

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, FEBRUARY 9, 2012  
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 officials and members present:

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

John N. Ogburn, III, City Manager  
Dumont Bunker, P.E., City Engineer  
Holly H. Doerr, CMC, City Clerk/Paralegal  
John L. Evans, Senior Planner  
Casandra M. Fletcher, Marketing Specialist  
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  
Michael D. Rhoney, Water Resources Director  
James O. Smith, Police Captain  
Jeffrey C. Sugg, City Attorney

**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. The annual report from Ms. Bonnie Renfro, President of the Randolph County Economic Development Corporation.**

Ms. Bonnie Renfro, President of the Randolph County Economic Development Corporation, presented the corporation's annual report for 2011. Throughout the year, approximately 231 new jobs were created with a new capital investment of approximately \$34,300,000. A copy of the annual report presented by Ms. Renfro is on file in the City Clerk's office.

Additionally, the Council received a written "2011 Existing Business Report – Asheboro" and positive comments from Economic Development Corporation Board Members Wayne Thomas, Chairman; Laura Wilson, Past Chairman; and Dale Ducommun.

**5. Consent agenda:**

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

- (a) The minutes of the City Council's regular meeting on January 5, 2012.**
- (b) The minutes of the City Council's special meeting on January 19, 2012.**

**(c) The findings of fact, conclusions, and order in the matter of the request by Carrington Hills II, Inc. for variances from the subdivision ordinance (Community Development Division File Number SUB-11-02).**

Case No. SUB-11-02  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION BY CARRINGTON HILLS II, INC., BY AND THROUGH  
GERALD HEDRICK, FOR A TOTAL OF FOUR (4) VARIANCES FROM THE PROVISIONS OF THE  
ASHEBORO SUBDIVISION ORDINANCE

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART  
AND DENYING IN PART THE REQUESTED VARIANCES

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THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for a properly advertised public hearing that was opened for the receipt of testimony and other evidence over the course of a total of four (4) regular meetings of the Council that were held on October 6, 2011, November 10, 2011, December 8, 2011, and January 5, 2012. 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. Carrington Hills II, Inc., by and through Gerald Hedrick, (hereinafter referred to as the "Applicant") submitted to the City of Asheboro a written application for a total of four (4) variances from the Asheboro Subdivision Ordinance. This application was a component of the Applicant's overall effort to obtain a Special Use Permit authorizing a residential planned unit development consisting of up to six (6) single-family residential units.

2. Pursuant to Section 630, Subsection A.2. of the Asheboro Zoning Ordinance, an application for a Special Use Permit authorizing a residential planned unit development must be reviewed simultaneously with a subdivision plat submitted in compliance with the Asheboro Subdivision Ordinance.

3. The Applicant's current proposal is classified as a "minor" subdivision under the Asheboro Subdivision Ordinance. A "minor" subdivision plat is subject to administrative review by the city staff in the Community Development Division. This review is ministerial in nature and applies objective, nondiscretionary standards.

4. This subdivision variance case is in front of the Council for a quasi-judicial hearing because the Applicant submitted a subdivision plat, which was combined with the required site plan for the requested Special Use Permit, that does not comply with the nondiscretionary standards found in the Asheboro Subdivision Ordinance. Without variances from the subdivision ordinance regulations with which the submitted plat is noncompliant, city staff cannot approve the subdivision plat submitted for sketch design review. The remainder of these findings and conclusions, as well as the ultimate order, will focus exclusively on the Applicant's request for variances from the subdivision ordinance.

5. Article IV, Section VII of the Asheboro Subdivision Ordinance, which contains the legal provisions for obtaining variances from the subdivision ordinance, provides as follows:

Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this Ordinance would cause an unnecessary hardship, the City Council(.) upon recommendation of the Planning Board, may authorize a variance to the terms of this Ordinance only to the extent that is absolutely necessary and not to an extent which would violate the intent of the Ordinance. All requests for variances shall be submitted in writing, by the subdivider or his agent, to the Planning Department. Such request shall be accompanied by materials providing sufficient evidence to support the claim of hardship.

6. Article X, Section IV.C. mandates certain improvements that must be part of planned unit developments. The Applicant is seeking variances from the following provisions in Article X, Section IV.C. of the Subdivision Ordinance:

Section IV.C.5. Sidewalks that meet ADA standards shall be provided along streets to connect all units, parking areas, recreation vehicle storage, recreation facilities, central trash facilities, postal centers(.) etc. and shall extend to intersections with existing streets.

Section IV.C.7. In residential PUD's parking spaces for visitor and/or overflow parking shall be installed which equals 10% of the total number of units in the project.

Section IV.C.8. In residential PUD's recreation vehicle parking/storage areas shall be installed, unless these vehicles are prohibited by covenants and restrictions. Space provided shall be 12 feet by 30 feet and shall (be) equal to 10% of the total number of units in the project.

Section IV.C.9. In residential PUD's open space and recreation space shall be provide(d) as specified in Table 200-1 under RA6 and Section 321A of the Asheboro Zoning Ordinance.

7. As part of the Applicant's initial written request for the above-stated variances, which was dated September 13, 2011, the Applicant's engineer, H. Mack Summey, Jr., P.E., wrote, in pertinent part, as follows:

On behalf of the developer, Mr. Gerald Hedrick, we are requesting the following subdivision variances for the development of Carrington Hills Phase II:

1. Variance from requiring sidewalks on both sides of street. Due to topography and other concerns we are requesting a variance to allow sidewalk only on one side of the street.
2. Variance from requiring the overflow parking spaces within the development. Due to lot layouts, there will be adequate parking at each residence.
3. Variance from requiring the recreational vehicular parking space(s). These vehicles will be restricted from parking on the street or within the right of way in the development but would be allowed to park on the individual lots.
4. Variance from requiring the 52% open/recreational area provision within the development.

Due to topography and other spatial issues, we are respectfully requesting variances on each of the above items.

8. In a subsequent email message that was directed to Senior Planner John Evans and was dated September 21, 2011, Mr. Summey clarified the request for a variance from the sidewalk requirement by writing, in pertinent part, "Just wanted to let you know that I just met with Gerald Hedrick and he wants to go for a complete sidewalk variance and take all the sidewalks off the property."

9. The Applicant is seeking these subdivision ordinance variances in furtherance of a proposed residential planned unit development that the Applicant is attempting to develop 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.

10. Six (6) lots are proposed for the Carrington Hills Phase II subdivision.

11. The average lot size in the proposed subdivision is 8.93 acres plus common area. However, this number is skewed because of an especially large lot (Lot No. 6). If the disproportionate size of Lot No. 6 is taken into account, the other lots would be closer to approximately two (2) acres in size.

12. The land upon which the Applicant proposes to develop the contemplated subdivision is located in an R15 zoning district and is currently undeveloped.

13. In terms of surrounding land uses, undeveloped land is located to the north, city lakes (McCrary and Bunch) are located to the east, and low-density residential development is located to the south and west.

14. With regard to the Land Development Plan, the area for which this development is proposed is identified as Resource Conservation on the Growth Strategy Map and Watershed Residential on the Proposed Land Use Map. This area is not part of an identified Activity Center.

15. The site of the proposed subdivision is located outside of the city limits, but the site is located within the city's extraterritorial planning jurisdiction. Water and sewer service is not currently available to the site.

16. A subdivision sketch design for a conventional development was approved in 1988. Due to the fact that the Applicant is now proposing a planned unit development, which includes privately maintained streets, all of the current requirements of the subdivision ordinance must be satisfied.

17. The street within the proposed development is shown as privately maintained. The evidence indicates that the Applicant's desire to avoid constructing a street to the standards specified by the North Carolina Department of Transportation for a publicly maintained street is the reason for submitting this development as a planned unit development rather than developing the subdivision in accordance with the sketch design that was approved in 1988.

18. Article V (Definitions) of the Asheboro Subdivision Ordinance defines a "planned unit development" as follows:

The planned unit development is a use designed to provide for developments incorporating a single type or a variety of residential, commercial or industrial and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land use must be an element of the plan relating to effecting the long-term value of the entire development.

19. Without the granting of the requested variances from the subdivision ordinance provisions relating to visitor/overflow parking and recreation vehicle parking/storage, the Applicant would have to install one (1) space for visitor/overflow parking and one (1) recreation vehicle parking/storage area.

20. Subject to a single condition attached to the sidewalk variance request, the Planning Board recommended approval of the requested variances from the subdivision ordinance. The condition attached by the Planning Board to the sidewalk variance recommendation was that a pedestrian connection extend between Westminster Court Extension and the recreation area shown on the site plan.

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

#### CONCLUSIONS OF LAW

1. The Council is not authorized to grant a variance from the provisions of the subdivision ordinance unless, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this Ordinance would cause an unnecessary hardship for the Applicant. Furthermore, the Council may authorize a variance to the terms of the subdivision ordinance only to the extent that is absolutely necessary and not to an extent which would violate the intent of the ordinance.

2. The variance requests currently under consideration are unusual in that the some of the conditions that are peculiar to the site are attributable to the Applicant's efforts to stretch the concept of a planned unit development to allow the development of this particular subdivision with a private street rather than a public street that would be more costly to construct.

3. One of the peculiar manifestations of the Applicant's submittal of the proposed subdivision as a planned unit development is that, under the existing subdivision regulations, the Applicant would be required to create a single overflow parking space and a single area for recreation vehicle parking/storage in a subdivision that encompasses approximately 57.47 acres and has six (6) lots that are each no smaller than two (2) acres. Extraordinary planning and design efforts would be needed in order to implement such parking arrangements in a manner that is harmonious with the physical setting and would not offend concepts of rationality and thereby detract from the quality sought for developments within the planning jurisdiction of the City of Asheboro.

4. The issue of whether a valid hardship exists because of the extraordinary planning and design efforts that would be needed to satisfactorily meet the challenges created by the Applicant's concept of a planned unit development is extremely questionable. However, based on the totality of the evidence, the Council is willing to accept as sufficient the Applicant's evidence pertaining to the visitor/overflow parking variance request and the recreation vehicle parking/storage area variance request.

5. In stark contrast, the evidence does not support a finding of the existence of unnecessary hardship as a consequence of the sidewalk requirements and the open space requirements of the subdivision ordinance.

6. The requirement to provide sidewalks to connect units and other aspects of the planned unit development (PUD) and the requirement to provide specified percentages of open and recreational space in the common area of the development are integral aspects of the concept of a PUD. As defined and regulated by the subdivision ordinance, a PUD must be planned and developed as a unit that has enhanced long-term value because of elements of the plan that positively impact the entire development and include, at a minimum, the use of common land.

