

**REGULAR MEETING
ASHEBORO CITY COUNCIL
COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, DECEMBER 4, 2008
7:00 p.m.**

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

David H. Jarrell) – Mayor Presiding

Talmadge S. Baker)
Edward J. Burks)
Linda H. Carter)
J. Keith Crisco) – Council Members Present
Walker B. Moffitt)
Archie B. Priest, Sr.)
David H. Smith)

John N. Ogburn, III, City Manager
Edsel L. Brown, Code Enforcement Officer
Dumont Bunker, P.E., City Engineer
Holly H. Doerr, City Clerk/Senior Legal Assistant
John L. Evans, Planner
R. Wendell Holland, Zoning Administrator
Gary L. Mason, Chief of Police (Retired)
R. Reynolds Neely, Jr., Planning Director
O. Lynn Priest, Community Development Director
Deborah P. Reaves, Finance Director
Jeffrey C. Sugg, City Attorney
Rickey D. Wilson, Assistant Chief of Police

1. Call to Order.

A quorum thus being present, Mayor Jarrell called the meeting to order for the transaction of business, and business was transacted as follows.

2. Pledge of Allegiance and Invocation.

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance, after which Reverend Mark Beane, Pastor of First Wesleyan Church gave the invocation.

3. Recognition of Chief Gary L. Mason for his service to the City of Asheboro.

(a) Consideration of a resolution awarding Chief Mason his service side arm.

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

66 RES 12-08

**RESOLUTION AWARDING A SERVICE SIDE ARM TO A RETIRING OFFICER
OF THE ASHEBORO POLICE DEPARTMENT**

WHEREAS, Section 20-187.2 of the North Carolina General Statutes authorizes the City Council of the City of Asheboro to award to a retiring sworn law enforcement officer of the Asheboro Police Department his service side arm at a price to be determined by the governing board; and

WHEREAS, effective November 30, 2008, Police Chief Gary Lee Mason retired from employment with the City of Asheboro after rendering honorable and invaluable service to the City of Asheboro and its citizens over the course of a career with the Asheboro Police Department that began on February 2, 1979; and

WHEREAS, the city council wishes to honor and thank Mr. Mason for his service to the city by awarding to him the service side arm that he carried at the time of his retirement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, in consideration of his dedicated service to the City of Asheboro and upon securing a permit as required by

Section 14-402 of the North Carolina General Statutes, Gary Lee Mason is hereby awarded the service side arm that he carried at the time of his retirement.

The Asheboro City Council adopted this resolution in open session during a regular meeting of the council that was held on the 4th day of December 2008.

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

ATTEST:

s/ Holly H. Doerr
Holly H. Doerr, City Clerk

(b) Presentation of service side arm and service awards to Chief Mason.

Mayor Jarrell presented Chief Mason with a plaque expressing gratitude for his outstanding service to the city. Additionally, Major Wilson presented Chief Mason with his service side arm.

Chief Mason expressed that it has been an honor to be an employee of the City of Asheboro and a joy to serve the citizens for the past 30 years. He thanked the City Council for allowing him to work for the city.

4. Appearance and recognition of guests and citizens.

Mayor Jarrell welcomed everyone in attendance.

5. Consent Agenda.

Upon motion by Mr. Baker and seconded by Ms. Carter, Council voted unanimously to approve the following consent agenda items.

- (a) The minutes of the city council's special meeting that was held on October 28, 2008.**
- (b) The minutes of the city council's regular meeting that was held on November 6, 2008.**
- (c) The minutes of the city council's special meeting that was held on November 20, 2008.**
- (d) The findings of fact, conclusions of law, and order in the matter of CUP-08-32.**

**CUP-08-32
City Council
City of Asheboro**

**IN THE MATTER OF THE APPLICATION BY MATTHEW RYAN SALYER AND LISA ANN SALYER
FOR A CONDITIONAL USE PERMIT AUTHORIZING A
COMMERCIAL DEVELOPMENT WITH MULTIPLE USES**

**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 a regular meeting of the Council that was held on November 6, 2008. 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. By submitting in a timely manner to the City of Asheboro Planning Department an application, specifically including without limitation the requisite site plan for the proposed land use, Matthew Ryan Salyer and Lisa Ann Salyer (hereinafter referred to as the "Applicants") properly applied for a Conditional Use Permit that would functionally amend an existing Conditional Use Permit in order to allow a commercial development with multiple uses on a parcel of land owned by the Applicants.

