

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

**Thursday, January 21, 2010**

**1:30 p.m.**

Notice of a special meeting of the Asheboro City Council is hereby given. This meeting will be held on Thursday, the 21<sup>st</sup> day of January, 2010, at 1:30 p.m. in the Council Chamber of the Asheboro Municipal Building, 146 N. Church Street, Asheboro, North Carolina.

This special meeting has been called for the purpose of allowing the mayor and members of the Asheboro City Council to address the following issues:

1. A consent agenda that includes findings, conclusions, and orders for land use cases identified by file numbers SUP-09-04, SUP-09-05, CUP-09-14, and CUP-09-15; a resolution exempting the city from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes and authorizing a contract with The Wooten Company for an engineering study of the water distribution system along U.S. Highway 64 East; and a budget ordinance amendment that accounts for the previously approved offer to purchase real property at 120, 122, and 124 S. Randolph Avenue.
2. Economic development issues including the extension of municipal sewer service along U.S. Highway 64 East as well as market analysis and retail development.
3. Land use issues including building and housing standards; sign regulations; central business district activities; urban forestry; and annexation policies.
4. Cultural and recreation services division activities including improvements such as infield enhancements at McCrary Park and improvements at other division facilities such as restrooms at Bicentennial Park.
5. Finance issues such as the city's ability to borrow and debt service.

This notice is issued on the 15<sup>th</sup> day of January, 2010, in accordance with the laws and ordinances of the State of North Carolina and the City of Asheboro.

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

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**SPECIAL MEETING  
ASHEBORO CITY COUNCIL  
THURSDAY, JANUARY 21, 2010  
1:30 p.m.**

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

- David H. Smith ) – Mayor Presiding
- Talmadge S. Baker )
- Clark R. Bell )
- Edward J. Burks )
- Linda H. Carter ) – Council Members Present
- Stuart B. Fountain )
- Michael W. Hunter )
- Walker B. Moffitt )

John N. Ogburn, III, City Manager  
Dumont Bunker, P.E., City Engineer  
Jimmy L.Cagle, Facilities Maintenance Superintendent  
Casey Fletcher, Marketing Specialist  
Tamela D. Garner, Permits Technician/Deputy City Clerk  
David J.Hutchins, Street Superintendent

T Myers Johnson, Human Resources Director  
Robert H. Kivett, Public Works Director  
R. Reynolds Neely, Jr., Planning Director  
Deborah P. Reaves, Finance Director  
Michael D. Rhoney, Water Resources Superintendent  
James W. Smith, II, Fire Chief  
Todd Stout, Information Technologist  
Jeffrey C. Sugg, City Attorney  
Larry R. Trotter, Chief Building Inspector  
Kermit D. Williamson, Sanitation Superintendent  
Rickey D. Wilson, Police Chief

1. **Call to Order**

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

2. **Consent Agenda Items**

Upon motion by Dr. Fountain and seconded by Mr. Bell, Council voted unanimously to approve the following consent agenda items:

**(a) The findings of fact, conclusions of law, and order in the matter of SUP-09-04.**

Case No. SUP-09-04  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF FIRST APOSTOLIC CHURCH FOR A SPECIAL USE PERMIT ALLOWING A CHURCH AND A K-12 PRIVATE ELEMENTARY SCHOOL IN A RESIDENTIAL ZONING DISTRICT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE REQUESTED SPECIAL 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 December 10, 2009. 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. First Apostolic Church (hereinafter referred to as the "Applicant") is seeking a Special Use Permit for a K-12 private school, a church, and a church parsonage on a parcel of land owned by the church and located at 1424 North Carolina Highway 42 South. This parcel of land (hereinafter referred to as the "Zoning Lot") is approximately 8.387 acres in size and is more specifically identified by Randolph County Parcel Identification Number 7770144380.

2. The church and related activities have existed on the Zoning Lot since approximately 1998. The Council has issued two (2) previous Special Use Permits for this Zoning Lot under planning department file numbers SUP-03-02 and SUP-08-02 for expansion of the church and church classrooms.

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

4. The land uses surrounding the Zoning Lot are low-density residential uses.

5. With the exception of a small portion of the Zoning Lot that is located within Randolph County's zoning jurisdiction, the Zoning Lot is located in an R40 (low-density residential) zoning district. The current church facilities and the proposed facilities are located within the city's extraterritorial planning jurisdiction.

6. The land uses for which the Applicant is requesting a Special Use Permit are not permitted by right in an R40 zoning district, but they are permitted with the issuance of a Special Use Permit.

