONERS
WEDNESDAY MARCH 4, 2020 6:00 PM
RANDOLPH COUNTY EMERGENCY SERVICES BUILDING
760 NEW CENTURY DRIVE, ASHEBORO, NORTH CAROLINA**

This being the time and place for a special meeting of the Asheboro City Council with the Randolph County Board of Commissioners, a meeting was held with the following elected city officials and city management team members present:

David H. Smith) – Mayor Presiding

Clark R. Bell)
Edward J. Burks)
Walker B. Moffitt) – Council Members Present
Jane H. Redding)
Charles A. Swiers)

Linda H. Carter)
Katie L. Snuggs) – Council Members Absent

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Jeffrey C. Sugg, City Attorney

In addition to the above-referenced elected officials and staff members for the City of Asheboro, the following members of the Randolph County Board of Commissioners were present: Chairman Darrell Frye, Vice-Chairman David Allen, Commissioner Hope Haywood, Commissioner Kenny Kidd, and Commissioner Maxton McDowell. The following county staff members were also present: Hal Johnson, County Manager; Dana Crisco, Clerk to the Board; Sarah Pack; Deputy Clerk to the Board; Will Massie, Assistant County Manager/ Finance Officer; Ben Morgan, County Attorney; and Aimee Scotton, Associate County Attorney.

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

1. Motion to go into closed session.

Mayor Smith entertained a motion to go into closed session pursuant to Section 143-318.11(a)(1) of the North Carolina General Statutes for the purpose of discussing competitive healthcare activities by or on behalf of Randolph Health, which discussion is privileged and confidential pursuant to Section 131E-97.3 of the North Carolina General Statutes.

The requested motion was made by Council Member Moffitt and seconded by Council Member Burks. The Council Members then voted unanimously to approve the motion and went into closed session. Council Members Bell, Burks, Moffitt, Redding, and Swiers voted in favor of the motion.

[The minutes and general account of the closed session have been prepared and approved as a separate document.]

2. Return to open session.

After returning to open session, Council Member Bell moved to adjourn the meeting. Council Member Burks seconded the motion, and the Council Members voted unanimously to adjourn the meeting. Council Members Bell, Burks, Moffitt, Redding, and Swiers voted in favor of the motion. The meeting was adjourned at 7:27 p.m.

Holly H. Doerr, CMC, NCCMC, City Clerk

David H. Smith, Mayor

RESOLUTION NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**Resolution Sealing the General Account of a Closed Session
Conducted during a Special Joint Meeting with the
Randolph County Board of Commissioners
on March 4, 2020**

WHEREAS, Section 143-318.10(e) of the North Carolina General Statutes provides, in pertinent part, that the “minutes or an account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session;” and

WHEREAS, pursuant to Section 143-318.11(a)(1) and Section 131E-97.3 of the North Carolina General Statutes, the city council, upon unanimous adoption of a properly made and seconded motion, went into closed session on March 4, 2020, during a joint special meeting with the Randolph County Board of Commissioners, in order to discuss privileged and confidential information pertaining to competitive healthcare activities by or on behalf of Randolph Health; and

WHEREAS, the purpose for going into closed session on March 4, 2020, would be frustrated if the general account of the closed session were to be made available for public inspection at this time.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the general account of the closed session conducted on March 4, 2020, is hereby sealed and will remain sealed so long as public inspection of the records would frustrate the purpose of the closed session; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that the city manager is hereby authorized to act as the council’s agent with the authority to unseal these records when the purpose of the closed session would no longer be frustrated by making the records available for public inspection or when the unsealing of this general account is otherwise required by law.

**[The remainder of this page was intentionally left blank.
The signature blocks for this Resolution are on the next page.]**

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on April 9, 2020.

David H. Smith, Mayor

ATTEST:

Holly H. Doerr, CMC, NCCMC, City Clerk

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, MARCH 5, 2020
7:00 PM**

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

David H. Smith	) – Mayor Presiding
Clark R. Bell	)
Edward J. Burks	)
Linda H. Carter	)
Walker B. Moffitt	) – Council Members Present
Jane H. Redding	)
Katie L. Snuggs	)
Charles A. Swiers	)

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Jason A. Hanson, Police Captain
David L. Hutchins, Public Works Director
P. Douglas Kemp, Human Resources Director
Michael L. Leonard, PE, City Engineer
Jeffrey C. Sugg, City Attorney

1. Call to order.

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

2. Moment of silent prayer and pledge of allegiance.

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

3. Recognition of guests and citizens.

Mayor Smith welcomed Mr. George Kearns, a boy scout from Troop 527, who was in attendance as a requirement for his citizenship badge.

4. Public comment period.

Mayor Smith opened the floor for public comments. Mr. James Armstrong expressed his general concerns regarding the need for economic development and general improvements to public infrastructure in order to enhance the quality of life in Asheboro.

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

5. Presentation of the *Asheboro Pride Award*.

Mayor Smith presented the Asheboro Pride Award to Ms. Tammy O’Kelley, CEO of the Randolph County Tourism Development Authority, in recognition of her receipt of the Lifetime Achievement in Travel and Tourism Award and for her service to Asheboro and its citizens. No formal action was taken by the Council during this portion of the meeting.

6. Recognition of Mayor Pro Tem Walker Moffitt for his appointment to serve as Chair of the North Carolina Zoo Council.

On behalf of the Asheboro City Council, Mayor Smith congratulated Mayor Pro Tem Walker Moffitt for his appointment by Governor Roy Cooper to serve as Chair of the North Carolina Zoo Council. No formal action was taken by the City Council during this portion of the meeting.

7. Recognition of Public Services Superintendent Dwain Maness.

On behalf of Mayor Smith, the Council Members, and the City Manager's Office, Mr. Ogburn presented Public Services Superintendent Dwain Maness with a retirement plaque from the municipal corporation. Additionally, Mr. Ogburn thanked Mr. Maness for his dedicated service to the citizens of Asheboro.

8. Consideration of an appointment to fill the open seat on the Asheboro Airport Authority.

City Engineer Michael Leonard, PE, reported that the Asheboro Airport Authority (a 5-member board) has recommended that the Council consider appointing either Ms. Linda Brown or Mr. Keith Hodgin, Jr. to fill the unexpired term of Dr. James Rich. The term for this open seat on the Asheboro Airport Authority expires in February 2022.

After reviewing the interest forms/applications submitted by these individuals, Council Member Moffitt moved to appoint Ms. Linda Brown to fill the seat vacated by Dr. Rich. Council Member Carter seconded the motion, and the Council voted unanimously to appoint Ms. Brown to serve on the Asheboro Airport Authority. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

9. Consideration of an appointment to fill the open seat on the City of Asheboro Planning Board.

Community Development Director Trevor Nuttall reported that the planning board is a 7-member board (five city seats and two extraterritorial planning jurisdiction seats) with one open seat due to the resignation of Lynette Garner, who served as a city resident.

After reviewing interest forms/applications submitted by interested citizens, Council Member Bell moved to appoint Mr. Harold Anderson to fill the unexpired term of Ms. Garner that expires in January, 2022. Council Member Snuggs seconded the motion, and the Council voted unanimously to appoint Mr. Anderson to the Asheboro Planning Board. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

10. Consent agenda.

Upon motion by Council Member Bell and seconded by Council Member Burks, the Council voted unanimously to approve/adopt the following consent agenda items. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

(a) The meeting minutes for the city council's regular meeting held on February 6, 2020.

The approved meeting minutes are on file in the city clerk's office, and an electronic copy of the approved minutes is posted on the city's website.

- (b) **The acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for January 6, 2020.**

The minutes of the meeting held by the Asheboro ABC Board on January 6, 2020 have been received by the city clerk, distributed to Mayor Smith and the Council Members for review, and have been filed in the city clerk's office.

- (c) **The community development division's request to schedule and advertise public hearings on the following land use cases that have been submitted in time for full consideration during the council's next regular meeting on April 9, 2020.**

- (i) **A Special Use Permit application requesting approval for a Manufacturing, Processing, and Assembly (Light) land use on property, which is zoned B2 (General Commercial), at 468 North Fayetteville Street (Randolph County Parcel Identification Number 7751859284).**
- (ii) **An application to rezone property located at 137 North Randolph Avenue (Randolph County Parcel Identification Number 7761027972) from R7.5 (Medium-Density Residential) to B2 (General Commercial).**
- (iii) **A zoning ordinance text amendment application pertaining to Recreational Vehicle/Travel Park/ Camp land uses in the B2 and TH zoning districts, including but not limited to Article 200, Table 200-2 (Table of Permitted Uses) and Article 300A.**

The hearings concerning the applications for the above-described land use approvals will be scheduled and advertised in accordance with the applicable statutes/ordinances and then heard by the Asheboro City Council during its regular meeting on April 9, 2020.

- (d) **A resolution concurring with amendments made by the city manager to the City of Asheboro Employee Policies and Procedures Manual in order to improve the process for calculating the overtime compensation (in premium pay or compensatory time) of employees engaged in law enforcement activities.**

RESOLUTION NUMBER 03 RES 3-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION EXPRESSING CONCURRENCE WITH REVISIONS TO THE
EMPLOYEE POLICIES AND PROCEDURES MANUAL**

WHEREAS, the City of Asheboro Employee Policies and Procedures Manual (formerly known as the City of Asheboro Personnel Policies and Procedures Manual and hereafter referred to as the "Manual"), which was originally promulgated by the city manager and approved by resolution of the Asheboro City Council on March 4, 2004, has to be updated on a regular basis; and

WHEREAS, the city manager has acted on recommendations from the human resources director and the chief of police to correct a typographical error and to improve the process for calculating overtime compensation (in premium pay or compensatory time-off) for employees engaged in law enforcement activities; and

WHEREAS, the revised provisions in the Manual are specified in Section 1 of this Resolution; and

WHEREAS, the Asheboro City Council has concluded that the city manager's decision to update the Manual as stated herein is supportive of the governing board's goal to create a positive work environment for municipal employees and thereby facilitate excellence in the provision of municipal services to the citizens of Asheboro.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that it concurs with the city manager's decision to amend the City of Asheboro Employee Policies and Procedures Manual as follows:

Section 1. Effective March 7, 2020, Section 4 in Article III of the Manual is rewritten to provide as stated in the following highlighted text:

**ARTICLE III. PAYROLL CLASSIFICATION AND
PAYROLL ADMINISTRATION**

SECTION 4. OVERTIME AND SPECIAL DUTY ASSIGNMENT

- 4.01 *For the purpose of calculating compensatory time-off and overtime pay, the standard workweek for city employees is 12:01 a.m. Sunday – 12:00 Midnight Saturday. This standard workweek may not be altered without the permission of the city manager.*
- 4.02 *The city abides by all applicable sections of the Fair Labor Standards Act, the Fair Labor Standards Amendments of 1986, and all subsequent amendments. On the basis of time sheets or time cards submitted by the employees, the city will properly record all applicable overtime accrued for each covered employee.*
- 4.03 *With the exception of subsection ~~4.12~~ 4.14, this overtime and special duty assignment policy is applicable only to city employees who are nonexempt under the Fair Labor Standards Act ("FLSA").*
- 4.04 *Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Except in cases of emergency, employees are prohibited from performing work during any time that they are not scheduled to work unless they receive prior approval from their immediate supervisor. An emergency exists if a condition arises that could reasonably result in injury or harm to a person, damage to property, or that requires the immediate attention of the employee. Employees who work excess hours because of an emergency shall advise their immediate supervisor of the unscheduled work as soon as practical following completion of the work.*
- 4.05 *It is the policy of the city, in agreement with its employees, that nonexempt employees receive compensatory time-off at a rate of one-and-one-half hours for each hour of overtime worked. Except for law enforcement and fire protection employees, nonexempt employees receive compensatory time-off at the rate of one-and-one-half hours for every hour worked over 40 hours in a standard 7-day workweek. Pursuant to Section 207(k) of the FLSA and 29 CFR Part 553, nonexempt law enforcement employees are entitled to this overtime rate only for hours worked in excess of 92 171 hours in a 15-day 28-day work period, and nonexempt fire protection employees are entitled to this overtime rate only for hours worked in excess of 159 hours in a 21-day work period.*
- 4.06 *"Gap" time refers to the hours that fall between a nonexempt employee's regularly scheduled hours and, in the case of an employee who is not subject to the Section 207(k) exemption, the 40 hours that the employee must work before becoming entitled to the overtime premium rate for pay or compensatory time-off. The hourly or salaried pay established in the pay plan for a nonexempt employee who is not paid under the Section 207(k) exemption is the entirety of the pay to be received by the employee for the hours worked during the standard workweek so long as the hours actually worked do not exceed the 40-hour maximum. No additional compensation will be paid or granted for "gap" hours that do not cause the employee to exceed the 40-hour maximum.*
- 4.07 *The applicability of this section of the city employee policies and procedures manual is limited to nonexempt law enforcement and fire protection personnel paid under the Section 207(k) exemption.*

- (A) *The salary established in the pay plan for a nonexempt law enforcement employee or fire protection employee paid under the Section 207(k) exemption is the only compensation that will be paid to the employee for all of the regularly scheduled hours worked by the employee. For “gap” hours in a non-overtime work period that do not cause a law enforcement employee to exceed ~~92~~ 171 hours in a ~~15-day~~ 28-day work period or a fire protection employee to exceed 159 hours in a 21-day work period, such an employee will receive bonus compensatory time-off on an hour-for-hour basis, not the overtime premium rate of one-and-one-half hours, for each hour actually worked in excess of the total number of hours that the employee was scheduled to work during the applicable ~~15-day~~ 28-day or 21-day work period.*
- (B) *During an overtime work period, such an employee will be paid in cash on a straight time basis for all “gap” time worked and paid in cash on an overtime premium basis (one-and-one-half hours) for every hour worked by a law enforcement employee in excess of ~~92~~ 171 hours in a ~~15-day~~ 28-day work period and every hour worked by a fire protection employee in excess of 159 hours in a 21-day work period.*
- (C) *None of the foregoing provisions are to be interpreted or implemented in a manner that impedes the utilization by management officials of special duty assignments that are compensated with bonus cash payments that are calculated by using the overtime premium rate of one-and-one-half hours. Such bonuses are to be calculated as a separate and distinct form of compensation.*
- 4.08 *With the exception of holiday leave, when an employee takes leave from work, the compensatory leave time bank must be exhausted prior to using any accrued vacation or sick leave. Because accrued holiday leave expires if not used within a designated timeframe, if an employee has accrued holiday leave, the employee may exhaust the holiday leave bank first and then use any compensatory leave time prior to utilizing vacation or sick time for time away from work. The only exception to using compensatory time-off before accrued vacation and/or sick leave applies to retiring employees leaving in good standing per Article VII’s Resignation in Good Standing Policy. During the 12-month period immediately preceding retirement, a retiring employee may work with his or her supervisor to exhaust any accrued vacation leave over the 240 maximum prior to working his or her last day with the city.*
- 4.09 *In a situation where a nonexempt employee performs work that fails to qualify as overtime work because the employee did not actually work over 40 hours during the standard 7-day workweek, or for a law enforcement employee or a fire protection employee subject to the Section 207(k) exemption who did not work in excess of the threshold amount set for overtime work during the applicable ~~15-day~~ 28-day or 21-day work period, such an employee may receive a bonus in the form of one-and-one-half hours of compensatory time-off for every hour worked in furtherance of the assigned task if the work is designated as a special duty assignment by the employee’s division director or department head on the employee’s time sheet or time card. Alternatively, a nonexempt employee may receive a bonus in the form of a monetary payment rather than compensatory time-off for work on a special assignment if such work is designated for special duty pay by the employee’s division director or department head on the employee’s time sheet or time card. Such a bonus shall be calculated on the basis of one-and-one-half times the employee’s regular rate of pay for each hour worked on a special duty assignment.*
- 4.10 *When a nonexempt employee is called back to work outside regularly scheduled working hours, the employee’s division director or department head is to evaluate the totality of the circumstances and make a determination as to which of the following options will be utilized:*
- (A) *The call-back event can be designated as a special duty assignment with the granting of either bonus compensatory time-off or the payment of a monetary bonus as described above in subsection 4.09, and a guarantee that the employee will receive, under this option, credit for no less than 2 hours of special duty assignment work; or*

- (B) *The call-back event can be integrated into flexible, alternative scheduling of the employee's work time during the workweek.*
- 4.11 *Nonexempt law enforcement employees and fire protection employees subject to the Section 207(k) exemption may accrue not more than 480 hours of compensatory time-off. All other nonexempt employees may accrue not more than 240 hours of compensatory time-off. When the thresholds specified in this subsection are reached, the nonexempt employee will receive a monetary payment of one-and-one-half times the employee's regular rate of pay for each hour in excess of the limits specified in this subsection.*
- 4.12 *Employees wishing to use accrued compensatory time-off must make a written request to their immediate supervisor. Use of such time will be allowed within a reasonable period following the request as long as the use does not unduly disrupt the operations of the city. Additionally, in order to reduce the amount of accrued compensatory time-off, an employee who has not asked to use accrued compensatory time-off may, nonetheless, be required by his or her supervisor to use that accrued time at the convenience of the city.*
- 4.13 *Accrued compensatory time-off will be paid upon termination of employment and shall be calculated at the average regular rate of pay for the final three years of employment, or the final regular rate received by the employee, whichever is higher.*
- 4.14 *Subject to the conditions specified in this subsection, an exempt employee may be granted bonus compensatory time-off or pay to the same extent that such a bonus would be granted to a nonexempt employee for work designated and approved as special duty assignment work by the management official with approval authority for the exempt employee's time sheet or time card. The receipt of bonus compensatory time-off or pay by an exempt employee is subject to the following conditions:*
- (A) *The amount of compensatory time-off or pay shall be calculated on an hour-for-hour basis, not at the rate used for nonexempt employees of one-and-one-half hours for each hour of special duty assignment. The maximum amount of time that can be accrued by exempt employees is dependent on whether the employee is subject to the Section 207(k) exemption. If the Section 207(k) exemption is not applicable, the maximum accrual of special duty compensatory time-off allowed by this policy is 240 hours. If the Section 207(k) exemption is applicable to the employee, the maximum accrual of special duty compensatory time-off allowed by this policy is 480 hours. Any special duty compensatory time-off listed on a time record that would cause a leave balance to exceed the above stated amounts shall be disregarded as non-approved special duty compensatory time-off.*
- (B) *As with nonexempt employees, exempt employees wishing to use accrued compensatory time-off must make a written request to their immediate supervisor. Use of such time will be allowed within a reasonable period following the request as long as the use does not unduly disrupt the operations of the city. Additionally, in order to reduce the amount of accrued compensatory time-off, an employee who has not asked to use accrued compensatory time-off may, nonetheless, be required by his or her supervisor to use that accrued time at the convenience of the city. When unusual work scheduling needs arise, the employee and the employee's supervisor should make every effort to fluctuate the schedule to avoid the accrual of compensatory time-off.*
- (C) *Exempt employees who have been allowed to accumulate compensatory time-off, rather than receiving payment for overtime work, will not be paid for any portion of the accumulated compensatory time-off until the exempt employee is promoted or terminates his or her employment with the city.*
- (D) *In the event an exempt employee separating from employment with the city is to receive a payment for some or all of the accumulated compensatory time-off, such terminal pay is to be calculated at the employee's final regular rate of pay. While exempt employees can generally accrue up to 240 hours and those subject*

to the Section 207(k) exemption can accrue up to 480 hours, the maximum terminal pay cannot exceed 120 hours for exempt employees who do not qualify for the Section 207(k) exemption or 240 hours for law enforcement and fire protection employees who qualify for the Section 207(k) exemption. When an exempt employee terminates his or her employment with the city, the balance of any accumulated compensatory time-off that has not been used by the employee prior to the separation from employment or included in the employee's terminal pay in strict accordance with the limits set within this subsection shall be deemed to be forfeited.

Section 2. All articles, sections, and provisions of the Manual that are not clearly and unmistakably referenced herein are unaffected by this Resolution and remain, without alteration, in full force and effect.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 5th day of March, 2020.

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

ATTEST:

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

11. A request for council action on a grant agreement pertaining to lighting rehabilitation at the Asheboro Regional Airport.

Mr. Leonard presented a grant agreement from the North Carolina Department of Transportation Division of Aviation pertaining to lighting rehabilitation at the Asheboro Regional Airport. This agreement pertains to a grant in the amount of \$124,268, not to exceed 90% of the federal share of the final, eligible project costs of \$138,076.

Upon motion by Council Member Burks, and seconded by Council Member Bell, the Council voted unanimously to approve the above-referenced grant agreement. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

A copy of the approved grant agreement is on file in the city clerk's office.

12. Report on the computer software upgrade for the utility billing operation and the finance operation as budgeted in the 2019-2020 fiscal year.

Mr. Ogburn reported that Muni-Link has been selected for the computer software for the utility billing and finance operations. An update to the utility billing software is expected to be completed by April 1, 2020, while the update to the software utilized by the city's finance department is expected to be completed during the 2020-2021 fiscal year.

Additionally, Mr. Ogburn announced that the city's utility billing office will be closed on March 17, 2020 for staff training. No formal action was taken by the City Council during this portion of the meeting.

13. Upcoming events.

Mayor Smith led a brief discussion of upcoming events occurring with the city government and the community in general. No action was taken by the city council during this portion of the meeting.

There being no further business, Council Member Burks moved to adjourn the meeting. Council Member Carter seconded the motion, and the Council voted unanimously to adjourn the meeting at 7:45 p.m. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye.

Holly H. Doerr, CMC, NCCMC, City Clerk

David H. Smith, Mayor

Minutes of the meeting of the Asheboro Alcoholic Beverage Control Board held on February 3, 2020

The Asheboro ABC Board met on Monday, February 3, 2020, at 5:30 PM, in the Board office, 700 South Fayetteville Street, Asheboro, NC.

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

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

Steve Knight and the GM reviewed Board finances and reported all finances remain consistent (sales and expenses).

Monthly drafts and EFT payments were reviewed and approved by the Board.

The GM provided an update concerning Asheboro PD's last minor undercover operation. All persons charged with selling to an underage person were provided scheduling information for an upcoming BARS training program (Be a Responsible Server). ABC Detective Jimmy Wells advised he will request the PD issue a press release on the next operation to help get the word out to the public and permit holders.

The ABC Commission, pursuant to §18B-702(j), issued a waiver for the GM to also serve as the Board's Finance Officer. The approval will expire March 1, 2023.

There exists some confusion about ABC Regulations and the schedule the Board uses to make bank deposits. Upon motion by Bob Morrison, the Board directed the GM to contact the ABC Commission for clarification on the issue.

The Board reviewed responses prepared by the GM to a survey requested by the ABCC Chairman about Board operations. The responses were approved by the Board and the GM directed to reply to the survey.

A review of Grant Applications was continued until the Board's March meeting.

