

**REGULAR MEETING
ASHEBORO CITY COUNCIL
THURSDAY, SEPTEMBER 4, 2003
7:00 PM**

This being the time and place for a Regular 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
Reynolds Neely, Planning Director
Lynn Priest, CD Director
Wendell Holland, Zoning Administrator
Allen Oliver, Parks & Recreation Director
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:

1. Pledge of Allegiance and Invocation.

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend Kent Shrader, camp director at Mt. Shepherd, gave the invocation.

2. Approval of Minutes of Previous Meeting.

The minutes of the regular meeting of August 7, 2003 were approved as presented.

3. Approval of Findings of Fact for CUP-03-35 and SUP-03-09.

Upon motion by Mr. Smith and seconded by Mrs. Carter, council voted unanimously to approve the following Findings of Fact for CUP-03-35 and SUP-03-09:

Case No. CUP-03-35
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF WILLIAM S. SCHWARZ AND LEE B. SCHWARZ FOR THE ISSUANCE OF BOTH A CONDITIONAL USE PERMIT THAT WILL ALLOW AN INDUSTRIAL DEVELOPMENT WITH MULTIPLE USES AND/OR STRUCTURES AND A SPECIAL USE PERMIT THAT WILL ALLOW A FLOOR AREA RATIO BETWEEN .33 AND .45

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

THIS MATTER was commenced by the filing of an application by William S. Schwarz and Lee B. Schwarz to have their property located at 1617 North Fayetteville Street rezoned to a Conditional Use I2 zoning district and to obtain both a Conditional Use Permit allowing an industrial development with multiple uses and/or structures on the property and a Special Use Permit allowing a floor area ratio between .33 and .45. This matter came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on August 7, 2003. 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 applicants, William S. Schwarz and Lee B. Schwarz, (hereinafter referred to as the "Applicants") have properly submitted an application to have certain property owned by them and located at 1617 North Fayetteville Street rezoned to a Conditional Use I2 zoning district.

2. In addition to requesting that the Council legislatively rezone the above-referenced property, the Applicants have also requested that the Council conduct a quasi-judicial proceeding and issue a Conditional Use Permit that includes a Special Use Permit. More specifically, the Applicants are requesting a Conditional Use Permit that would allow an industrial development with multiple uses and/or structures on the property, and they are requesting that a Special Use Permit allowing a floor area ratio between .33 and .45 be issued and included with the said Conditional Use Permit.

3. The Applicants' property is located in an area that is designated on the Growth Strategy Map as a "Primary Growth" area, and said area is identified on the Proposed Land Development Plan Map as "Commercial."

4. Said property is currently located in a B2 zoning district, and the existing land use on the property is classified as a legal non-conforming use.

5. The property in question consists of 67,561.56 square feet, more or less.

6. The Applicants' property at 1617 North Fayetteville Street consists of one (1) lot that is more specifically identified by Randolph County Parcel Identification Number 7752958674.

7. North Fayetteville Street is a major thoroughfare.

8. Thornsedale Drive is a local street.

9. The Applicants' property fronts on both North Fayetteville Street and Thornsedale Drive.

10. The property has historically been a manufacturing site.

11. The Applicants' site plan indicates that the proposed land use for the property will utilize the existing structures. The current floor area ratio for the existing structures is 44.4%.

12. The Applicants previously received from the Board of Adjustment for the City of Asheboro a variance from the regulations of the Asheboro Zoning Ordinance pertaining to the front yard landscaping requirements applicable to the portion of the Applicants' lot fronting North Fayetteville Street.

13. The findings, conclusions, and order supporting the variance discussed in the immediately preceding paragraph can be found under file number BOA-03-14 in the City of Asheboro Planning Department.

14. Mr. Reynolds Neely, Planning Director for the City of Asheboro, specifically referenced these findings during his testimony, and the Applicants' attorney, Mr. Jonathan Megerian, Esq., acknowledged that the current request in front of the Council grew out of and is directly connected to the Applicants' request under file number BOA-03-14 for certain variances from the regulations of the Asheboro Zoning Ordinance.

15. The findings, conclusions, and order adopted by the Board of Adjustment on February 3, 2003, under file number BOA-03-14 are as follows:

IN THE MATTER OF THE APPLICATION OF WILLIAM S. SCHWARZ AND HIS WIFE, LEE
B. SCHWARZ, FOR CERTAIN VARIANCES FROM THE ZONING REGULATIONS OF THE
CITY OF ASHEBORO

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING
IN PART AND DENYING IN PART THE APPLICANTS' REQUEST
FOR CERTAIN VARIANCES

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THIS MATTER was commenced by the filing of an application by William S. Schwarz and his wife, Lee B. Schwarz, for certain variances from the regulations of the City of Asheboro Zoning Ordinance. This matter came before the Board of Adjustment for the City of Asheboro (hereinafter referred to as the "Board") for hearing on January 6, 2003,

during the Board's regularly scheduled meeting for the month of January 2003. Having considered all competent evidence and argument, the Board, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. The applicants, William S. Schwarz and his wife, Lee B. Schwarz, own a certain parcel of land that is located at 1617 North Fayetteville Street in Asheboro. The hosiery mill known as B&S Socks formerly occupied the existing building located on this parcel of land.
2. The requested variances from the zoning regulations of the City of Asheboro are sought by Mr. and Mrs. Schwarz (hereinafter referred to as the "Applicants") in order to allow the Applicants to respond to certain changes, some of which are negative in nature and beyond the control of the Applicants, in the manufacturing industry by changing the use of said existing structure.
3. As a consequence of changing uses, all of the current requirements of the Asheboro Zoning Ordinance must be met unless variances are obtained from the specific requirements that the Applicants feel they cannot meet.
4. In the present case, the Applicants are seeking variances from the Asheboro Zoning Ordinance regulations pertaining to the required front yard landscaping, the required interior landscaping of the parking lot, and the required minimum number of parking spaces.
5. The lot or parcel of land at issue consists of approximately 67,500 square feet of area.
6. The existing structure that is located on said lot consists of approximately 27,887 square feet.
7. The existing land use on the property is a commercial use, and the surrounding land uses consist of commercial uses to the north, south, and east. However, residential land uses are located to the west.
8. The property in question is located in a B2 zoning district, and the Land Development Plan designates the area in which said property is located as Commercial.
9. The original portion of the existing structure located on the Applicants' lot was built in approximately 1959. The available evidence indicates that the lot was developed and the original portion of the existing structure constructed in compliance with all of the then applicable laws, ordinances, and regulations of the City of Asheboro.
10. The specific changes planned by the Applicants for the use of the existing structure presently involve utilizing approximately 3,000 square feet of the structure for a retail use.
11. The Applicants' proposed utilization of a portion of the existing structure for a retail use rather than for the existing manufacturing/warehousing use has the consequence of requiring the entirety of the existing structure to be analyzed under the Asheboro Zoning Ordinance as a mixed-use structure in a B2 zoning district.
12. In a B2 zoning district, the parking requirements imposed by the Asheboro Zoning Ordinance as a consequence of the Applicants' proposed use of the property are determined by using the formula that 5 legal parking spaces as defined by the zoning ordinance must be provided for every 1,000 square feet of floor area in the building. On the basis of this formula, the Zoning Administrator has

