

**REGULAR MEETING
ASHEBORO CITY COUNCIL
COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, SEPTEMBER 9, 2010
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. 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
Edsel L. Brown, Code Enforcement Officer
Dumont Bunker, P.E., City Engineer
Richard L. Cox, Jr., Community Planning and Development Department Intern
Holly H. Doerr, City Clerk/Senior Legal Assistant
John L. Evans, Senior Planner
Casandra M. Fletcher, Marketing Specialist
Justin T. Luck, Planner
R. Reynolds Neely, Jr., Zoning Administrator
Deborah P. Reaves, Finance Director
Jeffrey C. Sugg, City Attorney
Jody Williams, Police Captain

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. Silent prayer and pledge of allegiance.

After a moment of silence was observed in order to allow silent prayer or meditation, Mayor Smith asked everyone to stand and repeat the pledge of allegiance.

3. Appearance and recognition of guests and citizens.

Mayor Smith welcomed everyone in attendance.

4. Consent Agenda:

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

- (a) The minutes of the regular meeting of the City Council that was held on August 5, 2010.**
- (b) The findings of fact, conclusions of law, and order for the conditional use permit issued under file number CUP-10-07.**

IN THE MATTER OF THE APPLICATION OF ADDIE S. LUTHER FOR A CONDITIONAL USE PERMIT
AUTHORIZING A MOTOR VEHICLE REPAIR - MINOR LAND USE

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 July 8, 2010. 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. Addie S. Luther (hereinafter referred to as the "Applicant") has properly submitted an application for a Conditional Use Permit authorizing a Motor Vehicle Repair - Minor land use on a parcel of land that she owns and is located at 513 Martin Luther King, Jr. Drive. The street address of 210 Dunlap Street is also associated with this property.
2. This parcel of land (hereinafter referred to as the "Zoning Lot") is approximately 1.53 acres in size and is more specifically described by Randolph County Parcel Identification Number 7761039594.
3. The Zoning Lot is currently located in a Conditional Use B2 zoning district. The existing Conditional Use Permit allows an auto detail shop, auto sales, retail sales, and light industrial use in a B2 zoning district (warehouse).
4. The requested Conditional Use Permit would allow a land use described by the Asheboro Zoning Ordinance as Motor Vehicle Repair – Minor (with retail sales/auto detailing as accessory to this use).
5. No new structures are proposed. The Applicant intends to utilize existing structures for the proposed land use.
6. No new lighting is requested for the proposed land use.
7. In 1998, the City of Asheboro Board of Adjustment approved variances under file number BOA 98-02 from the maximum driveway widths and parking setbacks. These variances allow the Applicant to lawfully use the configuration displayed on the submitted site plan.
8. Paved parking is proposed in the required parking areas, including the access, maneuvering, and parking and loading areas. Paving is optional for non-required parking areas.
9. Motor Vehicle Repair – Minor is a permitted land use in the underlying B2 zoning district.
10. The Zoning Lot is served by all city services.
11. Martin Luther King, Jr. Drive is a state-maintained minor thoroughfare (North Carolina Secondary Road 2189).
12. 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.
13. The land uses immediately surrounding the Zoning Lot are residential uses to the north, east and west. A mixture of commercial and residential land uses are located to the south.
14. Uncontroverted testimony was offered to show that no unusually hazardous substances will be located on the premises if the requested permit is granted.
15. No body work or pulling of engines will be performed as part of the proposed land use.
16. The Applicant has owned the Zoning Lot for a significant number of years and does not know of any basis for believing that the proposed land use within the existing buildings will have any detrimental impact on surrounding property values.

17. The site plan submitted during the hearing of this matter complies with the provisions of the Asheboro Zoning Ordinance.

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

Based on the above-recited findings of fact and conclusions of law, 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 will 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

Addie S. Luther is hereby issued a Conditional Use Permit that authorizes on the Zoning Lot a Motor Vehicle Repair – Minor land use that includes retail sales/auto detailing as accessories to this use. The site plan submitted and approved during the hearing of this matter on July 8, 2010, 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 her 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. If an increase in the number of employees or the use of a vehicle in conducting the business necessitates improvements, including by way of illustration and not limitation paving and landscaping improvements, to the existing parking areas that are currently not required, such an increase will not be deemed to be a modification so long as the required improvements are contained within the existing parking areas, including access, maneuvering, and parking spaces, that are labeled on the approved site plan.

2. Existing significant vegetation, if retained and located in appropriate locations, may also count on a 1:1 basis towards meeting landscaping requirements. The balance of these requirements shall be determined by Article 300A, Section 304A and Section 308A.

3. A clerical error in labeling the Type C landscaping buffer as front yard landscaping along the northern boundary of the Zoning Lot shall be corrected. In addition, labeling of more clearly delineated parking spaces shall be included. The Applicant shall submit a revised site plan reflecting these corrections for review and inclusion in the file without further review by the Council.

4. No junked motor vehicles shall be stored on the Zoning Lot in excess of thirty (30) days.

These findings of fact, conclusions of law, and order were adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of September, 2010.

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

ATTEST:

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

(c) The findings of fact, conclusions of law, and order for the special use permit issued under file number SUP-10-03.

Case No. SUP-10-03
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF RCS HEAD START FOR A SPECIAL USE PERMIT
ALLOWING A CHILD DAY CARE CENTER - MEDIUM

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council that was held on August 5, 2010. 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. RCS Head Start (hereinafter referred to as the "Applicant") is seeking a Special Use Permit that would authorize a land use labeled under the Asheboro Zoning Ordinance as a Child Day Center - Medium on two (2) parcels of land owned by Schwarz Properties, L.L.C. and located at 203 English Street in Asheboro.

2. These combined parcels of land (hereinafter referred to as the "Zoning Lot") are approximately 0.78 of an acre in size and are more specifically identified by Randolph County Parcel Identification Numbers 7762045118 and 7762045237.

3. The available evidence indicates that the Applicant has obtained the property owner's consent to proceed with this application.

4. A Child Day Care Center – Small is already properly permitted to utilize the Zoning Lot. Due to an increase in the number of children at the center, the Applicant is requesting a Special Use Permit that will authorize a Child Day Care Center – Medium.

5. A Special Use Permit is required for a child day care center that is located in a B2 zoning district when the child day care center has between thirty (30) and seventy-nine (79) children utilizing the center. Within this range, the Asheboro Zoning Ordinance classifies the center as a Child Day Care Center – Medium.

6. The existing structure can be utilized to care for the added number of children at the Applicant's center. No new building(s), parking, or lighting is proposed for the requested land use.

7. The Zoning Lot is the location of an existing multi-use commercial development. The proposed land use is to be located within this development. The Special Use Permit utilizes the Zoning Lot's boundary line as the boundary line for the required site plan. The proposed use that requires a Special Use Permit (the Child Day Care Center – Medium) is not required to utilize the entire Zoning Lot. In these types of situations, and contingent on the conditions attached to a Special Use Permit, the permit can be structured so that other uses normally permitted by right within the zoning district within which the multi-use commercial development is located may be permitted without obtaining a Special Use Permit.

8. The Zoning Lot is located within a B2 zoning district.

9. The Growth Strategy Map designates the area in which the Zoning Lot is located as "Primary Growth," and the Proposed Land Development Plan Map indicates that the Zoning Lot is located in an area designated as "Commercial."

10. The land uses surrounding the Zoning Lot are single-family residential uses to the north and east. Commercial and single-family residential land uses are located to the west, while institutional and commercial land uses are located to the south.

11. English Street is a local, city-maintained street serving primarily non-residential land uses. Ashley Street is a city-maintained local street. A portion of Ashley Street located east of the Zoning Lot is platted but not constructed.

12. The Zoning Lot is located within the corporate limits of the City of Asheboro.

13. The Applicant has properly submitted a site plan, and these plans comply with the regulations of the Asheboro Zoning Ordinance.

14. 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.

15. No testimony was presented in opposition to the Applicant's request.

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

CONCLUSIONS OF LAW

1. The Council has concluded that the requested Special 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 will 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

RCS Head Start is hereby issued a Special Use Permit that authorizes on the Zoning Lot a Child Day Care Center – Medium land use. The site plan submitted and approved during the hearing of this matter on August 5, 2010, 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. All uses permitted by the Asheboro Zoning Ordinance in the B2 zoning district shall be permitted in the existing multi-use commercial development except for the following land uses:

- Correctional Facilities
- Bar
- Liquor Store
- Brewpub
- Nightclub/Cabaret
- Package Store (sales of undistilled alcoholic beverages as principal use)
- Package Store Drive Through
- Gun/Ammunition (including firing ranges)
- Professional Residential Facility/Structured Environment

This condition shall apply to the entirety of the Zoning Lot.

