

NOTICE

SPECIAL MEETING

Thursday, January 9, 2003

6:00 PM

Notice of a Special Meeting of the City Council of the City of Asheboro, North Carolina, is hereby given. Said meeting will be held at 6:00 PM, January 9, 2003, before the regular Council meeting, in the Council Chamber in the Municipal Building, concerning the Randolph County Economic Development Annual Report, the Annual Financial Report by Mr. Steve Hackett, CPA, Findings of Fact for CUP-03-16, an ordinance regulating the solicitation of funds in public streets, and consideration of proposed leasing arrangements between the City of Asheboro, Northpoint Aero Warbird Classics, LLC, and the North Carolina Aviation Museum.

All officers of the City and any and all other persons whomsoever are hereby given notice that such meeting will be held and that the City Council at that time will consider these matters. This call is issued pursuant to the ordinance of the City of Asheboro relative to the time and place of holding meetings, both regular and special of the City Council of said City.

By order of the Mayor.

This the 31st day of December, 2002, at 9:00 AM.

S/ Carol J. Cole

Carol J. Cole, City Clerk

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SPECIAL MEETING

ASHEBORO CITY COUNCIL

THURSDAY, JANUARY 9, 2003

6:00 PM

This being the time and place for a Special Meeting of the Mayor and City Council, a meeting was held with the following officials and members present:

David Jarrell) – Mayor Presiding

Talmadge Baker)

Linda Carter)

Nancy Hunter)

John McGlohon) – Council Members Present

Archie Priest)

David Smith)

Paul Trollinger)

John N. Ogburn, City Manager

Carol J. Cole, CMC, City Clerk

Dumont Bunker, P. E., City Engineer

Debbie Juberg, Finance Director

Gary Mason, Chief of Police

Reynolds Neely, Planning Director

Lynn Priest, CD Director,

John Evans, Code Enforcement Officer

Jeff Sugg, City Attorney

A quorum thus being present, Mayor Jarrell called the meeting to order for the transaction of business,

and business was transacted as follows:

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1. Presentation of Randolph County Economic Development Annual Report.

Bonnie Renfro, president of the Randolph County Economic Development Corporation, presented the Corporation's 2002 Annual Report. Mrs. Renfro reported that although Randolph County lost some jobs, 551 new jobs were announced and \$33,376,000 in new industrial investments were made.

Melissa Foust, existing industry coordinator, gave a brief overview of the concerns of existing industries as to making profits, finding qualified workers, rising health costs, finding new and innovative ways to use machinery, etc.

EDC Board of Directors Members Ronnie Pugh, vice-chairman, and Dr. Richard Heckman were in attendance.

2. Presentation of Annual Financial Report by Mr. Steve Hackett, CPA.

Mr. Steve Hackett, CPA, reviewed the city's financial report for the fiscal year ending June 30, 2002. Mr. Hackett reported that the city's fund balance decreases some each year but noted that the state budget impacts city budgets. Overall, the city's financial position is good.

3. Approval of Minutes.

The minutes of the December 5, 2002, meeting were approved as presented.

OLD BUSINESS:

4. Approval of Findings of Fact for CUP-03-16.

City Attorney Jeff Sugg reviewed the Findings of Fact for CUP-03-16.

Upon motion by Mr. Smith and seconded by Mr. Priest, council voted unanimously to approve the following Findings of Fact by reference:

Case No. CUP-03-16

City Council

City of Asheboro

IN THE MATTER OF THE APPLICATION OF SCHWARZ PROPERTIES, L.L.C. FOR A
CONDITIONAL USE PERMIT ALLOWING AN INDUSTRIAL DEVELOPMENT WITH
MULTIPLE USES AND/OR STRUCTURES

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

THIS MATTER was commenced by the filing of an application by Schwarz Properties, L.L.C. to have its property located at 1947 North Fayetteville Street rezoned to a Conditional Use I2 zoning district and to obtain a Conditional Use Permit allowing an industrial development with multiple uses and/or structures on the property. This matter came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on November 7, 2002. 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. The applicant, Schwarz Properties, L.L.C., (hereinafter referred to as the "Applicant") properly submitted an application to have certain property owned by it and located at 1947 North Fayetteville Street rezoned to a Conditional Use I2 zoning district. The application further requested the issuance of a Conditional Use Permit that would allow an industrial development with multiple uses and/or structures on the property.

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2. The Applicant's property consists of approximately 24.42 acres of land and is located at the southwest corner of the intersection of North Fayetteville Street and West Central Avenue. The Applicant's property is more specifically identified by Randolph County Parcel Identification Number 7762094814.

3. Said property is currently located in an I3 zoning district, and the existing land use on the property is classified as industrial and commercial.