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determined that the Applicants must provide a minimum of 139 parking spaces on the parcel of land in question if their proposed mixed-use is to be lawful under the Asheboro Zoning Ordinance.

13. The Applicants' site plan and the testimony of Mr. William S. Schwarz during the hearing of this matter indicate that the Applicants only intend, at this time, to provide 19 parking spaces as part of their proposed use. Thus, the Applicants are seeking a variance of 120 parking spaces from the requirements of the Asheboro Zoning Ordinance.

14. The amount of required interior landscaping of the parking lot is determined by multiplying 8.1 by the number of required parking spaces. Thus, without a variance, the Applicant is currently required under the Asheboro Zoning Ordinance to provide 1,126 square feet of interior landscaping in the parking lot. As with the required number of parking spaces, the Applicants are seeking a variance from this requirement.

15. In terms of front yard landscaping, North Fayetteville Street is located on the east side of the Applicants' property, and Thornsedale Drive is located on the west side of said property. Due to this configuration, the Applicants' lot has two (2) street fronts, and, consequently, front yard landscaping is required under the Asheboro Zoning Ordinance along North Fayetteville Street and Thornsedale Drive.

16. Under the Asheboro Zoning Ordinance, the regulations pertaining to the front yard landscaping require 1 canopy tree for every 20 lineal feet, 1 shrub type tree for every 10 lineal feet, or some combination thereof. In the present matter, the site plan submitted by the Applicants indicates that some landscaping is proposed to be installed, but the amount specified falls well short of the amount required by the Asheboro Zoning Ordinance. Consequently, the Applicants are seeking a variance from the front yard landscaping requirements of the Asheboro Zoning Ordinance along North Fayetteville Street and Thornsedale Drive.

17. During the hearing of this matter, Mr. William Schwarz testified that his situation with this property is unique in that this large building is situated in such close proximity to North Fayetteville Street, which is a major thoroughfare that now has four lanes of travel carrying a heavy volume of traffic over significant lengths of roadway. Given the proximity of the existing structure to North Fayetteville Street, the placement of landscaping in the front yard along North Fayetteville Street is not feasible, according to Mr. Schwarz. Despite the problems that it causes today, the placement of the existing building in such close proximity to the street was lawful when the structure was erected in 1959.

18. As part of his testimony, Mr. Schwarz asserted that the requested variances would not bring about any substantial change in his commercial use of the property, which has been commercial in nature for decades. Given the lack of substantive change in the nature of his particular use of the property, Mr. Schwarz feels that the granting of the requested variances will not injure to any degree the value of surrounding lots.

19. During questioning by members of the Board, Mr. Schwarz conceded the following points:

- a. The total lot size is approximately 67,500 square feet;
- b. The existing structure covers approximately 27,800 square feet;
- c. The difference between the total lot size and the building size leaves 39,700 square feet of area with which to work;
- d. If the Applicant had to maintain 140 parking spaces, 25,200 square feet of the remaining area of 39,700 square feet would be needed for the parking spaces; and,
- e. Once 25,200 square feet is deducted from 39,700 square feet, the Applicants would have 14,500 square feet to use for landscaping and drives.

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20. Mr. Schwarz did concede, in light of the above-listed computations in finding number 19, that a way could probably be found to accommodate the parking requirements and the interior landscaping requirements for the parking lot under the Asheboro Zoning Ordinance.

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

CONCLUSIONS OF LAW

1. Section 905 of the Asheboro Zoning Ordinance requires the Board of Adjustment to make an affirmative determination on each of five categories of findings of fact before the Board is empowered to grant a variance to an applicant.

2. The Board must make the required findings in the order prescribed by Section 905 of the Asheboro Zoning Ordinance.

3. The first finding to be made is whether the alleged hardships or practical difficulties imposed by the Asheboro Zoning Ordinance are unique and singular as regards the property of the entity requesting the variance and are not those suffered in common with other property similarly located. In this case, the practical difficulties imposed by the Asheboro Zoning Ordinance are unique in regard to the difficulties imposed as a consequence of the impact of the front yard landscaping requirements on that portion of the Applicants' property that is contiguous with North Fayetteville Street. In this area, the Applicants are confronted with a unique problem that exists because of the combination of the tremendous expansion in the volume of traffic handled by North Fayetteville Street and the widening of the street itself over time along with the fact that a large and durable building was lawfully permitted in 1959 to be built in such close proximity to North Fayetteville Street. However, in terms of the alleged hardships imposed by the Asheboro Zoning Ordinance in regard to the required number of parking spaces, the interior landscaping of the parking lot, and the front yard landscaping along Thornsedale Drive, no substantial evidence has been introduced to show any unique nature of the alleged hardship(s) imposed by these requirements. In fact, the parking space requirements, interior landscaping requirements for the parking lot, and the front yard landscaping requirements along Thornsedale Drive appear to not even qualify as hardships or practical difficulties, just inconveniences or extra expenses that are not unexpected when developing or utilizing lots.

