

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, OCTOBER 10, 2019  
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 city management team members present:

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

John N. Ogburn, III, City Manager  
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal  
Doug Kemp, Human Resources Director  
Michael L. Leonard, PE, City Engineer  
Mark T. Lineberry, Chief of Police  
Trevor L. Nuttall, Community Development Director  
Deborah P. Reaves, Finance Director  
Michael D. Rhoney, PE, Water Resources Director  
Jeffrey C. Sugg, City Attorney

**1. Call to order.**

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

**2. Moment of silent prayer and pledge of allegiance.**

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

**3. Presentation of a *Key to the City* to the Clyde and Betty Foust Family.**

Mayor Smith presented to the Clyde and Betty Foust Family a key to the city in recognition and honor of their sustained leadership and faithful public service to the citizens of Asheboro.

**4. Recognition of Finance Officer Deborah P. Reaves for her vital role in the city's receipt from the Government Finance Officers Association of a Certificate of Achievement for Excellence in Financial Reporting.**

Mayor Smith recognized Ms. Deborah P. Reaves for her vital role in the city's receipt from the Government Finance Officers Association of a Certificate of Achievement for Excellence in Financial Reporting.

**5. Presentation of a gift to the City of Asheboro from the Sunset Property Owners' Group.**

Mr. Neil Griffin reported that the Sunset Property Owners' Group has raised in excess of \$10,000 for the City of Asheboro to extend hanging baskets along Sunset Avenue to the I73/74 corridor. These property owners are supportive of the success in the downtown area and want to spread the success along the length of the gateway from the interstate to the downtown area.

**6. Presentation of the North Carolina Waterworks Operators Association Laboratory Analyst of the Year Award.**

Mr. Michael D. Rhoney, PE, who is the city's Water Resources Director, presented the North Carolina Waterworks Operators Association Laboratory Analyst of the Year Award to the city's Water Quality Manager Bernadine Wardlaw.

**7. Update from the Randolph County Advisory Council for Disability Awareness.**

Ms. Kelli King, who is the city's Senior Adults and Special Populations Program Coordinator and Ms. Kathy Vuncannon, a member of the Randolph County Advisory Council for Disability Awareness, invited everyone to the 6<sup>th</sup> Annual Disability Awareness Parade and Celebration that will take place in downtown Asheboro on October 18, 2019 at 10:00 a.m.

**8. Final Report on the Sunset Theatre Capital Campaign.**

Ms. Reaves reported that the Sunset Theatre Capital Campaign is complete, and the renovations to the theatre have been paid in full. This downtown asset is now debt free.

No formal action was taken by the city council during this portion of the meeting.

**9. Public comment period.**

Mayor Smith opened the floor for public comments.

Ms. Janet Brockus of 801 Oak Bend Drive presented traffic safety/stop sign concerns within her neighborhood.

Mr. Harrell Hamilton, a resident of the Greystone Community presented traffic safety/parking concerns within the vicinity of Lindley Park Elementary School.

Ms. Linda Hill presented comments and concerns pertaining to code enforcement/quality of life issues along with traffic and pedestrian safety concerns in city residential neighborhoods.

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

**10. Consent agenda.**

Prior to entertaining a motion, Mayor Smith announced that, at the request of city staff, a resolution pertaining to the conveyance of a surplus vehicle was withdrawn from consideration at this meeting. After this advance withdrawal of an item was announced without objection, Council Member Bell moved, with a second by Council Member Snuggs, to approve/adopt the following consent agenda items as presented. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

**(a) The meeting minutes for the city council's regular meeting on September 12, 2019.**

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

(b) The final decision document for Land Use Case No. CUP-19-09.

Case No. CUP-19-09  
Final Decision Document  
City Council of the City of Asheboro, North Carolina

**IN THE MATTER OF THE APPLICATION BY OSOTT, LLC FOR A CONDITIONAL  
USE PERMIT AUTHORIZING BOTH AN INDUSTRIAL DEVELOPMENT WITH  
MULTIPLE USES AND/OR STRUCTURES  
AND A SPECIAL NON-RESIDENTIAL INTENSITY  
WATERSHED ALLOCATION**

**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 (the “Council”) for a properly advertised quasi-judicial hearing that was initially opened on July 11, 2019, and due to the granting of hearing continuances during the July and August meetings, was conducted over the course of three regular Council meetings held on the following dates: July 11, 2019; August 8, 2019; and September 12, 2019. During the hearing, sworn witnesses provided testimony and documentary evidence pertaining to the application submitted by OSOTT, LLC for a Conditional Use Permit (“CUP”). 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. OSOTT, LLC (the “Applicant”) applied, by and through John Thompson, JB Davis, and Jerry Holder, for a CUP that is needed for the Applicant to proceed with a proposed land development project. Along with building elevations, the Applicant has submitted the site plan required by Section 1005 of the Asheboro Zoning Ordinance (the “Ordinance”).

2. The CUP is needed for two reasons: (a) Without a CUP, the Applicant cannot develop its proposed industrial development with multiple uses and/or structures on land that is located within a conditional use zoning district, and (b) Due to the fact that the proposed site for the industrial development is in the balance area of a watershed, the CUP is needed to obtain a special non-residential intensity watershed allocation.

3. The proposed site for the Applicant’s industrial development is approximately 62.34 acres in size and is composed of three parcels of land located on the north side of Vision Drive and along Nottingham Street (south of 1595 Nottingham Street).

4. These three parcels of land, which were submitted by the property owners (OSOTT, LLC and JB Davis & Sons Ventures, LLC) for consideration as a single zoning lot under the CUP application process, are identified by the following Randolph County Parcel Identification Numbers: 7752655565, 7752547146, and 7752640158. The three combined parcels of land will be hereinafter collectively referred to as the “Zoning Lot.”

5. During his testimony, City of Asheboro Community Development Director Trevor Nuttall offered uncontroverted testimony that the required notices of the combined hearing on the application for a rezoning to place the Zoning Lot in a CU-I2 zoning district and for the issuance of a CUP were mailed and published in accordance with the applicable legal requirements.

6. In a legislative act, the Council found the zoning district requested by the Applicant to be consistent with the city’s adopted comprehensive plan of development and placed the entirety of the Zoning Lot in a CU-I2 (Conditional Use General Industrial) zoning district before acting on the requested CUP. Prior to this legislative act, the Zoning Lot was divided between an R15 low-density single-family residential district, an RA6 high-density

residential district, and a CU-I3 conditional use limited industrial district which covered the largest portion of the Zoning Lot.

