

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, OCTOBER 4, 2012  
7:00 p.m.**

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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 staff members present:

David H. Smith            ) – Mayor Presiding  
  
Talmadge S. Baker        )  
Clark R. Bell             )  
Edward J. Burks          )  
Linda H. Carter          ) – Council Members Present  
Michael W. Hunter        )  
Walker B. Moffitt        )  
Charles A. Swiers        )

John N. Ogburn, III, City Manager  
Dumont Bunker, P.E., City Engineer  
John L. Evans, Assistant Community Development Director  
Tamela D. Garner Permits Technician/Deputy City Clerk  
Christopher F. Kennedy, Planning Intern  
Justin T. Luck, Zoning Administrator/Planner  
Trevor L. Nuttall, Community Development Director  
Deborah P. Reaves, Finance Director  
Michael D. Rhoney, Water Resources Director  
Jeffrey C. Sugg, City Attorney  
Rickey D. Wilson, Chief of Police

**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. Silent prayer and pledge of allegiance.**

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

After the pledge of allegiance, Mayor Smith welcomed everyone in attendance.

**3. Consent agenda:**

Upon motion by Mr. Burks and seconded by Ms. Carter, Council voted unanimously to approve the following consent agenda items:

- (a) The minutes of the city council's regular meeting on September 6, 2012.**
- (b) The findings, conclusions, and order pertaining to the Conditional Use Permit issued under Community Development Division File No CUP-12-06.**

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

IN THE MATTER OF THE APPLICATION BY SHAUN L. HAYES FOR A CONDITIONAL USE PERMIT  
AUTHORIZING A COMMERCIAL DEVELOPMENT WITH MULTIPLE USES AND/OR STRUCTURES  
  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING, WITH CONDITIONS, THE  
REQUESTED CONDITIONAL USE PERMIT

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THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for a properly advertised quasi-judicial public hearing on the question of whether to grant the applicant's request for the issuance of a Conditional Use Permit. The public hearing was opened and sworn

testimony received during a regular meeting of the Asheboro City Council that was held on September 6, 2012. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. Shaun L. Hayes, Esq. (hereinafter referred to as the "Applicant") submitted to the City of Asheboro the prescribed application materials for a Conditional Use Permit authorizing a land use identified in the Asheboro Zoning Ordinance's table of uses as a Commercial Development with Multiple Uses and/or Structures.

2. The parcel of land for which the above-stated land use approval is sought is located within the corporate limits of the City of Asheboro, and the existing structure on the property has been assigned the following street address: 342 Hill Street, Asheboro, North Carolina 27203. The said parcel of land (hereinafter referred to as the "Zoning Lot") is more specifically identified by Randolph County Parcel Identification Number 7751720477.

3. The Zoning Lot is owned by Ivy South, Limited Liability Company, and the Applicant is a member/manager of this North Carolina limited liability company.

4. The hearing on the Applicant's request for a Conditional Use Permit was conducted as a combined public hearing because the application for the requested permit was submitted in conjunction with an application to rezone the Zoning Lot from OA6 (Office-Apartment) zoning to CU-B3 (Conditional Use Central Commercial) zoning. Prior to the Council's consideration of whether to approve the requested Conditional Use Permit, the Council took the legislative action of placing the Zoning Lot in the requested CU-B3 zoning district.

5. Section 102 of the Asheboro Zoning Ordinance, provides as follows:

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.

6. Asheboro Zoning Ordinance Section 102 further provides that, within a conditional use district, "no use shall be submitted except as pursuant to a Conditional Use Permit authorized by the City Council, which shall specify the use or uses authorized."

7. Pursuant to the Asheboro Zoning Ordinance's Table 200-2 (Table of Permitted Uses by District), Commercial Developments with Multiple Uses and/or Structures are permitted as a principal land use in the B3 zoning district.

8. The Zoning Lot is currently used for a Professional Services land use, specifically including the Applicant's law office.

9. The Applicant proposes utilizing the existing structure for the proposed commercial development. The current land use, Professional Services, is a permitted land use and, with the issuance of the requested Conditional Use Permit, would continue to be a permitted land use. The Applicant does not propose to conduct any externally visible structural work on the Zoning Lot in furtherance of the land use for which a Conditional Use Permit is sought.

10. The B3 (Central Commercial) zoning district does not require off-street parking or loading areas. However, the site plan submitted by the Applicant does show eight (8) off-street parking spaces that are available to serve the requested land use, and, if approved, the Conditional Use Permit would require these off-street parking spaces to remain as part of the approved site plan. Additional parking is available on Hill Street in front of the Zoning Lot, and parking is also available in the nearby public parking lots.

11. In his capacity as a member/manager of the limited liability company that owns the property, the Applicant is familiar with the area in which the Zoning Lot is located. On the basis of this knowledge, the Applicant offered uncontroverted testimony that the proposed land use will not have a negative impact on the value of adjoining parcels of land.

12. In an effort to ensure the compatibility of the proposed land use with the surrounding land uses and environs, the Applicant worked with staff members in the city's Community Development Division to craft conditions that city staff members and the Applicant could recommend to the Council for attachment to the requested Conditional Use Permit. The suggested conditions are as follows:

(a) The use approved (Commercial Development with Multiple Uses and/or Structures) prohibits the following specific uses:

- (i) Bar;
- (ii) Brew Pub;
- (iii) Bus Terminal;
- (iv) Carwash;
- (v) Correctional Facilities;
- (vi) Country, Racquet, Tennis, & Swim Clubs;
- (vii) Gas Station;
- (viii) Liquor Store;
- (ix) Mini-Lube;
- (x) Nightclub/Cabaret;
- (xi) Package Store (sales of undistilled alcoholic beverages as a principle use); and
- (xii) Service Station.

(b) Hours of operation (for activities involving customers and/or clients) shall be limited to 7:00 a.m. to 9:00 p.m.

(c) The site plan identifies various trees and shrubs on the south side of the building. Existing vegetation including street trees located in the front yard of the south side of the property and the north side of the property may count towards landscaping requirements. Should any deficiency in meeting the landscaping requirements occur, additional plantings will be required.

