

**ASHEBORO CITY COUNCIL  
COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, NOVEMBER 10, 2011  
7:00 p.m.**

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

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

John N. Ogburn, III, City Manager  
Dumont Bunker, P.E., City Engineer  
John L. Evans, Senior Planner  
Tamela D. Garner, Permits Technician/Deputy City Clerk  
Justin T. Luck, Zoning Administrator/Planner  
Bradley W. Morton, Planning Technician/Deputy City Clerk  
R. Reynolds Neely, Jr., Community Development Director  
Deborah P. Reaves, Finance Director  
Jeffrey C. Sugg, City Attorney  
Sanford A. Vuncannon, Jr., 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 and/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 Ms. Carter, the City Council voted unanimously to approve the following consent agenda items:

- (a) The minutes of the City Council's regular meeting on October 6, 2011.**
- (b) The minutes of the City Council's special joint meeting with the Randolph County Board of Commissioners on November 3, 2011.**
- (c) Findings of fact, conclusions and order pertaining to land use case file no. CUP-11-15 .**

Case No. CUP-11-15  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF ANTHONY AND MARY HARRELL FOR A CONDITIONAL  
USE PERMIT AUTHORIZING MULTIPLE FAMILY DWELLING UNITS WITH A  
FLOOR AREA RATIO OF UP TO .17

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

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THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council that was held on October 6, 2011. 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. Anthony and Mary Harrell (hereinafter referred to as the "Applicants") have properly submitted an application for a legislative rezoning of approximately 0.562 of an acre of land that, if approved, would place the property in a CU-RA6 zoning district, which is also known as a conditional use high-density residential zoning district. When the Applicants applied for this legislative rezoning, they also filed an application for a Conditional Use Permit that would allow the use of this land for multiple family dwelling units with a floor area ratio of up to .17, more specifically three (3) residential dwelling units within existing structures.

2. The land for which the above-stated rezoning and Conditional Use Permit have been requested is located at 306 Northwood Drive and is more specifically identified by Randolph County Parcel Identification Numbers 7753859326 and 7753859464.

3. These parcels of land (hereinafter collectively referred to as the "Zoning Lot") are currently located in a Conditional Use B2 zoning district. The existing Conditional Use Permit allows an automotive garage as well as land uses permitted in the R10 zoning district.

4. 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 Neighborhood Residential.

5. Under the provisions of the Asheboro Zoning Ordinance, the land use identified as multiple family dwelling units with a floor area ratio up to .17 is permitted in the RA6 zoning district, not in the B2 zoning district.

6. Prior to formally evaluating the evidence submitted in support of the requested Conditional Use Permit, the Council rezoned the Zoning Lot from a CU-B2 (Conditional Use General Commercial) zoning district to a CU-RA6 (Conditional Use High-Density Residential) zoning district. The Council legislatively rezoned this property because the Council agreed with the Planning Board's adoption of the following analysis from the Community Development Division staff:

Although the neighborhood residential zoning district is intended to limit multi-family residential development, the proposed RA6 zoning district more closely complies with the intent of the "neighborhood residential" designation than the commercial use of the property that the current CU-B2 zoning allows. Additionally, the land development plan emphasizes incorporation of transitional zoning between industrial uses and single-family residential uses. The RA6 district can serve as a more appropriate transitional zone at this location than a commercial zoning district, due to the primarily residential nature of properties along Northwood Drive. Furthermore, the conditional use permitting process can ensure that the proposed development will be in harmony with the neighborhood. Considering all of these factors, staff believes that the proposed rezoning provides for the public health, safety, and general welfare, and allows a reasonable use of the property.

7. The current use of the Zoning Lot includes a two-family residence and a vacant accessory structure. The Applicants wish to convert the accessory structure to a residential unit. If approved, the proposed conversion would result in a total of three (3) residential units on the Zoning Lot.

8. No new structures or additions to existing structures are proposed. The Applicants intend to utilize existing structures for the proposed land use.

9. No new lighting is requested for the proposed land use.

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

11. Northwood Drive is a city-maintained street.

12. The area around the Zoning Lot is characterized by a mix of single-family and two-family dwellings with industrial uses to the north and west. A manufactured home park is located south of Northwood Drive. To the immediate east of the Zoning Lot, there are four (4) two-family residential dwellings on one zoning lot (eight (8) units total) and two (2) two-family dwelling units on another zoning lot (four (4) units total).

