

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, OCTOBER 6, 2016
7:00 p.m.**

David H. Smith) – Mayor Presiding

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

Jane H. Redding) – Council Member Absent

John N. Ogburn, III, City Manager
D. Jason Cheek, Police Captain
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Michael L. Leonard, P.E., City Engineer
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Jeffrey C. Sugg, City Attorney
Roy C. Wright, Fire Chief

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.

Mayor Smith welcomed and recognized cub scouts from Troop 527 who were in attendance.

2. Silent prayer and pledge of allegiance.

After a moment of silence was observed in order to allow for private prayer and meditation, the cub scouts from Troop 527 lead everyone in saying the pledge of allegiance.

3. Consent agenda:

Prior to Mayor Smith entertaining a motion to approve the consent agenda, Mr. Ogburn noted a correction should be made to consent agenda item (e). The street closure time for the “Trunk or Treat in the Park” event should be 5:00 p.m. to 8:30 p.m., not 6:30 p.m. to 8:30 p.m.

Upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to approve/adopt the following consent agenda items, with the amendment to item (e) noted in the immediately preceding paragraph. Council Members Bell, Burks, Carter, Moffitt, Snuggs, and Swiers voted in favor of the motion.

(a) The minutes of the city council’s regular meeting on September 15, 2016.

Copies of the approved minutes are on file in the city clerk’s office and are posted on the city’s website.

(b) A resolution declaring the official intent of the city to purchase certain municipal vehicles and then reimburse the general fund with proceeds from an installment financing contract.

RESOLUTION NUMBER 29 RES 10-16

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A DECLARATION OF THE OFFICIAL INTENT OF THE CITY OF ASHEBORO TO PURCHASE
MUNICIPAL VEHICLES AND REIMBURSE THE GENERAL FUND WITH PROCEEDS FROM AN
INSTALLMENT FINANCING AGREEMENT**

WHEREAS, in order to maintain a satisfactory level of municipal services for the citizens of the City of Asheboro, the Asheboro City Council has adopted a budget ordinance for fiscal year 2016-2017

that allocates funding for the acquisition of vehicles deemed essential for maintaining uninterrupted, high quality municipal services; and

WHEREAS, during the 2016-2017 fiscal year, the police department and the planning department will utilize funding from the municipal corporation's general fund, up to \$303,924.00 by the police department and up to \$27,407.00 by the planning department for a total of up to \$331,331.00, to purchase vehicles needed to deliver the essential municipal services provided by these city departments; and

WHEREAS, Section 160A-20 of the North Carolina General Statutes authorizes the city to finance the purchase of personal property by means of installment financing that creates a security interest in the purchased property; and

WHEREAS, in order to continue to provide high quality municipal services at their present level, the above-listed vehicles will be purchased and placed into service as soon as possible with available funds in the city's general fund; and

WHEREAS, the Asheboro City Council has decided that the above-stated expenditures are to be reimbursed to the general fund during the current fiscal year with proceeds from an installment financing agreement that will create security interests in the municipal vehicles to be acquired by the police and planning departments during the city's 2016-2017 fiscal year; and

WHEREAS, more favorable financing terms can be obtained if the city takes the steps necessary to allow the lending institution from which financing is ultimately obtained to exclude the interest paid or payable under an installment financing agreement with the city from the gross income of the lending institution; and

WHEREAS, in accordance with the applicable treasury regulations, one of the steps necessary to avoid jeopardizing the ability of a lender to exclude from its gross income the interest paid or payable under an agreed upon installment financing agreement is for the city to declare its intent to reimburse the general fund for the expenditures used to purchase the needed vehicles;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that, prior to the execution of any installment financing agreement and consistent with the city's budget ordinance for fiscal year 2016-2017, a maximum of \$331,331.00 may be expended from the general fund, with the intent of seeking reimbursement for the expenditures from installment financing proceeds, for the above-listed vehicles; and

BE IT FURTHER RESOLVED that the City Council of the City of Asheboro, North Carolina does hereby formally and explicitly declare the official intent of the City of Asheboro to fully reimburse, with loan proceeds from an installment financing agreement that is to be executed prior to the end of the 2016-2017 fiscal year, any and all expenditures from the general fund for the future purchase during this fiscal year of the vehicles referenced hereinabove and that are necessary to the provision of essential municipal services.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 6th day of October, 2016.

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

ATTEST:

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

(c) The findings, conclusions, and order entered under land use case no. CUP-16-10.

Case No. CUP-16-10
City Council
City of Asheboro, North Carolina

IN THE MATTER OF THE APPLICATION BY KENNETH P. GALLIMORE FOR A CONDITIONAL USE PERMIT AUTHORIZING A LAND USE IDENTIFIED AS MOTOR VEHICLE REPAIR – MAJOR, INCLUDING RETAIL SHOPPERS' GOODS (SPECIFICALLY THE SALE OF AUTOMOTIVE PARTS)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING, WITH CONDITIONS, THE REQUESTED CONDITIONAL USE PERMIT

THIS MATTER came before the Asheboro City Council (the "Council") for a properly advertised quasi-judicial hearing on the question of whether to approve an application for a Conditional Use Permit. The hearing was opened and sworn testimony received during a regular meeting of the Asheboro City Council that was held on September 15, 2016. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby enter the following:

FINDINGS OF FACT

1. Kenneth P. Gallimore (the "Applicant") properly submitted an application for a Conditional Use Permit authorizing a land use identified in the Asheboro Zoning Ordinance as motor vehicle repair – major, including retail shoppers' goods (specifically sales of automotive parts).

2. In compliance with the Asheboro Zoning Ordinance (the "AZO"), the Applicant included with the application a site plan showing the proposed land use on a parcel of land owned by the Applicant and his wife, Bridget F. Gallimore. This parcel of land (the "Zoning Lot") is more specifically identified by Randolph County Parcel Identification Number 7761525272.

3. The Zoning Lot is approximately 2.67 acres in size and is located within the city limits of Asheboro at 1431 East Salisbury Street.

4. The Zoning Lot is in a CUI2 (Conditional Use General Industrial) zoning district because of legislative action taken by the Council on September 15, 2016, immediately prior to the Council's deliberations concerning the Applicant's request for a Conditional Use Permit.

5. Section 102 of the AZO describes a Conditional Use District as follows:

Each Conditional Use District corresponds to a related district in this Ordinance. Where certain types of zoning districts would be inappropriate under certain conditions, and the rezoning applicant desires rezoning to such a district, the CU District is a means by which special conditions can be imposed in the furtherance of the purpose of this Ordinance.

6. A separate paragraph of Section 102 of the AZO further provides:

Within a CU District, only those uses specifically permitted in the zoning district to which the CU District corresponds (i.e., R15 and CUR15) shall be permitted, and all other requirements of the corresponding district shall be met. It is the intent of this ordinance that all requirements within a CU District be equal to or more stringent than those in a corresponding non-CU District.

In addition, within a CU District no use shall be submitted (sic) except as pursuant to a Conditional Use Permit authorized by the City Council, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use or uses, the number of dwelling units or Floor Area Ratio, the location and extent of supporting facilities including but not limited to parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting a Conditional Use Permit, the Council may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done.