In addition, a Type A Screen consisting of evergreen shrubs placed five feet (5') apart on center shall be installed on the east side of the property and a Type D Screen consisting of evergreen shrubs placed five feet (5') apart on center and evergreen trees placed fifteen feet (15') apart on center shall be installed on the west side of the property as indicated on the site plan.

(d) 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.

13. No testimony was offered in opposition to the Conditional Use Permit requested for the Zoning Lot.

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

#### CONCLUSIONS OF LAW

With the proposed conditions described hereinabove, the requested Conditional Use Permit can be issued on the basis of the following rationale:

1. The proposed commercial development will not materially endanger the public health or safety if the proposed land use is located where proposed and developed according to the plan as submitted and approved;
2. The evidence received during the public hearing established that the proposed land use does meet all of the required conditions and specifications of the Asheboro Zoning Ordinance;
3. The evidence presented during the course of the hearing of this matter established that the proposed land use will not substantially injure the value of the adjoining or abutting property; and
4. The location and character of the Applicant's proposed land use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

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

#### ORDER

Subject to the following conditions, a Conditional Use Permit authorizing a Commercial Development with Multiple Uses and/or Structures on the Zoning Lot is hereby 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 during the hearing of this matter, and the following supplementary conditions:

(a) The land use approved by this permit (Commercial Development with Multiple Uses and/or Structures) is not as expansive in scope as is normally the case under the Asheboro Zoning Ordinance. Consequently, the following specific uses are expressly prohibited on the Zoning Lot:

- (i) Bar;
- (ii) Brew Pub;
- (iii) Bus Terminal;
- (iv) Carwash;
- (v) Correctional Facilities;
- (vi) Country, Racquet, Tennis, & Swim Clubs;
- (vii) Gas Station;
- (viii) Liquor Store;
- (ix) Mini-Lube;
- (x) Nightclub/Cabaret;
- (xi) Package Store (sales of undistilled alcoholic beverages as a principle use); and
- (xii) Service Station.

(b) Hours of operation (for activities involving customers and/or clients) shall be limited to 7:00 a.m. to 9:00 p.m.

(c) The site plan identifies various trees and shrubs on the south side of the building. Existing vegetation including street trees located in the front yard of the south side of the property and the north side of the property may count towards landscaping requirements. Should any deficiency in meeting the landscaping requirements occur, additional plantings will be required.

In addition, a Type A Screen consisting of evergreen shrubs placed five feet (5') apart on center shall be installed on the east side of the property and a Type D Screen consisting of evergreen shrubs placed five feet (5') apart on center and evergreen trees placed fifteen feet (15') apart on center shall be installed on the west side of the property as indicated on the site plan.

(d) 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.

The above-listed findings, conclusions, and order were adopted by the Asheboro City Council in open session during a regular meeting held on October 4, 2012.

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

ATTEST:

/s/Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

**(c) The findings, conclusions, and order pertaining to the Conditional Use Permit issued under Community Development Division File No CUP-12-08.**

Case No. CUP-12-08  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION BY JEFF BRANTLEY BUILDERS, LLC,  
HARISH BHASKAR, AND PUGH FAMILY, LLC FOR A CONDITIONAL USE PERMIT  
AUTHORIZING LAND USES LABELED BY THE ASHEBORO ZONING ORDINANCE AS  
HEALTH PRACTITIONERS OFFICES AND RETAIL SHOPPERS GOODS

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

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THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for a properly advertised quasi-judicial public hearing on the question of whether to grant the applicant's request for the issuance of a Conditional Use Permit. The public hearing was opened and sworn testimony received during a regular meeting of the Asheboro City Council that was held on September 6,

2012. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. Jeff Brantley Builders, LLC (hereinafter referred to as the "Applicant") submitted to the City of Asheboro the prescribed application materials for a Conditional Use Permit authorizing two (2) land uses identified in the Asheboro Zoning Ordinance's table of uses as Health Practitioners Offices and Retail Shoppers Goods. During the hearing of this matter, Mr. Robert E. Wilhoit, Esq. appeared on behalf of the Applicant.

2. The acreage of the real property for which a Conditional Use Permit is sought is approximately one and one hundred fifty-two thousandths (1.152) acres, and this real property is located within the corporate limits of the City of Asheboro. The said real property is comprised of four (4) contiguous parcels of land with three different owners. The owners of the real property are Jeff Brantley Builders, LLC, Harish Bhaskar, and Pugh Family, LLC. All four (4) parcels of land are included within the scope of the requested Conditional Use Permit, and the identifying information for these parcels of land (hereinafter collectively referred to as the "Zoning Lot") is as follows:

<u>Randolph Co. Parcel Identification No.</u>	<u>Owner</u>	<u>Structure Address</u>
7751957448	Jeff Brantley Builders, LLC	526 Greensboro Street
7751957545	Jeff Brantley Builders, LLC	No Assigned Address
7751957642	Harish Bhaskar	534 Greensboro Street
7751957657	Pugh Family, LLC	542 Greensboro Street

None of these land owners raised an objection to the inclusion of their respective parcels of land in the application for a Conditional Use Permit.

3. The existing land use on the Zoning Lot is a single-family residence and undeveloped property.

4. The surrounding land uses are as follows:

North: Office (Medical)	East: Institutional (Congregate Living Facility)
South: Single-Family Residential	West: Single-Family Residential

5. The hearing on the Applicant's request for a Conditional Use Permit was conducted as a combined public hearing because the application for the requested permit was submitted in conjunction with an application to rezone the Zoning Lot from a combination of R7.5 (Medium Density Residential) and RA6 (High Density Residential) zoning to CU-B2 (Conditional Use General Commercial) zoning. Prior to the Council's consideration of whether to approve the requested Conditional Use Permit, the Council took the legislative action of placing the Zoning Lot in the requested CU-B2 zoning district.

6. Section 102 of the Asheboro Zoning Ordinance, provides as follows:

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.

7. Asheboro Zoning Ordinance Section 102 further provides that, within a conditional use district, "no use shall be submitted except as pursuant to a Conditional Use Permit authorized by the City Council, which shall specify the use or uses authorized."

8. Pursuant to the Asheboro Zoning Ordinance's Table 200-2 (Table of Permitted Uses by District), both of the requested land uses (Health Practitioners Offices and Retail Shoppers Goods) are permitted as principal land uses in the B2 zoning district.