13. Consistent with Article 800 (Nonconforming Situations) of the Asheboro Zoning Ordinance, there are several legal non-conforming situations that exist on the Zoning Lot. A driveway is shared, and documented in the chain of title, between the Zoning Lot and the single-family residential structure to the west. The parking spaces and maneuvering areas are unpaved, and the parking areas are situated in a manner that encroaches into the landscaped buffer area. However, this configuration of the driveway, parking spaces, and maneuvering areas is a legal nonconforming situation that may continue.

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

15. Mrs. Mary Harrell offered uncontroverted testimony, which was supported by a letter from retired realtor Vickie Lorimer, that the proposed land use would not damage the value of adjoining properties.

16. No testimony was offered in opposition to the Applicants' 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 Applicants' 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

Anthony and Mary Harrell are hereby issued a Conditional Use Permit that authorizes three (3) residential dwelling units within existing structures on the Zoning Lot. For purposes of evaluating the authorized land use under Table 200-2 of the Asheboro Zoning Ordinance, the authorized land use is identified as multiple family dwelling units with a floor area ratio of up to .17. The site plan submitted and approved during the hearing of this matter on October 6, 2011, 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 Applicants, and their 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. Due to an existing legal non-conforming situation, the driveway shown on the site plan encroaches into the buffer required on the western portion of the property. To the maximum extent possible, the required buffer shall be maintained within the area not encroached upon by the driveway shown on the site plan. Any additional required plantings shall be installed within fifteen feet (15') of the western property boundary as shown on the approved site plan.

2. Due to an existing legal non-conforming situation, parking areas (including access, parking spaces, and maneuvering areas, on the property are unpaved.

The access driveway, as shown on the approved site plan, shall provide access to the residential dwellings shown on the site plan and shall, at a minimum, provide all-weather driving capabilities. The validity of the Conditional Use Permit requires the continued maintenance of the driveway shown on the site plan in a state of repair that provides reasonable access to public safety officials and vehicles during all seasons of the year.

The parking areas not encompassed by the access driveway shall also, at a minimum, provide all-weather driving capabilities. If the Applicants choose to pave the parking areas (including access, parking spaces, and maneuvering areas) at a later date, such action would not be considered a modification of the Conditional Use Permit so long as such paving is completed in a manner that satisfies the regulations and specifications found within the Asheboro Zoning Ordinance and any other applicable legal authority.

3. Additions to the existing structures or the placement of an accessory structure or structures utilized for residential use and permitted by right in the RA6 zoning district shall not be deemed to be a modification of the Conditional Use Permit so long as the number of residential dwelling units is not increased and all of the regulations and specifications of the Asheboro Zoning Ordinance and any other applicable legal authority are met.

4. Prior to the issuance of a Zoning Compliance Permit for the approved land use, the owner(s) of the Zoning Lot shall properly execute for recordation in the office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Conditional Use Permit in the chain of title for the Zoning Lot.

The foregoing findings, conclusions, and order were adopted by the Asheboro City Council in open session during a regular meeting held on the 10<sup>th</sup> day of November, 2011.

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

ATTEST:

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

- (d) **A request from the Asheboro/Randolph Chamber of Commerce to temporarily close the following streets for the annual Christmas parade that is scheduled to begin at 7:00 p.m. on Friday, December 2, 2011: West Kivett Street between South Fayetteville Street and South Church Street, South Church Street between Sunset Avenue and West Walker Avenue, Sunset Avenue between Church Street and Fayetteville Street, and Fayetteville Street between Salisbury Street and Kivett Street.**
- (e) **A request from the Asheboro/Randolph Chamber of Commerce's Downtown Development Committee to temporarily close the following streets for the "Christmas on Sunset" street festival that is scheduled for December 9, 2011, between the hours of 6:00 p.m. and 9:00 p.m.: Sunset Avenue between Park Street and Fayetteville Street along with Church Street between West Academy Street and Hoover Street.**
- (f) **An amendment to Resolution No. 36 RES 10-11, which was originally adopted on October 6, 2011, in order to make technical corrections to the descriptions of certain surplus personal property that is to be sold at public auction on November 19, 2011.**

**RESOLUTION AMENDING SCHEDULE A OF RESOLUTION NO. 36 RES 10-11  
IN ORDER TO MAKE CERTAIN TECHNICAL CORRECTIONS**

**WHEREAS**, Resolution No. 36 RES 10-11 was originally adopted by the Asheboro City Council on October 6, 2011, in order to authorize the City Manager to dispose of surplus city-owned personal property by means of a public auction to be conducted on November 19, 2011; and

**WHEREAS**, the items of surplus personal property to be sold at public auction were identified on Schedule A, which was attached to Resolution No. 36 RES 10-11; and

