

**NOTICE OF A SPECIAL MEETING OF THE  
ASHEBORO CITY COUNCIL**

**Thursday, June 12, 2008**

**7:00 P.M.**

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Notice of a special meeting of the City Council of the City of Asheboro, North Carolina is hereby given. This meeting will be held on Thursday, the 12<sup>th</sup> day of June 2008 at 7:00 p.m. in the Council Chamber of the City of Asheboro Municipal Building, 146 North Church Street, Asheboro, North Carolina 27203.

This special meeting of the Asheboro City Council has been called for the purpose of allowing the mayor and members of the Asheboro City Council to discuss and, where appropriate, act upon the following items of consideration:

1. Findings of fact, conclusions, and orders in the land use matters previously heard by the council under planning department file nos. CUP-08-04 and CUP-08-19;
2. An agreement with Sherwood Place, LLC to defer certain water and sewer extension fees; and
3. A budget workshop for fiscal year 2008-2009.

All officers of the city and all other persons whomsoever are hereby given notice of the special meeting described above. This notice is issued on the 9<sup>th</sup> day of June 2008.

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s/ David H. Jarrell  
David H. Jarrell, Mayor  
City of Asheboro, North Carolina

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**SPECIAL MEETING  
ASHEBORO CITY COUNCIL  
THURSDAY, JUNE 12, 2008  
7:00 p.m.**

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This being the time and place for a special meeting of the Asheboro City Council, a meeting was held in the Council Chamber of the Asheboro Municipal Building with the following members and officials 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  
Dumont Bunker, P.E., City Engineer  
Holly H. Doerr, City Clerk/Senior Legal Assistant  
Deborah P. Juberg, Finance Director  
O. Lynn Priest, Community Development Director  
Jeffrey C. Sugg, City Attorney

**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. Consideration of findings of fact, conclusions, and orders in the land use matters heard by the council under planning department file numbers CUP-08-04 and CUP-08-19.**

Mr. Sugg presented and recommended adoption, by reference, of the findings of fact, conclusions of law, and orders in the land use matters heard by the council under planning department file numbers CUP-08-04 and CUP-08-19.

Upon motion by Mr. Crisco and seconded by Ms. Carter, Council voted unanimously to adopt, by reference, the following findings of fact, conclusions, and orders in the land use matters identified by planning department file numbers CUP-08-04 and CUP-08-19.

**CUP-08-04  
City Council  
City of Asheboro**

**IN THE MATTER OF THE APPLICATION BY MATTHEW RYAN SALYER FOR AN AMENDED  
CONDITIONAL USE PERMIT AUTHORIZING  
A HEALTH PRACTITIONER'S OFFICE**

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

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THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council that was held on May 8, 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. Matthew Ryan Salyer (hereinafter referred to as the "Applicant") properly filed an application for a Conditional Use Permit that would amend an existing Conditional Use Permit issued under Asheboro Planning Department file number CUP-07-10 for a health practitioner's office. The existing permit encompasses approximately 2.1 acres of land located along the west side of Browers Chapel Road, approximately 700 feet south of East Dixie Drive.

2. Subsequent to the issuance of the permit authorized under file number CUP-07-10, the Applicant recombined the parcels of land subject to the existing Conditional Use Permit. The parcel of land for which a new Conditional Use Permit is sought (hereinafter referred to as the "Zoning Lot") encompasses approximately 1.18 acres of land and is more specifically described by Randolph County Parcel Identification Number 7760378697. Matthew Ryan Salyer and Lisa Ann Salyer own the Zoning Lot. The street address listed for the proposed health practitioner's office is 180 Browers Chapel Road.

3. Under the Asheboro Zoning Ordinance, the land use identified as a health practitioner's office is a permitted land use in a B2 zoning district, and the Zoning Lot is located in a Conditional Use B2 zoning district.

4. The land uses surrounding the Zoning Lot are commercial uses to the north and east, while low and medium-density residential land uses are located to the south and west. Pursuant to the existing Conditional Use Permit, the Zoning Lot itself is currently under development for use as a health practitioner's office.

5. The Zoning Lot is located within the corporate limits of the City of Asheboro. Municipal water and sewer service is available to the site.

6. Browers Chapel Road is a state-maintained minor thoroughfare.

7. The previously approved Conditional Use Permit adopted a site plan that depicted a 2-story structure with a total of seven thousand eight hundred forty-four (7,844) square feet. The application for a new Conditional Use Permit, specifically including the revised site plan, indicates that no changes are proposed for the building size, location, or elevations.

8. When the Zoning Lot was created as part of the recombination of existing parcels of land, a certain amount of land was offered as public right-of-way for the extension of Mackie Avenue. Along with the extension of Mackie Avenue, the dedicated right-of-way will be used to construct a publicly maintained storm water drainage system that will be designed to alleviate the storm water issues raised by neighbors during previous Conditional Use Permit hearings. With this storm water drainage system, the Applicant will no longer need to maintain the retention pond referenced under file number CUP-07-10.