7. Section 102 of the Ordinance 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.*

8. Section 102 of the Ordinance also 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 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.*

*The authorization of a Conditional Use Permit in any CU District for any use which is permitted only as a Special Use in the zoning district which corresponds to the CU District shall preclude any requirement for obtaining a Special Use Permit for any such use from the City Council.*

9. Section 1013.2 of the Ordinance establishes the following general standards for the issuance by the Council of a CUP:

*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.*
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.*

10. Section 210 of the Ordinance contains a statement of intent for the I2 Industrial Development District, and this statement of intent provides as follows:

*The intent of the I2 Industrial Development District is to produce areas for intensive manufacturing, warehousing, processing and assembly uses, controlled by performance standards to limit the effect of such uses on adjacent districts.*

11. According to Table 200-2 of the Ordinance, industrial developments with multiple uses and/or structures, which is the type of land use proposed by the Applicant for the Zoning Lot, are permitted as a principal use in the underlying I2 zoning district.

12. Article 1100 of the Ordinance defines the land use proposed for the Zoning Lot by the Applicant as an “industrial development with more than one principal structure and/or use on one zoning lot that will not be developed into building lots.”

13. The Ordinance’s supplemental regulations for industrial developments with multiple uses and/or structure, which are found as Note 45 in the notes to Table 200-2, provide as follows:

*This type of development generally includes more than (sic) one principal structure and use with associated accessory structures and uses on one zoning lot which will not be subdivided into customary building lots. The development as a whole (including all principal structures and accessory structures) may not exceed the permitted FAR as specified in Table 200-2 (sic). All yard, height, setback, parking, buffer and screening etc. requirements of this ordinance shall be met for the development as a whole.*

14. With regard to the Zoning Lot, the surrounding land uses are as follows:

<b>North:</b>	Single-Family/Schools/ Undeveloped Land	<b>East:</b>	Railroad/ Single-Family
<b>South:</b>	Undeveloped Land	<b>West:</b>	I-73/I-74/ Single-Family

15. A portion of the Zoning Lot is inside the city limits (this section of land is identified by Randolph County Parcel Identification Number 7752655565 and is located to the east of the Norfolk Southern railroad tracks). The balance of the Zoning Lot is beyond the city limits but within the city’s extraterritorial planning jurisdiction.

16. Vision Drive is a state-maintained boulevard with fully controlled access in this location. Access to the Zoning Lot will not be permitted from Vision Drive. The Zoning Lot also has frontage along another fully controlled access highway, the interstate highway (I-73/I-74). The public street proposed as the Zoning Lot’s sole point of ingress/egress is Nottingham Street which is a state-maintained street.

17. The North Carolina Department of Transportation (“NCDOT”) will be responsible for driveway permitting on Nottingham Street.

18. The Zoning Lot is approximately 62.34 acres in size. Out of these 62.34 acres, approximately 49.2 acres of land are located west of the Norfolk Southern railroad tracks.

Prior to the placement of the Zoning Lot into a CU-I2 zoning district during the combined hearing on the Applicant's rezoning and CUP request, the approximately 49.2 acres of land on the west side of the railroad tracks were in a CU-I3 zoning district and designated as an Employment Center by the city's Land Development Plan (the "LDP").

19. This approximately 49.2 acres of land on the west side of the Norfolk Southern railroad tracks was first placed in a conditional use industrial zoning district in May 1986. However, no specific use had been approved for this property prior to the consideration of the current Applicant's request.

20. The LDP designation of a majority of the acreage within the Zoning Lot as an Employment Center is attributable to the location of this land along a major transportation corridor (I-73/I-74), near an interstate interchange. In addition to this proximity to an interstate interchange, the Zoning Lot adjoins the Norfolk Southern railroad tracks.

21. The Zoning Lot is subject to the Northeast Small Area plan. This plan identifies the presence of an Employment Center at the interchange of I-73/I-74 and Vision Drive as a key issue. The city's LDP deems industrial uses to be an integral component of an Employment Center along with other non-residential uses.

22. Although there are adjacent residential uses and two public schools in the Zoning Lot's general area, there are also commercial, office, and institutional land uses and zoning along Vision Drive.

23. The city's LDP Growth Strategy Map designates the majority of the Zoning Lot, which is west of the railroad tracks, as an Economic Development Area, and the balance of the Zoning Lot located to the east of the railroad tracks is designated as a Primary Growth Area.

24. The Applicant's proposal includes a potential rail spur to serve the industrial development. Norfolk Southern has the final review and approval authority for the alignment of the rail spur and any improvements within the railroad right-of-way.

25. A portion of the Zoning Lot is located within the Back Creek Lake watershed and, consequently, is subject to the regulations found in Article 300B (Watershed Protection Regulations) of the Ordinance.

26. Watershed areas are divided into two tiers of control, critical and balance areas. Critical areas, which are the areas nearest to the water supply, are subject to the most stringent regulations because proximity to the intake creates a higher risk of contamination. The remaining part of the watershed, or the balance of the watershed, is subject to less restrictions because the greater distance from the point of intake lowers the risk of contamination. The northern two-thirds of the Zoning Lot, more or less, is in the balance of the Back Creek Lake watershed.

27. In the Ordinance, Article 300B, Section 310B.3, Subsection B.2. provides as follows:

*All other residential and non-residential development shall not exceed twelve percent (12%) built-upon area on a project by project basis except that up to ten percent (10%) of the balance of the watershed may be developed for nonresidential uses to seventy percent (70%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.*

28. For a project to exceed the 12% built-upon limitation, the Council must issue a special non-residential intensity allocation ("SNIA"). Pursuant to Article 300B of the Ordinance, the Council is authorized to issue a Special Use Permit ("SUP") granting a SNIA so long as the issuance of the SUP is consistent with the provisions of Article 600, Section 647 of the Ordinance.

29. Article 600, Section 647.1 of the Ordinance provides as follows:

*All applications for a SNIA shall include the following:*

- a. *Projects must minimize built-upon surface area.*
- b. *Projects must direct stormwater away from surface waters.*
- c. *Projects must incorporate Best Management Practices to minimize quality impacts.*
- d. *Projects must be connected to City of Asheboro water and sewer.*
- e. *Projects must provide a positive economic benefit to the community.*

30. Within the balance of the Back Creek Lake watershed, 193.48 acres of land are available for the special allocation referred to as a SNIA. If the requested SNIA is granted, the Applicant's project would use 11.32 acres of the special allocation area, reducing the available allocation area to 182.16 acres.

31. In comparison to the earlier drafts of the site plan, the Applicant's current proposed use of 11.32 acres of the special allocation area is an improvement that reflects a reduction in the amount of built-upon area within the Zoning Lot. Prior to this improvement, the Applicant had requested the maximum allocation of 70% or 13.76 acres.

32. The Council's approval of the SNIA will have no effect on general watershed development regulations designed to protect water quality.