2. This parcel of land (hereinafter referred to as the "Zoning Lot") is located at 180 Browers Chapel Road, encompasses approximately 1.18 acres of land, and is more specifically identified by Randolph County Parcel Identification Number 7760378697.

3. The Zoning Lot is located in an area that is designated on the Growth Strategy Map as an "Adjacent Developed" area, and this area is identified on the Proposed Land Development Plan map as "Neighborhood Residential."

4. The land uses immediately surrounding the Zoning Lot are commercial to the north and east, and low to medium density residential land uses are located to the south and west.

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

6. Browers Chapel Road (North Carolina Secondary Road 2826) is a state-maintained minor thoroughfare. The city has acquired public right-of-way for the proposed extension of Mackie Avenue, and construction is projected to be completed in May of 2009. The entrance for the development is proposed to be along Mackie Avenue.

7. The Zoning Lot is located in a Conditional Use B-2 zoning district, and the requested commercial development with multiple uses is identified by the Asheboro Zoning Ordinance as a permitted land use in the underlying B-2 zoning district.

8. The land use authorized for the Zoning Lot by virtue of the existing Conditional Use Permit, which was issued under planning department file number CUP-08-04, is a health practitioner's office.

9. A health practitioner's office land use requires a buffer or screen "C" under the Asheboro Zoning Ordinance. In contrast, the requested commercial development with multiple uses will trigger a buffer or screen "D" requirement along the southern and western property boundaries that are contiguous to residentially zoned properties. A buffer or screen "D" has more intensive planting requirements than a buffer or screen "C," and the Applicants' site plan conforms with the more intense planting requirements prescribed by the Asheboro Zoning Ordinance.

10. The health practitioner's office that was approved under planning department file number CUP-08-04 is housed in an existing 2-story structure with a total of 7,844 square feet. The current request reflects no changes in the building size, location, or elevations when compared to the site plan approved under the existing Conditional Use Permit.

11. The planning department staff has reviewed the site plan submitted with this application, and Mr. Neely offered uncontroverted testimony that the submitted plan is in conformity with the Asheboro Zoning Ordinance. This site plan represents an as-built situation.

12. Ms. Lisa Ann Salyer offered uncontroverted testimony that the Applicants worked with the planning department staff in a collaborative effort to exclude the land uses permitted in the underlying B-2 zoning district that would not be compatible with the existing health practitioner's office or the area surrounding the Zoning Lot. Ms. Salyer's uncontroverted testimony specifically referenced the Applicants' efforts to eliminate land uses that could potentially create excessive amounts of noise and traffic volume. The consensus reached by the planning department staff and the Applicants as to potential B-2 land uses that should be excluded from the Zoning Lot is reflected in the condition attached to the order authorizing the requested Conditional Use Permit.

13. No evidence was submitted in opposition to the requested Conditional Use Permit.

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

CONCLUSIONS OF LAW

1. 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 conditions and specifications of the Asheboro Zoning Ordinance.

3. The evidence presented during the course of the hearing of this matter established that the proposed use would not substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicants' proposed use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

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

ORDER

Subject to the condition stated below, a Conditional Use Permit is hereby issued to the Applicants for a commercial development with multiple uses on the Zoning Lot. This Conditional Use Permit shall remain valid so long as the Applicants, and their heirs, successors, and assigns, comply with the condition stated below and conduct this approved land use in compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance. The condition attached to this permit as a consequence of the evidence submitted to the Council during the hearing of this matter is that the following specific uses shall not be permitted on the Zoning Lot:

- a. Adult Day Care Facility
- b. Adult Establishment (Adult Eating Establishment, Cabaret, Lounge, Bar, Nightclub, Adult Massagist)
- c. Agricultural Use
- d. Amusement Park
- e. Bakery Distribution Center
- f. Bar
- g. Business Primarily Dealing in Sexually Explicit Materials (Adult Bookstore and Motion Picture Theatre)
- h. Child Day Care Center (Medium or Large with 30 or More Children)
- i. Circus, Carnival, Fair, Concert (Limited Duration Event)
- j. College/University, Seminary
- k. Columbarium
- l. Combustible and Flammable Liquids Storage
- m. Communication Towers
- n. Congregate Living Facility/Family Care Home
- o. Correctional Facility
- p. Country, Racquet, Tennis, and Swim Clubs
- q. Crematorium
- r. Cultural Facility
- s. Dormitories
- t. Drive-In Theatre
- u. Dry Cleaners
- v. Dry Cleaning Plant
- w. Dwelling for Caretaker/Security Guard on Premises Where Employed
- x. Eating Establishment (Drive-In)
- y. Electronic and Electrical Repair (Large)
- z. Exterminator
- aa. Farmers Market
- bb. Flea Market (Open Air Sales)
- cc. Funeral Parlor
- dd. Furniture Refinishing and Repair
- ee. Game Room
- ff. Gas Station
- gg. Government Land Reserves
- hh. Heliport (Emergency Medical)
- ii. Helistop
- jj. Hospital
- kk. Hotel/Motel
- ll. Kennel
- mm. Laundromat
- nn. Liquor Store
- oo. Lumber and Building Material Sales
- pp. Mail Order Distribution Center
- qq. Mental Institution/Sanitarium
- rr. Mini-Lube/Carwash
- ss. Mini-Warehouse
- tt. Mobile Home Sales Lot
- uu. Motor Vehicle Repair (Major and Minor)
- vv. Nightclub/Cabaret
- ww. Nursing, Convalescent, and Extended Care Facility
- xx. Open Air Sales, Accessory
- yy. Open Storage
- zz. Package Store
- aaa. Package Store and Package Store Drive Through
- bbb. Parking Lot as Principal Use
- ccc. Place of Assembly – Does Not Include Churches
- ddd. Planned Unit Development
- eee. Printing and Publishing
- fff. Produce Sales – Temporary
- ggg. Professional Residential Facility – Structured Environment (Halfway Houses)
- hhh. Public Use Facility
- iii. Recreational Vehicle Travel Park/Camp

- (f) **Second reading and approval of an ordinance granting a taxicab franchise (certificate of convenience and necessity) to Red Bird Cab, LLC.**

63 ORD 12-08

CERTIFICATE OF CONVENIENCE AND NECESSITY

WHEREAS, Section 160A-304 of the North Carolina General Statutes provides that a city may by ordinance license and regulate all vehicles operated for hire in the city; and

WHEREAS, Section 114.10 of the Code of Asheboro provides that it is unlawful for any person to operate a taxicab upon and over the streets of the city without first applying for and securing from the city council a certificate of convenience and necessity in accordance with the provisions of Chapter 114 of the Code of Asheboro; and

WHEREAS, Section 114.17 of the Code of Asheboro provides that such a certificate of convenience and necessity shall constitute a franchise from the city for the operation of taxicabs within the city; and

WHEREAS, Section 160A-76 of the North Carolina General Statutes provides that an ordinance granting a franchise cannot be finally adopted until it has been passed at two regular meetings of the city council; and

WHEREAS, Red Bird Cab, LLC, which has its principal office located at 210 West Ward Avenue in High Point, North Carolina, has properly submitted an application for a certificate of convenience and necessity; and

WHEREAS, a public hearing on this application by Red Bird Cab, LLC for such a certificate was scheduled for November 6, 2008 during a regular city council meeting, and legal notice of this public hearing was published in The Courier-Tribune on October 18, 2008; and

WHEREAS, the city council did conduct the advertised public hearing on November 6, 2008, and the city council has considered the factors prescribed by Section 114.15 of the Code of Asheboro for determining whether the requested certificate of convenience and necessity should be granted.

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

Section 1. A certificate of convenience and necessity to operate eight (8) taxicabs upon and over the streets of the City of Asheboro is hereby granted to Red Bird Cab, LLC (hereinafter referred to as the "Grantee").

Section 2. This franchise is granted for a term of one (1) year from and after the 8th day of December 2008. Thereafter, applications for renewals shall be filed annually in accordance with the Code of Asheboro.

Section 3. This franchise is granted upon the following specific conditions and requirements:

- (a) Prior to the effective date of this ordinance, the Grantee shall furnish to the city clerk of the City of Asheboro a list showing the make, model, and vehicle identification number of each taxicab to be operated pursuant to this franchise.
- (b) Prior to the effective date of this ordinance, the Grantee shall furnish to the city clerk of the City of Asheboro a certificate of insurance from an insurance carrier duly authorized to do business in the State of North Carolina evidencing that insurance coverage is in effect for the taxicabs referenced in subsection (a) in an amount that complies with Section 114.14 of the Code of Asheboro.
- (c) Prior to the effective date of this ordinance, the Grantee shall obtain from the city clerk's office the required annual license for the privilege of operating the taxicabs referenced in subsection (a).
- (d) The Grantee shall otherwise comply with all applicable laws and regulations pertaining to the operation of taxicabs in the City of Asheboro, specifically including without limitation Chapter 114 of the Code of Asheboro.

