

**REGULAR MEETING
ASHEBORO CITY COUNCIL
THURSDAY, MARCH 10, 2005
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)
Keith Crisco) – Council Members Present
John McGlohon)
Archie Priest)
David Smith)
Nancy Hunter) – Council Member Absent

John N. Ogburn, III, 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
John Evans, Code Enforcement Officer
Trevor Nuttall, Planner
Gary Mason, Police Chief
Bobby Kivett, Public Works Director of Operations
Michael Leonard, Asst. City Engineer
Rodney Maness, Engineering Surveyor
Holly Hartman, Legal Assistant
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. Father Everett Thomas with the Episcopal Church of the Good Shepherd gave the invocation.

2. Appearance and Recognition of Guests and Citizens.

Mayor Jarrell welcomed everyone in attendance and recognized Chip Womick, reporter with The Courier-Tribune, who is replacing Judi Brinegar. Mayor Jarrell publicly thanked Ms. Brinegar for her coverage of the council meetings during her tenure with the newspaper.

Mayor Jarrell announced that Council Member Nancy Hunter has a sickness in her family and called for a motion to formally excuse Mrs. Hunter from this council meeting. Upon motion by Mr. Crisco and seconded by Mr. McGlohon, council voted unanimously to formally excuse Mrs. Hunter.

3. Appearance of Dave Harris With Piedmont Triad Council of Governments.

Mr. Dave Harris reviewed the completed Cable Franchise Agreement agreed to by Time Warner. The franchise agreement includes establishing a government/education access channel within 180 days upon a request by the city to do so. There will be no increased cost to the city. The franchise agreement is a non-exclusive agreement with a term of fifteen (15) years.

Mr. Buck Yarborough with Time Warner was available to answer questions.

4. Approval of Second Reading of Cable Television Franchise Ordinance.

Upon motion by Mr. Baker and seconded by Mrs. Carter, council voted unanimously to adopt the second and final reading of the Cable Television Franchise Ordinance.

This ordinance is on file in the city clerk's office and is referenced as 01 ORD 1-05.

5. Presentation by Steve Coffe and Fr. Everett Thomas of the Citizens for Arts Advocacy Downtown Sculpture 2005.

Mr. Steve Coffe reported that the Citizens for Arts Advocacy, in cooperation with the Randolph Arts Guild, the Chamber of Commerce Downtown Redevelopment Committee, and the City of Asheboro, have been identifying venues and opportunities to promote public art through shows, classes and symposiums. Mr. Coffe announced that a temporary invitational outdoor art show, including up to 24 art works (sculptures), will be displayed in Bicentennial Park and along the sidewalks of Church, Sunset, Fayetteville and Worth Streets. The art show will begin May 21, 2005 and will be on display for one year.

Mr. Roger Halligan, a local artist, stated that the artists will be seeking sponsors. To be a sponsor, the cost is \$750, with \$500 going to the artist and the balance going towards insurance and other expenses.

6. Consent Agenda.

Mayor Jarrell asked council if it wished to discuss any of the items on the Consent Agenda individually or to vote on the items collectively.

Upon motion by Mr. Baker and seconded by Mr. McGlohon, council voted unanimously to approve the following items:

(a) Minutes of Previous Meeting

The minutes of the regular meeting of February 10, 2005, were approved as corrected by the city clerk.

(b) Findings of Fact, Conclusions of Law, and Order for SUP-04-06

Case No. SUP-04-06
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF MADISON HEIGHTS, L.L.C. FOR A
SPECIAL USE PERMIT ALLOWING A FLOOR AREA RATIO OF UP TO .22

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on January 6, 2005. 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. Madison Heights, L.L.C. (hereinafter referred to as the "Applicant") properly filed an application with the City of Asheboro Planning Department for a Special Use Permit that would allow a floor area ratio (hereinafter referred to as FAR) of up to .22.
2. The parcel of land for which a Special Use Permit is sought is located on the east side of North Fayetteville Street and is more specifically identified by Randolph County Parcel Identification Number 7763140433.
3. The Applicant owns the parcel of land referenced in the immediately preceding paragraph (said land shall be hereinafter referred to as the "Zoning Lot").
4. The Zoning Lot is zoned RA6 and consists of approximately 8.28 acres of land.
5. The Growth Strategy Map designates the area in which the Zoning Lot is located as "Primary Growth," and the Proposed Land Development Plan Map indicates that said lot is located in an area designated as "Urban Residential."

6. The land use to the north is multi-family residential, and a mobile home park is located to the west. Single-family residential use is located to the east, and the land use to the south is classified as undeveloped floodplain.
7. North Fayetteville Street is a major thoroughfare with a one hundred (100) foot right-of-way.
8. The Zoning Lot is located within the corporate limits of the City of Asheboro and all city services are available to the property.
9. The proposed development consists of seventy-two (72) total units and a clubhouse consisting of approximately 2,500 square feet.
10. A one hundred (100) year floodplain is located along the southern boundary of the Zoning Lot (Hasketts Creek). The Land Development Plan's "Proposed Land Use Map" shows a future greenway following the stream, and the plan recommends "dedication of open space and greenway easements as part of the land development process."
11. The Applicant is pursuing this application for the principal purpose of adding amenities to the project, such as a clubhouse and a carwash, and not for the purpose of increasing the total number of units.
12. Under the Asheboro Zoning Ordinance, a multi-family project is allowed by right to utilize a FAR of up to .17, and a FAR of up to .22 is allowed with a Special Use Permit.
13. The site plan and elevations submitted by the Applicant are in compliance with the provisions of the Asheboro Zoning Ordinance.
14. The Applicant has obtained approval from the North Carolina Department of Transportation for a turn lane that will serve the project.
15. 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 the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
2. The proposed use meets all required conditions and specifications of the Asheboro Zoning Ordinance.
3. The Applicant's proposed use will not substantially injure the value of adjoining or abutting property, and the use is a public necessity.
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 Madison Heights, L.L.C. for a Special Use Permit allowing a floor area ratio of up to .22 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. Development on the Zoning Lot shall occur according to the approved site plan, with a maximum floor area ratio of .22. No additional structures shall be permitted as the proposed development will cover almost 22%.