7. With regard to sidewalks, the Applicant's engineer did initially make a passing reference on September 13, 2011 to topographical concerns when the initial written request was submitted in an effort to obtain a variance that would allow sidewalks to be constructed on only one side of the street. However, when this request was refined on September 21, 2011, the same engineer simply stated that the Applicant wanted "to go for a complete sidewalk variance and take all the sidewalks off the property." No reference at all was made to topographical impediments to constructing sidewalks.

8. Similarly, the evidence was insufficient to establish that an unnecessary hardship would be created by compliance with the required percentages for open space within the common area of the proposed development.

9. During the hearing of this matter, the evidence pointed to financial enhancement, not an inability to make a reasonable use of the land, as the basis for the request for variances from the subdivision's sidewalk and open space requirements. Financial hardship alone is insufficient to constitute the unnecessary hardship that is a prerequisite for the Council to have the authority to exercise the variance power.

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

ORDER

The Applicant's requested variances from Section IV.C.7. and Section IV.C.8. of the Asheboro Subdivision Ordinance are hereby approved. The Applicant's requested variances from Section IV.C.5. and Section IV.C.9. of the Asheboro Subdivision Ordinance are hereby denied.

The above-listed findings, conclusions, and order were adopted by the Asheboro City Council in open session during a regular meeting of the Council that was held on February 9, 2012.

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

ATTEST:

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

- (d) **A resolution rejecting the single bid, which was ultimately found to be non-responsive, to a request for bids to replace a digester spiral guided gas holder cover and gas mixing system at the Wastewater Treatment Plant.**

**05 RES 2-12**

**RESOLUTION REJECTING THE BID SUBMITTED ON SEPTEMBER 1, 2011, TO REPLACE THE WASTEWATER TREATMENT PLANT DIGESTER SPIRAL GUIDED GAS HOLDER COVER AND GAS MIXING SYSTEM**

**WHEREAS**, in accordance with Chapter 143, Article 8 of the North Carolina General Statutes, the City of Asheboro undertook a public, formal bid process in August 2011 to replace the spiral guided gas holder cover and gas mixing system on a digester at the wastewater treatment plant; and

**WHEREAS**, the statutorily prescribed advertisement for bids was undertaken on two (2) occasions because, during the first bid opening on August 18, 2011, only one (1) bid was received; and

**WHEREAS**, during the second bid opening on September 1, 2011, there was still only one bidder; and

**WHEREAS**, the only bid available to open on September 1, 2011, was a bid submitted by Siemens Industry, Inc.; and

**WHEREAS**, the base bid submitted by Siemens Industry, Inc. was \$814,311.00 (with taxes in the amount of \$65,145.00, the total bid amount was \$879, 456.00); and

**WHEREAS**, this bid amount was in excess of the funds budgeted for the project; and

**WHEREAS**, pursuant to Section 143-129(b) of the North Carolina General Statutes, the Asheboro City Council authorized negotiations with Siemens Industry, Inc. in order to see if reasonable changes in the plans and specifications could be made in order to bring the cost of the project into line with the amount of funds budgeted for the project; and

**WHEREAS**, during the course of negotiations between the city's water resources director and the bidder's representative, the identified cost savings required the city to evaluate removing liquidated damages provisions in the project specifications and to evaluate utilizing city forces to demolish the existing digester cover; and

**WHEREAS**, even if the city agreed to the suggested changes, the total reduction in the proposed contract price, with taxes, equaled \$34,452.00, which would bring the total project cost, with taxes, to \$845,004.00; and

**WHEREAS**, a project cost of \$845,004.00 is still in excess of the amount of funding made available for the project through the city's budget process; and

**WHEREAS**, the inquiry from Siemens Industry, Inc. about the possibility of the removal of the liquidated damages provisions triggered a review by the city attorney of the bid documents; and

**WHEREAS**, this legal review led to the determination that the proposal submitted by Siemens Industry, Inc. on September 1, 2011, was nonresponsive to the city's request for proposals;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the bid submitted by Siemens Industry, Inc. on September 1, 2011, to replace the spiral guided gas holder cover and gas mixing system on the digester at the wastewater treatment plant is hereby rejected; and

**BE IT FURTHER RESOLVED** that the city manager, city engineer, and water resources director are hereby authorized and directed to procure, in accordance with the applicable laws, professional design services to develop new specifications for this project and readvertise the project.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9<sup>th</sup> day of February, 2012.

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

ATTEST:

\_\_\_\_\_  
/s/ Holly H. Doerr  
Holly H. Doerr, CMC, City Clerk

- (e) **A resolution per G.S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with Marziano and McGougan, P.A. of Asheboro, NC to provide engineering services for replacement of the wastewater treatment plant digester cover and mixing system, for an engineering fee not to exceed \$16,358.00.**

**06 RES 2-12**

**RESOLUTION EXEMPTING THE WASTEWATER TREATMENT PLANT DIGESTER COVER AND MIXING SYSTEM PROJECT FROM THE PROVISIONS OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES**

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

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

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

Units of local government . . . may in writing exempt particular projects from the provisions of this Article (Article 3D) in the case of:

- (a) Proposed projects where an estimated professional fee is in an amount less than thirty thousand dollars (\$30,000), or





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

Units of local government . . . may in writing exempt particular projects from the provisions of this Article (Article 3D) in the case of:

- (a) Proposed projects where an estimated professional fee is in an amount less than thirty thousand dollars (\$30,000), or
- (b) Other particular projects exempted in the sole discretion of . . . the unit of local government, stating the reasons therefore and the circumstances attendant thereto; and

**WHEREAS**, the City of Asheboro is proceeding with the Burmil Road Water Pressure Surge Study Project that requires engineering services to perform the following tasks: (a) Review existing City of Asheboro piping in the Burmil Road area, (b) Visit the site in order to review possible installation locations, (c) Execute a surge analysis, (d) Make a determination as to a surge valve recommendation, (e) Provide a written report with recommendation of surge valve size and installation, and (f) Provide design services to the extent necessary to obtain an adequate installation of the surge valve by city forces; and

**WHEREAS**, L.E. Wooten and Company d/b/a The Wooten Company has offered to provide the engineering services needed for the above-described project for a contract price of four thousand five hundred and no/100 dollars (\$4,500.00); and

**WHEREAS**, on the basis of the firm's demonstrated competence and estimated professional fee for this project, the city's water resources division and engineering department have recommended, with the concurrence of the city manager, the utilization of The Wooten Company to provide the engineering services needed to complete the Burmil Road Water Pressure Surge Study Project;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the Burmil Road Water Pressure Surge Study Project is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes on the basis of the demonstrated competence of The Wooten Company and the fact that the estimated professional fee for the needed engineering services is less than thirty thousand and no/100 dollars (\$30,000.00); and

**BE IT FURTHER RESOLVED** that the city manager is hereby authorized to execute, in accordance with the applicable laws and the city's standard contracting policies, a contract with The Wooten Company for the provision of the engineering services needed to successfully complete the Burmil Road Water Pressure Surge Study Project.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9<sup>th</sup> day of February, 2012.

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

ATTEST:

\_\_\_\_\_  
/s/Holly H. Doerr  
Holly H. Doerr, CMC, City Clerk

- (h) **Change Order No. 1 on the Veterans Loop Road Industrial Development Water and Sanitary Sewer Improvements Project in order to increase the contract time by 14 days to 134 days and to increase the contract amount by \$20,000.00 to \$295,610.00 due to the addition of 15 temporary rock check dams and a yard inlet.**

[A copy of the approved Change Order No. 1 is on file in the City Clerk's office.]

- (i) **An ordinance amending Section 51.21 of the Code of Asheboro in order to make a technical correction that pertains to the prohibition of interference with solid waste and recyclables containers.**

02 ORD 2-12

**AN ORDINANCE AMENDING CHAPTER 51 OF THE CODE OF ASHEBORO**

**WHEREAS**, Chapter 51 of the Code of Asheboro prescribes general regulations pertaining to the collection of solid waste/recyclables by the City of Asheboro Environmental Services Department; and

**WHEREAS**, Section 51.21 of the Code of Asheboro prohibits interference with garbage containers that have been placed for collection; and

**WHEREAS**, the movement of the city-issued solid waste/recyclables containers from the prescribed location for collection can impede the ability of the city's Environmental Services Department to efficiently collect solid waste/ recyclables that were initially correctly placed for collection by a customer; and

**WHEREAS**, the opening of plastic bags, which were initially correctly placed within the city-issued containers, prior to collection by city forces creates a situation that enhances the likelihood of loose debris/rubbish from the containers falling outside of the body of the automated garbage truck and then accumulating along streets, sidewalks, and private property; and

**WHEREAS**, concerns about the potential for identity theft are also raised when individuals that are not involved in the city's collection of the contents of solid waste/ recyclables containers are seen opening these containers and removing the contents that have been placed for collection by city forces; and

**WHEREAS**, in light of the above-stated concerns, the Asheboro City Council adopted Ordinance No. 01 ORD 1-12 on January 5, 2012, in order to more effectively prohibit third parties from impeding the efficient collection of solid waste/recyclables that have been properly placed for collection; and

**WHEREAS**, Ordinance No. 01 ORD 1-12 failed to explicitly state that members of a household can retrieve items from a solid waste/recyclables container that have been erroneously placed by other members of the household in the container for collection; and

**WHEREAS**, the Asheboro City Council has decided to remove any ambiguity about the Council's intent by adopting a corrective ordinance;

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

**Section 1.** Section 51.21 of the Code of Asheboro is hereby rewritten to provide as follows:

**§ 51.21 INTERFERENCE WITH SOLID WASTE/ RECYCLABLES CONTAINERS PROHIBITED.**

(a) It shall be unlawful for anyone other than the person who initially placed the solid waste/recyclables for collection to open, move, or otherwise disturb a solid waste/recyclables container that has been placed for collection adjacent to a street or sidewalk in compliance with the regulations prescribed by this Chapter.

(b) It shall be unlawful for anyone other than the person who initially placed the solid waste/recyclables for collection to open a plastic bag placed inside a solid waste/recyclables container or to remove or otherwise disturb in any manner the contents of the solid waste/recyclables container after the container has been placed for collection adjacent to a street or sidewalk in compliance with the regulations prescribed by this Chapter.