Section 4. If a conflict is discovered between the provisions of this ordinance granting a certificate of convenience and necessity to Red Bird Cab, LLC and Chapter 114 of the Code of Asheboro, the provisions found in Chapter 114 of the Code of Asheboro shall control.

Section 5. This ordinance shall be deemed to have been finally adopted by the Asheboro City Council after receiving approval at two (2) regular meetings of the council.

This ordinance was approved by the Asheboro City Council for the first time in regular session on the 6th day of November 2008.

This ordinance was approved by the Asheboro City Council for the second time in regular session on the 4th day of December 2008.

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

ATTEST:

s/ Holly H. Doerr
Holly H. Doerr, City Clerk

6. Local Historic Landmark Designation Ordinance:

Consideration of an ordinance designating the exterior of the 1909 County Courthouse located at 145 Worth Street as a Local Historic Landmark. The property is more specifically described as a portion of Randolph County Parcel Identification Number 7751837176.

Mr. Hal Johnson, Planning and Zoning Director for the County of Randolph and Mr. Mac Whatley, Esq. were introduced and explained that this was a public hearing in order to consider the recommendation from the Randolph County Historic Landmark Preservation Commission to designate the exterior of the 1909 Randolph County Courthouse as a local historic landmark.

Through a PowerPoint presentation, Mr. Whatley gave a brief historical overview of the Randolph County Courthouse. Additionally, Mr. Johnson and Mr. Whatley presented and recommended adoption, by reference, of an ordinance designating the exterior of the 1909 County Courthouse located at 145 Worth Street as a Local Historic Landmark.

No information was offered during the public hearing in opposition to the recommendation received from the historic preservation commission.

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

Ordinance Number 64 ORD 12-08

Ordinance Designating the Exterior of the 1909 Randolph County Courthouse, Which is Owned by the County of Randolph, as a Local Historic Landmark in Asheboro, North Carolina

WHEREAS, Chapter 160A, Article 19, Part 3C of the North Carolina General Statutes provides for the designation of local historic landmarks; and

WHEREAS, the City of Asheboro designated the Randolph County Historic Landmark Preservation Commission as a joint historic preservation commission on September 4, 2008, having the authority to exercise, within the planning jurisdiction of the City of Asheboro, all powers and duties given it by the Randolph County Historic Landmark Preservation Ordinance; and

WHEREAS, the City of Asheboro has taken into full consideration all statements and information contained in the Landmark Designation Application for the 1909 Randolph County Courthouse as submitted by the Randolph County Historic Landmark Preservation Commission; and

WHEREAS, the 1909 Randolph County Courthouse was listed on the National Register of Historic Places on May 10, 1979; and was a significant building in the growth and development of the City of Asheboro; and

WHEREAS, the North Carolina Department of Cultural Resources, State Historic Preservation Office, has reviewed the Landmark Application, noting that the 1909 Randolph County Courthouse possesses the requisite significance and integrity for local landmark designation; and

WHEREAS, the Randolph County Historic Landmark Preservation Commission and the City of Asheboro Council have held the required public hearings and published legal notices with mailings to adjoining property owners; and

WHEREAS, the Randolph County Historic Landmark Preservation Commission and the Randolph County Board of Commissioners have adopted unanimous resolutions requesting the City of Asheboro to designate the exterior of the 1909 Randolph County Courthouse as a local historic landmark; and

WHEREAS, the Asheboro City Council finds that the 1909 Randolph County Courthouse meets the following specific criteria outlined in the adopting Ordinance establishing the Commission: (1) Critical Part of the County's Heritage by having value as an example of the cultural, economic, historic, and social heritage of Randolph County; (2) Exemplification of an architectural type distinguished by overall quality of design, detail, materials, and craftsmanship; (3) The location of the 1909 Courthouse provides a unique

7. **Land Use Items:**

- (a) **RZ/CUP-08-37: Request to rezone from R15 (Low-Density Residential) to CU-O&I (Conditional Use Office and Institutional) and issue a Conditional Use Permit for an Office Development with Multi-Uses.** The property of B&G Properties is located at 1000 Park Drive and consists of approximately 2.897 acres of land. Randolph County Parcel Identification Numbers 7751484500 and 7751484515 more specifically identify the property.

Mayor Jarrell opened the public hearing on the following request, and explained that, while a single hearing would be held, the council would have to make two (2) separate decisions. The decision about the requested rezoning would have to meet all of the requirements for a legislative decision, while the decision about the request for a conditional use permit authorizing a specific land use would have to meet all of the requirements for a quasi-judicial process. With this explanation, Mayor Jarrell then asked for the first witness to be placed under oath.