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

1. Asheboro ABC sales statistics comparing:
 - o January 2020 sales with the previous month indicate:
 - An overall -42.3% change (all sales and tax collections)
 - o January 2020 sales with sales from the same month last year indicate:
 - Retail Sales +10.6%

- Mixed Beverage Sales: -13.6%
- Sales Tax Collections: +10.6%
- Overall Collections: +7.33%

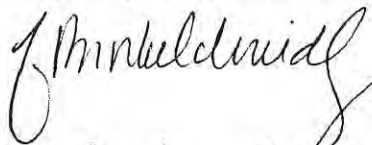
- January 2020 bottle sales with bottle sales from the same month last year indicate:

- Retail Bottle Sales: +11.5%
- Mixed Beverage Bottle Sales: -11.8%
- Overall Bottle Sales: +9.9%

The next regular Asheboro ABC Board meeting will be held Monday, March 2, 2020, at 5:30 p.m.

There being no further business, the meeting was adjourned.

Prepared by Rodney Johnson, GM, and Approved by the Board 3-2-20 
GM


Stephen R Knight

AMENDMENT

North Carolina Department of Commerce
Rural Economic Development Division
Rural Grant/Programs

Contract #: 2019-078-3201-2587
Date: March 13, 2020

1

Number

GRANTEE:

City of Asheboro
PO Box 1106
Asheboro, NC 27204-1106

Contact: The Honorable David Smith

Project Title: PEMMCO/Project PMG

THE DEPARTMENT:

North Carolina Department of Commerce
Rural Economic Development Division
301 North Wilmington Street
4346 Mail Service Center
Raleigh, NC 27699-4346
Grant Manager: Nichole M. Gross

This Contract Amendment is hereby entered into by and between the North Carolina Department of Commerce (the "Department") and the City of Asheboro (the "Grantee") (referred to collectively as the "Parties"). By this Contract Amendment, the Parties amend their Grant #2019-078-3201-2587, respectively (the "Agreement"), as outlined below.

Except as set forth in this Contract Amendment, all other terms and conditions of the Agreement shall remain unaltered and in full force and effect. Should there arise any conflict, discrepancy or ambiguity between the terms and conditions contained in the Agreement and the terms and conditions of this Contract Amendment, the terms and conditions contained in this Contract Amendment shall govern and prevail.

☒ Paragraph 3 (Term of Agreement)

DELETE: "terminate on 10/18/2020 ." "
ADD: "terminate on 10/18/2021 ." "

Progress reports are due on January 15th and July 15th for each year that the grant remains open. The final report and job verification documentation are due at the time of project completion or no later than 30 days after the grant end-date, whichever is sooner. The reporting schedule remains in effect for the duration of the grant including time extensions.

Authorized Signature Warranty: The undersigned represent and warrant that they are authorized to bind their principles to the terms of this Contract Amendment.

In Witness Whereof, the Grantee and the Department have executed this Contract Amendment in duplicate originals, with one original being retained by each party.

GRANTEE:

THE DEPARTMENT:



Signature

Signature

Printed Name

Date

Kenny Flowers

Printed Name

3/13/2020

Date

Title

Assistant Secretary for Rural Economic Development

Title

If you agree with the amendment as proposed, please sign. **Retain one a copy for your files and return a copy to the attention of Nichole M. Gross at the NC Department of Commerce at rgpreports@nccommerce.com .**



TO: John Ogburn, *City Manager*

FROM: Jonathan Sermon, *Recreation Services Director*

DATE: April 1, 2020

SUBJECT: **Written notice to Council of proposed operational hours at the Downtown Farmers' Market and Outdoor City Swimming Pools.**

The Cultural & Recreation Services Department is requesting to be placed on the council's consent agenda for the April 9th city council meeting to address the proposed operational hours at the Downtown Farmers' Market and outdoor city-owned swimming pools for the 2020 season. Please allow this letter and any attached documentation to serve as the formal written notice to the Asheboro City Council as required each year by the Cultural & Recreation Services Department policy manual.

Downtown Farmers' Market

The normal hours of operation for the Downtown Farmers' Market are Tuesday, Thursday, and Saturday each week during the months of May – October. The market also typically holds "pre-market" days on the final two Saturday's of April each year. However, this spring the availability of certain seasonal agricultural goods, namely strawberries, is coming earlier than expected. Based on this fact and in order to provide the citizens of Asheboro and Randolph County the greatest opportunity to purchase farm fresh goods, the Market will begin normal operations in 2020 on Tuesday, April 14th.

Swimming Pools

At this time, due to COVID-19, all public swimming pools are required to be closed until further notice. Once the threat of this virus passes and swimming pool restrictions are lifted the plan is to resume operations as normal. In anticipation of being able to open aquatic facilities at some point this summer and to do so as expeditiously as possible, please find attached the proposed 2020 operational hours for both Memorial and North Asheboro Swimming Pools. The normal hours of operation each season for the swimming pools are to open for weekends beginning on Memorial Day weekend in May. Beginning the weekend after the end of school

the pools are open daily until the second Sunday of August. The attached request mirrors those traditional hours of operation again this season.

Jonathan Sermon, Recreation Services Director can be present at the council meeting to answer any questions concerning the proposed schedule if needed.

Memorial Pool Schedule 2020

Sunday:

1:00pm – 6:00pm Public Open Swim

Monday:

1:00pm – 6:00pm Public Open Swim

7:00pm – 9:00pm Public Night Swim

Tuesday:

9:00am – 10:00am Public Lap Swim

10:00am-11:30am Group Swim

12:00pm – 1:00pm Drenched

1:00pm – 6:00pm Public Open Swim

Wednesday:

1:00pm – 6:00pm Public Open Swim

7:00pm – 9:00pm Public Night Swim

Thursday:

9:00am – 10:00am Public Lap Swim

10:00am-11:30am Group Swim

12:00pm – 1:00pm Aqua Blast

1:00pm – 6:00pm CLOSED TO THE PUBLIC

Friday:

1:00pm – 6:00pm Public Open Swim

Saturday:

1:00pm – 6:00pm Public Open Swim

North Pool Schedule 2020

Sunday:

1:00pm – 6:00pm Public Open Swim

Monday:

9:00am – 10:00am Public Lap Swim

10:00pm-11:30am Group Swim

12:00pm – 1:00pm Water Aerobics

1:00pm – 6:00pm CLOSED TO THE PUBLIC

Tuesday:

12:00pm – 1:00pm Water Aerobics

1:00pm – 6:00pm Public Open Swim

7:00pm – 9:00pm Public Night Swim

Wednesday:

9:00am – 10:00am Public Lap Swim

10:00pm-11:30am Group Swim

12:00pm – 1:00pm Water Aerobics

1:00pm – 6:00pm Public Open Swim

Thursday:

12:00pm – 1:00pm Water Aerobics

1:00pm – 6:00pm Public Open Swim

7:00pm – 9:00pm Public Night Swim

Friday:

1:00pm – 6:00pm Public Open Swim

Saturday:

1:00pm – 6:00pm Public Open Swim

NORTH CAROLINA

RANDOLPH COUNTY

LEASE AGREEMENT

This Lease, by and between the County of Randolph, a political subdivision of the State of North Carolina, Lessor (hereinafter referred to as the "County", and the City of Asheboro, a North Carolina Municipal Corporation, Lessee (hereinafter referred to as the "City").

WITNESSETH

WHEREAS, the County owns the old Wachovia/Wells Fargo building located at the Fayetteville Street corner of the Northgate County Office Complex and more particularly described as 1453 North Fayetteville Street, Asheboro, North Carolina hereinafter the "Property"; and

WHEREAS, the Property is in need of general maintenance and roof repair; and

WHEREAS, the Property is not currently being used by the County; and

WHEREAS, the City has been looking for a facility in which to locate an Asheboro North District Police Office; and

WHEREAS, the City has the means and desire to perform general maintenance and roof repair to the Property in order to make it suitable for use as a police precinct office; and

WHEREAS, the County recognizes the benefit of the presence of a police precinct office on the Property, both to the other County facilities nearby and to the citizenry; and

WHEREAS, North Carolina General Statute §160A-274 authorizes the County, upon such terms and conditions as it deems wise, with or without consideration, to lease property to the City upon action taken by the Randolph County Board of Commissioners; and

WHEREAS, this Lease was considered by and approved by the Randolph County Board of Commissioners at their regular meeting on March 9, 2020.

NOW, THEREFORE, subject to the terms and conditions herein set out, the County doth hereby let and lease unto the City, and the City doth hereby accept as tenant of the County that Property described above. The terms and conditions of this Lease being as follows:

Section 1. Effective Date. The effective date of this Lease shall be the date of the last signature affixed hereto.

Section 2. Term. The term of this Lease begins on the Effective Date and shall continue for five (5) years unless terminated earlier as provided herein.

Section 3. Termination. If the City ceases to use the Property as a police precinct office or begins to use the property for any purpose other than as a police precinct office, this Lease shall terminate immediately. Furthermore, either party may terminate this Lease upon six (6) months prior written notice to the other party.

Section 4. Consideration. In lieu of rental payments, any improvements or repairs made to the Property by the City during the term of this Lease shall serve as the consideration paid to the County for the use of the Property.

Section 5. Insurance. The County shall maintain during the term of this Lease, on the structural portion of the Property, property insurance, including fire insurance against loss or damage as a result of fire and hazards customarily insured against in extended coverage clauses in North Carolina in an amount not less than 100% replacement value thereof. In the event of the destruction of or damage to the building, the proceeds of such insurance shall be used, to the extent necessary, in order to repair or restore the same to its condition just prior to the said destruction or damage. Insurance on the contents of the Property shall be the responsibility of the City.

Section 6. Utilities/Maintenance. Except as otherwise stated herein, the City shall pay all utility bills incurred in connection with the use of the Property during the term of this Lease. The City is also responsible for the maintenance of and for all janitorial/custodial work performed on the premises. The County shall be responsible for grounds and parking lot maintenance.

Section 7. Property of City. All goods, equipment, fixtures and other personal property of City stored or kept or maintained in or on the Property shall be at the sole risk of the City, and the County shall not be responsible for any loss or damage to the same.

Section 8. Sublease/Assignment. This Lease shall not be assigned, or the Property sublet, without the written consent of the County.

Section 9. Changes/Alterations. Other than general maintenance and roof repair, no alterations or changes shall be made in the improvements upon the Property without the written consent of the Lessor.

Section 10. Liens and Claims. The City shall at all times keep the Property and the County's estate or interest therein free and clear from all claims, liens, and encumbrances caused by or through the City or by or through the occupancy of the Property by the City or occurring as a result of construction work, repairs, alterations, additions and restoration work required or permitted to be done by the City pursuant to the terms of this Lease.

Section 11. Indemnity. The City shall indemnify and hold harmless the County from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees to the extent resulting from any negligent act or omission of the City, its officers, agents, servants, employees, contractors or assigns in connection with this Lease; provided, however, that the City shall not be obligated to indemnify the County from and against any suits, actions, legal proceedings, claims, demands, damages, costs, expenses, or attorneys' fees to the extent arising out of any negligent act or omission of the County, its officers, agents, servants, employees, contractors, or assigns.

The County shall indemnify and hold harmless the City from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees to the extent resulting from any negligent act or omission of the County, its officers, agents, servants, employees, contractors or assigns in connection with this Lease; provided, however, that the County shall not be obligated to indemnify the City from and against any suits, actions, legal proceedings, claims, demands, damages, costs, expenses, or attorneys' fees to the extent arising out of any negligent act or omission of the City, its officers, agents, servants, employees, contractors, or assigns.

Section 12. Care of Premises. The City covenants and agrees that it will take good care of the Property and upon termination of this Lease will surrender the said Property in at least as good order and condition as it is in at the beginning of this Lease, ordinary wear and tear excepted.

Section 13. Invalidity of Particular Provisions. If any term or provision of this Lease or the application thereof to any person or circumstance shall to any extent be unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby; and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

Section 14. E-Verify. The City hereby certifies that it is in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, commonly referred to as "E-Verify" and shall remain in compliance for the duration of this Lease Agreement.

Section 16. Governing Law. The laws of the State of North Carolina shall govern this Lease Agreement. Any action filed on this Lease shall be filed in District or Superior Court in Randolph County, North Carolina.

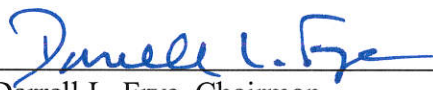
Section 16. Entire Agreement. This Lease contains the entire agreement between the parties and any executory agreement hereafter made shall be ineffective to change, modify or discharge it in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought.

In Testimony Whereof, the parties hereto have hereunto set their hands and seals, this the day and year first above written.

FOR THE LESSOR

COUNTY OF RANDOLPH

(SEAL)

By: 
Darrell L. Frye, Chairman
Randolph County Board of Commissioners

Attest:


Dana Crisco, Clerk to the Board

I, a Notary Public of the County of Randolph, State of North Carolina, do hereby certify that Dana Crisco, who is personally known to me, appeared before me this day and acknowledged that she is the Clerk to the Board for the County of Randolph and that, by authority duly given and as the act of the County of Randolph, the foregoing instrument was voluntarily executed on behalf of the County by Darrell L. Frye, Chairman of the Randolph County Board of Commissioners, sealed with the County's corporate seal, and attested by her as Clerk to the Board for the purposes stated therein. Witness my hand and official stamp or seal, this 11 day of March, 2020.


Notary Public

My Commission Expires: 10/17/23

FOR THE LESSEE

CITY OF ASHEBORO

(SEAL)

By: _____
David H. Smith, Mayor
City of Asheboro

Attest:

Holly H. Doerr, City Clerk

State of North Carolina
County of Randolph

I, a Notary Public of the County of Randolph, State of North Carolina, certify that Holly H. Doerr, who is personally known to me, appeared before me this day and acknowledged that she is the City Clerk for the City of Asheboro and that, by authority duly given and as the act of the City of Asheboro, the foregoing instrument was voluntarily executed on behalf of the City by David H. Smith, the Mayor, sealed with the City's seal, and attested by her as Clerk for the purposes stated therein.

Witness my hand and official stamp or seal, this ____ day of _____, 2020.

Notary Public

My Commission Expires: _____



**RZ-20-01: Request to rezone from R7.5 Medium-Density Residential to B2
General Commercial: 137 N. Randolph Avenue**

Staff Report

Planning Board Recommendation & Comments to City Council

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

Case # RZ-20-01

Date 3/2/2020

Applicant Brandon Michael Allen

Legal Description

The property of Brandon Allen, located at 137 N. Randolph Avenue, totaling approximately .31 acres +/- and more specifically identified by Randolph County Parcel Identification Number 7761027972

Requested Action Rezone from R7.5 (Medium-Density Residential) to B2 (General Commercial)

Existing Zone R7.5 (Medium-Density Residential)

Land Development Plan See Rezoning Staff
Report

Planning Board Recommendation

Approve.

Reason for Recommendation

The Planning Board concurred with staff's recommendation.

Planning Board Comments

Rezoning Staff Report

RZ Case # RZ-20-01

Date PB:3/2/2020 CC: 4/9/2020

General Information

Applicant Brandon Michael Allen
Address 2785 Hickory Drive
City Asheboro NC 27205
Phone 336-302-4392
Location 137 N. Randolph Avenue - Corner of E. Salisbury Street and N. Randolph Avenue
Requested Action Rezone from R7.5 (Medium-Density Residential) to B2 (General Commercial)

Existing Zone R7.5 **Existing Land Use** Vacant. Formerly Single-Family Dwelling
Size .31 acres +/- **Pin #** 7761027972

Applicant's Reasons as stated on application

More commercial activity than when Allen Automotive first opened. It is recommended for this property to be commercial. Third highest road traffic wise. Heavily traffic.

Surrounding Land Use

North Car Wash

East Single Family Residential

South Single Family Residential

West Motor Vehicle Repair, Minor

Zoning History N/A

Legal Description

The property of Brandon Allen, located at 137 N. Randolph Avenue, totaling approximately .31 acres +/- and more specifically identified by Randolph County Parcel Identification Number 7761027972.

Legal notices were mailed to adjoining property owners on Thursday, March 19, 2020.

Analysis

1. The property is inside the City limits.
2. East Salisbury Street is a State-Maintained Major Thoroughfare
3. The most recent 2014 Comprehensive Transportation Plan identifies this segment of East Salisbury Street/ NC Hwy. 42 as over capacity based on 2012 volumes measuring average annual daily vehicles/day (11,600 capacity vs. 13,000 AADT 2012 volume).
4. In order to relieve the congestion that currently exists on NC Hwy. 42 North, the current NCDOT Transportation Improvement Program has proposed road improvements (Project No. U-5743) along NC Hwy. 42 extending between the E. Salisbury St. intersection and US Hwy. 64 (E. Dixie Drive). Proposed improvements include the addition of a center turn lane, sidewalks, curbing and guttering. The project's timetable anticipates a let date of late 2021.
5. The city has submitted a request for consideration to the NCDOT for a future widening of East Salisbury Street from Elm Street to the funded Project No. U-5743 as mentioned above. Draft 2023-2032 STIP release date is tentatively scheduled for February 2022.
6. The requested B2 General Zoning district is intended to serve the convenience goods, shoppers goods retail and service needs of the motoring public, both local and transient. This district should always be located with access directly to minor thoroughfares or higher classification streets, but never local residential streets.
7. Approval of the request would allow any use permitted by right in the B2 district.

Rezoning Staff Report

RZ Case # RZ-20-01

Page 2

Consistency with the 2020 LDP Growth Strategy designations

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

Proposed Land Use Map Designation Commercial
Small Area Plan Central
Growth Strategy Map Designation Primary Growth

LDP Goals/Policies Which Support Request

Checklist
Item 1: Rezoning is compliant with the Proposed Land Use Map.

Checklist
Items 3&5: 3.) The property on which the rezoning district is proposed fits the description of the Zoning Ordinance. (Article 200, Section 210, Schedule of Statements of Intent). 5.) The proposed rezoning is compliant with the objectives of the Growth Strategy Map.

Checklist
Item 10: Rezoning is consistent with Land Category Descriptions

Checklist
Items 12-15: 12.) Property is located outside of the watershed area, or the rezoning request will not impose a significant, negative environmental impact. 13.) The property is located outside of Special Hazard Flood Area. 14.) Rezoning is not located on steep slopes (>20%) or rezoning (and the development intensity permitted with the proposed district) is unlikely to create additional problems due to steep slopes. 15.) The rezoning is not located on poor soils or the rezoning district is unlikely to create additional problems caused by poor soil conditions

Rezoning Staff Report

RZ Case # RZ-20-01

Page 3

LDP Goals/Policies Which Do Not Support Request

Checklist Item 7: The proposed rezoning is not compatible with the applicable Small Area Plan.

Checklist Item 11: Rezoning will not promote the type of development described in Design Principles.

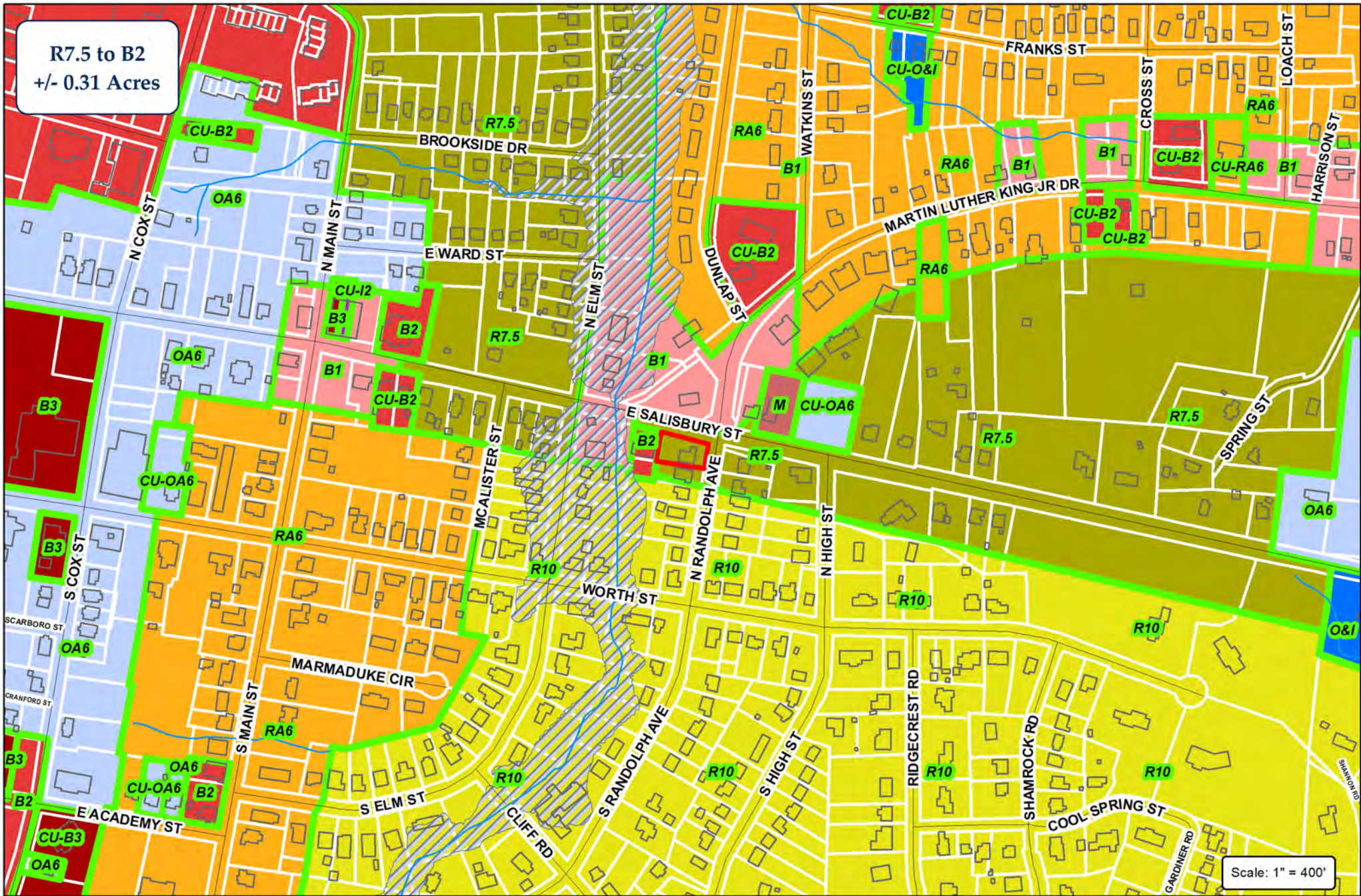
Staff's Final Analysis Concerning Consistency with Adopted Comprehensive Plans, Reasonableness and Public Interest

A commercial rezoning request is supported by the Land Development Plan's Proposed Land Use Map which calls for commercial development of this property as well as property immediately to the south and east, likely due to adjacent development and the continued growth in traffic volumes. A commercial designation for the property also is supported by current zoning to the north and west of the property, which is B1 Neighborhood Commercial and B2 General Commercial respectively. The property's proximity to the Center-City Activity Center tends to support the request; there are only six residentially zoned properties between the subject parcel and this Activity Center.

While ideally there is some transition between commercial and residential zoning districts and uses, any non-residential development of the property will be required to install a landscape buffer or screen along the southern property line for the benefit of the adjacent residential property. Furthermore, front yard landscaping along E. Salisbury St. and N. Randolph Ave. also must be installed as part of any future commercial project. Moreover, design standards also will apply to any building constructed or located on the property, helping to advance the LDP's goal of encouraging commercial development to be visually appealing; the use of metal or vinyl on the front façade of any building will be restricted.