9. The Applicant is proposing to build a structure with six thousand (6,000) square feet of space for health practitioner offices and a drug store/pharmacy. Under the broad land use category of Retail Shoppers Goods, the Applicant is only interested in developing a drug store/pharmacy and no other type of specific use that would ordinarily be allowed under the broad category of Retail Shoppers Goods.

10. The Land Development Plan zoning checklist identifies specific uses that warrant additional consideration when application is made for a Conditional Use Permit. This checklist states "medical uses comply with 1.1.3." Policy 1.1.3 states "the city will zone for medical uses in areas that offer multi-modal, convenient access to health care services and as a transition between heavier commercial and residential uses."

11. Mr. Wilhoit offered uncontroverted testimony that the expansion of Randolph Hospital's foot print to accommodate enhanced services such as the cancer center has led medical providers to

move east of the hospital to areas such as this Greensboro Street location that are in relatively close proximity to the hospital and other associated medical providers.

12. In an effort to ensure the compatibility of the proposed land use with the surrounding land uses and to advance the public interest, the Applicant worked with staff members in the city's Community Development Division to reach agreement on conditions that city staff members and the Applicant could recommend to the Council for attachment to the requested Conditional Use Permit. The suggested conditions are as follows:

- (a) The use approved is health practitioner office(s) and/or retail shoppers' goods. The retail shoppers' goods use shall be limited to a drug store/pharmacy within the definition of "retail shoppers' goods." The retail shoppers' goods use (limited to a drug store/pharmacy) shall only occupy the portion of the proposed structure that is identified on the site plan and labeled "pharmacy."
- (b) Hours of operation shall be limited to 7:00 a.m. to 9:00 p.m.
- (c) A sidewalk shall be installed parallel to Greensboro Street along the entire frontage of the property. This sidewalk shall be constructed in accordance with City of Asheboro sidewalk standards.
- (d) The elevation drawing that was submitted to city staff identifies the building materials as "brick" on the building facades. Building materials may be any masonry building material that complies with the Design Standards of the Asheboro Zoning Ordinance.
- (e) 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.

13. Under examination by Mr. Wilhoit, Mr. Lee Roberts, who has been a residential real estate appraiser since 1990 and owns rental property on Greensboro Street, testified as to his professional opinion that the proposed development will not pose a threat of substantial injury to the value of property that adjoins the Zoning Lot. Mr. Roberts based this opinion on his experience and observations of the Zoning Lot's close proximity to a doctor's office and the fact that the street, which turns into Cox Street, is mixed use all the way to Dixie Drive. These observations led Mr. Roberts to further testify that, in his professional opinion, the land use proposed for the Zoning Lot does not raise any questions of incompatibility with the surrounding land uses.

14. No evidence came to the attention of the Council during the hearing of this matter to indicate that the Applicant's proposed site plan was noncompliant with the Asheboro Zoning Ordinance.

15. While one witness did have concerns about whether the proposed use would encroach on other properties, this witness raised no objection to the types of land uses proposed for the Zoning Lot. The site plan presented to the Council does not give any indication of encroaching on any lot or tract of land beyond that of the property owners who consented to the submission of the application for a Conditional Use Permit. Other than the concern about respecting property boundary lines, no testimony was offered in opposition to the land uses proposed for the Zoning Lot.

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

#### CONCLUSIONS OF LAW

With the proposed conditions described hereinabove, the requested Conditional Use Permit can be issued on the basis of the following conclusions:

1. The proposed development will not materially endanger the public health or safety if the proposed land use is located where proposed and developed according to the plan as submitted and approved;
2. The evidence received during the public hearing established that the proposed land use does meet all of the required conditions and specifications of the Asheboro Zoning Ordinance;
3. The evidence presented during the course of the hearing of this matter established that the proposed land use will not substantially injure the value of the adjoining or abutting property; and
4. The location and character of the Applicant's proposed land 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.



2. Agape Christian Academy of Asheboro (hereinafter referred to as the "Applicant") is already in existence as a private elementary school (Grades K-8) on the lot for which the current application for a Special Use Permit has been submitted. This lot (hereinafter referred to as the "Zoning Lot") is owned by the Applicant and is identified by Randolph County Parcel Identification Number 7760854660. The street address assigned for the existing school is 1627 Browers Chapel Road.

3. The existing school was authorized by a Special Use Permit issued under Community Development Division (formerly referred to as the Planning Department) file number SUP-08-01. The findings, conclusions, and order previously entered by the Council under file number SUP-08-01 are as follows:

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council on April 10, 2008. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

#### FINDINGS OF FACT

1. Agape Christian Academy (hereinafter referred to as the "Applicant") has properly filed an application with the City of Asheboro Planning Department for a Special Use Permit that would allow a private elementary school to be located in a residential district.

2. The lot upon which the proposed school is to be established (hereinafter referred to as the "Zoning Lot") is located along Browers Chapel Road and encompasses approximately 20.579 acres of land. This 20.579-acre lot is more specifically described as Lot 2 on a plat that is recorded in Plat Book 115, Page 73, Randolph County Public Registry.

3. The Zoning Lot is located in an R-10/R-15 zoning district. Public and private elementary schools are permitted in R-10 and R-15 zoning districts by special use permit only.

4. The Growth Strategy Map identifies the area in which the Zoning Lot is located as "Long Range Growth," and the Proposed Land Development Plan Map designates the area in question as "Neighborhood Residential."

5. The land uses to the north, south, and east are low-density residential, while the land use to the west is low-density residential/undeveloped. The existing use of the Zoning Lot is a single-family residential land use and undeveloped land.

6. The Zoning Lot is located outside the corporate limits of the City of Asheboro, and city services (water and sewer) are not available.

7. The Applicant proposes to ultimately establish an elementary school for Kindergarten through Eighth Grade with an enrollment of sixty (60) students, but the current plans call for a school for Kindergarten through Fifth Grade with an enrollment of forty (40) students.

8. Browers Chapel Road (North Carolina Secondary Road 2826) is a state-maintained minor thoroughfare.

9. The driveway for the school, as shown on the submitted site plan, does not require the issuance of a new driveway permit from the North Carolina Department of Transportation.

