

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
THURSDAY, JULY 8, 2004  
7:00 PM**

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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 )  
Keith Crisco )  
Nancy Hunter ) – Council Members Present  
John McGlohon )  
David Smith )
- Archie Priest ) – Council Member Absent

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  
John Evans, Code Enforcer  
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 Ben Chavis, pastor of Sunrise Church of God, gave the invocation.

**2. Appearance and Recognition of Guests and Citizens.**

Mayor Jarrell welcomed everyone in attendance.

**3. Approval of Findings of Fact, Conclusions of Law, and Order in the Matter of CUP-04-15.**

Mr. Sugg presented the aforementioned for council's consideration.

Upon motion by Mr. Crisco and seconded by Mr. Baker, council voted unanimously to approve the following Findings of Fact, Conclusions of Law, and Order in the matter of CUP-04-15:

Case No. CUP-04-15  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF JAMES D. SILER FOR A CONDITIONAL USE  
PERMIT ALLOWING COMMERCIAL DEVELOPMENTS WITH MULTIPLE USES AND/OR  
STRUCTURES WITH A FLOOR AREA RATIO UP TO .33

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

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THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on June 10, 2004. 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. James D. Siler (hereinafter referred to as the "Applicant") has properly submitted an application to have certain real property owned by him and located at 748 Martin Luther King Drive rezoned from a RA6 zoning district to a Conditional Use B2 zoning district.

2. In addition to requesting of the Council the above-described legislative action, the Applicant has also requested that the Council conduct a quasi-judicial proceeding and issue a Conditional Use Permit that would allow commercial developments with multiple uses and/or structures with a floor area ratio (hereinafter referred to as "FAR") up to .33 on the property described in finding number 1 and on another parcel of land that is owned by the Applicant and adjoins the parcel of land for which legislative rezoning has been requested.

3. Prior to addressing the question of the issuance of the requested Conditional Use Permit, the Council, consistent with the recommendation of the Planning Board, rezoned the parcel of land for which a legislative rezoning had been requested from a RA6 zoning district to a Conditional Use B2 zoning district. Said parcel of land is more specifically identified by Randolph County Parcel Identification Number 7761231644.

4. An adjoining parcel of land located to the west of the parcel of land described in the immediately preceding paragraph is also owned by the Applicant and is included as a portion of the total amount of property subject to the Applicant's request for a Conditional Use Permit. This additional parcel of land is more specifically identified by Randolph County Parcel Identification Number 7761230654.

5. The parcel of land identified by Randolph County Parcel Identification Number 7761230654 is currently in a Conditional Use B2 zoning district as a consequence of a legislative rezoning undertaken by the Council in July 1997. This same parcel of land was originally subject to a Conditional Use Permit, but said permit has now expired.

6. As previously noted, the Conditional Use Permit currently sought by the Applicant, if issued, will encompass the entirety of the two (2) parcels of land identified by Randolph County Parcel Identification Numbers 7761231644 and 7761230654. Thus, throughout the remainder of these findings, conclusions, and order, the said parcels of land will be referred to collectively as the "Zoning Lot."

7. The Zoning Lot is located in an area designated on the Growth Strategy Map as a "Primary Growth" area, and said area is identified on the Proposed Land Development Plan Map as "Neighborhood Residential."

8. Martin Luther King Drive is a local street.

9. The Zoning Lot is served by all city services.

10. The Zoning Lot is located in an area characterized by a mix of residential and commercial uses.

11. The Applicant has submitted an application, including without limitation a site plan, that complies with the requirements prescribed by the Asheboro Zoning Ordinance for a Conditional Use Permit.

12. The Applicant testified during the hearing of this matter that he is prepared to accept the entirety of the conditions that have been proposed by the Planning Department staff to the Council in order to ensure the compatibility of the Applicant's proposed use of the Zoning Lot with surrounding land uses.

13. In essence, the Applicant is proposing to renovate an existing vacant structure and to construct an addition to the rear of said structure.

14. Once the existing structure has been renovated and expanded, the Applicant wants to utilize said structure for commercial activities that are consistent with the parking and other specifications shown on the site plan that was submitted as part of the application for this Conditional Use Permit.

15. The Applicant believes that commercial activity and traffic is increasing along Martin Luther King Drive, and he wishes to take an active positive role in the development of the area in which the Zoning Lot is located by improving the appearance of the Zoning Lot and bringing vibrant commercial activity to said lot.