2. Solid waste facility (dumpster) screening may utilize an existing building wall for screening as long as the requirements of Article 300A, Section 307A of the Asheboro Zoning Ordinance are met and maintained.

3. This Special Use Permit will allow a number of children that is consistent with the definition of a "Child Day Care Center – Medium" as long as all other requirements of the Asheboro Zoning Ordinance are met, and no improvements are required that would be deemed to constitute a modification of the Special Use Permit under Article 600 of the Asheboro Zoning Ordinance. If the number of children exceeds the number indicated on the approved site plan, the Applicant shall submit a revised site plan to the City of Asheboro Planning Department for 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 regular meeting held on the 9th day of September, 2010.

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

ATTEST:

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

- (d) The temporary closing of the street for St. Joseph Catholic Church at 512 W. Wainman Avenue from 8:00 a.m. to 3:00 p.m. on September 12, 2010.
- (e) The temporary closing of Sunset Avenue between Church Street and Fayetteville Street for the Cultural and Recreation Services Division's Halloween event ("Trick or Treat in the Park") from 5:30 p.m. to 9:00 p.m. on Friday, October 29, 2010.
- (f) A resolution authorizing the abandonment of a portion of a City of Asheboro sanitary sewer easement in exchange for the acquisition of water and sanitary sewer easements on the site of the proposed Sheetz development.

35 RES 9-10

RESOLUTION AUTHORIZING THE ABANDONMENT OF CERTAIN SECTIONS OF EXISTING SANITARY SEWER EASEMENTS IN EXCHANGE FOR THE ACQUISITION OF WATER AND SEWER LINE EASEMENTS ON THE SITE OF A PROPOSED COMMERCIAL DEVELOPMENT

WHEREAS, FranSon, L.L.C. owns a parcel of land described by a deed recorded in Deed Book 2156, Page 480, Randolph County Public Registry, and FranSon II, L.L.C. owns a parcel of land described in Deed Book 2156, Page 474; and

WHEREAS, in order to facilitate development activities on and around the above-described parcels, the City of Asheboro is willing to assume public ownership and maintenance responsibilities for a sanitary sewer line that is to be installed on the parcel owned by FranSon, L.L.C. in addition to assuming public ownership and maintenance responsibilities for a water line and fire hydrant to be installed on the parcels of land owned by FranSon, L.L.C. and FranSon II, L.L.C.; and

WHEREAS, the City of Asheboro cannot assume ownership and maintenance responsibilities for this infrastructure unless the sanitary sewer line, water line, and fire hydrant are located within an easement area dedicated to the City of Asheboro; and

WHEREAS, FranSon, L.L.C. and FranSon II, L.L.C. have agreed to convey the requisite easements to the City of Asheboro in consideration of the benefits to be derived from public ownership and maintenance of the proposed infrastructure and in further consideration of the city's future delivery of a separate quitclaim deed to FranSon, L.L.C. for the purpose of abandoning certain sections of existing sanitary sewer easement areas that are no longer needed by the city; and

WHEREAS, the city attorney has drafted a proposed Sanitary Sewer and Water Line Easement, which is attached hereto as EXHIBIT A, and a proposed Quitclaim Deed, which is attached hereto as EXHIBIT B, that, in combination, can effectuate the proposed abandonment of segments of existing sanitary sewer easement areas in exchange for the granting of new sanitary sewer and water line easement areas; and

WHEREAS, the attached exhibits are hereby incorporated into this resolution by reference as if copied fully herein; and

WHEREAS, upon the recommendation of the city's professional staff, the city council has determined that the proposed exchange is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the proposed abandonment of certain segments of sanitary sewer easement areas that are no longer needed by the city in exchange for the acquisition of sanitary sewer and water line easement areas to serve a new commercial development is hereby approved; and

BE IT FURTHER RESOLVED that, in order to effectuate the above-described transactions, the elected and appointed officials of the City of Asheboro are hereby authorized and directed to take all of the steps necessary to ensure the proper execution and delivery of the instruments attached hereto as EXHIBIT A and EXHIBIT B.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting of the council that was held on the 9th day of September, 2010.

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

ATTEST:

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

EXHIBIT A

SANITARY SEWER AND WATER LINE EASEMENT

Excise Tax: \$0.00

This instrument was prepared by Jeffrey C. Sugg, City Attorney for the City of Asheboro, 146 North Church Street, Asheboro, North Carolina 27203.

Please return the recorded instrument to the Office of the City Attorney, City of Asheboro, Post Office Box 1106, Asheboro, North Carolina 27204-1106.

STATE OF NORTH CAROLINA

COUNTY OF RANDOLPH

THIS DEED OF EASEMENT is made this ____ day of _____, 2010, by and between the following Grantor and Grantee:

GRANTOR: FRANSON, L.L.C., a North Carolina limited liability company,
2423 Tot Hill Farm Road, Asheboro, North Carolina 27205

FRANSON II, L.L.C., a North Carolina limited liability company,
2423 Tot Hill Farm Road, Asheboro, North Carolina 27205

GRANTEE: CITY OF ASHEBORO, a North Carolina municipal corporation,
146 North Church Street, Asheboro, North Carolina 27203

The designation Grantor and Grantee as used herein shall include the said parties and their successors and assigns. The designation shall signify singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH:

WHEREAS, FranSon, L.L.C. owns a parcel of land described by a deed recorded in Deed Book 2156, Page 480, Randolph County Public Registry, and FranSon II, L.L.C. owns a parcel of land described in Deed Book 2156, Page 474; and

WHEREAS, in order to facilitate development activities on and around the above-described parcels, the City of Asheboro is willing to assume public ownership and maintenance responsibilities for a sanitary sewer line that is to be installed on the parcel owned by FranSon, L.L.C. in addition to assuming public ownership and maintenance responsibilities for a water line and fire hydrant to be installed on the parcels of land owned by FranSon, L.L.C. and FranSon II, L.L.C.; and

WHEREAS, the City of Asheboro cannot assume ownership and maintenance responsibilities for this infrastructure unless the sanitary sewer line, water line, and fire hydrant are located within easement areas dedicated to the City of Asheboro; and

WHEREAS, FranSon, L.L.C. and FranSon II, L.L.C. (the "Grantor") have agreed to convey the requisite easements to the City of Asheboro (the "Grantee") in consideration of the benefits to be derived from public ownership and maintenance of the proposed infrastructure and in further consideration of the Grantee's future delivery of a separate quitclaim deed to FranSon, L.L.C. for the purpose of abandoning two (2) sections of sanitary sewer easement areas that are described on a plat of survey recorded in Plat Book 126, Page 100, Randolph County Public Registry.

NOW, THEREFORE, in consideration of the enhanced value of the Grantor's real property as a consequence of the public ownership and maintenance of the above-described infrastructure as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor has and by these presents does grant, bargain, sell, and convey unto the Grantee a permanent right-of-way and easement for the construction, inspection, operation, repair, and maintenance of both a

sanitary sewer line and a water line, including without limitation a fire hydrant, in, along, through, and over the permanent sanitary sewer line and water line easement areas that are more particularly defined and described as follows:

Sanitary Sewer Line Easement Area

Asheboro Township, Randolph County, North Carolina:

All of the 4,902 square feet, more or less, of land identified for a permanent sanitary sewer easement in, along, through, and over the land of FranSon, L.L.C. The acquired easement is labeled as "PROPOSED 20' WIDE CITY OF ASHEBORO SANITARY SEWER EASEMENT AREA" and is shown on a plat of survey prepared by Jerry A. King, Professional Land Surveyor with license number L – 3373. This plat of survey is entitled "PROPOSED WATER AND SEWER EASEMENTS ACROSS PROPERTY OWNED BY FRANSON, L.L.C. & FRANSON II, L.L.C." and is dated August 20, 2010. The said plat of survey, which is identified by Job # 6008 D 10, is recorded in Plat Book 126, Page 100, Randolph County Public Registry.

Water Line Easement Area

Asheboro Township, Randolph County, North Carolina:

All of the 2,000 square feet, more or less, of land identified for a permanent water line easement in, along, through, and over the land of FranSon, L.L.C. and FranSon II, L.L.C. that is labeled as "PROPOSED 20' WIDE CITY OF ASHEBORO WATER LINE EASEMENT AREA" and shown on a plat of survey prepared by Jerry A. King, Professional Land Surveyor with license number L – 3373. This plat of survey is entitled "PROPOSED WATER AND SEWER EASEMENTS ACROSS PROPERTY OWNED BY FRANSON, L.L.C. & FRANSON II, L.L.C." and is dated August 20, 2010. The said plat of survey, which is identified by Job # 6008 D 10, is recorded in Plat Book 126, Page 100, Randolph County Public Registry.