10. The Asheboro Zoning Ordinance allows planning department staff to review and approve alternative buffering that includes the use of existing vegetation to meet buffering requirements. The planning department staff has reviewed the alternative buffering shown on the submitted site plan, and this alternative buffering has been approved in accordance with the Asheboro Zoning Ordinance.

11. Overall, the Applicant's site plan is in compliance with the Asheboro Zoning Ordinance.

12. Two realtors, Ms. Joyce Davis and Ms. Burt Garris, offered their expert opinions that the proposed land use will not have a negative impact on the value of property adjoining the Zoning Lot.

13. The testimony presented in opposition to the requested permit consisted of generalized concerns about the impact of the proposed use on traffic in the area and the impact of the proposed use on environmental concerns such as the

level of the water table for surrounding wells and the degree of disturbance that will be visited upon the surrounding woods by the proposed use.

14. The Applicant did not object to any of the conditions proposed by planning department staff for attachment to the requested permit.

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

#### CONCLUSIONS OF LAW

1. During the hearing of this matter, the evidence submitted to the Council indicated 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. The proposed use meets all required conditions and specifications of the Asheboro Zoning Ordinance.

3. The Applicant's proposed use will not substantially injure the value of the adjoining or abutting property.

4. 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.

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

#### ORDER

Agape Christian Academy, and its successors and assigns, is hereby issued a Special Use Permit allowing an elementary school for grades Kindergarten through Eighth Grade with a maximum enrollment of 60 students and related activities on the Zoning Lot so long as the approved land use is conducted in compliance with the approved site plan, the provisions of the Asheboro Zoning Ordinance, and the following condition:

Significant existing vegetation shall be preserved where possible. Clearing and grading shall be permitted where necessary for construction of the parking areas, installation of the water and sewer lines as well as any other infrastructure and required improvements, and building of any structure(s) associated with the Special Use Permit.

Adopted by the Asheboro City Council in regular session on the 5<sup>th</sup> day of June 2008.

4. Aside from the fact that the school authorized in 2008 is now operational and the fact that the current staff analysis indicates that the Growth Strategy Map identifies the area in which the Zoning Lot is located as "Adjacent Developed," the evidence presented during the quasi-judicial hearing held on September 6, 2012, is supportive of the continuing validity of the findings of fact entered on June 5, 2008.

5. The Applicant is requesting a new Special Use Permit because the school proposes to (a) utilize two (2) modular classrooms for longer than eighteen (18) months, (b) add a new library/storage facility, (c) increase the upper limit on new student enrollment from a maximum of sixty (60) students to one hundred forty (140) students, and (d) make certain changes to the recreation facilities. Changes of this nature constitute a modification of the approved plans under the Asheboro Zoning Ordinance and, if the proposed modifications are to be lawfully implemented, must be authorized by means of the issuance of a Special Use Permit.

6. The Asheboro Zoning Ordinance authorizes staff to approve the use of modular classrooms at schools so long as such classrooms are not left in place for a period of time in excess of eighteen (18) months. The modular classrooms at issue have already been installed with permanent foundations in compliance with both the North Carolina State Building Code and a zoning compliance permit issued by city staff. A Special Use Permit is now sought because the Applicant wishes to retain these existing modular classrooms beyond the 18-month time frame.

7. The Asheboro Zoning Ordinance permits staff in the Community Development Division to review and approve alternate buffers, including the use of existing vegetation to meet buffering requirements. City staff has reviewed and approved as compliant with the Asheboro Zoning Ordinance an alternate buffer proposed by the Applicant on the submitted site plan along the northern and western portions of the Zoning Lot.

8. Mr. Ben Morgan, Esq. offered uncontroverted testimony on behalf of the Applicant that the educational opportunities provided by the Applicant address a public necessity and that adequate off-street parking exists on the Zoning Lot to serve the school's seven (7) teachers and parents/visitors while facilitating the safe circulation of traffic when children are picked up and dropped off.

9. The Community Development Division Director, Mr. Trevor Nuttall, testified that the site plan submitted by the Applicant for consideration by the Council has been reviewed by the city's planners and found to be compliant with the specifications of the Asheboro Zoning Ordinance.

10. On behalf of the Applicant, Mr. Morgan also accepted the conditions recommended by city staff in the Community Development Division for attachment to the requested Special Use Permit. The suggested conditions are as follows:

(a) The school shall have a maximum enrollment of one hundred forty (140) students.

(b) 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 Special Use Permit in the chain of title for the Zoning Lot.

11. No testimony was offered in opposition to the requested Special 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 ordinance requires for the issuance of a Special 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 has properly submitted an application for a Special Use Permit authorizing on the Zoning Lot, which is located in an R10/R15 zoning district, a Private Elementary School.

3. The site plan submitted by the Applicant complies with the applicable requirements of the Asheboro Zoning Ordinance, and there is no evidence to suggest that the proposed modifications to the existing land use will have any negative impact on the Zoning Lot or the surrounding parcels of land.

4. On the basis of the evidence presented during the hearing of this matter, the Council has concluded that the proposed use meets the four (4) general standards for the granting of a Special Use Permit. More specifically, the proposed 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 while providing an additional source of elementary school education that is a public necessity, and will be in harmony with the area in which the expanded school is to be located and is in general conformity with Asheboro's plan of development.

5. Given the conformance of the submitted site plan with the requirements of the Asheboro Zoning Ordinance, and the totality of the evidence submitted by the Applicant during the hearing of this matter, the Applicant, subject to certain conditions, is to be issued a Special Use Permit for a Private Elementary School.

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

#### ORDER

A Special Use Permit authorizing a Private Elementary School on the Zoning Lot is hereby issued to the Applicant and the Applicant's successors and assigns. This Special Use Permit shall be valid so long as, and only so long as, the Applicant, and its successors and assigns, develop and conduct the approved land use in compliance with this permit, the site plan reviewed and approved during the hearing of this case, all applicable provisions of the Asheboro Zoning Ordinance, and the following supplementary conditions that are attached to this permit:

(a) The school shall have a maximum enrollment of one hundred forty (140) students; and

(b) 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 Special Use Permit in the chain of title for the Zoning Lot.