16. The traffic associated with the Applicant's proposed commercial development will not pose in any material sense a safety hazard because the Applicant's proposal calls for replacing the two existing separate driveways that provide access to the individual parcels of land that comprise the Zoning Lot with a new single driveway that will provide for the Zoning Lot's sole means of ingress and egress along Martin Luther King Drive. The North Carolina Department of Transportation has granted approval for the applicant's proposed driveway for the Zoning Lot.

17. The Applicant's site plan indicates that the Applicant's proposal includes adequate provisions, in terms of base line compliance with the requirements of the zoning ordinance, for parking, lighting, screening, and dumpsters.

18. During the hearing of this matter, no evidence was presented in opposition to the Applicant's request for the issuance of a Conditional Use Permit.

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.

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. The evidence presented during the course of the hearing of this matter established that the proposed use would not 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 is 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-described application submitted by James D. Siler for a Conditional Use Permit allowing commercial developments with multiple uses and/or structures with a FAR up to .33 is hereby approved on the express condition that the Applicant and his heirs, successors, and assigns meet and remain in compliance with the following conditions:

1. The use approved shall be commercial developments with multiple uses and/or structures with a FAR up to .33.

2. The development of the Zoning Lot shall be as per the site plan approved in accordance with and subject to Section 1013 of the Asheboro Zoning Ordinance.

3. All requirements of the Asheboro Zoning Ordinance's Performance Standards for Commercial Districts shall be met and maintained.

4. Buffering and screening shall be installed and maintained as required by Article 304A of the Asheboro Zoning Ordinance.

5. Off street parking shall be provided as required by Article 400 of the Asheboro Zoning Ordinance.

6. Signage shall be as provided in Article 500 of the Asheboro Zoning Ordinance.

7. The business or businesses that operate on the Zoning Lot shall not remain open after 10:00 p.m. and shall not open before 7:00 a.m.

Adopted by the Asheboro City Council in regular session on this 8<sup>th</sup> day of July, 2004.

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

ATTEST:

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

**4. Approval of Findings of Fact, Conclusions of Law, and Order in the Matter of CUP-04-18.**

Mr. Sugg presented the aforementioned for council's consideration.

Upon motion by Mr. Baker and seconded by Mrs. Carter, council voted unanimously to approve the following Findings of Fact, Conclusions of Law, and Order in the matter of CUP-04-18.

Case No. CUP-04-18  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF GLENN R. KING FOR AN AMENDMENT TO AN  
EXISTING CONDITIONAL USE PERMIT

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

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THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on June 10, 2004. 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. Glenn R. King (hereinafter referred to as the "Applicant") properly submitted an application to amend the existing Conditional Use Permit that regulates certain real property owned in part by the Applicant and located along East Salisbury Street, North Carolina Highway 42 North, and Dublin Square Road.
2. The Applicant is seeking the requested amendment for the limited purpose of amending the site plan for this development to reflect the addition of a driveway connecting North Carolina Highway 42 and a new parking area designed to provide six (6) additional parking spaces on the site.
3. At the present time, the real property for which an amended Conditional Use Permit is sought only has driveways accessing East Salisbury Street and Dublin Square Road.
4. The additional parking is needed on said property (hereinafter referred to as the "Zoning Lot") because any potential tenants of certain office units located in the southeastern corner of the Zoning Lot will have difficulty in finding parking spaces within the current parking area(s) due to the fact that another tenant, the North Carolina Department of Correction, has approximately twenty (20) full-time employees that each have personal vehicles and assigned state-owned vehicles to drive during the workday.
5. The location in the southeastern corner of the Zoning Lot of the proposed driveway connection to North Carolina Highway 42 will enable the Applicant to utilize the available land to create a limited number of additional parking spaces near the units of the existing office park that are most in need of the additional parking spaces.
6. The Zoning Lot 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 "Office and Institutional."
7. As previously noted, an office park is the existing land use on the Zoning Lot.
8. The Zoning Lot itself consists of approximately 4.395 acres and is comprised of two (2) parcels of land. The said parcels of land are more specifically identified by Randolph County Parcel Identification Numbers 7761326037 and 7761324278.
9. North Carolina Highway 42 North and East Salisbury Street are major thoroughfares.
10. The Zoning Lot is served by all city services.
11. A mix of residential, commercial, and multifamily uses characterizes the area in which the Zoning Lot is located.