**WHEREAS**, a subsequent review of the titles for the surplus vehicles revealed that auction item numbers 156 and 162 identified surplus vehicles by vehicle identification numbers that were incorrect, and auction item numbers 163 and 168 identified surplus vehicles by model years that were incorrect; and

**WHEREAS**, in the interest of maintaining accurate records and in furtherance of good property control practices, the City Manager wishes to have these clerical errors corrected prior to the date of the public auction;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro, North Carolina that auction item numbers 156, 162, 163, and 168, which were originally incorrectly listed on Schedule A of Resolution Number 36 RES 10-11, are hereby amended to provide as follows:

Auction Item No. 156	2004 Ford Crown Victoria	VIN 2FAHP71WX4X124655
Auction Item No. 162	1994 Chevrolet Camaro	VIN 2G1FP22S9R2191924
Auction Item No. 163	2002 Ford Crown Victoria	VIN 2FAFP71W22X111693
Auction Item No. 168	2002 Ford Crown Victoria	VIN 2FAFP71W42X111694

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on November 10, 2011.

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

ATTEST:

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

**(g) A Supplemental Municipal Agreement with the North Carolina Department of Transportation for the purchase of deicing salt.**

The approved agreement pertains to the purchase and loading of highway deicing salt. The Supplemental Agreement provides that the city will reimburse the North Carolina Department of Transportation (NCDOT) for deicing salt within sixty (60) days of billing by NCDOT. Billing will be based on the NCDOT's inventory price and/or replacement cost, whichever is greater, and actual quantities purchased. The estimated cost to the city is \$85.22 per ton.

A copy of the approved Supplemental Agreement is on file in the City Clerk's office.

**(h) Acknowledgment of the receipt of the minutes of the Asheboro ABC Board meeting that was held on October 3<sup>rd</sup>, 2011.**

A copy of the minutes received from the Asheboro ABC Board is on file in the City Clerk's office.

**Old Business:**

**5. SUB-11-02 and SUP-11-02: Items related to a planned unit development (PUD) consisting of single-family residential development.**

These land use cases pertain to a previously opened combined public hearing on applications for variances from the subdivision ordinance, subdivision sketch design review, and a special use permit that have been submitted in order to obtain approval for the development of a PUD consisting of single-family residential development on approximately 57.47 acres of land owned by Gerald D. Hedrick and Ann Hedrick and Carrington Hills, II, Inc. The site of the proposed development is located west of the intersection of Abby Lane with Westminster Court and is more specifically identified by Randolph County Parcel Identification Numbers 7741432762, 7741338154, and 7741434336.

Mr. Neely testified that Mr. Alan V. Pugh, Esq., who is representing the applicant, and Mr. R. Thompson Wright, Esq., who is representing certain adjoining property owners that have previously expressed opposition to the proposed PUD, have informed him via telephone and email correspondence that they are working on a potential plan to resolve neighborhood concerns and opposition. In order to provide the parties with time to resolve these issues, the parties have jointly requested that the City Council continue this public hearing to the next regular City Council meeting on December 8, 2011.

No one appeared in opposition to the requested continuance.

Upon a motion by Mr. Bell and seconded by Mr. Baker, the City Council voted unanimously to continue this matter to the next regular City Council meeting on December 8, 2011.

**New Business:**

**6. Community Development Items:**

**(a) RZ-11-17: Rezone property at 164 Henley Country Road from B2 (General Commercial) to I2 (General Industrial).**

Mayor Smith opened the public hearing on this item.

The requested rezoning pertains to approximately 1.33 acres of land owned by McKenzie Properties and Investments, LLC and located at 164 Henley Country Road. This property, which is located outside of the city limits, is more specifically identified by Randolph County Parcel Identification Number 7771267890.

Mr. Neely presented the staff report on this request to rezone the property from B2 to I2.

Henley Country Road is a state maintained major thoroughfare (SR 2215). The Land Development Plan Growth Strategy Map designates the area in which this property is located as an economic development area (EDA). The Land Development Plan describes such an area as

having "prime access to a major thoroughfare and/or highway interchange, with high potential for economic development expansion. Suitable economic development sites within EDAs should be given a high level of encouragement and incentives as provided by policy 1.2.3,"

The proposed land use map designates this property as an employment center. The Land Development Plan describes the intent of an employment center "to integrate a mixture of commercial, office and institutional, industrial, and open space uses into the fabric of the community, with ample sidewalks, street trees, on-street parking, public amenities, and open space."