7. Section 1013.2 of the AZO establishes the following standards for the issuance by the Council of a Conditional Use Permit:

In considering an application for a Conditional Use Permit, the City Council shall give due regard that the purpose and intent of this ordinance shall be served, public safety and welfare secured and substantial justice done. If the City Council should find, after a public hearing, that the proposed Conditional Use Permit should not be granted, such proposed permit shall be denied. Specifically the following general standards shall be met:

1. *That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.*
2. *That the use meets all required conditions and specifications.*
3. *That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, and,*

4. *That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.*

8. The motor vehicle repair – major land use (also referred to as “motor vehicle repair, major” in the AZO) is defined by the AZO to mean the following:

Any automotive repairs or servicing not listed under Motor Vehicle Repair, Minor. Further, it is determined to be any structure in which machinery operated by mechanical power is installed which is designed for making major repairs to motor vehicles, or where in making repairs to motor vehicles the mechanical power employed in the operation of any machine or tool exceeds 3-HP or the total mechanical power provided or employed exceeds 15-HP.

9. The retail shoppers’ goods land use (also referred to as “Retail Sales, Shoppers’ Goods” in the AZO) is defined by the AZO to mean the following:

Commercial establishments that, supply the more durable and permanent needs of a community, including but not limited to, apparel and footwear stores; appliance stores; art supplies stores; automotive supply stores; book and stationary stores; camera and photography supplies stores; department stores; discount stores; drug stores; farm supplies stores; florists; furniture and home furnishing stores; gift shops; gun and ammunition sales; hardware stores; hobby, toy, and crafts stores; jewelry stores; lawn and garden supply stores; mail order pickup facilities; novelty and souvenir shops; office equipment stores; optician and optical supplies stores; paint and wallpaper stores; pet shop; radio and television sales stores; sporting goods stores; supermarkets; trading stamps redemption stores; and variety stores.

10. The motor vehicle repair – major and retail shoppers’ goods land uses are permitted uses in the I2 zoning district that is the underlying district for the Conditional Use District in which the Zoning Lot is located.

11. The Zoning Lot has unoccupied structures that were formerly used as part of a rental/sales of heavy equipment land use conducted on the Zoning Lot for a number of years.

12. The surrounding land uses are as follows:

North:	Congregate Living Facility	East:	Place of Worship
South:	Retail Shoppers’ Goods (Randolph Mall)	West:	Single-Family Residential (Undeveloped)

13. With regard to the city’s comprehensive development plans, the Growth Strategy Map identifies the area in which the Zoning Lot is located as a primary growth area, and the proposed land development plan map designates the area as commercial.

14. The Zoning Lot is located at the intersection of East Salisbury Street and Martin Luther King Jr. Drive. Both streets are state-maintained minor thoroughfares.

15. The Zoning Lot was annexed into the city limits on June 6, 2013, but the property is not currently served by either public water or sewer.

16. In the vicinity of the Zoning Lot, East Salisbury Street includes a mix of residential uses, office/institutional uses, commercial uses, and an existing automotive related use that requires industrial zoning.

17. The Applicant proposes to use a portion of the existing principal structure for motor vehicle repair/ body shop work along with two additions totaling 3,203 square feet. A new 7,200-square foot paint building is also proposed for the Zoning Lot in addition to the enclosure of an existing open accessory structure.

18. In addition to the items listed in the preceding paragraph, the site plan shows the proposed enclosure of an existing accessory building with a legal nonconformity due to the encroachment of the building into a required 10-foot front yard setback. This proposed enclosure is permissible under Article 800 of the AZO so long as the Applicant’s actions do not produce a building with dimensions (length, width, height) that encroach further into the required setback. The site plan also notes the possibility of removing the building and constructing a new enclosed structure that would be compliant with city code provisions.

19. The site plan indicates the two existing driveways on East Salisbury Street will be used along with a new driveway on Martin Luther King Jr. Drive.

20. Under the AZO, the required buffering/screening is either a 10-foot Type C screen or a 25-foot Type C buffer adjacent to the residentially zoned (R10) property on the west side of the Zoning Lot. The Applicant is proposing to use a combination of existing vegetation, planted vegetation, and other screening to meet these requirements. The Applicant also proposes to use existing vegetation to meet the front yard landscaping requirements along Martin Luther King Jr. Drive.

21. The Code of Asheboro generally prohibits outdoor storage of junked motor vehicles and junk materials. No open storage areas of other materials are shown on the site plan. Consequently, such open storage areas will not be permitted.

22. In an effort to ensure the compatibility of the proposed use of the Zoning Lot with surrounding land uses and to ensure future compliance with the AZO, the city planning staff recommended the following conditions for attachment to any Conditional Use Permit that may be issued to the Applicant:

- (A) *The site plan notes a minimum 10' "Type C" Screen on the western boundary of the Zoning Lot, adjacent to residentially zoned property. This "Type C" Screen indicates one (1) evergreen shrub at five (5) feet on center and one (1) evergreen tree at twenty (20) feet on center or an equivalent combination of vegetation and other screening that meets or exceeds the requirements of a "Type C" Screen. Existing vegetation may also count towards meeting screening/buffering requirements. However, should any deficiency in meeting the landscaping requirements occur, additional buffering or screening measures consistent with Section 304A of the Asheboro Zoning Ordinance will be required.*
- (B) *As noted on the site plan, existing vegetation within the front 10' of the Zoning Lot along Martin Luther King Jr. Drive may count towards meeting the front yard landscaping requirements. However, should any deficiency in meeting the front yard landscaping requirements occur, additional plantings will be required to meet, at a minimum, the requirements of Section 308A of the Asheboro Zoning Ordinance.*
- (C) *Notwithstanding information provided on the site plan, if the North Carolina Department of Transportation requires closure or relocation of the driveway entrance on East Salisbury Street that is closest to Martin Luther King Jr. Drive, this closure shall not be considered a modification of the Conditional Use Permit so long as all of the required parking spaces and maneuvering areas are provided on the Zoning Lot.*
- (D) *Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the Zoning Lot owner(s) shall properly execute and deliver to the Zoning Administrator for recordation in the Office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Conditional Use Permit in the chain of title for the Zoning Lot.*

23. H.R. Gallimore, who has been a licensed North Carolina broker for 14 years, testified that he did not believe the proposed land use would have an adverse impact on the prices of property adjoining the Zoning Lot.

24. The site plan presented to the Council conforms to the regulations prescribed by the AZO.

25. The Applicant testified that he accepted the conditions suggested by the city planning staff.

26. No testimony was offered in opposition to the Applicant's request for a Conditional Use Permit.

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

CONCLUSIONS OF LAW

1. When an applicant has produced competent, material, and substantial evidence tending to establish the existence of the facts and conditions that the AZO requires for the issuance of a Conditional Use Permit, prima facie the applicant is entitled to the permit. A denial of the permit has to be based upon findings contra that are supported by competent, substantial, and material evidence appearing in the record.

2. In this case, the Applicant properly submitted an application for a Conditional Use Permit authorizing a motor vehicle repair – major land use, including a retail shoppers’ goods land use (specifically the sale of automotive parts), on the Zoning Lot in a CUI2 zoning district.