For the sole and only consideration and compensation recited hereinabove, the Grantee is hereby given and shall have the perpetual right, privilege, and easement of going in, upon, and over the above-described easement areas at any and all times deemed necessary or appropriate by the Grantee for the purpose of constructing, operating, inspecting, repairing, and maintaining a sanitary sewer line and water line that includes, without limitation, a fire hydrant. The easement and right-of-way granted herein includes, without limitation, the right and privilege to alter, replace, and expand the capacity of the sanitary sewer line and water line as part of the Municipal Water and Wastewater Systems of the City of Asheboro, North Carolina. This grant of a perpetual right, privilege, and easement over the above-described areas to the Grantee includes without limitation the right of the Grantee to do all things necessary to keep the easement areas cleared of trees, shrubs, undergrowth, buildings, structures, or any other type of obstruction that hinders or interferes with the construction, operation, inspection, repair, and maintenance of the Grantee's sanitary sewer line, water line, and fire hydrant.

THE FURTHER TERMS AND CONDITIONS of the easement herein conveyed are as follows:

1. The Grantor agrees not to plant, cultivate, install, erect, or maintain any tree, shrub, building, structure, or any other type of obstruction in the easement areas that may hinder or interfere with the construction, operation, inspection, repair, and maintenance of the Grantee's sanitary sewer line, water line, and fire hydrant in accordance with generally accepted industry standards.
2. The Grantor agrees not to conduct, permit, or facilitate any grading within the easement areas that would impair the ability of the Grantee to construct, operate, inspect, repair, and maintain its sanitary sewer line, water line, and fire hydrant in accordance with generally accepted industry standards. This agreement specifically includes, without limitation, the prohibition of any grading within the easement areas that would impair or impede the ability of maintenance vehicles to safely and reasonably utilize the easement areas.
3. The Grantee does not waive or forfeit the right to take action to ensure compliance with the terms, conditions, and purposes of this easement agreement as a consequence of prior failures to act to ensure compliance with the terms, conditions, and purposes of the easements granted and conveyed herein.
4. There are no conditions to this deed of easement not expressed herein.

TO HAVE AND TO HOLD the aforesaid rights-of-way and easements and all pipes, connections, and fittings together with all privileges and appurtenances thereunto belonging or in any wise appertaining to said City of Asheboro, North Carolina, and its successors and assigns, forever. The covenants agreed to and the terms, conditions, and restrictions imposed herein shall be binding upon the said Grantor and shall continue as a servitude running in perpetuity with the above-described land.

The undersigned covenants and warrants that they are the sole owners of the described parcels of land; that they solely have the right to convey these easements and rights-of-way; and that they will forever warrant and defend title to the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed under authority given, the day and year first above written.

FRANSON, L.L.C.

By: _____
Frank Edmondson, IV, Manager

FRANSON II, L.L.C.

By: _____
Frank Edmondson, IV, Manager

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

I, _____, a Notary Public of the County and State aforesaid, do hereby certify that Frank Edmondson, IV voluntarily and personally appeared before me this day and acknowledged that he is a Manager of FranSon, LLC, a North Carolina limited liability company, and further acknowledged the due execution of the foregoing instrument on behalf of the limited liability company for the purposes stated therein.

Witness my hand and official stamp or seal, this _____ day of _____, 2010.

Notary Public

My commission expires:

(Name of Notary Public, typed or printed)

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

I, _____, a Notary Public of the County and State aforesaid, do hereby certify that Frank Edmondson, IV voluntarily and personally appeared before me this day and acknowledged that he is a Manager of FranSon II, LLC, a North Carolina limited liability company, and further acknowledged the due execution of the foregoing instrument on behalf of the limited liability company for the purposes stated therein.

Witness my hand and official stamp or seal, this _____ day of _____, 2010.

Notary Public

My commission expires:

(Name of Notary Public, typed or printed)

EXHIBIT B

NORTH CAROLINA QUITCLAIM DEED

Excise Tax: \$0.00

This instrument was prepared by Jeffrey C. Sugg, City Attorney for the City of Asheboro, 146 North Church Street, Asheboro, North Carolina 27203.

After recording, please return this instrument to the Office of the City Attorney, City of Asheboro, Post Office Box 1106, Asheboro, North Carolina 27204-1106.

STATE OF NORTH CAROLINA

COUNTY OF RANDOLPH

THIS DEED is made this ____ day of _____, 2010, by and between the following Grantor and Grantee:

GRANTOR: CITY OF ASHEBORO, a North Carolina municipal corporation,
146 North Church Street, Asheboro, North Carolina 27203

GRANTEE: FRANSON, L.L.C., a North Carolina limited liability company,
2423 Tot Hill Farm Road, Asheboro, North Carolina 27205

The designation Grantor and Grantee as used herein shall include said parties and their successors and assigns, and the designation shall signify singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH:

WHEREAS, the Grantee owns in fee simple a parcel of land that is described in Deed Book 2156, Page 480, Randolph County Public Registry; and

WHEREAS, the Grantee's above-described parcel of land is burdened by two (2) existing 20-foot wide City of Asheboro sanitary sewer easements: One of these easements is recorded in Deed Book 1998, Page 1189, Randolph County Public Registry, and the other easement is recorded in Deed Book 2151, Page 1383, Randolph County Public Registry; and

WHEREAS, the entirety of the easement recorded in deed book 1998 at page 1189 is no longer needed by the City of Asheboro, and a section of the easement recorded in deed book 2151 at page 1383 is no longer needed by the City of Asheboro; and

WHEREAS, FranSon, L.L.C., along with FranSon II, L.L.C., has agreed to grant to the City of Asheboro a new permanent sanitary sewer line easement and a new water line easement to be located on the above-described parcel and an immediately adjoining parcel in consideration of the City of Asheboro abandoning the existing easement areas that are no longer needed by the city; and

WHEREAS, in open session during a regular meeting on September 9, 2010, the Asheboro City Council authorized, by means of a duly adopted resolution, the execution and delivery on behalf of the City of Asheboro (the "Grantor") of this Quitclaim Deed to FranSon, L.L.C. in order to abandon the existing easement areas that are no longer needed by the city.

NOW, THEREFORE, in consideration of the new 20-foot wide sanitary sewer line and water line easements conveyed to the City of Asheboro by means of an easement agreement recorded in Deed Book ____, Page ____, Randolph County Public Registry and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Grantor has remised and released and does hereby remise, release, and forever quitclaim to the Grantee the two (2) abandoned easement areas (hereinafter referred to as the "Easement Areas") described as follows:

Abandoned Easement Area No. 1

Asheboro Township, Randolph County, North Carolina

All of the 166 square feet, more or less, of land identified as a segment of the existing 20-foot wide permanent sanitary sewer easement located in, along, through, and over the land of FranSon, L.L.C. that is to be abandoned and is labeled as "EASEMENT #1 TO BE ABANDONED" on a plat of survey prepared by Jerry A. King, Professional Land Surveyor with license number L – 3373. This plat of survey is entitled "PROPOSED WATER AND SEWER EASEMENTS ACROSS PROPERTY OWNED BY FRANSON, L.L.C. & FRANSON II, L.L.C." and is dated August 20, 2010. The said plat of survey, which is identified by Job # 6008 D 10, is recorded in Plat Book 126, Page 100, Randolph County Public Registry.

With the sole exception of the segment of easement area described in the immediately preceding paragraph, the sanitary sewer easement recorded in Deed Book 2151, Page 1383, Randolph County Registry is unimpaired by this instrument and remains in full force and effect.

Abandoned Easement Area No. 2

Asheboro Township, Randolph County, North Carolina

All of the 2,260 square feet, more or less, of land identified as the existing 20-foot wide permanent sanitary sewer easement located in, along, through, and over the land of FranSon, L.L.C. that is to be abandoned and is labeled as "EASEMENT #2 TO BE ABANDONED" on a plat of survey prepared by Jerry A. King, Professional Land Surveyor with license number L – 3373. This plat of survey is entitled "PROPOSED WATER AND SEWER EASEMENTS ACROSS PROPERTY OWNED BY FRANSON, L.L.C. & FRANSON II, L.L.C." and is dated August 20, 2010. The said plat of survey, which is identified by Job # 6008 D 10, is recorded in Plat Book 126, Page 100, Randolph County Public Registry.

TO HAVE AND TO HOLD the said Easement Areas and all privileges and appurtenances (rights) belonging to the Grantee in fee simple.

The Grantor makes no warranty, express or implied, as to title to the Property.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing instrument as of the day and year first written above.

CITY OF ASHEBORO:

CITY SEAL

By: _____
David H. Smith, Mayor

ATTEST:

Holly H. Doerr, City Clerk

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that Holly H. Doerr personally appeared before me this day and acknowledged that she is the City Clerk for the CITY OF ASHEBORO, a North Carolina municipal corporation, and that, by authority duly given and as the act of the municipal corporation, the foregoing instrument was signed in its name by David H. Smith, its Mayor, sealed with its city seal, and attested by herself as its City Clerk.