2. The developer shall grant public greenway easements along the floodplain of Hasketts Creek as recommended by the City's Land Development Plan.

Adopted in regular session this 10th day of March, 2005.

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

ATTEST:

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

- (c) Findings of Fact, Conclusions of Law and Order for SUP-04-07

Case No. SUP-04-07
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF DEXTER TROGDON, SR. AND THE
LOOK TO JESUS CHRISTIAN CENTER FOR A SPECIAL USE PERMIT
ALLOWING CHURCH EXPANSION IN A RESIDENTIAL DISTRICT

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

THIS MATTER ultimately came before the Asheboro City Council (hereinafter referred to as the "Council") for a final hearing during the Council's regularly scheduled meeting on February 10, 2005. 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. Mr. Dexter Trogdon, Sr., who is an authorized representative of the Look to Jesus Christian Center, properly filed an application with the City of Asheboro Planning Department for a Special Use Permit that would allow church expansion in a residential zoning district.
2. The Look to Jesus Christian Center (hereinafter referred to as the "Applicant") has existing church facilities on its property at 418 Loach Street in Asheboro, and Randolph County Parcel Identification Number 7761248435 more specifically identifies this property (hereinafter referred to as the "Zoning Lot").
3. A Special Use Permit was issued in 2003 for a church expansion that was to take the form of a fellowship hall. However, due to inactivity, this previously issued Special Use Permit has now expired and is no longer of any force and effect.
4. The Zoning Lot consists of approximately 2.4 acres of land.
5. The Growth Strategy Map designates the area in which the Zoning Lot 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 all residential.
7. The Zoning Lot is located in an RA6 zoning district.

8. Loach Street, Brewer Street, and Spring Street are local streets.
9. The Zoning Lot is within the corporate limits of the City of Asheboro and is served by all city services.
10. The area immediately surrounding the Zoning Lot is primarily residential.
11. The Zoning Lot has been used for a church for a significant number of years.
12. The Applicant is proposing a phased development with the fellowship hall and some parking, landscaping, and buffering to be installed in Phase 1. A new sanctuary with additional parking, landscaping, and buffering is proposed for Phase 2.
13. A Special Use Permit is required in this case because the existing church is in a residential district where a Special Use Permit must be obtained in order to construct additions to the church facilities.
14. The Applicant has properly submitted a site plan that has been reviewed by Planning Department staff members and found to comply with the regulations of the Asheboro Zoning Ordinance.
15. 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.
16. The Applicant has functioned for approximately twenty-one (21) years in the area of the Zoning Lot and has contributed to an enhancement in the quality of life and the value of property in the neighborhood by undertaking programs to stabilize the community surrounding the Zoning Lot.
17. As an individual with life long ties to and knowledge of the community surrounding the Zoning Lot, Dexter Trogdon, Sr. testified as to his opinion that the proposed project would not adversely impact the value of the surrounding parcels of land and would, in fact, add value to the adjoining property.
18. The Applicant's proposal conforms to the goals and policies of the Land Development Plan in that the proposal furthers the goal of in-fill development, redevelopment, and rehabilitation of structures and sites in a manner that is consistent and compatible with the existing neighborhood and the architectural context of the surrounding area.
19. 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 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 proposed use meets all of the required conditions and specifications of the Asheboro Zoning Ordinance.
3. The Applicant's proposed use 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 Dexter Trogdon, Sr. and the Look To Jesus Christian Center for a Special Use Permit allowing the expansion of 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 church related activities.
2. The development shall be undertaken in strict compliance with the site plan approved during the hearing of this matter. Improvements such as parking, landscaping, and buffering shall occur according to the indicated phases.
3. All of the requirements of Section 640 of the Asheboro Zoning Ordinance shall be met and maintained. Any and all other requirements of the Asheboro Zoning Ordinance shall be met and maintained.
4. Phase One (I) improvements shall include the two-thousand (2000) square foot fellowship hall, front yard landscaping, landscape buffering, and parking as indicated on the approved site plan. Phase Two (II) improvements shall include the new seven thousand two hundred (7200) square foot sanctuary, additional front yard landscaping, landscape buffering, and parking as identified on the approved site plan.
5. Final building design and construction shall be according to the elevation designs as submitted and approved. Elevations show the fellowship hall (Phase One (I)) to be in conformance with Section 318A of the Asheboro Zoning Ordinance. Elevations for Phase Two (II) (Sanctuary) shall be submitted and approved by staff prior to the commencement of Phase Two (II) development.
6. The total provided parking permits 203 seats in the Church's sanctuary. If additional seats are proposed, then additional parking will be required.

Adopted in regular session this the 10th day of March, 2005.