3. In light of the evidence and the acceptance by the Applicant of the conditions attached to the Conditional Use Permit by the Council, the Applicant’s proposed land use is compliant with the applicable requirements of the Asheboro Zoning Ordinance.

4. On the basis of substantial evidence in the record, the Council has concluded that the proposed land use meets the four general standards for granting the requested Conditional Use Permit. More specifically, the proposed land use will not materially endanger the public health or safety, meets all required conditions and specifications of the zoning ordinance, will not substantially injure the value of adjoining or abutting property, and will be in harmony with the area in which it is to be located and is in general conformity with Asheboro’s plan of development.

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

ORDER

Subject to the following conditions, a Conditional Use Permit authorizing the above-described motor vehicle repair – major land use, including a retail shoppers’ goods land use (specifically the sale of automotive parts), on the said Zoning Lot is hereby approved and issued to the Applicant and the Applicant’s heirs, successors, and assigns. The continuing validity of this Conditional Use Permit is hereby made expressly contingent upon the Applicant and the Applicant’s heirs, successors, and assigns complying at all times with the applicable provisions of the Asheboro Zoning Ordinance, the site plan presented and approved during the hearing of this matter, and the following supplementary conditions:

- (A) The site plan notes a minimum 10’ “Type C” Screen on the western boundary of the Zoning Lot, adjacent to residentially zoned property. This “Type C” Screen indicates one (1) evergreen shrub at five (5) feet on center and one (1) evergreen tree at twenty (20) feet on center or an equivalent combination of vegetation and other screening that meets or exceeds the requirements of a “Type C” Screen. Existing vegetation may also count towards meeting screening/buffering requirements. However, should any deficiency in meeting the landscaping requirements occur, additional buffering or screening measures consistent with Section 304A of the Asheboro Zoning Ordinance will be required.
- (B) As noted on the site plan, existing vegetation within the front 10’ of the Zoning Lot along Martin Luther King Jr. Drive may count towards meeting the front yard landscaping requirements. However, should any deficiency in meeting the front yard landscaping requirements occur, additional plantings will be required to meet, at a minimum, the requirements of Section 308A of the Asheboro Zoning Ordinance.
- (C) Notwithstanding information provided on the site plan, if the North Carolina Department of Transportation requires closure or relocation of the driveway entrance on East Salisbury Street that is closest to Martin Luther King Jr. Drive, this closure shall not be considered a modification of the Conditional Use Permit so long as all of the required parking spaces and maneuvering areas are provided on the Zoning Lot.
- (D) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the Zoning Lot owner(s) shall properly execute and deliver to the Zoning Administrator for recordation in the Office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Conditional Use Permit in the chain of title for the Zoning Lot.

The above-listed findings, conclusions, and order were adopted by the Asheboro City Council in open session during a regular meeting held by the governing board on the 6th day of October, 2016.

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

ATTEST:

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

- (d) The dates and rules for the 2016-2017 duck and dark geese (Canada & white-fronted geese) hunting season at Lake Reese.**

A copy of the written request from the recreation services superintendent was included in the council's materials. Additionally, a copy of the request is on file in the city clerk's office. The said request was approved without modification.

- (e) **The temporary closure on Monday, October 31, 2016, from 5:00 p.m. to 8:30 p.m., of the streets indicated on the attached parade permit application and map for the "Trick or Treat in the Park" event sponsored by the City of Asheboro Cultural and Recreation Services Department.**

The parade permit application for the requested street closure, including a street closure map, was included in the council's materials. Copies of these items are on file in the city clerk's office. The said temporary street closure was approved as requested in the application.

- (f) **The temporary closure for a horse parade on Sunday, November 6, 2016, from 3:00 p.m. to 4:00 p.m., of the streets indicated on the attached parade permit application and map.**

The parade permit application for the requested street closure, including a street closure map, was included in the council's materials. Copies of these items are on file in the city clerk's office. The said temporary street closure was approved as requested in the application.

- (g) **The temporary closure for the Veterans Day Parade on Friday, November 11, 2016, from 4:00 p.m. to 5:30 p.m., of the streets indicated on the attached parade permit application and map.**

The parade permit application for the requested street closure, including a street closure map, was included in the council's materials. Copies of these items are on file in the city clerk's office. The said temporary street closure was approved as requested in the application.

- (h) **An ordinance to amend the General Fund.**

21 ORD 10-16

ORDINANCE TO AMEND THE GENERAL FUND FY 2016-2017

WHEREAS, The North Carolina Department of Commerce, through its Rural Economic Development Division, has awarded the City of Asheboro a "Downtown Revitalization Grant" in the amount of \$94,340, and:

WHEREAS, the City intends to use these funds to install concrete curb and gutter and pave the City-owned parking lot, currently surfaced with gravel, near the intersection of S. Church Street and W. Academy Street and next to the Farmers Market, and

WHEREAS, The City Council of the City of Asheboro desires to amend the budget as required by law to adjust for changes in expenditures in comparison to the current fiscal year adopted budget, and;

WHEREAS, the City Council of the City of Asheboro wants to be in compliance with all generally accepted accounting principles, and;

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

Section 1: That the following Revenue line item be increased:

<u>Account #</u>	<u>Revenue Description</u>	<u>increase</u>
10-349-0000	State Grants- Rural Ec. Dev Grant	94,340

Section 2: That the following Expense line item be increased:

<u>Account #</u>	<u>Expense Description</u>	<u>increase</u>
10-565-3400	Other Supplies & Materials	94,340

Adopted this 6th day of October, 2016.

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

ATTEST:

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

- (i) **Approval to schedule public hearings for November 10, 2016, and to advertise these hearings, concerning proposed zoning and subdivision ordinance text amendments that address the availability of density credits when certain public right-of-way dedications are required.**

With the above-stated approval of the consent agenda, the scheduling and advertisement on the above-described applications was approved.

- (j) **Acknowledgement of the receipt of the Monitoring Report from the North Carolina Housing Finance Agency related to the city's 2015 Urgent Repair Program.**

A copy of the above-described report was included in the council's materials. Additionally, a copy of the report is on file in the city clerk's office.

- (k) **A resolution approving amendments to the municipal records retention and disposition schedule for the City of Asheboro.**

RESOLUTION NUMBER 30 RES 10-16

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION APPROVING AMENDMENTS TO THE MUNICIPAL RECORDS RETENTION AND DISPOSITION SCHEDULE FOR THE CITY OF ASHEBORO

WHEREAS, in accordance with Section 121-5 of the North Carolina General Statutes and Section 132-3 of the North Carolina General Statutes, public records maintained by the City of Asheboro may only be destroyed with the consent of the North Carolina Department of Natural and Cultural Resources; and

WHEREAS, the Municipal Records Retention and Disposition Schedule (the "Retention Schedule") issued by the Government Records Section of the State Archives of North Carolina, which is part of the Division of Archives and Records within the North Carolina Department of Natural and Cultural Resources, is the primary means by which the Department of Natural and Cultural Resources gives its consent for the destruction of records that do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified within the schedule; and

WHEREAS, in the absence of approving the Retention Schedule, the city is obligated to obtain permission from the Department of Natural and Cultural Resources to destroy any record, regardless of how insignificant a particular record might be; and