Considering all factors, staff believes the request to be consistent with the Land Development, reasonable and in the public interest.

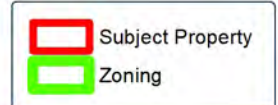
Recommendation In light of the above analysis, staff's recommendation is to approve the B2 district request.



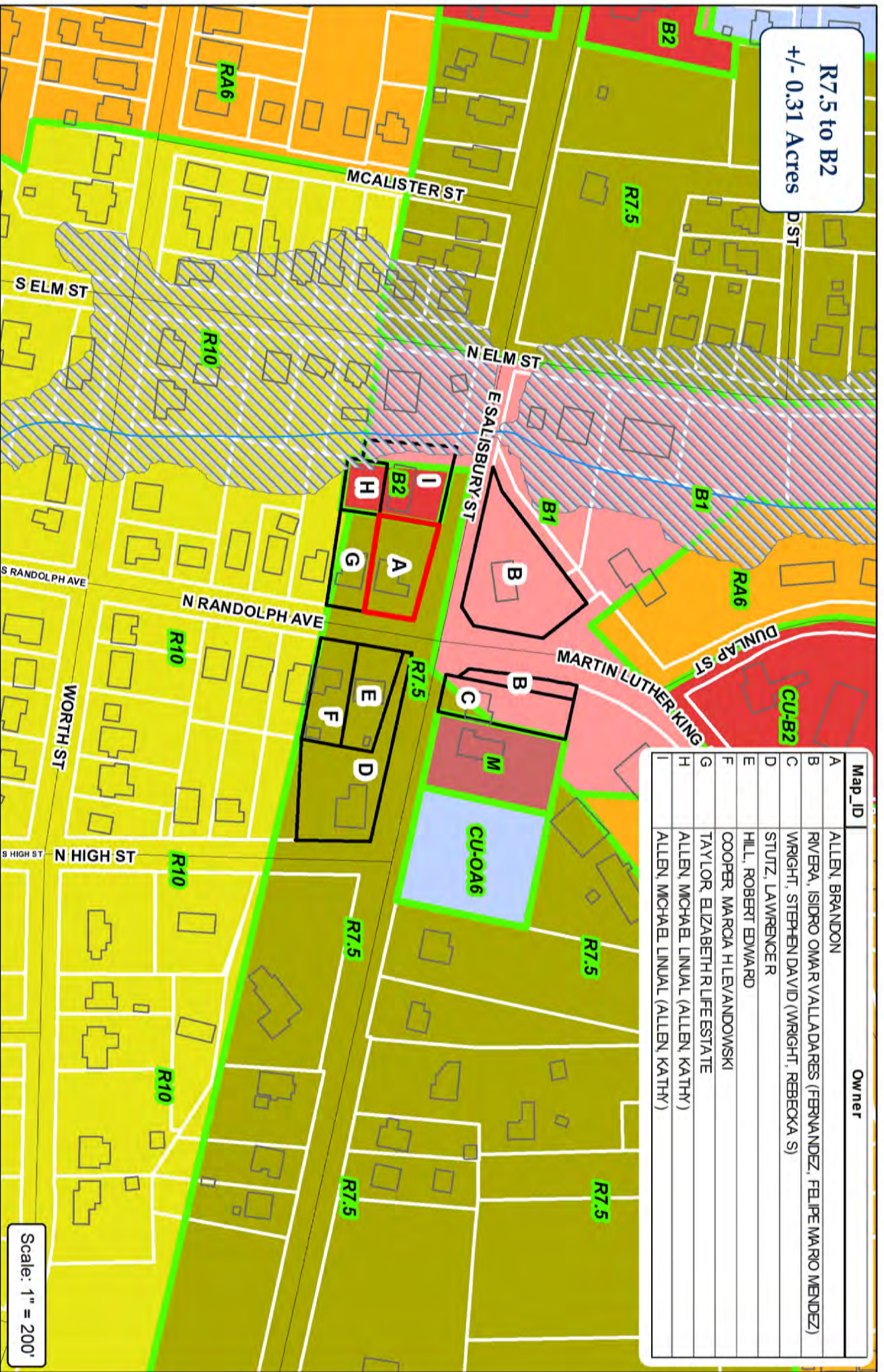
City of Asheboro Planning & Zoning Department

Rezoning Case: RZ-20-01

Parcel: 7761027972



R7.5 to B2
+/- 0.31 Acres



Map_ID	Owner
A	ALLEN, BRANDON
B	RIVERA, ISIDRO OMAR VALLADARES (FERNANDEZ, FELIPE MARIO MENDEZ)
C	WRIGHT, STEPHEN DAVID (WRIGHT, REBECCA S)
D	STUTZ, LAWRENCE R
E	HILL, ROBERT EDWARD
F	COOPER, MARCIA H LEVANDOWSKI
G	TAYLOR, ELIZABETH R LIFE ESTATE
H	ALLEN, MCABE, LNUAL (ALLEN, KATHY)
I	ALLEN, MCABE, LNUAL (ALLEN, KATHY)

City of Asheville Planning & Zoning Department

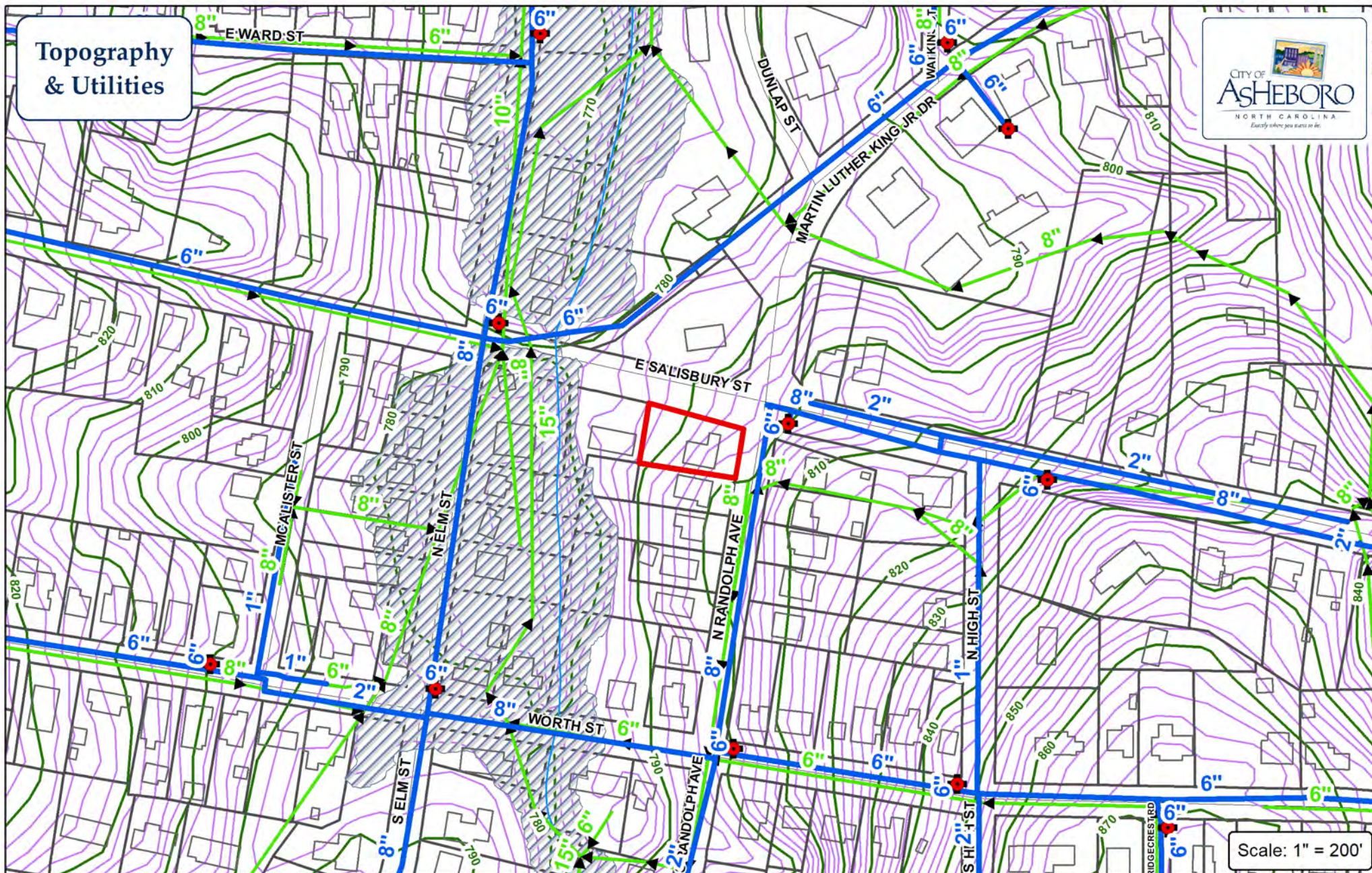
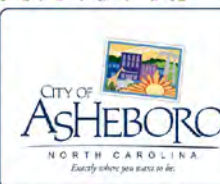
Rezoning Case: RZ-20-01

Parcel: 7761027972



Scale: 1" = 200'

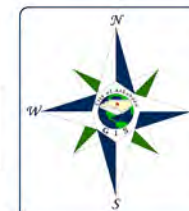
Topography & Utilities



-  Water Main
-  Sewer Main
-  Force Main
-  Fire Hydrant
-  Pump Station

City of Asheboro
Planning & Zoning Department
Rezoning Case: RZ-20-21
Parcel: 7761027972

 Subject Property

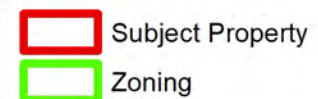




City of Asheboro Planning & Zoning Department

Rezoning Case: RZ-20-01

Parcel: 7761027972





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.

It is recommended that the applicant mail letters to the adjoining property owners a minimum of 10 days prior to the scheduled Planning Board meeting. A template showing the required information contained in the letters is on Page 4 of this application. Please verify location and meeting times with staff prior to mailing.

One copy is to be filed with the city manager and one copy filed with the Zoning Administrator by 5:00 pm on the day which is at least 55 days prior to the City Council meeting at which the request will be considered. At no time shall the city council hear more than five (5) cases per month. If five applications have been received prior to the cut-off date, the request will be heard the following month.

MEETING INFORMATION* **Dates are subject to final Planning Board/Council approval in December, 2019.**

<i>Application Deadline</i>	<i>Planning Board Meeting</i>	<i>City Council Meeting</i>
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January 10, 2020	Monday, February 3, 2020	Thursday, March 5, 2020
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August 14, 2020	Monday, September 14, 2020	Thursday, October 8, 2020
September 11, 2020	Monday, October 5, 2020	Thursday, November 5, 2020
October 16, 2020	Monday, November 2, 2020	Thursday, December 10, 2020
*Confirm application deadline with staff	Monday, December 7, 2020	*January, 2020: Confirm meeting date with staff

***January, 2020 Council meeting dates are not set by Council until December, 2019.**

Application for Zoning Ordinance/Map Amendment

APPLICANT INFORMATION

Applicant Brandon Michael Allen

Applicant's Phone # 336-302-4392

Applicant's Address 2785 Hickory Dr. Asheboro, NC 27205

Applicant Email Address 46allenbrandon@gmail.com

PROPERTY INFORMATION FOR MAP AMENDMENTS

Property Owner's Name Brandon Michael Allen

Location of Property 137 N Randolph Ave

Property Size (ac. or s.f.) .31 Ac

Randolph County Property Identification Number (PIN#) 2261027972

Current Zoning District R-2.5

Requested Zoning District B-2

Date Property Title Acquired 6-13-2018

Deed Book 002601 Page 00712

Subdivision Worth Terr Section _____ Lot # 22

Plat Book _____ Page _____

ORDINANCE AMENDMENT INFORMATION

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

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

NO

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

more commercial activity than when Allen Automotive
first opened

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

It is recommended for this property to be commercial.

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

this is highest road traffic wise. Heavily traffic.

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

2785 Hickory Pr.

Asheboro, NC 27205

Position/Relationship of Authorized Signatory to Applicant

Telephone Number

336-302-4392

Printed Name of Authorized Signatory (if different from Owner)

Position/Relationship of Authorized Signatory to Owner

STAFF USE

Received by: JTL Date: 2-11-20 Case Number: _____



RZ-20-02: Text Amendments to the Asheboro Zoning Ordinance

Staff Report

Planning Board Recommendation & Comments to City Council

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

Case # RZ-20-02

Date 03/02/2020

Applicant Kent
Emribayer

Legal Description
Amend Article 200, Table 200-2, and Article 300A of the Asheboro Zoning Ordinance to add new Section 331A and provide cross-reference to Table of Permitted Uses

Requested Action Amend the zoning ordinance to establish Recreational Vehicle/Travel Park/Camp development standards in the B2 and TH zoning districts

Existing Zone N/A

Land Development Plan See Rezoning Staff
Report

Planning Board Recommendation
Approve.

Reason for Recommendation
The Planning Board concurred with staff's recommendation.

Planning Board Comments

Rezoning Staff Report

RZ Case # RZ-20-02

Date PB: 3/2/2020 CC: 4/9/2020

General Information

Applicant Kent Emirbayer

Address PO Box 1404

City Asheboro NC 27204

Phone 585-233-7585

Location N/A - Text Amendment

Requested Action Amend the zoning ordinance to establish Recreational Vehicle/Travel Park/Camp development standards in the B2 and TH zoning districts

Existing Zone N/A

Existing Land Use N/A

Size N/A

Pin # N/A

Applicant's Reasons as stated on application

Modernize ordinance requirements.

Surrounding Land Use

North N/A

East N/A

South N/A

West N/A

Zoning History It appears that the last amendment related to this specific use was the addition of the use to the permitted use table as permitted by right within the TH district approximately ten years ago.

Legal Description

Amend Article 200, Table 200-2, and Article 300A of the Asheboro Zoning Ordinance to add new Section 331A and provide cross-reference to Table of Permitted Uses

Analysis

1. The Zoning Ordinance currently permits Recreational Vehicle/Travel Park/Camp uses in the R40 zoning district with a Special Use Permit and the B2 and TH districts by right.
2. Presently, there are no supplemental development requirements for this use in the B2 and TH districts; development must comply with the standard requirements including, but not limited to, setbacks, landscaping, parking, and signage.
3. The applicant proposes applying R40 development standards for such uses when built in the B2 and TH districts with the following modifications;
 - a. Establishing setbacks of 60 feet from any public right-of-way and 100 feet from a property line of a contiguous residentially zoned and residentially developed property for any recreational vehicle space, travel trailer space or campsite.
 - b. Adding a provision requiring access to a minor thoroughfare or higher classification street and prohibiting spaces from having direct access to public streets.
 - c. Allowing internal driveways and required parking areas to be all-weather surface instead of paved.
 - d. Permitting occupancy of up to 3 months in any 12 month period, extending from the current allowance of 30 days within a 6 month period and a provision for caretaker residency.
 - e. Modifying bathroom facilities from the current 2 toilets, 1 lavatory and 1 shower for each eight spaces to 2 toilets and 2 lavatories for the first 25 sites, and for each additional 25 sites or fraction thereof that do not possess a sewer connection. This standard is based upon NFPA 1194, Standard for Recreational Vehicle Parks and Campgrounds.
 - f. Prohibiting the use, parking or storage of any manufactured/mobile home.
 - g. Stipulating that only building facades visible from a public right-of-way shall be required to comply with building design standards.

Rezoning Staff Report

RZ Case # RZ-20-02

Page 2

Consistency with the 2020 LDP Growth Strategy designations

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

Proposed Land Use Map Designation N/A

Small Area Plan N/A

Growth Strategy Map Designation N/A

LDP Goals/Policies Which Support Request

Goal 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.

Goal 2.2: Development that is located in appropriate locations

Goal 4.3: Opportunities for citizens to responsibly enjoy the natural environment

Rezoning Staff Report

RZ Case # RZ-20-02

Page 3

LDP Goals/Policies Which Do Not Support Request

Goal 3.1: Enhancement, maintenance, and preservation of the built environment

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

Approval of the request will establish minimum standards for Recreational Vehicle/Travel Park/Camp development in the B2 and TH districts. The standards ensure that such uses will be established on roadways suited to handle higher traffic volumes and prohibit direct access to public streets from park or campground spaces. Eliminating the paving requirement likely will necessitate the owner to perform more frequent roadway maintenance to keep the surface's shape and ensure the gravel remains free from ruts or potholes. However, public safety can still be secured provided an adequate all weather roadway is continually maintained.

Recommendation Considering all factors, staff believes the request to be generally consistent with goals and policies of the Land Development and approval of the request to be reasonable and in the public interest.

Table 200-2
Table of Permitted Uses (Amended 10-10-2019)

Use	Buffer/ Screen	R40	R15	R10	R75	RA6	OA6	O&I	B1	M	B2	TH	B3	I1	I2	I3	A	Supp. Reg.
Professional Services	1						P	P		P	P		P	P	P			
Public Use Facility-	2	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		Section 602.2
Radio & TV Receiving Antenna & Dish, Accessory		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		Note 28
Railroad Classification Yard	3														P			
Recreation, Commercial Indoor	2										P	P	P		P			Note 40
Recreation, Commercial Outdoor	2										P	P	P		P			Note 40
Recreational Vehicle / Travel Park/Camp	3	S									P	P						Section 633, 331A
Recreational Vehicle Resort		S										S						Section 649

P - Permitted as Principal Use in District
S - Permitted by Special Use Permit
A - Permitted as Accessory Use Only

331A Recreational Vehicle/Travel Park/Camp

- (1) Use shall have a minimum area of two acres.
- (2) No recreational vehicle space, travel trailer space or campsite shall be closer than 60 feet to a public right-of-way or 100 feet to a property line of a contiguous residentially zoned property that is developed with a residential use.
- (3) The minimum area occupied by any recreational vehicle or other camping structure shall be fifteen hundred square feet with a minimum width of thirty feet.
- (4) A clearance of at least twenty feet shall be maintained between each recreational vehicle, camping structure and/or building within the park.
- (5) Use shall have direct access to a minor thoroughfare or higher classification street, as shown on the Asheboro Comprehensive Transportation Plan. Recreational vehicle spaces, travel trailer spaces and campsites shall only have direct access to an internal private street which accesses a public street: none shall have direct access to a public street.
- (6) Notwithstanding Article 400, all recreational vehicle spaces, travel trailer spaces and campsites shall abut a driveway which shall be all-weather surface and maintained in a serviceable condition to a continuous width of twenty-five feet.
- (7) Notwithstanding Article 400, required parking areas shall be all weather surface.
- (8) Permanent residency shall be prohibited except for full-time facility employees acting as property caretaker(s). Occupancy by non-caretakers extending beyond three (3) months in any twelve (12) month period shall be presumed to be permanent residency and is prohibited.
- (9) Use shall provide 2 toilets and lavatories for the first 25 sites and two toilets and lavatories for each additional 25 sites, or fraction thereof, which do not possess a sewer connection.
- (10) The use, parking, or storage of any manufactured/mobile home shall be prohibited.
- (11) Notwithstanding Article 300A, only building facades visible from a public right-of-way shall be required to comply with building design standards.
- (12) All garbage and refuse shall be stored in a suitable water-tight and fly-tight standard garbage receptacle and shall be kept covered with tight fitting covers. At least one such receptacle shall be provided and conveniently located for every campsite except where a dumpster or dumpsters are conveniently located and used in the same manner as separate receptacles. It shall be the duty of the park/camp operator to see that all garbage and refuse is disposed of regularly. It shall also be the duty of the park/camp operator to see that no materials which attract insects or rodents is stored or allowed to remain on the premises. All areas of the premises shall be kept clean and free from weeds or undergrowth.



Application for Zoning Ordinance/Map Amendment

APPLICATION FEE

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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

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- 2) A legal description/deed reference of such land.

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Application for Zoning Ordinance/Map Amendment

APPLICANT INFORMATION

Applicant Kent Embrey

Applicant's Phone # 585-233-7585

Applicant's Address Po Box 1404
Asheboro NC 27204

Applicant Email Address _____

PROPERTY INFORMATION FOR MAP AMENDMENTS

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

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

Add new section 33.4 - Recreational Vehicle /
Travel Park / Camp to modernize ordinance requirements

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

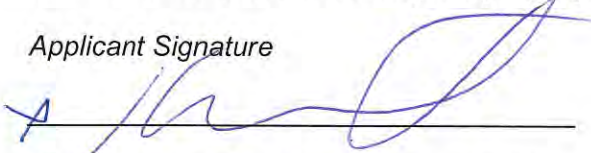
3. In what manner will the proposed amendment carry out the intent of the Land Development Plan?

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

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)

Kent Embrey

Owner Address

Position/Relationship of Authorized Signatory to Applicant

Telephone Number

Printed Name of Authorized Signatory (if different from Owner)

Position/Relationship of Authorized Signatory to Owner

STAFF USE

Received by: TLN *Date:* 2/14/20 *Case Number:* R2-20-02



**SUB-19-02: Preliminary Plat Review for Hillcrest Subdivision, Phase 2
(Breeze Hill and Fermer Roads)**

Staff Report

SUBDIVISION STAFF REPORT
Preliminary Plat

CASE # SUB-19-02

Date 4-6-2020 PB
4-9-2020 CC

GENERAL INFORMATION

Subdivision Name Hillcrest Subdivision
Requested Action Subdivision Preliminary Plat, Phase 2
Applicant Roval Crest Builders
Address 2415 Penny Rd., Suite 102
Phone 336-302-2442
Location northern corner of Breeze Hill Rd. and Fermer Rd.

PARCEL INFORMATION

PIN 7750396274

Size 7 acres +/- **Number of Lots** 26

Existing Zoning R7.5 **Average Lot Size** 10,779 SF

Existing Land Use Residential (one single-family dwelling is currently located on the property).

Surrounding Land Use

North Undeveloped/Single Family

East Single-family/two-family

South Single-family

West Single-family/two-family

LAND DEVELOPMENT PLAN

Growth Strategy Map Primary Growth

Proposed Land Use Map Neighborhood Residential

Small Area Plan Map Central

Identified Activity Center? No

Development Issues

1. The property is within the city limits.
2. The proposals is for a conventional residential subdivision consisting of 26 lots.
3. Breeze Hill and Fermer Roads are both city-maintained streets west of Uwharrie Street.
4. The applicant is showing two entrances; one from Breeze Hill Rd. and one from Fermer Rd.
5. The subdivision plat does not propose sidewalks. While the subdivision ordinance encourages sidewalks, it does not require them for a residential subdivision that is not a planned unit development.
6. Subject to the subdivision and zoning ordinances, lots with frontage on existing public rights-of-way and having existing utilities available to each lot may be platted as a minor subdivision and reviewed by city staff.
7. City staff has reviewed and approved the Hillcrest minor subdivision (plat book 162 page 78).