~~(c) Notwithstanding divisions (a) and (b) of this Section, the prohibition against opening, moving, removing, or otherwise disturbing a solid waste/recyclables container, or its contents, after placement for collection is inapplicable to employees or contractors of the United States of America, the State of North Carolina, or the City of Asheboro when such employees or contractors are operating within the scope of their employment or contractual responsibilities.~~

(c) Notwithstanding divisions (a) and (b) of this Section, the prohibition against opening, moving, removing, or otherwise disturbing a solid waste/recyclables container, or its contents, after placement for collection is inapplicable to the following individuals and entities:

(1) Employees or contractors of the United States of America, the State of North Carolina, or the City of Asheboro when such employees or contractors are operating within the scope of their employment or contractual responsibilities.

(2) Any and all individuals who belong to the same household as the person who initially placed the solid waste/recyclables container adjacent to the street or sidewalk for collection.

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

**Section 3.** This ordinance shall take effect and be in force from and after the date of adoption.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting that was held on the 9<sup>th</sup> day of February, 2012.

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

ATTEST:

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

- (j) **An ordinance changing the date of the regular city council meeting in July 2012 to July 12, 2012.**

**03 ORD 2-12**

**AN ORDINANCE SETTING JULY 12, 2012, AS THE DATE OF THE ASHEBORO CITY COUNCIL'S REGULAR MEETING IN JULY 2012**

**WHEREAS**, Section 31.04(A) of the Code of Asheboro provides that the "City Council shall hold a regular meeting on Thursday after the first Monday of each month;" and

**WHEREAS**, the Thursday after the first Monday in July 2012 is July 5, 2012, which is in the middle of a week that citizens and elected officials traditionally use for vacations associated with the observance of the July the 4<sup>th</sup> holiday; and

**WHEREAS**, in an effort to lessen the possibility of other events and obligations negatively impacting attendance at the regular council meeting, the members of the Asheboro City Council have agreed to reschedule the regular meeting in July 2012 from July 5, 2012, to July 12, 2012;

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

**Section 1.** The regular meeting of the Asheboro City Council in July 2012 shall be held in the Council Chamber of the Asheboro Municipal Building at 7:00 p.m. on the 12<sup>th</sup> day of July, 2012.

**Section 2.** All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed to the extent that such ordinances conflict with the intent of the Asheboro City Council to hold its regular meeting in July 2012 on July 12, 2012.

**Section 3.** This ordinance shall become effective upon adoption and shall sunset on July 13, 2012.

**Section 4.** With the exception of scheduling the Asheboro City Council's July 2012 regular meeting for July 12, 2012, the current provisions of Section 31.04 of the Code of Asheboro remain in full force and effect.

This ordinance was adopted in open session during a regular meeting of the Asheboro City Council that was conducted on February 9, 2012.

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

ATTEST:

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

**6. Land Use Items:**

- (a) **Old Business:**

**Continuation of a public hearing on proposed zoning ordinance text amendments pertaining to the Center City Planning Area (Community Development Division File No. RZ-11-19).**

Mayor Smith reopened the public hearing on the following request that was originally opened during the Council's regular meeting on January 5, 2012.

Mr. Neely presented an overview of the Community Development Division staff's on-going efforts to refine and improve the regulations of the zoning ordinance that are designed to preserve and

enhance the Center City Planning Area. Some of the focal points of these on-going efforts are as follows:

- Improvements to the organizational structure, clarity, and administration of the zoning ordinance related to the Center City Planning Area.
- Introduction of a new methodology for determining density.
- Creation of whole block redevelopment provisions.

The regulatory framework for the Center City Planning Area (CCPA) was originally created in Article 200A of the Asheboro Zoning Ordinance in order to implement goals that were identified by the Land Development Plan in the Central Planning Area and City Activity Center. These goals included the preservation and rehabilitation of existing neighborhoods and ensuring that infill development matches the context of the area in which it is located.

The CCPA is divided into three distinct tiers: Tier 1 (Central Business Planning Area), Tier 2 (Central Fringe Planning Area), and Tier 3 (Commercial and Employment Center). Tier 1 encompasses, more or less, the historic core of the city. Tiers 2 and 3 delineate areas that encompass land uses associated with this historic core even though the uses themselves have spread outward from the traditional center of the city.

Within Tier 1, off-street parking is provided predominately by public parking areas. Tiers 2 and 3 lack access to public parking, but these areas are typically more pedestrian oriented (e.g. sidewalk access and a mixture of land uses) than areas outside of the CCPA. Building setbacks progressively increase from Tier 1 to Tier 2 to Tier 3. While Tiers 2 and 3 historically have less coverage of lots with buildings and parking areas than found in Tier 1, the lots found in Tiers 2 and 3 have a greater percentage of impervious coverage than found in areas beyond the CCPA.

The text amendments proposed under Community Development Division File No. RZ-11-19 address, among other things, the proportion of property covered by buildings, parking, and other impervious surfaces as well as the placement on lots of buildings, parking, and other impervious surfaces. The specific amendments proposed by the Community Development Division Staff are noted below.

**I. Under the staff's proposal, the current Article 200A of the Asheboro Zoning Ordinance is to be replaced with the following text:**

**(A) Findings and Goals**

The *City of Asheboro 2020 Land Development Plan* describes a Center City Planning Area consisting of the City's downtown area and its immediate environs. This is the historic core of the community bounded by a variety of institutional and commercial uses.

In order to promote principles identified in the *Land Development Plan* such as workability, a vibrant mixture of complementary uses, street trees and landscaping, along with side or rear yard parking, the City Council hereby establishes the Center City Planning Area consisting of three tiers:

Central Business Planning Area (Tier 1)  
Central Business Fringe Planning Area (Tier 2)  
Commercial and Employment Center Planning Area (Tier 3)

The Council's goal is to promote development that encourages a stable, attractive, economically viable, pedestrian-scaled environment, and that preserves and enhances the visual appeal of streets leading into and out of the Center City Planning Area.

**(B) Center City Planning Area Boundaries**

Boundaries for the Central Business Planning Area (Tier 1), the Central Business Fringe Planning Area (Tier 2), and the Commercial and Employment Center Planning Area (Tier 3) are shown on the Center City Planning Area map adopted by the City Council and incorporated into this Section by reference.

**(C) Central Business Planning Area (Tier 1)**

The Central Business Planning Area (Tier 1) is hereby established to strengthen Asheboro's Center City Planning Area by incorporating a mix of commercial, office, institutional, residential and public open space uses. Design standards for revitalization and new development in the Central Business Planning Area encourage a pedestrian oriented mix of multi story buildings located close to the street and containing an attractive mix of first-story storefronts, ample sidewalks and street trees.

In general, this planning area encompasses blocks that have close proximity to downtown public parking lots.

**(1) Permitted and Special Uses**

The uses identified in the Table of Permitted Uses (Table 200-2) for the districts covered by this planning area are permitted by right or as special uses provided they meet all requirements of this Article and all other requirements established in this Ordinance.

**(2) Dimensional Requirements**

(a) Standard Dimensions

- (i) Table of Area, Height, Bulk and Placement Regulations (Table 200-1) shall not apply except where expressly stated in this sub-section (Article 200A(C)(2)(a)).
- (ii) Minimum Lot Size/Width: Refer to underlying zoning district in Table 200-1
- (iii) Maximum Front Yard Setback: 10 Feet
  - (aa) Measurement: Front yard setbacks shall be measured from the right-of-way, or the back of the required sidewalk when the sidewalk is located outside of street right-of-way.
  - (bb) Exception: No development shall be required to meet this regulation on more than two street frontages.
  - (cc) Exception: 33% of street fronting façades may be set back a maximum of 20 feet to accommodate landscape/garden, pedestrian, artwork, and dining facilities.
  - (dd) Exception: Residential, OA-6 and O&I uses shall utilize front yard averaging regulations of 200A(C)(2)(c)
- (iv) Minimum Side/Rear Yard Setback: 0 or 5 Feet
- (v) Maximum Height: 65 Feet
- (vi) Minimum pervious surface: 10%

- (b) Nonconformities: Additions to existing buildings, which are non-conforming due to front yard setback, may be made if such additions are located to the rear of the structure or are located to the front of the structure and reduce the extent of the front yard setback non-conformity. Additions to the side of any existing such structure shall not be permitted unless the new addition complies with these setback requirements. Front Yard Averaging shall apply as set forth in 200A(C)(2)(c).

(c) Front Yard Averaging:

- (i) Residential, OA6 and O&I Zones: A required front yard setback line shall be provided on the lot equal to average depth. This measurement shall include the average of the front setbacks for all adjacent lots within the same block as the subject property. Frontages shall be placed within five feet of established average depth.
- (ii) Measurement: When a lot is located on a block that is greater than eight hundred feet in length, the average front yard setback of lots located within four hundred feet of either side shall determine the required front yard setback line. If the right-of-way of an intersecting public street right-of-way is less than four hundred feet in one direction in this case, the averaging requirement in that direction shall stop at the right-of-way of the intersecting street. For the purpose of computing such average, adjacent vacant lot(s) shall utilize the underlying zoning required front yard setback in the calculation to determine the required front yard setback of this section.

(d) Accessory Structures:

- (i) Shall be located to the rear or side of principal buildings.
- (ii) No accessory structure shall be located within 30 feet of any street- right-of-way.
- (iii) Table 200-1, Table 200-2, Section 303 and Note # 33 shall apply, except if in conflict with this section.

**(3) Sidewalks Required**

Sidewalks shall be regulated by Section 322A of this ordinance.

**(4) Development Standards for Buildings**

The following sections identify standards that shall apply to development within the Central Business Planning Area in addition to all other applicable standards contained in this Ordinance. In general, infill uses shall be compatible with the established architectural character of the area by using complementary building style, form, size, color, materials, and detailing. New construction should reinforce existing building and design patterns.

(a) Building Materials:

- (i) Permitted Materials: Buildings shall be clad in one or more of the following: brick, brick veneer, ornamental split-faced concrete block or similar ornamental concrete masonry unit (CMU), stucco (synthetic or natural), stone or simulated stone/marble. Vinyl and/or aluminum may be used to clad soffits, trim, or windows. Aggregate stone panels may be used provided it does not cover more than 30 percent of any wall area.
- (ii) Prohibited Materials: Materials specifically disallowed as primary siding materials include, but are not limited to: vinyl and aluminum siding, unfinished wood, concrete block (except split-faced block). In addition, materials prohibited in Sections 316A, 317A and 318A of this Ordinance are prohibited.

(b) Colors: No high intensity colors metallic colors, or fluorescent colors shall be allowed on any building or architectural element. Exception: The use of such colors shall be permitted on business identification signs.

(c) Existing Street Fronting Facades:

- (i) For existing buildings, no openings on any portion of a wall oriented toward a public street shall be covered or blocked with any material so as to render the opening functionally obsolete (unable to be utilized for entry into the building) or inhibit transparency.
- (ii) Security bars, panels, curtains, and like devices, whether retractable or permanent, shall not be constructed or used on the exterior portion of any building wall oriented toward a public street. Such devices may be installed on the interior of the building.