12. The existing Conditional Use Permit allowing a commercial development with mixed uses and/or structures in the Zoning Lot's Conditional Use B2 zoning district was approved in 1995.

13. The requested amendment to the existing Conditional Use Permit will not change the uses currently found on the Zoning Lot, and it does not negatively impact any of the conditions attached to the existing Conditional Use Permit. The proposed amendment merely seeks to amend the site plan incorporated into the existing Conditional Use Permit to allow the addition of a driveway for direct access between North Carolina Highway 42 and six (6) new parking spaces on the Zoning Lot.

14. The Applicant has applied for and received a permit from the North Carolina Department of Transportation to construct a twenty (20) foot wide access driveway to North Carolina Highway 42 North in the location specified in the Applicant's amended site plan.

15. The Applicant testified during the hearing of this matter that he is prepared to accept the conditions that have been proposed by the Planning Department staff to the Council in order to ensure the compatibility of the Applicant's proposed use of the property with surrounding land uses.

16. The proposed amendment of the site plan does not change or call into question the credibility or reliability of the evidence originally relied upon by the Council as the basis for the issuance of the existing Conditional Use Permit in 1995.

17. No testimony or other form of evidence was submitted to the Council during the hearing of this matter in opposition to the Applicant's requested amendment of the existing Conditional Use Permit.

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.

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. The evidence presented during the course of the hearing of this matter established that the proposed use would not substantially injure the value of 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 is 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-described application submitted by Glenn R. King for an amendment of the site plan for the existing Conditional Use Permit that allows a commercial development with mixed uses and/or structures on the Zoning Lot is hereby approved on the express condition that the Applicant and his heirs, successors, and assigns meet and remain in compliance with the following conditions:

1. Except as impacted by condition number 2 below, all previous conditions attached to the existing Conditional Use Permit are hereby expressly confirmed as remaining in effect, and said conditions shall be met and honored by the Applicant and his heirs, successors, and assigns.

2. The continued development of the Zoning Lot shall be as per the amended site plan which is hereby expressly approved in accordance with and subject to Section 1013 of the Asheboro Zoning Ordinance.

Adopted by the Asheboro City Council in regular session on this 8<sup>th</sup> day of July, 2004.

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

ATTEST:

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

**5. Consent Agenda.**

Upon motion by Mrs. Carter and seconded by Mrs. Hunter, council voted unanimously to adopt the Consent Agenda as follows:

(a) Approval of Minutes of Previous Meetings

The minutes of the June 3, 2004 Special Meeting, June 10, 2004 Regular Meeting, and June 24, 2004 Special Meeting were approved as presented.

(b) Second Reading and Final Adoption of Ordinance Granting Renewal of Taxicab Franchise

The second reading and final adoption of Ordinance Number 13 ORD 6-04 was approved granting Mr. Tony Hafez, owner of Asheboro Taxi, a renewal of his franchise to operate seven (7) taxicabs in the City of Asheboro, which expires July 12, 2005.

OLD BUSINESS:

**6. Consideration of Petition Received From Joyce M. Davis Requesting an Ordinance Establishing a 25 MPH Speed Limit on Lamar Drive.**

The aforementioned item was deferred from last month's meeting for further study. Mr. Lynn Priest reported that survey forms were mailed to the residents of Lamar Drive to determine a desired speed limit for the street. Twenty-seven (27) survey forms were mailed to the residents, and twenty (20) residents returned the forms. Eleven (11) residents preferred a 25 MPH speed limit, and nine (9) residents preferred a 35 MPH speed limit.

Mr. Baker moved that the speed limit on Lamar Drive remain at its current speed limit of 35 MPH. Due to the lack of a second, the motion failed.

After some discussion, Mr. Crisco moved that the speed limit on Lamar Drive be changed to 25 MPH. Mrs. Carter seconded the motion, and the motion carried. Mr. Baker voted no.

24 ORD 7-04

**ORDINANCE LOWERING THE SPEED LIMIT ON LAMAR DRIVE TO  
TWENTY-FIVE (25) MILES PER HOUR**

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

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

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

- (1) Thirty-five miles per hour inside municipal corporate limits for all vehicles.