WHEREAS, prior to the City Council's consideration of this Resolution, the most recent edition of the Retention Schedule was published on September 10, 2012, with amendments on August 29, 2013, and January 5, 2015; and

WHEREAS, the Asheboro City Council adopted resolutions in 2012, 2013, and 2015 expressing the governing board's approval of the Retention Schedule and the subsequent amendments published by the Department of Natural and Cultural Resources, which was formerly known as the Department of Cultural Resources; and

WHEREAS, on October 1, 2016, the Department of Natural and Cultural Resources published amendments to Standard 6 (EMERGENCY SERVICES AND FIRE DEPARTMENT RECORDS) and Standard 9 (LAW ENFORCEMENT RECORDS) of the Retention Schedule in order to clarify the retention for 911 calls received as text messages and to reflect legislation governing body-worn cameras for law enforcement personnel that went into effect on October 1, 2016; and

WHEREAS, the said amendments of October 1, 2016, which shall be hereinafter collectively referred to as the "Amended Retention Standards," are attached to this Resolution as EXHIBIT 1 and are hereby incorporated into this Resolution by reference as if copied fully herein; and

encroaches into a required setback may be permitted as long as the following criteria are met:

- (a) The expansion is related to a conforming use; and
- (b) The expansion of the legal non-conforming structure does not bring any portion of the structure closer to the zoning lot line.
- (c) The expansion of the legal non-conforming structure does not exceed an increase of more than fifty (50) percent of the linear footage of the existing encroachment. Expansions permitted after the effective date of this ordinance shall cumulatively count towards this calculation; and
- (d) Outside of the context of required yards, the expansion does not create or increase the extent of existing non-conformities, including but not limited to, height and floor area ratio.
- (e) The applicant shall submit a site plan drawn to scale and with sufficient detail to determine property boundaries, measurements, existing structures and other information as necessary to determine compliance of the proposed expansion with this subsection.
- (f) These provisions shall not apply to new structure(s). For purposes of determining the extent of an existing encroachment described in subsection (b) above and allowable expansion of the structure is based on the setback of the structure being expanded and independent of any other structure(s) located on the zoning lot.

The Planning Board concurred with the following planning staff's analysis and recommended approval of the proposed text amendments to the Asheboro Zoning Ordinance.

"Staff contends that the proposed amendments will allow continued investment in certain residential structures that typically are older and nonconforming due to their setback, while recognizing that reasonable limitations on the permissible expansions are necessary to protect the public health, safety, and general welfare.

Staff also believes that the proposed amendments will promote quality design of residential building expansions and architectural continuity allowing additions to be consistent with existing building placement and design.

The proposed provisions allow greater flexibility for residential additions, including those to properties located on environmentally sensitive sites (in flood areas, steep slopes, poor soils, etc.).

Considering these factors, and the need to better clarify the intent the zoning ordinance has on the expansion of legal nonconforming structures, staff believes that the proposed amendments are consistent with the Land Development Plan and are therefore reasonable and in the public interest."

With no comments or opposition from the public, Mayor Smith transitioned to the deliberative phase of the public hearing.

Upon motion by Mr. Bell and seconded by Mr. Swiers, Council voted unanimously to approve the staff's proposed text amendments to the Asheboro Zoning Ordinance as well as adopting the following consistency statement that was initially proposed in the staff report. Council Members Bell, Burks, Carter, Moffitt, Snuggs, and Swiers voted in favor of the motion.

After considering the above factors (excerpt of the analysis from the staff report that is quoted above), and the need to better clarify the intent of the Zoning Ordinance with regard to the expansion of legal nonconforming structures, the proposed text amendments are supported by (consistent with) the Land Development Plan, and are therefore in the public interest in supporting a reasonable use of the property.

A copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office along with a copy of the adopted text amendments.

(b) Application (Case No. RZ-16-11) to rezone certain property located at 614 East Dixie Drive (Randolph County Parcel Identification Number 7760068764) from R15 (Low-Density Residential) and CU-B2 (Conditional Use General Commercial) to B2 (General Commercial).

Mayor Smith opened the public hearing on the following request.

The requested rezoning pertains to approximately 0.52 of an acre out of 1.08 acres of land located at 614 East Dixie Drive that is owned by Jack C. Nance. Randolph County Parcel Identification Number 7760068764 more specifically identifies the parcel of land.

Mr. Nuttall utilized a visual presentation to summarize the planning staff's analysis of the request by the property owner to rezone the above-described parcel of land to B2 (General Commercial) zoning.

The staff report noted the following:

1. East Dixie Drive is a state-maintained boulevard. Emerson Drive is a city-maintained street that is approximately 18 feet in width.
2. The property is inside the city limits. All city services are available.
3. Approximately 0.55 of an acre of the property (totaling 1.08 acres) is currently zone B2. Approximately 0.28 of an acre of the property is zoned CU-B2 (Conditional Use General Commercial) and approximately 0.25 of an acre of the property is zoned R15 (Low-Density Residential). The request is to rezone the entire parcel to B2.
4. The zoning ordinance statement of intent (Section 210) describes the B2 district as "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."
5. A conditional use permit was issued in 1981 for 0.28 of an acre of land of the rear portion of the property fronting on Emerson Drive, which was for a delivery entrance/exit for the retail use on a portion of the property. Conditions applied to this portion of the property included the requirements for a dense evergreen screen along Emerson Drive, a gate at the Emerson Drive entrance to be closed except for deliveries, prohibition of outdoor displays within 150' of Emerson Drive right-of-way, and a condition concerning outdoor lighting.
6. The requested B2 zoning would permit any use permitted by right in the district on the entire property.

The planning staff recommended denial of the requested rezoning after evaluating the consistency of the requested rezoning with the adopted comprehensive plans, the reasonableness of the request, and whether the requested rezoning was in the public interest. In explaining the recommended denial, the staff stated:

"Staff acknowledges that the Land Development Plan designates the property for commercial use, part of the property facing East Dixie Drive is currently zoned B2, and the property does have access to city services. For these reasons, staff can support expanding commercial zoning to encompass more of the property.

However, we are concerned over the potential for access onto Emerson Drive without an ability to best ensure it can receive the additional traffic volume or minimize impacts on the adjoining residential neighborhood."

The Planning Board disagreed with the weighing of the factors in the staff's analysis and recommendation. Consequently, the Planning Board recommended approval, citing the LDP proposed land use map, growth strategy map, and location outside of watershed/flood areas.

Mr. H.R. Gallimore, a real estate broker for the Applicant, presented comments in support of the requested rezoning.

Mr. Alejandro Cantu who lives near the property in question, presented comments and concerns in regards to potentially negative impacts of the rezoning on neighboring properties.

There being no further comments, Mayor Smith transitioned to the deliberative phase of the hearing.

During discussion, the Council Members expressed their concerns about the proper weighing of the factors involved with this case and the potential impact on adjoining residential property along Emerson Drive.

Mr. Moffitt moved to approve the requested rezoning. This motion was made as a combined motion to grant the requested B2 zoning and to adopt a consistency statement that, like the Planning Board, cited the same goals and policies as the staff (consistency with the Land Development Plan's proposed land use and growth strategy maps as well as the location of the property outside of flood/watershed areas), but the governing board weighed these factors differently. Based on this weighing of the factors, the Council found the request to be reasonable and in the public interest.