A mix of commercial, residential, and industrial uses are in the vicinity. The request is to place the applicant's property in an I2 zoning district. No site specific uses or development plans are considered with this request.

The Community Development Division staff recommendation is to approve this request. The property is designated by the Land Development Plan proposed land use map and East Small Area Plan as part of an employment center. The Land Development Plan toolkit incorporates a mix of office and institutional, commercial, and industrial uses into an employment center, and zoning the property for industrial use is consistent with this designation and may allow for additional economic development opportunities to be fully realized when the necessary infrastructure (i.e. public water and sewerage) becomes available. Considering these factors, staff believes that the rezoning request is generally within the public interest in supporting a reasonable use of property.

The Planning Board concurred with the staff's analysis and recommended approval of the requested rezoning.

Mr. Larry McKenzie spoke in support of the rezoning application. Mr. McKenzie also informed the City Council that he has spoken with neighbors and found no opposition.

With no one else wishing to speak for or against this item, Mayor Smith closed the public hearing.

On the basis of the analysis and favorable recommendation received from the Community Development Division staff and the Planning Board, Mr. Moffitt moved to approve the requested rezoning. Mr. Bell seconded this motion, and the city council voted unanimously to approve the request.

A copy of Mr. Neely's presentation is on file in the City Clerk's office.

**(b) SUP-11-03 and SUB-11-03: Items related to a Planned Unit Development (PUD) consisting of single-family residential development.**

Mayor Smith opened the public hearing on this application for the Special Use Permit and subdivision sketch design approval that is needed in order for the developer, Larry McKenzie, to proceed with the development of a PUD consisting of single-family residential development on approximately 2.682 acres of land that is owned by the applicant and is located along the south side of Sherwood Road, immediately west of 1767 and 1801 Fairway Road. This property is identified as Tract # 3 on a plat of survey recorded in the office of the Randolph County Register of Deeds in plat book 121 at page 89.

Mr. Neely was sworn in and presented the Community Development Division's analysis of the Special Use Permit (file no.SUP-11-03) and sketch design approval (file no.SUB-11-03) sought by the developer for this project that is referred to as the Fairway Townhomes Planned Unit Development.

The proposed use is a residential planned unit development consisting of seven (7) two-family structures with a total of fourteen (14) residential units. The applicant's property is located within the city limits, and city services will be available for the proposed residential units. Fairway Road and Sherwood Road are both city maintained streets.

The street to be constructed within the development, which is identified as Bogey Lane on the combination sketch design plat/site plan, is to be a private street maintained by the Homeowners Association. Due to the fact that the property owner located at the terminus of this proposed private street does not need additional access to a public street and has residential construction plans that are incompatible with the construction of a public street across his lot, the City Council had no objections to the applicant's plans to develop Bogey Lane as a private street.

The applicant's property is split by two (2) zoning districts. A portion of the property is zoned R7.5 (Medium-Density Residential), and the other portion of the property is zoned OA6 (Office Apartment). The portion of the property located within the OA6 zoning district requires authorization under a Special Use Permit for a floor area ratio in excess of 0.17. The floor area ratio permitted by such a permit cannot exceed 0.22. The applicant has requested authorization to exceed the 0.17 floor area ratio.

In order to address concerns that were identified during the process of preparing a staff analysis, the Community Development Division staff recommended to the City Council the attachment of the following conditions to any Special Use Permit that may be issued for the proposed development:

- (a) All permits from the North Carolina Department of Environment and Natural Resources shall be obtained as required.
- (b) Significant existing vegetation (as indicated on the site plan) shall be preserved where possible. Clearing and grading shall be permitted where necessary for the installation of infrastructure and required improvements as well as where necessary for the construction of any structures authorized by the Special Use Permit.
- (c) Fire hydrant location(s) shall be coordinated with the Asheboro Fire Department.
- (d) Homeowners' documents prohibiting recreational vehicle (including boat) parking as required by the subdivision ordinance shall be submitted and recorded with the final plat.
- (e) All roads, driveways, parking areas, storm sewer systems, and other improvements shall be maintained by the homeowners' association.
- (f) The enclosure of patios shall not be permitted.
- (g) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute, and deliver to the Zoning Administrator for recordation in the office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Special Use Permit in the chain of title for the Zoning Lot.
- (h) The approval of this Special Use Permit incorporates the revised site plan/sketch plat dated 11-10-11.

The average lot size of the fourteen (14) lots within the proposed subdivision is two thousand two hundred twenty-four (2,224) square feet. A passive recreation area with outdoor seating is proposed for the development.