7. NC Highway 42 South is a state-maintained major thoroughfare.
8. The Zoning Lot is located outside of the corporate limits of the City of Asheboro, and the lot is not served by any city services.
9. The only new structure that the Applicant proposes to construct on the Zoning Lot is a parsonage that will be an accessory use to the existing church and related facilities housing the private K-12 school. The proposed parsonage is designated as a condominium lot that is permissible and does not involve subdividing any real property.
10. When the parking needs attributable to separate land uses found on a single parcel of land do not overlap, the Asheboro Zoning Ordinance authorizes the calculation of the required amount of parking on the basis of the land use that requires the greatest amount of parking. In this case, school is generally not in session when church services are conducted, and the calculation used to determine the amount of required parking will be based on the regulations applicable to a K-12 school use.
11. Parking requirements for schools are based on the mix of students in each grade. For example, the number of parking spaces required per student for grades K-8 is less than the number of parking spaces required per student for grades 9-12. Additionally, the amount of required parking for schools is impacted by the number of classrooms, the number of employees, and the number of facility vehicles. Based on these calculations, and the Applicant's request for a maximum authorization of seventy-five (75) students in the private K-12 school, the existing parking is adequate for the current school enrollment, employees, number of facility vehicles, and classrooms.
12. The alignment of the proposed United States Highway 64/North Carolina 49 By-Pass and the potential interchange with North Carolina Highway 42 has the potential to impact the character of the area in which the Zoning Lot is located. The currently identified preferred alignment of the by-pass indicates that an interchange would be located approximately one thousand two hundred feet (1,200') south of the Zoning Lot.
13. The city's South-East Small Area Plan envisions a mixed use development with commercial, neighborhood residential, and urban residential land uses in the area surrounding the United States Highway 64/North Carolina 49 By-Pass interchange with North Carolina Highway 42.
14. In accordance with the zoning ordinance, the planning department staff has approved an alternative buffer that is located on the western (rear) portion of the Zoning Lot and encompasses approximately one-half (½) of the lot. The alternative buffer, which is the area west of the "woods line" label on the site plan, consists of wooded vegetation.
15. The Applicant has properly submitted a site plan and building elevations, and these plans have been found by Planning Department staff members to comply with the regulations of the Asheboro Zoning Ordinance.
16. The church pastor, Reverend James Ellis, lives next door to the Zoning Lot, and he has not noticed any decline in property values as a consequence of the presence of the church on the Zoning Lot.
17. The application, plans, and testimony provided by the Applicant do not indicate the existence of any materials or design characteristics that pose an inherent or abnormal risk to the public health and safety.
18. No testimony was presented in opposition to the Applicant's request.

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

#### CONCLUSIONS OF LAW

1. During the hearing of this matter, no evidence was produced to indicate that an unreasonable/dangerous amount of vehicular traffic or any other form of unreasonable endangerment has ever surfaced as a consequence of the Applicant's activities at its current location. As to the future activities of the Applicant, the proposed land uses are simply augmenting the existing facilities and appear to have no negative implications for the surrounding community's health and safety.
2. The proposed use meets all required conditions and specifications of the Asheboro Zoning Ordinance.
3. The Applicant's proposed use, which is a limited expansion of the existing land use, will not substantially injure the value of adjoining or abutting property.
4. The location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

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

ORDER

First Apostolic Church, and its successors and assigns, is hereby issued a Special Use Permit authorizing a church, a church parsonage, a K-12 private school with a maximum of seventy-five (75) students, and related activities to be constructed and operated on the Zoning Lot so long as the approved land uses are conducted in compliance with the approved site plan, the provisions of the Asheboro Zoning Ordinance, and the following conditions:

1. The clerical errors in site plan notes 3 and 4 shall be corrected to reflect that the maximum number of students in the K-12 school shall be no greater than seventy-five (75) students. Since these corrections are not deemed to be modifications of the Special Use Permit, a new site plan shall be submitted to the Planning Department staff in order to reflect these corrections without further review by the Council.
2. The continuing validity of the authorization to have a maximum number of seventy-five (75) students in the K-12 school is dependent on the Applicant's ability to satisfactorily control the variables that are used to calculate the parking requirements mandated by the Asheboro Zoning Ordinance for a particular use. This Special Use Permit is not to be interpreted as authorizing any land use that cannot comply with parking requirements prescribed by the Asheboro Zoning Ordinance.
3. Significant existing vegetation, specifically including without limitation the alternative buffer area indicated on the site plan, shall be preserved to the fullest degree possible. Clearing and grading will be permitted where necessary for the construction of structure(s), parking areas, and infrastructure reflected on the approved site plan.
4. If the location of the septic system on the property changes, and this change can be reflected on the site plan without causing the site plan to enter a state of noncompliance with the Asheboro Zoning Ordinance, such a change shall not be considered a modification of the Special Use Permit.