Mr. Burks seconded the combined motion, and Mr. Burks, Mr. Moffitt, and Mr. Swiers voted in favor of the motion. Mr. Bell, Ms. Carter, and Ms. Snuggs voted no. In order to break the tie, Mayor Smith voted in favor of the motion to rezone the property. Consequently, the motion was approved.

A copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

(c) Application (Case No. CUP-16-12) for a conditional use permit allowing manufacturing, processing, and assembly-light on property located along the north side of East Dorsett Avenue (Randolph County Parcel Identification Number 7750973085) that is in a Conditional Use General Commercial (CU-B2) zoning district.

Mayor Smith opened the public hearing on the request to issue a Conditional Use Permit on the basis of evidence presented during the quasi-judicial process.

Mr. Nuttall was placed under oath and presented the planning staff's analysis of the Applicant's request that included a properly submitted site plan for the Conditional Use Permit. The request pertains to approximately 23,674 square feet of land owned by CF Properties, LLC and is more specifically identified by Randolph County Parcel Identification Number 7750973085.

The Applicant, Mr. Bob Crumley on behalf of CF Properties, LLC, is seeking a CUP for light manufacturing in CU-B2 (Conditional Use General Commercial) zoning district in order to legally process hemp plants and seeds into oil and food (manufacturing, processing, and assembly-light).

During his presentation, Mr. Nuttall noted the staff's analysis of the Conditional Use Permit application as follows:

1. The request is for a Conditional Use Permit for manufacturing, processing, and assembly-light in a Conditional Use General Commercial (CU-B2) zoning district, within a new 5,200 square foot building. This use is allowed in the CU-B2 zoning district with a Conditional Use Permit.
2. One access driveway is proposed from East Dorsett Avenue, a city-maintained street.
3. Required parking is based on the number of employees (0.6 spaces per employee). Section 628 of the zoning ordinance states that a maximum of 10 employees may be employed for this use (due to it requiring an SUP/CUP). The applicant is proposing twelve (12) parking spaces, which meet the parking requirement.
4. A small portion of property along the parcel's eastern boundary is identified on GIS as R7.5 (Medium-Density Residential) zoning. However, staff cannot find supporting documentation in the public record to confirm this area of residential zoning. The issue is not a concern for the CUP as the zoning ordinance (Section 103.3) states that when a zoning boundary divides a parcel, the least restrictive zoning (in this case CU-B2) applies to the entire parcel since the R7.5 zoning extends less than fifty (50) feet beyond the zoning boundary.
5. While the LDP's Proposed Land Use Map identifies the subject property Neighborhood Residential, it has been zoned commercial since 1988.
6. Buffering/screening required is either a 10' Type C screen or 25' Type C buffer adjacent to the residentially zoned (R7.5) property on the north and east sides of the property. The applicant is proposing a 10' screen, using a combination of existing vegetation and planted vegetation (consisting of deciduous trees, bamboo, and evergreen vegetation), plus supplementing additional vegetation, as needed to meet these requirements.

Mr. Bob Crumley of CF Properties, LLC was placed under oath and offered testimony in support of the request. This testimony was focused on addressing the four standards for issuance of a Conditional Use Permit. As part of his testimony, Mr. Crumley expressed his agreement with the following conditions that were recommended by the planning staff for attachment to the requested Conditional Use Permit.

1. Consistent with Section 628.5 of the Asheboro Zoning Ordinance, the specific "manufacturing, processing, and assembly, light" use approved shall include lawful processes involving agricultural and food products of a similar intensity to the specific products the applicant identifies as occurring with this use.
2. The site plan notes a 10' Type C screen on the northern and eastern boundaries of the property adjacent to residentially zoned property. This "Type C" screen indicates one (1) evergreen shrub at five (5) feet on center and one (1) evergreen tree at twenty (20) feet on center or equivalent combination of vegetation and other screening that meets or exceeds the requirements of a "Type C" screen. Existing vegetation may also count towards meeting screening/buffering requirements. However, should any deficiency in meeting the landscaping requirements occur, additional buffering or screening measures consistent with Section 304A of the Asheboro Zoning Ordinance shall be required.
3. The site plan indicates that no outdoor lighting is proposed at this time. If the applicant proposes outdoor lighting at a later date, it shall not be considered a modification requiring a new Conditional Use Permit. Information shall be submitted to city staff demonstrating compliance with Section 317A.1 of the Asheboro Zoning Ordinance (Performance Standards for all Commercial Zoning Districts-Light) for inclusion into the file without further review by City Council.
4. Prior to the issuance of a zoning compliance permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute and deliver to the Zoning Administrator for recordation in the office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Conditional Use Permit in the chain of title for the Zoning Lot.

No one offered testimony in opposition to the Application. There being no further comments, Mayor Smith transitioned to the deliberative phase of the application process.

Upon motion by Mr. Bell and seconded by Mr. Swiers, Council found that the proposed use satisfied the standards for a permit and approved, with the staff recommended conditions, the requested Conditional Use Permit. Council Members Bell, Burks, Moffitt, Snuggs, and Swiers voted in favor of the motion. Council Member Carter voted no.

The formal findings of fact, conclusions of law, and order authorizing the Conditional Use Permit and specifying conditions attached to the permit, will be entered by the Council during regular session on November 10, 2016.

A copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

(d) Request to extend time allowed between preliminary and final plat subdivision reviews for Waterford Villas, Phase 2.

Mr. Nuttall presented a written request from Kevin Jessup of Waterford RE, LLC for an additional twelve month extension of the deadline to submit a final plat review Waterford Villas, Phase 2. A copy of the written request from Mr. Jessup is on file in the city clerk's office.

Upon motion by Mr. Burks and seconded by Ms. Snuggs, Council voted unanimously to approve the requested twelve month extension. Council Members Bell, Burks, Carter, Moffitt, Snuggs, and Swiers voted in favor of the motion.

(e) Public hearing on the question of amending the boundary of the primary fire limits.

Mayor Smith opened the public hearing on the question of amending the boundary of the primary fire limits.

Mr. Nuttall utilized a visual presentation to highlight the staff's basis for recommending the amendment of the primary fire limits boundaries to encompass a smaller area. No comments were offered in opposition to the staff proposal.

After considering the information presented during the authorized public hearing, the Council Members expressed their general support for adopting the staff recommendation.

An ordinance reflecting the proposed amendments will be placed on the Council's consent agenda for approving in November 2016.

A copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

(f) Consideration of authorizing the execution of documents with the North Carolina Department of Commerce in order to obtain state funding for downtown revitalization as authorized under N.C. Session Law 2016-94.

Mr. Nuttall described a proposed contract with the North Carolina Department of Commerce for Grant Number 2017-003-1257-1534 that is titled Downtown Revitalization. The project is to be completed by March 2017.

Upon motion by Ms. Carter and seconded by Mr. Bell, Council voted unanimously to authorize the execution of the contract documents with the North Carolina Department of Commerce. Council Members Bell, Burks, Carter, Moffitt, Snuggs, and Swiers voted in favor of the motion.