4. The second finding to be made is whether the alleged hardships and practical difficulties, which will result from failure to grant the variance, extend to the ability to use the land in question for any use in conformity with the Asheboro Zoning Ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return. By requesting a variance from the front yard landscaping requirements of the Asheboro Zoning Ordinance along North Fayetteville Street, the Applicant is attempting to continue the long-standing use of the land and its existing structure in an appropriate commercial manner. With the granting of this requested variance, the Applicant will be allowed to continue to use existing real property in a positive commercial manner that accounts for changes in the previous manufacturing use. The Applicants have no real practical alternatives as to how to continue to adapt the lot to be commercially viable without a variance from the front yard landscaping requirements along North Fayetteville Street, and such a hardship does extend to the Applicants' ability to use the land in conformity with the applicable rules and regulations of the Asheboro Zoning Ordinance.

5. The third finding to be made is that the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance. The granting of this variance will merely allow the Applicants to continue to fully and effectively utilize a lot with an existing structure that has been present in its current location for a number of years. Thus, the granting of this variance from the front yard landscaping requirements of the Asheboro Zoning Ordinance along North Fayetteville Street will not substantially interfere with or injure the rights of others.

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6. The fourth finding to be made is that the variance is in harmony with and serves the general intent and purpose of the Asheboro Zoning Ordinance and the adopted Land Development Plan. In this case, the granting of this application for a variance allows the Applicant to adapt to changing economic times while acting in harmony with the general intent and purpose of the Asheboro Zoning Ordinance and the adopted Land Development Plan.

7. The fifth finding to be made is that the variance will result in substantial justice being done, considering both the public benefits to be secured by the Asheboro Zoning Ordinance and the individual hardships that will be suffered by a failure to grant the variance. In this case, substantial justice will be done by granting the requested variance from the front yard landscaping requirements along North Fayetteville Street and allowing the Applicants to adapt their business operations in a manner that allows the business operations to continue to function without doing substantive harm to the surrounding lots.

8. Due to the substantial evidence in the record to support affirmative findings for the five standards for the granting of a variance along North Fayetteville Street from the front yard landscaping requirements, the Board is empowered and does grant the Applicants'

requested variance from the front yard landscaping requirements of the Asheboro Zoning Ordinance along that portion of the Applicants' property that is contiguous with North Fayetteville Street. Due to the absence of evidence to support affirmative findings for the five standards for the granting of the requested variances from the required minimum number of parking spaces, the required interior landscaping of the parking lot, and the front yard landscaping requirements along Thornsedale Drive, the Applicants' request for these specified variances is denied.

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

ORDER

On the condition that the Applicants comply with the condition listed below, this application by William S. Schwarz and his wife, Lee B. Schwarz, for a variance along that portion of their property contiguous with North Fayetteville Street from the front yard landscaping requirements of the Asheboro Zoning Ordinance is granted. The Applicants' request for variances from the regulations of the Asheboro Zoning Ordinance pertaining to the required minimum number of parking spaces, the required interior landscaping of the parking lot, and the front yard landscaping requirements along Thornsedale Drive is hereby denied.

The variance from the front yard landscaping requirements along that portion of the Applicants' property contiguous with North Fayetteville Street is granted on the express condition that the Applicants and their successors and assigns accept and remain in compliance with the condition that, irrespective of the granting of this variance, the Applicants must install and maintain that certain amount of landscaping, specifically including any plantings, that was indicated along North Fayetteville Street on the site plan submitted to the Board and described in greater detail during the hearing of this matter.

16. Prior to addressing the question of the issuance of the requested Conditional Use Permit and Special Use Permit, the Council, consistent with the recommendation of the Planning Board, rezoned the Applicants' property from a B2 zoning district to a Conditional Use I2 zoning district.

17. The Applicants have submitted a proper application, including a site plan, for the requested Conditional Use Permit and Special Use Permit. Furthermore, the Applicants' representative, Mr. Jonathan Megerian, Esq., testified during the hearing of this matter that the Applicants are prepared to accept any reasonable conditions that are proposed by the Council in order to ensure the Applicants' continued compliance with all of the City's ordinances and regulations.

18. During the hearing of this matter, members of the Council expressed some concerns about certain uses that may not be compatible with the area in question, but that are

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allowed in an I2 zoning district. The Applicants' representative agreed with the Council's concerns and agreed to the conditions imposed as a means of addressing these concerns.

19. During the hearing of this matter, no credible testimony or any other form of evidence was introduced to undermine the accuracy of the previous findings entered by the city's Board of Adjustment under file number BOA-03-14 in terms of the factual situation existing on the ground at 1617 North Fayetteville Street.

20. No competent evidence has been submitted to the Council to indicate that the proposed retail operation on the Applicants' property will have any negative impact on the public health and safety or on the value of surrounding parcels of land.

21. Similarly, no competent evidence has been introduced to indicate that the Applicants' proposed mixed use of the property will facilitate or contribute to any significant deterioration of the public health and safety or adversely impact the value of surrounding parcels of land as a consequence of the Applicants' continuation of the existing warehousing use and manufacturing use.

22. While the Applicants' representative and an adjoining property owner expressed concern about large trucks utilizing Thornsedale Drive for ingress and egress to the Applicants' property, no competent evidence was introduced to show that the parking proposed by the Applicants will be unsafe or in violation of the Asheboro Zoning Ordinance if the Applicants' zoning request is granted.

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 Applicants 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 Applicants' proposed mixed 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 William S. Schwarz and Lee B. Schwarz for both a Conditional Use Permit that would allow an industrial development with multiple uses and/or structures on the property and a Special Use Permit allowing a floor area ratio between .33 and .45 is hereby approved on the express condition that the Applicants and their heirs, executors, administrators, 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 with a floor area ratio between .33 and .45. The following specific uses shall not be permitted within the development:

- a. Adult Establishment;
- b. Amusement Park;
- c. Businesses Primarily Dealing in Sexually Explicit Materials;
- d. Circus, Carnival, Fair, Concerts Limited Duration;

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- 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; provided, however, that this prohibition shall not be deemed to include motorcycles; and
- r. Sales or Rental of Commercial Vehicles and Heavy Equipment.

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.

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. With the exception of the portion of the Applicants' property abutting Thornsedale Drive, buffering and/or screening shall be installed and maintained as required by Article 304A of the Asheboro Zoning Ordinance. Along the portion of the Applicants' property abutting Thornsedale Drive, a "Type B"

screen as prescribed by the Asheboro Zoning Ordinance shall be planted and maintained. No provision found within this condition shall be deemed to amend, delete, or in any way impair any aspect of the order entered by the Board of Adjustment for the City of Asheboro under file number BOA-03-14.