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

ATTEST:

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

(d) Findings of Fact, Conclusions of Law, and Order for SUP-05-01

Case No. SUP-05-01
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF GARY MARTIN FOR A SPECIAL
USE PERMIT ALLOWING MANUFACTURING, PROCESSING, AND
ASSEMBLY (LIGHT) – HOSPITAL SUPPLY MANUFACTURER
IN A B2 ZONING DISTRICT

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on January 6, 2005. 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. Gary Martin (hereinafter referred to as the "Applicant") properly filed an application with the City of Asheboro Planning Department for a Special Use Permit that would allow Manufacturing, Processing, and Assembly (Light) – Hospital Supply Manufacturer in a B2 zoning district.
2. In his application, the Applicant proposes to purchase and utilize the parcel of land currently owned by James Wright and located at 527 and 529 North Fayetteville Street in Asheboro. This parcel of land (hereinafter referred to as the "Zoning Lot") is more specifically identified by Randolph County Parcel Identification Number 7751857694.
3. The Zoning Lot consists of approximately 9,500 square feet of land.
4. The Growth Strategy Map designates the area in which the Zoning Lot is located as "Primary Growth," and the Proposed Land Development Plan Map indicates that said lot is located in an area designated as "Activity Center."
5. The land uses to the north and east are light manufacturing/ commercial, while the land use to the west is residential. The land use to the south is commercial.
6. The property is located within the corporate limits of the City of Asheboro and is served by all city services.
7. The property is located in Tier 2 of the Center City Planning Area.
8. A vacant office building exists on the Zoning Lot, and the Applicant plans to utilize said structure for the manufacturing of hospital supplies.
9. North Fayetteville Street is a major thoroughfare with a one hundred (100) foot right-of-way.
10. A proposal for a generalized Manufacturing, Processing, and Assembly (Light) use in a B2 zoning district is not permitted under the Asheboro Zoning Ordinance. Consequently, the Applicant must be issued a Special Use Permit allowing the manufacture of its hospital supplies before the Zoning Lot can be used for such an activity.
11. The structure located on the Zoning Lot was, at one point in its history, used for a significant period of time for the manufacture of mattresses.
12. With the exception of the "Street Tree" requirements imposed by the zoning ordinance, the Applicant's submitted site plan and elevations give no indication of any failure on the part of the Applicant to comply with the requirements of the Asheboro Zoning Ordinance.
13. The Applicant is seeking a variance from the "Street Tree" planting requirement. The Board of Adjustment will hear the case on Monday, January 10, 2005.
14. Latex is one of the primary materials to be used by the Applicant, and the Applicant testified that no inherently dangerous materials would be used as part of the manufacturing process.
15. The Applicant does not propose to expand the existing building or to make any significant changes to the exterior of the building.
16. 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 the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
2. The proposed use meets all required conditions and specifications of the Asheboro Zoning Ordinance.

3. The Applicant's proposed use will not substantially injure the value of 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 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 Gary Martin for a Special Use Permit allowing Manufacturing, Processing, and Assembly (Light) – Hospital Supply Manufacturer in a B2 zoning district 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 shall be Manufacturing, Processing, and Assembly (Light) – Hospital Supply Manufacturer with no more than six (6) employees during the largest shift.

2. All requirements of Section 628 of the Asheboro Zoning Ordinance shall be met and maintained.

3. No accessory buildings or outside storage shall be permitted as part of this Special Use Permit.

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

5. No Special Use Permit shall be issued unless and until the necessary variance from the "Street Tree" planting requirements is granted by the Board of Adjustment for the City of Asheboro.

Adopted in regular session this 10th day of March, 2005.

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

ATTEST:

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

(e) Findings of Fact, Conclusions of Law, and Order for SUP-05-02

Case No. SUP-05-02
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF RICHARD AND LINDA KENNEDY
FOR A SPECIAL USE PERMIT ALLOWING A PUBLIC FACILITY-TELEPHONE
EXCHANGE

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on February 10, 2005. 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. Richard and Linda Kennedy (hereinafter referred to as the "Applicants") properly filed an application with the City of Asheboro Planning Department for a Special Use Permit that would allow a Public Facility-Telephone Exchange.
2. The Applicants' property for which an application for a Special Use Permit has been made is located in the southeast quadrant of the intersection of Kennedy Country Drive and North Carolina Highway 42 South and is more specifically identified by Randolph County Parcel Identification Number 7770166015.
3. Said property (hereinafter referred to as the "Zoning Lot") is zoned R15 and consists of approximately 1.03 acres of land.
4. The Growth Strategy Map designates the area in which the Zoning Lot is located as "Adjacent Developed," and the Proposed Land Development Plan Map indicates that this property is located in an area designated as "Neighborhood Residential."
5. The land uses to the north, south, and east of the Zoning Lot are single-family residential, while the land use to the west is characterized as low-density rural residential.
6. North Carolina Highway 42 South is a major thoroughfare, and Kennedy Country Drive is a local residential street.
7. The Zoning Lot is not within the corporate limits of the City of Asheboro, but it is within the city's extraterritorial planning jurisdiction.
8. The area surrounding the Zoning Lot is characterized as medium-density residential and rural residential.
9. The Applicants propose to grant Sprint Communications an easement for a telephone exchange facility.
10. The telephone exchange facility that is proposed for the Zoning Lot is to be a cabinet style facility, not a tower.
11. The site plan submitted on behalf of the Applicants complies with the requirements of the Asheboro Zoning Ordinance, specifically including without limitation the ordinance's screening requirements.
12. The proposed telephone exchange facility will be secluded off of the public road and will be properly secured by personnel from Sprint Telephone.
13. The proposed telephone exchange facility will be unmanned and will be subject to only limited inspections by telephone company personnel.
14. The proposed telephone facility will play an important role in allowing Sprint Telephone Company (also referred to as Central Telephone Company) to discharge its obligations under the Certificate of Public Convenience and Necessity that has been granted to it by the North Carolina Utilities Commission. A copy of this Certificate of Public Convenience and Necessity was entered into evidence during the hearing of this matter.
15. No testimony was presented in opposition to the Applicants' 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 amount of vehicular traffic or any other form of material endangerment of the public health and safety would be generated as a consequence of the Applicants' proposed use of the Zoning Lot.
2. The proposed use meets all of the required conditions and specifications of the Asheboro Zoning Ordinance.
3. The Applicants' proposed use of the Zoning Lot constitutes a public necessity.