Mr. Neely was sworn in and presented the staff's analysis of the Applicant's request, including the submitted site plan. The Applicant, Mr. Glenn King, requested the rezoning of the above-described property from R15 Low-Density Residential to CU-O&I Conditional Use Office and Institutional. In addition to having the property rezoned, the Applicant requested a Conditional Use Permit for an Office Development with Multi-uses.

The Planning Department Staff recommended denial of the requested rezoning based on the following analysis:

"The absence of any office and institutional zoning and land uses in this vicinity makes the request inconsistent with the area. While the proximity of the bypass increases the validity of the request, the Land Development Plan emphasizes neighborhood compatibility. Also, the description of an office and institutional district provided by the Zoning Ordinance is to serve as a transitional between commercial and residential uses. Considering the lack of commercial use in the area, office and institutional use does not fit this description.

Considering the proximity of city services, staff believes that residential zoning permits a reasonable use of the property. Furthermore, the current zoning complies with the Land Development's 'Proposed Land Use Map' which calls for continued single-family residential development.

Considering the above factors, staff recommends denial of the request."

The Planning Board disagreed with the staff's analysis and recommended approval of the rezoning request because the board felt "the proximity of the property to U.S. Hwy 220 Bypass and the terrain made the property more viable for non-residential use."

On behalf of the Applicant, Mr. Ben Albright, Esq. was sworn in and addressed the four standard tests. Additionally, Mr. Jim Wright, a certified real estate appraiser with Brubaker & Associates, Inc. was sworn in and addressed test number three (3). Mr. Glenn King was also sworn in and presented comments in support of the request.

Mr. Cliff Maness of 1119 North Rockridge Road was sworn in and presented comments and concerns in opposition to the request on the basis of his belief that the proposed development would negatively impact the neighborhood. Additionally, Dr. Charles Lee of 1114 Rockridge Road was sworn in and presented similar concerns in opposition to the request.

Mr. Dick Tracy of Rockridge Road was sworn in and presented comments and concerns in opposition to the request. Mr. Tracy was concerned that the development would increase the traffic in an already traffic congested area. Additionally, Mr. Mike Vuncannon of Rockridge Road and Ms. Rosalie Watts of 1002 Park Drive were sworn in and presented similar concerns in opposition to the request.

There being no further comments or evidence to present, 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 Mr. Crisco and seconded by Mr. Burks, Council, by a vote of five (5) to two (2), denied the requested rezoning. Council Members Baker, Burks, Crisco, Priest, and Smith voted in favor of the motion. Council Members Carter and Moffitt opposed. The council adopted, as its basis for denying the applicant's requested rezoning, the planning department's analysis of the rezoning request. The council did not feel that it was appropriate to rezone these two (2) parcels in contradiction to the adopted plan's identification of the larger area as residential.

Upon motion by Mr. Baker and seconded by Mr. Priest, Council, by a vote of six (6) to one (1), denied the Conditional Use Permit. Council Members Baker, Burks, Crisco, Moffitt, Priest, and Smith voted in favor of the motion. Council Member Carter opposed. With the denial of the requested rezoning, the application for a Conditional Use Permit did not comply with the conditions and specifications of the Asheboro Zoning Ordinance. The formal findings of fact, conclusions of law, and order denying the Conditional Use Permit will be entered by council during regular session on January 8, 2009.

- (b) **SUP-08-06: Request for Special Use Permit for a Private Elementary School (Agape Christian Academy) in a Residential Zoning District.** The property of Quaker Heights Friends Meeting is located at 1354 East Allred Street and consists of approximately 7.19 acres of land. Randolph County Parcel Identification Number 7762536354 more specifically identifies the property.

Due to the attendance of his grandchildren at Agape Christian Academy and the creation of a potential conflict of interest, Mr. Crisco asked to be excused from any discussion and voting regarding the above-referenced item. A motion was made by Mr. Smith and seconded by Mr. Burks to excuse Mr. Crisco from hearing this case. Council Members Baker, Burks, Carter, Moffitt, Priest, and Smith unanimously adopted this motion.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely was sworn in and presented the staff's analysis of the Applicant's request, including the submitted site plan. The Applicant, Ms. Karen C. Burhman with Agape Christian Academy, requested a Special Use Permit for an Elementary (K-5) School with approximately forty (40) students and four (4) employees.

Mr. Allen Pugh, Esq. and Ms. Karen C. Burhman were sworn in. Mr. Pugh addressed the four standard tests.