Witness my hand and official stamp or seal, this _____ day of _____, 2010.

Notary Public

My commission expires:

(Name of Notary Public, typed or printed)

(g) A municipal agreement covering the purchase of deicing salt from the Department of Transportation, Division of Highways.

[A copy of the above-referenced agreement is on file in the City Clerk's office.]

OLD BUSINESS:

5. Consideration of research pertaining to the state of the law regarding to legislative invocations.

Mr. Sugg summarized his research pertaining to the state of the law regarding legislative invocations. In essence, Mr. Sugg reported that based on his research, non-sectarian legislative prayers are constitutional. Additionally, Mr. Sugg provided three (3) possible options to the council members in efforts to address this issue. These options included the following:

- (i) A council member could pray (non-sectarian prayer) out loud for the entire council.

- (ii) The council could invite different members of the faith community to offer non-sectarian prayer for the benefit of the elected officials.
- (iii) Have a silent prayer.

Mr. Moffitt moved to begin each regular monthly meeting of the city council with a silent prayer for the benefit of the decision makers and continue to follow the existing practice of having a private moment of silent prayer. Dr. Fountain seconded the motion.

After discussion, Council Members Baker, Bell, Fountain, Hunter and Moffitt voted in favor of the motion, while Council Members Burks and Carter voted no.

6. **SUP-10-04: Request for a Special Use Permit for a Congregate Living Facility.** The property of Carillon Assisted Living, LLC is located at 2925 Zoo Parkway and consists of approximately 4.53 acres of land. Randolph County Parcel Identification Number 7669473765 more specifically identifies the property.

Mayor Smith 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, Carillon Assisted Living, requested a Special Use Permit for a congregate living facility to be located at 2925 Zoo Parkway. The Applicant proposed an additional 20 rooms (approximately 36 residents) to be constructed and connected to the existing facility located on Zoo Parkway.

Mr. Mac Whatley, Esq., was sworn in and addressed the four standard tests. Mr. Bob Steenson, Vice President of Carillon Assisted Living, LLC, was also sworn in and presented comments in support of the request. Ms. Becky Johnson, Executive Director of Carillon Assisted Living and Ms. Susan Behr were also sworn in and presented comments in support of the request.

There being no further evidence to present, Mayor Smith 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. Baker and seconded by Ms. Carter, 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 October 7, 2010.

NEW BUSINESS:

7. **Transportation items:**

- (a) **Presentation by Hanna Cockburn with Piedmont Triad Council of Governments of proposed Randolph County Comprehensive Transportation Plan.**

Ms. Cockburn presented a comprehensive transportation plan for Randolph County. A copy of the plan is on file in the City Clerk's office.

- (b) **Consideration of a resolution adopting the proposed Comprehensive Transportation Plan.**

Ms. Cockburn presented and recommended adoption, by reference, of the aforementioned resolution.

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

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COMPREHENSIVE TRANSPORTATION PLAN RESOLUTION OF ADOPTION

Upon careful consideration, a motion was made by Council Member Baker and seconded by Council Member Bell, to adopt the following resolution:

WHEREAS, The City of Asheboro, Randolph County and its other municipalities, the Piedmont Triad Rural Planning Organization, and the Transportation Planning Branch of the North Carolina Department of Transportation have actively worked to develop a Comprehensive Transportation Plan for Randolph County; and

WHEREAS, the Comprehensive Transportation Plan has been developed to serve present and anticipated traffic volumes for all modes within the City and County as directed by General Statutes 136-66.2; and

WHEREAS, the Comprehensive Transportation Plan will aid the City of Asheboro, Randolph County and its other municipalities in accommodating orderly growth and development in the future by providing a seamless guide for the future transportation system;

NOW THEREFORE, BE IT RESOLVED that the City of Asheboro hereby reaffirms and adopts the Comprehensive Transportation Plan as it pertains to the City and further supports the use of the Randolph County Transportation Plan as a guide in the development of the County's future transportation system and further recommends adoption of the plan by the Randolph County Board of Commissioners and the North Carolina Board of Transportation.

Adopted this the 9th day of September, 2010.

s/ David H. Smith
Mayor

s/ Holly H. Doerr
Clerk

8. Land Use Issues:

(a) Designation of the exterior of the following structures as Randolph County Historic Landmarks:

Mayor Smith opened the public hearing on the following requests.

Mr. Hal Johnson, Chairman of the Randolph County Historic Landmark Preservation Commission, presented and recommended adoption, by reference, of ordinances designating the exterior of the Sunset Theater, the J. Frank McCrary House, and the Charles W. McCrary House as historic landmarks in Randolph County.

Mr. Mac Whatley and Mr. Charles Browne presented comments in support of the requests.

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

(i) Sunset Theater, ca. 1929 (234 Sunset Avenue, Randolph County Parcel Identification Number 7751724892).

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

**Ordinance Number 40 ORD 9-10
Ordinance Designating the Exterior of the Sunset Theatre, ca. 1929, which is Owned by the City of Asheboro, 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 Sunset Theatre, ca. 1929, as submitted by the Randolph County Historic Landmark Preservation Commission; and

WHEREAS, the North Carolina Department of Cultural Resources, State Historic Preservation Office, has reviewed the Landmark Application, noting that the Sunset Theatre, ca. 1929, possesses the requisite significance and integrity for local landmark designation; and

WHEREAS, the Randolph County Historic Landmark Preservation Commission and the Asheboro City

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 unanimously adopted a resolution requesting the City of Asheboro to designate the exterior of the Sunset Theatre, ca. 1929, as a local historic landmark; and

WHEREAS, the Asheboro City Council finds that the Sunset Theatre, ca. 1929, 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 Sunset Theatre, ca. 1929, provides a unique and distinctive structure representing an established and familiar visual presence in the City of Asheboro and Randolph County; and

WHEREAS, this property is more specifically described as follows:

The exterior of the Sunset Theatre building located at 234 Sunset Avenue, Asheboro, N.C.; PIN# 77517248921; measuring 50 feet in width, fronting on Sunset Avenue, and measuring 100 feet in depth with a 5,000 square footprint, covering the total parcel.

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

- 1: The property known as the exterior of the Sunset Theatre, ca. 1929, located at 234 Sunset Avenue, within the planning jurisdiction of the City of Asheboro, North Carolina, is hereby designated as a Local Historic Landmark pursuant to Chapter 160A, Article 19, Part 3C, of the North Carolina General Statutes, and by inter-local agreement approved September 4, 2008 between the City of Asheboro and the County of Randolph.
- 2: That the exterior of the Sunset Theatre, ca. 1929, may be materially altered, restored, remodeled, or demolished only following the issuance of a Certificate of Appropriateness from the Historic Landmark Preservation Commission.
- 3: That nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any architectural feature in or on said property that does not involve a change of design, material or outer appearance thereof, after obtaining the necessary permits and official approval for said stated repair. Nothing herein shall prevent the construction, alteration, restoration, demolition, or removal of such feature when a building inspector or similar authorized official certifies to the Historic Landmark Preservation Commission that such action is required for the public safety because of an unsafe condition.
- 4: That a suitable sign may be posted indicating the designation as a Local Historic Landmark and containing appropriate information.
- 5: That the City of Asheboro, owner of the Sunset Theatre, hereby accepts notice as required by the applicable law of this action, and directs that copies of this Ordinance be filed and indexed in the office of the Asheboro City Clerk, the Randolph County Register of Deeds, the Randolph County Tax Department, and both the City and County Planning and Inspections Departments as required by applicable law.

Upon the motion of Council Member Bell , and a second by Council Member Baker , the foregoing Ordinance was passed upon its first reading by a vote of 7 to 0 .

This Ordinance shall be in full force and effect from and after the date of its passage.

**CITY OF ASHEBORO
NORTH CAROLINA**

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

 September 9, 2010
Adoption Date

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

(ii) **J. Frank McCrary House, ca. 1933 (232 Worth Street, Randolph County Parcel Identification Number 7751923546).**

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

Ordinance Number 41 ORD 9-10
Ordinance Designating the Exterior of the J. Frank McCrary House, ca. 1933, which is Owned by Michael & Cristin Johnston, 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 J. Frank McCrary House, ca. 1933, as submitted by the Randolph County Historic Landmark Preservation Commission; and

WHEREAS, the North Carolina Department of Cultural Resources, State Historic Preservation Office, has reviewed the Landmark Application, noting that the J. Frank McCrary House, ca. 1933, possesses the requisite significance and integrity for local landmark designation; and

WHEREAS, the Randolph County Historic Landmark Preservation Commission and the Asheboro City 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 unanimously adopted a resolution requesting the City of Asheboro to designate the exterior of the J. Frank McCrary House, ca. 1933, as a local historic landmark; and

WHEREAS, the Asheboro City Council finds that the J. Frank McCrary House, ca. 1933, 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 J. Frank McCrary House, ca. 1933, provides a unique and distinctive structure representing an established and familiar visual presence in the City of Asheboro and Randolph County; and

WHEREAS, this property is more specifically described as follows:

The exterior of the single family residence located at 232 Worth Street; PIN# 7751923546; Asheboro Township; City of Asheboro, Randolph County, North Carolina..