(d) New Street Fronting Facades:

- (i) No facade shall have a blank, uninterrupted length exceeding 30 linear feet without including at least one of the following:
  - (aa) Color change
  - (bb) Texture change
  - (cc) Material change
  - (dd) Expression of architectural or structural bay through a change in plane no less than 12 inches in width, such as an offset, reveal, or projecting rib.
  - (ee) Equivalent element that subdivides the wall into human scale proportions. Windows do not count towards this requirement.
- (ii) The facade shall be transparent between the height of three feet and eight feet above the walkway grade for no less than 60 percent of the horizontal length of the building facade.
- (iii) Security bars, panels, curtains, and like devices, whether retractable or permanent, shall not be constructed or used on the exterior portion of any street-fronting facade. Such devices may be installed on the interior of the building.
- (iv) Facades shall use animating features such as arcades, awnings and like features.
- (v) Parapets, mansard roofs, gable roofs, hip roofs, gambrel roofs, or dormers shall be used to conceal flat roofs.

(e) Entrances:

- (i) At least one public entrance to all new principal buildings shall face the highest-level street, with the exception of freeways, as determined by Randolph County Comprehensive Transportation Plan classification.
  - (aa) In locations with existing or required sidewalks, the entrance shall be connected to a public sidewalk.

- (bb) The entrance shall be architecturally prominent with functional doors that provide ingress and egress, and features that create an invitation to the pedestrian.
- (ii) Multiple entrances from public sidewalks are encouraged. Additional entrances from parking areas are permitted.
- (f) Franchise architecture: Franchise architecture shall not be permitted. For purposes of this section "franchise architecture" shall be defined as a distinct architectural building style and/or elements commonly employed by a fast food or other retail franchise that serves to enhance or promote brand identity through visual recognition.
- (g) Play Areas: Children's play areas shall be located to the rear of the principal building.
- (h) Gasoline Pumps and Associated Canopies:
  - (i) Gasoline pumps and any canopy used to cover the gasoline pumps shall be located to the side or rear of the principal building with a minimum setback of ten feet from all property lines observed.
  - (ii) Canopies shall not be clad in vinyl or metal
  - (iii) Canopies shall have a pitched roof.
  - (iv) Support columns for canopies shall be clad in brick or stucco.

**(5) Parking and Loading**

- (a) Parking for all Uses: Article 400 Off-Street Parking and Loading requirements for the underlying districts apply except where modified by this section.
- (b) On Street Parking: Where parking on street is permitted, the on street area directly along a parcel's frontage for any use may count toward the minimum parking requirement.
- (c) Alternative Parking Plan: The Community Development Director, City Engineer, and Public Works Director in agreement may reduce the minimum amount of off-street parking required where developer-submitted parking data, prepared and sealed by a registered engineer with transportation expertise, illustrates that the standards of Article 400 do not accurately apply to the specific development. The data submitted shall include the size and type of the proposed development, the mix of uses, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads of all uses. Public parking, off-site parking, and joint/shared parking may also be considered.
- (d) Siting of Parking Areas: Except for existing buildings with nonconforming parking situations, parking shall not be located between any principal building and streets.
  - (i) No buildings shall be required to meet this requirement on more than two street frontages.
  - (ii) Where more than two street frontages exist, the two highest-level streets, with the exception of freeways, as determined by Randolph County Comprehensive Transportation Plan classification shall be the applicable streets.
- (e) Screening, Fencing of Parking Areas:
  - (i) The requirements of Sections 308A and 408D do not apply.
  - (ii) All new parking areas and existing parking areas where a change of use occurs shall be separated from the back of the curb by a planting strip at least five feet in width and screened from view from public streets by principal structures or by a landscaped berm or evergreen plantings at four feet tall at maturity. Shrubs, five (5) feet on center, or evergreen trees, fifteen (15) feet on center, shall be planted.
  - (iii) Plant materials shall meet the requirements and be installed according to ANLA (American Nursery and Landscape Association) standards.
  - (iv) In lieu of a landscaped berm, shrubs or trees, walls and or fences not exceeding four feet high may be substituted where justified by site constraints or design considerations. Walls or fences may be one of the following:
    - (aa) Masonry walls between three and four feet in height. Any portion of such a wall above three feet in height above grade shall be at least 60 percent open. In addition there shall be masonry piers providing a visual break in

the wall, and placed at increments of not less than one for each 12 feet of wall length, and one on any corner of such a wall. Where there are driveway openings in the wall, the height shall be reduced to not more than three feet for the first 12 feet on either side of the driveway.

- (bb) Masonry piers at intervals of between eight and 12 feet, supporting vertically oriented wrought iron or aluminum fencing panels. The height of this design shall be between four feet. Aluminum fencing panels shall have a medium or dark finish.
  - (cc) Stucco or synthetic stucco, or ornamental split-face block wall, or concrete block wall covered with stucco or synthetic stucco, four feet in height above grade.
  - (dd) Street trees otherwise required by this Article 200A(C) shall not be required under this provision.
- (f) Parking Structures:
- (i) The street level frontage of a parking facility shall be either commercial space or an architecturally articulated façade, consistent with the standards of Section 200A(C)(4), constructed to minimize the visibility of parked cars.
  - (ii) In no instance are rails or cabling alone sufficient to meet this screening requirement.

**(6) Sign considerations**

- (a) All signs in the Central Business Planning Area shall meet the requirements of Article 500 Signs for the underlying district. In addition to signs prohibited by Article 500, Free Standing Pole or Pylon Signs are also prohibited.
- (b) Sandwich signs placed by a business on a sidewalk in front of that business are permitted. The message on the sign shall pertain to goods or services offered by the business. Sandwich signs shall not exceed 9 square feet in area per side and at least five feet of unobstructed space shall remain on the sidewalk for the passage of pedestrians.

**(7) Street Furniture**

- (a) Furniture Permitted: Street furniture may be placed by the City of Asheboro or by a business when such furniture is incident to the business operated within.
- (b) No Sidewalk Obstruction: Placement of tables or chairs on the sidewalk must be done in such a manner that at least five feet of unobstructed space remains on the sidewalk for the passage of pedestrians.

**(8) Screening of Facilities for Loading, Storage, Trash and Equipment**

- (a) Screening: All structures and facilities for trash, loading, outdoor equipment, and storage, including the storage of inventory, shall be screened so as not to be visible from the street and pedestrian circulation areas for all new buildings, changes of use, and/or placement of new or additional such facilities.
- (b) Walls Used for Screening: Solid-screening walls shall be faced with brick, stone or other decorative masonry finish with the decorative side adjacent to the public right-of-way.
- (c) Fences Used for Screening: Screening fences shall be opaque and either painted or stained a medium or dark finish with the decorative side adjacent to the public right-of-way. In no instance will a chain link or barbed wire fence be acceptable.
- (d) Trees Used for Screening: Trees used to fulfill this requirement shall be located on private property in planters, a planting strip, berm or tree lawn, any of which shall be at least 8 feet wide. The trees shall be of a small maturing evergreen variety and be at least 10 feet tall at the time of planting. All shrubs shall be between 24 inches and 36 inches tall at time of planting. Selected plant materials shall meet the requirements and be installed according to ANLA (American Nursery and Landscape Association) standards. Trees employed to meet the screening requirement may not be counted toward the street tree requirements.

**(9) Street Trees**

- (a) The requirements of Sections 308A and 408D shall not apply.
- (b) For all new principal buildings and existing buildings with a setback greater than 5 feet where a change of use occurs, at least one tree of 3 – 3 1/2-inches caliper minimum, measured 6 inches above ground, shall be planted for each 25 feet for small maturing trees and for each 35 feet for large maturing trees of the entire lot which abuts any

public street right-of-way with a minimum of one tree required for any distance up to 35 feet.

- (c) Trees shall not be planted closer than 2 feet, nor more than 10 feet, from the back of the curb or sidewalk.
- (d) Selected plant materials shall meet the requirements and be installed according to ANLA (American Nursery and Landscape Association) standards.
- (e) The common names of approved small, medium and large maturing trees are found in Appendix A of Article 200A.

**(10) Multi-Family Developments**

- (a) Applicability: These provisions apply to multi-family developments within the Central Business Planning Area (Tier 1).
- (b) Amenities for multi-family developments containing fewer than 75 units
  - (i) Multi-family developments that consist of fewer than 75 units within Tier 1 shall provide recreation space as defined by Article 1100 equal to at least 2.5 percent of the land area within the development.
  - (ii) Recreation space shall be provided outdoors.
- (c) Amenities for multi-family developments containing 75 units or more:
  - (i) On site manager required: A full-time on site manager shall be provided for multi-family dwellings with a total of **75 units or more**. A permanent office shall be provided for the manager.
  - (ii) Amenity Space: For multi-family residential developments consisting of 75 units or more, the following provisions for amenity space apply and replace the recreation space requirements prescribed by Table 200-1.
    - (aa) As envisioned by the Land Development Plan as a key amenity that is provided in an urban residential environment and supported by the City's designation as a Fit Community, Multi-Family Developments shall provide amenity space for the health and enjoyment of residents.
    - (bb) On-site amenity space shall be provided that is age-appropriate to all residents of the development. For example, amenities including but not limited to playground equipment, sand boxes, etc. shall be provided for younger children, sports courts/fields and facilities providing youth enrichment activities shall be provided for older children, and amenities for adults (including activities or facilities appropriate for elderly adults) shall be provided.
    - (cc) A total of five (5) percent or more of the development's total land area shall consist of amenity space.
    - (dd) No more than fifty (50) percent of amenity space shall be located within an enclosed structure.
    - (ee) In order to be credited towards recreation space, each outdoor recreation area shall contain a minimum of one hundred (100) square feet and be delineated by clearly defined plantings, decorative fencing or walls (i.e. wrought/caste iron, picket, brick, concrete masonry unit, etc.).
    - (ff) Consistent with (bb) above, amenity space shall, at a minimum, contain one element of active recreation space and at least two (2) of the following elements: benches/patio tables, walking trails, art, community gardens, fountains, gazebo, clubhouse/community room, and like facilities. Sixty (60) percent of the required amenity space shall consist of active recreation space.
    - (gg) Active recreation space shall be at least 20 feet from any residential unit.
    - (hh) If the development occurs in phases, Phase I shall contain the required amenity space meeting the requirements for that phase.
- (d) Visitor and Recreational Parking:
  - (i) Overflow parking spaces for visitors shall be designated within the parking area of multi-family housing developments providing more than **four residential** units. One overflow parking space shall be provided for every ten (10) required parking spaces within the project.
  - (ii) Notes to Table 200-2, Note 15 applies to parking of recreational vehicles (including boats, travel trailers/campers, etc.) within multi-family developments, except when developed as an Adaptive reuse project as stated in (C)(11)below.