There being no further comments and no 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 Mr. Smith and seconded by Mr. Priest, Council voted unanimously to approve the requested Special Use Permit. Council Members Baker, Burks, Carter, Moffitt, Priest, and Smith voted in favor of the motion. The issuance of this Special Use Permit was based on the four standard tests being met.

The formal findings of fact, conclusions of law, and order granting the Special Use Permit will be entered by Council during regular session on January 8, 2009. This order will reflect certain conditions that were imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

- (c) **SUP-08-04: Request for a Special Use Permit for a Public Use Facility.** The property of the City of Asheboro is located at 1032 Bonkemeyer Drive and consists of approximately 90.3 acres of land. Randolph County Parcel Identification Numbers 7763645814, 7763758973, 7763742717, 7763742104, 7763639878, and 7763634796 more specifically identify the property.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely was sworn in and presented the staff's analysis of the applicant's request, including the submitted site plan. The Applicant, the City of Asheboro, requested a Special Use Permit for a public use facility. In essence, the city is proposing to construct a vehicle storage lot for the police department on the site of the existing wastewater treatment plant.

Mr. Jon Megerian, Esq. was sworn in and addressed the four standard tests on behalf of the city.

Mr. David Connor, a neighboring property owner, posed questions about the project, but expressed no specific opposition to the request after the city staff agreed to certain conditions pertaining to water runoff from the proposed parking lot and new lighting at the facility.

There being no further comments nor evidence, 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 Mr. Moffitt and seconded by Mr. Smith, Council voted unanimously to approve the requested Special Use Permit. The issuance of this Special Use Permit was based on the four standard tests being met.

The formal findings of fact, conclusions of law, and order granting the Special Use Permit will be entered by the Council during regular session on January 8, 2009. This order will reflect certain conditions imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

(d) RZ-08-36: Technical Amendments to the Asheboro Zoning Ordinance. An application filed by the City of Asheboro to amend Articles 200, 300A, and 600.

Mayor Jarrell opened the public hearing on the following two part request.

Mr. Neely presented an overview of the Planning Department Staff's proposed amendments to the Asheboro Zoning Ordinance relating primarily to design standards in residential, commercial, and industrial zoning districts (Article 300A), fence requirements for mini warehouse facilities, and fence requirements of open storage (Table 200-2, Notes to Table 200-2, and Article 300A). Mr. Neely then recommended that consideration of the design standards amendments be continued to the next regular meeting. The rationale given by the planning department staff for this continuance is as follows:

"Staff is recommending that these items be deferred so that ample consideration can be given to the implications of these technical amendments. The Land Development Plan supports the periodic review of Design Regulations. Staff has surveyed approaches in other jurisdictions in which design regulations have been implemented in order to provide City Council and the Planning Board with information concerning what aspects of architectural design can be addressed through technical amendments. Staff is also reviewing perimeter fence requirements for mini-warehouse facilities and screening of open storage. Staff appreciates comments on any of these issues so that additional information can be presented in an upcoming hearing."

When the Planning Board considered this matter, it was presented with information revealing the practices in other jurisdictions. While the Planning Board is supportive of investigating potential amendments to the design standards, the board agreed with the planning department staff recommendation to continue consideration of the design standards related amendments to another meeting in order to allow more time to investigate potential improvements for this portion of the zoning ordinance.

With regard to amendments of the regulations pertaining to planned unit developments, the planning department staff report contained the following analysis:

"[s]taff believes the development review process for by-right uses within Commercial PUDs should . . . (be reflective of) the zoning district in which . . . (the uses) are located. Staff believes that individual uses and buildings within a Commercial PUD project that are outside of the common area of a PUD . . . should be . . . (subject to) staff (review) if such uses are permitted by right. Staff recommends permitting through a staff review (without a PUD Special Use Permit showing specific building locations, building elevations and parking on individual lots within the PUD) on the portion of the properties that are not in a common area. Real property that is located in a Conditional Use Zoning District and subject to a conditional use permit and uses that are subject to a Special Use Permit would still be required to submit an application for City Council review under this proposal."

When the Planning Board considered the proposed amendments pertaining to planned unit developments, the board concurred with the staff's recommendations to approve the proposed amendments.

Subsequent to this recommendation, a developer, Mr. Darren Lucas, submitted a written statement that was generally supportive of the planned unit development amendment. Mr. Lucas did suggest replacing the 10-foot front yard landscaping requirement with the center city planting area requirement of street trees within a 5-foot wide planting strip. The Planning Department staff expressed no opposition to this amendment.