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

- 1: The property known as the exterior of the J. Frank McCrary House, ca. 1933, located at 232 Worth Street, within the planning jurisdiction of the City of Asheboro, North Carolina, is hereby designated as a Local Historic Landmark pursuant to Chapter 160A, Article 19, Part 3C, of the North Carolina General Statutes, and by inter-local agreement approved September 4, 2008 between the City of Asheboro and the County of Randolph.
- 2: That the exterior of the J. Frank McCrary House, ca. 1933, may be materially altered, restored, remodeled, or demolished only following the issuance of a Certificate of Appropriateness from the Historic Landmark Preservation Commission.
- 3: That nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any architectural feature in or on said property that does not involve a change of design, material or outer appearance thereof, after obtaining the necessary permits and official approval for said stated repair. Nothing herein shall prevent the construction, alteration, restoration, demolition, or removal of such feature when a building inspector or similar authorized official certifies to the Historic Landmark Preservation Commission that such action is required for the public safety because of an unsafe condition.
- 4: That a suitable sign may be posted indicating the designation as a Local Historic Landmark and containing appropriate information.
- 5: That Michael & Cristin Johnston, owners of the J. Frank McCrary House, hereby accept notice as required by the applicable law of this action, and directs that copies of this Ordinance be filed and

indexed in the office of the Asheboro City Clerk, the Randolph County Register of Deeds, the Randolph County Tax Department, and both the City and County Planning and Inspections Departments as required by applicable law.

Upon the motion of Council Member Burks , and a second by Council Member Carter , the foregoing Ordinance was passed upon its first reading by a vote of 7 to 0 .

This Ordinance shall be in full force and effect from and after the date of its passage.

**CITY OF ASHEBORO
NORTH CAROLINA**

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

 September 9, 2010
Adoption Date

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

(iii) Charles W. McCrary House, ca. 1929 (240 Worth Street, Randolph County Parcel Identification Number 7751924513).

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

**Ordinance Number 42 ORD 9-10
Ordinance Designating the Exterior of the Charles W. McCrary House, ca. 1929, which is Owned by Charles T. Browne, 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 Charles W. McCrary House, ca. 1929, as submitted by the Randolph County Historic Landmark Preservation Commission; and

WHEREAS, the North Carolina Department of Cultural Resources, State Historic Preservation Office, has reviewed the Landmark Application, noting that the Charles W. McCrary, ca. 1929, possesses the requisite significance and integrity for local landmark designation; and

WHEREAS, the Randolph County Historic Landmark Preservation Commission and the Asheboro City 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 unanimously adopted a resolution requesting the City of Asheboro to designate the exterior of the Charles W. McCrary, ca. 1929, as a local historic landmark; and

WHEREAS, the Asheboro City Council finds that the Charles W. McCrary House, ca. 1929, 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 Charles W. McCrary House, ca. 1929, provides a unique and distinctive structure representing an established and familiar visual presence in the City of Asheboro and Randolph County; and

WHEREAS, this property is more specifically described as follows:

The exterior of the single family residence located at 240 Worth Street; PIN# 7751924513; Asheboro

Township; City of Asheboro, Randolph County, North Carolina..

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

- 1: The property known as the exterior of the Charles W. McCrary House, ca. 1929, located at 240 Worth Street, within the planning jurisdiction of the City of Asheboro, North Carolina, is hereby designated as a Local Historic Landmark pursuant to Chapter 160A, Article 19, Part 3C, of the North Carolina General Statutes, and by inter-local agreement approved September 4, 2008 between the City of Asheboro and the County of Randolph.
- 2: That the exterior of the Charles W. McCrary House, ca. 1929, may be materially altered, restored, remodeled, or demolished only following the issuance of a Certificate of Appropriateness from the Historic Landmark Preservation Commission.
- 3: That nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any architectural feature in or on said property that does not involve a change of design, material or outer appearance thereof, after obtaining the necessary permits and official approval for said stated repair. Nothing herein shall prevent the construction, alteration, restoration, demolition, or removal of such feature when a building inspector or similar authorized official certifies to the Historic Landmark Preservation Commission that such action is required for the public safety because of an unsafe condition.
- 4: That a suitable sign may be posted indicating the designation as a Local Historic Landmark and containing appropriate information.
- 5: That Charles T. Browne, owner of the Charles W. McCrary House, hereby accepts notice as required by the applicable law of this action, and directs that copies of this Ordinance be filed and indexed in the office of the Asheboro City Clerk, the Randolph County Register of Deeds, the Randolph County Tax Department, and both the City and County Planning and Inspections Departments as required by applicable law.

Upon the motion of Council Member Carter, and a second by Council Member Fountain, the foregoing Ordinance was passed upon its first reading by a vote of 7 to 0.

This Ordinance shall be in full force and effect from and after the date of its passage.

**CITY OF ASHEBORO
NORTH CAROLINA**

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

September 9, 2010
Adoption Date

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

- (b) SUP-10-05: Request for a Special Use Permit for an Agricultural Tourism Facility.**
The property of Randy C. Purvis and Pamela Needham Purvis is located at 1008 Hub Morris Road and consists of approximately 9.72 acres of land. Randolph County Parcel Identification Number 7763511812 more specifically identifies the property.

Mayor Smith 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, Mr. Randy C. Purvis, requested a Special Use Permit authorizing an agricultural tourism facility to be located at 1008 Hub Morris Road.

Mr. Randy C. Purvis was sworn in and addressed the four standard tests.

There being no further comments and no opposition from the public, Mayor Smith 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 Dr. Fountain and seconded by Mr. Burks, 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 October 7, 2010. This order will reflect certain conditions imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

- (c) **RZ-10-13: Request to rezone from R7.5 (Medium – Density Residential) and RA6 (High Density Residential) to OA6 (Office-Apartment).** The property of Karl Rich and Gayle M. Coleman is located at 825 South Cox Street (including the contiguous parcel located to the south) and consists of approximately 0.98 of an acre of land. Randolph County Parcel Identification Numbers 7750893453 and 7750893357 more specifically identify the property.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented the staff's analysis of the request by Karl Rich to rezone the above-described property from R7.5 (Medium-Density Residential) and RA6 (High Density Residential) to OA6 (Office-Apartment). The Planning Board recommended approval of the requested rezoning because the Board concurred with the analysis provided by the planning department staff. The staff's analysis is as follows:

“Although the Land Development Plan proposed land use map proposes neighborhood residential use on this property, several factors support rezoning the property to OA6. The neighborhood residential designation encourages pedestrian friendly neighborhoods. The Land Development Plan map identifies areas adjacent to the property as an activity center which encourages a pedestrian friendly mix of land uses, including multi-family residential and office and institutional. South Cox Street continues to serve as a transitional area between the more intensive commercial uses to the west along South Fayetteville Street and areas to the east that are primarily residential in character. The requested OA6 zoning would continue to accommodate residential use while also allowing office and institutional uses that are of an appropriate scale for this type of transitional area. Additionally, both multi-family residential uses and office and institutional uses are within close proximity to this property, making an OA6 designation appropriate to the context of the area. Considering these factors, staff believes the request generally is consistent with the goals and policies of the land development plan. Staff therefore believes the request is generally within the public interest and supports a reasonable use of the property.”

Mr. Karl Rich presented comments in support of the request.

Ms. Jill Painter, a neighboring property owner, was concerned that the number of apartments existing in the neighborhood would significantly increase along with criminal activity if the rezoning request was approved. Ms. Painter was also concerned that the requested rezoning would negatively impact the value of the neighboring properties within the neighborhood.

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

Upon motion by Mr. Bell and seconded by Mr. Moffitt, Council followed the recommendation of the Planning Board and approved the requested rezoning. Council Members Bell, Baker, Burks, Fountain, Hunter, and Moffitt voted in favor of the motion. Ms. Carter voted no.

- (d) **RZ/CUP-10-14: 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 Multiple Uses.** The property of B&G Properties is located at 1000 Park Drive (including an additional parcel of land located immediately to the east) and consists of approximately 2.897 acres of land. Randolph County Parcel Identification Numbers 7751484500 and 7751485415 more specifically identify the property.

Mayor Smith 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 site plan submitted as part of the application for a Conditional Use Permit. The Applicant, Mr. Glenn King requested the rezoning of the above-described property from R15 (Low Density Residential) zoning to a CU-O&I (Conditional Use Office and Institutional) zoning district. In addition to having the property rezoned, the Applicant requested a Conditional Use Permit for an

office development with multiple uses. The Applicant proposes an 18,000 square foot two-story office structure with multiple office uses to be located at 1000 Park Drive.