33. In pertinent part, Section 102 of the Ordinance provides as follows:

*The authorization of a Conditional Use Permit in any CU District for any use which is permitted only as a Special Use in the zoning district which corresponds to the CU District shall preclude any requirement for obtaining a Special Use Permit for any such use from the City Council.*

34. John Thompson, who is licensed in North Carolina as a general contractor and is authorized to act on behalf of the Applicant, provided uncontroverted testimony that best management practices ("BMP") will be utilized for the project. The site plan notes that the BMP will be sized to treat 70% built-upon area even though the site plan does not utilize the entirety of the allowable 70% built-upon area for the proposed project.

35. H. Mack Summey, PE is the engineer who sealed the plans reviewed by the Council, and he testified that, due to runoff controls such as the ditching incorporated into the plans, stormwater from the proposed development will not impact the King property located to the immediate north of the Zoning Lot, specifically including the pond located on the King property.

36. A small portion of the Zoning Lot near Vision Drive is located in a special hazard flood area. The site plan indicates that no building activity will occur in this flood area, and John Thompson's uncontroverted testimony confirmed this fact.

37. John Thompson and Ben Morgan, Esq. testified on behalf of the Applicant that the proposed industrial development will provide an economic benefit that will support the ability of the local economy to produce jobs and tax revenue by filling a need for industrial warehousing space. This testimony was not challenged by any other witnesses.

38. While he testified as to the need for warehousing space that will be addressed by the Applicant's proposal, Ben Morgan did not assert that the Applicant's proposed land use is a public necessity. Instead, Mr. Morgan called Lee Roberts to provide expert testimony as to the impact of the proposed industrial development on the value of property adjoining or abutting the Zoning Lot.

39. Lee Roberts testified that he is a licensed real estate appraiser in North Carolina and that he has been conducting residential real estate appraisals for approximately thirty years. In addition to residential site development work, his office conducts approximately 1,200 appraisals per year in an 8-county area in the piedmont of North Carolina. While Tom Terrell, Esq., who is legal counsel for Lucy and Paul King, vigorously challenged the adequacy of the data supporting the opinion offered by Mr. Roberts, no challenge was made to Mr. Roberts' professional qualifications as a licensed residential real estate appraiser.

40. Lee Roberts cited the May 1986 rezoning of the large portion of the Zoning Lot located on the west side of the Norfolk Southern railroad tracks to CU-I3 industrial zoning as an essential component of his analysis. This rezoning in combination with the presence of the major travel corridor (an interstate highway with the Vision Drive interchange) on one side and the railroad on the other side establishes the area for industrial use.

41. Mr. Roberts then focused his attention specifically on the King property identified on the site plan by Randolph County Parcel Identification Number 7752556741. The appraiser testified that this parcel is approximately 9.3 acres in size with two dwellings located on it. One structure, which was originally built in 1929, is a site built home with approximately 980 square feet of living space. The second structure is a 1959 single-wide manufactured home with multiple additions over the years. Lee Roberts testified as to his professional opinion that, on the basis of these factors and his extensive experience with this market and with other residential real estate in similar situations, the land use proposed by the Applicant will not substantially injure the value of adjoining or abutting property.

42. No other expert witnesses offered testimony as to the impact of the proposed development on the value of adjoining or abutting property.

43. In addition to increasing the buffer area to fifty feet on the northern boundary between the Zoning Lot and the King property, one of the changes made to the Applicant's site plan since the July 2019 Council meeting is the proposed relocation of a section of Nottingham Street along with the associated railroad crossing further south, away from the King property. Depending on whether measurements are made in relation to the railroad crossing points or along the property line, the proposed relocation would move the railroad crossing and entrance to the Zoning Lot between approximately two hundred feet and two hundred forty feet south from the current location.

44. The relocated section of Nottingham Street will provide public street access directly to the proposed industrial development, and this relocated section of street is to be built to NCDOT standards since the relocated section of Nottingham Street will continue to be state-maintained roadway. Likewise, the relocated railroad crossing is to be built to NCDOT and Norfolk Southern standards.

45. Due to the impact of this relocation of the railroad crossing and section of Nottingham Street on the ability of the Kings to access their property, legal counsel for the Applicant and the Kings jointly agreed to a proposed CUP condition requiring a permanent access easement and maintenance agreement providing a full right of access across the Zoning Lot (the Applicant's land) to the existing driveway on the King property that is identified by Randolph County Parcel Identification Number 7752556741. The maintenance of this connector to the current location of the driveway on the King property shall be the responsibility of the Applicant.

46. In addition to the above-stated condition regarding a permanent access easement and maintenance agreement, Ben Morgan, on behalf of his client (the Applicant), agreed to the following conditions for attachment to the requested CUP:

- (A) The approved land use shall be an "Industrial Development with Multiple Uses and/or Structures," excluding the uses listed below:
  - (1) Any type of Adult Establishment;
  - (2) Amusement Parks;
  - (3) Brew Pubs;
  - (4) Bus Terminal;

- (5) Cemetery (Human or Pet);
  - (6) Child Care Center;
  - (7) Circus, Fair, or Carnival;
  - (8) Correctional Facilities;
  - (9) Farmer's Market;
  - (10) Flea Market;
  - (11) Government Land Reserve;
  - (12) Junkyards;
  - (13) Kennels;
  - (14) Landfills;
  - (15) Liquor Store;
  - (16) Lumberyard;
  - (17) Mini Warehouse;
  - (18) Mobile Home Sales;
  - (19) Sludge Applications;
  - (20) Storage of Hazardous Wastes;
  - (21) Vehicle Towing Operation and/or Storage Facility; and
  - (22) Any Use Prohibited by the Watershed Protection Regulations in Article 300B of the Ordinance.
- (B) As allowed by the Ordinance, existing vegetation may be preserved and used to count towards the buffer and landscaping shown on the site plan.
- (C) If the number of parking spaces required to serve the proposed development is determined to be more or less than the amount of parking shown on the site plan, a change to the amount of parking that is compliant with the Ordinance specifications shall not be considered a modification of the project requiring Council approval. The Applicant shall submit a revised site plan for a compliance review by city staff and for inclusion in the file.
- (D) Actions identified in Article 1000, Section 1013.5.B (1) and (2) of the Ordinance related to the size of the proposed structure(s) shall be considered minor changes and not permit modifications requiring Council review.
- (E) Subject to the applicable zoning and subdivision ordinance requirements and processes, and consistent with Section 1013.5 of the Ordinance, the proposed conversion of any privately maintained drive within the Zoning Lot to a publicly maintained street shall not be deemed to be a modification of the CUP. This condition is equally applicable to a previously privately maintained connector between the Zoning Lot and public street infrastructure that is converted to a publicly maintained street.
- (F) Prior to the storage of any hazardous material, a spill prevention, containment, and control plan ("SPCC") shall be prepared by a professional competent in SPCC procedures and submitted to city staff for review and inclusion in the file. Any SPCC-required spill containment structures must be designed by a North Carolina registered professional engineer or architect.
- (G) A stormwater management plan identifying details of the stormwater BMP to be utilized shall be submitted prior to any zoning compliance permit authorizing built-upon area to exceed 12% of the watershed balance area on the zoning lot. Prior to the issuance of a certificate of zoning compliance, certification from a professional engineer stating that the stormwater BMP has been installed as designed shall be provided. Any open water retention or drainage areas shall be sprayed regularly for mosquito control. The continued maintenance of all runoff control measures shall be the responsibility of the property owner.
- (H) All land uses shall continually remain in good standing with the North Carolina Department of Environmental Quality ("NCDEQ") and/or other regulatory entities charged with enforcing air quality requirements. As a point of illustration and not limitation, this condition shall be deemed to mean that the land use remains free of any notice of violation and/or of non-compliance from NCDEQ.