9. The revised site plan, building elevations, and landscaping plan submitted by the Applicant in support of this application are in conformity with the Asheboro Zoning Ordinance.

10. No evidence was offered during the hearing of this matter to indicate that the proposed health practitioner's office will have any abnormally dangerous or hazardous activity occurring on the premises of the office.

11. The extension of Mackie Avenue created an opportunity for the Applicant to move the location of the proposed driveway for the health practitioner's office to Mackie Avenue. This shift in the location of the driveway facilitated a change in the location of the dumpster and impacted the design of the parking and landscaping areas. Such design changes constitute a modification of the existing Conditional Use Permit that must be approved by the Council.

12. The Applicant offered uncontroverted testimony during the hearing of this matter that the proposed modifications of the site plan do not undermine the continuing validity of the Council's previous determination that the evidence submitted under file number CUP-07-10 warranted the issuance of the Conditional Use Permit currently in effect.

13. No testimony was offered during the hearing of this matter in opposition to the requested Conditional Use Permit.

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

#### CONCLUSIONS

1. The Council has concluded that the proposed use, as revised, 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, as revised, continues to 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, as revised, would not substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicant's proposed use, as revised and 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, the Council hereby enters the following:

#### ORDER

The Applicant is hereby issued a Conditional Use Permit authorizing the development and operation of a health practitioner's office on the Zoning Lot. This Conditional Use Permit shall be valid so long as, and only so long as, the Applicant, and his heirs, successors, and assigns, conduct the approved land use in compliance with the approved revised site plan and the provisions of the Asheboro Zoning Ordinance.

Adopted by the Asheboro City Council in special session on the 12<sup>th</sup> day of June 2008.

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

ATTEST:

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

**CUP-08-19**  
**City Council**  
**City of Asheboro**

**IN THE MATTER OF THE APPLICATION BY HOTELS AT EXECUTIVE WAY, LLC FOR AN AMENDED CONDITIONAL USE PERMIT ALLOWING A HOTEL**

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

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THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council that was held on May 8, 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. Hotels at Executive Way, LLC (hereinafter referred to as the "Applicant") properly filed an application with the City of Asheboro for a Conditional Use Permit that would amend an existing Conditional Use Permit for a hotel land use that was issued under Asheboro Planning Department file number CUP-07-12.

2. The requested permit would authorize the continued development and eventual operation of a hotel on approximately 2.84 acres of land owned by the Applicant. This 2.84-acre zoning lot (hereinafter referred to as the "Zoning Lot") is located on the west side of Executive Way and is a portion of the 3.34-acre parcel of land more specifically identified by Randolph County Parcel Identification Number 7760490124.

3. The Zoning Lot is located in a Conditional Use B2 zoning district.

4. Under the Asheboro Zoning Ordinance, hotels are a permitted land use in the underlying B2 zoning district.

5. The Growth Strategy Map identifies the area in which the Zoning Lot is located as a "Primary Growth" area, and the Proposed Land Development Plan Map designates the area in question as "Commercial."

6. The land uses surrounding the Zoning Lot are commercial uses to the south and east, while undeveloped commercial property is located to the north. Single-family residential land uses are located to the west. Pursuant to the Conditional Use Permit issued under file number CUP-07-12, the Zoning Lot has been graded and the construction of a retaining wall has been undertaken in furtherance of the development of the previously approved hotel land use.

7. Dublin Road is a state maintained minor thoroughfare, and Executive Drive is a city maintained street serving commercially zoned properties.

8. Executive Way is the street to be utilized to access the proposed hotel.

9. The Applicant proposes to leave existing vegetation along Dublin Road as a buffer and to provide a 25-foot type C buffer along the western boundary of the Zoning Lot as required by the Asheboro Zoning Ordinance.

10. The Zoning Lot is located within the corporate limits of the City of Asheboro. Municipal water and sewer service is available to the site from Executive Way.

11. Members of the planning department's staff have reviewed the Applicant's revised site plan, and this site plan does comply with the requirements of the Asheboro Zoning Ordinance.

12. Since the initial issuance of a Conditional Use Permit under file number CUP-07-08, the Applicant has made design changes in the proposed hotel that essentially lengthened the building by approximately 20-feet and reduced its height by approximately 5-feet. The initial building elevations showed a 4-story, 95-room hotel. The revised plan approved under planning department file number CUP-07-12 depicted a 3-story, 95-room hotel. The revised site plan submitted with this application under planning department file number CUP-08-19 also depicts a 3-story, 95-room hotel.