As part of his presentation, Mr. Neely certified that a protest petition had been filed with the planning department and was signed by the required number of qualifying property owners. Because a protest petition was submitted in compliance with the Asheboro Zoning Ordinance, a super majority (3/4 of all members) of the City Council must vote affirmatively to approve this rezoning request.

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 designation.

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.”

In contrast to the planning department staff’s analysis, the planning board recommended approval of the requested zoning in “that the property’s location adjacent to a freeway access ramp makes the property more commercial in nature.”

Mr. Glenn King was sworn in and addressed the four standard tests as well as his contention that the above-described property should be placed in a CU-O&I zoning district.

Mr. Anthony Hayes of Lincoln Avenue was sworn in and presented comments and concerns in opposition to the request. Mr. Hayes was concerned with possible storm water runoff issues and preferred that the property remain in a residential zoning district.

Mr. Cliff Maness of Rockridge Road was sworn in and presented comments and concerns in opposition to the request. Mr. Maness felt that the requested office and institutional zoning district would be out of character for the property in question as well as the surrounding neighborhood. Additionally, Mr. Maness was concerned that an increase in traffic within the area would pose problems for the neighboring property owners.

Mr. Hilton Hayes of Chapelgate Lane expressed his concerns for the requested rezoning. Mr. Hayes preferred that the property remain in the residential zoning district.

Mr. Richard Pugh, a neighboring property owner, expressed, in addition to general concerns about the compatibility of the proposed use with the area, his concerns that the requested rezoning would result in additional traffic within close proximity to a future interstate exit ramp. As a former member of the North Carolina Board of Transportation, Mr. Pugh questioned the location of the proposed driveway so close to an exit ramp.

Mr. Tommy Lemonds of Rockridge Road posed his concerns for the requested rezoning and preferred that the property in question remain in the residential zoning district.

There being no further comments or evidence to present, Mayor Smith 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. Bell and seconded by Mr. Burks, Council voted unanimously to deny the requested rezoning. The Council adopted, as its basis for denying the applicant’s requested rezoning, the planning department’s analysis of the rezoning request.

Upon motion by Mr. Moffitt and seconded by Mr. Bell, Council voted unanimously to deny the Conditional Use Permit. 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 October 7, 2010.

- (e) **RZ-10-15: Request to rezone from I2 (General Industrial) to B2 (General Commercial).** The property of the North Carolina Jaycees is located at 315 Country Club Drive and consists of approximately 1.82 acres of land. Randolph County Parcel Identification Number 7750659676 more specifically identifies the property.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented the staff's analysis of the request by Benjamin T. Marsh of the North Carolina Jaycees Foundation to rezone the above-referenced property from I2 (General Industrial) to B2 (General Commercial). The Planning Board recommended approval of the requested rezoning because the Board concurred with the analysis provided by the planning department staff. The staff's analysis is as follows:

"The Land Development Plan proposed land use map categorizes this land as Industrial, and this classification reflects the current zoning of the property. However, the LDP also emphasizes the importance of having a transition between industrial land use and residential (particularly single-family residential land use). The B2 district generally provides a greater transition to the adjoining land uses than the current I2 zoning district. Overall, staff believes the request complies with the overall intent of the Land Development Plan. Considering these factors, staff believes the rezoning generally supports the public interest in allowing a reasonable use of property."

Mr. Benjamin Marsh presented comments in support of the requested rezoning.

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

Upon motion by Mr. Bell and seconded by Ms. Carter, Council unanimously followed the recommendation of the Planning Board and approved the requested rezoning. The Council adopted, as its basis for denying the applicant's requested rezoning, the planning department's analysis of the rezoning request.

- (f) **Discussion of Planning Board recommendations concerning future Planning Board vacancies and Planning Board Rules of Procedure.**

Mr. Neely reported that the Planning Board is continuing to review the process for which vacancies for the board are filled. Once this review process is concluded, the board will forward its recommendations to the Council for review.

With the general consent of the Council, Mayor Smith moved agenda item number 13 to immediately precede agenda item number 9.

9. Prior to presenting his report from the steering committee, former Mayor David Jarrell suggested that the Council should give citizens an opportunity to speak on any agenda item regardless of whether or not there is a scheduled public hearing on the items.

10. Sunset Theatre Items: [Agenda Item Number 13]

- (a) **Report from steering committee**

Former Mayor David Jarrell who is the Chairperson for the steering committee, reported that more than \$300,000 had been raised for the cost of the renovations of the Sunset Theatre in addition to the \$500,000 gift from the Armfield Foundation for a total of \$800,000. More gifts are expected to be given from some of the larger corporations within Asheboro.

Mayor Jarrell felt that by the end of December, 2010, the goal of \$1.2 million will be exceeded. Because the contractual relationship with the Winslow Group has expired, Mayor Jarrell asked the Council to consider extending said contract through December 9, 2010.

Additionally, Mayor Jarrell reported that Larry Davis will be performing in concert on September 26, 2010 at 2:00 p.m. and 4:00 p.m. at the Sunset Theatre. The admission fee will be approximately \$10.00 per person, and all proceeds will go towards the Sunset Theatre project. On November 27, 2010, Lucy Yates and Lane Ragsdale will also be performing in concert.

Mr. David Winslow of the Winslow Group reiterated that, so far, approximately \$800,000 has been raised for the project in addition to approximately \$150,000 that has been promised. Additionally, Mr. Winslow reported that this campaign has been tough because of the current economic conditions in addition to simultaneous campaigns.

(b) Consideration of a request from the steering committee to extend the contractual relationship with the Winslow Group.

Upon motion by Dr. Fountain and seconded by Mr. Bell, Council voted unanimously to extend the contractual relationship with the Winslow Group through December 9, 2010. A copy of the memorandum utilized to extend the contractual relationship is on file in the City Clerk's office.

(c) Consideration of an ordinance to amend the budget to reflect the request submitted by the steering committee.

Upon motion by Dr. Fountain and seconded by Mr. Bell, Council voted unanimously to adopt the following ordinances by reference.

45 ORD 9-10

ORDINANCE TO AMEND THE GENERAL FUND FY 2010-2011

WHEREAS, on October 8, 2009, the City of Asheboro City Council Approved a contract for professional services with the Winslow Group, Inc., and;

WHEREAS, the contract outlined professional compensation of \$95,000 and an estimated \$35,500 in reimbursable expenses associated with managing and directing the fundraising campaign, and;

WHEREAS, the contract period for the above referenced contract was October 2009 through July 2010 and thus has expired, and;

WHEREAS, the Sunset Theatre Fundraising Steering Committee desires to extend the contract for the services of the Winslow Group to assist with wrapping up the campaign, and;

WHEREAS, the contract extension is for the period of September 2010 to December 2010 and outlines professional compensation in the amount of \$22,500 plus reimbursable expenses incurred on behalf of the City, and;

WHEREAS, the steering committee requests that the City of Asheboro provide for this compensation with the expectation that the City of Asheboro will be reimbursed for this and prior fundraising costs out of the donations raised and received prior to renovation of the Sunset Theatre, and;

WHEREAS, the budget as adopted requires amendment to reflect the appropriation of fund balance for this contracted 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 Total Appropriation</u>
10-399-0000	Fund Balance Appropriation	22,500	1,048,821

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>	<u>Amended Budget</u>
10-615-6700	Contribution to Sunset Theater Project	22,500	22,500

Adopted this the 9th day of September 2010.

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

ATTEST:

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

ORDINANCE TO AMEND SUNSET THEATRE PROJECT (FUND #67)

WHEREAS, on October 8, 2009, the City of Asheboro City Council Approved a contract for professional services with the Winslow Group, Inc., and;

WHEREAS, the contract outlined professional compensation of \$95,000 and an estimated \$35,500 in reimbursable expenses associated with managing and directing the fundraising campaign, and;

WHEREAS, the contract period for the above referenced contract was October 2009 through July 2010 and thus has expired, and;

WHEREAS, the Sunset Theatre Fundraising Steering Committee desires to extend the contract for the services of the Winslow Group to assist with wrapping up the campaign, and;

WHEREAS, the contract extension is for the period of September 2010 to December 2010 and outlines professional compensation in the amount of \$22,500 plus reimbursable expenses incurred on behalf of the City, and;

WHEREAS, the steering committee requests that the City of Asheboro provide for this compensation with the expectation that the City of Asheboro will be reimbursed for this and prior fundraising costs out of the donations raised and received prior to renovation of the Sunset Theatre, and;

WHEREAS, the budget as adopted requires amendment to reflect the appropriation of fund balance for this contracted 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>
67-360-0000	Contribution from General Fund	22,500	567,836

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>	<u>Amended Budget</u>
67-840-0000	Professional Services	22,500	343,836

Adopted this the 9th day of September 2010.