These findings, conclusions, and order were adopted by the Asheboro City Council in open session during a special meeting held on the 21<sup>st</sup> day of January, 2010.

s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

s/ Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

**(b) The findings of fact, conclusions of law, and order in the matter of SUP-09-05.**

Case No. SUP-09-05  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF THE CITY OF ASHEBORO FOR A SPECIAL USE PERMIT FOR A PUBLIC USE FACILITY

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE REQUESTED SPECIAL 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 December 10, 2009. 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 City of Asheboro (hereinafter referred to as the "Applicant") has properly filed an application for a Special Use Permit that would allow a Public Use Facility to be located at 1032 Bonkemeyer Drive. The requested permit encompasses approximately 90.3 acres of city-owned land. This city-owned land is described by the following Randolph County Parcel Identification Numbers: 7763645814, 7763758973, 7763742717, 7763639878, and 7763634796.

2. The above-described parcels of land (hereinafter collectively referred to as the "Zoning Lot") house the existing City of Asheboro Wastewater Treatment Plant and municipal police department storage/impound lot previously approved by the Council with the issuance of Special Use Permit under planning department file number SUP-08-04.

3. The existing wastewater treatment plant and storage/impound lot is a land use that is classified by the Asheboro Zoning Ordinance as a Public Use Facility.

4. The Zoning Lot is located in an R40 zoning district.

5. A Public Use Facility is permitted in all zoning districts with the issuance by the Council of a Special Use Permit.

6. Section 602.2(b) of the Asheboro Zoning Ordinance provides as follows:

In cases where there is a deficiency in the ability of a Public Use Facility to meet all regulatory requirements of the Zoning Ordinance, City Council shall review the application for a Public Use Facility and evaluate whether or not a Special Use Permit shall be issued for the proposed public use facility solely on the basis of the general standards prescribed by Section 602.1 of this Ordinance. For the limited purpose of evaluating public use facilities under General Standard No. 2 of Section 602.1, a public use facility shall be deemed to have satisfied this standard if a site plan has been submitted in accordance with Section 1005 of this Ordinance.

7. The findings, conclusions, and order adopted under file number SUP-08-04 established that the police storage/impound lot met all of the applicable regulatory requirements of the Asheboro Zoning Ordinance. However, the police storage/impound lot had to be considered as part of the entire Zoning Lot when determining if the Public Use Facility land use to be permitted on the Zoning Lot met the regulatory requirements of the Asheboro Zoning Ordinance. Due to issues associated with the legal non-conforming status of the wastewater treatment plant, and fiscal constraints that prevent the city from automatically retrofitting the plant when such a retrofit is not legally necessary, the overall use of the Zoning Lot as a Public Use Facility did not comply with the entirety of the Asheboro Zoning Ordinance's regulatory requirements, and the Council, after considering the evidence presented during the hearing held on December 8, 2008, issued a Special Use Permit for the Public Use Facility. With the earlier issuance of a Special Use Permit for the Zoning Lot, any future change to the lot that is deemed to be a modification requires Council approval in the form of the issuance of a new Special Use Permit regardless of whether the proposed modification otherwise complies with the terms and conditions of the Asheboro Zoning Ordinance.

8. The Public Use Facility site plan submitted with the current application for a Special Use Permit does comply with Section 1005 of the Asheboro Zoning Ordinance.

9. The Zoning Lot is located in an area characterized by a mixture of undeveloped land, including land upon which future church construction is proposed, and residential land uses, including a manufactured housing park and single-family residential dwellings.

10. The majority of the property is located within the city's corporate limits, and all city services are available to the Zoning Lot.

11. The wastewater treatment plant has operated on the Zoning Lot since the 1960's.

12. The Applicant is proposing to construct/install on the Zoning Lot four (4) additional structures, additional parking, and a generator. The new structures are to serve as storage buildings for chemicals and equipment.

13. A portion of the Zoning Lot is located within a Special Flood Hazard Area. No new structures or parking areas are proposed within the Special Flood Hazard Area.