6. Section 316A "Performance Standards for Industrial Districts" shall be met and maintained as specified by said section of the Asheboro Zoning Ordinance.

7. To the extent necessary to achieve compliance with this condition, the Applicants and their heirs, executors, administrators, successors, and assigns shall utilize any and all legal means available to them to prevent any truck with three (3) axles or more from utilizing Thornsedale Drive as a means of gaining access to or exiting from the lot at issue with this Conditional Use Permit and Special Use Permit.

Adopted this the 4th day of September, 2003.

ATTEST:

S/ David H. Jarrell
David H. Jarrell, Mayor

S/ Carol J. Cole
Carol J. Cole, City Clerk

Case No. SUP-03-09
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF THE LOOK TO JESUS CHRISTIAN CENTER, INC. FOR A SPECIAL USE PERMIT ALLOWING A CHURCH IN A RESIDENTIAL DISTRICT

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

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THIS MATTER was commenced by the filing of an application by the Reverend Dexter L. Trogdon on behalf of The Look To Jesus Christian Center, Inc. for a Special Use Permit allowing a church in a residential district. This matter came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on August 7, 2003. 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. An application was properly filed by the Reverend Dexter L. Trogdon on behalf of The Look To Jesus Christian Center, Inc. (hereinafter referred to as the "Applicant") with the City of Asheboro Planning Department for a Special Use Permit that would allow a church in a residential zoning district.
2. The Applicant's facilities are located at 418 Loach Street in Asheboro, and Randolph County Parcel Identification Number 7761248435 more specifically identifies the property.
3. The Applicant currently utilizes the property located at 418 Loach Street for a church, and the documentation submitted by the Applicant for this Special Use Permit indicates that the desire to build a church fellowship building served as the motivation to file this application.
4. The property in question consists of approximately 2.407 acres of land.
5. The Growth Strategy Map designates the area in which the property at issue is located as "Primary Growth," and the Proposed Land Development Plan Map indicates that this property is located in an area designated as "Neighborhood Residential."
6. The land uses to the north, south, east, and west of said property are residential.
7. The Applicant's property is located in a RA6 zoning district.
8. Loach Street, Brewer Street, and Spring Street are local streets.

9. The site is within the corporate limits of the City of Asheboro and is served by city services.
10. The area surrounding said property is residential in character.
11. The Applicant's precise request is for a Special Use Permit for a church in a residential district so as to allow the construction of a fellowship building.
12. The Applicant has properly submitted a site plan and building elevations that have been reviewed by Planning Department staff members and found to comply with the regulations of the Asheboro Zoning Ordinance.
13. The plans submitted by the Applicant for this project do not indicate the existence of any materials or design characteristics that pose an inherent or abnormal risk to the public health and safety.
14. Under the Asheboro Zoning Ordinance, a church is permitted in a RA6 zoning district by Special Use Permit.
15. The Applicant's property is presently graded, grassed, and slopes rapidly toward the northeast corner of the property.
16. As demonstrated by the Applicant's site plan and reinforced by the testimony from the Applicant's representative, the proposed building and parking area would allow the property to be terraced into two (2) levels to accommodate the proposed facility without an increase in the level of endangerment posed to the public health and safety.

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17. The Applicant's representative testified as to his opinion that the proposed project would not adversely impact the value of surrounding parcels of land and would, in fact, add value to the adjoining property.
18. No testimony was presented in opposition to the Applicant's request.

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

CONCLUSIONS OF LAW

1. During the hearing of this matter, the evidence submitted to the Council indicated that no unreasonable/dangerous amount of vehicular traffic or any other form of unreasonable endangerment would be produced as a consequence of the Applicant's proposed use of the property.
2. The proposed use meets all of the required conditions and specifications of the Asheboro Zoning Ordinance.
3. The Applicant's proposed use, which is an augmentation of the existing use of the property for church facilities, will not substantially injure the value of adjoining or abutting property.
4. The location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

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

ORDER

The above-referenced application submitted by The Look To Jesus Christian Center, Inc. for a Special Use Permit allowing a church in a residential district is hereby approved on the express condition that the Applicant, and its successors and assigns, meet and remain in compliance with the following conditions:

1. The use approved shall be a church and related activities.
2. The development shall be as per the site plan approved.

3. All of the applicable requirements of the Asheboro Zoning Ordinance shall be met and maintained.

4. Final building design and construction shall be according to the elevation designs as submitted and approved.

Adopted this the 4th day of September, 2003.

ATTEST:

S/ David H. Jarrell
David H. Jarrell, Mayor

S/ Carol J. Cole
Carol J. Cole, City Clerk

4. Appearance and Recognition of Guests and Citizens.

Mayor Jarrell welcomed everyone in attendance.

Mr. Ogburn recognized and welcomed several Photo Journalists students from Randolph Community College.

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5. Consent Agenda.

Upon motion by Mr. Smith and seconded by Mrs. Hunter, council voted unanimously to approve the following Consent Agenda items:

- (a) Reappointment of Mr. Wayne Thomas for a two-year term, as chairman, of the recreation department policy review committee.
- (b) Resolution per NCGS Section 143-64.32 exempting the city of Asheboro from the advertisement/qualification based selection procedure to contract with Trittech Civil Environmental, PC, for engineering services required to evaluate Sewer Pump Station Nos. 3, 4, 5, and 7 at a cost of \$51,200.

78 RES 9-03

RESOLUTION PER NCGS SECTION 143-64.32 EXEMPTING THE CITY OF ASHEBORO FROM THE ADVERTISEMENT/QUALIFICATION BASED SELECTION PROCEDURE TO CONTRACT WITH TRITECH CIVIL ENVIRONMENTAL, PC FOR ENGINEERING SERVICES REQUIRED TO EVALUATE SEWER PUMP STATIONS #3, #4, #5 AND #7

WHEREAS, the City of Asheboro desires to contract with Trittech Civil Environmental, PC for engineering services required to evaluate the sewer pump stations listed below to determine the capacity and improvements that will be required to handle projected wastewater flows, prevent sewer overflows and establish a capital improvements plan:

- Sewer Pump Station #3 at 1129 East Mine Street
- Sewer Pump Station #4 at 577 Lexington Road
- Sewer Pump Station #5 at 1026 Bonkemeyer Drive
- Sewer Pump Station #7 at 2142 Henley Country Road

WHEREAS, Trittech Civil Environmental, PC has been selected based on their qualifications, local proximity and suitability for this project, and;

WHEREAS, Trittech Civil Environmental, PC has proposed to provide the aforementioned evaluation and capital improvements plan for all the sewer pump stations listed above at a cost of \$51,200.00, and;

WHEREAS, North Carolina General Statute Section 143-64.31 requires that local governments announce all requirements for engineering services, select a firm based on qualifications without regard to fee and then negotiate a contract, and;

WHEREAS, NCGS Section 143-64.32 allows the City to generally exempt projects from this requirement when the estimated fee is less than \$30,000.00, and allows the City to exempt other projects by stating the reasons therefore and the circumstances attendant thereto.