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 Richard and Linda Kennedy for a Special Use Permit allowing a Public Facility-Telephone Exchange is hereby approved on the express condition that the Applicants and their heirs, successors, and assigns meet and remain in compliance with the following conditions:

1. The use approved shall be a Public Facility-Unmanned Telephone Exchange Facility.
2. The facility shall be constructed in strict compliance with the approved site plan. The cabinet shall not exceed seventy-four inches by forty-seven inches by seventy-two inches (74" X 47" X 72") as indicated in the provided specifications.
3. All screening shall be installed and maintained as indicated on the approved site plan.
4. All requirements of Section 631 of the Asheboro Zoning Ordinance shall be met and maintained, including a final appearance that is harmonious with the surrounding area. All lighting shall be directed and shielded so as not to disturb adjacent properties or traffic on North Carolina Highway 42 or Kennedy Country Drive.
5. Any and all other applicable requirements of the Asheboro Zoning Ordinance shall be met and maintained.

Adopted in regular session on this the 10th day of March, 2005.

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

ATTEST:

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

(f) Change Order #2 on the Wastewater Pump Stations #2 and #6 Project (Section 2 – Terry's Plumbing and Utilities, Inc.)

Increases the construction contract amount by \$10,000 to \$1,120,705 for tunneling through rock across East Salisbury Street and increases the contract time by 10 days.

(g) Change Order #2 on the Wastewater Pump Station #2 and #6 Project (Section 1 – Dellinger, Inc.)

Decreases the construction Contract Amount by \$990.97 to \$576,331.33 for miscellaneous site changes.

(h) Resolution for Railroad Crossing Signals for West Taft Avenue and Norfolk Southern Railway Tracks: Crossing No. 722 494R

Resolution

(For Railroad Crossing Signals at West Taft Avenue and the Norfolk Southern Railway Tracks)

WHEREAS, the Department of Transportation, an agency of the State of North Carolina, pursuant to the provisions of G. S. 136-18(12) proposes to contract with the Federal Highway Administration to obtain Federal-Aid funds for the improvements in the protective devices at certain highway-railroad crossings on the Municipal Street System for which the Municipality is responsible; and,

WHEREAS, this project shall consist of the installation of certain automatic warning devices at the crossing of W Taft Avenue and Norfolk Southern Corporation Tracks (Crossing No. 722 494R); and,

WHEREAS, the Municipality will reimburse the Department of Transportation for ten percent (10%) of any and all expenses incurred in the planning, design and installation of the protective device by the Department of Transportation, and 100% of the cost not reimbursed by the Federal Highway Administration; and,

WHEREAS, in order to carry out the aforesaid projects and to promote the public interest and general welfare of the Municipality, it is necessary for the Municipality to enter into a contract with the Department of Transportation to provide for the installation and maintenance of the protective devices at certain highway-railroad crossings on the Municipal Street System.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Mayor and the Clerk of the City of Asheboro are hereby formally authorized to enter into a contract with the Department of Transportation to obtain Federal-Aid highway funds necessary to improve the protective devices at the said grade crossing under Project Z-4508F, for the Department of Transportation to perform certain work, and the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.

Adopted this the 10th day of March, 2005.

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

- (i) Toy Vehicle Signs for Property of D. Wayne and Brenda S. Thomas

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 D. WAYNE THOMAS AND BRENDA S. THOMAS

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, D. Wayne Thomas and Brenda S. Thomas are the owners of certain real property that is located at 1400 East Dixie Drive in Asheboro; and

WHEREAS, D. Wayne Thomas properly submitted, on behalf of the marital unit, a written request to the city council to have the public vehicular area of their property at 1400 East Dixie Drive 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 the public vehicular area of the 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 a skateboard, roller skates, or any other toy vehicle on the public vehicular area of the real property owned by D. Wayne Thomas and Brenda S. Thomas and located at 1400 East Dixie Drive in Asheboro.

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 the property owners, D. Wayne Thomas and Brenda S. Thomas.

Section 3. The city clerk shall enter a description in Schedule 20 of Chapter 72 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 4. This ordinance shall become effective upon adoption.

Adopted this the 10th day of March, 2005.

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

ATTEST:

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

OLD BUSINESS:

7. Resolution Authorizing a 2-Year Lease to Fairway Outdoor Advertising of Certain City-Owned Real Property for an Existing Outdoor Advertising Structure.

Mr. Sugg reported that the proposed lease is for a term of two years, expiring February 1, 2007, and the rental rate is \$1,000 per year. He presented a resolution approving the lease agreement between the City of Asheboro and Fairway Outdoor Advertising and recommended its adoption by reference.

Upon motion by Mr. Crisco and seconded by Mr. Priest, council voted unanimously to adopt the resolution by reference.

Mr. Dan Oshea, general manager of Fairway Outdoor Advertising, stated that his company has invested a lot in Asheboro and has donated advertising for the North Carolina Zoo. Mr. Ralph R. Rodriguez, marketing manager for the NC Zoo, wrote a letter to the mayor and city council in support of Fairway Outdoor Advertising. Mr. Oshea thanked council for its approval of the lease agreement.

09 RES 3-05

**RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE
CITY OF ASHEBORO AND FAIRWAY OUTDOOR ADVERTISING,
A DIVISION OF MCC OUTDOOR, LLC**

WHEREAS, the City of Asheboro (hereinafter referred to as the "City") owns a certain parcel of land located along United States Highway 220 Business South at McCranford Road and upon which is located an outdoor advertising structure titled to Fairway Outdoor Advertising, a division of Morris Communications Company, LLC (hereinafter referred to as "Fairway"); and

WHEREAS, Fairway has expressed its desire to continue leasing from the City the portion of the above-described premises needed by Fairway to maintain the existing outdoor advertising structure; and

WHEREAS, Section 160A-272 of the North Carolina General Statutes provides that property owned by the City may be leased to a tenant if the desired property will not be needed by the City for the term of the lease; and

WHEREAS, in compliance with the pertinent provisions of the North Carolina General Statutes, public notice has been properly given of the City Council's intent to consider a resolution authorizing a new lease agreement with Fairway with a rental rate of one thousand dollars (\$1,000.00) per year and a lease term that expires on February 1, 2007; and

WHEREAS, the City Council of the City of Asheboro has determined that the specific premises encumbered by the proposed lease agreement with Fairway will not be needed by the City during the term of the lease; and

WHEREAS, the proposed lease agreement, which is attached herewith as "EXHIBIT 1" and is hereby incorporated into this resolution by reference as if copied fully herein, has been submitted to the City Council by the City's professional staff with a favorable recommendation.

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

Section 1. The proposed lease agreement attached to this resolution as "EXHIBIT 1" is hereby approved.

Section 2. The Mayor and City Clerk of the City of Asheboro are hereby authorized and directed to execute any and all documents and instruments necessary to carry into full force and effect the lease agreement referenced above in Section 1.

Adopted in regular session on this the 10th day of March 2005.

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

ATTEST:

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

NEW BUSINESS:

8. Public Hearing Concerning Submitting an Application for a Community Development Block Grant.

Mayor Jarrell opened the public hearing on the aforementioned.

Mr. Lynn Priest presented and recommended adoption of a resolution authorizing the submission of an application by the City of Asheboro to the North Carolina Department of Commerce for assistance in designing an Entrepreneurial Incubator facility.

Mr. Victor Dau, director of the Small Business Center of Randolph County, stated he feels that small businesses are going to pull the economy out of the slump. Mr. Dau desires to partner with the City of Asheboro in operating an Entrepreneurial Incubator facility. Everything that small business will need would be housed in one facility, such as computers, secretaries, advisors, etc. Mr. Dau reported that to apply for the grant, a four-page letter of intent must be presented, as there is competition for the grant money. He requested that council pursue a business incubation for Randolph County.

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

Upon motion by Mr. Crisco and seconded by Mrs. Carter, council voted unanimously to adopt a resolution authorizing the submission of an application to the NC Department of Commerce requesting assistance in designing an Entrepreneurial Incubator facility.

11 RES 3-05

**Resolution Authorizing an Application to the
North Carolina Department of Commerce**

WHEREAS, the City of Asheboro desires to establish an Entrepreneurial Incubator facility

WHEREAS, the Small Business Center of Randolph County supports an Entrepreneurial Incubator facility for the City of Asheboro and Randolph County

WHEREAS, the North Carolina Rural Economic Development Center is partnering with the North Carolina Department of Commerce in establishing Entrepreneurial Incubator facilities

WHEREAS, the Small Business Center of Randolph County desires to partner with the City of Asheboro in operating an Entrepreneurial Incubator facility

NOW, THEREFORE, be it resolved by the Asheboro City Council that an application be prepared to the North Carolina Department of Commerce for assistance in designing the Entrepreneurial Incubator facility.

Adopted this the 10th day of March, 2005.

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

ATTEST:

S/ Carol Cole
Carol Cole, City Clerk

9. Public Hearings on Zoning Matters

Mayor Jarrell opened the public hearing on the following request:

- (a) From R15 Residential to R10 Residential: The properties of Oakmont Estate located on the north and south sides of Little Gate Drive west of its intersection with Peachtree Street, totaling approximately 4 acres and further identified by Randolph County Property ID Numbers 7751585712, 7751584555, 7751583398, 7751583264, 7751583122, 7751582091, and 7751586143.

Mr. Neely described the aforementioned property and stated that Peachtree Street and Little Gate Drive are state maintained, local collector streets. The property is not within the corporate limits but is located within the city's ETJ. The properties are currently undeveloped. The area is characterized by medium density residential uses along Peachtree Street and undeveloped property along Little Gate Drive. There is CU-R10 zoning along Peachtree Street near its intersection with Oakland Avenue. The LDP "Proposed Land Use Map" shows a future greenway traversing this property. The plan recommends encouraging "dedication of open space and greenway easements as part of the land development process." In this case, since the request is a "straight" rezoning, the city cannot seek this dedication as part of the rezoning process. The current zoning (R15) does not permit duplexes. The requested R10 zoning district would permit duplexes.

The planning board recommended approval of the request. Growth Management Goal 2.1 and the LDP support the request.

Mr. Jim Neely, developer, 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.

Mayor Jarrell opened the public hearing on the following request:

- (b) From R40 Residential to B2 Commercial: A portion of the property of S. E. Trogdon, Jr. & others, located between East Presnell Street and East Dixie Drive (US Hwy. 64) approximately 800 feet west of their intersection, totaling approximately 23.2 acres and further identified by Randolph County Property ID Number 7771163830.

Mr. Neely described the aforementioned property and stated that East Dixie Drive (US Hwy. 64) and East Presnell Street are major thoroughfares. The property is not within the city's corporate limits but is within the ETJ. City services have not been requested. The property is currently developed. The B2 General Commercial district is intended to serve the needs of the local and transient motoring public. B2 zoning is in close proximity along the north and south sides of East Dixie Drive. Approval of this request would permit all uses allowed in the B2 district.

The planning board recommended approval, as the request is consistent with the maps, goals, and policies of the LDP.

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

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

Mayor Jarrell opened the public hearing on the following request:

- (c) From R10 Residential to CU-RA6 Residential and CU Permit to Allow a Multi-Family Development for Persons 55 Years of Age and Older: The property of Leroy M White located at the northeast quadrant of the intersection of Mack Road and Sherwood Avenue, totaling approximately 4.59 acres and further identified by Randolph County Property ID Number 7750143605.

Mr. Neely was sworn in and presented the site plan. He described the subject property and stated that Mack Road is a major thoroughfare. Sherwood Avenue is a local residential street. The property is within the city's corporate limits and city services are available. The surrounding area includes moderate-intensity residential, commercial, and office uses. There is CU-RA6 zoning in the immediate vicinity (Sherwood Oaks Townhomes). The developer proposes a residential development for persons 55 years of age and older, consisting of forty residential units.

The staff has reviewed the site plan for the development and it appears to be in general conformance with the zoning ordinance.

The planning board recommended approval of the district rezoning, as it complies with the LDP.

Mr. Neely stated some suggested conditions for council's consideration if it approves the CU Permit..

Mr. Jon Megerian, attorney representing the applicant, was sworn in and stated that the surrounding property is commercial on one side (north) and completely residential on the other side (south). The LDP designates this area for primary growth, and the proposed land use is commercial. Intensive development will act as a buffer. Mr. Megerian presented photos of the subject property and surrounding properties. He addressed the four standard tests as follows: (1) The use will not materially endanger the public health or safety, as it will be a restrictive residential development with buffered landscaping. There will be no hazardous materials. (2) The use meets all required conditions and specifications of the Asheboro Zoning Ordinance. (3) The use will not substantially injure the value of adjoining or abutting property. The proposed development is not radically different than what is already there. Restrictions that will be put on the property will not injure the adjoining property. The neighbors will be getting something other than commercial property. Five acres of undeveloped land will not stay that way. The conditional use will take care of any impact on existing properties. (4) The use will be in harmony with the area because the property has not been developed as commercial yet. If developed as CU-RA6 Residential, it will be in harmony with the surrounding land use.

Mr. Megerian stated that his client agrees to the conditions as stated by Mr. Neely.

Mr. Payne Collins, a resident of Sherwood Oaks Drive, was sworn in and stated that there are only two ways out of Sherwood Avenue, and he is concerned about the additional traffic that will be generated by the proposed development. Mr. Collins said that a traffic light needs to be installed.

Ms. Lois Bates, a resident of the Sherwood Oaks Town Homes, was sworn in and stated she was also concerned about the traffic on Sherwood Avenue. Ms. Bates said that "something needs to be done at NC Hwy. 49 and the Mack Road."

Mr. Bunker was sworn in and stated that the City has requested for the NCDOT to extend Mack Road to US Hwy. 64 as part of the Transportation Improvement Program. Sherwood Avenue and Mack Road are maintained by the state, and it would be the DOT's responsibility to conduct a traffic evaluation. Council recommended that the NCDOT Division Engineer be requested to conduct a traffic study.

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

Upon motion by Mr. McGlohon and seconded by Mr. Crisco, council unanimously ordained to accept the planning board's recommendation for approval of the district rezoning.

Mr. Baker moved that the CU Permit be approved with the conditions as stated by Mr. Neely, based on the four standard tests being met per testimony of Mr. Megerian. Mr. Crisco seconded the motion. Mr. Smith stated that he has concerns about the long-term parking of boats and RVs at the proposed development. Mr. Baker amended his motion to include an additional condition that would not allow the long-term parking of boats and recreational vehicles. Mr. Crisco agreed to the amendment. The motion carried unanimously.

The conditions will be further detailed in the city attorney's Findings of Facts, Conclusions of Law, and Order Granting the Conditional Use Permit to be approved by council at its April meeting.

10. Subdivisions.

Final Plat Certification Approval for Sherwood Oaks, Phase 2

Mr. Neely presented the final plat of Sherwood Oaks, Phase 2 for certification. He reported that all comments have been addressed, and the planning board recommended approval.

Mr. Jim Routh, the developer, was present to answer questions.

Upon motion by Mr. Smith and seconded by Mr. Baker, council voted to accept the recommendation from the planning board for approval. Mr. McGlohon voted against the motion.

Sketch Design Approval for Chala Ridge

Mr. Neely presented the sketch design for Chala Ridge Subdivision. This subdivision is located on the east side of Gold Hill Road and contains 23.2 acres, consisting of 62 lots, with the average lot size being 13,591 sq. ft. All departmental comments have been addressed with the exception of changing some street names. The planning board recommended approval.

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

11. Presentation of Annual Report of the Police Department.

Police Chief Gary Mason presented a comprehensive annual report and reviewed the highlights of the Asheboro Police Department's activities for 2004.

12. Ordinance Amending Section 34.55 of the Code of Asheboro.

Mr. Sugg presented and reviewed the aforementioned ordinance and recommended its adoption by reference.

Upon motion by Mr. Smith and seconded by Mr. McGlohon, council voted unanimously to adopt the following ordinance by reference:

09 ORD 3-05

AN ORDINANCE AMENDING SECTION 34.55 OF THE CODE OF ASHEBORO

WHEREAS, in addition to the functions that must be assigned to the Planning Board under Part 3, Article 19 of Chapter 160A of the North Carolina General Statutes, Section 160A-361 of the North Carolina General Statutes provides that a city may, by ordinance, designate a planning agency to perform a wide array of functions designed to identify and implement development objectives for the area within a city's jurisdiction; and

WHEREAS, on the basis of the authority granted by the above-cited statutory provision, Section 34.55 of the Code of Asheboro provides as follows:

§ 34.55 PUBLIC FACILITIES

The Planning Board shall review with the City Manager and other city officials and report as recommendations to the City Council upon the extent, location, and design of all public structures and facilities, on the acquisition and disposal of public properties, on the establishment of building lines, mapped street lines, and proposals to change existing street lines. However, in the absence of a recommendation from the Planning Board, the City Council may, if it deems wise, after the expiration of 30 days from the date on which the question has been submitted in writing to the Planning Board for review and recommendation, take final action; and

WHEREAS, the City Council of the City of Asheboro has determined that the above-referenced section of the Code of Asheboro needs to be amended to better reflect the intent of the governing board to enable the Planning Board to undertake the specified reviews and make recommendations rather than requiring such a review in every case.

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

Section 1. Section 34.55 of the Code of Asheboro is hereby amended to provide as follows:

§ 34.55 PUBLIC FACILITIES

~~The Planning Board shall~~ Upon adoption by the City Council of a resolution requesting such a review, the Planning Board may review with the City Manager and other city officials and report as recommendations to the City Council upon the extent, location, and design of all public structures and facilities, on the acquisition and disposal of public properties, on the establishment of building lines, mapped street lines, and proposals to change existing street lines. However, in the absence of a recommendation that has been requested from the Planning Board, the City Council may, if it deems wise, after the expiration of 30 days from the date on which the question has been submitted in writing to the Planning Board for review and recommendation, take final action.

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

Section 3. This ordinance shall become effective upon adoption.

Adopted in regular session on this the 10th day of March, 2005.

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

ATTEST:

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

13. Presentation by Engineering Department on Farmers Market.

Michael Leonard, assistant city engineer, and Rodney Maness, city surveyor, gave a Power Point presentation on the proposed Downtown Farmers Market, which is to be located at the corner of South Church Street and Hill Street. They also made a miniature model of the proposed Farmers Market site, which showed the shelters, parking, landscaping, benches, fountain, bathrooms, etc. The estimated cost is \$176,000. The buildings and concrete work will be contracted out at an estimated cost of \$115,000. City personnel will do the work for the bathrooms, landscaping, sign, steps, bench, fountain, asphalt, grading, and utilities at an estimated cost of \$61,000. The project will be funded by a Gold Leaf Foundation grant, the NC General Assembly, and Redevelopment Commission funds. The proposed completion date for the project is Labor Day, September 5, 2005.

Upon motion by Mr. Crisco and seconded by Mr. Smith, council voted unanimously to approve the plans for the Farmers Market.

14. Ordinance Amending Section 92.11 of the Code of Asheboro.

Public Works Director of Operations Bobby Kivett reported on the proposed changes for installing markers at the cemeteries. He said the new procedure would be easier for the installers and easier to administer.

Mr. Sugg prepared an ordinance amending Section 92.11 of the City Code to reflect the proposed changes, which will become effective April 1, 2005, if adopted.

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

10 ORD 3-05

AN ORDINANCE AMENDING SECTION 92.11 OF THE CODE OF ASHEBORO

WHEREAS, the City of Asheboro is authorized by Section 160A-341 of the North Carolina General Statutes to establish, operate, and maintain cemeteries either inside or outside its corporate limits; and

WHEREAS, Section 160A-348 of the North Carolina General Statutes authorizes the city to adopt rules and regulations concerning the erection of tombstones and monuments and all other matters concerning the use, operation, and maintenance of cemeteries; and

WHEREAS, Section 92.11 of the Code of Asheboro addresses the erection of grave markers in the city-owned and maintained cemeteries by providing as follows:

All grave markers shall be substantially set upon proper foundation and so that they will not be disturbed by any cave-in, and subject to the supervision and control of the Cemetery Supervisor; and

WHEREAS, upon the recommendation of staff members charged with the responsibility of operating and maintaining the city-owned and maintained cemeteries, the City Council of the City of Asheboro has concluded that Section 92.11 of the Code of Asheboro must be amended in order to improve the efficiency and effectiveness of the city's operation and maintenance of its cemeteries.

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

Section 1. Section 92.11 of the Code of Asheboro is hereby amended to provide as follows:

§ 92.11 ERECTION OF GRAVE MARKERS

~~(A) All grave markers shall be substantially set upon proper foundation and so that they will not be disturbed by any cave-in, and subject to the supervision and control of the Cemetery Supervisor. The installation of any kind, type, or form of grave marker or monument within a city-owned and maintained cemetery prior to the written issuance of a "Grave Marker Installation Permit" is prohibited and hereby declared to be unlawful. Any marker or monument installed prior to the proper issuance of a "Grave Marker Installation Permit" shall be subject to immediate removal by city forces at the cost of the owner and/or dealer placing the marker or monument.~~

~~(B) Prior to beginning any work to install a grave marker or monument, the installer or employee thereof must contact the Cemetery Supervisor and procure a written "Grave Marker Installation Permit" from the City of Asheboro in accordance with the standard operating guidelines utilized by the Cemetery Supervisor and approved by the City Manager. Any and all work performed pursuant to a "Grave Marker Installation Permit" must be performed in strict compliance with the provisions of the issued permit. In addition to any other available remedy, any marker or monument installed in a manner that does not comply with the issued "Grave Marker Installation Permit" shall be subject to immediate removal by city forces at the cost of the owner and/or dealer installing the marker or monument.~~

~~(C) No grave or plot may be marked except with a marker or monument installed in accordance with the provisions of this section.~~

~~(D) The city expressly reserves the right to deny an application for a "Grave Marker Installation Permit" when, in the sole opinion of the Cemetery Supervisor, the proposed installation of a marker or monument does not comply with the procedural requirements and/or technical specifications prescribed by the standard operating guidelines utilized by the Cemetery Supervisor and approved by the City Manager for the issuance of a "Grave Marker Installation Permit."~~

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

Section 3. This ordinance shall become effective on April 1, 2005.

Adopted in regular session on this the 10th day of March, 2005.

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

ATTEST:

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

15. Resolution Authorizing an Encroachment Agreement With Ready Telecom, Inc.

Mr. Sugg presented and reviewed a resolution authorizing the mayor and city clerk to execute an encroachment agreement on behalf of the City of Asheboro. He recommended that it be adopted by reference.

Upon motion by Mr. Smith and seconded by Mrs. Carter, council voted to approve the following resolution by reference: Mr. Baker voted against the motion.

10 RES 3-05

**RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO
EXECUTE AN ENCROACHMENT AGREEMENT ON BEHALF
OF THE CITY OF ASHEBORO**

WHEREAS, Ready Telecom, Inc. has been granted a CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY by the North Carolina Utilities Commission; and

WHEREAS, this CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY authorizes Ready Telecom, Inc. to provide intrastate local exchange and exchange access telephone service as a Competing Local Provider in the State of North Carolina; and

WHEREAS, in addition to other reasonable and generally accepted uses of the conduit that Ready Telecom, Inc. wishes to install for fiber optic and/or copper cable(s), Ready Telecom, Inc. desires to encroach upon certain real property owned by the City of Asheboro in order to install an underground fiber optic cable connecting a telephone switch at the office of Ready Telecom, Inc., which is located at 220 Sunset Avenue, to the telephone switch at Sprint's Central Office, which is located at 134 Sunset Avenue; and

WHEREAS, the city-owned real property referenced in the immediately preceding paragraph is more particularly described in the Randolph County Public Registry in Deed Book 1149, Page 549; Deed Book 1145, Page 469; and Deed Book 1161, Page 366; and

WHEREAS, the City Council of the City of Asheboro is willing to exercise the corporate powers of the city to permit the encroachment within the limits of the terms and conditions found in the ENCROACHMENT AGREEMENT that is attached herewith as "EXHIBIT 1" and is hereby incorporated into this resolution by reference as if copied fully herein.

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

Section 1. The City Council finds the terms and conditions of the ENCROACHMENT AGREEMENT attached to this resolution as "EXHIBIT 1" to be acceptable in that the interests of the city are preserved by this Agreement while still allowing Ready Telecom, Inc., a Competing Local Provider, to offer its services as an additional option to local telephone users.

Section 2. The Mayor and City Clerk of the City of Asheboro are hereby authorized and directed to execute on behalf of the City of Asheboro any and all documents and instruments necessary to implement the ENCROACHMENT AGREEMENT referenced in Section 1 of this resolution.

Adopted in regular session on this the 10th day of March 2005.

ATTEST:

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

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

16. Consideration of Referral of McCrary Ball Park Lease to Finance Committee.

Mayor Jarrell recommended that council defer this item and refer it to the Finance Committee.

Upon motion by Mr. Smith and seconded by Mrs. Carter, council voted unanimously to accept Mayor Jarrell's recommendation.

17. Adoption of an Ordinance Amending Section 130.03 of the Code of Asheboro.

Mr. Sugg presented and reviewed the aforementioned ordinance and recommended its adoption by reference.

Upon motion by Mr. Priest and seconded by Mr. McGlohon, council voted unanimously to adopt the following ordinance by reference:

11 ORD 3-05

**AN ORDINANCE AMENDING SECTION 130.03 OF THE
CODE OF ASHEBORO**

WHEREAS, Section 130.03 of the Code of Asheboro provides as follows:

**POSSESSION AND CONSUMPTION OF ALCOHOLIC
BEVERAGES ON CITY PROPERTY**

It shall be unlawful for any person to purchase, possess or consume any malt beverage or unfortified wine at any city park, recreational area or on any other property owned or occupied by the city. Any person found guilty of violating this section shall be guilty of a misdemeanor; and

WHEREAS, Section 98.01 of the Code of Asheboro provides as follows:

ADOPTION BY REFERENCE.

The Parks and Recreation Department Policy Manual, adopted March 5, 1998, and as amended, is hereby adopted by reference and made a part of this code as if set forth at length herein; and

WHEREAS, the Parks and Recreation Department Policy Manual provides that "alcoholic beverages are prohibited at all parks and recreation facilities;" and

WHEREAS, the City Council of the City of Asheboro has determined that any apparent conflict between the above-cited provisions of the Code of Asheboro should be resolved by applying the prohibition of alcoholic beverages found in the Parks and Recreation Department Policy Manual to all property owned or occupied by the city.

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

Section 1. Section 130.03 of the Code of Asheboro is hereby amended to provide as follows:

**§ 130.03 POSSESSION AND CONSUMPTION OF ALCOHOLIC
BEVERAGES ON CITY PROPERTY.**

It shall be unlawful for any person to purchase, possess or consume any ~~malt beverage or unfortified wine~~ alcoholic beverage at any city park, recreational area or on any other property owned or occupied by the city. Any person found guilty of violating this section shall be guilty of a misdemeanor.

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

Section 3. This ordinance shall become effective upon adoption.

Adopted in regular session on this the 10th day of March 2005.

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

ATTEST:

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

18. Update on Status of the Efforts to Fill the Planning Board Vacancy.

Mr. Neely reported that the candidate needs more time to decide.

19. Finance & Public Safety Matters.

No official meeting was held.

20. Report From Public Works Committee.

Mr. Ogburn reported that the Public Works Committee met at 4:00 PM on Wednesday, March 9, 2005. Mr. Bunker updated the committee on the status of the water and sewer projects. The committee discussed the possibility of going to a "radio" reading of water meters and bill monthly. This method of reading meters would take two employees instead of five, thus allowing three employees to work on the water & sewer maintenance crew. The committee recommended that an additional \$20,895 for construction labor on the water and sewer lines extended along East Salisbury Street be budgeted in the FY 2005-2006 budget due to the economic expansion and growth of the tax base of a \$3.5 million investment by Dan Lackey in the new Nissan and Honda dealership.

There being no further business, the meeting adjourned at 10:00 PM.

Carol J. Cole, CMC, City Clerk

David H. Jarrell, Mayor

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