14. The chemicals to be stored in the proposed structures are not flammable and are not deemed to be hazardous.

15. Uncontroverted testimony was offered on behalf of the Applicant to show that the proposed improvements are needed to maintain and properly operate the existing municipal wastewater treatment plant and serve the needs of the public.

16. No testimony was offered in opposition to the requested Special Use Permit.

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

CONCLUSIONS OF LAW

1. The Council has concluded that the proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

2. The evidence received during the public hearing established that the proposed use meets 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 additions to the existing land use would not substantially injure the value of the adjoining/abutting property. Additionally, the Applicant's use of the Zoning Lot for a municipal wastewater treatment plant satisfies a public necessity.

4. The location and character of the Applicant's proposed use, if developed according to the approved plan, 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 Applicant is hereby issued a Special Use Permit authorizing the development and operation on the Zoning Lot of a Public Use Facility so long as, and only so long as, the Applicant, and its successors and assigns, conducts this land use in compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance.

These findings, conclusions, and order were adopted by the Asheboro City Council in open session during a special meeting held on the 21<sup>st</sup> day of January, 2010.

s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

s/ Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

**(c) The findings of fact, conclusions of law, and order in the matter of CUP-09-14.**

Case No. CUP-09-14  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF SHEETZ, INC. FOR A CONDITIONAL USE PERMIT  
AUTHORIZING A GAS STATION AND AN AUTOMATIC CAR WASH

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 December 10, 2009. 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. Sheetz, Inc. (hereinafter referred to as the "Applicant") has properly submitted an application for a Conditional Use Permit authorizing a gas station, which includes the sale of retail convenience goods, and an automatic car wash as an accessory use on a 2.239 acre parcel of land located at the western corner of East Dixie Drive and Dublin Road. This parcel of land (hereinafter referred to as the "Zoning Lot") is more specifically identified as Tract # 1 on a plat of survey recorded in Plat Book 123, Page 70, Randolph County Public Registry.

2. As of the date of the hearing of this matter, Franson, LLC and Double E Investment Group, LLC were listed as the owners of the Zoning Lot, and these owners presented no objection to the Applicant's request for a Conditional Use Permit.

3. The Zoning Lot is currently undeveloped, but a Conditional Use Permit, which was never acted upon by the original applicant, was previously issued by the Council under planning department file number CUP-06-23. This earlier permit, which authorized a retail shoppers' goods store, was issued after a hearing was conducted in October 2006.

4. The Zoning Lot is located in a CU-B2 zoning district.

5. Commercial land uses are located to the east and south of the Zoning Lot, single-family residential as well as commercial land uses are located to the west of the lot, and single-family residential land use is located to the north of the Zoning Lot.

6. A gas station, which includes the sale of retail convenience goods, and an automatic car wash as an accessory use are the land uses for which the Applicant is seeking a Conditional Use Permit, and these land uses are permitted in the underlying B2 zoning district.

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

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

9. East Dixie Drive is a major thoroughfare with a 150-foot right-of-way. Primarily commercial land uses are located along East Dixie Drive.

10. Dublin Road is a state-maintained minor thoroughfare, and Dublin Road Extension is a city-maintained dead end street.

11. The proposed gas station use with 18 pumps and the sale of retail convenience goods is shown on the site plan as utilizing a structure that will be 4,997 square feet in size. The car wash that is proposed as an accessory use is shown as a single bay automatic car wash.

12. The Applicant proposes sharing the access along East Dixie Drive with a bank use that is proposed by a different applicant for an adjoining lot located to the west of the Zoning Lot. This type of arrangement is permitted under the Asheboro Zoning Ordinance so long as a reciprocal easement agreement is utilized.

13. The city's Comprehensive Pedestrian Transportation Plan recommends the construction of sidewalks along East Dixie Drive and Dublin Road as a priority to improve the city's sidewalk network. Sidewalks are proposed for the Zoning Lot in accordance with regulations prescribed by the Asheboro Zoning Ordinance.

14. The site plan and building elevations submitted during the hearing of this matter are in compliance with the provisions of the Asheboro Zoning Ordinance.

15. Mr. Lee Roberts, who is a certified residential real estate appraiser, testified that he has visited the Zoning Lot and is familiar with the development along East Dixie Drive. Mr. Roberts has formed the professional opinion that no substantial injury to the value of adjoining properties will occur if the proposed land use is developed on the Zoning Lot.