Copies of the contract documents are on file with the Community Development Division.

(g) Consideration of authorizing the execution of documents needed to obtain a release of funds letter from the North Carolina Department of Commerce for Community Development Block Grant funding to support the Technimark Rail Spur Project.

Mr. Nuttall presented and recommended adoption, by reference, of a resolution authorizing city officials to satisfy the conditions attached to funding approval for the Technimark Rail Project.

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

RESOLUTION NUMBER _____ **31 RES 10-16**

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION AUTHORIZING CITY OFFICIALS TO SATISFY THE CONDITIONS ATTACHED TO FUNDING APPROVAL FOR THE TECHNIMARK RAIL PROJECT

WHEREAS, the City of Asheboro (the "City") has been awarded an economic development grant in the form of Community Development Block Grant ("CDBG") funding in the amount of \$490,000.00 to assist in providing industrial track for rail service needed by Technimark; and

WHEREAS, Technimark has pledged to create 41 full-time jobs as a result of this economic development project; and

WHEREAS, the North Carolina Department of Commerce has notified the city that, pursuant to CDBG regulations, no project activities can begin and no funds may be obligated or expended until conditions on the funding approval are satisfied; and

WHEREAS, the conditions that have to be satisfied are listed as follows:

1. The Granted Agreement must be executed and returned to the Rural Economic Division, which is a component of the North Carolina Department of Commerce;
2. The Funding Approval must be executed and returned;
3. Two signatory forms must be completed and one returned;
4. A Vendor Electronic Payment form must be completed and returned;
5. A completed copy of the rail agreement must be provided; and

WHEREAS, this aggressiveness led, on more than one occasion, to Sal biting Officer Baird during training, especially during apprehension work that involves biting a suspect; and

WHEREAS, due to issues such as the above-referenced training incidents, Sal's bite status was revoked; and

WHEREAS, in general, at eight years of age, police canines are evaluated to see if they can or should continue in a working capacity; and

WHEREAS, due to his previous aggression issues and the fact that he is over seven years old, it would be difficult to retrain Sal to another handler for placement in a working capacity; and

WHEREAS, if a new handler were to be selected for Sal in an effort to restore the canine to a working capacity, the handler would be sent to an approximately 12-week basic handler school, and, upon returning, the canine and his handler do not, in general, become an effective team for approximately two years; and

WHEREAS, by the time an effective working relationship formed with the new handler, Sal would be nearing ten years of age; and

WHEREAS, Asheboro Police Captain R.L. Brown, Jr. has worked with canines for approximately ten years, and he has only known of one canine who worked to the age of ten;

WHEREAS, in light of Sal's above-described tendencies and his training as a police canine, Sal is not suitable for adoption as a pet to anyone other than a trained police canine handler; and

WHEREAS, Section 160A-266(d) of the North Carolina General Statutes provides, in pertinent part, that a "city may discard any personal property that . . . poses a potential threat to the public health or safety;" and

WHEREAS, Section 20-187.4 of the North Carolina General Statutes authorizes the city, upon making a determination that a police canine is no longer fit or needed for public service, to transfer the canine to the officer who had normal custody and control of the police canine at a price and upon any other terms and conditions set by the city;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the governing board hereby enters its determination that police canine Sal has been found to no longer be fit or needed for public service, and, consequently, Sal is hereby retired from service, declared to be surplus property, and deemed to pose a potential threat to the public health and safety if not conveyed to a trained police canine handler that is willing and able to provide proper care and management for the former police canine; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro, North Carolina that the entirety of the city's ownership interest in Sal shall be transferred to Asheboro Police Master Sergeant Travis Wayne Curry in consideration of both (a) the payment of \$1.00 to the city and (b) Master Sergeant Curry's unconditional written agreement to assume full responsibility for providing adequate shelter, care, and supervision for Sal for the remainder of Sal's life without any funding or other assistance from the city.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 6th day of October, 2016.

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

ATTEST:

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

(b) An ordinance amending certain animal control regulations.

Captain Cheek presented and recommended adoption, by reference, of an ordinance to update and refine certain provisions in the City of Asheboro animal control ordinance.

Upon motion by Mr. Bell and seconded by Ms. Snuggs, Council voted unanimously to adopt the following ordinance by reference. Council Members Bell, Burks, Carter, Moffitt, Snuggs, and Swiers voted in favor of the motion.

ORDINANCE NUMBER _____ 22 ORD 10-16 _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**AN ORDINANCE TO AMEND CERTAIN PROVISIONS OF THE
CITY OF ASHEBORO ANIMAL CONTROL ORDINANCE**

WHEREAS, Section 160A-174(a) of the North Carolina General Statutes (references to the North Carolina General Statutes will be hereinafter cited with "G.S." in front of the relevant chapter, article, or section number) authorizes the Asheboro City Council to utilize its ordinance making authority to exercise the general police power to define and abate nuisances and to define, prohibit, regulate, or abate acts, omissions, or conditions that are detrimental to the health, safety, or welfare of the city's inhabitants and the peace and dignity of the city; and

WHEREAS, G.S. 160A-182 specifically authorizes the Asheboro City Council, by means of the adoption of an ordinance, to define and prohibit the abuse of animals; and

WHEREAS, G.S. 160A-186 specifically authorizes the Asheboro City Council, by means of the adoption of an ordinance, to regulate, restrict, or prohibit the keeping, running, or going at large of any domestic animals; and

WHEREAS, in furtherance of public safety and in order to improve the city's efforts to prevent the abuse of animals, the Asheboro City Council has decided to amend the city's animal control regulations for the purpose of (a) rewriting the definition of adequate shelter, (b) clarifying the authority of animal control officers to seize abused animals facing immediate health or safety threats, and (c) conforming the ordinance to a state statute preempting the city's authority to regulate the care of farm animals;

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

Section 1. The definition of "adequate shelter" found in Section 91.03(3) of the Code of Asheboro is hereby rewritten to provide as follows:

~~*Adequate shelter means an enclosure sufficient to provide shelter from extremes of weather and a means to remain cool, dry, and comfortable.*~~

Adequate shelter means, when evaluating the shelter provided for a domestic canine or a domestic feline, a structure with a minimum of three sides, a roof, and a bottom used to house the animal and protect it from the weather. Adequate shelter means, when evaluating the shelter provided for any animal other than a domestic canine or a domestic feline, an enclosure sufficient to provide shelter from extremes of weather and a means to remain cool, dry, and comfortable.

Section 2. In order to clarify the authority of the animal control unit to seize abused animals facing an immediate threat to their health and safety, Section 91.32 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 91.32 REMEDIES AND PENALTIES

- (A) The animal control unit must have ample authority to impose preventive measures, seize, and impound animals. Escalating fees and other sanctions authorized within this section are measures that have been adopted to protect the citizens of Asheboro and to declare that the ownership of animals entails publicly related responsibilities. When there is a violation of this chapter, the chief may take one or more of the courses of action set forth in this section. The chief may cause a complaint to be filed or any action to be brought on behalf of the city. Any such action shall be cumulative and shall not be deemed to be a bar to or a waiver of the right to institute any other civil or criminal proceeding for a violation of this chapter.
- (B) Any person who violates the provisions of this chapter is guilty of a misdemeanor as provided by G.S. § 14-4 and shall be fined not more than \$500. Payment of a fine imposed in a criminal proceeding initiated pursuant to this chapter does not relieve a person of his or her liability for fees imposed by this chapter or any other law or ordinance, specifically including without limitation fees imposed by the county animal control ordinance as a consequence of the impoundment of an animal at the animal shelter.
- (C) Pursuant to and consistent with G.S. 160A-175, enforcement of the provisions found in this chapter may include any appropriate equitable remedy, injunction, or order of abatement issuing from a court of competent jurisdiction.