These findings, conclusions, and order were adopted by the Asheboro City Council in open session during a regular meeting of the Council that was held on October 4, 2012.

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

ATTEST:

/s/Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

**(e) An Ordinance to amend Sunset Theatre Project (Fund #67).**

**25 ORD 10-12**

**ORDINANCE TO AMEND SUNSET THEATRE PROJECT (FUND #67) FY 2012-2013**

**WHEREAS**, the current adopted budget for the Sunset Theatre Project is in the amount of \$678,836, and;

**WHEREAS**, on August 9, 2012, the low negotiated bid from Rehab Builders, Inc. for construction was presented and approved, pending LGC approval, at a cost of \$1,635,875.00, and on September 6, 2012 an amendment for additional architectural services needed in association with this bid was approved at \$14,650, and

**WHEREAS**, on September 11, 2012, the Local Government Commission approved the City of Asheboro debt service request of \$1,200,000 and;

**WHEREAS**, on September 21, 2012, the City of Asheboro executed with Rehab Builders, Inc. the construction contract and now the City of Asheboro is entering into the construction phase of this project, and;

**WHEREAS**, the budget as adopted requires amendment to reflect new debt service as well as changes in estimated expenses in comparison to original budget, and;

**WHEREAS**, 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>	<u>Line item Amended Budget</u>
67-370-0003	Loan Proceeds	1,200,000	1,200,000
67-370-0000	Campaign Contributions	532,319	532,319
	Total	1,732,319	

Section 2: That the following Expense line item be increased / (decreased):

<u>Account #</u>	<u>Expense Description</u>	<u>Increase/ (Decrease)</u>	<u>Line Item Amended Budget</u>
67-840-0000	Professional Services	14,650	394,486
67-880-0000	Construction	1,635,875	1,635,875
67-890-0000	Contingency	81,794	81,794
	Total	1,732,319	



recording in the office of the Randolph County Register of Deeds of the instrument attached hereto as EXHIBIT A.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting of the council that was held on the 4<sup>th</sup> day of October, 2012.

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

ATTEST:

/s/Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

[A copy of the above-referenced EXHIBIT 1 is on file in the City Clerk's office.]

**(j) Acknowledgement of the receipt of the minutes of the Asheboro ABC Board's meeting that was held on September 4, 2012.**

[A copy of the above-referenced minutes of the September 2012 meeting of the Asheboro ABC Board are on file in the city Clerk's office.]

**4. Community Development Division Items:**

**(a) Presentation by Hemal Shah of the North Carolina Department of Transportation (NCDOT) concerning the status of the Asheboro Comprehensive Transportation Plan.**

The existing Randolph County Comprehensive Transportation Plan (CTP) was done in 2011 and the Asheboro Thoroughfare plan was done in 1999.

The Asheboro Planning Area Population according to the US Census for the Asheboro planning area was 31,458 in 1990, 39,093 in 2000 and 42,878 in 2010. The population projections are 43,567 in 2012, 46,205 in 2020, 48,327 in 2030, and 51,307 in 2040.

The employment projections for 2040 showed growth in industry, retail, highway retail, service, and office employment. A copy of the entirety of the data presented by Ms. Shah is on file in the City Clerk's office. Ms. Shah requested approval of this data to move forward with her studies.

Upon motion by Mr. Swiers and seconded by Mr. Bell, Council voted unanimously to accept Ms. Shah's presentation and move forward with the process.

As part of the continuing process to develop the city's Comprehensive Transportation Plan, there will be a public workshop on November 1, 2012 at the Public Works Facility from 4:00 p.m. until 7:00 p.m.

**(b) Consideration of a preliminary plat submitted for the McDowell Road Commercial Park (Community Development Division File No. SUB-00-02).**

Due to the fact that the Council's review of the subdivision plat submissions can be classified as a quasi-judicial process, and in light of the long-term business relationship between the applicant and Mr. Swiers' insurance services firm, Mr. Swiers asked to be excused from considering this matter. Upon motion by Mr. Baker and seconded by Mr. Burks, Council Members Baker, Bell, Burks, Carter, Hunter, and Moffitt voted to excuse Mr. Swiers from hearing this preliminary subdivision plat review case. Mr. Swiers then stepped away from the Council table, and this case was heard.

Mr. Nuttall presented the staff analysis of the preliminary subdivision plat. The Council previously reviewed a preliminary plat for this subdivision on March 9, 2000. Updates to the plat showing current engineering data are required. A final plat has been recorded for Phase I of the subdivision.

The staff had no pending corrections or checklist items to be completed. Accordingly, the Community Development Division Staff and the Planning Board recommended approval of the submitted preliminary subdivision plat. A copy of this plat is on file in the City Clerk's office.

Upon motion by Mr. Bell and seconded by Ms. Carter, Council Members Baker, Bell, Burks, Carter, Hunter, and Moffitt voted to approve the preliminary plat as submitted.

With the conclusion of this case, and upon motion by Mr. Bell and seconded by Ms. Carter, Council Members, Baker, Bell, Burks, Carter, Hunter, and Moffitt voted to have Mr. Swiers return to his seat at the Council table and participate in the Council's consideration of the remaining agenda items.

**5. Public Comment Period:**

Mayor Smith opened the floor for comments from the public, and none were offered.

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

**6. Street and traffic Items:**

**(a) Request by Asheboro City Schools for an ordinance to reduce the speed limit on Glenwood Road from 35 MPH to 25 MPH.**

Mr. Bunker presented a request from Asheboro City Schools, along with a supporting recommendation from the North Carolina Department of Transportation (NCDOT), for an ordinance to reduce the speed limit on Glenwood Road (SR2203), a state maintained road, from 35 mph to 25 mph.