16. Mr. Jim Bell, who is an environmental engineer, has studied the impact in terms of traffic, noise, and light on the area around the Zoning Lot if the proposed land use is in fact developed. The impact from added traffic would be minimal in light of the fact that his study revealed the Applicant, at its peak, would only add 140 vehicles to a 3,000 vehicle daily traffic count already accommodated by East Dixie Drive. Furthermore, the impact on East Dixie Drive will be mitigated by the fact that a right in, right out access point will be utilized for this major thoroughfare. The noise from the car wash will not have a noticeable impact because, according to Mr. Bell's study, the noise from the dryer in the automatic car wash will be around 66 decibels and that is not much higher than the level measured for conversations in a room. In comparison, the traffic noise on Dixie Drive is measured at approximately 59 decibels. With regard to the lighting associated with the Applicant's land use, Mr. Bell testified that the lighting specifications prescribed by the Asheboro Zoning Ordinance will be met with or without the benefit of a variance from the Board of Adjustment.

17. The Applicant's attorney, Mr. Alan V. Pugh, Esq., offered uncontroverted testimony that the underground storage tanks utilized by the Applicant are double hulled, state of the art, regulated by the state, and are newer than other underground storage tanks already located along Dixie Drive.

18. No testimony was offered in opposition to the Applicant's request for a Conditional Use Permit.

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

### CONCLUSIONS OF LAW

1. The Council has concluded that the requested Conditional Use Permit will not materially endanger the public health or safety if the proposed land uses are 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 land uses do 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 land uses would not substantially injure the value of the adjoining or abutting property.
4. The location and character of the Applicant's proposed land uses if developed according to the plan as submitted and approved will be in harmony with the area in which they are 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

Sheetz, Inc. is hereby issued a Conditional Use Permit authorizing a gas station with retail convenience goods sales and an automatic car wash as an accessory use to be constructed and operated on the Zoning Lot. The site plan reviewed by the Council on December 10, 2009, is hereby approved and adopted as part of this permit. 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 applicable provisions of the Asheboro Zoning Ordinance, including without limitation the site plan approved by this Order, and accepting and remaining in strict compliance with the following supplementary conditions:

1. Consistent with Article 400 (Sections 404 and 405) of the Asheboro Zoning Ordinance, a reciprocal easement agreement shall be executed with the adjoining property owner to the west for access to and maneuvering within the parking area.
2. A 20-foot wide sanitary sewer easement shall be provided to the City of Asheboro along all 8" sanitary sewer lines that are not located within the public right-of-way.
3. All concrete curb and gutter within public rights-of-way must be 2'6" per the latest revision of North Carolina Department of Transportation (NCDOT) Standard 846.01 or as approved by the NCDOT.
4. Construction shall not begin until all regulatory approvals have been received.
5. Prior to the issuance of a Zoning Compliance Permit, an engineering study of storm water runoff shall be made. If such study indicates that post development runoff will exceed predevelopment conditions, plans for runoff control shall be designed and certified by a professional engineer. Such controls shall be designed to reduce the runoff during the occurrence of a 10-year storm to predevelopment volumes and rates. Prior to the issuance of a Certificate of Occupancy, a professional engineer shall provide certification that the storm water controls were built according to the plans. Any open water retention or drainage areas shall be sprayed regularly for mosquito control. The continued maintenance of all runoff control measures shall be the responsibility of the property owner.
6. If the location of the sidewalk along the right-of-way for Dublin Road changes due to topography and/or utility locations, such change shall not be considered a modification of the Conditional Use Permit as long as compliance with the regulations and specifications of the Asheboro Zoning Ordinance is maintained. If the location of the sidewalk changes as described in the immediately preceding sentence, the Applicant shall submit a revised site plan for review by the city's planning department staff and inclusion in the file without further review by the Council.
7. If the City of Asheboro Board of Adjustment grants a variance concerning (i) the required 4" vertical separation of sidewalk(s) between the building(s) and parking area(s); (ii) a variance concerning the foot candle readings of outdoor lighting along the western property boundary; and/or (iii) the location and/or screening of vent pipes, none of these potential variances shall be considered a modification of the Conditional Use Permit. In the event the Board of Adjustment grants a variance or multiple variances, the Applicant shall submit a revised site plan for planning department staff review and inclusion in the file without further review by the Council.