**(11) Adaptive Reuse Projects**

An Adaptive Reuse Project is defined as any adaptation of an existing building for purposes other than those originally intended.

The purpose of Adaptive Reuse Projects are to revitalize the Center City Asheboro area and implement the Asheboro 2020 Land Development Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to, but not limited to, apartments, live/work units or visitor-serving facilities. This will help to reduce vacant space as well as preserve the Center City's architectural and cultural past and encourage the development of a live/work and residential community downtown, thus creating a more balanced ratio between housing and jobs.

- (a) Density: Adaptive Reuse Projects shall not be subject to the following requirements.
  - (i) Floor area or open space requirements of the underlying zoning district specified by Article 200, Table 200-1
  - (ii) Impervious surface limitation of Article 200A(C)
  
- (b) Off Street Parking and Loading:
  - (i) No reduction in the number of required loading spaces (as specified by Article 400) is authorized by this section.
  - (ii) The following modifications apply to the number of off-street parking spaces provided:
    - (aa) Residential: One (1) Off-street parking space is required per residential dwelling unit. This replaces off-street parking requirements for residential dwellings specified by Article 400, Table 400-1. Parking of recreational vehicles (including boats, travel trailers/campers, etc.) is not permitted unless such parking occurs within an entirely enclosed structure that complies with the requirements of the Zoning Ordinance. The designated storage area for recreational vehicles required for multi-family dwellings (See Note 15, Notes to Table 200-2) shall not be required for residential adaptive reuse projects.
    - (bb) Non-Residential: Parking shall provided in accordance with Table 400-1, except that the number of required spaces shall be calculated at fifty (50) percent of the rate specified by Table 400-1.
    - (cc) Mixed Uses: The number of parking spaces required is the total number of spaces required for the non-residential use as specified by this section, plus the number of required parking spaces for the residential use(s) as specified by this section.
  - (iii) Recreational Vehicle Parking

Parking of recreational vehicles (including boats, travel trailers/campers, etc.) in a multi-family development within an adaptive reuse project in Tier 1 is not permitted unless such parking occurs within an entirely enclosed structure that complies with the requirements of the Zoning Ordinance. The designated storage area for recreational vehicles required for multi-family dwellings (See Note 15, Notes to Table 200-2) shall not be required for multi-family developments that are developed as an adaptive reuse project

**(D) Central Fringe Planning Area (Tier 2)**

The Central Fringe Planning Area (Tier 2) is hereby established to strengthen Asheboro's Center City Planning Area. This planning area encompasses blocks adjacent to Tier 1, the core Central Business Area. Properties in this planning area, unlike those in Tier 1, are not readily accessible to public downtown parking. Coordinated development of a variety of mixed uses is encouraged. These uses include retail, professional and financial businesses, dwellings, institutional, industrial, governmental and other public facilities. Like the Central Business Planning Area, the Central Fringe Planning Area is designed to facilitate coordination of future development, stressing sensitivity to urban design, pedestrian environment, urban open spaces, streetscapes, ample sidewalks and street trees.

**(1) Permitted and Special Uses**

The uses identified in the Table of Permitted Uses (Table 200-2) for the districts covered by this planning area are permitted by right or as special uses provided they meet all requirements of this Article and all other requirements established in this Ordinance:

**(2) Dimensional Requirements**

(a) Standard Dimensions:

- (i) Table of Area, Height, Bulk, and Placement Regulations (Table 200-1) shall not apply except where expressly stated in this sub-section (Article 200A(D)(2)(a)).
- (ii) Minimum Lot Size/Width: Refer to underlying zoning district in Table 200-1
- (iii) Front Yard Setback:
  - (aa) Commercial and Industrial Zones: A required front yard setback line shall be provided on the lot equal to average depth but not to exceed 30 feet, nor less than 10 feet. This measurement shall include the average of the front setbacks for all adjacent lots within the same block as the subject property.
  - (bb) Residential, OA6 and O&I Zones: A required front yard setback line shall be provided on the lot equal to average depth. This measurement shall include the average of the front setbacks for all adjacent lots within the same block as the subject property. Frontages shall be placed within five feet of established average depth.
  - (cc) Measurement: When a lot is located on a block that is greater than eight hundred feet in length, the average front yard setback of lots located within four hundred feet of either side shall determine the required front yard setback line. If the right-of-way of an intersecting public street right-of-way is less than four hundred feet in one direction in this case, the averaging requirement in that direction shall stop at the right-of-way of the intersecting street. For the purpose of computing such average, adjacent vacant lot(s) shall utilize the underlying zoning required front yard setback in the calculation to determine the required front yard setback of this section.
- (iv) Minimum Side/Rear Yard Setback: Refer to underlying zoning district in Table 200-1
- (v) Maximum Height: 45 Feet
- (vi) Minimum pervious surface: 30%

(b) Accessory Structures:

- (i) Shall be located to the rear or side of principal buildings.
- (ii) No accessory structure shall be located within 30 feet of any street- right-of-way.
- (iii) Table 200-1, Table 200-2, Section 303 and Note # 33 shall apply, except if in conflict with this section.

**(3) Sidewalks Required**

Sidewalks shall be regulated by Section 322A of this ordinance.

**(4) Development Standards for Buildings**

The following sections identify standards that shall apply to development within the Central Fringe Planning Area in addition to all other applicable standards contained in this Ordinance. In general, infill uses shall be compatible with the established architectural character of the area by using complementary building style, form, size, color, materials, and detailing. New construction should reinforce existing building and design patterns.

(a) Building Materials:

- (i) Permitted Materials: Buildings shall be clad in one or more of the following: brick, brick veneer, ornamental split-faced concrete block or similar ornamental concrete masonry unit (CMU), stucco (synthetic or natural), stone or simulated stone/marble. Vinyl and/or aluminum may be used to clad soffits, trim, or

- windows. Aggregate stone panels may be used provided it does not cover more than 30 percent of any wall area.
- (ii) **Prohibited Materials:** Materials specifically disallowed as primary siding materials include, but are not limited to: vinyl and aluminum siding, unfinished wood, concrete block (except split-faced block). In addition, materials prohibited in Sections 316A, 317A and 318A of this Ordinance are prohibited.
- (b) **Colors:** No high intensity colors metallic colors, or fluorescent colors shall be allowed on any building or architectural element. Exception: The use of such colors shall be permitted on business identification signs.
- (c) **Existing Street Fronting Facades:**
- (i) For existing buildings, no openings on any portion of a wall oriented toward a public street shall be covered or blocked with any material so as to render the opening functionally obsolete (unable to be utilized for entry into the building) or inhibit transparency.
  - (ii) Security bars, panels, curtains, and like devices, whether retractable or permanent, shall not be constructed or used on the exterior portion of any building wall oriented toward a public street. Such devices may be installed on the interior of the building.
- (d) **New Street Fronting Facades:**
- (i) No facade shall have a blank, uninterrupted length exceeding 30 linear feet without including at least one of the following:
    - (aa) Color Change
    - (bb) Texture Change
    - (cc) Material Change
    - (dd) Expression of architectural or structural bay through a change in plane no less than 12 inches in width, such as an offset, reveal, or projecting rib.
    - (ee) Equivalent element that subdivides the wall into human scale proportions. Windows do not count towards this requirement.
  - (ii) The facade shall be transparent between the height of three feet and eight feet above the walkway grade for no less than 60 percent of the horizontal length of the building facade.
  - (iii) Security bars, panels, curtains, and like devices, whether retractable or permanent, shall not be constructed or used on the exterior portion of any street-fronting facade. Such devices may be installed on the interior of the building.
  - (iv) Facades shall use animating features such as arcades, awnings and like features.
  - (v) Parapets, mansard roofs, gable roofs, hip roofs, gambrel roofs, or dormers shall be used to conceal flat roofs.
- (e) **Entrances:**
- (i) At least one public entrance to all new principal buildings shall face the highest-level street, with the exception of freeways, as determined by Randolph County Comprehensive Transportation Plan classification.
    - (aa) In locations with existing or required sidewalks, the entrance shall be connected to a public sidewalk.
    - (bb) The entrance shall be architecturally prominent with functional doors that provide ingress and egress, and features that create an invitation to the pedestrian.
  - (ii) Multiple entrances from public sidewalks are encouraged. Additional entrances from parking areas are permitted.
- (f) **Gasoline Pumps and Associated Canopies**
- (i) Gasoline pumps and any canopy used to cover the gasoline pumps shall be located to the side or rear of the principal building with a minimum setback of ten feet from all property lines observed.

- (ii) Canopies shall not be clad in vinyl or metal
- (iii) Canopies shall have a pitched roof.
- (iv) Support columns for canopies shall be clad in brick or stucco.

**(5) Parking and Loading**

- (a) Parking for all Uses: Article 400 Off-Street Parking and Loading requirements for the underlying districts apply except where modified by this section.
- (b) On Street Parking: Where parking on street is permitted, the on street area directly along a parcel's frontage for any use may count toward the minimum parking requirement.
- (c) Alternative Parking Plan: The Community Development Director, City Engineer, and Public Works Director in agreement may reduce the minimum amount of off-street parking required where developer-submitted parking data, prepared and sealed by a registered engineer with transportation expertise, illustrates that the standards of Article 400 do not accurately apply to the specific development. The data submitted shall include the size and type of the proposed development, the mix of uses, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads of all uses. Public parking, off-site parking, and joint/shared parking may also be considered.
- (d) Siting of Parking Areas: Except for existing buildings with nonconforming parking situations, parking shall not be located between any principal building and streets.
  - (i) No buildings shall be required to meet this requirement on more than two street frontages.
  - (ii) Where more than two street frontages exist, the two highest-level streets, with the exception of freeways, as determined by Randolph County Comprehensive Transportation Plan classification shall be the applicable streets.
- (e) Screening, Fencing of Parking Areas:
  - (i) The requirements of Sections 308A and 408D do not apply.
  - (ii) All new parking areas and existing parking areas where a change of use occurs shall be separated from the back of the curb by a planting strip at least five feet in width and screened from view from public streets by principal structures or by a landscaped berm or evergreen plantings at four feet tall at maturity. Shrubs, five (5) feet on center, or evergreen trees, fifteen (15) feet on center, shall be planted.
  - (iii) Plant materials shall meet the requirements and be installed according to ANLA (American Nursery and Landscape Association) standards.
  - (iv) In lieu of a landscaped berm, shrubs or trees, walls and or fences not exceeding four feet high may be substituted where justified by site constraints or design considerations. Walls or fences may be one of the following:
    - (aa) Masonry walls between three and four feet in height. Any portion of such a wall above three feet in height above grade shall be at least 60 percent open. In addition there shall be masonry piers providing a visual break in the wall, and placed at increments of not less than one for each 12 feet of wall length, and one on any corner of such a wall. Where there are driveway openings in the wall, the height shall be reduced to not more than three feet for the first 12 feet on either side of the driveway.
    - (bb) Masonry piers at intervals of between eight and 12 feet, supporting vertically oriented wrought iron or aluminum fencing panels. The height of this design shall be between three and four feet. Aluminum fencing panels shall have a medium or dark finish.
    - (cc) Stucco or synthetic stucco, or ornamental split-face block wall, or concrete block wall covered with stucco or synthetic stucco, four feet in height above grade.
    - (dd) Street trees otherwise required by this Article 200A(D) shall not be required under this provision.