(D) In addition to or in lieu of any criminal penalties and other sanctions provided in this chapter and any other applicable law, ordinance, or regulation, a violation of the provisions found in this chapter may also subject the offender to the civil penalties hereinafter set forth:

- (1) An animal control officer may issue to the owner or possessor of any animal, or any other violator of this chapter, a written warning or a civil penalty citation giving notice of the alleged violation(s). Written warnings or civil penalty citations so issued may be served on the person charged with a violation by means of personal delivery by the animal control officer or mailed by certified or registered mail, return receipt requested, to the last known address of the person charged;
- (2) Civil penalties shall be paid in full to the Asheboro Police Department within 15 business days of the receipt of the civil penalty citation that gives notice of the penalty that is due and payable. The civil penalty is in addition to any other costs or fees imposed by this chapter or any other law or ordinance, specifically including without limitation fees imposed by the county animal control ordinance as a consequence of the impoundment of an animal at the animal shelter;
- (3) In the event that the owner or possessor of an animal or other violator of this chapter does not pay the applicable civil penalty within the prescribed time period, a civil action may be commenced to recover the penalty and costs associated with the collection of the penalty. The chief, or the chief's designee, is expressly authorized to initiate and prosecute small claims actions in District Court to collect civil penalties and fees owed to the city as a consequence of violation(s) of this chapter. The chief may call on the city attorney for assistance as needed. In lieu of pursuing a civil action to collect the civil penalty, a criminal summons may be issued against the violator for violating this chapter, and, upon conviction, the violator shall be punished in accordance with state law for the misdemeanor offense of violating this chapter; and
- (4) In order to encourage responsible conduct, an owner shall be subject to escalating penalties for each violation of this chapter by the owner, regardless of whether the animal is the same animal, a different animal, or various animals belonging to the same owner. Each violation of this Chapter within a rolling 12-month period shall subject the owner to the following escalating civil penalties:

<i>Offense Amount</i>	<i>Civil Penalty</i>
1 st	\$35.00
2 nd	\$50.00
3 rd	\$100.00
4 th and Subsequent Offenses	\$150.00

(E) Each violation of a specific provision of this chapter is considered a separate offense for purposes of this section.

(F) Each day that a specific violation occurs is considered a separate offense for purposes of this section.

(G) In addition to the above-listed remedies, domestic animals may be seized and impounded when found at large or as otherwise provided in this chapter. Furthermore, if conditions pose an immediate threat to the health or safety of the animal or the public, the animal control unit is authorized to seize and impound an animal. By way of clarification and not limitation, any animal deemed to be abused in violation of Section 91.20 shall be evaluated by the animal control unit for signs of an immediate threat to the health or safety of the animal, and if such a threat is found to exist, the animal shall be seized in addition to any other remedies and penalties authorized by this Section. When an animal is seized, the following steps, at a minimum, must be taken:

- (1) The animal control unit, or some other person designated by the chief, shall enter into a seized animal registry maintained by the police department a description of the animal that includes at least the breed,

color, and sex of such animal and whether the animal was impounded or processed in some other manner; and

- (2) Upon seizing an animal, a notice of seizure shall be left with the owner or affixed to the premises. If an animal is not from a particular premises but has an identification tag, the animal control officer shall cause a prompt and reasonable effort to be made to locate and notify the animal's owner.
- (H) Notwithstanding any other provision of this chapter, an animal that cannot be reasonably seized, retrieved, humanely trapped, or tranquilized may be humanely destroyed in the field upon the authorization of the chief; provided, however, an animal attacking a human being or pet may be summarily destroyed if, in the opinion of animal control, such destruction is necessary for the protection of life or property or for the public health and safety.
- (I) Nothing in this chapter shall be construed to prevent law enforcement officers of any kind from enforcing any of the provisions of this chapter or from exercising their authority as law enforcement officers.
- (J) Nothing in this chapter shall prevent a private citizen from bringing an action to abate a nuisance or from bringing an action for damage, loss, or injury to the private citizen or his or her property resulting from an animal being a nuisance.

Section 3. For the purpose of ensuring that the city's animal control ordinance is not interpreted in a manner that places the ordinance in conflict with G.S. 160A-203.1, Section 91.31 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 91.31 EXCEPTIONS

- (A) This chapter shall not apply to the lawful taking of animals under the jurisdiction and regulation of the North Carolina Wildlife Resources Commission; lawful activities of agencies conducting or sponsoring biomedical research or training; lawful activities of any law enforcement canine team in the performance of their duties; or the lawful destruction of any animal for the purpose of protecting domestic animals or humans.
- (B) Veterinary clinics and retail pet stores are not subject to the supplemental animal control regulations prescribed in §§ 91.24 through 91.28 of this chapter. The inapplicability of the supplemental regulations found in this chapter to these businesses does not impair or impact to any degree the applicability to these businesses of any other provision within this chapter or any other federal, state, or local law, ordinance, or regulation, including by way of illustration and not limitation the county animal control ordinance and the Asheboro Zoning Ordinance.
- (C) In compliance with G.S. 160A-203.1, this chapter shall not be construed, interpreted, or enforced in any manner that regulates standards of care for farm animals. For purposes of this subsection, "standards of care for farm animals" includes the following: the construction, repair, or improvement of farm animal shelter or housing; restrictions on the types of feed or medicines that may be administered to farm animals; and exercise and social interaction requirements. For purposes of this subsection, the term "farm animals" includes the following domesticated animals: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs, ratites, and poultry flocks of greater than 20 birds.

Section 4. On the effective date stated in Section 5 of this Ordinance, all ordinances and clauses of ordinances in conflict with this Ordinance shall be repealed.

Section 5. The text amendments found in Sections 1, 2, and 3 of this Ordinance, which rewrite the definition of "adequate shelter," clarify situations warranting the seizure of abused animals, and conform the city's animal control regulations to state law, shall take effect and be in force from and after January 1, 2017. The remaining sections and provisions of Chapter 91 of the Code of Asheboro that were not specifically amended by the enactments found within this Ordinance remain in full force and effect on and after the date of adoption of this Ordinance, which is October 6, 2016.

Section 6. No action or proceeding of any nature (whether civil, criminal, administrative, or otherwise) pending at the effective date of this Ordinance shall be abated or otherwise affected by the adoption of this Ordinance.

Section 7. If any section, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be

deemed to be a separate, distinct, and independent provision, and such a holding shall not affect the validity of the remaining portions thereof.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 6th day of October, 2016.