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

Upon motion by Mr. Crisco and seconded by Mr. Smith, Council voted unanimously to adopt the analysis of the Planning Department staff and follow the recommendations of the Planning Board with one modification. The amendments pertaining to design standards were continued to the next regular meeting and the amendments to Article 600 pertaining to commercial/individual planned unit developments were approved with the modification of the amendment to adopt the developer's suggested revision.

[A copy of the adopted amendments to the zoning ordinance is on file in the City Clerk's office.]

8. Public Comment Period.

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

9. Discussion of creating a new position of Customer Relations and Communications Officer.

Mr. Johnson initiated a discussion and presented a proposed job description for a Customer Relations and Communications Officer. As proposed, this position would perform customer relations duties for the city's utility billing and collection operations. The individual in this position would be responsible for promoting the city's services and informing the public about city services through a monthly newsletter. Additionally, this person would serve as the city's main contact with the media as well as being responsible for marketing and branding the city, including periodically updating the city's website.

Throughout discussion, Council members asked that grant writing be incorporated into the proposed job description.

Mr. Johnson will prepare a final draft of the proposed job description for Council's consideration during its regular January meeting.

10. Consideration of an ordinance amending Section 50.008 (Connections Outside City Limits) of the Code of Asheboro.

Mr. Sugg presented and recommended adoption, by reference, of the above-referenced ordinance.

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

65 ORD 12-08

ORDINANCE AMENDING SECTION 50.008 OF THE CODE OF ASHEBORO

WHEREAS, Section 160A-312(a) of the North Carolina General Statutes authorizes the City of Asheboro to "acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of any or all of the public enterprises . . ." defined in Article 16 of Chapter 160A of the North Carolina General Statutes for the purpose of furnishing "services to the city and its citizens;" and

WHEREAS, Section 160A-311 of the North Carolina General Statutes defines the term "public enterprise" to include water supply and distribution systems as well as wastewater collection, treatment, and disposal systems of all types; and

WHEREAS, Section 160A-312(a) of the North Carolina General Statutes further provides that the City of Asheboro "may acquire, construct, establish, enlarge, improve, maintain, own, and operate any public enterprise outside its corporate limits, within reasonable limitations, but in no case shall a city be held liable for damages to those outside the corporate limits for failure to furnish any public enterprise service;" and

WHEREAS, Chapter 50 of the Code of Asheboro prescribes regulations governing the operation of the City of Asheboro water and sewer systems; and

WHEREAS, Section 50.008 of the Code of Asheboro prescribes the circumstances under which property owners located outside of the corporate limits of the City of Asheboro may connect to the municipal water and sewer systems; and

WHEREAS, the City Council of the City of Asheboro has determined that Section 50.008 of the Code of Asheboro needs to be updated in order to specify when connections to the municipal water and sewer systems may be made by the owners of real property located within an area that is part of a city-initiated annexation project.

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

Section 1. Section 50.008 of the Code of Asheboro is hereby amended to provide as follows:

(A) ~~On or after July 1, 2004, owner(s) of real property located outside the city limits must petition the city for annexation and be annexed into the city before connections to the city's water and sewer facilities are allowed. Unless a connection is expressly authorized by the provisions of this section, owner(s) of real property located outside the city limits are not permitted to connect to a city water line and/or sanitary sewer line.~~

~~(B) Unless compliance with one of the conditions specified by division (C) of this section is demonstrated by an applicant, Except as provided by this division, owner(s) of real property located outside the city limits seeking to connect to the city's water and sewer facilities a city water line or sanitary sewer line must connect to both facilities and shall not have the option of connecting to one facility without the other. If one of the following conditions is satisfied, real property located outside the city limits may be connected to either a city water line or the city sanitary sewer line:~~

~~(1) The real property for which connection to either a city water line or city sanitary sewer line is sought consists of one and only one parcel of land that immediately adjoins an existing water or sanitary sewer line that is owned, operated, and maintained by the City of Asheboro; or~~

~~(2) The city council authorizes the connection of the real property to either a city water line or city sanitary sewer line due to severe topographical conditions or other factors peculiar to the site that would cause undue hardship if connection to both lines were to be required. The city council may grant such an authorization only after it has received a written request from the property owner(s) and entered findings specifying the unique hardship(s) warranting such an authorization. The written request is to be submitted to the city council through the city manager, who shall act as the council's agent.~~

~~(C) Owner(s) of real property located outside the city limits may connect to either the city water facilities or the city sewer facilities and not be subject to the requirement of petitioning for annexation before making the requested connection if any one of the following conditions is met:~~