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

ATTEST:

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

With the general consent of the Council, Mayor Smith moved the public comment period to this point on the agenda.

11. Public comment period. [Agenda Item Number 12]

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

12. Economic Development Project with Allen Precision Industries: [Agenda Item Number 9]

(a) Consideration of a resolution adopting a procurement plan for this Community Development Block Grant Program Project.

Ms. Fletcher presented and recommended adoption, by reference, of the aforementioned resolution.

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

37 RES 9-10

RESOLUTION FOR THE CITY OF ASHEBORO PROCUREMENT PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

WHEREAS, the City of Asheboro is participating in the Community Development Block Grant Program under the Housing and Community Development Act of 1974 as administered through the North Carolina Department of Commerce; and,

WHEREAS, a Procurement Policy is required for the City's economic development project with Allen Precision Industries, which is receiving funding from the Community Development Block Grant Program;

NOW, THEREFORE BE IT RESOLVED, that to accomplish the above, the Asheboro City Council hereby adopts the attached Procurement Policy (Attachment A) to be used throughout the implementation of this Community Development Block Grant project.

This resolution was duly adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of September, 2010.

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

ATTEST:

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

ATTACHMENT A:

**CITY OF ASHEBORO
PROCUREMENT POLICY FOR THE
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

In the procurement of supplies, equipment or services for the Allen Precision Industries Economic Development Project that is receiving funding from the Community Development Block Grant Program, the following policies shall apply:

- 1) Small purchase procedures. These are relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property, costing in the aggregate not more than \$25,000. Under this procurement method, price or rate quotations shall be obtained from an adequate number of qualified sources. Office supplies and equipment may be secured by this method.
- 2) In competitive sealed bids (formal advertising), sealed bids shall be publicly solicited and a firm, fixed price contract shall be awarded to the responsible bidder whose bid conforming with all the material terms and conditions of the invitation for bids, is lowest in price.
- 3) All aspects of competitive negotiations shall be carried out in conformance with 24 CFR Part 85. The general administrative contract, appraisal contract, surveying contract and all other required services related to the program implementation shall be awarded utilizing this method. Under this method, special consideration shall be given to experience, technical abilities and familiarity with the services to be provided. Price shall not be the sole consideration for award of contract.

On all procurement, efforts shall be made to solicit bids from qualified small, female and minority business firms.

In all cases, procurement under this Policy must conform to the requirements for procurement set forth in 24 CFR Part 85.

An adequate record of procurement must be maintained to insure that these policies and the requirements of 24 CFR Part 85 have been followed in their entirety.

(b) Consideration of a water and sewer assessment policy for this Community Development Block Grant Program Project:

(i) Comment period for the public.

Mr. Lynn Lancaster posed certain questions pertaining to the fees associated with hooking onto the city water and sewer system. Mr. Ogburn and Mr. Bunker addressed these questions and other inquiries from the governing board.

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

(ii) Consideration of the adoption of the proposed policy.

Ms. Fletcher presented and recommended adoption of the proposed water and sewer assessment policy for the Community Development Block Grant Program Project.

Upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to adopt the following assessment policy.



**Allen Precision Industries Site
Water and Sewer Assessment Policy**

The City of Asheboro has received a Community Development Block Grant for Economic Development to provide water and sewer service to Allen Precision Industries on a 19.1 acres site located on Veterans Loop Road in Asheboro, North Carolina. As a condition of this grant, the City is required to adopt an assessment policy regarding future users of the water and sewer lines funded through the grant. These water and sewer lines are designed to meet the immediate needs of Allen Precision Industries and to provide any future development the opportunity for water and sewer service. The assessment policy delineated herein is designed to give the City of Asheboro a mechanism to equitably provide water and sewer service to future users of the lines constructed through the CDBG-ED Grant.

1. Future residential users connecting to the water and/or sewer expansion funded through the CDBG-ED shall be required to pay an assessment fee of \$100.00 per bathroom to the City of Asheboro. Commercial, industrial, governmental or institutional users connecting to the water and/or sewer extension funded through the CDBG-ED shall be required to pay an assessment fee of \$500.00 per acre to the City of Asheboro. This fee is in addition to normal tap fees and shall be paid in full prior to connection to the water and/or sewer lines. Fees will be reviewed from time to time as appropriate.
2. The assessment fee required in Section 1 shall not be imposed on any business that is owned by low and moderate income individuals, or any residence that is owned or occupied by low and moderate income individuals. This assessment fee shall be waived by the City of Asheboro for any business that ties into the service that presently employs greater than 60% low or moderate income persons and/or will create new jobs of which 60% of positions will be filled by low and moderate income persons.
3. The City of Asheboro reserves the right to reduce the assessment fee charged to any future users based on the economic impact on the City's overall economy.
4. All revenue generated by this assessment policy prior to completion of the project shall be used to reduce the amount of the CDBG-ED funds. Fifty percent of all revenue generated by the assessment policy thereafter shall, for a period of five years, be returned to the CDBG Program at the Commerce Finance Center for funding of future economic development projects. The fifty percent retained by the City shall be used to finance future capital improvements to the City's water system with priority placed upon improvements to benefit persons of low and moderate income.

ADOPTED this 9th day of September, 2010.

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

Mr. Bunker presented and recommended adoption, by reference, of an ordinance/order to permanently close a certain section of the right-of-way for Veterans Loop Road.

Upon motion by Mr. Baker and seconded by Mr. Burks, Council voted unanimously to adopt the following ordinance/order by reference.

CITY OF ASHEBORO STREET CLOSURE ORDINANCE NO. 43 ORD 9-10

STATE OF NORTH CAROLINA

COUNTY OF RANDOLPH

**IN RE THE PERMANENT CLOSURE OF A
CERTAIN SECTION OF THE RIGHT-OF-WAY
FOR VETERANS LOOP ROAD**

)
) **ORDER**
)
)
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WHEREAS, pursuant to the provisions of Section 160A-299 of the North Carolina General Statutes, the City Council of the City of Asheboro adopted on the 8th day of July, 2010, during a regular meeting, a resolution (27 RES 7-10) declaring the intent of the City Council to permanently close a section of the right-of-way for Veterans Loop Road; and

WHEREAS, Resolution Number 27 RES 7-10 properly called for a public hearing to be held during the Asheboro City Council's regular meeting, which would begin at 7:00 o'clock p.m., on the 9th day of September, 2010, in the Council Chamber of the City of Asheboro Municipal Building located at 146 North Church Street in Asheboro on the question of whether the proposed permanent street closure would be detrimental to the public interest or the property rights of any individual; and

WHEREAS, pursuant to Section 160A-299 of the North Carolina General Statutes, the said resolution of intent was published in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, Randolph County, North Carolina, once a week for four successive weeks (this notice was published on August the 12th, 19th, and 26th as well as on September the 2nd of 2010) prior to the public hearing called on the question of the permanent closure of the described section of the right-of-way for Veterans Loop Road; and

WHEREAS, a copy of the said resolution of intent was sent by certified mail to all of the property owners, as determined by reviewing the county tax records, adjoining Veterans Loop Road. These property owners are more particularly identified as follows:

1. Charles L. and Deann Tuttle
2. Thomas A. and Barbara Luther
3. North Carolina Department of Transportation (formerly known as State Highway & Public Works Commission)
4. David Lee Luther
5. Thayer & Neely c/o Harper Thayer
6. Thomas Alton and Erin Labree Lucas
7. Robin Craven Moffitt and Others
8. William F. and Janet A. Tyler and Others
9. George Henry Rider
10. Tom Luther and Others
11. Thayer, Thayer, & Neely c/o Harper Thayer
12. T.E. Luther Heirs
13. R.E. Blakely, P.E., District Engineer with North Carolina Department of Transportation's Division of Highways

WHEREAS, notice of the Asheboro City Council's intention to permanently close the described section of Veterans Loop Road, as well as the call for a public hearing on the question of the proposed street closure, was prominently posted in two places along the section of right-of-way for Veterans Loop Road for which permanent closure is proposed; and

WHEREAS, after holding the above-described public hearing, the Asheboro City Council has concluded that the permanent closure of the described section of right-of-way for Veterans Loop Road is not contrary to the public interest and that no individual owning property in the vicinity of the proposed

street closure would be deprived of reasonable means of ingress and egress to his or her property by such closure.