4. The surrounding land uses consist of industrial and non-conforming residential uses to the north. To the south, commercial and residential land uses can be found. A combination of institutional, industrial, and commercial uses can be found to the east of the Applicant's property. The area to the west of said property is characterized as having industrial land uses.

5. The Growth Strategy Map designates the area in question as a "Primary Growth" area, and the Proposed Land Development Plan Map identifies the area in question as "Industrial."

6. North Fayetteville Street and Central Avenue are major thoroughfares.

7. This site has historically been a manufacturing operation.

9. Prior to addressing the question of the issuance of the requested Conditional Use Permit, the Council adopted the recommendation of the Planning Board that a change from the existing commercial zoning to conditional use industrial zoning with conditions would mitigate conflicts with the Land Development Plan. Consequently, the Council rezoned the affected property from an I3 zoning district to a Conditional Use I2 zoning district.

10. The Applicant has submitted a proper application, including a site plan, for a Conditional Use Permit and has worked with the Planning Department's staff to ensure the compliance of the Applicant's proposal with the regulations of the Asheboro Zoning Ordinance. Furthermore, the Applicant's representative testified during the hearing of this matter that the Applicant is prepared to accept reasonable conditions from the Council so as to ensure the Applicant's continued compliance with all of the City's ordinances and regulations.

11. The Applicant's representative testified that the buildings located on the property have been in existence for a considerable amount of time. The difference today is that multiple tenants are now utilizing the property as opposed to the previous single, large manufacturing occupant that is no longer in business on the site.

12. Prior to the demise of the previous manufacturing occupant, offices, workshops, and manufacturing areas were located on the property and worked together as part of a common manufacturing enterprise. In essence, multiple uses have existed on the property for a significant amount of time.

13. These multiple uses of this property continue today. However, a single Lessor now leases the property to multiple tenants with multiple uses.

14. The previous I3 zoning for this property was designed for a large campus style industrial zone with larger setbacks. This particular property has no rear yard, only a front and side yard due to the configuration of the lots with the surrounding streets. In an I3 zoning district, the front yard setback is fifty (50) feet and the side yard setback is twenty (20) feet.

15. The I2 zoning district has a ten (10) foot setback for the front and side yards.

16. The existing legal non-conforming situations that can be found on the property relate to encroachments into the fifty (50) foot front yard setback, and these non-conforming situations pertain to buildings that were built, prior to the Applicant's ownership of the property, at a time when setbacks in the zero (0) to ten (10) foot range existed.

17. The primary spokesperson for the citizens opposing the Applicant's application for the requested Conditional Use Permit was Mr. David Jordan, and he stated that he had no direct opposition to the requested Conditional Use Permit. Instead, he had generalized concerns and fears about some of the uses that are permitted in an I2 zoning district.

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18. During the hearing of this matter, members of the Council also developed some concerns about certain uses that may not be compatible with the area in question, but that are allowed in an I2 zoning district. The Applicant's representative agreed with the Council's concerns and agreed to the conditions imposed as a means of addressing these concerns.

Based on the foregoing findings of fact, the Council makes the following:

CONCLUSIONS OF LAW

1. The Council has concluded that the proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved. The site plan and other documentation submitted by the Applicant have led the

Council to conclude that the overall proposal is designed in a manner that poses no material danger to the public health and safety.

2. The evidence received during the public hearing established that the proposed use does meet all of the required conditions and specifications of the Asheboro Zoning Ordinance.

3. No evidence was presented during the course of the hearing of this matter to indicate that the proposed use will substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicant's proposed 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

The above-referenced application submitted by Schwarz Properties, L.L.C. for a Conditional Use Permit that would allow an industrial development with multiple uses and/or structures on the property is hereby approved on the condition that the Applicant and its successors and assigns meet and remain in compliance with the following conditions:

1. The use approved shall be an industrial development with multiple uses and structures. The following specific uses shall not be permitted within the development:

- a. Adult Establishment;
- b. Amusement Park;
- c. Business Primarily Dealing in Sexually Explicit Materials;
- d. Circus, Carnival, Fair, Concerts Limited Duration;
- e. Correctional Facilities;
- f. Drinking Establishments;
- g. Gamerooms;
- h. Junkyards;
- i. Landfills – Clean Material;

- j. Landfills – Sanitary;
- k. Limited Duration Circus, Carnival, Fair, Concerts;
- l. Massagist;
- m. Recreation and Amusement Services Commercial;
- n. Signs, Off Premise Billboards and Poster Panel, etc.;
- o. Places of Assembly (Not Churches);
- p. Vehicle Towing Operation and Storage;
- q. Sales or Rental of Domestic Vehicles; and
- r. Sales or Rental of Heavy Vehicles.

2. The development shall be as per the site plan approved; however, said site plan shall be modified as necessary to reflect these conditions and shall be submitted to the Planning Department's staff for review and approval as being in compliance with these conditions.