SUBDIVISION STAFF REPORT
Preliminary Plat

DEPARTMENT COMMENTS

Engineering Comments have been addressed

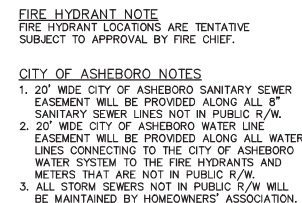
Public Works Minor correction to water line specification requested and has been addressed.

Planning Comments have been addressed

Other Fire Department comments have been addressed

Staff Recommendation Approve.

**Planning Board
Recommendation** Approve.



1. PROPERTY INFORMATION

OWNER/DEVELOPER:	ROYALCREST BUILDERS LLC
PIN NUMBERS:	7750396274
EXISTING ZONING:	R-7.5
EXISTING LAND USE:	VACANT

OWNER ADDRESS: 2415 PENNY RD HIGH POINT, NC 27265
NUMBER: 336-302-2442

2. THE PROJECT IS LOCATED WITHIN THE CITY OF ASHEBORO

3. PARCEL BOUNDARIES, TOPOGRAPHIC DATA, EASEMENTS, EXISTING WATER METER AND SANITARY SEWER ARE SHOWN PER FIELD SURVEY PERFORMED BY HORNER AND ASSOCIATES SURVEY AND LAND PLANNING, PA.

4. PROPOSED USE: RESIDENTIAL

5. LOT INFORMATION

- NUMBER OF LOTS: 26
- TOTAL SITE AREA: 7.00 AC
- AVERAGE LOT SIZE: 10,779 SF
- AREA WITHIN R/W: 1.26 AC
- SETBACKS:
 - FRONT= 25 FT UNLESS OTHERWISE NOTED
 - SIDE= 10 FT
 - REAR= 20 FT

6. STREET INFORMATION

- BERG ST 95' LF VALLEY CURB (PUBLIC)
- MARKWOOD ST 162' LF VALLEY CURB (PUBLIC)

7. MAINTENANCE NOTES

- MUNICIPALITY TO MAINTAIN ALL STORM SEWER, SANITARY SEWER, AND WATER LINES WITHIN PUBLIC R/W AND WITHIN RECORDED EASEMENTS

8. OBTAIN ALL APPLICABLE PERMIT APPROVALS PRIOR TO ANY CONSTRUCTION.

9. CONFIRM UTILITY THE INS WITH CITY PRIOR TO CONSTRUCTION.

10. NO STREET LIGHTING IS PROPOSED PER THIS DESIGN.

	PROPOSED LOTS
	PROPERTY LINE
	ADJOINING PROPERTY LINE
	STREAM CENTERLINE
	OVERHEAD UTILITY
	EXISTING UTILITY POLE
	EXISTING SANITARY SEWER MANHOLE
	EXISTING SANITARY SEWER LINE
	EXISTING WATER LINE
	SETBACK LINES
	PROPOSED R/W LINE
	EXISTING FIRE HYDRANT
	PROPOSED FIRE HYDRANT
	PROPOSED SANITARY SEWER MANHOLE
	PROPOSED SANITARY SEWER LINE
	PROPOSED WATER LINE



Summey Engineering Associates, PLLC
Engineering - Land Planning - Consulting
PO Box 368
Asheboro NC 27204
Phone: 336-328-0922 Fax: 336-328-0922
E-mail: info@summeyengineering.com
NC Professional Engineering Firm License No. P-0336

No.	Date:	Description:	By:

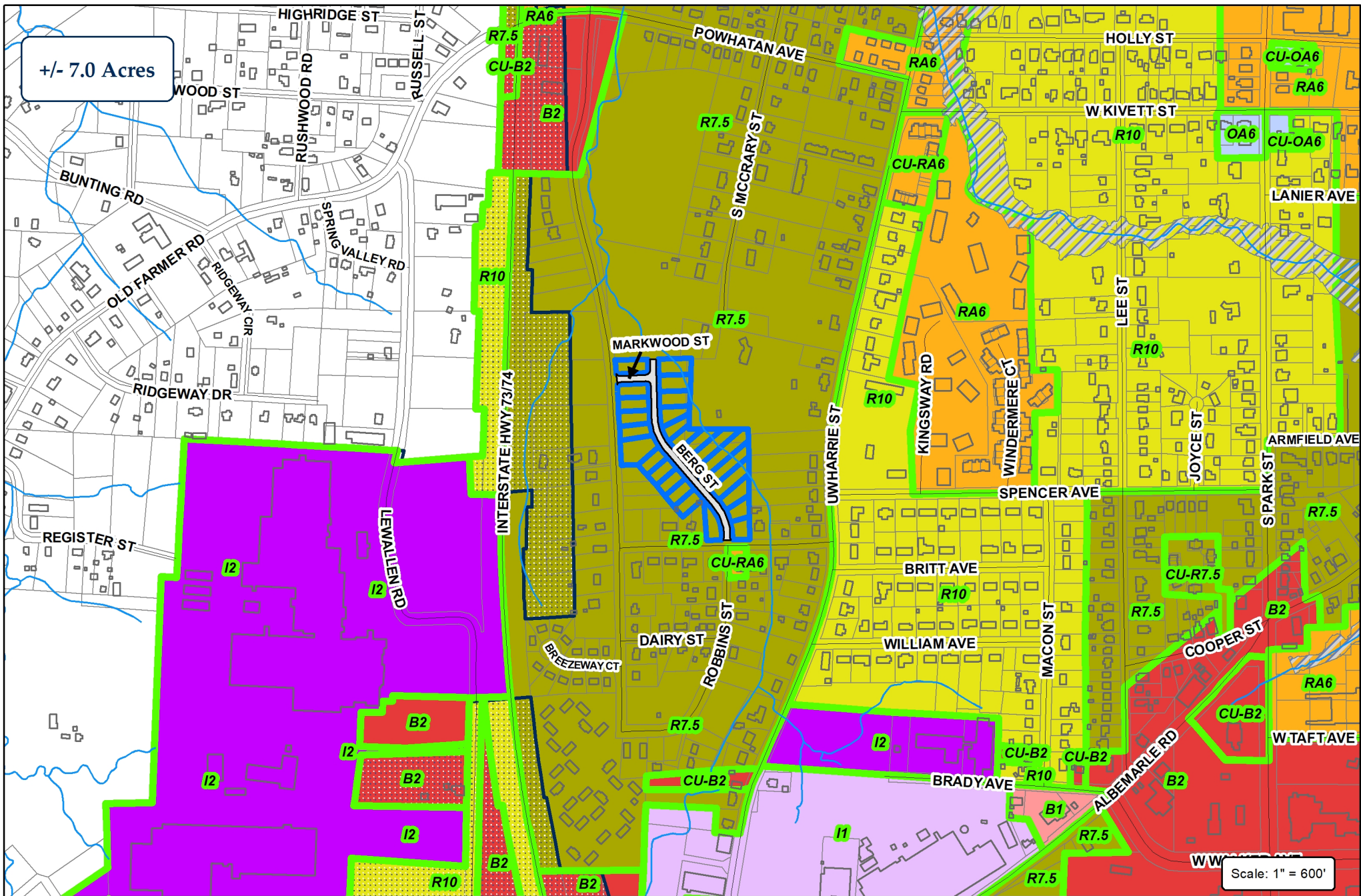
SITE AND UTILITY

HILLCREST SUBDIVISION PHASE 2

FERMER RD / BREEZE HILL RD
RANDOLPH COUNTY - ASHEBORO - NC

Scale:	AS NOTED
Date:	MARCH 2020
Drawn By:	CV
Checked By:	HMSJ
Job No.:	E-6186

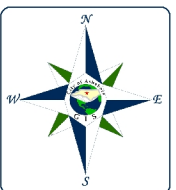
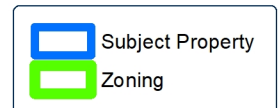
C-3



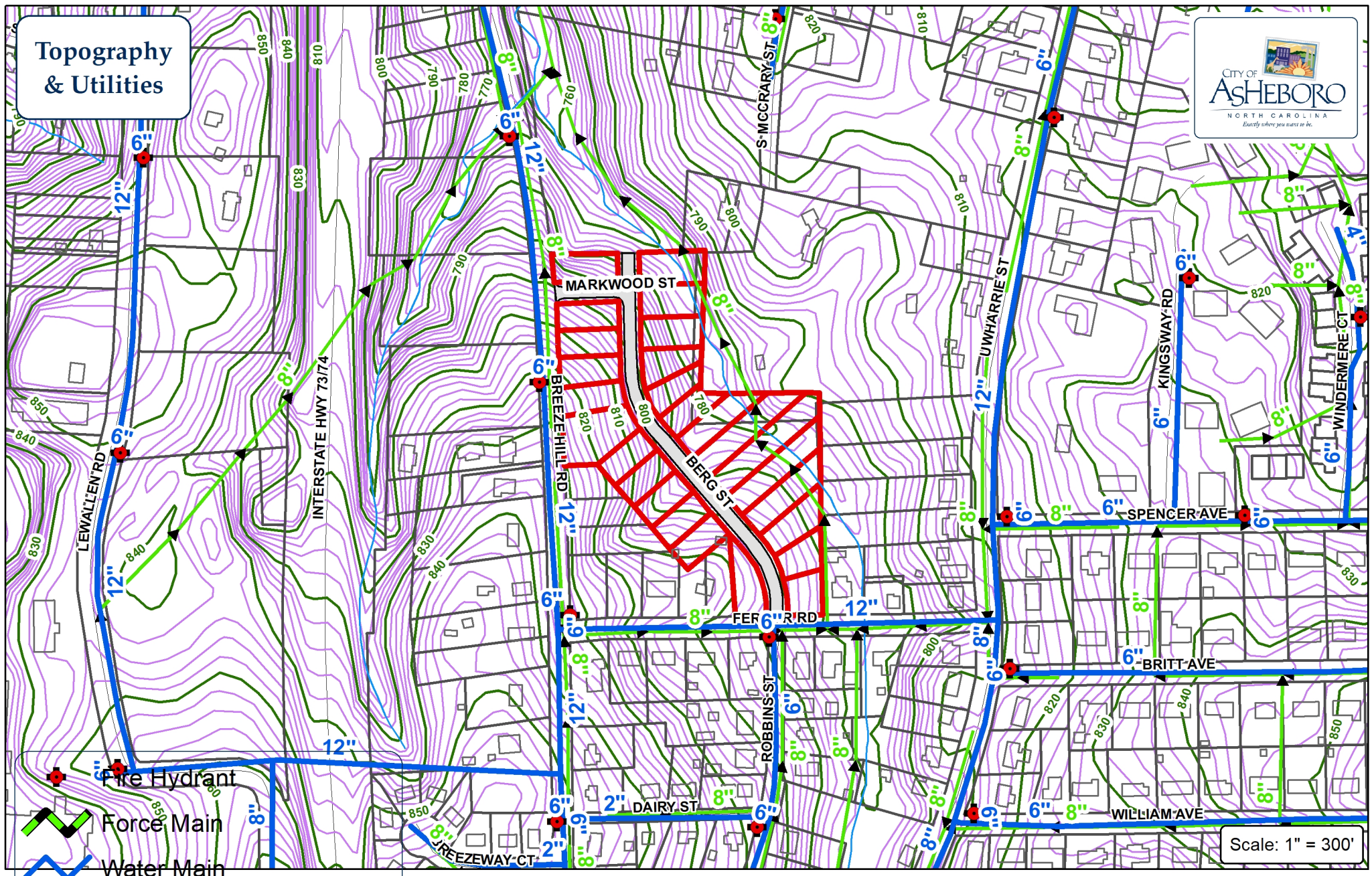
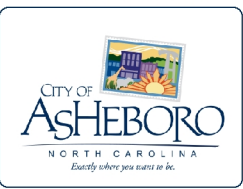
City of Asheboro Planning & Zoning Department

Subdivision Case: SUB-19-02
Phase 2

Parcel: 7750396274



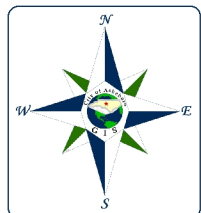
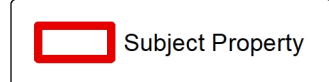
Topography & Utilities

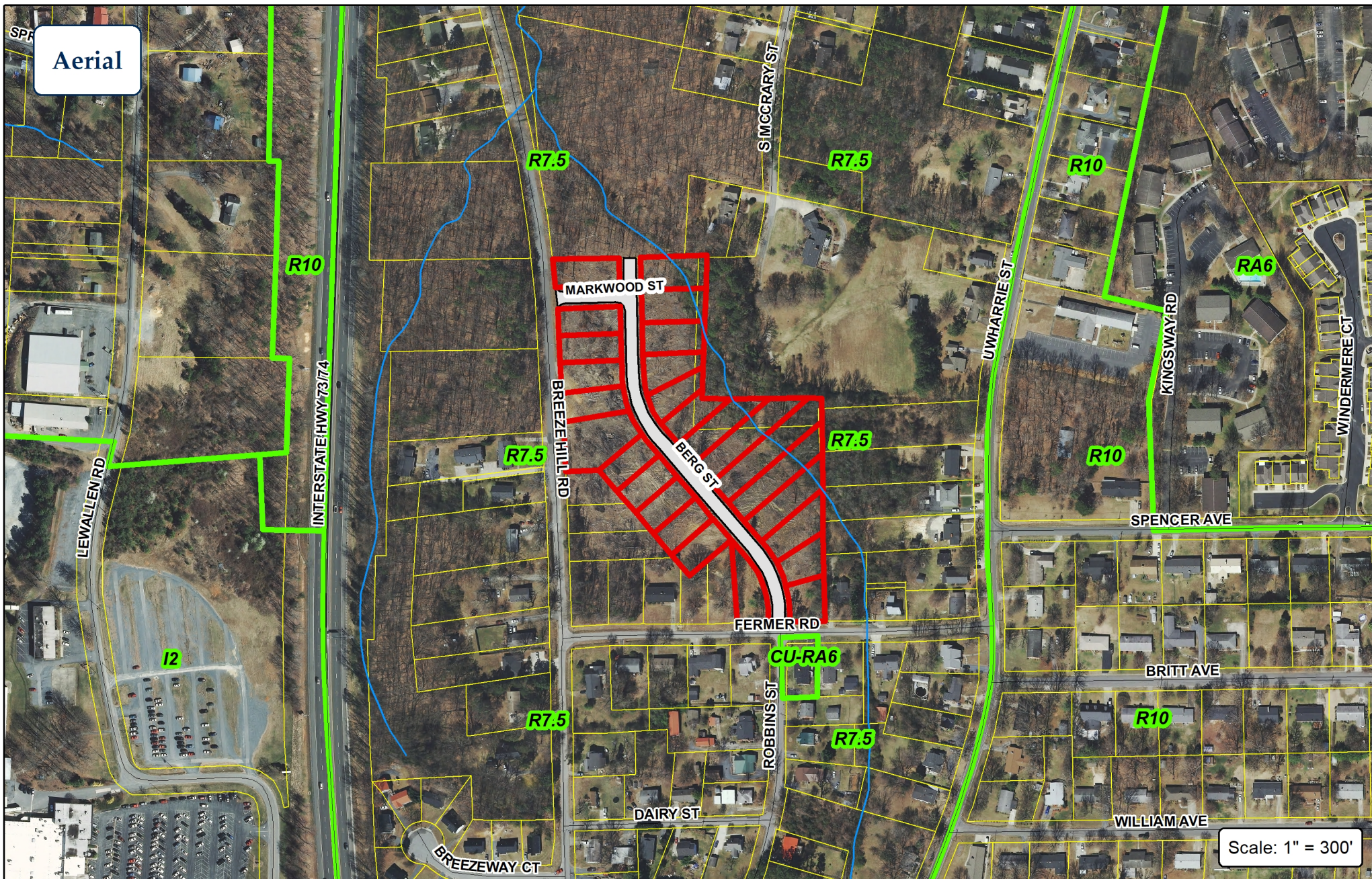


Scale: 1" = 300'

- Sewer Main
- Force Main
- Water Main
- Pump Station
- Subject Property
- SUB-19-02_Phase2_ROW

City of Asheboro
Planning & Zoning Department
Subdivision Case: SUB-19-02
Phase 2
Parcel: 7750396274





Aerial

City of Asheboro Planning & Zoning Department

Subdivision Case: SUB-19-02

Phase 2

Parcel: 7750396274

- Subject Property
- Zoning



Water Resources Division
146 N Church Street
PO Box 1106
Asheboro, NC 27204-1106



Tel: 336-626-1201 Ext. 258

Fax: 336-626-1218

BID SUMMARY
CHEMICALS BIDS FOR THE CITY OF ASHEBORO
WATER/WASTEWATER TREATMENT PLANTS
MARCH 31, 2020

The City of Asheboro received fifteen (15) bid packages listed on the attached Bid Tabulation Sheet at 2:00 PM, March 17, 2020. These bids are for seven (7) chemicals needed for operations at the Water/Wastewater Treatment Plants. These bids included furnishing chemicals to the plants for the time period from April 16, 2020 to April 15, 2021.

Bids for Fluosilicic Acid and Sodium Hypochlorite were solicited via advertising in accordance with City practice but the total purchasing amount for these chemicals is under the formal bidding threshold.

The bid for Sodium Hypochlorite from JCI Jones Chemicals and Harcross Chemicals are considered non-responsive because they do not meet the specifications set forth in the Bid Document.

The bid for Calcium Nitrate from Lime-Chem, Inc. and Univar, USA are non-responsive because they do not meet the specifications set forth in the Bid Document.

It is recommended that the contracts to purchase chemicals from April 16, 2020 to April 15, 2021 be awarded to the responsive low bidders as listed below:

<u>Chemical</u>	<u>Company</u>	<u>Price</u>
Liquid Alum	C & S Chemicals	\$286.00/Ton
Liquid Caustic	Univar, USA, Inc.	\$409.00/Ton
Fluosilicic Acid	Pennco, Inc	\$357.00/Ton
Sodium Hypochlorite	Univar, USA, Inc.	\$0.68/Gal
Calcium Nitrate	Evoqua Water Technologies	\$2.36/Gal
Sodium Permanganate	Shannon Chemical Corp	\$8.17Gal
Magnesium Hydroxide	Polytec, Inc	\$1.88/Gal

By: Michael D. Rhoney
Michael D. Rhoney, P.E.
Water Resources Director

CITY OF ASHEBORO CHEMICAL BID TABULATION MARCH 17, 2020

Company Name	Liquid Alum	Liquid Caustic	Floussilic Acid	Sodium Hypochlorite 12%	Calcium Nitrate	Sodium Permanganate	Magnesium Hydroxide
Brenntag Mid-South NSF CERT (X)	No Bid	\$454.00	No Bid	No Bid	No Bid	No Bid	No Bid
C & S Chemicals NSF CERT (X)	\$286.00	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
Chemrite, Inc. NSF CERT (X)	No Bid	No Bid	No Bid	No Bid	\$2.45	\$8.28	No Bid
Chemtrade Chemicals US LLC NSF CERT (X)	\$333.00	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
Evoqua Water Technologies NSF CERT ()	No Bid	No Bid	No Bid	No Bid	\$2.360	No Bid	No Bid
GEO Specialty Chemicals NSF CERT (X)	\$430.14	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
Harcross Chemicals NSF CERT ()	No Bid	\$520.00	No Bid	\$0.63*	No Bid	No Bid	No Bid
JCI Jones Chemicals NSF CERT (X)	No Bid	\$460.00	No Bid	\$0.618*	No Bid	No Bid	No Bid
Lime-Chem, Inc. NSF CERT ()	No Bid	No Bid	No Bid	No Bid	\$2.23*	No Bid	No Bid
Oltrin Solutions LLC NSF CERT (X)	No Bid	\$424.50	No Bid	No Bid	No Bid	No Bid	No Bid
Pencco, Inc NSF CERT (X)	No Bid	No Bid	\$357.00	No Bid	No Bid	No Bid	No Bid
Polytech, Inc NSF CERT ()	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	\$1.88
Premier Magnesia, LLC NSF CERT ()	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	\$2.77
Shannon Chemical NSF CERT (X)	No Bid	No Bid	\$747.47	No Bid	No Bid	\$8.17	No Bid
Univar, USA, Inc NSF CERT (X)	\$292.00	\$409.00	\$376.00	\$0.68	\$2.09*	No Bid	No Bid
MINIMUM RESPONSIVE BID	\$286.00	\$409.00	\$357.00	\$0.68	\$2.36	\$8.17	\$1.88
MAXIMUM BID	\$430.14	\$520.00	\$747.47	\$0.68	\$2.45	\$8.28	\$2.77

* - Non Responsive Bid does not meet specifications

Recommended Bid Award

Revised 3-31-2020

Water Resources Division
146 N Church Street
PO Box 1106
Asheboro, NC 27204-1106



Tel: 336-626-1201 Ext. 258

Fax: 336-626-1218

SUMMARY OF BIDS
CITY OF ASHEBORO WASTEWATER TREATMENT PLANT
PAVING IMPROVEMENTS
APRIL 3, 2020

The Invitation for Bids for the Water and Wastewater Treatment Plant Paving Improvements project was sent out on March 24, 2020. Four (4) bids listed below were received by 2:00 PM, April 3, 2020.

The scope of work for this project includes furnishing all materials, labor, tools and equipment necessary for the complete application of asphalt overlay on the plant driveway and parking surfaces. Pavement depth ranges from 1.5 – 2” of S9.5B Asphalt requiring an estimated 1,600 tons.

Final payment for this project will be paid for by the ton in place based the contractor’s weight tickets.

The bids received were as follows:

<u>Bidder</u>	<u>Unit Bid Amount</u>	<u>Total Amount</u>
Riley Paving, Inc. PO Box 10 Carthage, NC 28327	\$112.25/Ton	\$179,600
Sharpe Brothers PO Box 35387 Greensboro, NC 27425	\$97.74/Ton	\$156,384
Triangle Grading & Paving, Inc. PO Drawer 2570 Burlington, NC 27215	\$133.00/Ton	\$212,800
Waugh Asphalt, Inc. 3795 Hardin Ellison Rd Franklinville, NC 27248	\$104.96/Ton	\$167,936

The budget for this project was \$200,000.00. Staff recommends the project be awarded to the apparent low, responsive bidder, Sharpe Brothers for the total amount of \$156,384.00.