Upon motion by Mr. Bell and seconded by Ms. Carter, the Council voted unanimously to approve this request and adopted the following ordinance by reference:

**26 ORD 10-12**

**ORDINANCE REDUCING THE SPEED LIMIT ON GLENWOOD ROAD BETWEEN  
EAST KIVETT STREET AND CLIFF ROAD**

**WHEREAS**, Section 160A-296 of the North Carolina General Statutes provides that a city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits; and

**WHEREAS**, Section 20-141(b) of the North Carolina General Statutes provides as follows:

Except as otherwise provided in this Chapter, it shall be unlawful to operate a vehicle in excess of the following speeds:

- (1) Thirty-five miles per hour inside municipal corporate limits for all vehicles.
- (2) Fifty-five miles per hour outside municipal corporate limits for all vehicles except school buses and school activity buses; and

**WHEREAS**, Section 20-141(f) of the North Carolina General Statutes provides as follows:

Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that a higher maximum speed than those set forth in subsection (b) is reasonable and safe, or that any speed hereinbefore set forth is greater than is reasonable and safe, under the conditions found to exist upon any part of a street within the corporate limits of a municipality and which street is a part of the State highway system (except those highways designated as part of the interstate highway system or other controlled-access highway), said local authorities shall determine and declare a safe and reasonable speed limit. A speed limit set pursuant to this subsection may not exceed 55 miles per hour. Limits set pursuant to this subsection shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit; and

**WHEREAS**, speed restrictions established by the Asheboro City Council by means of the adoption of an appropriate ordinance are to be recorded in Schedule 16 of Chapter 72 of the Code of Asheboro; and

**WHEREAS**, on the basis of engineering and traffic investigations conducted by the North Carolina Department of Transportation at the request of the Asheboro City Schools, the Asheboro City Council has concluded that a municipal ordinance should be adopted to reduce the speed limit from thirty-five (35) miles per hour to twenty-five (25) miles per hour on the section of Glenwood Road (North

Carolina Secondary Road 2203) that directly impacts Lindley Park Elementary School (this section of Glenwood Road extends northward from the intersection with East Kivett Street to the intersection with Cliff Road) in order to address traffic safety concerns initially raised by the principal at Lindley Park Elementary School;

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

**Section 1.** The speed limit shall be twenty-five (25) miles per hour on Glenwood Road (North Carolina Secondary Road 2203) from a point located 0.78 of a mile north of East Dixie Drive (United States Highway 64) northward to a point located 1.044 miles north of East Dixie Drive (United States Highway 64).

**Section 2.** The speed restriction imposed by this ordinance shall become effective upon adoption of a concurring ordinance by the North Carolina Department of Transportation and the erection of signs giving notice of the authorized speed limit.

**Section 3.** The city clerk shall amend Schedule 16 of Chapter 72 of the Code of Asheboro to reflect the imposition of the above-stated speed restriction.

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

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 4<sup>th</sup> day of October, 2012.

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

ATTEST:

/s/Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

**(b) Petition received from residents of Oak Drive for an ordinance to reduce the speed limit on Oak Drive from 35 MPH to 20 MPH.**

Mr. Bunker presented the petition and letter received from Ms. Jean Covington-LaCoss to reduce the speed limit on Oak Drive to 20 mph.

Ms. LaCoss addressed the council expressing her concerns and the need for the ordinance to be passed.

Upon motion by Mr. Bell and seconded by Mr. Moffitt, Council voted unanimously to direct the City Attorney to draft an ordinance implementing the requested speed restriction and to place the ordinance on the Council's November consent agenda. The new speed restriction is to have an effective date of December 1, 2012.

A Copy of the letter from Ms. LaCoss and the petition to lower the speed limit on Oak Dr. is on file in the City Clerk's office.

**7. Water/Wasterwater Utility Items:**

**(a) Consideration of a resolution per G.S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with The Wooten Company of Asheboro, NC to provide engineering services for the Water Treatment Plant Filter Replacement Project, for costs not to exceed \$48,500.00.**

Mr. Rhoney presented this item for consideration, and recommended that the aforementioned resolution be adopted by reference.

Upon motion by Mr. Baker and seconded by Ms. Carter, the Council unanimously voted to the following resolution:

43 RES 10-12

**RESOLUTION EXEMPTING THE WATER TREATMENT PLANT FILTER REPLACEMENT PROJECT  
FROM THE PROVISIONS OF CHAPTER 143, ARTICLE 3D OF  
THE NORTH CAROLINA GENERAL STATUTES**

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

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

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

Units of local government . . . may in writing exempt particular projects from the provisions of this Article (Article 3D) in the case of:

- (a) Proposed projects where an estimated professional fee is in an amount less than thirty thousand dollars (\$30,000), or
- (b) Other particular projects exempted in the sole discretion of . . . the unit of local government, stating the reasons therefore and the circumstances attendant thereto; and

**WHEREAS**, with the adoption of the Budget Ordinance for fiscal year 2012-2013, the Asheboro City Council has appropriated funding to rebuild the filters at part of the city's water treatment plant; and

**WHEREAS**, L.E. Wooten and Company d/b/a The Wooten Company has offered to provide the engineering services needed to properly complete the Water Treatment Plant Filter Replacement Project in consideration of the payment of a professional services fee that is not to exceed forty-eight thousand five hundred and no hundredths dollars (\$48,500.00); and

**WHEREAS**, on the basis of the firm's demonstrated competence when completing past projects for the City of Asheboro Division of Water Resources, the city's professional staff has recommended the utilization of The Wooten Company to provide the engineering services needed to complete the Water Treatment Plant Filter Replacement Project;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the Water Treatment Plant Filter Replacement Project is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes on the basis of the demonstrated competence of The Wooten Company; and

**BE IT FURTHER RESOLVED** that the City Manager is hereby authorized to execute, in accordance with the applicable laws and the city's standard contracting policies, a contract with The Wooten Company for the provision of the engineering services needed to successfully complete the Water Treatment Plant Filter Replacement Project.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 4<sup>th</sup> day of October, 2012.

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

ATTEST:

/s/Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

- (b) Approval of Change Order #3 (Final) on the Airport Water and Sewer Improvements-Contract A Project (Terry's Plumbing and Utilities, Inc.) increasing the construction contract amount by \$1,711.18 to \$270,116.18 for adjustment of quantities as built, and extending the contract time by 75 calendar days to September 13, 2012 (completion date).**

Mr. Bunker presented this item. The project has been completed, and Mr. Bunker recommended approval of the Change Order. A copy of the said Change Order is on file in the City Clerk's office.

Upon motion by Mr. Bell and seconded by Mr. Burks, council voted unanimously to approve this final Change Order for Contract A.