~~(1) The real property for which application is made for connection to either the city water facilities or the city sewer facilities consists of one and only one parcel of land that immediately adjoins an existing water or sewer line that is owned, operated, and maintained by the City of Asheboro; or~~

~~(2) Authorization has been granted by the City Council of the City of Asheboro for the connection of certain real property to either the city water facilities or the city sewer facilities. Such authorization shall only be granted upon written request submitted to the council through the City Manager, who shall act as the council's agent, and upon a finding by the council that the requested authorization is warranted in light of severe topographical conditions or other conditions peculiar to the site that would cause an undue hardship if the applicant were required to connect to both the city's water and sewer facilities.~~

~~(D) Unless the City Council of the City of Asheboro has exercised its discretion in accordance with the provisions of this Division to grant an exemption from the following annexation requirement, the owner(s) of real property connected to either city water facilities or city sewer facilities and who are seeking to connect to a previously unutilized city water/sewer facility must petition the city for annexation and be annexed into the city before the requested connection will be permitted. An exemption from this requirement may only be granted upon written request of the property owner(s) and upon the entry by the City Council of a finding that the noncontiguous area proposed for annexation by petition does not meet the standards prescribed by Section 160A-58.1(b) of the North Carolina General Statutes.~~

~~(C) Real property located outside of the city limits and already connected to either a city water line or city sanitary sewer line must be annexed into the city prior to the issuance of a connection permit authorizing the connection of the real property to a previously unavailable or unutilized line. If the real property for which a connection permit is sought can only be annexed into the city by means of satellite annexation by petition, an exemption from this requirement may be granted by the city council upon written request of the property owner(s) and upon the entry by the city council of findings that the noncontiguous area in question cannot be annexed by petition of the owner(s) due to the area proposed for annexation failing to meet the standards prescribed by Section 160A-58.1(b) of the North Carolina General Statutes.~~

~~(D) When property owner(s) choose to apply for permission to connect to a city water line and/or sanitary sewer line concurrently with an on-going annexation procedure, permission to make the requested connection(s) may be granted at the following points in the annexation process:~~

~~(1) If an annexation process has been initiated by petition of the property owner(s) requesting connection to the city water and/or sanitary sewer line(s), such connection(s) may be approved no sooner than the~~

effective date of the ordinance extending the city limits to include the real property for which a connection permit is sought.

(2) If the real property for which a connection permit is sought is located within an area subject to a city-initiated annexation process, the requested connection permit(s) may be approved no sooner than seventy-one (71) days following the date of the adoption of the annexation ordinance or the date of the final resolution of any review proceedings initiated as a consequence of the adoption of the annexation ordinance, whichever is later. This provision is not to be construed as authorizing any customer of the city's water and sewer department to be charged, prior to the effective date of the city-initiated annexation of the area, with the same fees and at the same rates that are accorded to customers located within the city limits.

(E) As used in this section:

"Water line" means any water distribution line built to utility standards.

"~~Sewer~~ Sanitary sewer line" means any sanitary sewer collector, interceptor, and outfall line built to utility standards.

(F) Notwithstanding the provisions of this section, when any real property located outside the city limits is subject to a major subdivision of land plat governed by the Subdivision Ordinance of the City of Asheboro, North Carolina, any application or request for connection to the city water and sewer facilities shall be subject to and reviewed in accordance with the provisions of the Subdivision Ordinance pertaining to water and sewerage system improvements.

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

Section 3. This ordinance shall be in full force and effect upon and after the 4th day of December 2008.

This ordinance was adopted by the City Council of the City of Asheboro in open session during a regular meeting held on the 4th day of December 2008.

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

ATTEST:

s/ Holly H. Doerr
Holly H. Doerr, City Clerk

11. Discussion of items not on the agenda.

Mr. Sugg reported that the lease with Fairway Outdoor Advertising allowing the company to lease city-owned land for an outdoor advertising structure expires on January 31, 2009. Currently, Fairway Outdoor Advertising leases the city-owned property for \$1,300 annually. They have offered to pay \$1,500 annually over the course of a new 2-year lease agreement.

The informal consensus of the Council was for Mr. Sugg to run a legal notice of the Council's intent to approve the proposed lease at the next regular council meeting, but Mr. Sugg and Mr. Ogburn were also instructed to discuss with Fairway officials the possibility of the city acquiring the sign or receiving some other form of marketing assistance for the city as consideration from the lessee.

There being no further business, the meeting was adjourned at 10:50 p.m.

s/ Holly H. Doerr
Holly H. Doerr, City Clerk

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