By Michael D. Rhoney
Michael D. Rhoney, P.E.
Water Resources Director

CITY OF ASHEBORO
WASTEWATER TREATMENT PLANT
PAVING IMPROVEMENTS
BID TABULATION SHEET
April 3, 2020

<u>Contractor</u>	<u>Bid</u>		<u>Addendum # 1</u>
	Unit Price	Total Amount	
Riley Paving, Inc PO Box 10 Carthage, NC 28327	\$112.25	\$179,600.00	Yes
Sharpe Brothers PO Box 35387 Greensboro, NC 27425	\$97.74	\$156,384.00	Yes
Triangle Grading & Paving, Inc PO Drawer 2570 Burlington, NC 27215	\$133.00	\$212,800.00	Yes
Wagh Asphalt, Inc 3795 Hardin Ellison Rd Franklinville, NC 27248	\$104.96	\$167,936.00	Yes

Apparent Low Bid	\$97.74	\$156,384.00
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RESOLUTION NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION SUPPORTING AND AUTHORIZING AN
APPLICATION FOR A STATE LOAN FOR THE SANITARY SEWER
LIFT STATION NO. 3 IMPROVEMENTS PROJECT**

WHEREAS, the Federal Clean Water Act Amendments of 1987 and the North Carolina Water Infrastructure Act of 2005 (codified in Chapter 159G of the North Carolina General Statutes) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction for a wastewater collection system; and

WHEREAS, the City of Asheboro (hereafter referred to interchangeably as the “City” and the “Applicant”) needs and intends to construct wastewater collection system improvements described as the Sanitary Sewer Lift Station No. 3 Improvements Project (hereafter referred to as the “Project”); and

WHEREAS, the City intends to request state loan or grant assistance for the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro (hereafter referred to as the “Council”) that the City, if approved for a State loan or grant award, will arrange financing for all remaining costs of the Project; and

BE IT FURTHER RESOLVED by the Council that the City will adopt and place into effect on or before completion of the Project a schedule of fees and charges, in addition to other available funds, that will provide adequate funding for the proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt; and

BE IT FURTHER RESOLVED by the Council that a provision will be included in the loan agreement authorizing the State Treasurer, upon failure of the City to make scheduled repayment(s) of the loan, to withhold from the City any State funds that would otherwise be distributed to the City in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan; and

BE IT FURTHER RESOLVED by the Council that the City will provide for the efficient operation and maintenance of the Project infrastructure upon completion of the construction thereof; and

BE IT FURTHER RESOLVED by the Council that John N. Ogburn, III, who is the city manager for the Applicant (the city manager will be hereafter referred to as the “Authorized Official”), and any successor so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan to aid in the construction of the Project described above; and

BE IT FURTHER RESOLVED by the Council that the Authorized Official, and any successor so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the Project, to make the assurances as contained above, and to execute such other documents as may be required in connection with the application; and

BE IT FURTHER RESOLVED by the Council that the City has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the Project and to Federal and State grants and loans pertaining thereto.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting that was held on the 9th day of April, 2020.

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

ATTEST:

Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J. ERIC BOYETTE
SECRETARY

March 13, 2020

Mr. John Ogburn
City Manager
City of Asheboro
PO Box 1106
Asheboro, NC 27204

SUBJECT: R-2536, Supplement Design-Build Utility Agreement
Asheboro, Randolph County

Dear Mr. Ogburn,

Enclosed, please find the unexecuted Supplemental Agreement to allow payments to be split evenly into four (4) annual payments for the construction and relocation of municipal water and sewer lines for R-2536, US 64 (Asheboro Southern Bypass) in Randolph County.

Once you have reviewed the supplemental agreement, please print out one copy and sign with a wet signature. You will have forty-five (45) days from the date of receipt to sign and return the agreement by mail to me for Departmental execution at the address below. Also, please include a check made out to the N.C. Department of Transportation for the first payment of \$364,888.52.

Once fully executed, a copy of the supplemental agreement for your files will be emailed to you.

If you have any questions, please feel free to contact me at the information below or awkluttz@ncdot.gov.

Sincerely,

DocuSigned by:

Alison W. Kluttz

9BA03A5230E54E1...

Alison W. Kluttz, PE
Division Project Development Engineer

Enclosure

ec: Brandon H. Jones, PE, Division Engineer
Reuben E. Blakley, PE, Division Construction Engineer
Travis L. Morgan, PE, Division Utility Engineer
cc: File

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS, DIVISION 8
121 DOT DRIVE
CARTHAGE, NC 28327

Telephone: 910-773-8000
Fax: 910-947-3873
Customer Service: 1-877-368-4968

Website: ncdot.gov

Location:
121 DOT DRIVE
CARTHAGE, NC 28327

NORTH CAROLINA
RANDOLPH COUNTY

SUPPLEMENTAL DESIGN-BUILD UTILITY AGREEMENT

DATE: 3/5/2020

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: R-2536

AND

WBS ELEMENTS: 34450.3.8

CITY OF ASHEBORO

CFDA #: 20.205

TOTAL SUPPLEMENTAL FUNDS [NCDOT PARTICIPATION] \$0

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department", and the City of Asheboro, hereinafter referred to as the "Municipality."

WITNESSETH:

WHEREAS, the Department and the Municipality on 9/12/2016, entered into a certain Project Agreement for the US 64 (Asheboro Southern Bypass) From US 64 West of Asheboro to Existing US 64 East of Asheboro and Zoo Connector from East of SR 2839 (Staleys Farm Road) to Existing 159/Zoo Entrance, programmed under Project R-2536; and,

WHEREAS, the original 2016 Utility Construction Agreement for the Project provided that a lump sum amount of \$1,459,554.08 will be paid by the Municipality to include the construction and relocation of water and sewer lines; and,

WHEREAS, at the request of the Municipality, the Department will allow the lump sum amount to be split evenly into four (4) annual payments of \$364,888.52 each;

NOW THEREFORE, the parties wish to supplement the aforementioned Agreement whereby the following provisions are amended:

FUNDING

The first payment of \$364,888.52 will be submitted with partial execution of this Agreement by the Municipality. The three remaining payments may be paid annually on May 31, 2021, May 31, 2022, and May 31, 2023;

The other party to this Agreement shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21) and related nondiscrimination authorities. Title VI and related authorities prohibit discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

Except as hereinabove provided, the Agreement heretofore executed by the Department and the Municipality on 9/12/2016, is ratified and affirmed as herein provided.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

CITY OF ASHEBORO

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization. No Change

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

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

City of Asheboro

DEPARTMENT OF TRANSPORTATION

BY: _____

(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____

STATE OF NORTH CAROLINA

**ASHEBORO REGIONAL AIRPORT
FIXED BASE OPERATOR LEASE
AGREEMENT AMENDMENTS**

COUNTY OF RANDOLPH

THESE ASHEBORO REGIONAL AIRPORT FIXED BASE OPERATOR LEASE AGREEMENT AMENDMENTS (the “FBO Agreement Amendments”) are made and entered into, as of the dates indicated on the signature pages, by and between the **CITY OF ASHEBORO (hereinafter the “City” or “Lessor”)**, a North Carolina municipal corporation with its principal office located at 146 North Church Street, Asheboro, North Carolina 27203, and **CARDINAL AIR, LLC (hereinafter the “FBO,” “Cardinal Air,” or “Lessee”)**, a North Carolina limited liability company with its principal office located at 80 Aviation Drive, Siler City, North Carolina 27344.

WITNESSETH:

WHEREAS, the City owns the **ASHEBORO REGIONAL AIRPORT (the “Airport”)** located in Randolph County at 2222 Pilots View Road, Asheboro, North Carolina 27205; and

WHEREAS, pursuant to the existing **“Lease Agreement for Fixed Base Operator of the Asheboro Regional Airport” dated December 16, 2015 (the “Original FBO Agreement”)**, Cardinal Air is the fixed base operator at the Airport (a copy of the Original FBO Agreement is attached hereto as ATTACHMENT A and is incorporated into these FBO Agreement Amendments by reference as if copied fully herein); and

WHEREAS, the Asheboro Airport Authority has recommended amending the Original FBO Agreement to reflect Cardinal Air’s agreement to assume responsibility for providing the Airport with a fuel truck; and

WHEREAS, the FBO intends to fulfill this new responsibility by entering into a 5-year leasing arrangement with a third party vendor; and

WHEREAS, the consideration to be provided by the City to Cardinal Air in exchange for the FBO assuming this new fuel truck responsibility is additional financial support for airport fuel infrastructure; and

WHEREAS, the amount of additional financial support to be provided by the City for airport fuel infrastructure is one thousand two hundred and no hundredths dollars (\$1,200.00) per month over the course of five (5) years; and

WHEREAS, the Asheboro City Council finds that (a) the City has no alternative uses for the facilities/infrastructure to be leased to Cardinal Air during the lease term specified in the FBO Agreement Amendments, and (b) the adoption of the Asheboro Airport Authority recommendation is in the best interest of the City.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties agree as follows:

SECTION 1: AMENDMENT OF LEASE PERIOD

Article I (TERM) of the Original FBO Agreement is hereby amended by rewriting Article I to provide as follows:

~~*The intent of the Lessor and Lessee is for this Agreement to have an initial 3-year term that will commence at 12:01 a.m. on January 1, 2016, and will expire at midnight on December 31, 2018, unless earlier terminated under the provisions of this Agreement. Subject to the terms and conditions found herein, this Agreement will automatically renew for one additional 3-year renewal term upon the same terms and conditions unless either the Lessor or Lessee notifies the other party in writing of the intent not to renew this Agreement at least 60 calendar days prior to the expiration of the initial lease term.*~~

~~*If such an automatic renewal term is allowed to commence, the renewal term for this Agreement will commence at 12:01 a.m. on January 1, 2019, and will expire at midnight on December 31, 2021. Alternatively, upon delivery of the above-referenced 60-day notice of non-renewal, this Agreement will conclusively terminate at midnight on December 31, 2018. Delivery of the notice of non-renewal shall be deemed to be proper and effective when such notice is given in accordance with the notice provisions found in this Agreement's Article XV, Paragraph C. If the Lessee fails to surrender the demised premises upon the early termination or expiration of the Agreement, there shall be no renewal of this Agreement or exercise of an option by operation of law.*~~

The initial 3-year term of this Agreement commenced at 12:01 a.m. on January 1, 2016, and, due to one renewal followed by a mutually agreed upon amendment extending the lease term, the Agreement will expire at midnight on April 30, 2025, unless earlier terminated in accordance with the contractual provisions found within the Original FBO Agreement and the subsequent FBO Agreement Amendments.

If the Lessee fails to surrender the demised premises upon the expiration or early termination of this amended Agreement, there shall be no renewal of the Agreement or exercise of an option by operation of law.

SECTION 2: AMENDMENT OF FUEL TRUCK RESPONSIBILITIES

Paragraph B.6 of Article IV (APPURTENANT PRIVILEGES) in the Original FBO Agreement is hereby amended by rewriting the referenced paragraph to provide as follows:

Specific duties and responsibilities of the Lessor and the Lessee for the maintenance, operation, and expenditures concerning assets of the Asheboro Regional Airport are itemized as follows:

<u>ASSET</u>	<u>LESSEE</u>	<u>LESSOR</u>
<i>Airfield</i>	<i>Manages; Post NOTAMS</i>	<i>Pays Maintenance & Mowing</i>
<i>Runway/Lighting</i>	<i>Manages; Replaces Lamps</i>	<i>Pays Lamps, Maintenance, & Electricity; Removes Snow</i>
<i>Windsock</i>	<i>Manages; Replaces Lamps/ Sock</i>	<i>Pays Maintenance, Lamps, & Electricity</i>
<i>NDB/AWOS Monitors</i>	<i>Manages/Monitors</i>	<i>Pays Maintenance & NDB/AWOS Electricity</i>
<i>Light Beacon</i>	<i>Manages</i>	<i>Pays Maintenance & Electricity</i>
<i>Apron-North</i>	<i>Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)</i>	<i>Pays Maintenance; Removes Snow</i>

<u>ASSET</u>	<u>LESSEE</u>	<u>LESSOR</u>
<i>Fuel Facilities</i>	<i>Rent Free Use; Monitors Fuel on Daily Basis; Provides Operational Maintenance (Filters, Quality Control, and Clean-Up); Pays 5% of Gross Receipts from Flowage Fee to Lessor when Sales Exceed 150,000 Gallons in a Calendar Year</i>	<i>Provides Facility Maintenance; Receives 5% of Gross Receipts from Flowage Fee When Sales Exceed 150,000 Gallons in a Calendar Year</i>
<i>Terminal/Furn.</i>	<i>Rent Free Use of Office, Training Room, & Manager's Office; Pays Operational Maintenance Costs</i>	<i>Pays Structural Maintenance Costs; Pays Electric Bill</i>
<i>Parking Lot</i>	<i>Manages; FBO Rental Car Use</i>	<i>Provides Maintenance; Removes Snow</i>
<i>Water System</i>	<i>Uses Free of Charge</i>	<i>Operates the Municipal Water Supply & Distribution System</i>
<i>Sewer System</i>	<i>Uses Free of Charge</i>	<i>Operates the Municipal Sanitary Sewer System</i>
<i>T Hangars (16)</i>	<i>Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)</i>	<i>Pays Structural Maintenance</i>
<i>Maint. Hangar - East</i>	<i>Uses for Business Rent Free</i>	<i>Pays Structural Maintenance; Pays Heat & Electricity</i>
<i>Maint. Hangar - West</i>	<i>Uses for Business Rent Free</i>	<i>Pays Structural Maintenance; Pays Heat & Electricity</i>
<i>Air Compressor</i>	<i>Pays All Maintenance</i>	<i>No Obligation to Replace</i>

<u>ASSET</u>	<u>LESSEE</u>	<u>LESSOR</u>
Roads	Manages; Common Use	Pays Maintenance; Removes Snow
Area Lighting	Manages; Calls for Maintenance	Pays for Service
Public Phone	Manages; Calls for Maintenance	Pays for Service
UNICOM	Furnishes & Operates	Reserves Access by Others
Apron South	Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)	Reserves Right to Lease to Others; Pays Maintenance; Removes Snow
Other Non-Commercial Hangars or Facilities Existing and Those Developed in the Future	Manages, Subject to City Lease Agreement(s)	Subject to City Lease Agreement(s)
Fuel Truck	Provides Gas for Truck; Provides Operational Maint. of Fueling Equipment (Filters, Quality Control, & Clean Up)	Provides Truck; Provides Maint. Service for Truck & Repair of Equipment
<u>Fuel Truck</u>	<u>Provides Truck, Gas for Truck, & Maintenance of Truck, including Fueling Equipment, in Coordination with FBO's Third Party Vendor(s) Beginning May 1, 2020</u>	<u>Provides Funding Directly to FBO for Airport Fuel Infrastructure in the Amount of \$1,200.00 per Month Beginning May 1, 2020</u>
Trash Containers	Free Use of Containers; Monitors & Limits Unauthorized Use	Provides Containers; Empties Containers & Pays for Trash Disposal

SECTION 3. AMENDMENT OF PAYMENT PROVISIONS

Paragraphs A and C of Article VI (PAYMENTS) in the Original FBO Agreement are hereby amended by rewriting the referenced paragraphs to provide as follows:

~~A. Fees. In consideration of the rights and privileges granted by this Agreement, Lessee agrees to pay to Lessor during the term of this Agreement the following:~~

~~After the threshold amount of 150,000 gallons of aviation fuel is sold by Lessee in a calendar year, the Lessee shall pay an amount equal to five percent (5%) of gross fuel sales dollars as a fuel flowage fee on all aviation fuel dispensed by Lessee on the premises. Payments shall be made on or before the 10th day of each month for fuel dispensed during the prior month.~~

A. Fees. In consideration of the rights and privileges granted by this Agreement, the parties agree to pay to each other during the term of this Agreement the following:

1. After the threshold amount of 150,000 gallons of aviation fuel is sold by Lessee in a calendar year, the Lessee shall pay an amount equal to five percent (5%) of gross fuel sales dollars as a fuel flowage fee on all aviation fuel dispensed by Lessee on the premises. Payments shall be made on or before the 10th day of each month for fuel dispensed during the prior month.

2. Effective May 1, 2020, and continuing through the remainder of the term of this Agreement, the Lessor shall pay to the Lessee an airport fuel infrastructure payment of one thousand two hundred and no hundredths dollars (\$1,200.00) per month. This monthly airport fuel infrastructure payment shall be made on or before the 10th day of each calendar month.

~~C. Place of Payment. All payments due Lessor from Lessee shall be delivered to the City of Asheboro Finance Department, 146 N. Church Street, P.O. Box 1106, Asheboro, NC 27204 1106.~~

C. Place of Payment. Payments required under the terms and conditions of this Agreement shall be delivered as follows:

1. All payments due to the Lessor from the Lessee shall be delivered to the City of Asheboro Finance Department, 146 N. Church Street, P.O. Box 1106, Asheboro, NC 27204-1106.

2. *All payments due to the Lessee from the Lessor shall be delivered to Cardinal Air, LLC, 2222 Pilots View Road, Asheboro, North Carolina 27205.*

SECTION 4. NO IMPACT ON OTHER TERMS AND CONDITIONS

Except as specifically modified or amended by provisions found within these FBO Agreement Amendments, the Original FBO Agreement shall remain unchanged and in full force and effect in accordance with its terms.

**[The remainder of this page has been intentionally left blank.
The signature blocks are on the immediately following pages.]**

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate originals as of the day and year first above written.

LESSOR: City of Asheboro

By: _____ (SEAL)
David H. Smith, Mayor

ATTEST:

Holly H. Doerr, CMC, NCCMC, City Clerk

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

I, the undersigned Notary Public of _____ County, North Carolina, hereby certify that Holly H. Doerr, who is personally known to me, came before me this day and acknowledged that she is the City Clerk for the City of Asheboro and that, by authority duly given and as the act of the municipal corporation, the foregoing instrument was voluntarily executed on behalf of the municipal corporation by its Mayor, sealed with the municipal corporation's seal, and attested by Ms. Doerr as the City Clerk for the purposes stated therein.

WITNESS my hand and notarial seal or stamp, this _____ day of April, 2020.

Notary Public's Signature

My commission expires:

Notary Public's Typed or Printed Name

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

Deborah P. Reaves, Finance Officer

LESSEE: Cardinal Air, LLC

By: _____ (SEAL)
Karen McCraw, Manager

STATE OF NORTH CAROLINA
COUNTY OF _____

I, the undersigned Notary Public of _____ County, North Carolina, hereby certify that Karen McCraw, who is either personally known by me or whose identity was proven by satisfactory evidence, appeared before me this day and acknowledged that she is a Manager of Cardinal Air, LLC and that, being duly authorized to do so, she voluntarily executed the foregoing instrument on behalf of the limited liability company for the purposes stated therein.

WITNESS my hand and notarial seal or stamp, this _____ day of April, 2020.

Notary Public's Signature

My commission expires:

Notary Public's Typed or Printed Name

ATTACHMENT A

**LEASE AGREEMENT FOR FIXED BASE OPERATOR
OF THE
ASHEBORO REGIONAL AIRPORT**

THIS LEASE AND OPERATING AGREEMENT (the "Agreement") is made and entered into this 16 day of December, 2015, by and between the City of Asheboro, a North Carolina municipal corporation located in Randolph County, North Carolina, (the "Lessor") and Cardinal Air, LLC, a North Carolina limited liability company with its principal office located at 80 Aviation Drive, Siler City, North Carolina 27344 (the "Lessee").

WITNESSETH:

WHEREAS, Lessor owns the Asheboro Regional Airport (the "Airport") that is located in Randolph County, North Carolina; and

WHEREAS, fixed base operation services are essential to the proper accommodation of general and commercial aviation at the Airport; and

WHEREAS, Lessor desires to make such services available at the Airport and Lessee is qualified, ready, willing, able, and currently providing such services;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement, the parties hereby agree as follows:

**ARTICLE I
TERM**

The intent of the Lessor and Lessee is for this Agreement to have an initial 3-year term that will commence at 12:01 a.m. on January 1, 2016, and will expire at midnight on December 31, 2018, unless earlier terminated under the provisions of this Agreement. Subject to the terms and conditions found herein, this Agreement will automatically renew for one additional 3-year renewal term upon the same terms and conditions unless either the Lessor or Lessee notifies the other party in writing of the intent not to renew this Agreement at least 60 calendar days prior to the expiration of the initial lease term.

If such an automatic renewal term is allowed to commence, the renewal term for this Agreement will commence at 12:01 a.m. on January 1, 2019, and will expire at midnight on December 31, 2021. Alternatively, upon delivery of the above-referenced 60-day notice of non-renewal, this Agreement will conclusively terminate at midnight on December 31, 2018. Delivery of the notice of non-renewal shall be deemed to be proper and effective when such notice is given in accordance with the notice provisions found in this Agreement's Article XV, Paragraph C. If the Lessee fails to surrender the demised premises upon the early termination or expiration of the Agreement, there shall be no renewal of this Agreement or exercise of an option by operation of law.

ARTICLE II LEASED PREMISES

Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor the following described improvements that are identified and shown on Schedule "C" (Amended October 2013), which is attached hereto as EXHIBIT 1 and incorporated herein by reference, (the "Premises") together with the right of ingress and egress for both vehicles and aircraft:

1. "T" Hangars: Two 8-unit "T" hangars shown on Schedule "C."
2. Maintenance Building: Shown on Schedule "C."
3. FBO Administration Building (Terminal Building): The entire FBO Administration Building shown on Schedule "C," which includes the FBO office, manager's office, training room on the south side of the building, lounge, conference room, restrooms, and snack area. The lounge, conference room, restrooms, and snack area must be open to the public during normal operating hours.
4. Avgas and Jet Fuel Facilities.
5. North Apron: Shown on Schedule "C."
6. South Apron: Shown on Schedule "C."

ARTICLE III RIGHTS AND OBLIGATIONS OF LESSEE

A. Required Services. Lessee is hereby granted the non-exclusive privilege to engage in, and Lessee agrees to engage in, the business of providing fixed base operation services as hereinafter identified, at the Airport every day during the hours of 8 A.M. until sunset or 8 P.M., whichever occurs first, with only fuel sales required on Sunday and national holidays. Services required of the Lessee shall be as follows:

1. Lessee is to operate and provide management of all the Premises and the public and other non-commercial facilities on the Airport premises for the public and the Lessor in return for the use of the leased facilities. The leased facilities are described in Article II. The public facilities include the runway, taxiways, runway and taxiway lighting, REIL, NDB, PAPI, AWOS, auto parking area, access road, windsock, and area lighting. In the terminal building, the public facilities include the lobby, restrooms, vending/snack area, and conference room. Other non-commercial facilities shall include existing and future hangars or facilities not intended for commercial use and not leased to another tenant, and not part of the leased or public property. Operation by the Lessee includes maintaining clean facilities and providing operational maintenance.
2. Lessee is to provide a UNICOM radio station (The City reserves the right to license the UNICOM in its own name with access to be provided to the UNICOM for one or more lessees).
3. The Lessee will monitor the NDB and AWOS on monitors provided by the Lessor.
4. The Lessee will file and rescind NOTAMS as required.

5. The Lessee will provide repair and maintenance services for based and transient aircraft. Lessee agrees to maintain and provide, directly or by sublease, aircraft engine, airframe, and avionics maintenance and repair services within Federal Aviation Administration (the "FAA") rules and regulations, and the Lessee further agrees to observe and be responsible for all environmental regulations relative to all of its operations. The Lessor reserves the right to approve or disapprove with or without cause all sublease agreements prior to execution of the agreements.

6. The Lessee is to provide sales of avionic, airframe, and engine parts and instruments and accessories.

7. The Lessee is to provide aircraft rental and flight instruction.

8. The Lessee will provide ramp service, including sale and into plane delivery of aviation gas and jet fuel, lubricants, and other related aviation products.

9. The Lessee will provide apron servicing of and assistance to aircraft, including itinerant parking, storage, and tie down service, for both based and itinerant aircraft upon or within facilities leased to Lessee or aircraft parking areas designated by Lessor.