- (c) Approval of Change Order #3 (Final) on the Airport Sewage Pump Station/Force Main-Contract B Project (Terry's Plumbing and Utilities, Inc.) decreasing the construction contract amount by \$42,802.20 to \$788,328.79 for adjustment of quantities as built, and extending the contract time by 75 calendar days to September 13, 2012 (completion date).**

Mr. Bunker presented this item. They had an under run based on the quantity being less than originally estimated. Mr. Bunker recommended that the Change Order be approved. A copy of the said Change Order is on file in the City Clerk's office.

Upon motion by Mr. Burks and seconded by Mr. Bell, Council voted unanimously to approve this final Change Order for Contract B.

- (d) Council discussion of purchase of additional 33 acres of Lake Lucas waterfront property for watershed protection and future park development.**

Mr. Ogburn reported that approximately 33 acres of undeveloped land contiguous with Lake Lucas has become available for purchase. The acquisition of this land by the city would remove this parcel from the inventory of land available for development within the Lake Lucas watershed. The city is interested in preventing development that might not be advantageous to the city's efforts to protect the high quality of the municipality's raw water supply.

The owner of the said 33-acre tract is The Farm at Little River, LLC. Mr. J.B. Davis, on behalf of the limited liability company, has indicated that the owner would be willing to discuss selling the land to the city at a purchase price of \$415,000.00.

After discussing the potential for acquiring this property, the Council Members reached a consensus that the city's professional staff should actively pursue negotiations for the purchase of the above-described parcel of land and bring a written offer to purchase the land to the Council for final consideration. City staff is also to investigate if any funding opportunities are available for this project.

## **8. Stay Well Economic Development Project.**

- (a) Introduction of Chris Kennedy.**

Mr. Ogburn introduced Mr. Chris Kennedy, who has joined the city staff as a regular part-time employee (Planning Intern) and is assigned to the Stay Well Economic Development Project.

- (b) Staff Presentation on proposed Stay Well, LLC Development Plan.**

Mr. Kennedy presented the Proposed Stay Well, LLC Infrastructure Project. Randolph Hospital plans a new adult day care and wellness center with a medical clinic in partnership with Moses Cone Hospital and Hospice of Randolph County. The proposed site is located on Curry Road near the intersection of US 220 and McDowell Road. The center will be established as Stay Well, LLC, a 501(c)3 entity. The center will serve a medically eligible population within a 45-mile drive of the center in central Asheboro.

The proposed job creation is 45 jobs within 25 months, with average annual wage of \$53,000. The infrastructure improvements consist of the extension of a 6-inch public water line of approximately 1,000 feet. The estimated project cost for the water line extension is \$46,587.50. The Rural Center will award up to 50% of the project cost, which would be approximately \$23,293.75. Local match is a minimum of 5% which would be approximately \$1,165.00.

The proposed project start date is November, 2012, and the proposed ending date is July, 2013. The facility will be 16,700 square feet. Maximum number of daily patients is 110, with potential enrollees being 1,800. The Budget is \$11,000,000 to \$12,000,000. The number of employees



**9. Consideration of a resolution authorizing the conveyance of surplus real property to Habitat for Humanity of Randolph County.**

Mr. Sugg presented the resolution approving the conveyance of property to Habitat for Humanity of Randolph County pursuant to G.S. 160A-279. This property is the lot located at 120,122 and 124 South Randolph Avenue

Upon motion by Mr. Bell and seconded by Mr. Hunter, the Council voted unanimously to approve the following resolution:

**45 RES 10-12**

**RESOLUTION APPROVING THE CONVEYANCE OF PROPERTY TO HABITAT FOR HUMANITY OF RANDOLPH COUNTY PURSUANT TO G.S. 160A-279**

**WHEREAS**, the City of Asheboro owns a parcel of land identified by Randolph County Parcel Identification Number 7761026136 and further identified by a total of three (3) street addresses assigned to the structure that was formerly located on this parcel of land, the assigned street addresses were 120, 122, and 124 South Randolph Avenue (this parcel of land or lot will be hereinafter referred to as the "S. Randolph Ave. Lot"); and

**WHEREAS**, the City of Asheboro does not currently have an operational need for the S. Randolph Ave. Lot; and

**WHEREAS**, Section 160A-279 of the North Carolina General Statutes authorizes a city to convey real property by private sale to a non-profit corporation, if the city is authorized by law to appropriate money to the non-profit corporation; and

**WHEREAS**, Section 160A-456(b) of the North Carolina General Statutes authorizes a city council to "exercise directly those powers granted by law to . . . housing authorities;" and

**WHEREAS**, Section 157-9 of the North Carolina General Statutes lists statutory powers granted to housing authorities and includes in these powers the ability to "prepare, carry out, and operate housing projects;" and

**WHEREAS**, the term "housing project" is defined by Section 157-3(12) of the North Carolina General Statutes to include undertakings to assist developers and owners of owner-occupied housing; and

**WHEREAS**, Section 160A-20.1 of the North Carolina General Statutes authorizes the city to appropriate money to private organizations to carry out any activity that the city could perform itself; and

**WHEREAS**, pursuant to the above-stated statutory authorizations, the City of Asheboro is authorized to appropriate money to private organizations that develop owner-occupied housing for persons of low to moderate income; and

**WHEREAS**, due to the fact that the city is authorized to appropriate money to private organizations for the development of owner-occupied housing for persons of low to moderate income, Section 160A-279 of the North Carolina General Statutes authorizes the private sale of real property to a private corporation for the development of owner-occupied housing for persons of low to moderate income; and

**WHEREAS**, Habitat for Humanity of Randolph County, N.C., Inc. has submitted a written request, dated August 1, 2012, for the conveyance of the S. Randolph Ave. Lot to the non-profit corporation for the "public purpose of building homes for low and moderate income families;" and

**WHEREAS**, the Asheboro City Council wishes to utilize the S. Randolph Ave. Lot to assist developers and owners of owner-occupied housing for persons of low to moderate income;

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

**Section 1.** The S. Randolph Ave. Lot is hereby declared to be surplus real property.

**Section 2.** The Mayor of the City of Asheboro is hereby authorized to execute all documents necessary to convey to Habitat for Humanity of Randolph County, N.C., Inc. fee simple determinable title to the S. Randolph Ave. Lot that is more particularly described as follows:

City of Asheboro, Asheboro Township, Randolph County, North Carolina:

BEING ALL of the 11,449 square feet of land, more or less, identified as the property of the City of Asheboro that was originally acquired by the city by means of an instrument recorded in Deed Book 2167, Page 32, Randolph County Public Registry

and as shown on the plat of survey entitled "Property of CITY of ASHEBORO Former 120, 122 & 124 South Randolph Avenue." This plat of survey was drawn under the supervision of Thomas Scaramastra, a Professional Land Surveyor with registration number L-4421. The said plat of survey, which is identified by Job No. 09058, is recorded in Plat Book 127, Page 57, Randolph County Public Registry.