The written analysis prepared by city staff as part of the sketch design review process commented that (i) instruments restricting RV parking in accordance with the applicable city ordinance provisions shall be submitted and recorded with the final plat and (ii) fire hydrant location(s) shall be coordinated with the Asheboro Fire Department.

With these comments, city staff and the Planning Board recommended approval of the sketch design plat.

Mr. Larry McKenzie was placed under oath and testified in support of his request for a Special Use Permit and sketch design approval.

Mr. Forrest Hardwick, who owns an adjoining parcel of land at 725 Sherwood Road, affirmed the truthfulness of his testimony and testified as to his concerns about the effectiveness of the proposed buffer between his property and the entrance to the proposed development.

With there being no one else to speak on this matter, Mayor Smith closed the public hearing.

After discussing the evidence that had been received, including a revised site plan/sketch design plat dated November 10, 2011, reflecting corrections to errors noted by city staff on the previous site plan/sketch design plat submitted earlier in the application process, Mr. Baker moved to find that the applicant, with the imposition of the staff recommended conditions along with additional conditions pertaining to the installation and maintenance of plantings as screening between the planned unit development and Mr. Hardwick's lot, had satisfied the standards for the issuance of the requested Special Use Permit. Mr. Hunter seconded this motion, and the City Council voted unanimously to approve the requested Special Use Permit.

Written findings, conclusions, and an order issuing the requested Special Use Permit will be adopted during the next regular meeting of the City Council on December 8, 2011. The written order authorizing the requested Special Use Permit will contain the final list of conditions attached to this permit. A copy of Mr. Neely's power point presentation is on file in the City Clerk's office.

With regard to the subdivision sketch design review, Dr. Fountain moved to approve, with conditions, the revised sketch design plat dated November 10, 2011. The conditions attached to the approval of the sketch design plat were the following: (i) Instruments restricting RV parking in accordance with the applicable city ordinance provisions shall be submitted and recorded with the final plat and (ii) fire hydrant location(s) shall be coordinated with the Asheboro Fire Department.

Dr. Fountain's motion was seconded by Mr. Burks, and the City Council approved the motion with no dissenting votes.

**(c) Zoning Ordinance text amendments pertaining to permitted building materials in the OA6 and O & I zoning districts.**

Mayor Smith opened the public hearing on the application filed by Asheboro Medical Properties, LLC to amend certain text in Section 317A.D.1.c.ii of the Asheboro Zoning Ordinance. Mr. Neely presented the Community Development Division staff's written analysis of the applicant's requested text amendment.

The applicant's proposed text amendment to the Zoning Ordinance addresses the building materials permitted in the O & I (Office and Institutional) and OA6 (Office Apartment) zoning districts. The pertinent text in Section 317A.D.1.c.ii. provides as follows:

Metal panels with galvanized, aluminum, or aluminum zinc finishes shall not be permitted for any portion of the front face, except metal laminated architectural materials (such as alucobond) are a permitted material.

If the applicant's request is granted, the amended text would provide as follows:

~~Metal panels with galvanized, aluminum, or aluminum zinc finishes shall not be permitted for any portion of the front face, except metal laminated architectural materials (such as alucobond) are a permitted material.~~ Architectural metal panels secured to substrate with concealed fasteners are a permitted material.

In essence, the applicant is proposing an amendment that would allow the use of aluminum metal panels that are not laminated, so long as there are no exposed fasteners present. The appearance of metal with the presence of exposed fasteners was one of the aesthetic concerns that was raised when the building material design standards were initially adopted.

The proposed amendment would not impact the prohibition of other materials such as unfinished wood, concrete block, vinyl siding, metal panels with "rib" or "u" configurations, etc. in the O & I and OA6 zoning districts.

Mr. Neely reported that, on the basis of the Community Development Division staff's analysis of both the applicant's proposal and the improvements in building material technology since the date of the original adoption of the standards for building materials, his staff had concluded that the proposed amendment will provide, in the O & I and OA6 zoning districts, greater flexibility and choices of materials that are in general harmony with the intent of the city's land use regulations. The Planning Board concurred with this analysis and recommended approval of the proposed text amendment.

Mr. Jon Campbell appeared on behalf of Asheboro Medical Properties, LLC and spoke in support of the proposed text amendment. No one spoke in opposition to the proposed amendment.

Mayor Smith then closed the public hearing.

On the basis of the analysis and recommendation of city staff and the Planning Board, Mr. Bell moved to approve the text amendment submitted by the applicant. Mr. Burks seconded the motion, and the Council Members voted unanimously to approve the proposed text amendment.