(f) Parking Structures:

- (i) The street level frontage of a parking facility shall be either commercial space or an architecturally articulated façade, consistent with the standards of Section 200A(D)(4), constructed to minimize the visibility of parked cars.
- (ii) In no instance are rails or cabling alone sufficient to meet this screening requirement.

**(6) Sign considerations**

All signs in the Central Fringe Planning Area shall meet the requirements of Article 500 Signs for the underlying district. In addition to signs prohibited by Article 500, Free Standing Pole or Pylon Signs are also prohibited.

**(7) Screening of Facilities for Loading, Storage, Trash and Equipment**

- (a) Screening: All structures and facilities for trash, loading, outdoor equipment, and storage, including the storage of inventory, shall be screened so as not to be visible from the street and pedestrian circulation areas for all new buildings, changes of use, and/or placement of new or additional such facilities.
- (b) Walls Used for Screening: Solid-screening walls shall be faced with brick, stone or other decorative masonry finish with the decorative side adjacent to the public right-of-way.
- (c) Fences Used for Screening: Screening fences shall be opaque and either painted or stained a medium or dark finish with the decorative side adjacent to the public right-of-way. In no instance will a chain link or barbed wire fence be acceptable.
- (d) Trees Used for Screening: Trees used to fulfill this requirement shall be located on private property in planters, a planting strip, berm or tree lawn, any of which shall be at least 8 feet wide. The trees shall be of a small maturing evergreen variety and be at least 10 feet tall at the time of planting. All shrubs shall be between 24 inches and 36 inches tall at time of planting. Selected plant materials shall meet the requirements and be installed according to ANLA (American Nursery and Landscape Association) standards. Trees employed to meet the screening requirement may not be counted toward the street tree requirements.

**(8) Street Trees**

- (a) The requirements of Sections 308A and 408D shall not apply.
- (b) For all new principal buildings and existing buildings with a setback greater than 5 feet where a change of use occurs, at least one tree of 3 – 3 1/2-inches caliper minimum, measured 6 inches above ground, shall be planted for each 25 feet for small maturing trees and for each 35 feet for large maturing trees of the entire lot which abuts any public street right-of-way with a minimum of one tree required for any distance up to 35 feet.
- (c) Trees shall not be planted closer than 2 feet, nor more than 10 feet, from the back of the curb or sidewalk.
- (d) Selected plant materials shall meet the requirements and be installed according to ANLA (American Nursery and Landscape Association) standards.
- (e) The common names of approved small, medium and large maturing trees are found in Appendix A of Article 200A.

**(9) Multi-Family Developments**

- (a) Applicability: These provisions apply to a multi-family development within the Central Fringe Planning Area (Tier 2)
- (b) Amenities for Multi-Family development containing fewer than 75 units:
  - (i) Multi-family developments that consist of fewer than 75 units within Tier 2 shall provide recreation space as defined by Article 1100 equal to at least 2.5 percent of the land area within the development.
  - (ii) Recreation space shall be provided outdoors.

- (c) Amenities for Multi-Family developments containing 75 units or more:
- (i) On site manager required: A full-time on site manager shall be provided for multifamily dwellings with a total of **75 units or more**. A permanent office shall be provided for the manager.
  - (ii) Amenity Space: For multi-family residential developments consisting of 75 units or more, the following provisions for amenity space apply and replace the recreation space requirements prescribed by Table 200-1.
    - (aa) As envisioned by the Land Development Plan as a key amenity that is provided in an urban residential environment and supported by the City's designation as a Fit Community, Multi-Family Developments shall provide amenity space for the health and enjoyment of residents.
    - (bb) On-site amenity space shall be provided that is age-appropriate to all residents of the development. For example, amenities including but not limited to playground equipment, sand boxes, etc. shall be provided for younger children, sports courts/fields and facilities providing youth enrichment activities shall be provided for older children, and amenities for adults (including activities or facilities appropriate for elderly adults) shall be provided.
    - (cc) A total of five (5) percent or more of the development's total land area shall consist of amenity space.
    - (dd) No more than fifty (50) percent of amenity space shall be located within an enclosed structure.
    - (ee) In order to be credited towards recreation space, each outdoor recreation area shall contain a minimum of one hundred (100) square feet and be delineated by clearly defined plantings, decorative fencing or walls (i.e. wrought/caste iron, picket, brick, concrete masonry unit, etc).
    - (ff) Consistent with (bb) above amenity space shall, at a minimum, contain one element of active recreation space and at least two (2) of the following elements: benches/patio tables, walking trails, art, community gardens, fountains, gazebo, clubhouse/community room, and like facilities. Sixty (60) percent of the required amenity space shall consist of active recreation space.
    - (gg) Active recreation space shall be at least 20 feet from any residential unit.
    - (hh) If the development occurs in phases, Phase I shall contain the required amenity space meeting the requirements for that phase.
- (d) Visitor and Recreational Parking:
- (i) Overflow parking spaces for visitors shall be designated within the parking area of multi-family housing developments providing more than **four (4)** residential units. One overflow parking space shall be provided for every ten (10) required parking spaces within the project.
  - (ii) Notes to Table 200-2, Note 15 applies to parking of recreational vehicles (including boats, travel trailers/campers, etc.) within multi-family developments.

#### **(10) Whole Block Redevelopment**

Whole Block Redevelopment is envisioned to enhance public health, safety, and general welfare of the neighborhood in which it is located, as well as the City as a whole. A block encompasses a polygon (usually a rectangular) shape encompassed by public streets. Specific purposes envisioned by Whole Block Redevelopment include the revitalization of neighborhoods, the removal of blighted and unsafe structures, encouragement of reinvestment into properties in the vicinity of the development, stabilization and enhancement of property values, improvement of the City's housing stock, enhancement of the historic integrity of neighborhoods and improvement to public infrastructure. The Asheboro Land Development Plan and the Asheboro Community Revitalization Plan support Whole Block Redevelopment.

- (a) Integration with Asheboro Zoning Ordinance provisions outside of Section 200A(D)(9)[Whole Block Redevelopment]: All definitions and provisions of the Asheboro Zoning Ordinance shall apply within Whole Block Redevelopment areas except where the provisions of this section (Section 200A(D)(10)) are inconsistent and more specific than any other provision(s) found in the Asheboro Zoning Ordinance. In case of such a conflict, the provisions found in Section 200A(D)(10) shall control within the Whole Block Redevelopment area.
- (b) Review Process: Staff shall review proposals for a whole block redevelopment that comply with all regulatory provisions of the Zoning Ordinance. An applicant may

propose an alternative whole block redevelopment plan in cases when deficiencies to meeting regulatory provisions of the Zoning Ordinance exist. In addition to meeting the legal tests necessary to grant a Special Use Permit (Article 600, Section 602.1), the applicant shall demonstrate competent, material, and substantial evidence that the alternative whole block redevelopment plan offers greater compatibility with its environs than a plan subject to approval by right under the provisions of this Ordinance. At a minimum, and without limitation, the demonstration of such compatibility with the environs must be established by satisfying the requirements of Section 651 of the Asheboro Zoning Ordinance.

(c) Inventory of Existing Features Required

Plans analyzing the site's special features are required for a proposed Whole Block Redevelopment, as they form the basis of the design process for buildings, parking, pedestrian access, open and recreation space, utilities, infrastructure and other site features. The inventory shall be submitted simultaneously with an Application for Zoning Compliance Permit. The inventory shall include:

- (i) A contour map based at least upon topographical maps published by the U.S. Geological Survey.
- (ii) The location of severely constraining elements including but not limited to steep slopes (over 20%), floodplains, wetlands, watercourses, intermittent streams and all right-of-ways and easements.
- (iii) Soil boundaries as shown on United States Department of Agriculture Natural Resources Conservation Service medium-intensity maps.
- (iv) The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out of the property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails, and any sites recognized by the National Register of Historic Places or the Randolph County Historic Landmark Preservation Commission.

(d) Standard Dimensions

- (i) Table of Area, Height, Bulk, and Placement Regulations (Table 200-1), Section 302.4 and Section 200A(D)(2)(a) shall not apply except where expressly stated in this sub-section (Article 200A(D)(9)(c)).
- (ii) Minimum Lot Size/Width: Refer to underlying zoning district in Table 200-1
- (iii) Minimum Front Yard Setback: 25 Feet on Minor Thoroughfares and higher classification streets; 10 feet on all other streets. Front yard setbacks shall be measured from the existing public right-of-way and not from the ultimate right-of-way.
- (iv) Maximum Height: 45 Feet
- (v) Minimum pervious surface: 30%

(e) Siting of Parking Areas: Parking shall not be located between any principal buildings and the primary street (excluding limited access freeways).

(f) Infrastructure Improvements Required: Curb, gutter and sidewalks meeting the design standards of the City of Asheboro and/or North Carolina Department of Transportation shall be installed along the entire frontage of all public streets.

- (i) Sidewalks shall be constructed within the public right-of-way when adequate right-of-way is available as specified by Section 322A of the Zoning Ordinance.
- (ii) In cases in which public right-of-way does not contain adequate width to meet the City of Asheboro Sidewalk Design Standards described in Section 322A of the Zoning Ordinance, a sidewalk shall be constructed parallel to the street within the front setback of the property.
- (iii) All principal structures shall have at least one entrance connected to a public street with a sidewalk. In cases in which property has frontage on a major thoroughfare, minor thoroughfare, or boulevard, a sidewalk shall connect the principal structure(s) to this street(s).