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

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

Local authorities, in their respective jurisdictions, may authorize by ordinance higher speeds or lower speeds than those set out in subsection (b) upon all streets which are not part of the State highway system; but no speed so fixed shall authorize a speed in excess of 55 miles per hour. Speed limits set pursuant to this subsection shall be effective when appropriate signs giving notice thereof are erected upon the part of the streets affected; and

WHEREAS, Section 72.02 of the Code of Asheboro provides that speed restrictions established by the City Council by means of the adoption of an appropriate ordinance are to be recorded in Schedule 16; and

WHEREAS, Lamar Drive is located within the corporate limits of the City of Asheboro, and said street is not part of the State highway system; and

WHEREAS, based on the information contained within a petition signed by residents living along Lamar Drive and presented by Lamar Drive resident Joyce M. Davis to the City Council during a regular council meeting held on May 6, 2004, the City Council has concluded that Lamar Drive is experiencing an increase in the volume of traffic utilizing said road and that the maximum speed authorized on Lamar Drive should be set at twenty-five (25) miles per hour in an effort to enhance the safety of any and all children living along Lamar Drive; and

WHEREAS, the City Council of the City of Asheboro agreed on May 6, 2004, to lower the speed limit on Lamar Drive to twenty-five (25) miles per hour, and this ordinance is being prepared to formalize the council's action.

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

Section 1. The maximum speed authorized on Lamar Drive is hereby restricted to twenty-five (25) miles per hour for all vehicles.

Section 2. The City Manager, in consultation with the city police department, shall cause the appropriate signage to be erected on Lamar Drive in order to provide notice of the twenty-five (25) mile per hour speed limit established in Section 1 of this ordinance.

Section 3. The City Clerk shall amend Schedule 16 of Section 72.02 of the Code of Asheboro to reflect the imposition of the above-stated speed restriction.

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

Section 5. This ordinance shall become effective upon adoption.

Adopted in regular session this 8th day of July, 2004.

ATTEST:

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

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

NEW BUSINESS:

**7. Consideration of a Resolution Requesting the NC Department of Transportation to Put Sidewalks Along East Salisbury Street From North Elm Street to the Randolph Mall.**

Mr. Lynn Priest presented and recommended adoption of a resolution requesting the NCDOT to amend its Transportation Improvement Program, Project U-3401, to include the construction of sidewalks along East Salisbury Street from North Elm Street to the Randolph Mall, and to make this project a priority for the City of Asheboro.

Upon motion by Mr. Smith and seconded by Mr. Crisco, council voted unanimously to adopt the following resolution:

34 RES 7-04

**Resolution to Request an Amendment to the  
Transportation Improvement Program**

WHEREAS, the North Carolina Department of Transportation has developed a Transportation Improvement Program that outlines highway construction and other transportation programs as adopted by the Board of Transportation; and

WHEREAS, Project U-3401, which is a part of the City of Asheboro's Thoroughfare Plan, has been selected as a priority; and

WHEREAS, the Asheboro City Council believes it is desirable to amend Project U-3401, a local highway construction project that will benefit the City of Asheboro and Randolph County; and

WHEREAS, the Asheboro City Council requests that the description of Project U-3401 be amended as follows:

NC 42 from US 64/NC 49 to SR 2237 (Salisbury Street)  
Install sidewalks, curb and gutter.

Design for SR 2237 (Salisbury Street) from NC 42 to Elm Street  
a sidewalk, curb and gutter facility.

NOW, THEREFORE BE IT RESOLVED by the Asheboro City Council that the above project be established as a priority for the City of Asheboro, and that the City of Asheboro petitions the Board of Transportation to include this amendment in their Transportation Improvement Program.

Adopted by the Asheboro City Council this 8<sup>th</sup> day of July, 2004.

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

ATTEST:

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

**8. Public Hearings on Zoning Matters.**

Mayor Jarrell opened the public hearing on the following request:

- (a) From R-7.5 Residential to OA-6 Commercial (RZ-04-19): The property of Pinnacle Properties of Randolph County, LLC, located at 1206 South Cox Street, totaling approximately 23,610 sq. ft., more specifically identified by Randolph County Parcel ID Number 7750869997.

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, institutional and offices. South Cox Street is a transitional area.

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

Mr. Mike King, representative for Pinnacle Properties, was present to answer questions.

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

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

Mayor Jarrell opened the public hearing on the following request:

- (b) From I-2 Industrial to B-2 Commercial (RZ-04-20): The property of Jeffrey Scott and Amy M. Ferree located at 363 West Ward Street, totaling approximately 7,800 sq. ft., more specifically identified by Randolph County Parcel ID Number 7751740340.

Mr. Neely described the aforementioned property and stated that West Ward Street is a local street and is served by all city services. The area is characterized by a mix of industrial, commercial, and residential uses.