**(d) Public hearing on the question of designating as a Local Historic Landmark the exterior of the Marmaduke Swaim Robins Law Office, ca. 1860, located at 131 North Main Street.**

Mayor Smith opened this public hearing, and Mr. Luck presented the written recommendation of the Randolph County Historic Landmark Preservation Commission to designate the exterior of the Marmaduke Swaim Robins Law Office, ca. 1860, which is located at 131 North Main Street in Asheboro, as a Local Historic Landmark.

This two-room wooden building is the last surviving building on Asheboro's nineteenth century courthouse square. After Mr. Luck's presentation of the recommendation from the Randolph County Historic Landmark Preservation Commission, no one else spoke in support of or in opposition to the recommended designation of the exterior of this historic building.

Mayor Smith then closed the public hearing. Dr. Fountain moved to adopt by reference the historic landmark designation ordinance forwarded from the Randolph County Historic Landmark Preservation Commission. This motion was seconded by Ms. Carter, and the Council voted unanimously to adopt by reference the following ordinance:

**Ordinance Number 33 ORD 11-11**  
**Ordinance Designating the Exterior of the Marmaduke Swaim Robins**  
**Law Office, ca. 1860, 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 Marmaduke Swaim Robins Law Office, ca. 1860, 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 Marmaduke Swaim Robins Law Office, ca. 1860, 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 has adopted a unanimous resolution requesting the City of Asheboro to designate the exterior of the Marmaduke Swaim Robins Law Office, ca. 1860 as a local historic landmark; and

**WHEREAS**, the Asheboro City Council finds that the Marmaduke Swaim Robins Law Office, ca. 1860, a two-room wooden building, and is the last surviving building on Asheboro's nineteenth century courthouse square, meets the following specific criteria outlined in the adopting Ordinance establishing the Commission: (1) Critical Part of the City's Heritage by having value as an example of the cultural, economic, historic, and social heritage of City of Asheboro's; (2) Exemplification of an architectural type distinguished by overall quality of design, detail, materials, and craftsmanship; (3) The location of the Marmaduke Swaim Robins Law Office building 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 14' x 28' building located at 131 North Main Street, Asheboro, N.C., PIN# 7751933090, Asheboro Township, Randolph County.

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

- 1: The property known as the exterior of the Marmaduke Swaim Robins Law Office, ca. 1860, located at 131 North Main Street, Asheboro, N.C., 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 Marmaduke Swaim Robins Law Office Building 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. Furthermore, nothing shall be construed to prevent the property owner from making any use of this property not prohibited by other statutes, ordinances, or regulations.
- 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, N.C., owner of the Marmaduke Swaim Robins Law Office Building, 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 Stuart B. Fountain, and a second by Linda H. Carter, the foregoing Ordinance was passed upon its first reading by a vote of 7 – 0. This Ordinance shall be in full force and effect from and after the date of its passage.

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**CITY OF ASHEBORO  
NORTH CAROLINA**

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

November 10<sup>th</sup>, 2011  
Adoption Date

**ATTEST:** s/Tamela D Garner  
Tamela D. Garner, Deputy City Clerk

STATE OF NORTH CAROLINA  
COUNTY OF RANDOLPH

I, Tamela D. Garner, am the Deputy City Clerk of the City of Asheboro, North Carolina, and I do hereby affirm that the foregoing reproduction of Ordinance No. 33 ORD 11-11 is a true, correct, and complete photocopy of an ordinance duly adopted by the Asheboro City Council on November 10, 2011, and maintained in the possession of the Office of the City Clerk.

CITY SEAL

s/Tamela D Garner  
Tamela D. Garner, Deputy City Clerk  
City of Asheboro, North Carolina  
146 North Church Street  
Asheboro, North Carolina 27203

Signed and affirmed before me this day by Tamela D. Garner, Deputy City Clerk for the City of Asheboro, North Carolina.

Date: 11-29-11

s/D. Dawn Johnson  
Notary Public

s/D. Dawn Johnson  
(Printed or Typed Name of Notary Public)

(Official Seal)

My commission expires: 7-7-2014

**7. Taxicab Franchise:**

**(a) Public Hearing on the question of renewing the taxicab franchise for Red Bird Cab, LLC**

Mayor Smith opened the public hearing on the question of renewing the taxicab franchise for Red Bird Cab, LLC.