**Section 3.** The consideration for the conveyance is the following set of conditions, covenants, and restrictions, which shall be incorporated into the non-warranty deed given by the city to the non-profit corporation along with the reservation of a permanent sanitary sewer easement in favor of the city for the purpose of maintaining an existing sanitary sewer line:

1. The S. Randolph Ave. Lot is to be used for the development of owner-occupied housing for persons of low to moderate income.
2. With regard to monetary consideration, the sum of \$17,500.00 is to be paid to the City of Asheboro in good funds according to the following payment schedule:
  - a. An initial payment of \$2,000.00 is to be paid on or before November 1, 2012; and
  - b. A second payment of \$2,000.00 is to be paid on or before December 1, 2012; and
  - c. A third payment of \$2,000.00 is to be paid on or before January 1, 2013; and
  - d. A fourth payment of \$2,000.00 is to be paid on or before February 1, 2013; and
  - e. A fifth payment of \$2,000.00 is to be paid on or before March 1, 2013; and
  - f. A sixth payment of \$2,000.00 is to be paid on or before April 1, 2013; and
  - g. A seventh payment of \$2,000.00 is to be paid on or before May 1, 2013; and
  - h. An eighth payment of \$2,000.00 is to be paid on or before June 1, 2013; and
  - i. A ninth and final payment of \$1,500.00 is to be paid on or before July 1, 2013.

**Section 4.** The deed given by the city to convey the S. Randolph Ave. Lot shall convey title in fee simple determinable. The fee simple interest of Habitat for Humanity of Randolph County, N.C., Inc. shall terminate if the non-profit corporation uses or conveys the property for any purpose other than the development of owner-occupied housing for persons of low to moderate income.

**Section 5.** The city clerk shall publish a notice summarizing the contents of this resolution, and the property may be sold at any time subsequent to the expiration of a 10-day waiting period that begins to run from the date of the publication of the said notice.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting that was held on the 4<sup>th</sup> day of October, 2012.

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

ATTEST:

/s/Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

**10. Consideration of a resolution authorizing the execution of an interlocal contract for cooperative purchasing.**

Mr. Sugg reported that city staff had been studying the possibility of enhancing the city's purchasing flexibility and efficiency by utilizing, when warranted by the facts of a particular case, competitive bidding group purchasing programs. This exception to the bidding statutes is authorized by Section 143-129(e)(3) of the North Carolina General Statutes.

The Houston-Galveston Area (H-GAC) Council has created a cooperative purchasing program that qualifies as a competitive bidding group purchasing program under the North Carolina General Statutes. In order to participate in this program, at no cost to the city, an interlocal contract has to be entered with H-GAC.

In order to enable the city to proceed in an efficient and flexible manner with the procurement process for items such as a new fire truck, Mr. Sugg recommended adoption of the following resolution authorizing an interlocal contract with H-GAC.

Upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to approve the following resolution:

46 RES 10-12

**RESOLUTION APPROVING AN INTERLOCAL CONTRACT FOR COOPERATIVE PURCHASING**

**WHEREAS**, Section 143-129(e)(3) of the North Carolina General Statutes authorizes the city to make purchases through competitive bidding group purchasing programs that are formally organized and that offer competitively obtained purchasing services at discount prices to two (2) or more public agencies; and

**WHEREAS**, the Houston-Galveston Area Council (hereinafter referred to as "H-GAC") is a regional planning commission and political subdivision of the State of Texas; and

**WHEREAS**, H-GAC is authorized, under Texas law, to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

**WHEREAS**, on the basis of this authority, H-GAC has instituted a cooperative purchasing program; and

**WHEREAS**, due to the fact that H-GAC's cooperative purchasing program meets the standards found in Section 143-129(e)(3) of the North Carolina General Statutes, the City of Asheboro can make purchases through H-GAC's cooperative purchasing program; and

**WHEREAS**, research conducted by city staff members indicates that quality equipment such as fire trucks can be ordered efficiently and economically through this cooperative purchasing program; and

**WHEREAS**, in order to join this cooperative purchasing program, the City of Asheboro must execute an "INTERLOCAL CONTRACT FOR COOPERATIVE PURCHASING" that does not obligate the city to pay any fees or make any purchases through the program; and

**WHEREAS**, the city's professional staff has reviewed the prescribed contract and has found no objectionable terms and conditions within the proposed contract; and

**WHEREAS**, in light of the acceptability and non-burdensome nature of the proposed contractual terms, city staff members have recommended approval of the cooperative purchasing agreement with H-GAC in order to give the city more opportunities to efficiently and economically acquire quality equipment for the performance of essential municipal services; and

**WHEREAS**, the Asheboro City Council concurs with this recommendation;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the INTERLOCAL CONTRACT FOR COOPERATIVE PURCHASING with H-GAC is approved and the Mayor of the City of Asheboro is hereby authorized to execute all documents necessary to join this competitive bidding group purchasing program.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting that was held on the 4<sup>th</sup> day of October, 2012.

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

ATTEST:

\_\_\_\_\_  
/s/Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

**11. Consideration of a resolution moving the location of the Asheboro City Council's regular November meeting to the conference room of the Asheboro Public Works Facility.**

Mayor Smith asked for consideration of the resolution to move the location of the regular November monthly meeting of the City Council to the Public Works Facility conference room due to the possibility of a large crowd being at that meeting because of extraterritorial planning jurisdiction issues being discussed.

Upon motion by Mr. Baker and seconded by Mr. Burks, Council voted unanimously to approve the following resolution to move the meeting to the Public Works Facility:

