

**REGULAR MEETING
ASHEBORO CITY COUNCIL
THURSDAY, MAY 4, 2006
7:00 P.M.**

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

David H. Jarrell) – Mayor Presiding

Talmadge Baker)
Linda Carter)
Keith Crisco)
Nancy Hunter) – Council Members Present
Walker Moffitt)
Archie Priest)
David Smith)

John N. Ogburn, III, City Manager
Dumont Bunker, P.E., City Engineer
Holly J. Hartman, Legal Assistant/Deputy City Clerk
R. Wendell Holland, Jr., Zoning Administrator
Deborah P. Juberg, Finance Director
R. Reynolds Neely, Jr., Planning Director
Trevor L. Nuttall, Planner
O. Lynn Priest, Community Development Director
Jeffrey C. Sugg, City Attorney
Sanford A. Vuncannon, Jr., Police Captain

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. In recognition of the National Day of Prayer, Mayor Jarrell initiated the observance of a moment of silence.

2. Appearance and recognition of guests and citizens.

Mayor Jarrell welcomed everyone in attendance.

3. Consent Agenda.

Upon motion by Mr. Smith and seconded by Ms. Hunter, Council voted unanimously to approve the following consent agenda items:

- Minutes of the regular meeting of the City Council held on April 6, 2006.
- General account of the closed session of the City Council meeting held on April 6, 2006.
- Resolution sealing the general account of the closed session of the City Council meeting held on April 6, 2006.

20 RES 5-06

**RESOLUTION SEALING THE GENERAL ACCOUNT OF THE CLOSED SESSION HELD BY THE
ASHEBORO CITY COUNCIL ON APRIL 6, 2006**

WHEREAS, in accordance with Section 143-318.11(a)(3) of the North Carolina General Statutes, the Asheboro City Council conducted a closed session during a regular meeting held on April 6, 2006 for the purpose of consulting with the city attorney about a matter that was deemed to come within the protection of the attorney-client privilege between the governing board and the city attorney; and

WHEREAS, a general account of this closed session has been approved by the Asheboro City Council in accordance with Section 143-318.10(e) of the North Carolina General Statutes; and

WHEREAS, Section 143-318.10(e) of the North Carolina General Statutes provides that such an account of a closed session may be withheld from public inspection so long as public inspection of the general account of the session would frustrate the purpose of the closed session; and

WHEREAS, at the present time, public inspection of the above-referenced general account of the closed session would frustrate the purpose of the closed session by violating the attorney-client privilege that the session was held to protect.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the aforementioned general account of the closed session held on April 6, 2006 shall be sealed so long as public inspection of the records would frustrate the purpose of the closed session; and

BE IT FURTHER RESOLVED that the city manager is authorized to act as the council's agent with the authority to unseal these records when, in his professional opinion, the purpose of the closed session would no longer be frustrated by making the records available for public inspection.

Adopted by the Asheboro City Council in regular session on the 4th day of May, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

- Minutes of special meeting of the City Council held on April 11, 2006.
- Findings of fact, conclusions of law, and order in the matter of SUP-06-01.

Case No. SUP-06-01
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF THE ASHEBORO CITY BOARD OF EDUCATION FOR A
SPECIAL USE PERMIT ALLOWING THE PERMANENT
LOCATION OF THREE (3) MODULAR CLASSROOM BUILDINGS AT
McCRARY ELEMENTARY SCHOOL

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 regular meeting on February 9, 2006. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. The Asheboro City Board of Education (hereinafter referred to as the "Applicant") has properly filed an application with the City of Asheboro Planning Department for a special use permit that would allow the permanent location of three (3) modular classroom buildings at McCrary Elementary School, 400 Ross Street, Asheboro, North Carolina.
2. McCrary Elementary School is located upon a parcel of land that is more specifically identified by Randolph County Parcel Identification Number 7751750684.
3. The parcel of land identified in the immediately preceding paragraph (hereinafter referred to as the "Zoning Lot") consists of approximately 9.69 acres of land.
4. The Zoning Lot is located in an RA6 zoning district.
5. The Growth Strategy Map identifies the area in which the Zoning Lot is located as "Primary Growth," and the Proposed Land Development Plan Map designates the area in question as "Activity Center."

6. The land uses surrounding the Zoning Lot consist of multi-family residential to the north, office and residential uses to the south, single and multi-family residential uses along with office use to the east, and single and multi-family residential uses to the west.

7. The Zoning Lot is located within the corporate limits of the City of Asheboro and is served by all city services.

8. Ross Street is a collector street. The Zoning Lot also has frontage along Foust Street, which is a local street.

9. The existing use of the Zoning Lot for a public elementary school is properly permitted under the zoning ordinance.

10. The Applicant is requesting a permit for the permanent placement of three (3) modular classroom buildings that are currently located on the Zoning Lot.

11. These existing modular classroom buildings were properly permitted under the zoning ordinance in 2004. Under the existing permit, the modular classrooms can remain on the Zoning Lot no longer than eighteen (18) months. However, in order to properly discharge its responsibilities as a public school system for a growing student population, the Applicant needs to utilize these three (3) existing modular classroom buildings for an extended period of time. Consequently, the Applicant has submitted this application for a special use permit that would allow the existing modular classroom buildings to remain on the Zoning Lot on a permanent basis.

12. The existing modular classroom buildings have been installed in compliance with the North Carolina State Building Code.

13. These modular classroom buildings are strategically located on the east side of the Zoning Lot in order to minimize any negative impact on residential property owners.

14. The modular classroom buildings have been placed near bathrooms in order to comply with health regulations and located as close to the main building as possible in order to minimize the exposure of students to adverse weather.

15. The Applicant's representative testified as to his experience that a quality elementary school enhances the property values in a neighborhood, and this project is undertaken to maintain the quality of the services provided by McCrary School to its growing student population.

16. McCrary School has been in existence since 1956.

17. The staff members in the city's planning department have reviewed the site plan submitted by the Applicant for this permit, and, as of the time of the hearing of this matter, the site plan does comply with the requirements of the Asheboro Zoning Ordinance.

18. No testimony was presented in opposition to the Applicant's request for a special use permit.

Based on the foregoing findings of fact, the Council hereby enters 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 the adjoining or abutting property. Additionally, the proposed use does constitute 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 Asheboro City Board of Education is hereby issued the requested special use permit allowing the permanent placement of three (3) modular classroom buildings on the Zoning Lot. The issuance of this permit and its continuing validity is hereby made expressly contingent upon the Applicant, and its successors and assigns, complying at all times with the approved site plan and the provisions of the

Asheboro Zoning Ordinance and accepting and remaining in strict compliance with the following supplementary condition:

1. An evergreen tree (a minimum of 3 feet in height at the time of planting) shall be planted 15 feet on center for a length of 90 feet (6 trees total) east of the subject classroom buildings and parallel to the area identified as the "15' Type A Buffer" to ensure the intent of Section 634.9(D) of the Asheboro Zoning Ordinance is satisfied.

Adopted by the Asheboro City Council in regular session on the 4th day of May, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

- Findings of fact, conclusions of law, and order in the matter of CUP-06-04.

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

IN THE MATTER OF THE APPLICATION OF JAMES WORTH HEATH FOR AN AMENDED
CONDITIONAL USE PERMIT AUTHORIZING A
SINGLE-FAMILY RESIDENTIAL DEVELOPMENT

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regular meeting on March 9, 2006. 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 Worth Heath (hereinafter referred to as the "Applicant") has properly submitted an application for a conditional use permit that would amend an existing permit issued under planning department file number CUP-00-19. The existing permit granted approval for site built and modular structures to be built in the Applicant's Heathwood Acres Subdivision. This subdivision is located between WOW Road and the intersection of Boundary Drive and Old Castle Drive.

2. Subsequent to the issuance of regulatory approval for the Heathwood Acres Subdivision, the Applicant acquired approximately thirty-six thousand nine hundred eleven (36,911) square feet of real property for development. By means of this application, the Applicant plans to add this additional acreage to the Heathwood Acres Subdivision.

3. Prior to the Council's consideration of the issuance of the requested conditional use permit, the Council, by means of a legislative enactment, rezoned this subsequently acquired acreage from an R15 zoning district to a Conditional Use R15 zoning district.

4. With the addition of this subsequently acquired real property, the requested conditional use permit will encompass approximately one hundred two (102) acres of land and can be more specifically identified by Randolph County Parcel Identification Numbers 7764307155, 7764703184, and 7764507688. The entirety of the area subject to the conditional use permit sought by the Applicant shall be hereinafter referred to as the "Zoning Lot."

5. The land uses surrounding the Zoning Lot consist of undeveloped land to the north, single-family residential use to the south and west, and a combination of undeveloped land and single-family residential use to the east.

6. The Zoning Lot is located in an area that is designated on the Growth Strategy Map as "Long-Range Growth" and is identified as "Suburban Residential" on the proposed Land Development Plan Map.

7. The Zoning Lot is located within the city's corporate limits and is served by all city services.

8. Boundary Drive is a local street with a 50-foot right-of-way.

9. Old Castle Drive is a local street with a 60-foot right-of-way.

10. The effect of this application, if approved, would be to create a net gain of three (3) lots within the subdivision. The previously approved Lot 70 would become Lot Nos. 70A, 70B, 70C, and 70D. Each of these lots would contain in excess of twenty thousand (20,000) square feet of land.

11. As proposed, the addition and allocation of thirty-six thousand nine hundred eleven (36,911) square feet of land to the original Lot No. 70 will remove the need for a portion of the exterior natural buffer that the permit issued under file number CUP-00-19 mandated around the perimeter of the development. Unless amended, a segment of the existing buffer would run through the middle of newly created Lot Nos. 70A, 70B, 70C, and a portion of 70D. Additionally, the reconfiguration of the original Lot No. 70 has extended the perimeter of the development to a public street right-of-way. Accordingly, the Applicant has requested relief from this situation.

12. An R15 zoning district is designed to provide regulations that will produce a low intensity of single-family residential uses.

13. Other than the addition of a limited amount of contiguous after-acquired acreage and the adjustment to the exterior natural buffer necessitated by the reconfiguration of Lot No. 70, the Applicant has proposed no changes to the development previously authorized under file number CUP-00-19.

14. Staff members in the city's planning department have reviewed the site plan submitted with this application and found the site plan to be in compliance with the terms and conditions of the Asheboro Zoning Ordinance.

15. No testimony or other form of evidence was submitted to the Council in opposition to the Applicant's request.

Based on the foregoing findings of fact, the Council hereby enters 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

James Worth Heath is hereby issued a conditional use permit allowing a single-family residential development with site built and modular structures. This conditional use permit shall be valid so long as, and only so long as, the approved land use is developed and conducted in compliance with the provisions of the Asheboro Zoning Ordinance and the site plan approved during the hearing of this matter and so long as the Applicant, and his heirs, successors and assigns, remains in strict compliance with the following conditions:

1. Consistent with the testimony provided during the hearing of this matter, the exterior natural buffer required around the perimeter of the development by permit number CUP-00-19 is eliminated to the limited degree that the buffer is located within Lot Nos. 70A, 70B, and 70C. Furthermore, the portion of the said buffer that does not follow the property line of Lot No. 70D is eliminated. This condition's modification of the exterior natural buffer is limited in nature and is to be strictly construed. Except as noted in this condition, the said buffer continues in full force and effect as prescribed by permit number CUP-00-19.

2. Except as modified by the site plan approved during the hearing of this matter and this Order, which includes the above-stated findings and conclusions, the conditions imposed on the Applicant by permit number CUP-00-19 remain in full force and effect.

Adopted by the Asheboro City Council in regular session on this 4th day of May, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

- Findings of fact, conclusions of law, and order in the matter of SUP-06-05.

Case No. SUP-06-05
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF BERNARD CARUSO FOR A SPECIAL USE PERMIT
ALLOWING A CHILD DAY CARE CENTER – LARGE

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 regular meeting on March 9, 2006. 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. Bernard Caruso (hereinafter referred to as the "Applicant") has properly filed an application with the City of Asheboro Planning Department for a special use permit that would allow a use classified under the Asheboro Zoning Ordinance as a "Child Day Care Center-Large." Under the Asheboro Zoning Ordinance, such a day care center serves eighty (80) or more children.
2. The Applicant proposes to construct such a child day care center on a currently undeveloped parcel of land that he and Ellen Caruso own. This parcel of land consists of approximately 6.01 acres of land and is located south of N.C. Highway 49 South on the east side of Oak Leaf Road. Randolph County Parcel Identification Number 7750043201 more specifically identifies this undeveloped parcel of land that will be hereinafter referred to as the "Zoning Lot."
3. The Zoning Lot is located in a B2 zoning district.
4. A Child Day Care Center – Large is permitted in a B2 zoning district by special use permit only.
5. The Growth Strategy Map identifies the area in which the Zoning Lot is located as "Primary Growth," and the Proposed Land Development Plan Map designates the area in question as "Commercial."
6. The land uses surrounding the Zoning Lot consist of residential and vacant commercial uses to the north and south, commercial and residential uses to the east, and a shopping center (commercial use) is located to the west.
7. The Zoning Lot is located within the corporate limits of the City of Asheboro, and all city services are available to the Zoning Lot.
8. Oak Leaf Road is a city-maintained local street with a 60-foot right-of-way.
9. As proposed, the project will be developed in two (2) phases. Phase I of the project will serve up to one hundred (100) children with twenty-one (21) staff members. In terms of actual construction, a portion of the proposed day care center and the primary parking lot will be constructed during Phase I. During Phase II, an addition will be added to the day care center and a secondary parking lot will be constructed in order to accommodate more children at the center. The maximum number of children to ultimately be served by this day care center will be two hundred (200) children.
10. The Applicant's site plan shows that a sidewalk will be installed in accordance with Section 322A of the Asheboro Zoning Ordinance. However, the Applicant is of the opinion that the unique topography of the Zoning Lot and the associated safety concerns warrant a variance from the sidewalk construction requirements. Consequently, the Applicant has filed with the Board of Adjustment an application for a variance from Section 322A of the Asheboro Zoning Ordinance.
11. Staff members in the city's planning department have reviewed the site plan submitted by the Applicant and found the site plan to be in compliance with the Asheboro Zoning Ordinance.

12. Child day care centers are licensed by the North Carolina Department of Health and Human Services. In accordance with the zoning ordinance, evidence of proper licensing of the Applicant by the State of North Carolina will be required prior to the issuance by the city of a Certificate of Zoning Compliance.

13. The Applicant has worked with a professional engineer in order to position and align the proposed child day care center's driveway and building in a manner that enhances the safety of children when parents are dropping off and picking up their children.

14. The submitted site plan and testimony during the hearing established that a significant grade separation will exist and function, along with natural vegetation, as a buffer/screen between the proposed child day care center and the existing residential dwellings. Additionally, during the hearing on this matter, the Applicant agreed to accept more stringent conditions from the Council in order to create an enhanced buffer/screen, as compared to what is shown on the submitted site plan, for the purpose of providing better protection to the surrounding residential dwellings from any unwanted side effects of the children playing outside in the designated playground area.

15. During the hearing of this matter, an adjoining property owner expressed only generalized concerns about the impact of the proposed child day care center on her adjoining residential property and the potentially negative impact of the children's playground area on the ability of her daughter to rest during the day after working a night shift.

Based on the foregoing findings of fact, the Council hereby enters the following:

CONCLUSIONS OF LAW

1. During the hearing of this matter, the evidence submitted to the Council indicated that the use has been properly designed and is subject to sufficient state regulation so as not to 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. With the strengthening of the buffering/screening as required by this permit, the Applicant's proposed use of the Zoning Lot for a child day care center in an area identified for commercial growth will not substantially injure the value of the 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

Mr. Bernard Caruso is hereby issued a special use permit for a Child Day Care Center – Large on the Zoning Lot, and this Special Use Permit shall remain valid so long as the approved land use is conducted in compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance and so long as the Applicant, and his heirs, successors, and assigns, remain in strict compliance with the following conditions:

1. For the purpose of enhancing the safety of children using the designated playground area, safety fencing shall be installed and properly maintained around the playground area identified on the approved site plan. Furthermore, in order to provide additional screening for existing adjacent residences located along the back property line of the Zoning Lot, a type "C" screen shall be properly installed and maintained in the area labeled on the site plan presented to the Council as measuring approximately 344.68 feet in length and bearing the notation that existing vegetation is to remain. A revised site plan reflecting compliance with the security fence and heightened screening requirements imposed by this condition shall be submitted in a timely manner to the Zoning Administrator for review and verification. This revised site plan must comply in all respects with the regulations and specifications of the Asheboro Zoning Ordinance. This revised site plan shall be subject to administrative review only and shall not be submitted to the Council for hearing so long as the revisions to the site plan comply with the Asheboro Zoning Ordinance, the terms and conditions of this permit, and are strictly limited to reflecting the additional requirements imposed by the Council by means of this condition. Subject to the condition stated below, any and all other proposed changes to the approved site plan shall be subject to the standard analysis prescribed by Section 1013.5 of the Asheboro Zoning Ordinance.

2. If the Board of Adjustment grants a variance from the sidewalk construction requirements along Oak Leaf Road, then the Applicant shall submit an approvable revised site plan to the city's planning department for administrative review, approval, and inclusion in the file without further review by the Council. This condition shall only apply to the site plan changes related to the elimination of the sidewalk requirement along Oak Leaf Road and not, by way of illustration and without limitation, to

alterations affecting building location or vehicular access and maneuvering that would otherwise be defined as a permit modification.

Adopted by the Asheboro City Council in regular session on the 4th day of May, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

- Findings of fact, conclusions of law, and order in the matter of SUP-06-06.

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

IN THE MATTER OF THE APPLICATION OF CHARLES WILLARD FOR A SPECIAL USE PERMIT
ALLOWING A RESIDENTIAL TOWNHOUSE DEVELOPMENT

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 regular meeting on March 9, 2006. 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. Charles Willard (hereinafter referred to as the "Applicant") has properly filed an application with the City of Asheboro Planning Department for a special use permit that would allow the construction of a Residential Townhouse Development in a B3 zoning district.

2. The Applicant proposes to build the development on approximately 1.05 acres of undeveloped land that he owns in fee simple. This land (hereinafter referred to as the "Zoning Lot") is located immediately southwest of the intersection of South Church Street and Hill Street in Asheboro.

3. Randolph County Parcel Identification Numbers 7751721250, 7751721200, 7751722257, 7751722142, 7751722157, and 7751722252 more specifically identify the land contained within the Zoning Lot.

4. As of the time of the hearing of this matter, the Zoning Lot is located in the B3 zoning district.

5. The Growth Strategy Map identifies the area in which the Zoning Lot is located as "Primary Growth," and the Proposed Land Development Plan Map designates the area in question as "Activity Center." This land development plan's designation of this area as a city activity center is designed to encourage mixed uses and pedestrian oriented development with such features as sidewalks and rear parking locations. The Zoning Lot is regulated under Tier 1 of the Center City Planning Area, and these development standards support the conceptual elements of the land development plan.

6. The land uses surrounding the Zoning Lot consist of the Downtown Farmers' Market as a commercial use to the north, multi-family residential use to the south, industrial use to the east, and single-family residential use to the west.

7. The Zoning Lot is located within the corporate limits of the City of Asheboro, and all city services are available to the Zoning Lot.

8. The Zoning Lot has frontage along South Church Street and Hill Street. South Church Street is a major thoroughfare with a 50-foot right-of-way, and Hill Street is a local street with a 50-foot right-of-way.

9. The Applicant proposes a land use for the Zoning Lot that is formally classified by the Asheboro Zoning Ordinance as "Residential Townhouse Developments in the B3 District." Commercial spaces are proposed for the street-level units fronting South Church Street while the upper floors can be utilized for residential use.

10. The Applicant's site plan does not include provisions for solid waste collection, but the Code of Asheboro permits the city manager to determine the collection method for sites with unusual circumstances. As of the time of the hearing of this matter, the city manager had properly approved a solid waste collection procedure for the proposed development.

11. The Applicant has requested waivers from the subdivision ordinance pertaining to the dedication of public right-of-way and the dedication of a sight triangle. The Council will consider these waivers or variances during the sketch design review process prescribed by the subdivision ordinance.

12. The site plan submitted to the Council during the hearing of this matter does comply with the requirements and specifications of the Asheboro Zoning Ordinance.

13. The Applicant's proposal does call the development of a gated community.

14. During his testimony, the Applicant stated that elevators would be present in the multi-story development. The Applicant has worked with the city's fire inspectors and building inspectors to ensure the compliance of the project with the applicable safety codes.

15. During the hearing of this matter, no evidence was submitted to the Council in opposition to the Applicant's request.

Based on the foregoing findings of fact, the Council hereby enters 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 the 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

Mr. Charles Willard is hereby issued a special use permit for a Residential Townhouse Development in the B3 District, and this Special Use Permit shall remain valid so long as the approved land use is conducted in compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance and so long as the Applicant, and his heirs, successors, and assigns, remain in strict compliance with the following conditions:

1. If the Council does not grant the requested waivers/variances from the subdivision ordinance, the Applicant shall prepare an approvable revised site plan showing the mandated right-of-way and sight distance dedications, along with the necessary adjustments to the lot, building, and utility layouts, and shall, in a timely manner, submit this revised site plan to the planning department for staff review, approval, and inclusion in the file without further review by the Council. This condition shall only apply to the site plan changes related to the right-of-way and sight distance dedications, including the necessary adjustments to the lot, building, and utility layouts, and not to alterations affecting building location or vehicular access and maneuvering that would otherwise be defined as a permit modification.

2. The preliminary site/utility plan identifies proposed improvements off-site of the Applicant's property. The proper easements shall be obtained and the necessary arrangements shall be made prior to off-site construction activity.

Adopted by the Asheboro City Council in regular session on the 4th day of May, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

- Findings of fact, conclusions of law, and order in the matter of SUP-06-07.

IN THE MATTER OF THE APPLICATION OF NORTH MEADOWS MANUFACTURED HOME PARK
FOR AN AMENDED SPECIAL USE PERMIT

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 regular meeting on April 6, 2006. 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. North Meadows Manufactured Home Park (hereinafter referred to as the "Applicant") properly filed an application with the City of Asheboro Planning Department for an amended special use permit for the existing manufactured home park located at 801 Hub Morris Road in Asheboro. The Applicant is not seeking to physically change the existing land use. An amended permit is sought as a means of bringing the conditions attached to the existing special use permit into line with the regulations currently prescribed by the Asheboro Zoning Ordinance.

2. Randolph County Parcel Identification Number 7763458540 more specifically identifies the approximately 53.92 acres of land upon which the existing manufactured home park is located at 801 Hub Morris Road. This parcel of land shall be hereinafter referred to as the "Zoning Lot."

3. The Growth Strategy Map designates the area in which the Zoning Lot is located as a "Long Range Growth" area, and the Proposed Land Development Plan Map identifies the area as "Neighborhood Residential."

4. The Zoning Lot is located in an R10 zoning district, and a manufactured home park is permitted in an R10 zoning district as a special use requiring a permit from the Council.

5. The land uses surrounding the Zoning Lot consist of single-family residential use to the north, undeveloped land to the south and east, and low-density residential use to the west.

6. The Zoning Lot is located within the corporate limits of the City of Asheboro, and all city services are available to the Zoning Lot.

7. A special use permit for the existing manufactured home park was issued in 1998 under planning department file number SUP-98-10.

8. The existing permit required all homes to be owner occupied due, in part, because that requirement was not imposed by the zoning ordinance itself at the time of the hearing on the original permit. Currently, Section 629.22 of the Asheboro Zoning Ordinance requires all homes to be owner occupied.

9. While the Applicant wishes to bring forward certain policy concerns in a legislative setting in an effort to amend Section 629.22 of the Asheboro Zoning Ordinance, the request currently before the Council is to issue an amended permit that relies solely upon the zoning ordinance to impose the requirement that homes be owner occupied and to expressly allow the Applicant, by means of a condition attached to the amended permit, to avail itself of future amendments, if any, that are made to this section of the zoning ordinance.

10. The existing permit also requires homes placed within the park to be no more than three (3) years old at the time of placement. When the original permit was issued in 1998, the zoning ordinance did not address this issue. However, Section 629.20 of the Asheboro Zoning Ordinance currently provides that no home shall be more than three (3) years old at the time of placement in the park.

11. As noted above in connection with Section 629.22 of the ordinance, the Applicant wishes to bring forward certain policy concerns in a legislative setting in an effort to amend Section 629.20 of the Asheboro Zoning Ordinance. However, the request currently before the Council is to issue an amended permit that relies solely upon the zoning ordinance to impose the requirement that homes be no more than three (3) years old at the time of placement in the park and to expressly allow the Applicant, by means of a condition attached to the amended permit, to avail itself of future amendments, if any, that are made to Section 629.20 of the zoning ordinance.

12. The Applicant has also requested that the existing permit be updated to expressly allow the sale of manufactured homes within the park to the same degree and within the same parameters as is

currently allowed by the zoning ordinance. Section 629.16 of the Asheboro Zoning Ordinance provides as follows:

Mobile homes offered for sale within the park shall not exceed 10 percent of the total approved spaces at any given time. Every mobile home offered for sale shall be located only on an approved mobile home space and shall be subject to the same locational requirements as any home within the park. No advertising signs for mobile home sales shall be permitted except one sign posted outside each mobile home offered for sale. Such signs shall conform with the regulations in Article 500.

13. The site plan submitted by the Applicant has been reviewed by staff members in the city's planning department and found to be in compliance with the regulations and specifications of the Asheboro Zoning Ordinance.

14. Except as noted above, the Applicant has not requested modification of any of the other conditions imposed by the permit issued under file number SUP-98-10.

15. While one witness did offer testimony during the hearing of this matter in opposition to the Applicant's request, this testimony did not rise above the level of generalized concerns about potentially unforeseen consequences flowing from any modification of the existing permit. This same witness admitted that the existing park is a good manufactured home park, and she further acknowledged that the Applicant has recently made improvements to the facilities at the park.

CONCLUSIONS OF LAW

1. During the hearing of this matter, the evidence submitted to the Council indicated that the continuing use, as modified by this application, of the Zoning Lot for a manufactured home park 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 continues to meet all of the required conditions and specifications of the Asheboro Zoning Ordinance.

3. The Applicant's proposed use of the Zoning Lot will not substantially injure the value of the adjoining or abutting property.

4. The location and character of the use if developed according to the plan as submitted and approved will continue to 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

North Meadows Manufactured Home Park is hereby issued a special use permit for a Manufactured Home Park to continue to be located upon the Zoning Lot, and this Special Use Permit shall remain valid so long as the approved land use is conducted in compliance with the approved site plan, the provisions of the Asheboro Zoning Ordinance, including by way of illustration and without limitation the sale of manufactured homes within the park in accordance with Section 629.16 of the ordinance, and so long as the Applicant, and its successors and assigns, remain in strict compliance with the following conditions:

1. A minimum of seven (7) dumpsters shall continue to be provided.
2. Each dwelling shall have a visible lot number and/or address to facilitate rapid response in an emergency.
3. All homes shall be skirted.
4. No parking shall be permitted on the internal roadways.
5. All buffering, outlined below, shall be retained:
 - a. The existing landscape-berm with plantings equivalent to a Buffer Type C shall be maintained along the frontage of Hub Morris Road.
 - b. Along Mr. James Murray's eastern property boundary, a 25-foot buffer yard shall be maintained. Along Mr. Murray's southern boundary, a 15-foot buffer yard shall be provided in addition to the existing power line easement. Plantings in these buffer yards shall be equivalent to a Buffer Type C. The existing wooden fence along the boundary with Mr. Murray shall be maintained.

6. If, in the future, the Asheboro Zoning Ordinance permits homes to be more than three (3) years old at the time of placement within the park, the Applicant shall be allowed to utilize the age permitted by the most recent amendment to the Asheboro Zoning Ordinance.

7. If, in the future, the Asheboro Zoning Ordinance is amended to alter the requirement that homes be owner occupied, the Applicant shall be allowed to utilize the regulatory framework pertaining to owner occupancy that is found in the most recent amendment to the Asheboro Zoning Ordinance.

Adopted by the Asheboro City Council in regular session on the 4th day of May, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

- Ordinance to amend the General Fund Budget FY 2005-2006.

16 ORD 5-06

**ORDINANCE TO AMEND THE
GENERAL FUND BUDGET
FY 2005-2006**

WHEREAS, The City of Asheboro desires to purchase real property in Fee Simple for the Asheboro Public Library from Abraham Investments, LLC, and;

WHEREAS, the City of Asheboro has received a contribution of \$30,000 from the Asheboro Public Library Foundation to apply toward this purchase, and

WHEREAS, the City of Asheboro desires to be in compliance with all generally accepted accounting principals, and;

WHEREAS, the budget as adopted requires amendment to reflect adjustments in revenues and expenditures necessary for this purchase:

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: That the following Revenue line items be increased:

10-397-2005	Contribution- Library Property	\$30,000.00
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Section 2: That the following Expenditure line items be increased:

10-630-7100	Capital Outlay- Land	\$30,000.00
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Adopted this the 4th day of May 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

- Ordinance authorizing a stop sign to be installed to stop traffic on Dennis Street entering Sherwood Road.

17 ORD 5-06

**AN ORDINANCE AUTHORIZING A STOP SIGN
TO BE INSTALLED TO STOP TRAFFIC ON DENNIS STREET
ENTERING SHERWOOD ROAD
BY THE CITY COUNCIL
CITY OF ASHEBORO, NORTH CAROLINA**

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

Pursuant to Chapter 70, Section 70.29 of the Code of the City of Asheboro, the City Manager is hereby ordered to cause the installation of a stop sign as described below on a street that lies within the corporate boundary of the City of Asheboro:

- Stop Traffic on Dennis Street entering Sherwood Road

Adopted in Regular Meeting held on May 4, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

- Ordinance authorizing stop signs to be installed on recently completed streets in the Turtle Lake Phase 1A Subdivision.

18 ORD 5-06

**AN ORDINANCE AUTHORIZING STOP SIGNS TO BE INSTALLED TO
STOP TRAFFIC ON RECENTLY COMPLETED STREETS IN THE
TURTLE LAKE PHASE 1A SUBDIVISION
BY THE CITY COUNCIL
CITY OF ASHEBORO, NORTH CAROLINA**

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

Pursuant to Chapter 70, Section 70.29 of the Code of the City of Asheboro, the City Manager is hereby ordered to cause the installation of stop signs as described below on streets that lie within the corporate boundaries of the City of Asheboro:

- Stop traffic on Tortoise Lane entering Turtle Lake Bend
- Stop traffic on Reginas Way entering Turtle Lake Bend

Adopted in Regular Meeting held on May 4, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

- Concurrence with the recommendation from the Asheboro Airport Authority meeting on April 18, 2006, to approve the transfer of the lease for Hanger "C" from Larry Richardson to C.T. Mendenhall.

OLD BUSINESS

4. (a) RZ-06-09: Rezone from I1 to B2 / Sky Drive and W. Beasley Street.

The above-referenced rezoning case was previously withdrawn at the request of the applicant.

(b) Resolution of intent to close Cedar Drive (Connecting to Skycrest Country Road – SR # 1203), as requested by Annette Crofts of 622 Skycrest Country Road.

Mr. Bunker presented and recommended adoption by reference of the aforementioned resolution.

Upon motion by Mr. Smith and seconded by Mr. Baker, Council voted unanimously to adopt the following resolution by reference.

21 RES 5-06

RESOLUTION OF INTENT TO PERMANENTLY CLOSE

CEDAR DRIVE

WHEREAS, Section 160A-299 of the North Carolina General Statutes prescribes the procedure to be followed by a city in order to permanently close a street or alley; and

WHEREAS, the City Council of the City of Asheboro has determined that it is advisable to consider permanently closing Cedar Drive as requested by Annette Lineberry Crotts, Gregory L. Crotts, Nancy Marion Swaney, and Claude E. Swaney, Jr.; and

WHEREAS, in order for a municipality to lawfully permanently close a street, Section 160A-299 of the North Carolina General Statutes requires that a city council first adopt a resolution declaring its intent to permanently close the street in question and then call a public hearing on the question.

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

Section 1. It is the intent of the City Council of the City of Asheboro to permanently close Cedar Drive, which is located within the extraterritorial jurisdiction of the city. Cedar Drive is more particularly described as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a new iron rod that is set in the northern margin of the 50-foot right-of-way for Skycrest Country Road (North Carolina Secondary Road 1203), this new iron rod is located South 81 degrees 25 minutes 36 seconds West 948.56 feet from North Carolina Geodetic Survey monument "SIGN" which is itself located by means of the North Carolina Coordinate System at the coordinates of North 696,290.27 feet and East 1,751,553.76 feet (NAD 83); thence from the said Beginning point following the curve of the northern margin of the right-of-way for Skycrest Country Road a chord bearing and chord distance of North 53 degrees 01 minute 48 seconds West 151.97 feet (Delta Angle = 21 degrees 04 minutes 00 seconds, Radius = 415.66 feet, Arc Distance = 152.83 feet, Tangent = 77.29 feet) to a point not set; thence continuing along the northern margin of Skycrest Country Road North 63 degrees 35 minutes 00 seconds West 129.48 feet to a point not set; thence following a curve along the Nancy Swaney property described in Deed Book 1204, Page 765, Randolph County Registry a chord bearing and chord distance of North 89 degrees 21 minutes 29 seconds East 88.31 feet (Delta Angle = 53 degrees 38 minutes 53 seconds, Radius = 97.85 feet, Arc Distance = 91.62 feet, Tangent = 49.48 feet) to a point not set; thence continuing along the Nancy Swaney property North 62 degrees 16 minutes 00 seconds East 178.00 feet to an existing iron rod control corner; thence South 72 degrees 57 minutes 11 seconds East 71.63 feet along the Gregory and Annette Crotts property described in Deed Book 1954, Page 267, Randolph County Registry to an existing iron pipe control corner; thence along the Annette Crotts property described in Deed Book 1241, Page 874, Randolph County Registry the following courses and distances: South 62 degrees 16 minutes 00 seconds West 156.85 feet to a point not set; thence along a curve a chord bearing and chord distance of South 09 degrees 52 minutes 31 seconds West 61.00 feet (Delta Angle = 104 degrees 40 minutes 02 seconds, Radius = 38.53 feet, Arc Distance = 70.39 feet, Tangent = 49.91 feet) to a point not set; thence South 42 degrees 34 minutes 10 seconds East 83.00 feet to an existing iron rod; thence along the Gregory and Annette Crotts property described in Deed Book 1954, Page 267, Randolph County Registry the following course and distance: South 42 degrees 35 minutes 15 seconds East 23.92 feet to the point and place of the BEGINNING, and being all of that 14,488 square feet of land, more or less, encompassed by the preceding metes and bounds description.

Also included is the 50-foot right-of-way for the above-described Cedar Drive, the said right-of-way to be permanently closed is shown on the plat of survey referenced below.

This description is in accordance with a plat of survey entitled "PROPOSED CLOSURE OF CEDAR DRIVE" that was drawn under the supervision of Jerry A. King, a professional land surveyor with registration number L-3373. The said plat of survey is dated March 31, 2006, identified as Job No. 4629 C 10, and is hereby incorporated into this resolution by reference as if copied fully herein.

Section 2. A public hearing on the matter of the proposed permanent closure of Cedar Drive is hereby called and is to be held at the regular meeting of the City Council of the City of Asheboro on June 8, 2006, at 7:00 p.m. in the Council Chamber of the City of Asheboro Municipal Building located at 146 North Church Street in Asheboro. At this public hearing, any person may be heard on the question of whether or not the intended closing of Cedar Drive would be detrimental to the public interest or the property rights of any individual.

Section 3. The City Clerk is hereby directed to cause the publication of this Resolution of Intent once a week for four (4) successive weeks prior to the above-referenced public hearing in the Courier Tribune, a newspaper of general circulation in the City of Asheboro and Randolph County.

Section 4. The City Clerk is further directed to transmit a copy of this Resolution of Intent by registered or certified mail to each owner of property adjoining Cedar Drive. The identity of said property owners is to be determined on the basis of the Randolph County Tax Department's records.

Section 5. The City Clerk is further directed to cause the prominent posting of this Resolution of Intent in a minimum of two (2) locations along Cedar Drive.

Adopted by the Asheboro City Council in regular session on the 4th day of May, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

NEW BUSINESS

5. Audit contract for the fiscal year ending June 20, 2006.

Ms. Juberg presented and recommended adoption by reference of the audit contract for the fiscal year ending June 30, 2006.

Upon motion by Mr. Crisco and seconded by Mr. Priest, Council voted unanimously to approve the aforementioned audit contract.

(A copy of the above-referenced audit contract is on file in the City Clerk's Office.)

6. Land Use Issues:

Mayor Jarrell opened the public hearing on the following request:

- (a) RZ-06-10: Rezone from RA6 to OA6 / 342 Hill Street. The property of Charles and Dena Willard is located at 342 Hill Street and contains approximately 13, 119 square feet of land. Randolph County Parcel Identification Number 7751720422 (a portion) more specifically describes the property.

Mr. Neely presented the staff analysis of the request submitted by Mr. Charles Willard to rezone the above-described property from RA6 High Density Residential to OA6 Office and Apartment. The Planning Board recommended denial of the request on the basis of the following staff recommendation:

"Office land uses often can be a good transition between residential and non-residential uses. Investment in older parts of the city and mixed land uses are two stated goals of the Land Development Plan. This request, however, is not in the public interest for several reasons and two other LDP goals and policies suggest that the request is not consistent with the plan.

The subject property is removed from the non-residential land uses occurring along S. Church Street and as stated earlier, the adjacent Farmers' Market must install a landscape yard to promote compatibility. Second, all land uses south and west of this property along Hill Street are residential in nature. Encouraging non-residential land uses to occur west of the market could jeopardize the stability of the neighborhood if additional property owners seek to convert residences to offices. Lastly, mixed land uses are encouraged in the Center City area where the pedestrian infrastructure is in place to support pedestrian activity. No sidewalks exist along Hill Street to tie the Park Street neighborhood to the non-residential activity center along S. Church Street and Sunset Avenue.

After considering the above factors, staff believes the existing zoning permits a reasonable use of the property and is consistent with the Land Development Plan. Staff, therefore believes a denial of the request to be in the public's interest."

The Applicant, Mr. Charles Willard was available to answer questions.

Mr. Chad Beason and Ms. Shirley Hunt presented comments and concerns in opposition to the Applicant's requested rezoning.

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

Upon motion by Mr. Moffitt and seconded by Mr. Crisco, Council voted unanimously to approve the requested rezoning. The Council rejected staff analysis of certain aspects of the application. First, the Land Development Plan goals/policies were quantitatively evenly split between supporting and not supporting the application. Second, apartments are permitted in the existing RA6 zoning district. "The existing RA6 High Density Residential district is intended to produce high intensity residential uses in close proximity to major nodes of non-residential development. The requested OA6 Office and Apartment district is intended to produce moderate intensity office and residential development to serve adjacent residential areas and to provide a transition from residential to commercial uses." An office use is no worse than an apartment use under the facts of this case. On the basis of this analysis, the requested rezoning was approved.

Mayor Jarrell opened the public hearing on the following request:

- (b) RZ-06-11: Rezone from R10 to B2 / 2327 N. Fayetteville Street. The property of BSR, LLC is located on the west side of North Fayetteville Street approximately 150 feet south of Northwood Drive and consists of approximately 1.006 acres of land. Randolph County Parcel Identification Number 7763043905 more specifically describes the property.

Mr. Neely presented the staff's analysis of the request submitted by BSR, LLC to rezone the above-described property from R10 Medium-density Residential to B2 General Business. The Planning Department Staff recommended denial of the request on the basis of its interpretation of the Land Development Plan's policies and goals.

The Planning Board recommended approval of the requested rezoning in "that the location of the property and its proximity to multifamily development makes commercial zoning more reasonable than residential."

On behalf of the Applicant, Mr. Ben Morgan, Attorney, and Mr. Heath Craven were available 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 adopted the recommendation of the Planning Board and placed the above-described property in a B2 General Business district.

Mayor Jarrell opened the public hearing on the following request:

- (c) CUP-06-12: Conditional Use Permit Modification / 841 Cross Street.

Upon motion by Mr. Priest and seconded by Mr. Crisco, Council unanimously voted to defer the above-referenced item to the next regular council meeting.

Mayor Jarrell opened the public hearing on the following request:

- (d) CUP-06-13: Conditional Use Permit Modification / 182 Dublin Square Road. The property of Howard and Sheila Breedlove is located at 182 Dublin Square Road and consists of approximately 23,522 square feet of land. Randolph County Parcel Identification Number 7761328281 more specifically describes the property.

Mr. Neely was sworn in and presented the staff's analysis of the Applicant's request including the submitted site plan. The Applicant, Howard Mitchell Breedlove, requested that an existing Conditional Use Permit issued under the Planning Department's file number CUP-01-18 be amended to allow the expansion of the existing retail business.

Mr. Howard Mitchell Breedlove was sworn in and addressed the four standard tests.

There being no further comments nor opposition from the public, Mayor Jarrell closed the public hearing. An audiotape of the testimony presented during this hearing is on file in the City Clerk's Office.

Upon motion by Ms. Carter and seconded by Mr. Smith, Council voted unanimously to approve the Conditional Use Permit to allow the expansion of a retail business. The issuance of this permit was based on the four standard tests being met. No conditions were attached to this permit.

The formal Findings of Fact, Conclusions of Law, and Order granting this Conditional Use Permit will be entered by the Council in regular session on June 8, 2006.

(e) RZ/CUP-06-14: Rezone from R15 to CU-R10 / Daves Mountain Court.

This case was previously withdrawn at the request of the applicant.

(f) SUB-06-01: Asheboro Downtown Plaza. Preliminary Plat Approval.

Mr. Neely presented the staff's analysis of the request by Charles Willard for preliminary plat approval for Asheboro Downtown Plaza. This subdivision is located at the southwest intersection of South Church Street and Hill Street and contains approximately 1.05 acres of land, consisting of approximately twelve (12) lots.

All departments have reviewed the plat. The Planning Department Staff and the Planning Board recommended approval of the request with the comment that proper easements and arrangements shall be obtained prior to construction of off-site improvements.

Upon motion by Mr. Smith and seconded by Mr. Priest, Council accepted the recommendation of the Planning Board and approved of the preliminary plat with the comment cited above.

(The aforementioned preliminary plat is on file in the City Clerk's Office.)

(g) SUB-04-06: Carowood Subdivision. Final Plat Approval.

Mr. Neely presented the staff's analysis of the request by Sammy Hunt for final plat approval for Carowood. This subdivision is located between Oakwood Acres Road and Mack Road and contains approximately 8.31 acres of land, consisting of approximately ten (10) lots.

All departments have reviewed the plat. The Planning Department Staff and the Planning Board recommended approval of the request with the comment that approval is needed from the North Carolina Department of Transportation before the plat is recorded.

Upon motion by Ms. Carter and seconded by Mr. Crisco, Council accepted the recommendation of the Planning Board and approved the final plat with the above-cited comment.

(The aforementioned final plat is on file in the City Clerk's Office.)

(h) SUB-05-02: Autumn Place Phase I. Final Plat Approval.

Mr. Neely presented the staff's analysis of the request by Clayton Terry Tucker for final plat approval for Autumn Place Town homes Phase I. This subdivision is located at 711 Sunset Avenue and contains approximately 45,671 square feet of land, consisting of approximately seven (7) lots.

All departments have reviewed the plat. The Planning Department Staff and the Planning Board recommended approval of the request.

Upon motion by Mr. Smith and seconded by Ms. Carter, Council accepted the recommendation of the Planning Board and approved the final plat.

(The aforementioned final plat is on file in the City Clerk's Office.)

(i) SUB-04-01: Turtle Lake Subdivision Phase IA. Final Plat Approval.

Mr. Neely presented the staff's analysis of the request by Turtle Lake Properties for final plat approval for Turtle Lake Subdivision Phase 1A. This subdivision is located along the North side of Caudle Road at Sonnett Drive and contains approximately 12.36 acres of land, consisting of approximately twenty (20) lots.

All departments have reviewed the plat. The Planning Department Staff and the Planning Board recommended approval of the request.

Upon motion by Mr. Smith and seconded by Mr. Priest, Council accepted the recommendation of the Planning Board and approved the final plat.

(The aforementioned final plat is on file in the City Clerk's Office.)

- (j) SUB-01-01: Humble Ridge Subdivision. Request for Preliminary Plat Approval Extension.

Mr. Neely presented the Applicant's request to reactivate the preliminary plat. There were no revisions to the expired preliminary plat. Reactivation of the plat will allow the Applicant to proceed with final plat approval.

After substantive review of the requirements set forth in the Asheboro Zoning Ordinance in regards to a reactivation of a preliminary plat, and upon motion by Mr. Smith and seconded by Mr. Crisco, Council unanimously voted to reactivate the expired preliminary plat as requested.

- (k) Update on the Proposed Asheboro Zoo Greenway.

Mr. Nuttall reported on the status of the feasibility study of a proposed Asheboro Zoo Greenway. Previously proposed by the Asheboro/Randolph Chamber of Commerce, the project envisioned a greenway following streams and existing city easements southeast to the zoo. The North Carolina Department of Transportation has agreed to assist with funding for a feasibility study in order to examine possible routes for the greenway.

As the study progresses, public meetings will be held to discuss the project.

7. Request by Kim Everhart for authorization to connect her business (Everhart Farms) at 1801 U.S. Highway 64 East to the city maintained water line in front of the Stuart-Bowman Auto Centre.

Due to the absence of both Ms. Everhart and a written request for the authorization to connect to the city's water line, the council, upon motion by Mr. Smith and seconded by Mr. Baker, voted unanimously to defer the above-referenced item to the next regular council meeting.

8. Public comment period.

Mr. Ben Morgan presented comments and suggestions in support of the proposed Asheboro Zoo Greenway project.

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

9. Petition received from Clarence E. and Louise Goodman requesting contiguous annexation of 0.96 acre at 1320 Martin Luther King, Jr. Drive.

Mayor Jarrell opened the public hearing on the contiguous annexation of 0.96 of an acre of land located at 1320 Martin Luther King, Jr. Drive.

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

Mr. Bunker presented and recommended adoption, by reference, of an ordinance to extend the corporate limits of the City of Asheboro, North Carolina.

Upon motion by Mr. Baker and seconded by Ms. Hunter, Council voted unanimously to adopt the following ordinance by reference.

Ordinance Number 19 ORD 5-06
ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH CAROLINA
(0.96 of an Acre of Land Located At 1320 Martin Luther King, Jr. Drive)

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all of the real property located within the area hereinafter described was heretofore presented to the City Council, by which petition a request was made that said area be annexed to the City of Asheboro; and

WHEREAS, the City Council has by resolution directed the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the City Clerk has certified the sufficiency of said petition; and

WHEREAS, the City Council did publish notice to the public on the 20th day of April, 2006 in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held at 7:00 o'clock p.m. on the 4th day of May, 2006 at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing said area to the City of Asheboro; and

WHEREAS, the said public hearing was in fact held on the 4th day of May, 2006; and
WHEREAS, the City Council has determined that the petition meets the requirements of Section 160A-31 of the North Carolina General Statutes.

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

Section 1. By virtue of the authority granted in the North Carolina General Statutes, Chapter 160A, Article 4A, Part 1, the following described area is hereby annexed and made part of the City of Asheboro, North Carolina:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe that is located by means of the North Carolina Coordinate System at the coordinates of North 713,312.28 feet and East 1,764,679.74 feet (NAD 27) and is set in the southern margin of the 60-foot right-of-way for Martin Luther King, Jr. Drive (North Carolina Secondary Road 2189); thence from said Beginning point along the southern margin of the 60-foot right-of-way for Martin Luther King, Jr. Drive South 62 degrees 15 minutes 38 seconds East 262.36 feet to an existing iron pipe; thence along the Andrew Jason McArthur property described in Deed Book 1925, Page 2192, Randolph County Registry the following courses and distances: South 45 degrees 13 minutes 56 seconds West 210.96 feet to a new iron pipe; thence North 88 degrees 41 minutes 35 seconds West 115.49 feet to an existing iron pipe; thence North 07 degrees 01 minute 25 seconds East 270.07 feet along the existing corporate limits line for the City of Asheboro to the point and place of the BEGINNING, and containing 0.96 of an acre of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "Annexation Survey For City of Asheboro" that was drawn under the supervision of Rodney G. Maness, Professional Land Surveyor with Registration No. L-4594. Said plat of survey was dated March 14, 2006 and was identified as Job No. 06013.

Section 2. Upon and after May 4, 2006, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

Section 3. The Mayor of the City of Asheboro shall cause to be recorded in the Office of the Register of Deeds of Randolph County, and in the Office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Randolph County Board of Elections, as required by Section 163-288.1 of the North Carolina General Statutes.

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

Section 5. This ordinance shall be in full force and effect from the 4th day of May, 2006.

Adopted by the Asheboro City Council in regular session on the 4th day of May, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

Approved as to form:

s/ Jeffrey C. Sugg
Jeffrey C. Sugg, City Attorney

10. Petition received from Woodle, Inc. requesting contiguous annexation of 0.07 acre along the west side of Glovinia Street.

Mayor Jarrell opened the public hearing on the contiguous annexation of 0.07 of an acre of land along the west side of Glovinia Street.

There being no comments nor opposition from the public, Mayor Jarrell closed the public hearing. Mr. Bunker presented and recommended adoption, by reference, of an ordinance to extend the corporate limits of the City of Asheboro, North Carolina.

Upon motion by Mr. Priest and seconded by Ms. Hunter, Council voted unanimously to adopt the following ordinance by reference.

Ordinance Number 20 ORD 5-06
ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH CAROLINA
(0.07 of an Acre of Land Located along the West Side of Glovinia Street)

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all of the real property located within the area hereinafter described was heretofore presented to the City Council, by which petition a request was made that said area be annexed to the City of Asheboro; and

WHEREAS, the City Council has by resolution directed the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the City Clerk has certified the sufficiency of the petition; and

WHEREAS, the City Council did publish notice to the public on the 20th day of April, 2006 in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held at 7:00 o'clock p.m. on the 4th day of May, 2006 at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing said area to the City of Asheboro; and

WHEREAS, the said public hearing was in fact held on the 4th day of May, 2006; and

WHEREAS, the City Council has determined that the petition meets the requirements of Section 160A-31 of the North Carolina General Statutes.

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

Section 1. By virtue of the authority granted in the North Carolina General Statutes, Chapter 160A, Article 4A, Part 1, the following described area is hereby annexed and made part of the City of Asheboro, North Carolina:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a new iron rod that is set in the western margin of the 50-foot right-of-way for Glovinia Street (North Carolina Secondary Road 2317), this new iron rod is located South 85 degrees 19 minutes 59 seconds East 135.67 feet from a new iron rod control corner that is itself located South 80 degrees 20 minutes 05 seconds East 2,681.55 feet from City of Asheboro Monument # 103 (City of Asheboro Monument # 103 is located by means of the North Carolina Coordinate System at the coordinates of North 715,918.921 feet and East 1,760,603.013 feet (NAD 27)); thence from said Beginning point North 85 degrees 19 minutes 59 seconds West 5.38 feet along the Joseph DeLoatch property described in Deed Book 1762, Page 562, Randolph County Registry to a point not set on the existing corporate limits line for the City of Asheboro; thence North 19 degrees 00 minutes 40 seconds West 120.08 feet along the existing corporate limits line for the City of Asheboro to a point not set; thence South 85 degrees 19 minutes 59 seconds East 51.26 feet along the Price heirs property described in Deed Book 948, Page 209, Randolph County Registry to an existing iron pipe set in the western margin of the 50-foot right-of-way for Glovinia Street; thence along the western margin of the 50-foot right-of-way for Glovinia Street the following courses and distances: South 03 degrees 26 minutes 38 seconds West 55.00 feet to a new iron rod; thence South 03 degrees 26 minute 42 seconds West 55.00 feet to the point and place of the BEGINNING, and containing 0.07 of an acre of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "ANNEXATION PLAT PREPARED FOR THE CITY OF ASHEBORO" that was drawn under the supervision of Jerry A. King, Professional Land Surveyor with Registration

No. L-3373. Said plat of survey was dated March 23, 2006 and was identified as Job No. 4652 F 10.

Section 2. Upon and after May 4, 2006, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

Section 3. The Mayor of the City of Asheboro shall cause to be recorded in the Office of the Register of Deeds of Randolph County, and in the Office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Randolph County Board of Elections, as required by Section 163-288.1 of the North Carolina General Statutes.

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

Section 5. This ordinance shall be in full force and effect from the 4th day of May, 2006.

Adopted by the Asheboro City Council in regular session on the 4th day of May, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

Approved as to form:

s/ Jeffrey C. Sugg
Jeffrey C. Sugg, City Attorney

11. Resolution of intent to close a portion of Dennis Street, as requested by Loretta Long, Treasurer of Habitat for Humanity of Randolph County, Inc.

Mr. Bunker presented and recommended adoption, by reference, of a resolution of intent to permanently close a portion of Dennis Street.

Upon motion by Mr. Priest and seconded by Ms. Hunter, Council voted unanimously to adopt the following resolution by reference.

22 RES 5-06

RESOLUTION OF INTENT TO PERMANENTLY CLOSE A PORTION OF DENNIS STREET

WHEREAS, Section 160A-299 of the North Carolina General Statutes prescribes the procedure to be followed by a city in order to permanently close a street or alley; and

WHEREAS, the City Council of the City of Asheboro has determined that it is advisable to consider permanently closing a portion of Dennis Street as requested by Habitat for Humanity of Randolph County, Inc.; and

WHEREAS, in order for a municipality to lawfully permanently close a street, Section 160A-299 of the North Carolina General Statutes requires that a city council first adopt a resolution declaring its intent to permanently close the street in question and then call a public hearing on the question.

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

Section 1. It is the intent of the City Council of the City of Asheboro to permanently close a certain portion of Dennis Street that is located partially within the corporate limits of the City of Asheboro and partially within the extraterritorial jurisdiction of the city. The portion of Dennis Street to be closed is more particularly described as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe that is set in the western margin of the 50-foot right-of-way for Dennis Street, this existing iron pipe is located North 83 degrees 49 minutes 15 seconds West 25.24 feet from a point not set that is itself located by means of the North Carolina Coordinate System at the coordinates of North 703,322.85 feet and East 1,754,321.25 feet (NAD 83); thence from the said

Beginning point South 01 degree 43 minutes 33 seconds East 63.90 feet along the western margin of the right-of-way for Dennis Street to a point not set; thence along the curve of the cul-de-sac, which serves as the southern terminus of Dennis Street, a chord bearing and chord distance of South 22 degrees 22 minutes 09 seconds West 20.41 feet (Arc Distance = 21.03 feet, Radius = 25 feet) to a point not set; thence continuing along the cul-de-sac as follows: a chord bearing and chord distance of South 28 degrees 01 minute 01 second West 31.64 feet (Arc Distance = 32.20 feet, Radius = 50 feet) to a point not set; thence a chord bearing and chord distance of South 19 degrees 04 minutes 40 seconds East 47.94 feet (Arc Distance = 50.00 feet, Radius = 50 feet) to a point not set; thence a chord bearing and chord distance of North 89 degrees 03 minutes 11 seconds East 68.48 feet (Arc Distance = 75.44 feet, Radius = 50 feet) to a point not set; thence a chord bearing and chord distance of North 17 degrees 11 minutes 02 seconds East 47.94 feet (Arc Distance = 50.00 feet, Radius = 50 feet) to a point not set; thence a chord bearing and chord distance of North 30 degrees 41 minutes 23 seconds West 32.93 feet (Arc Distance = 33.56 feet, Radius = 50 feet) to a point not set; thence a chord bearing and chord distance of North 25 degrees 49 minutes 14 seconds West 20.41 feet (Arc Distance = 21.03 feet, Radius = 25 feet) to a point not set; thence continuing along the eastern margin of the 50-foot right-of-way for Dennis Street the following course and distance: North 01 degree 43 minutes 33 seconds West 56.96 feet to an existing iron pipe; thence across the right-of-way for Dennis Street North 83 degrees 49 minutes 15 seconds West 50.48 feet to the point and place of the BEGINNING, and being all of that certain 0.260 of an acre of land, more or less, encompassed by the preceding metes and bounds description.

Also included is the right-of-way for the above-described portion of Dennis Street, the said portion of right-of-way to be permanently closed is shown on the plat of survey referenced below.

This description is in accordance with a plat of survey entitled "Proposed Closing Of A Portion Of Dennis Street" that was drawn under the supervision of Michael R. Stout, a professional land surveyor with registration number L-3492. The said plat of survey is dated April 1, 2006, identified as Job No. 06105-12, and is hereby incorporated into this resolution by reference as if copied fully herein.

Section 2. A public hearing on the matter of the proposed permanent closure of the above-described portion of Dennis Street is hereby called and is to be held at the regular meeting of the City Council of the City of Asheboro on June 8, 2006, at 7:00 p.m. in the Council Chamber of the City of Asheboro Municipal Building located at 146 North Church Street in Asheboro. At this public hearing, any person may be heard on the question of whether or not the intended closing of the above-described portion of Dennis Street would be detrimental to the public interest or the property rights of any individual.

Section 3. The City Clerk is hereby directed to cause the publication of this Resolution of Intent once a week for four (4) successive weeks prior to the above-referenced public hearing in the Courier Tribune, a newspaper of general circulation in the City of Asheboro and Randolph County.

Section 4. The City Clerk is further directed to transmit a copy of this Resolution of Intent by registered or certified mail to each owner of property adjoining Dennis Street. The identity of said property owners is to be determined on the basis of the Randolph County Tax Department's records.

Section 5. The City Clerk is further directed to cause the prominent posting of this Resolution of Intent in a minimum of two (2) locations along Dennis Street.

Adopted by the Asheboro City Council in regular session on the 4th day of May, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

12. Resolution authorizing the city to make an offer to purchase and contract for the acquisition of approximately 4,345 square feet of land adjoining the public library.

Mr. Sugg presented and recommended adoption, by reference, of a resolution directing the Mayor to make an offer on behalf of the City of Asheboro to purchase approximately 4, 345 square feet of land adjoining the public library.

Upon motion by Ms. Carter and seconded by Mr. Crisco, Council voted unanimously to adopt the following resolution by reference.

23 RES 5-06

RESOLUTION DIRECTING THE MAYOR TO MAKE AN OFFER ON BEHALF OF THE CITY OF ASHEBORO TO PURCHASE CERTAIN REAL PROPERTY

WHEREAS, Abraham Investments, LLC owns approximately 4,345.03 square feet of real property that is contiguous with the city-owned lot upon which the public library is located; and

WHEREAS, the City Council of the City of Asheboro has concluded that, if possible, the above-described property should be acquired and put to public use and benefit by combining this 4,345.03 square feet of land with the city-owned lot upon which the public library is located.

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

Section 1. On behalf of the City of Asheboro, the mayor is directed to offer to purchase and contract for the acquisition of the above-described real property for a purchase price of thirty thousand and no/100 dollars (\$30,000.00).

Section 2. The mayor shall comply with Section 1 of this resolution by making the necessary offer to purchase and contract in a form substantially similar to the offer to purchase and contract attached to this resolution as Exhibit 1, said exhibit is hereby incorporated by reference as if copied fully herein.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

EXHIBIT 1

STATE OF NORTH CAROLINA

**OFFER TO PURCHASE
CONTRACT AND**

COUNTY OF RANDOLPH

THE CITY OF ASHEBORO, a North Carolina municipal corporation, ("Buyer") hereby contracts and agrees to purchase and Abraham Investments, LLC, a North Carolina limited liability company, ("Seller") hereby contracts and agrees to sell and convey to Buyer 4,345.03 square feet, more or less, of real property that is described as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing nail in the pavement that is located at the northeast corner of the City of Asheboro property described in Deed Book 840, Page 9, Randolph County Registry, this existing nail in the pavement can be located in relation to the intersection of North Cox Street (North Carolina Secondary Road 2327) and Worth Street by starting at a new nail set in the sidewalk at the intersection of the northern margin of the right-of-way for Worth Street with the eastern margin of the right-of-way for North Cox Street and following the eastern margin of North Cox Street North 12 degrees 26 minutes 17 seconds East 260.13 feet to a new iron pipe; thence South 80 degrees 18 minutes 54 seconds East 133.95 feet to an existing iron pipe; thence South 80 degrees 40 minutes 05 seconds East 18.12 feet to the existing nail in the pavement; thence from the said Beginning point South 80 degrees 16 minutes 20 seconds East 109.80 feet along the City of Asheboro property described in Deed Book 1277, Page 738, Randolph County Registry to an existing iron pipe; thence South 12 degrees 41 minutes 56 seconds West 40.34 feet to a new iron pipe; thence along the Abraham Investments, LLC property described in Deed Book 1907, Page 2959, Randolph County Registry the following course and distance: North 79 degrees 28 minutes 40 seconds West 110.01 feet to a new iron pipe; thence North 13 degrees 06 minutes 57 seconds East 38.83 feet to the point and place of the BEGINNING, and containing 4,345.03 square feet, more or less, of land.

This description is in accordance with a plat of survey entitled "Recombination Survey For City Of Asheboro" that was drawn under the supervision of Rodney G. Maness,

Professional Land Surveyor with Registration No. L-4594. The said plat of survey is dated April 25, 2006 and is identified as Job # 06024.

The purchase price for the above-described property shall be thirty thousand and no/100 dollars (\$30,000.00).

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

1. The Buyer shall be responsible for obtaining a title examination and any other studies deemed appropriate in the sole discretion of the Buyer. If the results or findings of any such studies or examinations are not acceptable to the Buyer, written notice shall be provided to the Seller. The parties shall make a reasonable effort to resolve any unsatisfactory matters disclosed by said studies or examinations. If such unsatisfactory matters cannot be resolved prior to the closing date referenced below, the Buyer may terminate its offer without any penalty or cost to itself, and the parties shall have no further rights or obligations regarding the sale of the above-described property.
2. The Seller shall be responsible for the payment of any excise or revenue stamps associated with the conveyance of the real property from the Seller to the Buyer, and the Seller shall be responsible for ad valorem taxes prorated to the date of closing
3. The Buyer shall be responsible for the preparation of the General Warranty Deed and for the payment of all other closing costs.
4. All deeds of trust, liens, and other charges against the property must be paid and cancelled by the Seller prior to or at closing.
5. Title must be delivered at closing by general warranty deed and must be fee simple marketable title, free of all encumbrances except those specifically approved by the Buyer.
6. Closing shall be completed on or before June 30, 2006.

DATE OF OFFER: _____

CITY OF ASHEBORO ("BUYER"):

By: _____
David H. Jarrell, Mayor

ATTEST: _____
Holly J. Hartman, Deputy City Clerk

This instrument has been preaudited in the manner prescribed by the Local Government Budget and Fiscal Control Act.

Deborah P. Juberg, Finance Officer

DATE OF ACCEPTANCE: _____

ABRAHAM INVESTMENTS, LLC ("SELLER"):

By: _____
Wanda S. VonCannon, Member/Manager

13. Resolution authorizing the city to make an offer to purchase and contract for the acquisition of approximately 2, 372 square feet of land adjoining the Sunset Theatre.

Mr. Sugg presented and recommended adoption, by reference, of a resolution directing the Mayor to make an offer on behalf of the City of Asheboro to purchase approximately 2, 372 square feet of land adjacent to the Sunset Theatre.

Upon motion by Mr. Baker and seconded by Ms. Carter, Council voted unanimously to adopt the following resolution by reference.

24 RES 5-06

RESOLUTION DIRECTING THE MAYOR TO MAKE AN OFFER ON BEHALF OF THE CITY OF ASHEBORO TO PURCHASE AND CONTRACT FOR THE "SUNSET THEATRE"

WHEREAS, the building commonly known as the "Sunset Theatre" is currently owned by George Washington Carver College, Inc., a North Carolina non-profit corporation, said property is more specifically identified by Randolph County Parcel Identification Number 7751724892; and

WHEREAS, the City Council of the City of Asheboro has concluded that, if possible, this real property should be acquired as a community asset and put to public use and benefit.

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

Section 1. On behalf of the City of Asheboro, the mayor is directed to offer to purchase and contract for the acquisition of the above-described real property for a purchase price of two hundred forty-four thousand eight hundred forty and no/100 dollars (\$244,840.00).

Section 2. The mayor shall comply with Section 1 of this resolution by making the necessary offer to purchase and contract in a form substantially similar to the offer to purchase and contract attached to this resolution as Exhibit 1, said exhibit is hereby incorporated by reference as if copied fully herein.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

EXHIBIT 1

STATE OF NORTH CAROLINA

**OFFER TO PURCHASE
AND
CONTRACT**

COUNTY OF RANDOLPH

THE CITY OF ASHEBORO, a North Carolina municipal corporation, ("Buyer") hereby contracts and agrees to purchase and Charlie S. Hancock ("Seller") hereby contracts and agrees to sell and convey to Buyer 2,372 square feet, more or less, of real property that is described as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a point not set that is located at the southwest corner of the Charlie S. Hancock property described in Deed Book 1267, Page 405, Randolph County Registry, this point is located by means of the North Carolina Coordinate System at the coordinates of North 712,773.56 feet and East 1,757,527.40 feet (NAD 27); thence from the said Beginning point North 02 degrees 05 minutes 30 seconds East 99.95 feet along the west face of the wall shared with the City of Asheboro property (commonly known as the "Sunset Theatre") described in Deed Book 1953, Page 1237, Randolph County Registry to a point not set; thence South 87 degrees 38 minutes 40 seconds East 23.83 feet to a point not set; thence South 02 degrees 11 minutes 45 seconds West 99.93 feet along the Frankie L. Morton property described in Deed Book 1813, Page 2090, Randolph County Registry to a point not set; thence North 87 degrees 40 minutes 51 seconds West 23.65 feet to the point and place of the BEGINNING, and containing 2,372 square feet, more or less, of land.

This description is in accordance with a plat of survey entitled "Plat Prepared For City Of Asheboro" that was drawn under the supervision of Steven D. Brown, Professional Land Surveyor with Registration No. L-1435. This plat of survey was originally dated December 6, 2005 and was revised on April 17, 2006. The plat of survey is identified as Job # 2000032TheaRev, and it has been recorded in Plat Book 104, Page 7, Randolph County Registry.

The purchase price for the above-described property shall be one hundred fifty thousand and no/100 dollars (\$150,000.00).

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

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

8. The Seller shall be responsible for the payment of any excise or revenue stamps associated with the conveyance of the real property from the Seller to the Buyer, and the Seller shall be responsible for ad valorem taxes prorated to the date of closing
9. The Buyer shall be responsible for the preparation of the General Warranty Deed and for the payment of all other closing costs.
10. All deeds of trust, liens, and other charges against the property must be paid and cancelled by the Seller prior to or at closing.
11. Title must be delivered at closing by general warranty deed and must be fee simple marketable title, free of all encumbrances except those specifically approved by the Buyer.
12. Closing shall be completed on or before June 30, 2006.

DATE OF OFFER: _____

CITY OF ASHEBORO ("BUYER"):

By: _____
David H. Jarrell, Mayor

ATTEST: _____
Holly J. Hartman, Deputy City Clerk

This instrument has been preaudited in the manner prescribed by the Local Government Budget and Fiscal Control Act.

Deborah P. Juberg, Finance Officer

DATE OF ACCEPTANCE: _____

CHARLIE S. HANCOCK ("SELLER"):

_____ (SEAL)
Charlie S. Hancock

14. Request for a special called meeting for a budget workshop on Tuesday, May 16, 2006 at 7:00 p.m.

The Council members expressed no opposition to the calling of the proposed meeting, and Mr. Ogburn confirmed that a report of the finance committee and public works committee would be received at this workshop.

15. Discussion of items not on the agenda.

- Mr. Ogburn reminded the Council of the "Business After Hours" event to be held at the Downtown Farmers' Market on Thursday, May 18, 2006 at 5:30 p.m. A public hearing is scheduled on Thursday, May 18, 2006 at 7:00 p.m. to receive public comment on the question of the statutory annexation of the Sherwood Avenue Area.
- Wednesday, June 7, 2006 – Town Hall Day
- Monday, May 22, 2006 – Mayor's Cleanup Day
- Mr. Sugg distributed a portion of a preliminary draft of a Historic Preservation Ordinance for Council's review.

There being no further business, the meeting was adjourned at 9:19 p.m.

Holly J. Hartman, Deputy City Clerk

David H. Jarrell, Mayor