NOW, THEREFORE, BE IT RESOLVED by the Asheboro City Council that the aforementioned project be exempted from the advertisement/qualification based selection procedure to contract with Trittech Civil Environmental, PC, based on their qualifications, local proximity and suitability for this project, and;

BE IT RESOLVED that the City Manager is authorized to sign agreements with Trittech Civil Environmental, PC, for the aforementioned engineering services at the stated cost.

Adopted by the Asheboro City Council this 4th day of September, 2003.

S/ David H. Jarrell
Mayor

ATTEST:

S/ Carol J. Cole
City Clerk

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- (c) Request by Randolph Arts Guild to close the following streets from Friday, 6:30 PM through Sunday evening, October 3, 4, and 5, 2003, for the Fall Festival: Fayetteville Street from Salisbury to Kivett; North Street at Salisbury, Sunset Avenue at Church, Worth, Scarboro, East Academy and Cranford Streets at Cox and West Academy at the entrance to the city parking lot.
- (d) An ordinance prohibiting the riding of skateboards, roller skates, and any other type of toy vehicle on the premises of Centerpoint Plaza at 1226 East Dixie Drive.

72 ORD 0-03

**AN ORDINANCE PROHIBITING ANY PERSON FROM RIDING ON A
SKATEBOARD, ROLLER SKATES, OR ANY OTHER TYPE OF TOY VEHICLE
ON THE POSTED PRIVATE PROPERTY OF CENTERPOINT PLAZA**

WHEREAS, Section 160A-174(a) of the North Carolina General Statutes provides that a city may define, prohibit, regulate, or abate by ordinance acts, omissions, or conditions that are detrimental to the health, safety, or welfare of the city's citizens and the peace and dignity of the city; and

WHEREAS, Section 70.53 of the Code of Asheboro restricts the use of play vehicles in the following manner:

§ 70.53 USE OF PLAY VEHICLES RESTRICTED.

(A) It shall be unlawful for any person riding on a skateboard, roller skates, coaster, toy vehicle or similar device to ride any of such devices on the premises of the municipal buildings, on any municipal parking facility, or to ride any such devices on any sidewalk or street located in the central business district of the city, as designated on the City Zoning Map as a B-3 District.

(B) It shall be unlawful for any person riding on a skateboard, roller skate or any other toy vehicle to ride on a roadway except while crossing a street at a crosswalk or intersection; provided, that this section shall not apply upon streets set aside as play streets.

(C) It shall be unlawful for any person to ride on a skateboard, roller skates, or any other toy vehicle on private property when signs are placed, erected, or installed giving notice that skateboarding, roller skating or riding any other toy vehicle is regulated, prohibited, or prohibited during certain hours, in that space or area; and

WHEREAS, Centerpoint Plaza Limited Partnership is the owner of certain real property that is located at 1226 East Dixie Drive in Asheboro and that is utilized for a shopping center; and

WHEREAS, Centerpoint Plaza Limited Partnership has properly submitted a written request to the city council to have the partnership's property at 1226 East Dixie Drive properly posted by the city in order

to prohibit, in accordance with Section 70.53(C) of the Code of Asheboro, the riding by any person of a skateboard, roller skates, or any other toy vehicle on said property:

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

Section 1. Pursuant to and in accordance with Section 70.53(C) of the Code of Asheboro, it is unlawful for any person to ride on a skateboard, roller skates, or any other toy vehicle on the private property of the Centerpoint Plaza Limited Partnership at 1226 East Dixie Drive.

Section 2. The number and type of signs necessary to lawfully implement the provisions of Section 1 of this ordinance shall be erected or installed in a manner to be determined by the Chief of Police or his designee, and the entirety of the cost of erecting or installing the necessary signs shall be paid by Centerpoint Plaza Limited Partnership as the applicant requesting the adoption of this ordinance.

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Section 3. Section 72.02 of Chapter 72 of the Code of Asheboro is hereby amended to provide as follows:

§ 72.02 ENUMERATED BY SUBJECT MATTER.

- Schedule 1. Where parking prohibited at all times.
- Schedule 2. Where parking limited to one hour at any time.
- Schedule 3. Where parking limited to one hour between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sundays and public holidays.
- Schedule 4. Where parking limited to 15 minutes at any time.
- Schedule 5. Places reserved for stands for specific purposes.
- Schedule 6. Through streets.
- Schedule 7. Stop intersections.
- Schedule 8. One-way streets.
- Schedule 9. Where left turns to be made at left of center of intersection.
- Schedule 10. Intersections at which left turns prohibited.
- Schedule 11. Intersections at which right turns prohibited.
- Schedule 12. Intersections at which U turns prohibited.
- Schedule 13. Places where angle parking required.
- Schedule 14. Places where "children playing" signs erected.
- Schedule 15. Places where "yield right of way" signs erected.
- Schedule 16. Speed restrictions.
- Schedule 17. Parking prohibited on privately owned property.
- Schedule 18. Parking limited to 30 minutes at any time.
- Schedule 19. Parking limited to two hours at any time.
- Schedule 20. Restrictions on use of play vehicles on private property.

Section 4. The city clerk shall enter a description in Schedule 20 of Section 72.02 of the Code of Asheboro of the type of prohibition imposed by this ordinance and a description of the private property subject to said prohibition.

Section 5. This ordinance shall become effective upon adoption.

Adopted this the 4th day of September, 2003.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, City Clerk

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6. Rezoning Matters.