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3. Off street parking shall be provided in accordance with Article 400 of the Asheboro Zoning Ordinance.

4. Signage shall be as permitted in Article 500, except no roof signs shall be permitted.

5. Buffering and/or screening shall be installed and maintained as required by Article 304A.

6. Section 316A "Performance Standards for Industrial Districts" shall be met and maintained as specified by the Section.

7. Current front yard setbacks on the Fayetteville Street side of the property shall be maintained for uses and additions.

Adopted this 9th day of January, 2003.

ATTEST:

S/ David H. Jarrell

David H. Jarrell, Mayor

S/ Carol J. Cole

Carol J. Cole, City Clerk

5. Consideration of Resolution of Intent to Authorize the Lease of Approximately 11,950 Square Feet of City-Owned Real Property Located at the Asheboro Municipal

Airport to Northpoint Aero Warbird Classics, LLC, for a Term of Thirty years, at a Rate of \$1,195 Per Year, and to Amend the Existing Lease With the North Carolina Aviation Museum to Include an Option to Lease Approximately 225,582 Square Feet of Additional City-Owned Real Property for a Term of Thirty Years.

The city attorney reported that both parties, Northpoint Aero Warbird Classics, LLC, and the North Carolina Aviation Museum, have requested that this issue be withdrawn indefinitely.

Both parties are still working on their goals, philosophy and aims of the project and the method of achievement.

Mr. McGlohon moved that this issue be withdrawn without prejudice and if and when this

issue is brought back to council, both parties should be responsible for the time and labor involved and not put the city's staff through all of the work that has been required.

Mr. Baker seconded the motion, which carried unanimously.

6. Consideration of Ordinance Regulating the Solicitation in Public Streets and Highways

of Employment, Business, or Contributions From Drivers and/or Occupants of Vehicles.

The city attorney read an ordinance that he prepared that amends Chapter 70 of the

Code of Asheboro in which a new section is included to address solicitation of contributions

upon highways or streets.

Mr. Olin Lee stated that he travels Zoo Parkway every day. When people are soliciting for

contributions on this road, it impedes motorists trying to turn. The light changes fast and it can take a while for traffic to move freely. Mr. Lee supports the ordinance.

Upon motion by Mr. Trollinger and seconded by Mrs. Carter, council voted unanimously to

adopt the following ordinance: Mr. McGlohon stated that the ordinance should get publicity

so that legitimate groups unaware of the new ordinance won't get fined.

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AN ORDINANCE AMENDING CHAPTER 70 OF THE CODE OF ASHEBORO

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 160A-178 of the North Carolina General Statutes provides that a city may by ordinance regulate, restrict, or prohibit the solicitation of contributions from the public for any charitable purpose; and

WHEREAS, streets and highways have to be maintained and regulated for the safety of the public; and

WHEREAS, the standing or loitering of a person or group of persons in the main traveled portion, including the shoulders and median, of any highway or street for the purpose of soliciting employment, business, or contributions from the drivers and/or occupants of motor vehicles utilizing the highway or street has the effect of diverting the attention of the drivers of said motor vehicles from their proper concern for safely operating the motor vehicles.

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

Section 1. Chapter 70 of the Code of Asheboro is amended to include a new section that is codified as “**§70.60 PROHIBITION OF THE SOLICITATION OF CONTRIBUTIONS, EMPLOYEMNT, AND BUSINESS UPON HIGHWAYS OR STREETS**” and that provides as follows:

(A) No pedestrian shall stand or loiter in any street or highway, including the shoulders and median of such street or highway, or stop any motor vehicle traveling in any street or highway for the purpose of soliciting contributions, employment, or business from any driver or occupant of any motor vehicle in the corporate limits of the City of Asheboro.

(B) The provisions of this Section are not applicable to employees or contractors of the State of North Carolina or any of its political subdivisions engaged in construction or maintenance or in making traffic or engineering surveys. Furthermore, the provisions of this Section are not applicable to employees or contractors of the State of North Carolina or any of its political subdivisions that are performing a public safety related function.

(C) If any person shall violate this Section, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00) in accordance with Section 14-4 of the North Carolina General Statutes.

(D) Severability is intended throughout and within the provisions of this Section. If any sentence, clause, or phrase of this Section is held invalid or unconstitutional by a court of competent jurisdiction, then such judgment shall in no way affect or impair the validity of the remaining portions of this Section.

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

Section 3. This ordinance shall become effective upon adoption.

Adopted this the 9th day of January, 2003.

ATTEST:

S/ David H. Jarrell

David H. Jarrell, Mayor

S/ Carol J. Cole

Carol J. Cole, City Clerk

There being no further business, the meeting was adjourned at 6:40 PM.

Carol J. Cole, CMC, City Clerk

David H. Jarrell, Mayor