10. The Lessee will observe and enforce the "Rules and Regulations" of the Asheboro Regional Airport.

Lessee acknowledges that, with the exception of activities in the maintenance building, no right or privilege has been granted which would operate to prevent any person, firm, or corporation operating aircraft at the Airport from personally performing service on the individual's or entity's own aircraft or with the individual or entity's own regular employees, including maintenance and repair services.

B. Authorized and Prohibited Services. In addition to the services required to be provided by Lessee pursuant to Paragraph A above, Lessee is authorized but not required to provide the following services and to engage in the following activities:

1. Ramp service at the Main Terminal or other Airport locations; loading and unloading of non-air carrier passengers, baggage, mail, and freight; and providing of ramp equipment, aircraft cleaning, and other services for other persons or firms.

2. Special flight services, including, without limitation, aerial sight-seeing, aerial advertising, and aerial photography.

3. The sale of new and used aircraft.

4. Aircraft charter operations; said operations may be conducted by Lessee or a subcontractor of Lessee.

5. The Lessee may use the snack area in the terminal building for drink and snack machines and microwave, toaster, coffee pot, or similar device(s). A restaurant is not permitted. No business use is permitted in the lobby.

6. The Lessee is authorized to use the conference room in the terminal building for business purposes, provided that the public is given priority use.

C. Operating Standards. In providing any of the required and/or authorized services or activities specified in this Agreement, Lessee shall operate for the use and benefit of the public and shall meet or exceed the following standards:

1. Lessee shall furnish service on a fair, reasonable, and non-discriminatory basis to all users of the Airport. Lessee shall furnish good, prompt, and efficient service that is adequate to meet all reasonable and customary demands for its services at the Airport. Lessee shall charge fair, reasonable, and non-discriminatory prices for each unit of sale or service; provided, however, that Lessee may be allowed to give reasonable discounts, rebates, or similar types of price reductions to volume purchasers so long as such discounts are not provided on the basis of a prohibited Constitutional or statutory factor or in violation of federal, state, or local public policy.

2. Lessee shall select and appoint a manager of its operations at the Airport. The manager shall be qualified, experienced, and vested with full power and authority to act in the name of Lessee with respect to the method, manner, and conduct of the operation of the fixed base services to be provided under this Agreement. The manager shall be available at the Airport during regular business hours and, during the manager's absence, a duly authorized subordinate shall be in charge and available at the Airport to provide usual and customary services then normally available.

3. Lessee shall provide, at its sole expense, a sufficient number of employees to provide effectively and efficiently the services required or authorized under the terms and conditions of this Agreement.

4. Lessee shall control the conduct, demeanor, and appearance of its employees, who shall be trained by Lessee and who shall possess such technical qualifications and hold such certificates of qualification as may be required in order to carry out assigned duties. It shall be the responsibility of Lessee to maintain supervision over its employees and to assure a high standard of service to customers of Lessee.

5. Lessee shall meet in a timely manner all expenses and payments in connection with its lease of the Premises (except as noted in Article IV) and the rights and privileges herein granted, including sales taxes, permit fees, and license fees.

6. Lessee shall comply with all federal, state, and local laws, rules, and regulations which may apply to the conduct of the business contemplated, including by way of illustration and without limitation rules and regulations promulgated by Lessor, and Lessee shall keep in effect and post in a prominent place all necessary and/or required licenses or permits.

7. Lessee shall be responsible for the maintenance and repair of the Premises (except as noted in Article IV) and shall keep and maintain the Premises in good condition, order, and repair, and Lessee shall surrender the same upon the expiration of this Agreement in the condition in which they are required to be kept, reasonable wear and tear and damage by the elements not caused by Lessee's negligence excepted.

8. It is expressly understood and agreed that, in providing required and authorized services pursuant to this Agreement, Lessee shall have the right to choose, in its sole discretion, its vendors and suppliers.

D. Signs. During the term of this Agreement, Lessee shall have the right, at its expense, to place in or on the Premises a sign or signs identifying Lessee and its products and services. Said sign or signs shall be of a size, shape, and design, and at a location or locations approved by Lessor. Any and all such signs must conform to any overall directional graphics or sign program or ordinance established by Lessor. Lessor's approval shall not be withheld unreasonably. Notwithstanding any other provision of this Agreement, said sign(s) shall remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs, and placards so erected on the Premises at the expiration of this Agreement.

E. Non-Exclusive Right. It is not the intent of this Agreement to grant to Lessee the exclusive right to provide any or all of the services described in this article at any time during the term of this Agreement. Lessor reserves the right, at its sole discretion, to grant others certain rights and privileges at the Airport which are identical in part or in whole to those granted to Lessee. However, Lessor does covenant and agree that:

1. It shall enforce all minimum operating standards or requirements for all aeronautical endeavors and activities conducted at the Airport;

2. Any other operator of aeronautical endeavors or activities will not be permitted to operate on the Airport under rates, terms, or conditions which are more favorable than those set forth in this Agreement; and

3. Lessor will not permit the conduct of any aeronautical endeavor or activity at the Airport except under an approved lease or operating agreement.

ARTICLE IV APPURTENANT PRIVILEGES

A. Use of Airport Facilities. Subject to the right of the Lessor, consistent with Article V of this Agreement, to close or limit access to one or more areas on the airport grounds in order to accommodate maintenance, renovation, and/or construction activities, Lessee shall be entitled, in common with others so authorized, to the use of all facilities and improvements of a public nature which now are or may hereafter be connected with or appurtenant to the Airport, including the use of landing areas, runways, taxiways, navigational aids, terminal facilities and aircraft parking areas designated by Lessor, auto parking, and roadways.

B. Maintenance and Operation of Airport Facilities. The duties and responsibilities of the Lessor for maintenance and expenditures concerning assets of the Asheboro Regional Airport are outlined as follows:

1. The Lessor will provide structural maintenance on buildings, the runway, taxiway, ramp areas, and the Premises. In addition, the Lessor will provide grass mowing services for the airport grounds and will provide, on paved areas only, snow removal services; provided, however, snow removal on city-maintained streets, wherever they may be located, shall receive the highest priority.

2. The Lessor will provide maintenance and calibration of the NDB, rotating beacon, REILS, and PAPI.

3. The Lessor will provide electricity for operation of the runway and taxiway lighting, REIL, windsock, rotating beacon, NDB, and outside area lighting.

4. The Lessor will provide potable water and sanitary sewer services for the terminal and east maintenance hangar.

5. The Lessor will provide and pay operational costs for outside public phone service.

6. Specific duties and responsibilities of the Lessor and the Lessee for the maintenance, operation, and expenditures concerning assets of the Asheboro Regional Airport are itemized as follows:

<u>ASSET</u>	<u>LESSEE</u>	<u>LESSOR</u>
Airfield	Manages; Post NOTAMS	Pays Maintenance & Mowing
Runway/Lighting	Manages; Replaces Lamps	Pays Lamps, Maintenance, & Electricity; Removes Snow
Windsock	Manages; Replaces Lamps/Sock	Pays Maintenance, Lamps, & Electricity
NDB/AWOS Monitors	Manages/Monitors	Pays Maintenance & NDB/AWOS Electricity
Light Beacon	Manages	Pays Maintenance & Electricity
Apron-North	Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)	Pays Maintenance; Removes Snow
Fuel Facilities	Rent Free Use; Monitors Fuel On Daily Basis; Provides Operational Maintenance (Filters, Quality Control, and Clean-up); Pays 5% Of Gross Receipts from Flowage Fee to Lessor when Sales Exceed 150,000 Gallons in a Calendar Year	Provides Facility Maintenance; Receives 5% of Gross Receipts from Flowage Fee When Sales Exceed 150,000 Gallons in a Calendar Year
Terminal/Furn.	Rent Free Use of Office, Training Room, & Manager's Office; Pays Operational Maintenance Costs	Pays Structural Maintenance Costs; Pays Electric Bill

<u>ASSET</u>	<u>LESSEE</u>	<u>LESSOR</u>
Parking Lot	Manages; FBO Rental Car Use	Provides Maintenance; Removes Snow
Water System	Uses Free of Charge	Operates the Municipal Water Supply & Distribution System
Sewer System	Uses Free of Charge	Operates the Municipal Sanitary Sewer System
T Hangars (16)	Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)	Pays Structural Maintenance
Maint. Hangar - East	Uses for Business Rent Free	Pays Structural Maintenance; Pays Heat & Electricity
Maint. Hangar - West	Uses for Business Rent Free	Pays Structural Maintenance; Pays Heat & Electricity
Air Compressor	Pays All Maintenance	No Obligation to Replace
Roads	Manages; Common Use	Pays Maintenance; Removes Snow
Area Lighting	Manages; Calls for Maintenance	Pays for Service
Public Phone	Manages; Calls for Maintenance	Pays for Service
UNICOM	Furnishes & Operates	Reserves Access by Others
Apron South	Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)	Reserves Right to Lease to Others; Pays Maintenance; Removes Snow
Other Non-Commercial Hangars or Facilities Existing and Those Developed in the Future	Manages, Subject to City Lease Agreement(s)	Subject to City Lease Agreement(s)
Fuel Truck	Provides Gas for Truck; Provides Operational Maint. of Fueling Equipment (Filters, Quality Control, & Clean-Up)	Provides Truck; Provides Maint. Service for Truck & Repair of Equipment

ASSETLESSEELESSOR

Trash Containers

Free Use of Containers;
Monitors & Limits
Unauthorized UseProvides Containers;
Empties Containers &
Pays for Trash Disposal

C. Aerial Approaches. Lessor reserves the right to take any action it considers necessary to protect the aerial approaches to the Airport against obstruction together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on or adjacent to the Airport which, in the sole opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

D. Non-Competition. Lessor shall not engage directly or indirectly in any of the activities described in Paragraphs A and B of Article III of this Agreement.

**ARTICLE V
LEASEHOLD IMPROVEMENTS**

Lessee is not required to construct any facilities or improvements under this Agreement. Lessor has the right to close runway, taxiway, and apron areas for repair or new construction for limited times. Lessee agrees to allow new construction to be performed in a cost efficient manner, and Lessor agrees to negotiate in good faith a reasonable payment to Lessee for loss of use of the facilities due to such construction.

At its option, the Lessor may assume ownership of any leasehold improvements constructed by Lessee upon Lessee's abandonment of the facilities at the termination of this Agreement.

**ARTICLE VI
PAYMENTS**

A. Fees. In consideration of the rights and privileges granted by this Agreement, Lessee agrees to pay to Lessor during the term of this Agreement the following:

After the threshold amount of 150,000 gallons of aviation fuel is sold by Lessee in a calendar year, the Lessee shall pay an amount equal to five percent (5%) of gross fuel sales dollars as a fuel flowage fee on all aviation fuel dispensed by Lessee on the premises. Payments shall be made on or before the 10th day of each month for fuel dispensed during the prior month.

B. Delinquency Charge. A delinquency charge of one percent (1%) per month shall be added to payments required by Paragraph A above that are rendered more than ten (10) days delinquent.

C. Place of Payment. All payments due Lessor from Lessee shall be delivered to the City of Asheboro Finance Department, 146 N. Church Street, P.O. Box 1106, Asheboro, NC 27204-1106.

D. Renegotiation of Rent. The Lessee is given the authority to change hangar rents at its discretion but with the approval of the Asheboro Airport Authority. Such approval shall not be unreasonably withheld.

E. Records. Lessee shall maintain and provide accurate records of retail fuel sales, hangar and tie-down rentals, and itemized adjusted gross receipts derived under this Agreement for a period of three years from the date the record is made. Such records shall be maintained according to generally accepted accounting principles. Lessor or its duly authorized representatives shall have the right at all reasonable times during business hours to inspect the books, records, and receipts of Lessee, and to verify Lessee's fuel sales, hangar and tie-down rentals, and adjusted gross receipts.

F. Annual Statement. Within 90 days after the end of each calendar year, Lessee shall furnish to Lessor a statement of fuel sales along with hangar and tie-down rentals generated during the preceding calendar year. The statement referenced in the preceding sentence shall be prepared by an independent CPA and certified by an officer of Lessee as to the correctness of the statement. Lessor reserves the right to audit said statement and Lessee's books and records, including examination of the general ledger and all other supporting material, at any reasonable time during business hours for the purpose of verifying the reported fuel sales, hangar and tie-down rentals, and total business year operation.

If the audit establishes that Lessee has understated or overstated fuel sales and/or the hangar and tie-down rentals collected by five percent (5%) or more, the entire expense of said audit shall be borne by Lessee. Any additional payment due from Lessee shall forthwith be paid to Lessor, with interest thereon at one percent (1%) per month from the date such amount originally became payable to Lessor. Any overpayment by Lessee shall be credited against further payments due to Lessor. Either party may refer the results of the audit for resolution in accordance with Paragraph G below.

G. Disputes. In the event that any dispute may arise as to fuel sales and/or hangar and tie-down rentals collected, the amount claimed due by Lessor shall be submitted to a certified public accountant, agreeable to both parties, who shall determine the rights of the parties hereunder in conformity with generally accepted accounting principles. The fees due said accountant for such services shall be paid by the unsuccessful party, or in the event the determination is partially in favor of each party, the fee shall be borne equally by the parties.

ARTICLE VII UTILITIES

Lessee shall have the right to use the utility service facilities as located on the Premises at the commencement of this Agreement. The Lessee shall pay the cost for any improvements or extensions of the utility service facilities desired by the Lessee.

ARTICLE VIII INSURANCE

A. Required Insurance. Lessee shall obtain and maintain continuously in effect at all times during the term of this Agreement, at Lessee's sole expense, the following insurance:

1. Comprehensive general liability insurance, including products, completed operations, and contractual liability, in the minimum amount of \$1,000,000 to protect Lessor against any and all liability by reason of Lessee's conduct incident to the use of the Premises, liability resulting from any accident occurring on or about the roads, driveways, or other public places,

including runways and taxiways, used by Lessee at the Airport, or liability caused by or arising out of any wrongful act or omission of Lessee;

2. Fuel operations coverage in the minimum amount of \$10,000,000;
3. Hangar keeper's insurance in the minimum amount of \$100,000/\$250,000;
4. Auto liability insurance in the minimum amount of \$1,000,000, if vehicles are registered in Lessee's name; and
5. Workers' compensation coverage that, at a minimum, complies with North Carolina statutory requirements is also required of the Lessee.

The insurance specified in A.1 through A.4, above, shall name Lessor and the Asheboro Airport Authority as additional insureds.

B. Notice. Lessor agrees to notify Lessee in writing as soon as practicable of any claim, demand, or action arising out of an occurrence covered hereunder of which Lessor has knowledge, and to cooperate with Lessee in the investigation and defense thereof.

ARTICLE IX INDEMNIFICATION

To the extent not covered by insurance carried in favor of Lessor, Lessee shall indemnify and hold harmless Lessor from and against any and all claims, demands, suits, judgments, cost, and expenses asserted by any person or persons, including agents or employees of Lessor or Lessee, by reason of death or injury to persons or loss or damage to property resulting from Lessee's operations or anything done or omitted by Lessee under this Agreement except to the extent that such claims, demands, suits, judgments, costs, and expenses may be attributed to the acts or omissions of Lessor or its agents or employees.

To the extent not covered by insurance carried in favor of Lessee, Lessor shall indemnify and hold harmless Lessee from and against any and all claims, demands, suits, judgments, cost, and expenses asserted by any person or persons, including agents or employees of Lessee or Lessor, by reason of death or injury to persons or loss or damage to property resulting from Lessor's operations or anything done or omitted by Lessor under this Agreement except to the extent that such claims, demands, suits, judgments, costs, and expenses may be attributed to the acts or omissions of Lessee or its agents or employees.

The City of Asheboro agrees to indemnify the Lessee and its principals against all environmental liabilities existing prior to the effective date of this Agreement and to indemnify the Lessee and its principals against future environmental liabilities not caused by the Lessee or one of its principals, agents, or employees.

ARTICLE X LESSEE AS INDEPENDENT CONTRACTOR

In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, assignment, direction, and payment of Lessee's

employees shall be the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.

ARTICLE XI ASSIGNMENT

This Agreement, or any part thereof, may not be assigned, transferred, or subleased by Lessee, by process or operation of law, or in any other manner whatsoever, without the prior written consent of Lessor, which consent shall not be withheld unreasonably.

ARTICLE XII NON-DISCRIMINATION

Notwithstanding any other or inconsistent provision of this Agreement, during the performance of this Agreement, Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration for this Agreement, does hereby covenant and agree, as a covenant running with the land, that;

A. No person on the grounds of race, color, religion, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the Premises.

B. In the construction of any improvement(s) on, over, or under the Premises, and the furnishing of services therein or thereon, no person on the grounds of race, color, religion, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

C. Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

D. In the event of breach of any of the above non-discrimination covenants, Lessor shall have the right to terminate this Agreement and to reenter and repossess the Premises and hold the same as if said Agreement had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 have been followed and completed, including expiration of appeal rights.

ARTICLE XIII REQUIREMENTS OF THE UNITED STATES

This Agreement shall be subject and subordinate to the provisions of any existing or future agreement between Lessor and the United States, or any agency thereof, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or operation of the Airport; provided, however, that Lessor shall, to the extent permitted by law, use its best efforts to cause any such agreements to include provisions protecting and preserving the rights of Lessee in and to the Premises and to compensation for the taking thereof, interference therewith and damage thereto, caused by such agreement or by actions of Lessor or the United States pursuant thereto.

ARTICLE XIV DEFAULT AND TERMINATION

A. Termination by Lessee. This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

1. The abandonment of the Airport as an airport or airfield for any type, class, or category of aircraft.
2. The default by Lessor in the performance of any of the terms, covenants, or conditions of this Agreement, and the failure of Lessor to remedy or undertake to remedy to Lessee's satisfaction such default for a period of 30 days after receipt of notice from Lessee to remedy the same.
3. Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of Lessee's business.
4. The lawful assumption by the United States, or any authorized agency thereof, of the operation, control, or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict substantially Lessee from conducting business operations for a period in excess of 90 days.

B. Termination by Lessor. This Agreement shall be subject to termination by Lessor in the event of any one or more of the following events:

1. The default by Lessee in the performance of any of the terms, covenants, or conditions of this Agreement, and the failure of Lessee to remedy or undertake to remedy to Lessor's satisfaction such default for a period of 30 days after receipt of notice from Lessor to remedy the same.
2. Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt, or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within 30 days after the appointment of such receiver.
3. In addition to all other remedies at law, the Lessor is expressly granted all rights and procedures authorized by Chapter 42 of the North Carolina General Statutes to obtain possession of the premises upon default.

C. Exercise. Exercise of the rights of termination set forth in Paragraphs A and B above shall be by notice to the other party within 30 days following knowledge of the event giving rise to the termination.

D. Removal of Property. Upon termination of this Agreement for any reason, Lessee, at its sole expense, shall remove from the Premises all signs, trade fixtures, furnishings, personal property, equipment, and materials which Lessee was permitted to install or maintain under the rights granted herein. If Lessee shall fail to do so within 30 days, then Lessor may cause such removal or restoration at Lessee's expense, and Lessee agrees to pay Lessor such expense promptly upon receipt of a proper invoice therefore.

E. Causes of Breach; Waiver.

1. Neither party shall be held to be in breach of this Agreement because of any failure to perform any of its obligations hereunder if said failure is due to any cause for which it is not responsible and over which it has no control; provided, however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents, or other charges to Lessor.

2. The waiver of any breach, violation, or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any such subsequent breach, violation, or default in or with respect to the same or any other covenant or condition hereof.

ARTICLE XV MISCELLANEOUS PROVISIONS

A. Entire Agreement. This Agreement constitutes the entire understanding between the parties, and as of its effective date, supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing signed by both parties.

B. Severability. If a provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

C. Notice. Any notice given by one party to the other in connection with this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, with postage fees prepaid. Notice shall be deemed to have been received on the date of receipt as shown on the return receipt. Any such notice shall be addressed as follows:

1. If the Lessor is recipient of the notice, the notice shall be addressed as follows:

John N. Ogburn, III, City Manager
City of Asheboro
146 N. Church Street
PO Box 1106
Asheboro, NC 27204-1106

2. If Lessee is the recipient of the notice, the notice shall be addressed as follows:

Cardinal Air, LLC
2222 Pilots View Road
Asheboro, NC 27205

D. Headings. The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provision of this Agreement.

E. Governing Law. This Agreement is to be construed in accordance with the laws of the State of North Carolina.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

LESSOR: City of Asheboro



By:

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

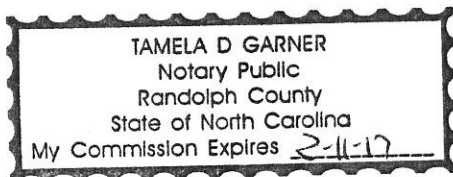
ATTEST:

Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

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

WITNESS my hand and notarial seal or stamp, this the 14th day of December, 2015.



Tamela D Garner
(Signature of Notary Public)

My commission expires:

2-11-17

Tamela D Garner
(Printed or Typed Name of Notary Public)

LESSEE: Cardinal Air, LLC

By: Karen McCraw
Karen McCraw, Member-Manager

STATE OF NORTH CAROLINA
COUNTY OF Randolph

I, the undersigned Notary Public of the County and State aforesaid, certify that Karen McCraw, either being personally known to me or whose identity was proven by satisfactory evidence, appeared before me this day and acknowledged that she is Manager of Cardinal Air, LLC and that, as the Manager and being duly authorized to do so, she voluntarily executed the foregoing instrument on behalf of the said limited liability company for the purposes stated therein.

WITNESS my hand and notarial seal or stamp, this the 16 day of December, 2015.



[Signature]
(Signature of Notary Public)

Bradley Morton
(Printed or Typed Name of Notary Public)

My commission expires:
12-18-2016

EXHIBIT 1

RUNWAY

TAXIWAY

APRON

APRON

"T" HANGARS
C.A.P. BUILDING

A B C D

MAINTENANCE BUILDING

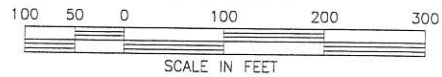
"T" HANGARS

PUBLIC FACILITIES

F E

FBO ADMINISTRATION BUILDING

ASHEBORO REGIONAL AIRPORT



SCHEDULE "C"

AMENDED NOVEMBER, 1995
JANUARY, 1997
AUGUST, 1998
JUNE, 1999
DECEMBER, 2000
DECEMBER, 2003
NOVEMBER, 2006
OCTOBER, 2013

DISPLAY AREA
AIRCRAFT MUSEUM

65.5'

H G L

"T" HANGARS

V

J M K

HANGARS

"T" HANGARS

N

ORDINANCE NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**CROSS-CONNECTION CONTROL AND
BACKFLOW PREVENTION ORDINANCE**

WHEREAS, in accordance with Chapter 160A, Article 16 of the North Carolina General Statutes, the city owns and operates as a public enterprise a water supply and distribution system; and

WHEREAS, Section 160A-312(b) of the North Carolina General Statutes provides as follows:

A city shall have full authority to protect and regulate any public enterprise system belonging to or operated by it by adequate and reasonable rules. The rules shall be adopted by ordinance, shall apply to the public enterprise system both within and outside the corporate limits of the city, and may be enforced with the remedies available under any provision of law; and

WHEREAS, the Asheboro City Council has concluded that rules must be adopted by ordinance to adequately and reasonably protect against contaminants and pollution that might backflow into the public water system; and

WHEREAS, rules pertaining to the city's water and sewer enterprise are found in Chapter 50 of the Code of Asheboro.