Mayor Jarrell opened the public hearing on the following zoning request:

- (a) From I-1 Industrial to B-2 Commercial (RZ-03-36): The property of Clapp Rental Property Family Limited Partnership located on Rock Crusher Road totaling 38,332.80 sq. ft., more or less, and more specifically identified by Randolph County Parcel ID Number 7761730426. (Greg & Tammie Grisso are the applicants.)

Mr. Neely described the aforementioned property and stated that Rock Crusher Road is a local street, and the site is within the corporate limits. City services are available. Sewer service is from a private pump station. The area contains a mix of commercial, industrial and residential uses. The LDP "Proposed Land Use Map" indicated both commercial and industrial areas along Rock Crusher Road. This property is within the industrial designated area; however, the adjacent frontage to the south is zoned B-2 and is designated by the plan.

The planning board recommended approval, as the request complies with the goals and policies of the Land Development Plan.

Mrs. Tammie Grisso, applicant, was present to answer any questions that council might have.

There being no comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Baker and seconded by Mrs. Carter, council voted unanimously to accept the recommendation from the planning board for approval.

Mayor Jarrell opened the public hearing on the following request:

- (b) From R-7.5 Residential to OA-6 Commercial (RZ-03-38): The property of Garris Brantley Properties, Inc. located at 848 & 854 South Cox Street totaling approximately 24,801 sq. ft., more specifically identified by Randolph County Parcel ID Number 7750891026. (Joe Patrick Brantley is the applicant.)

Mr. Neely described the aforementioned property and stated that South Cox Street is a major thoroughfare. The site is served by all city services. The area is characterized by a mix of uses—single family, multifamily development, and offices. South Cox Street is a transitional area between the commercial on Fayetteville Street and the residential development off Cox Street to the east. The request is to rezone from R-7.5 to OA-6.

The planning board recommended approval, as the request complies with the goals and policies and map of the Land Development Plan.

Mr. Joe Patrick Brantley was present to answer any questions that council might have.

There being no comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Smith and seconded by Mrs. Carter, council voted unanimously to accept the recommendation from the planning board.

- (c) Amend an Existing CU Permit to Allow a Modified Site Plan, Including a Foyer, a Freestanding Cooler and Generator (CUP-03-37): The property of Andy B. Archibald and wife, Dreama Archibald, located at 818 East Dixie Drive totaling

approximately 1.34 acres, more specifically identified by Randolph County Parcel ID Number 7760176110.

Mr. Neely was sworn in and described the aforementioned property. He stated that East Dixie Drive is a major thoroughfare. The site is served by all city services. The character of the area is commercial along Dixie Drive with a neighborhood residential area to the south. Council granted a CU-B-2 for this property on August 9, 1984. Mr. Neely reviewed the uses and conditions that the existing CU Permit allows. Conditional Use Permits are granted for one specific use, not a group of uses as specified in the original 1984 permit.

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The request is to amend an existing CU Permit to allow a modified site plan including a foyer, a freestanding cooler and a generator.

Mr. Neely stated that the staff has prepared some suggested conditions if council finds in favor of the request. These conditions are: (1) All conditions of RZ-85-3 shall remain in effect, except for Condition Nos. 6 and 15, and the list of permitted uses which shall include Eating Establishments –Sit Down as the only permitted use. (2) All design standards for commercial developments shall be met. (The conditions suggested for deletion are: Condition #6, which reads "Before any site preparation or grading begins, a Soil Erosion and Sediment Control Plan shall be submitted to and approved by the City Engineering Department." Condition #15 which reads "This conditional use rezoning shall be contingent upon amending the Land Development Plan."

Mr. Jon Megerian, attorney representing the applicant, was sworn in and addressed the four standard tests as they relate to the additions. He stated that the property is a sit-down eating establishment and provides for take-out orders. He presented the amended plat, which showed where the additions of the generator, cooler and foyer will be located. Mr. Megerian also presented photos showing where the cooler and generator will be installed. He was standing at the fence, which provides a buffer, when he took these photos. The applicant wants to use the generator during peak hours when Randolph Electric Membership Corporation charges the highest rates, which are mid morning and mid afternoon. The generator would not run at night and will be enclosed in an acoustics box. The generator will be approximately 200 feet from the nearest house and will comply with the City's noise ordinance. Adding the generator will not impact property value of adjoining or abutting property owners. However, Mr. Megerian had talked with adjacent residents and some had questions about the noise of the generator.

Mr. Andy Archibald, applicant and operator of America's Roadhouse, was sworn in and stated that the generator will be new and meet the current federal regulations. It will operate on diesel fuel, as natural gas is not economically feasible. The fumes produced from the generator will not be excessive. The generator will be used during a three-hour peak time, which is mid-morning and mid-afternoon. However, Mr. Archibald stated that he would also use the generator in case of a power outage.

Mr. Neely responded to questions asked about decibels and explained the different levels of noise by using examples such as lawnmowers, dishwashers, airplanes, etc. Mr. Neely also clarified that the take-out portion of Mr. Archibald's business is not an issue with the zoning ordinance.

Ms. Phyllis Phillips was sworn in and stated that she lives behind the restaurant, and her lot is approximately 200 feet from the restaurant. She had some concerns about fumes and noise from the generator.

After all comments had been made, Mayor Jarrell asked the applicant if he agreed with the suggested conditions as stated by Mr. Neely. Also, Mayor Jarrell asked Mr. Archibald if he was agreeable to not operating the generator from 9:00 PM to 7:00 AM unless there is a power outage. Mr. Archibald accepted the conditions.

Mayor Jarrell closed the public hearing.

Mr. Trollinger moved that council approve the amendment to the existing CUP with the conditions stated, based on the four standard tests being met per testimony by Mr. Megerian and Mr. Archibald. Mr. Baker seconded the motion, which carried unanimously.

The conditions will be detailed in the city attorney's Findings of Fact, Conclusions of Law, and Order Granting the Requested Amendment to the Existing Conditional Use Permit to be approved by council at its October meeting.

8. Public Hearing on the Proposed Closing of a Portion of West Dorsett Avenue Between South Fayetteville Street and the Western Railroad Right-of-Way Line, Including the

Railroad Grade Crossing.

Mayor Jarrell opened the public hearing on the aforementioned.