13. No credible evidence was submitted during the hearing of this matter to undermine the continuing validity of the evidence previously relied upon by the Council to issue a Conditional Use Permit for a hotel under planning department file number CUP-07-12.

14. The Applicant had to receive approval from the Council of the revised site plan because the Applicant's proposed revision includes removal of the previously approved berm, a change in the elevation of the retaining wall on the west side of the Zoning Lot, landscaping changes, and a change in the dumpster location. Such changes are considered modifications of the site plan under the Asheboro Zoning Ordinance, and the Council must approve modifications of a Conditional Use Permit.

15. The changes in the dumpster location and the impact on the parking area originated with the Marriott Corporation. Marriott wanted these changes to improve the proposed hotel, and these site plan changes do not appear to increase the concerns about either the safety of the proposed premises or the impact of the hotel project on the value of surrounding lands.

16. The berm was originally required when the proposed hotel land use was considered during a hearing held under planning department file number CUP-07-08. During initial hearing, an adjoining property owner, Mr. Bill Essick, expressed concern about the proximity of the proposed hotel to his residence. The Council acknowledged this concern, and the Conditional Use Permit issued by the

Council was conditioned on the proper construction of a berm. Since that time, the hotel has been reduced by 1 story with a loss of height for the hotel of approximately 10 feet. As originally proposed, the berm added approximately 6¼ feet to the height of the screening between the hotel and the Essick residence. In light of the reduced height of the proposed hotel, the Applicant's attorney was able to produce a letter from Mr. Essick stating that he did not oppose the requested elimination of the berm. As explained in his letter, Mr. Essick was unable to attend the hearing in person.

17. While another neighbor did inquire about some of the implications of the proposed revision to the approved site plan, no opposition was expressed to the Applicant's request for a Conditional Use Permit approving the recently submitted revised site plan.

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

#### CONCLUSIONS

1. The Council has concluded that the proposed use, as revised, 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, as revised, continues to 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, as revised, would not substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicant's proposed use, as revised and 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, the Council hereby enters the following:

#### ORDER

The Applicant is hereby issued a Conditional Use Permit authorizing the development of a hotel on the Zoning Lot. This Conditional Use Permit shall be valid so long as, and only so long as, the Applicant, and its successors and assigns, develops and conducts the approved land use in compliance with the approved revised site plan and elevations, the provisions of the Asheboro Zoning Ordinance, and the following supplementary conditions that are attached to this permit:

a. The retaining wall and landscaping shall be constructed as shown on the submitted site plan in combination with an 8-foot high solid fence. This solid fence is to be constructed in a manner that is architecturally compatible with the surrounding development.

b. The exterior lighting utilized by the proposed hotel shall consist of indirect and accent lighting. No lighting above an elevation of 800 feet shall be attached to the west side of the building. All lighting, including parking lot lighting, is to be directed away from the western boundary of the Zoning Lot where existing residential land uses are located.

c. Illuminated signage is prohibited on the north and west side of the hotel building.

d. As indicated on the approved site plan, a no cut zone shall be established on the portion of the Zoning Lot located between Dublin Road, a parcel of land owned by Billy Essick, and the parcel of land upon which the Rite Aid drug store is located. This no cut zone shall be maintained so long as this Conditional Use Permit is in effect.

Adopted by the Asheboro City Council in special session on the 12<sup>th</sup> day of June 2008.

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

ATTEST:

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

**3. Consideration of an agreement with Sherwood Place, LLC to defer certain water and sewer extension fees.**

Mr. Bunker presented and recommended approval, by reference, of an agreement with Sherwood Place, LLC to defer certain water and sewer extension fees.

Upon motion by Mr. Priest and seconded by Mr. Baker, Council voted unanimously to approve the above-referenced agreement by reference.

[A hard copy of the aforementioned agreement is on file in the City Clerk's office.]

**4. Budget Workshop for fiscal year 2008-2009.**

Mr. Ogburn presented the budget for the upcoming fiscal year 2008-2009. A copy of the PowerPoint presentation utilized by Mr. Ogburn is on file in the City Clerk's office. During discussion, Mr. Ogburn highlighted that city staff was beginning the implementation of changes in water billing that will be needed in order to switch to monthly billing of residential customers at a later date. Additionally, city staff is evaluating the need for a gang investigator in the Police Department. Council members expressed their concerns about the increase in the number of gangs within the city and felt that a gang investigator position should be included in the budget for fiscal year 2008-2009.

A copy of the proposed budget is on file in the City Clerk's office in accordance with the North Carolina General Statutes.

A public hearing on the budget for the upcoming fiscal year 2008-2009 will be held on Tuesday, June 24, 2008 at 12:00 p.m. in the Council Chamber.

There being no further business, the meeting was adjourned at 8:33 p.m.

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

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