(g) Multi-family residential developments: For multi-family residential developments within a whole block redevelopment, the following provisions for amenity space and visitor/recreational vehicle parking apply and replace the visitor/recreational vehicle parking and recreation space requirements prescribed by Table 200-1, Notes to Table 200-2 (Note 15), and Article 200A, Subsections (D)(9)(b, c and d).

- (i) On site manager required. A full-time on site manager shall be provided for multifamily dwellings with a total of **75 units or more**. A permanent office shall be provided for the manager.
- (ii) Amenity Space: For multi-family residential developments consisting of 75 units or more, the following provisions for amenity space apply and replace the recreation space requirements prescribed by Table 200-1.
  - (aa) As envisioned by the Land Development Plan as a key amenity that is provided in an urban residential environment and supported by the City's designation as a Fit Community, Multi-Family Developments shall provide amenity space for the health and enjoyment of residents.
  - (bb) On-site amenity space shall be provided that is age-appropriate to all residents of the development. For example, amenities including but not limited to playground equipment, sand boxes, etc. shall be provided for younger children, sports courts/fields and facilities providing youth enrichment activities shall be provided for older children, and amenities for adults (including activities or facilities appropriate for elderly adults) shall be provided.
  - (cc) A total of five (5) percent or more of the development's total land area shall consist of amenity space.
  - (dd) No more than fifty (50) percent of amenity space shall be located within an enclosed structure.
  - (ee) In order to be credited towards recreation space, each outdoor recreation area shall contain a minimum of one hundred (100) square feet and be delineated by clearly defined plantings, decorative fencing or walls (i.e. wrought/caste iron, picket, brick, concrete masonry unit, etc).
  - (ff) Consistent with (bb) above amenity space shall, at a minimum, contain one element of active recreation space and at least two (2) of the following elements: benches/patio tables, walking trails, art, community gardens, fountains, gazebo, clubhouse/community room, and like facilities. Sixty (60) percent of the required amenity space shall consist of active recreation space.
  - (gg) Active recreation space shall be at least 20 feet from any residential unit.
  - (hh) If the development occurs in phases, Phase I shall contain the required amenity space meeting the requirements for that phase.
- (iii) Visitor and Recreational Parking:
  - (aa) Overflow parking spaces for visitors shall be designated within the parking area of multi-family housing developments providing more than **four residential** units. One overflow parking space shall be provided for every ten (10) required parking spaces within the project.
  - (bb) Parking of recreational vehicles (including boats, travel trailers/campers, etc.) in a multi-family development within a Whole Block Redevelopment in Tier 2 is not permitted unless such parking occurs within an entirely enclosed structure that complies with the requirements of the Zoning Ordinance. The designated storage area for recreational vehicles required for multi-family dwellings (See Note 15, Notes to Table 200-2) shall not be required for multi-family developments that are within a Whole Block Redevelopment.

**(E) Commercial and Employment Center Planning Area (Tier 3)**

The Commercial and Employment Center Planning Area (Tier 3) is hereby established to preserve and enhance the visual appeal of streets leading into and out of Asheboro's Central Business and Central Business Fringe Area planning area, and to promote the orderly development and safe and efficient movement of traffic.

**(1) Permitted and Special Uses**

The uses identified in the Table of Permitted Uses (Table 200-2) for the districts covered by this planning area are permitted by right or as special uses provided they meet all requirements of this Article and all other requirements established in this Ordinance

**(2) Dimensional Requirements**

(a) Standard Dimensions:

- (i) Table of Area, Height, Bulk, and Placement Regulations (Table 200-1) shall not apply except where expressly stated in this sub-section (Article 200A(E)(2)(a)).

- (ii) Minimum Lot Size/Width: Refer to underlying zoning district in Table 200-1
- (iii) Front Yard Setback:
  - (aa) Commercial and Industrial Zones: A required front yard setback line shall be provided on the lot equal to average depth but not to exceed 30 feet, nor less than 10 feet. This measurement shall include the average of the front setbacks for all adjacent lots within the same block as the subject property.
  - (bb) Residential, OA6 and O&I Zones: A required front yard setback line shall be provided on the lot equal to average depth. This measurement shall include the average of the front setbacks for all adjacent lots within the same block as the subject property. Frontages shall be placed within five feet of established average depth.
  - (cc) Measurement: When a lot is located on a block that is greater than eight hundred feet in length, the average front yard setback of lots located within four hundred feet of either side shall determine the required front yard setback line. If the right-of-way of an intersecting public street right-of-way is less than four hundred feet in one direction in this case, the averaging requirement in that direction shall stop at the right-of-way of the intersecting street. For the purpose of computing such average, adjacent vacant lot(s) shall utilize the underlying zoning required front yard setback in the calculation to determine the required front yard setback of this section.
- (iv) Minimum Side/Rear Yard Setback: Refer to underlying zoning district in Table 200-1
- (v) Maximum Height: 35 Feet
- (vi) Minimum pervious surface: 45%

(b) Accessory Structures:

- (i) Shall be located to the rear or side of principal buildings.
  - (ii) No accessory structure shall be located within 30 feet of any street- right-of-way.
  - (iii) Table 200-1, Table 200-2, Section 303 and Note # 33 shall apply, except if in conflict with this section.
- (c) Loading Docks: No loading docks shall be located on any street fronting building façade or face.

**(3) Parking and Loading**

- (a) Parking for all Uses: Article 400 Off-Street Parking and Loading requirements for the underlying districts apply except where modified by this section.
- (b) On Street Parking: Where parking on street is permitted, the on street area directly along a parcel's frontage for any use may count toward the minimum parking requirement.
- (c) Alternative Parking Plan: The Community Development Director, City Engineer, and Public Works Director in agreement may reduce the minimum amount of off-street parking required where developer-submitted parking data, prepared and sealed by a registered engineer with transportation expertise, illustrates that the standards of Article 400 do not accurately apply to the specific development. The data submitted shall include the size and type of the proposed development, the mix of uses, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads of all uses. Public parking, off-site parking, and joint/shared parking may also be considered.

**(4) Signs**

Signs shall be in accordance with the sign regulations for the underlying zoning district.

**(5) Sidewalks Required**

Sidewalks shall be regulated by Section 322A of this ordinance.

**(6) Ingress and Egress Points**

Shall meet the requirements of Article 400.

**(7) Landscaping**

All plantings shall be shown on the site plan. All required plantings shall meet the requirements of Article 300A

**(8) Multi-Family Developments**

- (a) Applicability: These provisions apply to a multi-family development within the Commercial and Employment Center Area (Tier 3)
- (b) Amenities for Multi-Family development containing fewer than 75 units:
- (i) Multi-family developments that consist of fewer than 75 units within Tier 3 shall provide recreation space as defined by Article 1100 equal to at least 2.5 percent of the land area within the development.
  - (ii) Recreation space shall be provided outdoors.
- (c) Amenities for Multi-Family developments containing 75 units or more:
- (i) On site manager required: A full-time on site manager shall be provided for multifamily dwellings with a total of **75 units or more**. A permanent office shall be provided for the manager.
  - (ii) Amenity Space: For multi-family residential developments consisting of 75 units or more, the following provisions for amenity space apply and replace the recreation space requirements prescribed by Table 200-1.
    - (aa) As envisioned by the Land Development Plan as a key amenity that is provided in an urban residential environment and supported by the City's designation as a Fit Community, Multi-Family Developments shall provide amenity space for the health and enjoyment of residents.
    - (bb) On-site amenity space shall be provided that is age-appropriate to all residents of the development. For example, amenities including but not limited to playground equipment, sand boxes, etc. shall be provided for younger children, sports courts/fields and facilities providing youth enrichment activities shall be provided for older children, and amenities for adults (including activities or facilities appropriate for elderly adults) shall be provided.
    - (cc) A total of five (5) percent or more of the development's total land area shall consist of amenity space.
    - (dd) No more than fifty (50) percent of amenity space shall be located within an enclosed structure.
    - (ee) In order to be credited towards recreation space, each outdoor recreation area shall contain a minimum of one hundred (100) square feet and be delineated by clearly defined plantings, decorative fencing or walls (i.e. wrought/caste iron, picket, brick, concrete masonry unit, etc).
    - (ff) Consistent with (bb) above amenity space shall, at a minimum, contain one element of active recreation space and at least two (2) of the following elements: benches/patio tables, walking trails, art, community gardens, fountains, gazebo, clubhouse/community room, and like facilities. Sixty (60) percent of the required amenity space shall consist of active recreation space.
    - (gg) Active recreation space shall be at least 20 feet from any residential unit.
    - (hh) If the development occurs in phases, Phase I shall contain the required amenity space meeting the requirements for that phase.
- (d) Visitor and Recreational Parking:
- (i) Overflow parking spaces for visitors shall be designated within the parking area of multi-family housing developments providing more than **four (4)** residential units. One overflow parking space shall be provided for every ten (10) required parking spaces within the project.
  - (ii) Notes to Table 200-2, Note 15 applies to parking of recreational vehicles (including boats, travel trailers/campers, etc.) within multi-family developments.

**(9) Whole Block Redevelopment**

Whole Block Redevelopment is envisioned to enhance public health, safety, and general welfare of the neighborhood in which it is located, as well as the City as a whole. A block encompasses a polygon (usually a rectangular) shape encompassed by public streets. Specific purposes envisioned by Whole Block Redevelopment include the revitalization of

neighborhoods, the removal of blighted and unsafe structures, encouragement of reinvestment into properties in the vicinity of the development, stabilization and enhancement of property values, improvement of the City's housing stock, enhancement of the historic integrity of neighborhoods and improvement to public infrastructure. The Asheboro Land Development Plan and the Asheboro Community Revitalization Plan support Whole Block Redevelopment.