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

Section 1. The section of irrevocably dedicated right-of-way for Veterans Loop Road, which is specifically described herein, is hereby permanently closed. As of the date of adoption of this ordinance, the closed section of the right-of-way for Veterans Loop Road is located within the corporate limits of the City of Asheboro. The street right-of-way permanently closed by this ordinance is more particularly described by metes and bounds as follows:

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING at a point in the eastern margin of the 60-foot right-of-way for Veterans Loop Road (North Carolina Secondary Road 1149) near the western terminus of the existing road, the said beginning point is located by means of the North Carolina Coordinate System at the coordinates of North 697,162.98521 feet and East 1,752,155.53841 feet (NAD 83); thence from the said beginning point along the eastern margin of the right-of-way for Veterans Loop Road the following course and distance: South 01 degree 33 minutes 02 seconds East 190.18 feet to a point not set; thence in a southeasterly direction along the arc of a curve with a radius of 40.00 feet and an arc length of 31.82 feet a chord bearing and distance of South 24 degrees 20 minutes 14 seconds East 30.98 feet (Tangent = 16.80 feet and Delta Angle = 45 degrees 34 minutes 23 seconds) to a point not set; thence continuing to follow the margin of the right-of-way for Veterans Loop Road in a southwesterly direction along the arc of a curve with a radius of 60.00 feet and an arc length of 283.94 feet a chord bearing and distance of South 88 degrees 26 minutes 58 seconds West 84.00 feet (Tangent = 0.00 feet and Delta Angle = 271 degrees 08 minutes 46 seconds) to a point not set; thence in a northeasterly direction along the arc of a curve with a radius of 40.00 feet and an arc length of 31.82 feet a chord bearing and distance of North 21 degrees 14 minutes 09 seconds East 30.98 feet to a point not set; thence along the western margin of the right-of-way for Veterans Loop Road the following course and distance: North 01 degree 33 minutes 02 seconds West 190.26 feet to a point not set; thence following the proposed new terminus of the right-of-way for Veterans Loop Road in a northeasterly direction along the arc of a curve with a radius of 60.00 feet and an arc length of 62.83 feet a chord bearing and distance of North 88 degrees 31 minutes 37 seconds East 60.00 feet (Tangent = 34.64 feet and Delta Angle = 60 degrees 00 minutes 00 seconds) to the point and place of the BEGINNING, and being all of that certain 0.536 of an acre (23,332 square feet) of land, more or less, encompassed by the preceding metes and bounds description, specifically including the right-of-way for the above-described section of Veterans Loop Road. The right-of-way to be permanently closed is shown on the plat of survey referenced below.

This description is in accordance with a plat of survey entitled "ROAD CLOSING FOR THAYER THAYER & NEELY" that was drawn under the supervision of Jerry A. King, a Professional Land Surveyor with registration number L-3373. This plat of survey, which is identified as Job # 5968 A 10 and is dated July 1, 2010, is hereby incorporated into this resolution by reference as if copied fully herein.

Section 2. This ordinance shall take effect and be in force from and after the date of its adoption.

Section 3. Any person aggrieved by the permanent closure of the above-described section of the right-of-way for Veterans Loop Road may appeal the adoption of this ordinance and order to the General Court of Justice of Randolph County, North Carolina within thirty (30) days after the adoption of the ordinance and order.

Section 4. In the event there is no appeal within thirty (30) days after the adoption of this ordinance and order, a certified copy of this ordinance and order shall be filed in the Office of the Register of Deeds of Randolph County, North Carolina as provided by law.

This ordinance and order was adopted in open session during a regular meeting of the Asheboro City Council that was held on the 9th day of September, 2010.

CITY SEAL

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

ATTEST:

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

14. Consideration of a petition received from Eric M. and Emma B. Hicks requesting contiguous annexation of 0.478 of an acre of land located at 999 Sherwood Avenue. [Agenda Item Number 11]

Mayor Smith opened the public hearing on the request for contiguous annexation of 0.478 of an acre of land located at 999 Sherwood Avenue.

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

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

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

**Ordinance Number 44 ORD 9-10
ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF ASHEBORO, NORTH CAROLINA
(0.478 of an Acre of Land Located at 999 Sherwood Avenue)**

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition for annexation of the territory described in Section 1 of this ordinance into the corporate limits of the City of Asheboro was presented to the Asheboro City Council on August 5, 2010; and

WHEREAS, this petition for annexation was signed by the owners of all of the real property located within the area for which annexation was requested; and

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

WHEREAS, pursuant to instructions received from the Asheboro City Council, notice was published to the public on the 19th day of August, 2010, in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held during the Asheboro City Council's regular September meeting, which would begin at 7:00 o'clock p.m. on the 9th day of September, 2010, at the City of Asheboro Municipal Building, to consider the adoption of an ordinance annexing the said area to the City of Asheboro; and

WHEREAS, the said public hearing was held on the 9th day of September, 2010; and

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

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

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

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe set in the southern margin of the 60-foot right-of-way for Sherwood Avenue (North Carolina Secondary Road 1204) at the northwest corner of the Eric M. Hicks and wife, Emma B. Hicks property described in Deed Book 1081, Page 145, Randolph County Public Registry, the said existing iron pipe is located by means of the North Carolina Coordinate System at the coordinates of North 704,489.509 feet and East 1,751,351.600 feet (NAD 83); thence from the said beginning point along the southern margin of the right-of-way for Sherwood Avenue the following course and distance: South 84 degrees 21 minutes 46 seconds East

100.32 feet to an existing iron pipe that is located by means of the North Carolina Coordinate System at the coordinates of North 704,479.654 feet and East 1,751,451.435 feet (NAD 83); thence along the Hubert V. Henderson, Jr. property described in Deed Book 1758, Page 1953, Randolph County Public Registry the following course and distance: South 05 degrees 45 minutes 26 seconds West 200.80 feet to an existing iron pipe that is located by means of the North Carolina Coordinate System at the coordinates of North 704,279.867 feet and East 1,751,431.292 feet (NAD 83); thence along the existing primary corporate limits line for the City of Asheboro the following course and distance: North 84 degrees 50 minutes 00 seconds West 109.01 feet to an existing iron pipe that is located by means of the North Carolina Coordinate System at the coordinates of North 704,289.684 feet and East 1,751,322.724 feet (NAD 83); thence along the Garner & Son, LLC property described in Deed Book 2014, Page 2390, Randolph County Public Registry the following courses and distances: North 09 degrees 48 minutes 07 seconds East 89.99 feet to an existing iron pipe that is located by means of the North Carolina Coordinate System at the coordinates of North 704,378.358 feet and East 1,751,338.044 feet (NAD 83); thence North 06 degrees 57 minutes 13 seconds East 111.97 feet to the point and place of BEGINNING, and containing 0.478 of an acre of land, more or less, to be annexed.

The above-listed description is in accordance with a plat of survey entitled "Annexation Survey City Of Asheboro Plat Prepared For Eric M. Hicks & Emma B. Hicks." This plat was drawn under the supervision of Michael R. Stout, Professional Land Surveyor with Registration Number L-3492, from an actual survey made under his supervision. The said plat is dated July 26, 2010, and the job number listed on the plat is 10-Erick Hicks-01.

Section 2. Upon and after September 9, 2010, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

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

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

Section 5. This ordinance shall be in full force and effect upon and after the 9th day of September, 2010.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting of the council that was held on the 9th day of September, 2010.

CITY SEAL

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

ATTEST:

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

Approved as to form:

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

15. Consideration of changes in the city's regulatory approach to the discharge of firearms and other weapons within the corporate limits of the city. [Agenda Item Number 14]

Mr. Ogburn presented an overview of certain sections of the Code of Asheboro pertaining to animal control and discharging weapons. Mr. Ogburn reported that the Council would have to modify the current prohibition of discharging weapons within the city limits if the council wished to allow limited deer hunting and to participate in the urban archery season for deer. As an example, Mr. Ogburn utilized a power point presentation in order to present the rules for an urban archery season that are in place in Sanford, North Carolina.

With the general consent of the council, the city attorney will draft a preliminary ordinance for council's review and discussion. Said draft will be presented to the Council at its special meeting that is scheduled for September 23, 2010.

This ordinance will be restrictive of hunting and discharging weapons. Council members can then offer additional guidance for making the proposed ordinance more or less permissive of hunting within the city and on city property.

16. Consideration of a resolution aligning the compensation for members of the Asheboro ABC Board with an amendment to the North Carolina General Statutes that becomes effective October 1, 2010. [Agenda Item Number 15]

At the request of staff, the Council gave its general consent to continuing the above-referenced item to the Council's special meeting that is scheduled for Thursday, September 23, 2010.

17. Upcoming Events: [Agenda Item Number 16]

- City Council workshop on Thursday, September 23, 2010 at 5:00 p.m. in the City Council Chamber
- Elected officials picnic on Wednesday, September 29, 2010 from 6:30 p.m until 8:00 p.m. at the Randleman Regional Reservoir Marina, hosted by Randolph County. (A van will leave City Hall at 6:00 p.m.)

There being no further business, the meeting was adjourned at 10:49 p.m.

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

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