Mr. Sugg gave the presentation for the renewal of the Red Bird Cab franchise. Red Bird Cab is currently in compliance with the applicable regulations. The proposed franchise will be for a total of four (4) cabs to be operated in Asheboro during the upcoming year.

Mr. Donald E. Young appeared on behalf of Red Bird Cab, LLC in order to answer questions about the taxicab service to be operated by the company. The taxicab company's main office is in High Point, but the company will continue to maintain an office in Asheboro.

No member of the public spoke in support of or opposition to the requested renewal of the existing taxicab franchise. Mayor Smith then closed the public hearing.

**(b) First reading of an ordinance granting a Certificate of Convenience and Necessity to Red Bird Cab, LLC for the operation of taxicabs.**

Mr. Baker moved to adopt the taxicab franchise ordinance by reference, and this motion was seconded by Mr. Burks. The City Council then voted unanimously to adopt the following franchise ordinance:

**AN ORDINANCE GRANTING A RENEWAL OF A CERTIFICATE OF CONVENIENCE  
AND NECESSITY TO RED BIRD CAB, LLC**

**WHEREAS**, Red Bird Cab, LLC, which has an office in Asheboro at 106 Beasley Street, operates a taxicab service within the corporate limits of the City of Asheboro pursuant to an existing Certificate of Convenience and Necessity; and

**WHEREAS**, Red Bird Cab, LLC's franchise expires on December 9, 2011, and the limited liability company must properly renew its Certificate of Convenience and Necessity in order to lawfully continue to operate taxicabs within the jurisdiction of the City of Asheboro; and

**WHEREAS**, the available evidence indicates that Red Bird Cab, LLC is providing taxicab service within the City of Asheboro in a manner that furthers the public's convenience and addresses the public necessity for the operation of adequate taxicab services within the city;

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

**Section 1.** A renewed Certificate of Convenience and Necessity to operate four (4) taxicabs upon and over the streets of the City of Asheboro is hereby granted to Red Bird Cab, LLC (hereinafter referred to as the "Grantee").

**Section 2.** This franchise is granted for a term of one (1) year from and after the 9<sup>th</sup> day of December, 2011. Thereafter, applications for renewals shall be filed annually in accordance with the Code of Asheboro.

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

- (a) Prior to 12:01 a.m. on December 9, 2011, the Grantee shall furnish to the City Clerk of the City of Asheboro, during the city's normal business hours, an accurate list of each taxicab to be operated in Asheboro pursuant to this franchise. This list must include the make, model, model year, and vehicle identification number of each taxicab to be operated in Asheboro, and such documentation must have upon it the written acknowledgment of an Asheboro Police Department official designated by the Chief of Police to indicate that the officer has visually examined the taxicabs listed in the documentation and confirmed the accuracy of this list to be submitted to the City Clerk.
- (b) Prior to 12:01 a.m. on December 9, 2011, the Grantee shall furnish to the City Clerk of the City of Asheboro, during the city's normal business hours, a certificate of insurance from an insurance carrier duly authorized to do business in the State of North Carolina evidencing that insurance coverage for the taxicabs referenced in subsection (a) of this ordinance is in effect in an amount that complies with Section 114.14 of the Code of Asheboro for the duration of the Certificate of Convenience and Necessity issued pursuant to this ordinance.
- (c) Prior to 12:01 a.m. on December 9, 2011, the Grantee shall pay to the City Clerk of the City of Asheboro the sum of eighty-six and 04/100 dollars (\$86.04) in order to satisfy the privilege license tax of fifteen and no/100 dollars (\$15.00) charged for each taxicab operated within the city and in order to reimburse the city for the cost of running the legal notice of the public hearing conducted on November 10, 2011. These fees and charges are collected pursuant to Sections 114.02, 114.12, and 114.17 of the Code of Asheboro.
- (d) The Grantee shall otherwise comply at all times with any and all applicable laws and regulations pertaining to the operation of taxicabs in the City of Asheboro, specifically including without limitation Chapter 114 of the Code of Asheboro.

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

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

This ordinance was read and approved by the Asheboro City Council for the first time in open session during a regular meeting held on the 10<sup>th</sup> day of November, 2011.

This ordinance was read and approved by the Asheboro City Council for the second time in open session during a regular meeting held on the 8<sup>th</sup> day of December, 2011.

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David H. Smith, Mayor

ATTEST:

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Tamela D. Garner, Deputy City Clerk

**8. Public comment period**

Mayor Smith opened the public comment period, and, when no one rose or otherwise indicated a desire to speak, the mayor closed the public comment period.