- (I) Prior to the issuance of a zoning compliance permit for the construction of any phase of the development, the Applicant shall:
- (1) Provide evidence of required NCDOT approval(s);
  - (2) Provide evidence of approval by Norfolk Southern Railroad for all proposed improvements to be located within area controlled by the railroad;
  - (3) Provide evidence of compliance with the city code and policies for water and sewer extensions and connections, including annexation and the surveying of necessary easements for any lines required to be publicly maintained;
  - (4) Submit a revised site plan to city staff to accurately reflect the zoning classification of Tract 3 (Parcel Identification Number 7752655565);
  - (5) Provide NCDEQ erosion control permit when required; and
  - (6) 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.
- (J) Prior to issuance of a zoning compliance permit for future phases of the development, the following information shall be provided:
- (1) Additional lighting detail showing compliance with the Performance Standards for Industrial District provisions found in Section 316A of the Ordinance;
  - (2) Information showing compliance with the Ordinance Section 307A (Central Solid Waste Storage Area) provisions, as needed, for future phases of the development; and
  - (3) Building elevation details compliant with Article 300A, Section 316A in the Ordinance.

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 CUP, 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 CUP authorizing an industrial development with multiple uses and/or structures on the Zoning Lot.

3. The Zoning Lot is located in a CU-I2 zoning district. An industrial development with multiple uses and/or structures is permitted in the underlying I2 zoning district, and the status of this district as a conditional use district allows for closer review of the proposed land use and the imposition of individualized conditions that further the legitimate objectives of the Ordinance.

4. On the basis of competent, material, and substantial evidence in the record, and due to the acceptance by the Applicant of the conditions listed hereinbelow for attachment to the CUP, the Applicant's proposed land use meets the four general standards for granting the requested CUP, to wit:

- (A) A design professional, who is a North Carolina licensed professional engineer, has sealed the site plan for the proposed land use and has specifically included within the site plan the required elements for safely conducting the proposed land use within the balance of the watershed. In light of the Applicant's site plan and the Applicant's commitment to comply with the watershed regulations and the additional conditions attached to this CUP, no abnormal hazards that are different in kind from the materials that are already transported on either side of the Zoning Lot by means of the interstate highway

and the railroad tracks will be posed by the Applicant's proposed land use. There will definitely be increased traffic on a state-maintained road with a railroad crossing that the Applicant will construct/improve in accordance with NCDOT and Norfolk Southern standards. However, in this case, an increase in traffic does not mean that undue or unsafe congestion will occur. Accordingly, the Council has concluded that the proposed land use will not materially endanger the public health or safety if located where proposed and developed according to the approved plan.

- (B) The Applicant's proposed land use meets all of the Ordinance's required conditions and specifications.
- (C) The only expert testimony offered on the subject of whether the proposed land use will substantially injure the value of adjoining or abutting property was provided by Lee Roberts, the licensed real estate appraiser called to testify by the Applicant. Mr. Roberts testified as to his professional opinion, but he did not submit a written report such as a market impact study with market data or tax data. However, Mr. Roberts' testimony did establish that (a) he had researched zoning history pertaining to the Zoning Lot; (b) he factored surrounding land uses/activities into his analysis, specifically the interstate highway and railroad on either side of the Zoning Lot and the adjoining property; (c) he described the structures on the adjoining parcel of land for which a specific concern had been raised; and (d) he testified as to his familiarity with this real estate market and that he has experience with other homes in similar situations. Mr. Roberts asserted that he had sufficient information to form the professional opinion that the Applicant's proposed land use will not substantially injure the value of adjoining or abutting property. The Council has determined that Lee Roberts is an expert in the field of residential real estate appraisal and that his expert opinion was supported with sufficient facts and background information to conclude that the proposed land use will not substantially injure the value of adjoining or abutting property.
- (D) Based on the combination of the legislative zoning and plan consistency determinations made by the Council in this area from 1986 to the present, the existing land uses in the vicinity of the Zoning Lot and Vision Drive, and the Employment Center designation for a majority of the acreage within the Zoning Lot that is bordered by an interstate highway and a rail line, the Council has concluded that the location and character of the industrial development with multiple uses and/or structures, 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 is in general conformity with Asheboro's plan of development.

5. Due to the presence of a significant portion of the Zoning Lot within the balance of the Back Creek Lake watershed, the Applicant has properly submitted an application for a SNIA that will allow the Applicant to use approximately 11.32 acres of the special allocation area. In addition to meeting the above-described general standards for the issuance of a CUP authorizing an industrial development with multiple uses and/or structures, the same analysis of the Applicant's compliance with these four general standards applies to the request for the SNIA. Furthermore, the Applicant has also provided competent, material, and substantial evidence in the record to establish compliance with the five specific standards prescribed by Section 647.1 of the Ordinance for the issuance of the requested SNIA.

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 proposed industrial development with multiple uses and/or structures on the Zoning Lot is hereby approved and issued to the Applicant and the Applicant's heirs, successors, and assigns. Furthermore, this Conditional Use Permit includes approval of the requested SNIA so as to

allow the Applicant to develop the proposed land use in accordance with the approved site plan, the Asheboro Zoning Ordinance, and the supplementary conditions attached to this Conditional Use Permit.

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 approved site plan, and the following supplementary conditions:

- (A) The approved land use shall be an "Industrial Development with Multiple Uses and/or Structures," excluding the uses listed below:
  - (1) Any type of Adult Establishment;
  - (2) Amusement Parks;
  - (3) Brew Pubs;
  - (4) Bus Terminal;
  - (5) Cemetery (Human or Pet);
  - (6) Child Care Center;
  - (7) Circus, Fair, or Carnival;
  - (8) Correctional Facilities;
  - (9) Farmer's Market;
  - (10) Flea Market;
  - (11) Government Land Reserve;
  - (12) Junkyards;
  - (13) Kennels;
  - (14) Landfills;
  - (15) Liquor Store;
  - (16) Lumberyard;
  - (17) Mini Warehouse;
  - (18) Mobile Home Sales;
  - (19) Sludge Applications;
  - (20) Storage of Hazardous Wastes;
  - (21) Vehicle Towing Operation and/or Storage Facility; and
  - (22) Any Use Prohibited by the Watershed Protection Regulations in Article 300B of the Ordinance.
  