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Mr. Michael J. Shumsky, PE, of the NCDOT Rail Division, stated that the North Carolina Department of Transportation plans to eliminate redundant and/or unsafe at-grade railroad crossings statewide in order to improve rail and highway safety along heavily used corridors. A crossing is considered redundant if it is within 1/4 mile of another crossing connected to the same street network. Mr. Shumsky gave a summary of the West Dorsett Avenue crossing (which is considered redundant) and cited the incentives for closing the railroad grade crossing. The estimated time for completion of the project is early spring.

In order to proceed with the construction of improvement projects to facilitate the closing of the West Dorsett Avenue railroad grade crossing, the Asheboro City Council will have to order the closing of a certain portion of West Dorsett Avenue. Also, the NCDOT, City of Asheboro, and the Asheboro City Board of Education will have to enter into a joint agreement to proceed with said improvements.

Doctor Diane Frost, superintendent of the Asheboro City Schools, and Mike Mize, facilities director for the city schools, were present. Doctor Frost stated that the board of education will be meeting next week, and she feels that the board will approve the joint agreement.

There being no further comments, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Trollinger and seconded by Mr. Smith, council voted unanimously to approve the Order to close West Dorsett Avenue between South Fayetteville Street and the western railroad right-of-way line including without limitation the railroad grade crossing.

Upon motion by Mr. McGlohon and seconded by Mrs. Hunter, council voted unanimously to adopt a resolution formally approving a Municipal Agreement with the NCDOT, the City of Asheboro and the Asheboro City Board of Education for improvements related to closing the railroad grade crossing on West Dorsett Avenue.

STATE OF NORTH CAROLINA

COUNTY OF RANDOLPH

IN RE THE CLOSING OF WEST DORSETT)
AVENUE BETWEEN SOUTH FAYETTEVILLE STREET)
AND THE WESTERN RAILROAD RIGHT-OF-WAY) ORDER
LINE INCLUDING WITHOUT LIMITATION THE)
RAILROAD GRADE CROSSING)

WHEREAS, pursuant to the provisions of Section 160A-299 of the North Carolina General Statutes, the City Council of the City of Asheboro adopted on the 10th day of July, 2003, at its regularly scheduled July meeting, a resolution (72 RES 7-03) declaring the intent of the City Council to permanently close a certain portion of West Dorsett Avenue between South Fayetteville Street and the western railroad right-of-way line, specifically including without limitation the portion of the street that crosses the Norfolk Southern Railroad at Crossing Number 722 496E, Railroad Milepost M 28.9; and

WHEREAS, Resolution Number 72 RES 7-03 properly called for a public hearing to be held at 7:00 o'clock p.m. on the 4th day of September, 2003, in the Council Chambers of the City of Asheboro Municipal Building located at 146 North Church Street in Asheboro, on the question of whether or not such closing would be detrimental to the public interest or the property rights of any individual; and

WHEREAS, pursuant to Section 160A-299 of the North Carolina General Statutes, said resolution of intent was published in the Courier Tribune, a newspaper published in the City of Asheboro, Randolph County, North Carolina, once a week for four successive weeks prior to the public hearing called on the question of the permanent closure of the above-described portion of West Dorsett Avenue; and

WHEREAS, a copy of said resolution of intent was sent by certified mail to all of the owners, as determined by reviewing the county tax records, of property adjoining the above-described portion of West Dorsett Avenue, said property owners are more particularly identified as follows:

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1. Asheboro City Schools
2. County of Randolph
3. Sara Lee Corporation
4. Sir Robert Motel, Incorporated; and

WHEREAS, notice of both the City Council's intention to permanently close the above-described portion of West Dorsett Avenue and the call for a public hearing on the question of the closure of said street was prominently posted in two places along the portion of West Dorsett Avenue located between South Fayetteville Street and the western railroad right-of-way line; and

WHEREAS, after holding the public hearing called by the adopted resolution of intent to permanently close the above-described portion of West Dorsett Avenue, it appears to the satisfaction of the City Council of the City of Asheboro that the permanent closure of said portion of West Dorsett Avenue is not contrary to the public interest and that no individual owning property in the vicinity of the said portion of West Dorsett Avenue would thereby be deprived of reasonable means of ingress and egress to his property:

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

Section 1. The portion of West Dorsett Avenue between South Fayetteville Street and the western railroad right-of-way line, specifically including without limitation the portion of the street that crosses the Norfolk Southern Railroad at Crossing Number 722 496E, Railroad Milepost M 28.9, is hereby permanently closed. Said permanently closed portion of West Dorsett Avenue is located within the corporate limits of the City of Asheboro and is more particularly described by metes and bounds as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a point marked by an existing iron pipe that is located at the intersection of the Western right-of-way line of South Fayetteville Street (United States Highway 220 Business) with the Southern right-of-way line of West Dorsett Avenue, said point is located North 65 degrees 46 minutes 21 seconds East 1264.06 feet from City of Asheboro Monument 25 which is located by means of the North Carolina Coordinate System at the coordinates of North 706,322.405 feet and East 1,756,419.502 feet (NAD 27); thence from said Beginning point along the Southern right-of-way line of West Dorsett Avenue and across a fifty (50) foot wide Norfolk Southern Railroad right-of-way the following course and distance: North 89 degrees 55 minutes 13 seconds West 86.73 feet to a new iron pipe located at the intersection of the Southern right-of-way line of West Dorsett Avenue with the Western right-of-way line of the Norfolk Southern Railroad right-of-way; thence North 09 degrees 46 minutes 30 seconds East 50.72 feet across West Dorsett Avenue to a new iron pipe that is located at the intersection of the Northern right-of-way line of West Dorsett Avenue with the Western right-of-way line of the Norfolk Southern Railroad right-of-way; thence across the Norfolk Southern Railroad right-of-way the following course and distance: South 89 degrees 55 minutes 13 seconds East 50.24 feet to an existing iron pipe located at the intersection of the Northern right-of-way line of West Dorsett Avenue with the Eastern right-of-way line of the Norfolk Southern Railroad right-of-way; thence continuing along the Northern right-of-way line of West Dorsett Avenue the following course and distance: South 89 degrees 55 minutes 13 seconds East 33.00 feet to an existing iron pipe located at the intersection of the Northern right-of-way line West Dorsett Avenue with the Western right-of-way line of South Fayetteville Street; thence South 05 degrees 50 minutes 47 seconds West 50.25 feet across West Dorsett Avenue to the point and place of the BEGINNING and being all of that certain portion of West Dorsett Avenue located within the 0.955 of an acre encompassed by the preceding metes and bounds description.