**9. Airport Items:**

**(a) Consideration of the Asheboro Airport Authority's recommendation of Curtis Williams as a new appointment to the Airport Authority.**

Mr. Bunker presented the recommendation from the Airport Authority that Curtis Williams be appointed to fill a vacancy on the Airport Authority's board. Mr. Williams has expressed interest in becoming a member of the board. He is an owner of a plane that is based at the Airport, and he has been involved with the North Carolina Aviation Museum. Mr. Williams is currently one of the directors for the museum.

Upon a motion by Mr. Hunter, and seconded by Mr. Moffitt, the Council voted unanimously to accept the recommendation and appointed Mr. Williams to the Asheboro Airport Authority.

**(b) Consideration of Change Order #1 for the Airport Water and Sewer Improvements – Contract A Project with Terry's Plumbing & Utilities, Inc. in order to extend the contract time from 120 calendar days to 200 calendar days since the sewer pump station in the Contract B Project must be operational before the Contract A Project can be completed.**

Mr. Bunker recommended that the contract time for the Contract A Project be extended from 120 days to 200 calendar days. This amendment will align the contract time in Contract A with the contract time of 200 days in Contract B. As noted above, the sewer pump station addressed by Contract B must be operational before Contract A can be completed.

Change Order # 1 does not involve a change in contract price.

Upon a motion by Mr. Baker, and seconded by Mr. Burks, the City Council voted unanimously to approve Change Order # 1 for Contract A.

**(c) Consideration of Change Order #1 on the Airport Sewage Pump Station/Force Main – Contract B Project with Terry's Plumbing & Utilities, Inc. in order to change the antenna pole height and add a concrete pad for the electrical equipment for no increase in the contract amount.**

Mr. Bunker recommended that Change Order # 1 for Contract B be approved for the purpose of adding the installation of an 8' X 12' concrete pad with wire around the electrical equipment rack for a solid working surface and, furthermore, substitute a 45' pole at the new pump station for the 65' pole initially required by the project drawings. The contractor is willing to make these off-setting changes with no change in the contract price or time.

Upon a motion by Dr. Fountain, and seconded by Mr. Bell, the Council voted unanimously to approve Change Order # 1 for Contract B.

**(d) Consideration of a resolution authorizing the City Manager to enter into a grant agreement between the North Carolina Department of Transportation and the City of Asheboro for the city to receive a portion of a Federal VISION 100 Grant in the amount of \$40,185.00 for taxilane, access road, and hangar site preparation design and bidding services.**

Mr. Bunker discussed potential on-going grant funding for capital improvements at the airport. The current grant funding under consideration is for funding that will be used for taxilane, access road, and hangar site preparation (design/bid). Mr. Bunker recommended that the resolution prescribed by the North Carolina Department of Transportation be adopted so that the city can avail itself of this grant funding.

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

**40 RES 11-11**

**Resolution**

Whereas, a Grant in the amount of \$40,185.00 has been approved by the Department of Transportation based on total estimated cost of \$44,650.00; and

Whereas, an amount equal to or greater than ten percent (10%) of the total estimated project cost has been appropriated by the Sponsor (City of Asheboro) for this Project.

NOW THEREFORE, BE AND IT IS RESOLVED THAT THE City Manager of the Sponsor be and he hereby is authorized and empowered to enter into a Grant Agreement with the Department, thereby binding the Sponsor to the fulfillment of its obligation incurred under this Grant Agreement or any mutually agreed upon modification thereof.

**10. Update on the status of the inquiry into the potential acquisition of real property located at 1450 Winslow Avenue for future expansion of the water treatment plant.**

Mr. Bunker reported that an appraisal of the parcel of land located at 1450 Winslow Avenue had been requested by the city, and this appraisal valued the said parcel of land at forty-nine thousand dollars (\$49,000). The property owner is requesting the current tax value of sixty-one thousand one hundred dollars (\$61,100) for the property.

Consequently, city staff is not currently actively pursuing the acquisition of this parcel of land. The City Council Members expressed no opposition to this approach.

**11. Upcoming events:**

The Veterans Parade is scheduled for 4:00 p.m. on November 11, 2011.

The Annual Christmas Parade is scheduled for 7:00 p.m. on December 2, 2011.

The "Christmas on Sunset" street festival is scheduled to begin at 6:00 p.m. on December 9, 2011.

The Winston-Salem Symphony is performing "Handels' Messiah" on December 16, at the Asheboro High School Auditorium

**12. Discussion of items not on the agenda.**

No action items were discussed during this portion of the meeting.

There being no further business, the meeting was adjourned at 8:40 p.m.

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

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