- (B) As allowed by the Ordinance, existing vegetation may be preserved and used to count towards the buffer and landscaping shown on the site plan.
  
- (C) If the number of parking spaces required to serve the proposed development is determined to be more or less than the amount of parking shown on the site plan, a change to the amount of parking that is compliant with the Ordinance specifications shall not be considered a modification of the project requiring Council approval. The Applicant shall submit a revised site plan for a compliance review by city staff and for inclusion in the file.
  
- (D) Actions identified in Article 1000, Section 1013.5.B (1) and (2) of the Ordinance related to the size of the proposed structure(s) shall be considered minor changes and not permit modifications requiring Council review.
  
- (E) Subject to the applicable zoning and subdivision ordinance requirements and processes, and consistent with Section 1013.5 of the Ordinance, the proposed conversion of any privately maintained drive within the Zoning Lot to a publicly maintained street shall not be deemed to be a modification of the CUP. This condition is equally applicable to a previously privately maintained connector between the Zoning Lot and public street infrastructure that is converted to a publicly maintained street.
  
- (F) Prior to the storage of any hazardous material, a spill prevention, containment, and control plan ("SPCC") shall be prepared by a professional competent in SPCC procedures and submitted to city staff for review and inclusion in the file. Any SPCC-required spill containment structures must be designed by a North Carolina registered professional engineer or architect.

- (G) A stormwater management plan identifying details of the stormwater BMP to be utilized shall be submitted prior to any zoning compliance permit authorizing built-upon area to exceed 12% of the watershed balance area on the zoning lot. Prior to the issuance of a certificate of zoning compliance, certification from a professional engineer stating that the stormwater BMP has been installed as designed shall be provided. Any open water retention or drainage areas shall be sprayed regularly for mosquito control. The continued maintenance of all runoff control measures shall be the responsibility of the property owner.
- (H) All land uses shall continually remain in good standing with the North Carolina Department of Environmental Quality (“NCDEQ”) and/or other regulatory entities charged with enforcing air quality requirements. As a point of illustration and not limitation, this condition shall be deemed to mean that the land use remains free of any notice of violation and/or of non-compliance from NCDEQ.
- (I) Prior to the issuance of a zoning compliance permit for the construction of any phase of the development, the Applicant shall:
- (1) Provide evidence of required NCDOT approval(s);
  - (2) Provide evidence of approval by Norfolk Southern Railroad for all proposed improvements to be located within area controlled by the railroad;
  - (3) Provide evidence of compliance with the city code and policies for water and sewer extensions and connections, including annexation and the surveying of necessary easements for any lines required to be publicly maintained;
  - (4) Submit a revised site plan to city staff to accurately reflect the zoning classification of Tract 3 (Parcel Identification Number 7752655565);
  - (5) Provide NCDEQ erosion control permit when required; and
  - (6) 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.
- (J) Prior to issuance of a zoning compliance permit for future phases of the development, the following information shall be provided:
- (1) Additional lighting detail showing compliance with the Performance Standards for Industrial District provisions found in Section 316A of the Ordinance;
  - (2) Information showing compliance with the Ordinance Section 307A (Central Solid Waste Storage Area) provisions, as needed, for future phases of the development; and
  - (3) Building elevation details compliant with Article 300A, Section 316A in the Ordinance.
- (K) Prior to the issuance of a zoning compliance permit for the construction of any phase of the development, the Applicant must properly record a permanent access easement and maintenance agreement providing a full right of access across the Zoning Lot (the Applicant’s land) to the existing driveway on the King property that is identified by Randolph County Parcel Identification Number 7752556741. The maintenance of this connector to the current location of the driveway on the King property shall be the responsibility of the Applicant.

The foregoing final decision document was adopted by the Asheboro City Council in open session during a regular meeting on the 10<sup>th</sup> day of October, 2019.

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

ATTEST:

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

- (c) **The dates, along with the associated rules, for the 2019-2020 dark geese (Canada & white-fronted geese) and duck hunting season at Lake Reese.**

A copy of the recreation services director's written request to approve the dates and rules for the dark geese and duck hunting season at Lake Reese was provided to the council members in advance of the council meeting. A copy of this request is on file in the city clerk's office.

The adopted hunting season dates are as follows:

- November 16<sup>th</sup>, 18<sup>th</sup>, and 21<sup>st</sup>
- December 14<sup>th</sup>, 16<sup>th</sup>, and 19<sup>th</sup>
- January 11<sup>th</sup>, 13<sup>th</sup>, and 16<sup>th</sup>

The adopted rules are available for review in the city's recreation services office.

- (d) **Temporary street closure for "Trick or Treat in Park."**

The temporary closure on October 31, 2019 from 6:30 p.m. to 8:30 p.m., of the streets indicated on the parade permit application, including a map, distributed to the Council Members in their meeting folders. 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.

- (e) **Temporary street closure for a horse parade.**

The temporary closure on November 3, 2019, from 3:00 p.m. to 4:00 p.m., of the streets indicated on the parade permit application, including a map, distributed to the Council Members in their meeting folders. 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) **Temporary street closure for the Veterans Day Parade.**

The temporary closure on November 11, 2019, from 4:00 p.m. to 5:00 p.m., of the streets indicated on the parade permit application, including a map, distributed to the Council Members in the meeting folders. 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) **Budget amendments to the general fund and airport fund.**

28 ORD 10-19

**ORDINANCE TO AMEND THE GENERAL FUND  
FY 2019-2020**

WHEREAS, the City of Asheboro would like to appropriate funding for professional lobbying services to assist us in finding funding for the Asheboro Regional Airport New Terminal, and;

WHEREAS, the City of Asheboro desires amend the 2019-2020 budget to incorporate this expense and 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:

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-399-0000	Fund Balance Allocation	\$13,000

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-650-0400	Professional Services	\$13,000

Adopted this the 10th day of October 2019.