These findings, conclusions, and order were adopted by the Asheboro City Council in open session during a special meeting held on the 21<sup>st</sup> day of January, 2010.

s/ David H. Smith  
David H. Smith, Mayor



ATTEST:

s/ Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

**(d) The findings of fact, conclusions of law, and order in the matter of CUP-09-15.**

Case No. CUP-09-15  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF FRANK EDMONDSON FOR A CONDITIONAL USE  
PERMIT AUTHORIZING A BANK

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 December 10, 2009. 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. Frank Edmondson (hereinafter referred to as the "Applicant") has properly submitted an application for a Conditional Use Permit authorizing the development of a bank on a 1.281 acre parcel of land located on the north side of East Dixie Drive, approximately 300 feet west of Dublin Road. This parcel of land (hereinafter referred to as the "Zoning Lot") is more specifically identified as Tract # 2 on a plat of survey recorded in Plat Book 123, Page 70, Randolph County Public Registry.

2. As of the date of the hearing of this matter, Franson, LLC and Double E Investment Group, LLC were listed as the owners of the Zoning Lot, and these owners presented no objection to the Applicant's request for a Conditional Use Permit.

3. The Zoning Lot is currently undeveloped, but a Conditional Use Permit, which was never acted upon by the original applicant, was previously issued by the Council under planning department file number CUP-06-23. This earlier permit, which authorized a retail shoppers' goods store, was issued after a hearing was conducted in October 2006.

4. The Zoning Lot is located in a CU-B2 zoning district.

5. Commercial land uses are located to the east and south of the Zoning Lot, single-family residential as well as commercial land uses are located to the west of the lot, and single-family residential land use is located to the north of the Zoning Lot.

6. A bank is a permitted land use in the underlying B2 zoning district.

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

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

9. East Dixie Drive is a major thoroughfare with a 150-foot right-of-way. Primarily commercial land uses are located along East Dixie Drive.

10. Dublin Road is a state-maintained minor thoroughfare, and Dublin Road Extension is a city-maintained dead end street.

11. The bank is shown on the site plan as utilizing a structure that will be approximately 4,000 square feet in size with a three bay drive through window.

12. The Applicant proposes sharing the access along East Dixie Drive with a previously approved gas station that includes retail convenience goods sales and an automatic car wash that is to be located on an adjoining lot situated to the east of the Zoning Lot. This type of arrangement is permitted under the Asheboro Zoning Ordinance so long as a reciprocal easement agreement is utilized.

13. The city's Comprehensive Pedestrian Transportation Plan recommends the construction of sidewalks along East Dixie Drive as a priority to improve the city's sidewalk network. Sidewalks are proposed for the Zoning Lot in accordance with regulations prescribed by the Asheboro Zoning Ordinance.

14. The site plan and building elevations submitted during the hearing of this matter are in compliance with the provisions of the Asheboro Zoning Ordinance.

15. Ms. Jillian West, who is a certified general real estate appraiser, testified that she is familiar with the development, both residential and commercial, along Dixie Drive. As part of her evaluation of the impact of the proposed land use, she examined seven comparable sites and found no negative impacts. Ms. West has formed the professional opinion that no substantial injury to the value of adjoining properties will occur if the proposed land use is developed on the Zoning Lot.

16. Mr. Jim Bell, who is an environmental engineer, testified that he reviewed the Applicant's site plan and examined the potential impact of traffic, noise, and light on the area around the Zoning Lot if the proposed land use is in fact developed. In his professional opinion, the proposed use will meet the lighting requirements prescribed by the Asheboro Zoning Ordinance and the impact from traffic and noise associated with the proposed bank will be minimal.

17. No testimony was offered in opposition to the Applicant's request for a Conditional Use Permit.

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

#### CONCLUSIONS OF LAW

1. The Council has concluded that the requested Conditional Use Permit will not materially endanger the public health or safety if the proposed land use is 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 land 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 land use would not substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicant's proposed land 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

Frank Edmondson, who filed this application as a representative of the owners of the Zoning Lot, is hereby issued a Conditional Use Permit authorizing a bank to be developed on the Zoning Lot. The site plan reviewed by the Council on December 10, 2009, is hereby approved and adopted as part of this permit. The issuance of this permit and its continuing validity is hereby made expressly contingent upon the Applicant, and his heirs, successors, and assigns, complying at all times with the applicable provisions of the Asheboro Zoning Ordinance, including without limitation the site plan approved by this Order, and accepting and remaining in strict compliance with the following supplementary conditions:

1. Consistent with Article 400 (Sections 404 and 405) of the Asheboro Zoning Ordinance, a reciprocal easement agreement shall be executed with the adjoining property owner to the east for access to and maneuvering within the parking area.

2. A 20-foot wide sanitary sewer easement shall be provided to the City of Asheboro along all 8" sanitary sewer lines that are not located within the public right-of-way.