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

Section 1. The following City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance is hereby enacted as Section 50.046 of the Code of Asheboro:

**§ 50.046 CROSS-CONNECTION CONTROL AND
BACKFLOW PREVENTION**

(A) This section applies to all persons and entities that use, or connect in any way, to the public potable water distribution system of the City of Asheboro (the "Public Water System"). The purposes of this section are as follows:

- (1) To protect the Public Water System by containing within the consumer's water system such contaminants, waterborne health hazards, and other significant pollutants that could backflow or back siphon through uncontrolled cross-connections into the Public Water System; and
 - (2) To establish a continuing inspection program designed to systematically and effectively control all actual or potential cross-connections.
- (B) For the purposes of the cross-connection control and backflow prevention ordinance, the following designations of responsibility are made.
- (1) *Responsibilities of the City of Asheboro Public Works Division and Water Resources Division.* Except as otherwise provided herein, the city is the water purveyor and is responsible for ensuring a safe water supply begins at the source and includes all of the public water distribution system, including the service connection, and ends at the point of delivery to the consumer's water system(s). The city will determine the degree of hazard or potential hazard to the Public Water System, the degree of protection required, and will enforce proper containment protection through an ongoing inspection program. The city will identify premises/facilities where the installation of approved backflow prevention assemblies is required. When a determination is made that a backflow prevention assembly is required for the protection of the Public Water System, the city will require the consumer, at the consumer's expense, to install an approved backflow prevention assembly at the service connection, to test that backflow prevention assembly immediately upon installation and thereafter at a frequency determined by the city, and to properly repair and maintain the assembly or assemblies. The required testing date will be determined by the city and may be adjusted as necessary.
 - (2) *Responsibilities of City of Asheboro Building Inspectors.* Where the review of building plans and/or inspections of work on a job site detect actual or potential cross-connections within the plumbing system, a building inspector has the responsibility for requiring either the elimination of such cross-connections or the proper installation of approved backflow prevention equipment.
 - (3) *Responsibilities of the City of Asheboro Public Works Director and the Cross-Connection Control Coordinator.* The public works director and the cross-connection control coordinator, and their designees, are responsible for administering the City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance found in this section.

- (4) *Consumer Responsibilities.* The consumer has the primary responsibility of preventing pollutants and contaminants from entering the consumer's water system. The consumer's responsibility starts at the point of delivery from the Public Water System and includes all of the consumer's water system. The consumer, at the consumer's expense, is responsible for properly installing, operating, testing, and maintaining approved backflow prevention assemblies. The consumer shall have a certified backflow prevention assembly tester submit test reports to the city in the manner required by this section and the administrative guidelines adopted by the city's public works division. Following any repair, overhaul, re-piping, or relocation of an assembly, the consumer shall have the backflow prevention assembly tested in compliance with applicable provisions of this section to ensure that the apparatus is in good operating condition and will prevent backflow.
- (5) *Responsibilities of a Certified Backflow Prevention Assembly Tester.* The certified backflow prevention assembly tester will have the following responsibilities:
- (a) Each person wishing to test backflow prevention assemblies shall certify to the city that he/she has met the minimum qualification standards established by this section for certification as a backflow prevention assembly tester. This certification shall be in the form and manner prescribed in the administrative guidelines adopted by the city's public works division. If at any time a backflow prevention assembly tester's certification is revoked, suspended, or flagged as inactive, such an individual shall not submit test reports to the city for approval;
 - (b) The backflow prevention assembly tester is responsible for making competent inspections and making reports of such activities to the consumer and the city. The backflow prevention assembly tester shall be equipped with and be competent to use all the necessary tools, gauges, and other equipment necessary to properly test backflow prevention assemblies. The backflow prevention assembly tester is responsible for the competency and accuracy of all tests and reports, which shall be retained by the tester for a minimum of three years from the date of testing. Copies of all test and repair reports shall be provided by the backflow prevention assembly tester in accordance with the provisions of this section to the consumer and the city within ten business days of any completed test;

- (c) In order for a backflow prevention assembly test report to be eligible for submission to the city, the report must document that the tested backflow prevention assembly is currently in a passing status. When a backflow prevention assembly fails a test, the device shall be repaired and achieve passing status before the report is submitted to the city;
 - (d) Backflow prevention assembly testers shall comply with all applicable federal, state, and local laws and regulations while performing testing activities in the city; and
 - (e) Only the property owner or a certified licensed plumber is permitted to repair or replace a backflow prevention assembly.
- (C) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this section, will have the meanings hereafter designated.
- (1) *Air gap* means a physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An "approved air gap" shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel and in no case less than one inch (2.54 cm).
 - (2) *Approved check valve* means a check valve that is drip-tight in the normal direction of flow when the inlet pressure is at least one psi (pounds per square inch) and the outlet pressure is zero. The check valve shall permit no leakage in a direction reversed to the normal flow. The closure element (e.g., clapper, poppet, or other design) shall be internally loaded to promote rapid and positive closure. An approved check valve is only one component of an approved backflow prevention assembly (i.e., pressure vacuum breaker, double-check valve assembly, double-check detector assembly, reduced pressure principle assembly, or reduced pressure detector assembly).
 - (3) *Atmospheric type vacuum breaker* or *non-pressure type vacuum breaker* means a device containing a float-check, a check seat, and an air inlet port. The flow of water into the body causes the float to close the air inlet port. When the flow of water stops, the float falls and forms a check valve against back siphonage and at the same time opens the air inlet port to allow air to enter and satisfy the vacuum. A shutoff valve immediately upstream may be an integral part of the device. An atmospheric vacuum breaker is designed to protect against a non-health hazard (isolation protection only) under a back siphonage condition only.

- (4) *Auxiliary intake* means any piping connection or other device whereby water may be obtained from a source other than the Public Water System.
- (5) *Auxiliary water supply* means any water supply on or available to the premises/facility other than the Public Water System. These waters may be contaminated or polluted, or they may be objectionable and constitute an unacceptable water source over which the city does not have sanitary control.
- (6) *Back pressure* means any elevation of pressure in the downstream piping system (by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of consideration, which would cause, or tend to cause, a reversal of the normal direction of flow.
- (7) *Back siphonage* means a form of backflow due to a reduction in system pressure, which causes a sub-atmospheric pressure to exist at a site in the water system.
- (8) *Backflow* means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the potable supply of water from any source or sources. See terms "back pressure" and "back siphonage."
- (9) *Backflow prevention assembly* means a mechanical valve/assembly used to prevent backflow into a consumer or public potable water system that meets or exceeds standards set forth by both the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research ("USCFCCHR") and the American Society of Sanitary Engineering ("ASSE") and appears on *both* of the entities' approval lists. A backflow prevention assembly used on fire suppression systems must have the additional approval of the Factory Mutual Research Corporation ("FM") and comply with the National Fire Protection Association ("NFPA") code. The type of assembly used should be based on the existing or potential degree of hazard. The types of backflow prevention assemblies are enumerated on the following list:
 - (a) Double-check valve assembly ("DCVA");
 - (b) Double-check detector assembly (fire system) ("DCDA");
 - (c) Pressure vacuum breaker ("PVB");
 - (d) Reduced pressure principle assembly ("RP");
 - (e) Reduced pressure principle detector assembly ("RPDA"); and
 - (f) Residential dual check ("RDC").

- (10) *Below grade* means underneath the surface of the earth or beneath material placed on the surface of the earth.
- (11) *Building story* means a building floor, section, or division equal to ten feet in height.
- (12) *Certified backflow prevention assembly tester or testers* means a person who has proven their competency to the satisfaction of the city. Only a state licensed plumber or the owner of the property where the backflow prevention assembly is installed may repair or replace backflow prevention assemblies. Only a fire sprinkler contractor can install, replace, or repair backflow preventers that are part of a fire sprinkler system. Each person who is certified to make competent tests and make reports on backflow prevention assemblies shall:
- (a) Be knowledgeable of all federal, state, and local laws and regulations applicable to backflow prevention assemblies in Asheboro; and
 - (b) Hold a certificate of completion from a city recognized and approved North Carolina cross-connection school for the testing of backflow prevention assemblies.
- (13) *Certified licensed plumber* means a person that holds a plumbing class I license or plumbing class II license issued by the North Carolina State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors or is licensed as a public utilities contractor by the North Carolina Licensing Board for General Contractors.
- (14) *Consumer* means any person, partnership, company, corporation, association, organization, body politic or corporate, and any other group acting as a unit using or receiving water from the Public Water System.
- (15) *Consumer's water system* means that portion of any water system lying between the point of delivery from the Public Water System and the point of use. This system includes all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances located beyond the point of delivery from the Public Water System. Such a system may be either a potable water system or an industrial piping system.
- (16) *Containment* means preventing the impairment of the Public Water System by installing an approved backflow prevention assembly at the service connection.

- (17) *Containment assembly* means a backflow prevention assembly installed at the point of separation between the Public Water System and a private service or private distribution system or at a point of metering.
- (18) *Contamination* means an impairment of the quality of the water that creates a potential or actual hazard to the public health through the introduction of hazardous or toxic substances or waterborne health hazards in the form of physical or chemical contaminants or biological organisms and pathogens.
- (19) *Cross-connection* means any unprotected actual or potential connection or structural arrangement between the Public Water System and a consumer's water system or any other source or system through which it is possible to introduce any contamination or pollution other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which "backflow" can or may occur are considered to be cross-connections.
- (20) *Cross-connection control coordinator* means the employee designated by the city's public works director to administer this section.
- (21) *Degree of hazard* is derived from the evaluation of conditions within a system and can be classified as either a "pollution" (non-health) or a "contamination" (health) hazard.
- (22) *Double-check valve assembly* means an assembly composed of two independently acting, approved check valves, including tightly closing shut-off valves attached at each end of the assembly and fitted with properly located test cocks. This assembly shall only be used to protect against a pollution (i.e., non-health) hazard. Such a device must be on the USCFCCHR and the ASSE approval lists.
- (23) *Double-check detector assembly* means a specially designed assembly composed of a line-size approved double-check valve assembly with a specific bypass water meter and a meter-sized approved double-check valve assembly. The meter shall register in cubic feet or U.S. gallons accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall only be used to protect against a pollution (i.e., non-health) hazard. Such a device must be on the USCFCCHR and the ASSE approval lists.

- (24) *Dual check valve* means a type of backflow device manufactured pursuant to ASSE Standard 1024.
- (25) *Enclosure* means a physical above-ground or below-ground apparatus that provides protection to backflow assemblies. An above-ground apparatus shall meet ASSE 1060 specifications. A below-ground apparatus shall meet current North Carolina Plumbing Code specifications.
- (26) *Finish grade* means any surface that has been cut or built to the elevation requested, indicated, or approved for that point. The surface elevation of a lawn, driveway, flower bed, patio, or other improved surface after completion of grading operations is considered finish grade.
- (27) *Fire line* means a system of pipes and equipment used to supply water in an emergency for extinguishing fire.
- (28) *Health hazard* means an actual or potential threat of contamination of a physical, chemical, biological, pathogenic, or toxic nature to the Public Water System or consumer's water system to such a degree or intensity that there would be a danger to health. Examples of waterborne health hazards include but are not limited to:
- (a) Physical – Radioisotopes/radio-nuclides;
 - (b) Chemical – Lead, mercury, and other heavy metals, organic compounds, and other toxins and hazardous substances; and
 - (c) Biological – Pathogenic micro-organisms like cryptosporidium, typhoid, cholera, and E. coli.
- (29) *Health agency* means the North Carolina Department of Environmental Quality (“NCDEQ”) and/or the Randolph County Health Department.
- (30) *Imminent hazard* means a condition that presents a substantial and immediate risk to the public health.
- (31) *Industrial fluids* means any fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health or non-health hazard if introduced into the Public Water System or a consumer’s water system. Such fluids may include, but are not limited to, process waters, chemicals in fluid form, acids and alkalis, oils, gases, etc.

- (32) *Industrial piping system* means a system used by the consumer for transmission, conveyance, or storage of any fluid, solid, or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, or store substances that are or may be polluted or contaminated.
- (33) *Interconnection* means any system of piping or other arrangement whereby the Public Water System is connected directly to a sewer, drain, conduit, pool, heat exchanger, storage reservoir, or other device that contains or could contain sewage or other waste or substance which would be capable of imparting contamination to the Public Water System.
- (34) *Irrigation season* means the time of year that irrigation is used in the City of Asheboro. For the purposes of this section, the irrigation season is March 1 through September 30 of each year.
- (35) *Irrigation system* means any system supplying dry land with water by means of ditches, streams, piping, and appurtenances.
- (36) *Isolation* means the act of confining a localized hazard within a consumer's water system by installing approved backflow prevention assemblies. Disclaimer: The City of Asheboro may make suggestions as to the usage of isolation devices/assemblies, but the city does not assume or have responsibility whatsoever for such installations.
- (37) *Isolation assembly* means a backflow prevention assembly required by the North Carolina Plumbing Code that is installed within a private plumbing or distribution system to isolate a localized hazard from the remainder of the private system.
- (38) *Lead free* means a material content in the backflow preventers of less than or equal to 0.25%.
- (39) *Non-health hazard* means an actual or potential threat to the quality of the Public Water System or the consumer's water system. If introduced into the Public Water System, a non-health hazard could be a nuisance to water customers but would not adversely affect human health.
- (40) *Owner* means any natural or legal person that has legal title to, or permission or obligation to operate or inhabit, a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present.

- (41) *Permanent irrigation system* means any system supplying dry land with water by means of piping and appurtenances below ground or finish grade that is not readily accessible.
- (42) *Point of delivery* means, generally, at the backside of the meter, adjacent to the public street where the city's water distribution mains are located. The consumer shall be responsible for all water piping and control devices located on the consumer's side of the point of delivery.
- (43) *Pollution* means an impairment of the quality of the water to a degree that does not create an actual hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.
- (44) *Pollution hazard* means an actual or potential threat to the quality of the Public Water System or the consumer's water system but which would not constitute a health or a system hazard. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.
- (45) *Potable water* means, for the purposes of this section, water from any source that has been approved for human consumption by the NCDEQ.
- (46) *Pressure type vacuum breaker* means an assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shutoff valves attached at each end of the assembly. This assembly is designed to protect against a health hazard (i.e., contaminant) under a back siphonage condition only.
- (47) *Public potable water system* means any publicly or privately owned water system operated as a public utility under a current NCDEQ permit to supply water for public consumption or use. This system will include all sources, facilities, and appurtenances between the source and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, treat, or store potable water for public consumption or use.
- (48) *Readily accessible* means access is available without the need to remove obstructions or items.

- (49) *Reduced pressure principle backflow prevention assembly* means an assembly containing within its structure a minimum of two independently acting, approved check valves together with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and at the same time below the first check valve. The first check valve reduces the supply pressure to a predetermined amount so that, during normal flow and at cessation of normal flow, the pressure between the checks shall be less than the supply pressure. In case of leakage of either check valve, the pressure differential relief valve, by discharge to atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure.

The unit shall include tightly closing shutoff valves located at each end of the assembly and each assembly shall be fitted with properly located test cocks. The assembly is designed to protect against a health hazard (i.e., contaminant). Such a device must be on the USCFCCHR and the ASSE approval lists.

- (50) *Reduced pressure principle detector assembly* means a specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a specific bypass water meter and a meter-sized approved reduced pressure principle backflow prevention assembly. The meter shall register in cubic feet or U.S. gallons accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall be used to protect against a health hazard (i.e., contaminant). Such a device must be on the USCFCCHR and the ASSE approval lists.
- (51) *Service connection* means the terminal end of a service connection from the Public Water System (i.e., where the city loses control over the water at its point of delivery to the consumer's water system).
- (52) *Unapproved water supply* means a water supply that has not been approved for human consumption by the NCDEQ.
- (53) *Used water* means any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.

(D) Rights of entry and access to information.

- (1) Upon presentation of proper credentials and identification, authorized representatives from the city shall have the right to enter any building, structure, or premises during normal business hours, or at any time during the event of an emergency, to perform any duty imposed by this section. Those duties may include sampling and testing of water or inspections and observations of all piping systems connected to the Public Water System. Where a consumer has security measures in force that would require proper identification and clearance before entry into the consumer's premises, the consumer shall make necessary arrangements with the security personnel so that, upon presentation of suitable identification, city personnel will be permitted to enter without delay for the purpose of performing their specific responsibilities under this section. Refusal to allow entry for these purposes may result in discontinuance of water service until the requested right-of-entry has been granted.
- (2) On request, the consumer shall furnish to the city any pertinent information regarding the consumer's water system on such property where cross-connections and backflow are deemed possible.

(E) Elimination of cross-connections and the degree of hazard.

- (1) When cross-connections are found to exist, the city will provide written notice to an owner, an owner's agent, an occupant, or a tenant, as applicable, of the requirement to comply with the cross-connection and backflow prevention ordinance within the time limit established by the city. The degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the Public Water System. In cases where the city identifies an existing health hazard attributable to a cross-connection, water service to the structure or premises where such a cross-connection is found may be terminated without any delay unless an air gap is immediately provided or the cross-connection is immediately eliminated. Otherwise, the maximum time limits are as follows:
 - (a) Cross-connections with private wells or other auxiliary water supplies require immediate disconnection;
 - (b) All facilities that pose a potential health hazard to the Public Water System must have a reduced pressure principle backflow prevention assembly within 30 days of notification by the city; and

- (c) All industrial and commercial facilities not identified as a health hazard shall be considered non-health hazard facilities. All non-health hazard facilities must install a double-check valve assembly within 60 days of notification by the city.
 - (2) Water mains served by the city, but not maintained by the city, shall be considered cross-connections and the degree of hazard will be determined by the city. The required degree of protection shall be based upon the city's determination of the degree of hazard.
 - (3) In cases where a facility has been secured by the consumer and the ability of city personnel to inspect the facility has been restricted (e.g., classified research and development facilities or federal government property) to the point that access to every portion of the consumer's water system is too limited to allow a complete evaluation of the degree of hazard associated with the private water system, an approved reduced pressure principle backflow prevention assembly shall be required as a minimum level of protection.
 - (4) No person shall fill special use tanks or tankers containing pesticides, pathogenic micro-organisms, fertilizers, other toxic chemicals, or their residues from the Public Water System except at a city-approved location equipped with an air gap or an approved reduced pressure principle backflow prevention assembly properly installed on the Public Water System.
- (F) Installation of assemblies.
- (1) All backflow prevention assemblies shall be installed in accordance with the specifications furnished by the city and/or in the latest edition of the North Carolina Plumbing Code.
 - (2) All new construction plans and specifications, when required by the North Carolina Plumbing Code and/or the NCDEQ, shall be made available to the city for review and approval, including a determination by the city of the degree of hazard.
 - (3) Ownership, testing, and maintenance of the assembly shall be the responsibility of the consumer.
 - (4) All double-check valve assemblies shall be installed in a location in which no portion of the assembly can become submerged in any substance under any circumstance. Pit and/or below-grade installations are prohibited.

- (5) Reduced pressure principle backflow prevention assemblies shall be installed according to their listing and in a location in which no portion of the assembly can become submerged in any substance under any circumstance. Pit and/or below-grade installations are prohibited.
- (6) Any backflow assembly not approved by the city shall be replaced with an assembly that is approved by the city.
- (7) No backflow prevention assembly shall be installed in a traffic area or city right-of-way unless pre-approval is obtained in writing from the city's public works director or the cross-connection control coordinator.
- (8) The consumer is responsible for ensuring that a backflow prevention assembly is working properly upon installation and shall also ensure that the following information is provided to the city within 10 business days after a reduced pressure principle assembly (RP), double-check valve assembly (DCVA), pressure vacuum breaker (PVB), double-check-detector assembly (DCDA), or reduced pressure principle detector assembly (RPDA) is installed at a facility:
 - (a) Facility name;
 - (b) Complete physical address of the facility where the assembly is located;
 - (c) Telephone number and email address, if available, for the facility where the assembly is located;
 - (d) Name of the owner of the real property where the assembly is located;
 - (e) Property owner's complete address, if different from the facility address;
 - (f) Property owner's telephone number and email address, if available;
 - (g) Description of the assembly's location at the facility (e.g., hotbox, mechanical room, inside structure, vault, etc.);
 - (h) Date of new installation of assembly;
 - (i) Identity of the installer who installed the assembly, specifically including the installer's name, the plumbing company represented, the plumber's license number, and the installer's complete address, telephone number, and email, if available;
 - (j) The type of assembly (i.e., RP, DCVA, PVB, DCDA, and RPDA);
 - (k) The name of the manufacturer of the assembly along with the model number, serial number, and size of the assembly;
 - (l) The orientation of the assembly;
 - (m) The type of test performed (e.g., domestic, irrigation, commercial, pool);

- (n) Passing test results/report;
 - (o) Date of the test;
 - (p) Tester signature and date of submittal;
 - (q) Line pressure;
 - (r) Any repairs or replacement of the assembly; and
 - (s) A passing designation for the assembly status.
- (9) When it is not possible to interrupt water service, provisions shall be made for a parallel installation of backflow prevention assemblies. The city will not accept an unprotected bypass around a backflow assembly.
- (10) Upon notification by the city, the consumer shall install the appropriate containment assembly within a time frame that complies with the following requirements:
- (a) An imminent hazard must be corrected immediately;
 - (b) A health hazard must be corrected within 30 days; and
 - (c) A non-health hazard must be corrected within 60 days.
- (11) Following installation, all RP, DCVA, PVB, DCDA, and RPDA are required to be tested by a certified backflow prevention assembly tester within 10 business days.
- (12) Backflow prevention assembly installations with exposure to cold weather shall comply with ASSE 1060 specifications. Backflow prevention assemblies installed for lawn irrigation shall be designed for removal during cold weather exposure or installed in compliance with ASSE 1060 specifications.
- (13) All backflow preventers installed in order to comply with this section shall be lead free.
- (G) Testing and repair of assemblies.
- (1) With the exception of RDC assemblies tested by the city at its expense, every backflow prevention assembly shall be tested by a certified backflow prevention assembly tester upon installation and annually thereafter unless a different frequency is established by the city. The consumer is responsible for all expenses and fees charged by the certified backflow prevention assembly tester for testing and documenting the results of the required backflow prevention assembly test.