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

Mr. Jeff Ferree, property owner, was present to answer questions.

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 unanimously ordained to accept the recommendation from the planning board for approval.

#### **9. Public Hearing on Amendments to Subdivision Ordinance.**

Mayor Jarrell opened the public hearing on consideration of amendments to the Asheboro Subdivision Ordinance.

Mr. Neely reviewed the proposed changes to the subdivision ordinance that amend Article IX, Section I, E by changing Subsection 2 and adding a Subsection 3, which addresses the required improvements and design standards for water and sewer systems.

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

Upon motion by Mr. Smith and seconded by Mr. Baker, council unanimously ordained to approve the amendments to the subdivision ordinance as stated by Mr. Neely.

#### **10. Subdivisions.**

- (a) Extension of Preliminary Plat Approval for One (1) Year for Edgewood Subdivision (SUB-03-7)

Mr. Neely reported that he has received a written request from the developer asking council to extend the preliminary plat approval of Edgewood Subdivision for one year.

Upon motion by Mr. Smith and seconded by Mrs. Carter, council voted unanimously to approve this request.

- (b) Extension of Preliminary Plat Approval for One (1) Year for Northmont Subdivision, Part 1, Phase V-D (SUB-03-4)

Mr. Neely reported that he has received a written request from the developer asking council to extend the preliminary plat approval for Northmont Subdivision, Part 1, Phase V-D for one year.

Upon motion by Mr. Crisco and seconded by Mrs. Carter, council voted unanimously to approve this request.

(c) Sketch Design Approval for Robins Nest Subdivision (SUB-04-4)

Mr. Neely presented the sketch design for Robins Nest Subdivision, which is located at the corner of Gold Hill Road and Allred Street. The subdivision contains 25.76 acres and consists of 63 lots, with the average lot size being 13,410 sq. ft. This will be a single-family development, as the lots are not large enough for duplexes.

The planning board recommended approval of the sketch design with comments that the following items be addressed: driveway application from NCDOT, easements, sight distance at intersections, street names, linear feet of streets, annexation request, street lighting plan and greenway easements.

The developers were present and reported that DOT has indicated that a turning lane will not be required for this subdivision.

Upon motion by Mrs. Carter and seconded by Mrs. Hunter, council voted unanimously to accept the planning board's recommendation for approval, subject to its comments.

(d) Preliminary Plat Approval for Turtle Lake Farm Subdivision (SUB-04-1)

Mr. Neely presented the preliminary plat for Turtle Lake Farm Subdivision, which is located on Caudle Road. This subdivision contains 29.06 acres that is located within Asheboro and consists of 40 lots, with the average lot size being 25,288 sq. ft.

The planning board recommended approval, subject to completion of certain items. Mr. Neely reported that these items have been completed.

The developers were present to answer questions.

Upon motion by Mr. Smith and seconded by Mr. Crisco, council voted unanimously to approve the preliminary plat.

(e) Final Plat Certification for Providence Park Subdivision (SUB-03-6)

Mr. Neely presented the final plat for Providence Park Subdivision, which is located on US 220 Business North, and reported that all items have been approved by the various departments. The planning board has also recommended approval. The developer has contracted with the DOT to construct a turning lane, which has not been completed, but the developer has already paid DOT. A Maintenance and Defects Guarantee, as required by the subdivision ordinance, is on file in the city clerk's office and will expire July 8, 2005.

Upon motion by Mrs. Carter and seconded by Mr. Baker, council voted unanimously to approve the final plat of Providence Park for certification.

**11. Consideration of Adoption of an Ordinance Amending Chapter 90 of the Code of Asheboro.**

Mr. Sugg presented and reviewed an ordinance amending Sections 90.02 and 90.03 of Chapter 90 of the Code of Asheboro. These sections address administration and definitions concerning abandoned, nuisance, and junked vehicles on public and private property within the city's jurisdiction. Mr. Sugg stated that the proposed changes are technical amendments and recommended that the ordinance be adopted by reference.