3. A 25-foot wide water line easement shall be provided to the City of Asheboro along all water lines connecting the City of Asheboro Water System to the fire hydrants and meters that are not located within the public right-of-way.

4. Construction shall not begin until all regulatory approvals have been received.

5. Prior to the issuance of a Zoning Compliance Permit, an engineering study of storm water runoff shall be made. If such study indicates that post development runoff will exceed predevelopment conditions, plans for runoff control shall be designed and certified by a professional engineer. Such controls shall be designed to reduce the runoff during the occurrence of a 10-year storm to predevelopment volumes and rates. Prior to the issuance of a Certificate of Occupancy, a professional

engineer shall provide certification that the storm water controls were built according to the plans. Any open water retention or drainage areas shall be sprayed regularly for mosquito control. The continued maintenance of all runoff control measures shall be the responsibility of the property owner.

These findings, conclusions, and order were adopted by the Asheboro City Council in open session during a special meeting held on the 21<sup>st</sup> day of January, 2010.

s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

s/ Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

- (e) **A resolution per G. S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with The Wooten Company of Asheboro, NC for engineering services required to evaluate the water distribution system with a computer model to determine the capacity for future development along the U.S. Highway 64 East corridor, for cost not to exceed \$4,500.00**

04 RES 1-10

**RESOLUTION EXEMPTING A PROJECT FROM THE PROVISIONS OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES**  
**(Water Distribution System Evaluation Project)**

**WHEREAS**, Section 143-64.31 of Chapter 143, Article 3D of the North Carolina General Statutes provides in pertinent part as follows:

It is the public policy of this State and all public subdivisions and Local Governmental Units thereof . . . to announce all requirements for architectural, engineering, surveying, and construction management at risk services, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm; and

**WHEREAS**, Section 143-64.32 of the North Carolina General Statutes provides in pertinent part as follows:

Units of local government . . . may in writing exempt particular projects from the provisions of this Article (Article 3D) in the case of:  
(a) Proposed projects where an estimated professional fee is in an amount less than thirty thousand dollars (\$30,000), or  
(b) Other particular projects exempted in the sole discretion of . . . the unit of local government, stating the reasons therefore and the circumstances attendant thereto; and

**WHEREAS**, in consultation with the Water Resources Director and the City Engineer, the City Manager has determined that engineering services need to be procured by the city in order to evaluate with a computer model the capacity of the municipal water distribution system to accommodate future development along the United States Highway 64 East corridor; and

**WHEREAS**, The Wooten Company has submitted a proposal, which is dated January 14, 2010, to provide the requisite engineering services for a cost that is not to exceed four thousand five hundred and no/100 dollars (\$4,500.00); and

**WHEREAS**, on the basis of the firm's demonstrated professional competence during previous projects, the firm's familiarity with the city's water distribution system, and the estimated professional fee, the City Manager and the City Engineer have concluded that The Wooten Company should be utilized to provide the engineering services needed to successfully complete this water distribution system evaluation project.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the above-described Water Distribution System Evaluation Project is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes on the basis of the fact that the estimated professional fee for the required engineering services is less than thirty thousand and no/100 dollars (\$30,000.00); and

**BE IT FURTHER RESOLVED** that the City Manager is hereby authorized to execute, in accordance with the applicable laws and the city's standard contracting policies, a contract with The Wooten Company for the provision of the engineering services needed to complete the above-described project.

This resolution was adopted by the Asheboro City Council in open session during a special meeting held on the 21<sup>st</sup> day of January, 2010.

s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

s/ Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

- (f) **A budget ordinance amendment that amends the general fund to account for the purchase of a parcel of land located at 120, 122, and 124 South Randolph Avenue.**

**06 ORD 1-10**

**ORDINANCE TO AMEND THE GENERAL FUND FY 2009-2010**

WHEREAS, on January 7, 2010, the City of Asheboro City Council approved a resolution (02 RES 1-10) authorizing the City of Asheboro to purchase real property with an abandoned triplex structure located at 120, 122, and 124 South Randolph Ave, and;

WHEREAS, the City Council set the maximum offer amount at \$36,000, and;  
WHEREAS, the budget as adopted requires amendment to reflect the appropriation of fund balance for this expense, and;

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

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

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

| <u>Account #</u> | <u>Revenue Description</u> | <u>Increase</u> | <u>Amended Budget</u> |
|------------------|----------------------------|-----------------|-----------------------|
| 10-399-0000      | Fund Balance Appropriation | 36,000          | 701,649               |