- (2) The certified backflow prevention assembly tester conducting a test required by this section must submit the test reports/records for such backflow prevention assembly testing to the city within 10 business days of the date upon which the required testing was completed.
- (3) Regardless of whether the need for repairs is discovered because of required testing or because of a routine inspection by the consumer or the city, if a determination is made that repairs to a backflow prevention assembly are required, such repairs must be completed without unnecessary delay and within a definite time frame that will be set in accordance with the degree of hazard. The time period allowed for such repairs shall not exceed 7 days for a health hazard facility and shall not exceed 21 days for a non-health hazard facility.
- (4) Unless a different frequency is specifically established by the city for an identified facility, all backflow prevention assemblies with test cocks are required to be tested annually.
- (5) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment that is, on an annual basis, checked for accuracy, calibrated as necessary, and certified to the city on an annual basis as to such accuracy/calibration. The calibration method used by the tester must meet the minimum standards established in the administrative guidelines adopted by the city's public works division.
- (6) It shall be unlawful for any consumer or certified backflow prevention assembly tester to submit any record to the city that is false or incomplete in any material respect.
- (7) It shall be unlawful for any consumer or certified backflow prevention assembly tester to fail to submit to the city any record that is required by this section.
- (8) Any consumer that has not submitted the required backflow prevention assembly test report(s) to the city via a certified backflow prevention assembly tester before the due date is non-compliant and subject to the enforcement actions specified in this section.

- (9) Upon providing the notice specified in this subsection, any due date identified in the cross-connection control program administrative guidelines established by the city's public works division may be changed in order to make the program more effective and/or efficient. Notice of a change in a due date shall be provided to the consumer no less than two months before the due date currently identified in the cross-connection control program guidelines. This notice may be provided by either phone, email, or letter. A change in the due date shall not increase the number of required tests in a 12-month period unless otherwise required by this section.
 - (10) The annual due date for testing involving irrigation systems shall fall within the irrigation season.
- (H) Approved backflow prevention assemblies shall be installed on the service line to any premises/facility identified by the city as having a potential for backflow. All assemblies and installations shall be subject to inspections and approval by the city.

The city has identified the following specific types of facilities as having a potential for backflow of non-potable water into the Public Water System. Therefore, as indicated below, specific backflow prevention assemblies are required for the facilities that have been evaluated as to the degree of hazard associated with the respective premises listed in this subsection. Other types of facilities that are not listed below may also be required to install approved backflow prevention assemblies if determined necessary by the city. As a minimum requirement, all commercial and mixed use facilities will be required to install a double-check valve assembly, unless otherwise listed below.

For purposes of this subsection, the following abbreviations are used: Double-Check Detector Assembly (DCDA), Double-Check Valve Assembly (DCVA), Fire Department Connection (FDC), Reduced Pressure Principle Detector Assembly (RPDA), Reduced Pressure Principle Assembly (RP), and Residential Dual Check (RDC).

- (1) Automotive Services Stations, Dealerships, Etc. – RP
- (2) Auxiliary Water Supply:
 - (a) Approved Public/Private Water Supply – RP
 - (b) Unapproved Public/Private Water Supply – RP
 - (c) Used Water and Industrial Fluids – RP

- (3) Bakeries:
 - (a) Non-Health Hazard – DCVA
 - (b) Health Hazard – RP
- (4) Beauty Shops/Barber Shops:
 - (a) Non-Health Hazard – DCVA
 - (b) Health Hazard – RP
- (5) Beverage Bottling Plants – RP
- (6) Breweries, Wineries, and Distilleries – RP
- (7) Canneries, Packing Houses, and Rendering Plants – RP
- (8) Commercial Car Wash Facilities – RP
- (9) Commercial Greenhouses – RP
- (10) Commercial Sales Establishments (e.g., Department Stores, Malls, etc.):
 - (a) Non-Health Hazard – DCVA
 - (b) Health Hazard – RP
- (11) Concrete/Asphalt Plants – RP
- (12) Dairies and Cold Storage Plants – RP
- (13) Dye Works – RP
- (14) Film Laboratories – RP
- (15) Fire Systems Two Inches and Smaller in Size:
 - (a) Non-Health Hazard – DCVA
 - (b) Health Hazard (Booster Pumps, Foam, Antifreeze Solution, FDC, etc.) – RPDA

- (16) Fire Systems Larger Than Two Inches in Size:
 - (a) Non-Health Hazard – DCDA
 - (b) Health Hazard (Booster Pumps, Foam, Antifreeze Solution, FDC, etc.) – RPDA
- (17) Fire Trucks – RP
- (18) Hospitals, Medical Buildings, Sanitariums, Morgues, Mortuaries, Autopsy Facilities, Nursing and Convalescent Homes, Medical Clinics, and Veterinary Hospitals – RP
- (19) Laundries and Dry Cleaners – RP
- (20) Lawn Irrigation Systems – RP
- (21) Metal Manufacturing, Cleaning, Processing, and Fabricating Plants – RP
- (22) Mixed Use Business and Residential Occupancy:
 - (a) Non-Health Hazard – DCVA
 - (b) Health Hazard – RP
- (23) Mobile Home Parks – RP
- (24) Motels and Hotels – RP
- (25) Oil and Gas Production, Storage, Transmission, Distribution, and Sales (Bulk Wholesale or Retail) Facilities/Properties – RP
- (26) Pest Control (Exterminating and Fumigating) – RP
- (27) Power Plants – RP
- (28) Restaurants – RP
- (29) Residential (Single-Family Homes and Individually Metered Duplexes, Triplexes, Multiplexes, Apartments, Townhouses, Condominiums, etc.) – RDC or RP
- (30) Restricted, Classified, or Other Closed Facilities – RP
- (31) Sand and Gravel Plants – RP

- (32) Schools and Colleges – RP
- (33) Sewage and Storm Drain Facilities – RP
- (34) Structures Not Otherwise Listed in this Subsection with Unprotected Cross-Connections – RP
- (35) Swimming Pools – RP
- (36) Yard Hydrant – RP
- (I) Unless written notice to the contrary is provided by the public works director or the cross-connection control coordinator on the basis of the city's most recent evaluation of the potential degree of hazard posed to the Public Water System at a facility, all existing backflow prevention assemblies installed with the approval of the city prior to the initial effective date of the City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance shall be allowed to remain in service so long as such assemblies are maintained, tested, and repaired in compliance with this section and all other applicable statutes, ordinances, rules, regulations, and guidelines. However, if such an existing assembly must be replaced, or if there is an event of proven water theft through an unmetered source, the consumer shall be required to install an approved backflow prevention assembly that is compliant with the current standards found in all applicable statutes, ordinances, rules, regulations, and guidelines.
- (J) Connections with unapproved sources of supply.
 - (1) No person shall connect or cause to be connected to the Public Water System any supply of water not approved by the NCDEQ. Any connections allowed by the city must be in conformance with the backflow prevention requirements of this section.
 - (2) In the event of contamination or pollution of the Public Water System or of the consumer's water system, the consumer shall notify the city immediately in order that appropriate measures may be taken to overcome and eliminate the contamination or pollution.
- (K) Enforcement.
 - (1) The consumer or person in charge of any premises/facility found to be in violation of the provisions of this section shall be notified in writing with regard to the corrective action(s) to be taken. Notices of violation and/or citations may be issued by the city's public works director or his designee.

- (2) Such notice shall be served by personal delivery, registered mail, or certified mail to the consumer or person in charge and shall explain the violation(s) and give the time period within which the violation(s) must be corrected. The time period set to correct a violation shall not exceed 30 days after receiving notice unless otherwise specified by subsection (E) above.
- (3) In the event a consumer is found in violation of this section and fails to correct the violation in a timely manner, including the payment of any civil penalty or fees assessed under this section, water service may be terminated without additional notice. Water service shall be reestablished when the violation is corrected and any applicable civil penalties and other required fees are paid in full with good funds.
- (4) Civil penalties imposed under this section may be recovered by the city in a civil action in the nature of a debt if the offender does not pay the penalty within the prescribed period of time after service of the citation informing the offender of the incident(s) of noncompliance, the remedial action required to abate the violation(s), and the amount of the assessed civil penalty.
- (5) When determining the amount of a civil penalty to be assessed for violating the City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance, the public works director shall act in accordance with the following guidelines:
 - (a) Unprotected cross-connections involving a private water system that create a health hazard are subject to a civil penalty of up to \$1,000.00 per day, not to exceed \$10,000.00.
 - (b) Unprotected cross-connections involving a private water system that create a non-health hazard are subject to a civil penalty of up to \$500.00 per day, not to exceed \$5,000.00.
 - (c) The failure of a consumer or a certified backflow prevention assembly tester to properly submit any record required by this section may result in a civil penalty of up to \$500.00 per violation.
 - (d) The submission of falsified reports/records may result in a civil penalty of up to \$500.00 per violation.

- (e) In the event a certified backflow prevention assembly tester fails to submit any record within the timeframe required by this section or fails to exercise the same degree of care, skill, and judgment in the performance of services to the citizens of the city as is ordinarily provided by a similar professional under the same or similar circumstances, then the public works director is authorized to remove the tester from the list of available certified testers for a period of up to 12 calendar months.
 - (f) If a certified backflow prevention assembly tester submits falsified records to the city, the public works director is authorized to remove the tester from the list of available certified testers for an indefinite period of time.
 - (g) The failure to test or maintain backflow prevention assemblies in compliance with this section may result in a civil penalty of up to \$200.00 per day.
- (6) Any assessed civil penalty must be paid in full within 30 days of receipt by the consumer or person in charge of the premises/facility identified in the citation listing the violation(s) and assessing the corresponding civil penalties.
- (7) Each individual violation of the City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance shall be a separate and distinct offense.
- (8) Requests by the offender for an extension of time in which to abate the violation(s) and/or pay the assessed civil penalty must be submitted in writing to the public works director within the time frame stated in the notice of violation for the abatement of the violation and/or the payment of the assessed civil penalty.
- (9) The city may immediately discontinue water service to any consumer if the public works director makes either of the following findings:
 - (a) The consumer or person in charge of the premises/facility is noncompliant with the provisions of this section, neglects the responsibility to correct a violation after having been given notice thereof, and such noncompliance constitutes or presents an imminent hazard to the public health, safety, and welfare; or
 - (b) The consumer or person in charge of the premises/facility has a water connection to the Public Water System that, in the judgment of the public works director, presents an imminent hazard to the public health, safety, and welfare.

- (10) Notwithstanding anything to the contrary in this section, the provisions of the City of Asheboro Cross-Connection Control and Backflow Prevention Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (L) Adjudicatory hearings and appeals from enforcement actions taken pursuant to this section shall be made in accordance with the following procedures:
- (1) *Adjudicatory hearings.* A consumer subject to an enforcement action taken pursuant to this section, including without limitation the disconnection of water service and/or the assessment of a civil penalty, has the right to an adjudicatory hearing with the City of Asheboro Water Resources Director. In order to exercise this right, the consumer must transmit to the water resources director's office a written demand identifying the specific issues to be contested. This written demand must be delivered to the water resources director's office and accepted by the water resources director, or a designee, within 30 calendar days of the date of service of the notice/citation upon which the hearing request is based. Unless such written demand is properly delivered within the time frame specified herein, the action stated in the notice/citation served on the consumer is final and binding.

Upon receipt of a properly filed demand for an adjudicatory hearing, the water resources director, or the director's designee in the water resources division, shall hold a hearing within 15 calendar days of the date upon which the written demand for an adjudicatory hearing was received in the water resources director's office. After holding the hearing, the water resources director, or the director's designee, shall have 15 calendar days to prepare a written decision resolving the contested issues. Such a written decision shall be transmitted to the consumer by means of first class, postage pre-paid, United States mail to the consumer's address of record with the City of Asheboro Water and Sewer Utility.

- (2) *Appeal hearings.* A decision by the water resources director, or the director's designee, may be appealed to the city manager by any party to the adjudicatory hearing. In order to appeal such a decision, the party seeking to file an appeal must transmit to the city manager's office a written demand identifying the basis for the appeal. This written demand must be delivered to the city manager's office and accepted by the city manager, or a designee, within 30 calendar days of the date on which the written decision by the water resources director, or the director's designee, was placed in the custody of the United States Postal Service for delivery to the consumer. Unless such written demand is

properly delivered to the city manager's office within the time frame specified herein, the decision by the water resources director, or the director's designee, shall be final and binding.

Upon receipt of a properly filed appeal, the city manager shall hold a hearing within 30 calendar days of the date upon which the written demand for an appeal was received in the city manager's office. After holding the hearing, the city manager shall have 15 calendar days to prepare a written decision. The city manager's written decision shall be transmitted to all of the parties to the appeal by means of first class, postage pre-paid, United States mail. The city manager's written decision shall be final and binding.

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

Section 3. This Ordinance shall be in full force and effect upon and after October 1, 2020.

The Asheboro City Council approved this Ordinance in open session during a regular meeting held on the 9th day of April, 2020.

David H. Smith, Mayor

ATTEST:

Holly H. Doerr, CMC, NCCMC, City Clerk

ORDINANCE NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**AN ORDINANCE TO AMEND CHAPTER 50 (WATER AND SEWERS)
IN THE CODE OF ASHEBORO BY ENACTING SECTION 50.010
AND REWRITING SECTION 50.045**

WHEREAS, Section 160A-312(b) of the North Carolina General Statutes provides as follows:

A city shall have full authority to protect and regulate any public enterprise system belonging to or operated by it by adequate and reasonable rules. The rules shall be adopted by ordinance, shall apply to the public enterprise system both within and outside the corporate limits of the city, and may be enforced with the remedies available under any provision of law; and

WHEREAS, Section 160A-314(a) of the North Carolina General Statutes provides as follows:

A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished or to be furnished by any public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to classes of service, and different schedules may be adopted for services provided outside the corporate limits of the city; and

WHEREAS, the spread of the novel coronavirus (COVID-19) with the associated public health and safety crisis has led to a closer examination of the actions that policy makers can take to equip units of government, including public enterprise systems, to respond in a rapid, efficient, and lawful manner to the challenges of the day; and

WHEREAS, the current public health crisis has highlighted the importance of not disconnecting water services when citizens are confronting a pandemic and economic distress; and

WHEREAS, the Asheboro City Council has decided to respond to these challenges by delegating to the city manager, during a state of emergency, the authority to adjust billing procedures and practices, specifically including the

authority to halt collection actions such as the disconnection of services, to suspend the imposition of late fees or charges, and to establish payment plans directly tied to the executive order or declaration that defines the state of emergency; and

WHEREAS, even during states of emergency, the utility must continue to operationally evolve and improve in accordance with legal interpretations and best practices focused on issues that may extend beyond the scope of an executive order or emergency declaration; and

WHEREAS, Section 50.045 of the Code of Asheboro prohibits tampering with municipal water system infrastructure; and

WHEREAS, Section 14-151 of the North Carolina General Statutes provides for civil actions and criminal penalties that can be pursued when an individual interferes with components of a water utility's infrastructure; and

WHEREAS, in light of the remedies provided by state statute for tampering with water utility infrastructure, the Asheboro City Council has concluded that the tamper fee provisions currently found in Section 50.045 of the Code of Asheboro should be repealed; and

WHEREAS, the Asheboro City Council has also concluded that a disconnection fee should be established to assist with offsetting the costs associated with performing extra administrative and field service work to enforce compliance with the utility's rules and regulations.

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

Section 1. Section 50.010 of the Code of Asheboro is hereby enacted to provide as follows:

§ 50.010 DELEGATION OF AUTHORITY TO THE CITY MANAGER

Notwithstanding any other provision in this chapter, during a lawfully declared state of emergency, the city manager is authorized to modify or waive the billing procedures and practices established by this chapter. This delegated authority specifically includes the authority to halt collection actions such as the disconnection of services, to suspend the imposition of late fees or charges, and to establish payment plans directly tied to the applicable local state of emergency declaration or gubernatorial executive order. This delegated authority to modify or waive the billing procedures and practices established by this chapter is temporary in duration and shall be in effect only during a lawfully declared state of emergency or during the time period needed for the full implementation of payment plans created to strictly

comply with the triggering gubernatorial executive order or local state of emergency declaration, whichever time frame is longer.

Section 2. Section 50.045 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 50.045 — ~~TAMPERING WITH INFRASTRUCTURE PROHIBITED.~~

- (A) ~~It shall be unlawful for any person to deface, tamper with or injure any municipal infrastructure connected with or pertaining to the water system owned and operated by the city, specifically including without limitation any house, reservoir, valve cock, wheel, fire plug or other fixture connected with or pertaining to the city water system, or to place any building material, rubbish or other matter or substance on any valve, stop cock, meter box, water main or service pipe, or to obstruct access to any fixture connected with the city water system, or to remove, tamper with or injure any pipe, fire plug, hydrant, valve or cock or to open any of them, except when due authority has been given therefor by the Water and Sewer Department.~~
- (B) ~~Tampering with any municipal infrastructure connected with or pertaining to the city water system, specifically including without limitation a fire hydrant and a water meter or any device attached thereto, is hereby expressly declared to be unlawful and will result in a charge and other enforcement actions as hereinafter set out. Within any 12 calendar month period, there will be a charge of \$150 for the first offense, \$500 for the second offense, and criminal penalties, including without limitation a fine of \$500, shall be instituted thereafter in accordance with G.S. § 14-4. By way of illustration and without limitation, a person shall be deemed to have tampered with municipal infrastructure in violation of this section if, without authorization from the Water and Sewer Department, a fire hydrant is opened or operated in any manner; a water meter is activated, operated, or manipulated in an effort to restore water service for any premises for which water service has been discontinued; the water meter or any device attached thereto is damaged to any degree by an unauthorized individual attempting to manipulate or operate some physical component of or attachment to the water meter; or the water meter is relocated to provide service in a location other than the service address noted in the records of the Water and Sewer Department. Nothing contained within this division shall release a person found guilty of tampering with a water meter or any other aspect of the city's water supply and distribution system from liability for so doing, and the provisions of this division shall not preclude the city from pursuing any other remedy available at law or equity for such unlawful conduct.~~

- (C) ~~Any monies collected on the basis of charges established by this section are deemed to be fines collected for a breach of the criminal laws, and the clear proceeds from these fines shall be distributed to the local school administrative units in Randolph County in accordance with the applicable laws and regulations.~~
- (D) ~~Nothing in this section applies to licensed contractors while performing usual and ordinary services in accordance with recognized customs and standards.~~

§ 50.045 DISCONNECTION FEES

Fees shall be charged to offset the costs incurred by the city when additional measures are undertaken to enforce compliance with water and sewer utility regulations. The fees charged for disconnection related services are as follows:

- (A) \$75.00 Meter Extraction Fee – This charge shall be applied to a customer's account when the water meter is physically removed from the premises because of a combination of noncompliance with the regulations found in this chapter and a history with the customer's account at this service location of unauthorized connections or reconnections of water service on more than one occasion.
- (B) \$150.00 Meter Yoke Extraction Fee – This charge shall be applied to a customer's account when the meter yoke for a service location is physically removed because of a combination of noncompliance with the regulations found in this chapter and a history with the customer's account at this service location of the utilization of an unapproved replacement meter or other unapproved apparatus to obtain unauthorized water service after the city has extracted a water meter from the service location in an effort to discontinue water service.

Section 3. All ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

Section 4. This Ordinance shall take effect and be in force from and after the date of its adoption.

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This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of April, 2020.

David H. Smith, Mayor

ATTEST:

Holly H. Doerr, CMC, NCCMC, City Clerk

ORDINANCE NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**AN ORDINANCE UPDATING THE EMERGENCY MANAGEMENT
PROVISIONS IN CHAPTER 93 OF THE CODE OF ASHEBORO**

WHEREAS, Chapter 93 (Civil Emergencies) of the Code of Asheboro contains the city's emergency management ordinance provisions; and

WHEREAS, the Asheboro City Council has concluded that these ordinance provisions should be updated to include the current definition of "emergency" found in Section 166A-19.3(6) of the North Carolina General Statutes and to incorporate the emergency road closure authority found in Section 166A-19.31(b)(1)(e) 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 93.01 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 93.01 EMERGENCY RESTRICTIONS AUTHORIZED

(A) The following definitions shall apply in this chapter:

- (1) ~~EMERGENCY. An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, weather-related, or riot-related cause;~~
- (1) EMERGENCY. An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident;
- (2) **EMERGENCY AREA.** The geographical area covered by a state of emergency; and

- (3) STATE OF EMERGENCY. A finding and declaration by the City Council of the City of Asheboro or the Mayor of the City of Asheboro acting under the authority of G.S. 166A-19.22 that an emergency exists.
- (B) In the event of an emergency, the Mayor is hereby authorized and empowered, pursuant to G.S. 166A-19.22, to issue a state of emergency declaration that declares to all persons the existence of a state of emergency and, in order to more effectively protect the lives and property of people within the city, to place in effect any or all of the restrictions hereinafter authorized.
- (C) The Mayor is hereby authorized and empowered to limit with the state of emergency declaration the application of all or any part of such restrictions to an emergency area specifically designated or described within the city and to specific hours of the day or night and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters, rescue squad members, and public employees; doctors, nurses, and employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities and public transportation companies; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of people within the city.

Section 2. Section 93.07 of the Code of Asheboro is hereby rewritten to provide as follows:

~~§ 93.07 — RESTRICTION ON ACCESS TO AREAS~~

- (A) ~~The state of emergency declaration may prohibit obtaining access or attempting to obtain access to any area designated in the manner described in this Section in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.~~
- (B) ~~Areas to which access is denied or restricted shall be designated by the chief of police or the chief's designees when directed in the declaration by the Mayor to do so. When acting under this authority, the chief of police and the chief's designees may restrict or deny access to any area, street, highway, or location within the emergency area if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.~~

§ 93.07 **RESTRICTION ON ACCESS TO AREAS**

- (A) The state of emergency declaration may prohibit accessing or attempting to access any location within the emergency area that is designated by an order, clearly posted notice, or barricade indicating that access to the designated location is denied or restricted.
- (B) The state of emergency declaration may also provide authorization for the closure within the emergency area of streets, roads, highways, bridges, public vehicular areas, or other areas ordinarily used for vehicular traffic; provided, however, the following conditions must be satisfied whenever this emergency road closure authority is exercised:
- (1) In addition to any other notice or dissemination of information, notification of any closure of a road or public vehicular area shall be given to the North Carolina Department of Transportation as soon as practicable; and
- (2) The above-stated emergency road closure authority shall not restrict the movement of emergency responders and other persons necessary for recovery from the emergency.
- (C) Notwithstanding any other provision in this chapter, and in accordance with G.S. 166A-19.70(c) and (d), access to and from a restricted area must be allowed, regardless of whether a local curfew is in effect, upon the presentation of a valid state re-entry certificate for drivers and vehicles transporting essential goods or assisting in restoring utility services during a state of emergency.
- (D) Within the emergency area, the chief of police, or the chief's designee, may use the emergency road closure authority and identify locations to which access is denied or restricted so long as the following conditions are satisfied:
- (1) The state of emergency declaration delegates to the chief of police, or the chief's designee, the authority to deny or restrict access to locations within the emergency area and to exercise the emergency road closure authority provided by G.S. 166A-19.31 and this section; and
- (2) The chief of police, or the chief's designee, has concluded that the denial or restriction of access to a location, including the use of the emergency road closure authority, within the emergency area is reasonably necessary to maintain order and protect lives or property during the state of emergency.

Section 3. All previously adopted ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

Section 4. This Ordinance shall be in full force and effect upon and after the date of its adoption.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting on the 9th day of April, 2020.

David H. Smith, Mayor

ATTEST:

Holly H. Doerr, CMC, NCCMC, City Clerk