Upon motion by Mrs. Carter and seconded by Mrs. Hunter, council voted unanimously to adopt the following ordinance by reference:

25 ORD 7-04

**AN ORDINANCE AMENDING SECTIONS 90.02 AND 90.03 OF CHAPTER 90  
OF THE CODE OF ASHEBORO**

WHEREAS, the City Council is authorized by G.S. § 160A-193, G.S. 160A-303 and G.S. § 160A-303.2 to regulate, restrain, or prohibit abandoned, nuisance, and junked motor vehicles on public and private property within the city's ordinance-making jurisdiction; and

WHEREAS, the regulations adopted by the City Council of the City of Asheboro in order to effectively regulate the abandoned, nuisance, and junked motor vehicles referenced above have been codified as Chapter 90 of the Code of Asheboro; and

WHEREAS, upon the recommendation of members of the city's professional staff, the City Council of the City of Asheboro has concluded that certain technical amendments need to be made to Sections 90.02 and 90.03 of the Code of Asheboro in order to improve the efficiency and effectiveness of the enforcement of Chapter 90 by city staff members.

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

Section 1. Section 90.02 of Chapter 90 of the Code of Asheboro is hereby amended to provide as follows:

**§ 90.02 ADMINISTRATION.**

The Police Department and the Planning and Community Development Department shall be responsible for the administration and enforcement of this chapter. The Police Department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the city and on property owned by the city. The Planning and Community Development Department shall be responsible for administering the removal and disposition of "abandoned", "nuisance" or "junked motor vehicles" located on private property. The city may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

Section 2. Section 90.03 of Chapter 90 of the Code of Asheboro is hereby amended to provide as follows:

**§ 90.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONED VEHICLE.** As authorized and defined in G.S. § 160A-303, an abandoned motor vehicle is one that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left on a public street or highway for longer than seven days; or
- (3) Is left on property owned or operated by the city for longer than 24 hours.

**AUTHORIZING OFFICIAL.** ~~The supervisory employee of the Police Department or the Planning Department respectively, designated to authorize the removal of vehicles under the provisions of this chapter. Any sworn law enforcement officer operating under the command and control of the City of Asheboro Police Department or the Planning and Community Development Department's Code Enforcement Officer, respectively.~~

**JUNKED MOTOR VEHICLE.** As authorized and defined in G.S. § 160A-303.2 the term, junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self propelled or moved in the manner in which it originally was intended to move;

- (3) Is more than five years old and appears to be worth less than \$100.

**MOTOR VEHICLE or VEHICLE.** All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

**NUISANCE VEHICLE.** A vehicle on public or private property that does not display a current license plate lawfully upon that vehicle and that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be any of the following:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats, snakes or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- (5) One which has areas of confinement which cannot be operated from the inside, such as tanks, hoods, and the like;
- (6) So situated or located that there is a danger of it falling or turning over (i.e. on jacks, blocks or other supports);
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) So offensive to the sight as to damage the community, neighborhood or area appearance; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the City Council.

Section 3. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall become effective upon adoption.

Adopted in regular session on this the 8<sup>th</sup> day of July, 2004.

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

ATTEST:

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

**12. Finance & Public Safety and Public Works Matters.**

No official meetings have been held.

**13. Items Not on the Agenda.**

Mayor Jarrell read a resolution to apply for financial assistance from the Golden Leaf's Foundation to construct a sheltered structure for a downtown Farmers' Market.

Upon motion by Mr. Baker and seconded by Mr. Smith, council voted unanimously to adopt the following resolution and to get a letter of support from the Asheboro Housing Authority.

**Resolution to Apply to Golden LEAF's Foundation for Assistance**

WHEREAS, the City of Asheboro desires to establish a sheltered structure "Downtown Farmers' Market",

WHEREAS, Regional Consolidated services, a private nonprofit human services agency, supports construction of a sheltered structure for a "Downtown Farmers' Market",

WHEREAS, the Asheboro/Randolph County Chamber Downtown Revitalization Committee supports a sheltered structure for a "Downtown Farmers' Market",

WHEREAS, the City of Asheboro shall provide a site for the construction of a sheltered structure for a "Downtown Farmers' Market",

NOW THEREFORE BE IT RESOLVED by the Asheboro City Council that an application to the Golden LEAF Foundation for financial assistance for the construction of a sheltered structure for a "Downtown Farmers' Market".

Adopted this the 8<sup>th</sup> day of July, 2004.

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

ATTEST:

S/ Carol Cole  
Carol Cole, City Clerk

Mrs. Carter requested that a traffic check be made on Shamrock Road and Stowe Avenue regarding skateboarding and vehicles with loud music.

There being no further business, the meeting was adjourned at 8:15 PM.

Carol J. Cole, CMC, City Clerk

David H. Jarrell, Mayor