David H. Smith  
David H. Smith, Mayor

ATTEST:

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

**29 ORD 10-19**

**ORDINANCE TO AMEND THE AIRPORT IMPROVEMENTS FUND (#66)  
FY 2019-2020**

WHEREAS, the City of Asheboro has received additional federal funding for the Asheboro Regional Airport, and;

WHEREAS, the City of Asheboro would like to appropriate these funds toward the design of new airfield lighting, and;

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

THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro, North Carolina

Section 1: That the following revenue line items are increased / decreased:

<u>Account</u>	<u>Description</u>	<u>Increase</u>
66-369-2400	Grant proceeds	150,000
66-367-1032	GF Contribution 18-19	16,700
66-367-1033	GF Contribution 19-20	16,700
	Total Increase	183,400

Section 2: That the following expense line items are increased / decreased:

<u>Account</u>	<u>Description</u>	<u>Increase</u>
66-982-0502	Airfield Lighting	183,400

Adopted this the 10th day of October 2019.

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

ATTEST:

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

- (h) A resolution authorizing the execution of agreements to acquire land needed for the David and Pauline Jarrell Center City Garden.

RESOLUTION NUMBER 40 RES 10-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION AUTHORIZING THE PURCHASE OF TWO PARCELS OF LAND  
FOR THE DAVID AND PAULINE JARRELL CENTER CITY GARDEN**

**WHEREAS**, the Asheboro City Council has previously stated its intent to preserve historically significant downtown green space, specifically including property owned by former Governor Jonathan Worth, by acquiring and maintaining this green space as a public garden for current and future generations; and

**WHEREAS**, this public garden has been named *THE DAVID AND PAULINE JARRELL CENTER CITY GARDEN*; and

**WHEREAS**, the purchase from David H. Jarrell and Pauline A. Jarrell of the parcel of land at 179 South Cox Street, which is more specifically identified by Randolph County Parcel Identification Number 7751920210, (the “Jarrell Parcel”) is necessary to bring into reality the above-described public garden; and

**WHEREAS**, the purchase of the parcel of land at 205 South Cox Street that is owned by Sharon M. Farkas and is identified by Randolph County Parcel Identification Number 7751829013 (the “Farkas Parcel”) will play an important role in establishing the proposed public garden because the Farkas Parcel is adjacent to the Jarrell Parcel; and

**WHEREAS**, David and Pauline Jarrell are willing to sell their parcel of land to the city for a purchase price of \$165,000; and

**WHEREAS**, Sharon Farkas is willing to sell her parcel of land to the city for a purchase price of \$204,000; and

**WHEREAS**, during its regular meeting in September 2019, the Asheboro City Council appropriated sufficient funds to pay the purchase prices set for the Jarrell Parcel and the Farkas Parcel.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that Mayor David H. Smith is hereby authorized and directed to offer on behalf of the City of Asheboro to purchase and contract for the acquisition of the Jarrell Parcel for a purchase price of \$165,000; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Asheboro that Mayor David H. Smith is hereby authorized and directed to offer on behalf of the City of Asheboro to purchase and contract for the acquisition of the Farkas Parcel for a purchase price of \$204,000; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Asheboro that the authorized offer for the Jarrell Parcel shall be in the form of the legal instrument attached



unsatisfactory matters cannot be resolved prior to the closing date referenced below, the Buyer may terminate its offer without any penalty or cost to itself, and the parties will have no further rights or obligations regarding the sale of the Jarrell Parcel.

2. The Buyer shall be responsible for the cost of preparing the North Carolina General Warranty Deed.
3. The Buyer shall be responsible for the payment of any excise tax (revenue stamps) associated with the conveyance of the Jarrell Parcel from the Seller to the Buyer.
4. The Seller shall be responsible for ad valorem taxes prorated on a calendar year basis to the date of closing.
5. All deeds of trust, liens, and other charges against the Jarrell Parcel must be paid and cancelled by the Seller prior to or at closing.
6. Title must be delivered 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.
7. The Buyer shall be responsible for the cost of recording the North Carolina General Warranty Deed and for the payment of closing costs not otherwise assigned to the Seller by this Agreement. The closing costs to be paid by the Buyer specifically include the cost of any title search, title insurance, survey, and any other inspections/examinations undertaken by the Buyer.
8. Closing shall be completed on or before **November 15, 2019, TIME BEING OF THE ESSENCE WITH REGARD TO THE CLOSING DATE**. The closing shall be conducted by an attorney mutually agreeable to the parties to this Agreement.
9. This contract contains the entire agreement between the parties. There are no representations, inducements, or additional 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:** \_\_\_\_\_ **(SEAL)**  
**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: \_\_\_\_\_

DAVID H. JARRELL and wife,  
PAULINE A. JARRELL (“SELLER”):

\_\_\_\_\_  
David H. Jarrell (SEAL)

\_\_\_\_\_  
Pauline A. Jarrell (SEAL)

ATTACHMENT B

STATE OF NORTH CAROLINA

OFFER TO PURCHASE  
AND CONTRACT

COUNTY OF RANDOLPH

The CITY OF ASHEBORO, a North Carolina municipal corporation, (the “Buyer”) and SHARON M. FARKAS (f/k/a Sharon M. Aho), a resident of Randolph County, North Carolina, (the “Seller”) mutually agree to this Offer to Purchase and Contract (the “Agreement”) as of the date of the last signature affixed hereto.

The Buyer hereby contracts and agrees to buy the real property described herein for the purchase price stated below, and the Seller hereby contracts and agrees to sell and convey to the Buyer for the purchase price stated below 21,367 square feet (0.490 of an acre), more or less, of land (the “Farkas Parcel”) that is described as follows:

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

*BEING ALL of that 21,367 square feet (0.490 of an acre) of land, more or less, on the east side of South Cox Street and shown as the “Farkas Tract” on the plat of survey drawn under the supervision of Thomas Scaramastra, Professional Land Surveyor with License Number L - 4421, and titled “Property Acquisitions for the City of Asheboro THE DAVID AND PAULINE JARRELL CITY CENTER GARDEN.” This plat of survey is recorded in the Office of the Register of Deeds for Randolph County, North Carolina in Plat Book 162, Page 2.*

The purchase price for the Property is Two Hundred Four Thousand and No Hundredths Dollars (\$204,000.00) to be paid in good funds by the Buyer on the date of closing.

This offer from the Buyer is subject to the following terms and conditions which, if accepted by the Seller, shall be deemed to be the terms and conditions of sale:

1. The Buyer shall be responsible for obtaining a title examination and any other studies deemed appropriate in the sole discretion of the Buyer. If the results or findings of any such studies or examinations are not acceptable to the Buyer, written notice shall be provided to the Seller. The parties shall make a reasonable effort to resolve any unsatisfactory matters disclosed by said studies or examinations. If such unsatisfactory matters cannot be resolved prior to the closing date referenced below, the Buyer may terminate its offer without any penalty or cost to itself, and the parties will have no further rights or obligations regarding the sale of the Farkas Parcel.