Also included is the fifty (50) foot right-of-way that includes West Dorsett Avenue, which right-of-way is shown on the below-referenced plat of survey.

This description is in accordance with a plat of survey entitled "Survey Of Proposed Closing Of A Portion Of West Dorsett Avenue For City of Asheboro," dated June 18, 2003, and drawn under the supervision of Philip M. Henley, P.L.S. with Registration Number L-1494.

Section 2. The City of Asheboro, pursuant to the provisions of Section 160A-299 of the North Carolina General Statutes, reserves its perpetual right, title, and interest in and to both the water line shown on the above-referenced plat of survey and an easement 20 feet in width (10 feet on each side of said water line) for the operation and maintenance of said water line. This reservation by the City of Asheboro of its right, title, and interest in the existing utility improvements expressly includes, without

limitation, the city's perpetual right and privilege of going in, upon, and over the area within the water line easement at any time or times, and from time to time, at the city's option, for the purpose of constructing, inspecting, operating, repairing, and maintaining a water line, including such alterations, replacements, and expansions of capacity as may, in the city's sole judgment, be necessary or proper as a part of the Municipal Water System of the City of Asheboro, North Carolina

Section 3. This ordinance and order shall become effective as of November 1, 2003.

Section 3. Any person aggrieved by the permanent closure of the above-described portion of West Dorsett Avenue may appeal the adoption of this ordinance and order to the General Court of Justice of Randolph County, North Carolina within thirty (30) days after the adoption of said ordinance and order.

Section 4. In the event there is no appeal within thirty (30) days after the adoption of this ordinance and order, a certified copy of said ordinance and order shall be filed in the office of the Register of Deeds of Randolph County, North Carolina as provided by law.

Adopted this the 4th day of September, 2003.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, City Clerk

79 RES 9-03

Resolution

WHEREAS, the North Carolina Department of Transportation plans to eliminate redundant and/or unsafe at-grade railroad crossings statewide in order to improve rail and highway safety along heavily used corridors; and,

WHEREAS, an Order was approved on the 4th day of September 2003 by the City Council of the City of Asheboro ordering the permanent closure of a portion of West Dorsett Avenue, specifically including without limitation the portion of the street that crosses the Norfolk Southern Railroad at Crossing Number 722 496E, Railroad Milepost M 28.9 Said street is located in the corporate limits of the City of Asheboro; and,

WHEREAS, the North Carolina Department of Transportation, City of Asheboro, and Asheboro City Board of Education propose to enter into an agreement for the construction of improvement projects to facilitate the aforementioned action; and,

WHEREAS, said agreement is attached to this Resolution as Exhibit1 and is hereby incorporated by reference as if copied fully herein; and,

NOW, THEREFORE, BE IT RESOLVED that said project in Randolph County, is hereby formally approved by the City Council of the City of Asheboro and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation and Asheboro City Board of Education.

S/ Carol J. Cole
City Clerk

(The Municipal Agreement referred to as Exhibit 1 is attached to the original resolution on file in the city clerk's office.)

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9. Request by John Auler of Little Byte Computers at 226 Sunset Avenue for an Ordinance Establishing a Loading Zone at 226 Sunset Avenue.

Mr. John Auler stated that he moved to the location on Sunset Avenue three months ago, and his business has increased. However, cars park in front of his business for long hours at a time,

and his customers have to carry their heavy computers, etc. a considerable distance. Mr. Auler is requesting a loading zone be placed at his business so that his customers can drop off and pick up their computers and not have to walk so far.

After discussion, Mr. Trollinger moved that a loading zone be established at the last parking space on Sunset Avenue at Hop's that is temporary until Streetscape. Mr. Priest seconded the motion, which carried unanimously.

73 ORD 9-03

**An Ordinance Establishing a Loading Zone
on Sunset Avenue**

BE IT ORDAINED by the City Council of the City of Asheboro:

Pursuant to Chapter 71, Section 71.01(A)(5) of the Code of the City of Asheboro, the City Manager is hereby ordered to cause the designation of a loading zone as described below on a street that lies within the corporate boundary of the City of Asheboro:

- One space on the north side of Sunset Avenue, beginning 94 feet east from the center of North Church Street and extending 113 feet east from the center of North Church Street.

Adopted in Regular Meeting held on September 4, 2003.

S/ David H. Jarrell
Mayor

ATTEST:

S/ Carol J. Cole
City Clerk

10. Closed Session.

Mayor Jarrell entertained a motion to go into closed session in order to establish and instruct the city's staff concerning the position to be taken on behalf of the city council in negotiating the price and other material terms of a proposed contract for the acquisition of real property by purchase pursuant to the statutory provisions found in Section 143-318.11(a)(5) of the North Carolina General Statutes.

Upon motion by Mr. McGlohon and seconded by Mr. Baker, council voted unanimously to go into closed session.

Mayor Jarrell called the regular meeting back to order.

Upon motion by Mr. Smith and seconded by Mr. Baker, council voted unanimously to purchase approximately one acre of land adjacent to McCrary Ballpark for the purchase price of \$40,000.

11. Upcoming Events.

Mayor Jarrell reported that Add Penfield wishes to promote the Farmers Market by having a "watermelon seed spitting contest" between the city council and the county commissioners. Council agreed to participate in the contest.

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The North Carolina League of Municipalities Annual Conference will be held October 12-14, 2003, in Winston-Salem.

The 2003 Elected Officials Picnic is scheduled for Thursday, September 25, 2003, from 6:00 PM until 8:30 PM at Sealy –Corporate Headquarters Office on Parkway Road, Trinity, NC.

Lecture Series on the State of Transportation to be held at The Exchange located on South Fayetteville Street at 11:45 AM on September 25th.

12. Public Works and Finance & Public Safety Matters.

No official meetings have been held.

13. Discussion of Items Not on the Agenda.

Mayor Jarrell reported that he has been contacted by Mrs. Sharon Deese, who is requesting that a sign be erected honoring her daughter, Kari Sparks, on becoming the new North Carolina Majestic Queen.

After some discussion, it was the consensus of council to honor Ms. Sparks with a Proclamation in lieu of a sign.

There being no further business, the meeting was adjourned at 9:03 PM.

Carol J. Cole, CMC, City Clerk

David H. Jarrell, Mayor

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