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

ATTEST:

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

7. Presentation of the proposed purchase agreement for 134 West Wainman Avenue.

Mr. Leonard presented and recommended adoption, by reference, of a resolution authorizing an offer to purchase approximately 21,356 square feet of land (0.490 of an acre) of land at 134 West Wainman Avenue.

Upon motion by Ms. Carter and seconded by Mr. Burks, Council voted unanimously to adopt the following resolution by reference. Council Members Bell, Burks, Carter, Moffitt, Snuggs, and Swiers voted in favor of the motion.

RESOLUTION NUMBER _____ **33 RES 10-16**

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION AUTHORIZING AN OFFER TO PURCHASE APPROXIMATELY 21,356 SQUARE FEET (0.490 OF AN ACRE) OF LAND AT 134 WEST WAINMAN AVENUE

WHEREAS, the city currently operates a recycling collection site that is accessed from West Wainman Avenue; and

WHEREAS, the majority of the collection activities at this site occur on a single parcel of land at 134 West Wainman Avenue that is approximately 21,356 square feet or 0.490 of an acre in size and is more specifically identified by Randolph County Parcel Identification Number 7751719533 (this parcel of land will be hereinafter referred to as the "Recycling Collection Site"); and

WHEREAS, the Recycling Collection Site is owned by the Randolph County Senior Adults Association, Inc., a North Carolina non-profit corporation, (the "Senior Adults Association"); and

WHEREAS, the city would like to improve the Recycling Collection Site in order to enhance the recycling services provided to residents of multi-family complexes and businesses that are not in a position to take advantage of the city's curbside recycling services; and

WHEREAS, the city strives to avoid making improvements to real property that is not within a permanent public right-of-way or owned by the city in fee simple; and

WHEREAS, with the relocation of its operations from West Wainman Avenue to West Salisbury Street, the Senior Adults Association is willing to sell the Recycling Collection Site to the city for the sum of Fifty Thousand and No Hundredths Dollars (\$50,000.00); and

WHEREAS, the city council has concluded that, in view of the above-stated recitals and due to the reasonableness of the proposed purchase price, the purchase of the Recycling Collection Site will serve a public purpose and will be in the best interest of the city;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the OFFER TO PURCHASE AND CONTRACT attached to this Resolution as EXHIBIT 1, which is hereby incorporated into this Resolution by reference as if copied fully herein, is approved; and

3. The Buyer shall be responsible for the payment of the recording fees charged by the office of the Register of Deeds for Randolph County, North Carolina in order to record the North Carolina General Warranty Deed specified herein. Additionally, the Buyer will pay the closing costs not otherwise assigned to the Seller by this agreement.
4. All deeds of trust, liens, and other charges against the Recycling Collection Site must be paid and cancelled by the Seller prior to or at closing.
5. Title must be delivered by the Seller at closing by means of a North Carolina General Warranty Deed and must be fee simple marketable title, free of all encumbrances and exceptions other than those specifically approved by the Buyer. The deed is to be made to the City of Asheboro, a North Carolina municipal corporation.
6. Closing shall be completed on or before **November 30, 2016. TIME IS OF THE ESSENCE WITH REGARD TO SAID CLOSING DATE.**
7. Iran Divestment Act Certification: In order to comply with statutorily mandated contracting procedures that are applicable to the Buyer as a North Carolina municipal corporation, an Iran Divestment Act certification must be obtained from entities attempting to enter into contracts with the Buyer. Therefore, in compliance with Section 147-86.59 of the General Statutes of North Carolina (the "General Statutes"), the Seller hereby certifies that (i) the Seller is not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to Section 147-86.58 of the General Statutes, and that (ii) the Seller will not utilize any contractor/subcontractor identified on the Final Divestment List in connection with the performance of this Contract. The Final Divestment List can be found on the North Carolina State Treasurer's website with resources related to the Iran Divestment Act (www.nctreasurer.com/Iran). The Final Divestment List will be updated every 180 days.
8. This Contract contains the entire agreement of the parties, and there are no representations, inducements, or provisions other than those expressed herein. All changes, additions, or deletions hereto must be in writing and signed by both parties.

DATE OF OFFER: _____

CITY OF ASHEBORO ("BUYER"):

By: _____
David H. Smith, Mayor

ATTEST:

Holly H. Doerr, CMC, NCCMC, City Clerk

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

Deborah P. Reaves, Finance Officer

DATE OF ACCEPTANCE: _____

**RANDOLPH COUNTY SENIOR
ADULTS ASSOCIATION, INC.
("SELLER"):**

By: _____
Signature of Authorized Officer

Title of Authorized Officer

8. The City Manager updated the City Council on the following items:

(a) All-America City Celebration events:

Mr. Ogburn updated the Council Members on the All-America City celebration events specifically including the successful sale of items containing the All-America City logo at the Asheboro Fall Festival, and he noted that the All-America City team will be the Grand Marshall at the Asheboro Christmas Parade on December 2, 2016.

Additionally, Mr. Ogburn presented a visual consisting of the All-America City logos to be painted on the water tanks located on Church Street and Highway 64. Copies of these visuals are on file in the city clerk's office.

(b) ICMA TV video:

Mr. Ogburn presented an informational video featuring the City of Asheboro that was presented on ICMA TV at the national city managers' conference (ICMA conference).

A link for the video will be available for viewing on the city's website

(c) Update on the potential purchase of Randolph Mall by Hull Property Group:

Mr. Ogburn highlighted that Hull Property Group has a binding contract to purchase Randolph Mall. Hull Property Group owns 24 malls including, but not limited to, Blue Ridge Mall in Hendersonville, Cleveland Mall in Shelby, New Bern Mall in New Bern, Wilson Mall in Wilson as well as other mall properties in other states. This potential purchase of Randolph Mall is part of the on-going general economic development activities within Asheboro and Randolph County.

(d) Update on fund raising activities with the YMCA and the Soccer Association for the proposed Zoo City Sports Plex.

Mr. Ogburn noted that fund raising activities with the YMCA and the Soccer Association for the proposed Zoo City Sports Plex is underway and city staff will update the Council as the project progresses.

(e) City Manager's upcoming presentation at Chamber of Commerce Retreat.

Mr. Ogburn reminded the Council Members that the Chamber of Commerce Retreat is scheduled for October 27-30, 2016 in Wilmington, NC. The focus of the retreat will be the Randolph County Strategic Plan, and Mr. Ogburn will be making a presentation in regards to the plan as it pertains to the city.

9. Mayor Smith announced the following upcoming events:

- Appreciation for City Police and Randolph County Sheriff's Office in Bicentennial Park on Saturday, October 15, 2016 at 3:00 p.m.
- Downtown Octoberfest on Saturday, October 22, 2016 at Bicentennial Park.
- The annual conference of the North Carolina League of Municipalities will be held in Raleigh from October 23-25, 2016.
- Asheboro/Randolph Chamber of Commerce Planning Retreat will be held on October 27-30, 2016.
- The City of Asheboro Cultural and Recreation Services Departments' "Trick or Treat in the Park" event will be held on Monday, October 31, 2016 from 6:30 p.m. until 8:30 p.m.
- One-Stop early voting will be held on October 20, 2016 through November 5, 2016 at Hillside Shopping Center and at the Randolph County Office Building.

There being no further business the meeting was adjourned at 9:07 p.m.