2. The Buyer shall be responsible for the cost of preparing the North Carolina General Warranty Deed.
3. The Buyer shall be responsible for the payment of any excise tax (revenue stamps) associated with the conveyance of the Farkas Parcel from the Seller to the Buyer.
4. The Seller shall be responsible for ad valorem taxes prorated on a calendar year basis to the date of closing.
5. All deeds of trust, liens, and other charges against the Farkas Parcel must be paid and cancelled by the Seller prior to or at closing.
6. Title must be delivered 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.
7. The Buyer shall be responsible for the cost of recording the North Carolina General Warranty Deed and for the payment of closing costs not otherwise assigned to the Seller by this Agreement. The closing costs to be paid by the Buyer specifically include the cost of any title search, title insurance, survey, and any other inspections/examinations undertaken by the Buyer.
8. Closing shall be completed on or before **November 15, 2019, TIME BEING OF THE ESSENCE WITH REGARD TO THE CLOSING DATE**. The closing shall be conducted by an attorney mutually agreeable to the parties to this Agreement.
9. This contract contains the entire agreement between the parties. There are no representations, inducements, or additional 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:** \_\_\_\_\_ **(SEAL)**  
**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:** \_\_\_\_\_

**SHARON M. FARKAS (“SELLER”):**

\_\_\_\_\_  
**Sharon M. Farkas** **(SEAL)**

11. **Community Development Items:**

- (a) **Case No. RZ-19-11: A legislative hearing on an application to rezone property located at 853 East Salisbury Street (Randolph County Parcel Identification Number 7761227703) from R7.5 (Medium-Density Residential) to OA6 (Office-Apartment).**

Mayor Smith opened the public hearing on this land use case, which was legislative in nature, pertaining to the application by Stephen Bo Davidson (the “Applicant”) to rezone approximately 0.89 of an acre of land from R7.5 (Medium-Density Residential) to OA6 (Office-Apartment). The land to be rezoned (the “Zoning Lot”) is owned by Davidson Builders and Properties, Inc. and is located at 853 East Salisbury Street. The Zoning Lot is more specifically identified by Randolph County Parcel Identification Number 776122703.

Mr. Nuttall certified that the required notices of the requested rezoning had been provided and utilized a visual presentation to summarize the planning staff’s analysis of the rezoning application. The staff report noted the following:

1. The property is inside the city limits.
2. The most recent 2014 Comprehensive Transportation Plan identifies this segment of East Salisbury Street/N.C. Highway 42 (a state-maintained major thoroughfare) as over capacity based on 2012 volumes measuring average annual daily vehicles/day (11,600 capacity vs. 13,000 AADT 2012 volume).
3. In order to relieve the congestion that currently exists on N.C. Highway 42 North, the current NCDOT Transportation Improvement Program has proposed road improvements (Project No. U-5743) along N.C. Highway 42 extending between the East Salisbury Street intersection and U.S. Highway 64 (East Dixie Drive). Proposed improvements include the addition of a center turn lane, sidewalks, curbing, and guttering. The project’s timetable is uncertain at this time due to NCDOT funding constraints.
4. The requested zoning district allows residential (single-family, two-family, multiple-family), office and institutional uses, and limited commercial uses. The OA6 zoning district is described by the zoning ordinance as “intended to produce moderate intensity office and residential development to serve adjacent residential areas and to provide a transition from residential to commercial uses. Land designated OA6 shall normally be located with access to a minor thoroughfare or higher classification street with access to local residential streets discouraged.” Heavier commercial uses (such as retail, eating establishments, motor vehicle sales and major/minor repair, etc.) are prohibited in the OA6 district.
5. The property immediately to the east was recently rezoned from R7.5 to OA6 (Case No. RZ-19-06, Approved in May 2019.)

The Planning Board recommended approval of the request. This recommendation was based on the Planning Board’s concurrence with the following analysis from the Community Development Division staff that evaluated the consistency of the requested rezoning with the adopted comprehensive plans as well as the reasonableness of the request and whether the requested rezoning is in the public interest:

Staff’s analysis considers the appropriateness of both residential and non-residential uses permitted in the requested OA6 district.

The non-residential component of the district is supported by the LDP’s designation of the property for “office and institutional” uses. The property may also be used for residential purposes, which allows property to continue to be used for residential uses, as it was previously used for.

Zoning and uses of properties for commercial or institutional purposes to the north, east, and south, and the recent rezoning of the adjoining property to OA6 help make the OA6 district an appropriate transitional district at this location. Limitations on the types of commercial uses and development standards for non-residential uses also help protect adjoining residential properties from adverse impacts.

Additionally, planned road improvements for both motorists and pedestrians help alleviate concern over the current capacity issues of East Salisbury Street.

There being no further comments, and no opposition from the public, Mayor Smith transitioned to the deliberative phase of the case.

The city council concurred with the staff and planning board analysis of the general consistency of the request with the land development plan. Council Member Bell moved, and Council Member Moffitt seconded the motion, to adopt the plan consistency statement printed below and to approve the requested rezoning with the following multi-part motion:

1. Both residential and certain non-residential uses are permitted in the requested OA6 district. The non-residential component of the district is supported by the LDP's designation of the property for "office and institutional" uses. The property may also be used for residential purposes, which allows the continuation of previously established residential land uses.

Zoning and uses of properties for commercial or institutional purposes to the north, east, and south, and the recent rezoning of the adjoining property to OA6 help make the OA6 district an appropriate transitional district at this location. Limitations on the types of commercial uses and development standards for non-residential uses also help protect adjoining residential properties from adverse impacts.

Additionally, planned road improvements for both motorists and pedestrians help alleviate concern over the current capacity issues of East Salisbury Street. Considering these factors, the city council has concluded that this application for a zoning map amendment is generally consistent with the Land Development Plan, is generally in the public interest, and supports a reasonable use of the property.

2. In light of the above-stated analysis, the requested zoning map amendment to place the Zoning Lot in an OA6 (Office-Apartment) zoning district is approved as consistent with the adopted plan.

Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes. Consequently, the above-stated motion was adopted unanimously.

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

- (b) **Case No. RZ-19-12: Legislative hearing on an application filed by the City of Asheboro for zoning ordinance text amendments that include the creation of an airport zoning district; issues related to motor vehicles (domestic and commercial) and vehicle repair, places of assembly, and recreation and amusement services; provisions for uses not listed in the Table of Uses (Table 200-2); and amendments to miscellaneous definitions as well as procedural and clerical items.**

Mayor Smith opened the public hearing on the following request.

Mr. Nuttall utilized a visual presentation to highlight proposed text amendments to Article 100, Article 200, Article 300A, Article 400, Article 600, Article 1000, and Article 1100.