Section 2: That the following Expense line item be increased:

| <u>Account #</u> | <u>Expense Description</u>   | <u>Increase</u> | <u>Amended Budget</u> |
|------------------|------------------------------|-----------------|-----------------------|
| 10-500-7100      | Capital Outlay- land / bldg. | 36,000          | 36,000                |

Adopted this the 21st day of January 2010.

s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

s/ Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

**3. Economic development:**

**(a) Presentation by Chip Rodgers of the Buxton Company to discuss retail development and market analysis.**

Mr. Rodgers gave a brief presentation focused on demonstrating how The Buxton Company's market analysis could help bring retailers to Asheboro. By gathering information such as consumer spending information they can help the city to understand how to match prospective retail businesses with the consumers in the Asheboro market. In essence, The Buxton company could provide the city with data that would enable the city to undertake a more focused and cost effective marketing effort when recruiting retail businesses.

A proposal from The Buxton Company will be considered during the Council's regular meeting in February.

**(b) Possible extension of sewer on 64 East.**

With the general consent of the Council, Mayor Smith asked for discussion of general land use issues before discussing agenda item 3(b) that pertained to the extension of sewer along U.S. Highway 64 East.

**4. Land use issues:**

**(a) Discussion of Housing Standards:**

There were concerns expressed about the state of housing in Asheboro and the need to improve housing conditions for the good of the whole community. A rental housing inspection program and increased inspection activity will be examined by city staff.

The results of this staff analysis will be reported to the Council at a later date.

**(b) Signs and signage:**

There was discussion on sign violations and visual clutter, and the need to let people know what is allowed. The Council will take a comprehensive look at the regulations with examples of what is compatible and incompatible with the Council's vision for the city.

**(c) Central business district remodeling and new construction:**

Council agreed that there needs to be further discussion on this with regard to such points as how close to the road to build and what refinements need to be made with the current regulations.

**(d) Tree survey and tree ordinance:**

Mr. Neely spoke briefly about the need to re-apply for the grant for the Canopy Survey. Without the grant, it would be approximately \$20,000.00 to \$40,000.00 for the survey. Mr. Neely will follow up on the grant.

**(e) Master plans for city limits annexation:**

There was discussion of the need for a long term engineered plan for annexation. City staff will explore contracting for a study that looks at the feasibility of sewer extensions that will be consistent with annexation strategies over a five (5) to ten (10) year period.

**(f) Possible extension of sewer on 64 east: [Agenda item number 3b]**

Mr. Bunker provided a topography map showing the sewer system and proposed water line. There was a consensus to keep conferring and working with Randolph County as a partner to accomplish this extension which would be beneficial to the county and the city.

**5. Cultural and recreation services:**

**(a) Infield improvements at McCrary Park:**

Mr. Ward gave a presentation in regards to the infield at McCrary Park with respect to upgrades that have been made in the past years and the upgrades that need to be done. With about 125 games per year being played there, the infield problems need to be fixed. Mr. Ward included a proposed infield improvement packet in his presentation, which is on file in the City Clerk's office. The consensus was to proceed with planning for the installation of artificial turf for the infield so long as acceptable contract terms for the artificial turf and lease terms for the ballpark can be obtained. This item will be discussed further during a future meeting of the City Council.

**(b) Discussion of need for restrooms at Bicentennial Park:**

Mr. Ward gave a presentation on the need for restrooms at Bicentennial Park due to the community events that are held at the park. Last year, approximately \$2,500.00 was spent by the city on portable toilets, and an additional \$2,500.00 was probably spent by community groups. Mr. Ward suggested that a couple of sizes of prefab or stick built bathroom units could be set up in various places at the park. Between this meeting and the February council meeting, Mr. Ward will stake off some placement options in the park to help decide where and how big the units must be.

**6. Finance issues:**

**Borrowing and debt services:**

Ms. Reaves presented a handout showing information to help clarify the city's borrowing capacity as well as information on the General Fund debt. This information is on file in the City Clerk's office.

**7. Items not on the agenda.**

Mayor Smith asked Mr. Williamson for information on the distribution of the recycling cans. Mr. Williamson said that routes 5 and 6 may be distributed in the next 30 days with routes seven (7) and eight (8) distributed in the fall. Approximately one (1) year from now, distribution should be completed.

There being no further business the meeting was adjourned at 5:00 p.m.

s/ Tamela D. Garner  
Tamela D. Garner, Deputy City Clerk

s/ David H. Smith  
David H. Smith, Mayor