The Community Development Division staff proposes the text amendments in order to address various ongoing issues. Highlights of the proposed amendments include the following:

1. The creation of an airport zoning district to accommodate the Asheboro Regional Airport and related/complementary uses occurring on airport property.
2. Issues related to motor vehicles, including standards for repair, permissible vehicle weight when located in residential districts, and outdoor sales and displays occurring on commercial and industrial properties related to motor vehicle repair.
3. Provisions for approving uses that are not listed in the Table of Uses (Table 200-2) of the zoning ordinance.
4. Other miscellaneous definitions, clerical items, and minor procedural items are being addressed with the proposed amendments.

The Planning Board concurred with the following staff analysis from the Community Development Division and recommended approval of the proposed text amendments to the Asheboro Zoning Ordinance.

The proposed text amendments are designed to address various zoning issues encountered by staff.

The proposed amendments are supported by the Land Development Plan and support economic development by accommodating existing and future growth of the Asheboro Regional Airport.

The proposal also adds clarity to the review process for land uses that are not regularly encountered, when there is not a clear-cut designation of a proposed use by the zoning ordinance.

Finally, the proposed amendments address miscellaneous provisions and definitions that best reflect current practices, replaces or removes duplicative or unclear language, and adds clarity in the interpretation of various administrative issues.

There being no further comments, and no opposition from the public, Mayor Smith transitioned to the deliberative phase of the case.

The city council concurred with the staff and planning board analysis of the general consistency of the request with the land development plan. Council Member Moffitt moved, and Council Member Bell seconded the motion, to adopt the plan consistency statement printed below and to approve the requested text amendments with the following multi-part motion:

1. The proposed text amendments address various zoning issues encountered by staff.

The proposed amendments are supported by the Land Development Plan and support economic development by accommodating existing and future growth of the Asheboro Regional Airport.

The proposal also adds clarity to the review process for land uses that are not regularly encountered, and for which there is not a clear-cut designation by the zoning ordinance.

Finally, the proposed amendments address miscellaneous provisions and definitions that best reflect current practices, replace or remove duplicative or unclear language, and add clarity in the interpretation of various administrative issues.

Considering these factors, the city council has concluded that this application for text amendments to the Asheboro Zoning Ordinance is generally consistent with the Land Development Plan, is generally in the public interest, and supports a reasonable use of the property.

2. In light of the above-stated analysis, the requested zoning ordinance text amendments are approved as consistent with the adopted plan.

Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes. Consequently, the above-stated motion was adopted unanimously.

The approved text amendments are on file in the city clerk's office and the Community Development Division and are incorporated into these minutes by reference. Additionally, a copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

**(c) Case No. SUB-17-04: Consideration of the final subdivision plat for right-of-way extension of Leo Lane in the Jacksons Run Phase 2 subdivision.**

Mr. Nuttall presented the staff's analysis of the final subdivision plat for Phase 2, Section 2 (Right-of-Way Dedication) of the proposed Jackson's Run subdivision. The Applicant, Daniel Stickler, has requested approval of a public right-of-way that extends from the current terminus of Leo Lane to Forest Park Drive.

During his presentation, Mr. Nuttall noted that the Community Development Division staff and the Planning Board recommended granting the request with the following conditions/comments:

1. The purpose of the plat is to dedicate the public right-of-way that extends from the current terminus of Leo Lane to Forest Park Drive to provide a second entrance to the Jackson's Run Subdivision.
2. A second entrance is required because of a Conditional Use Permit condition.
3. This entrance and section of roadway has been completed with the exception of the final layer of asphalt and sidewalks. The Applicant has provided a financial guarantee for these improvements as allowed by the ordinance.
4. Subject to provisions of the subdivision ordinance, once the public right-of-way is platted consistent with the Conditional Use Permit, lots along Leo Lane may be platted as a minor subdivision(s) and reviewed/approved by city staff.

5. The owner will need to provide a letter giving a warranty for improvements within the public right-of-way, except those made by utility companies, against defects for one year as required by the city's subdivision ordinance.

Upon motion by Council Member Bell and seconded by Council Member Burks, the Council voted unanimously to approve with the above-stated comments and conditions the final subdivision plat submitted by the Applicant. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

A copy of the plat is on file in the Community Development Division.

**(d) SUB-19-02: Consideration of a sketch design plat for Hillcrest Subdivision (Breeze Hill and Fermer Roads).**

The Applicant, Roval Crest Builders, has submitted for review and approval a subdivision sketch design for Hillcrest Subdivision that is located on the northern corner of Breeze Hill Road and Fermer Road. The parcel information included in the planning staff's analysis of the application identifies approximately 9.5 acres of land. Randolph County Parcel Identification Number 7750386919 more specifically identifies the property.

The proposed number of lots is 34, with an average lot size of 10,779 square feet. The property is located in the city limits of Asheboro.

The proposal is for a conventional residential subdivision consisting of 34 lots. Breeze Hill Road and Fermer Road are both city-maintained streets west of Uwharrie Street. The proposal shows two entrances, one from Breeze Hill Road and one from Fermer Road.

The subdivision plat does not propose sidewalks. While the subdivision ordinance encourages sidewalks, it does not require them for a residential subdivision that is not a planned unit development. Subject to the subdivision and zoning ordinance, lots with frontage on existing public rights-of-way and having existing utilities available to each lot may be platted as a minor subdivision and reviewed by city staff.

With regard to comments from the city departments, the public works department commented that driveway locations of the two northernmost lots on Berg Road will require additional review to ensure no conflicts with public service requirements, such as trash collection, are present.

With the inclusion of the above-stated comment from the city's public works division, the planning staff recommended approval of the subdivision sketch design. The planning board concurred with the planning staff recommendation and comments.

Council Member Bell moved, and Council Member Swiers seconded the motion, to concur with the recommendations of the planning staff and board and to approve, subject to the above-stated staff comments, the subdivision sketch design. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted unanimously in favor of the motion and approved the subdivision sketch design with the above-stated comments.

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

**(e) Consideration of applications received for service on the Land Development Plan Steering Committee.**

Mr. Nuttall presented a summary of applicants who have expressed an interest in serving on the Land Development Plan Steering Committee, and he expressed appreciation for the skills and energy these individuals will bring to the project. Mr. Nuttall also discussed the benefits of adding even more diverse viewpoints and perspectives to the project.

There will be a definite benefit from gaining access to the experiences and perspectives of the Asheboro/Randolph Chamber of Commerce and the Asheboro City Schools. Accordingly, the Community Development Division will take the time to extend additional invitations to participate in this project.

Mr. Nuttall will update the council as more information becomes available. No formal action was taken by the council during this portion of the meeting, but the Council Members did express their general consent for Mr. Nuttall to proceed as he discussed.

A copy of the summary presented by Mr. Nuttall is on file in the city clerk's office.

**12. Upcoming events.**

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

There being no further business, the meeting was adjourned at 8:45 p.m.

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

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