- (a) Integration with Asheboro Zoning Ordinance provisions outside of Section 200A(E)(8)[Whole Block Redevelopment]: All definitions and provisions of the Asheboro Zoning Ordinance shall apply within Whole Block Redevelopment areas except where the provisions of Section 200A(E)(8) are inconsistent and more specific than any other provision(s) found in the Asheboro Zoning Ordinance. In case of such a conflict, the provisions found in Section 200A(E)(8) shall control within the Whole Block Redevelopment area.
- (b) Review Process: Staff shall review proposals for a whole block redevelopment that comply with all regulatory provisions of the Zoning Ordinance. An applicant may propose an alternative whole block redevelopment plan in cases when deficiencies to meeting regulatory provisions of the Zoning Ordinance exist. In addition to meeting the legal tests necessary to grant a Special Use Permit (Article 600, Section 602.1), the applicant shall demonstrate competent, material, and substantial evidence that the alternative whole block redevelopment plan offers greater compatibility with its environs than a plan subject to approval by right under the provisions of this Ordinance. At a minimum, and without limitation, the demonstration of such compatibility with the environs must be established by satisfying the requirements of Section 651 of the Asheboro Zoning Ordinance.
- (c) Inventory of Existing Features Required  
Plans analyzing the site's special features are required for a proposed Whole Block Redevelopment, as they form the basis of the design process for buildings, parking, pedestrian access, open and recreation space, utilities, infrastructure and other site features. The inventory shall be submitted simultaneously with an Application for Zoning Compliance Permit. The inventory shall include:
  - (i) A contour map based at least upon topographical maps published by the U.S. Geological Survey.
  - (ii) The location of severely constraining elements including but not limited to steep slopes (over 20%), floodplains, wetlands, watercourses, intermittent streams and all right-of-ways and easements.
  - (iii) Soil boundaries as shown on United States Department of Agriculture Natural Resources Conservation Service medium-intensity maps.
  - (iv) The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out of the property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails, and any sites recognized by the National Register of Historic Places or the Randolph County Historic Landmark Preservation Commission.
- (d) Standard Dimensions
  - (i) Table of Area, Height, Bulk, and Placement Regulations (Table 200-1), Section 302.4 and Section 200A(D)(2)(a) shall not apply except where expressly stated in this sub-section (Article 200A(E)(8)(c)).
  - (ii) Minimum Lot Size/Width: Refer to underlying zoning district in Table 200-1
  - (iii) Minimum Front Yard Setback: 25 Feet on Minor Thoroughfares and higher classification streets; 10 feet on all other streets. Front yard setbacks shall be measured from the existing public right-of-way and not from the ultimate right-of-way.
  - (iv) Maximum Height: 45 Feet
  - (v) Minimum pervious surface: 30%
- (e) Siting of Parking Areas: Parking shall not be located between any principal buildings and the primary street (excluding limited access freeways).
- (f) Infrastructure Improvements Required: Curb, gutter and sidewalks meeting the design standards of the City of Asheboro and/or North Carolina Department of Transportation shall be installed along the entire frontage of all public streets.
  - (i) Sidewalks shall be constructed within the public right-of-way when adequate right-of-way is available as specified by Section 322A of the Zoning Ordinance.

- (ii) In cases in which public right-of-way does not contain adequate width to meet the City of Asheboro Sidewalk Design Standards described in Section 322A of the Zoning Ordinance, a sidewalk shall be constructed parallel to the street within the front setback of the property.
  - (iii) All principal structures shall have at least one entrance connected to a public street with a sidewalk. In cases in which property has frontage on a major thoroughfare, minor thoroughfare, or boulevard, a sidewalk shall connect the principal structure(s) to this street(s).
- (g) Multi-family residential developments: For multi-family residential developments within a whole block redevelopment, the following provisions for amenity space apply and replace the recreation space requirements prescribed by Table 200-1, Notes to Table 200-2, Note 15, and Article 200A, Subsection (E) (8) (b, c and d).
- (i) On site manager required. A full-time on site manager shall be provided for multifamily dwellings with a total of **75 units or more**. A permanent office shall be provided for the manager.
  - (ii) Amenity Space: For multi-family residential developments consisting of 75 units or more, the following provisions for amenity space apply and replace the recreation space requirements prescribed by Table 200-1.
    - (aa) As envisioned by the Land Development Plan as a key amenity that is provided in an urban residential environment and supported by the City's designation as a Fit Community, Multi-Family Developments shall provide amenity space for the health and enjoyment of residents.
    - (bb) On-site amenity space shall be provided that is age-appropriate to all residents of the development. For example, amenities including but not limited to playground equipment, sand boxes, etc. shall be provided for younger children, sports courts/fields and facilities providing youth enrichment activities shall be provided for older children, and amenities for adults (including activities or facilities appropriate for elderly adults) shall be provided.
    - (cc) A total of five (5) percent or more of the development's total land area shall consist of amenity space.
    - (dd) No more than fifty (50) percent of amenity space shall be located within an enclosed structure.
    - (ee) In order to be credited towards recreation space, each outdoor recreation area shall contain a minimum of one hundred (100) square feet and be delineated by clearly defined plantings, decorative fencing or walls (i.e. wrought/caste iron, picket, brick, concrete masonry unit, etc).
    - (ff) Consistent with (bb) above amenity space shall, at a minimum, contain one element of active recreation space and at least two (2) of the following elements: benches/patio tables, walking trails, art, community gardens, fountains, gazebo, clubhouse/community room, and like facilities. Sixty (60) percent of the required amenity space shall consist of active recreation space.
    - (gg) Active recreation space shall be at least 20 feet from any residential unit.
    - (hh) If the development occurs in phases, Phase I shall contain the required amenity space meeting the requirements for that phase.
  - (iii) Visitor and Recreational Vehicle Parking
    - (aa) Overflow parking spaces for visitors shall be designated within the parking area of multi-family housing developments providing more than **four (4)** residential units. One overflow parking space shall be provided for every ten (10) required parking spaces within the project.
    - (bb) Parking of recreational vehicles (including boats, travel trailers/campers, etc.) in a multi-family development within a Whole Block Redevelopment in Tier 3 is not permitted unless such parking occurs within an entirely enclosed structure that complies with the requirements of the Zoning Ordinance. The designated storage area for recreational vehicles required for multi-family dwellings (See Note 15, Notes to Table 200-2) shall not be required for multi-family developments that are within a Whole Block Redevelopment.

**Appendix A: Approved Street Trees**

Large Trees (Mature Height Greater than 50 feet):

- |                         |                   |                      |
|-------------------------|-------------------|----------------------|
| -Green Ash              | -Overcup Oak      | -Japanese Pagodatree |
| -Thornless Honey Locust | -Pin Oak          | -Bald Cypress        |
| -Dawn Redwood           | -Willow Oak       | -Silver Linden       |
| -London Planetree       | -Northern Red Oak | -Lacebark Elm        |
| -Swamp White Oak        | -Shumard Oak      | -Japanese Zelkova    |
| -Shingle Oak            | -Live Oak         |                      |

Medium Trees (Mature Height between 35 feet and 50 feet):

- |                    |                    |                  |
|--------------------|--------------------|------------------|
| -Red Maple         | -American Hornbeam | -Golden Raintree |
| -Horsechestnut     | -Sugar Hackberry   | -Amur Corktree   |
| -Red Horsechestnut | -Turkish Filbert   | -Sargent Cherry  |
| -European Hornbeam | -Easter Red cedar  |                  |

Small Trees (Mature Height less than 35 feet)

- |                     |                      |                      |
|---------------------|----------------------|----------------------|
| -Hedge Maple        | -Kousa Dogwood       | -Amur Maackia        |
| -Serviceberry       | -Green Hawthorn      | -Flowering Crabapple |
| -Eastern Redbud     | -Carolina Silverbell | -Chinese Pistache    |
| -Chinese fringetree | -Crapemyrtle         | -Japanese Tree       |
| -Carolina Cherry    | -Chokecherry         |                      |
| -Laurel             | -Lilac               |                      |

**II. Under the staff's proposal, the following references to multiple family dwelling units in Table 400-1 are to be amended as noted below:**

**Table 400-1**

<u>Use</u>	<u># of Spaces</u>
Dwelling Multiple Family Units Up to .17 FAR — <i>One Bedroom</i> <i>Two or More Bedrooms</i>	1.5 per unit 2.0 per unit except as modified by Article 200A
<del>Dwelling Multiple Family Units Up to .22 FAR — by CUP/SUP <i>One Bedroom</i> <i>Two or More Bedrooms</i></del>	<del>1.5 per unit 2.0 per unit</del>

**III. A new section, entitled Section 651 Whole Block Redevelopment Utilizing a Special Use Permit, is proposed for Article 600 of the Asheboro Zoning Ordinance. The proposed text is as follows:**

651 Whole Block Redevelopment Utilizing a Special Use Permit

651.1 Intent

It is the intention of the City Council to (1) establish the procedure for reviewing and regulating the extent, location and design of whole block redevelopments that have a deficiency in meeting the requirements of the Zoning Ordinance. These alternative whole block redevelopment proposals require special care in the control of their location, design and methods of operation because of their inherent nature, extent and external effects. The City Council is aware of its responsibility to protect the public health, safety and general welfare and believes that certain development proposals for whole block redevelopments are appropriately handled as Special Uses.

Subject to the specific procedures established for reviewing whole block redevelopments, the City Council intends that the general standards, established in the Zoning Ordinance, and the more specific requirements established below shall be used by the City Council to direct deliberations upon applications for the approval of Special Uses. It is the express intent of the City Council to delineate the areas of concern connected with each Special Use and to provide standards by which applications for such Special Use shall be evaluated.

#### 651.2 General Standards

Whole block redevelopment proposals shall be reviewed by utilizing one of the following options in all zoning districts:

- (a) City Council grants the authority to staff to issue all necessary permits for whole block redevelopment(s) that meet all regulatory requirements of the Asheboro Zoning Ordinance.
- (b) In cases where there is a deficiency in the ability of a whole block redevelopment to meet all regulatory requirements of the Zoning Ordinance, City Council shall review the application for a whole block redevelopment and evaluate whether or not a Special Use Permit shall be issued for the proposed whole block redevelopment on the basis of the general standards prescribed by Section 602.1 of this Ordinance. In addition, the City Council shall find that the proposed alternative whole block redevelopment will not negatively impact the historic integrity, stability and/or vitality of the surrounding neighborhood. Furthermore, the Council shall find that the proposed whole block redevelopment will be architecturally compatible with the surrounding neighborhood. For the limited purpose of evaluating whole block redevelopments under General Standard No. 2 of Section 602.1, a whole block redevelopment shall be deemed to have satisfied this standard if a site plan has been submitted in accordance with Section 1005 of this Ordinance.

#### **IV. The final component of the staff's recommendation is the addition of the following definitions to Article 1100 of the Asheboro Zoning Ordinance:**

**Active recreation space** is defined as land dedicated to solely to the pursuit of recreation. Active recreation space includes but is not limited to athletic fields, exercise facilities, buildings or structures for recreation activities, courses or courts, children's play areas, and dog play areas.

**Amenity space** is defined as an area located indoors or outdoors, designed for active or passive recreation uses.

**Passive recreation space** is defined as an undeveloped space used for recreational enjoyment that requires minimal development. The quality of the environment and "naturalness" of an area is the focus of the recreational experience in a passive recreation area. Passive recreation space includes but is not limited to barbeque areas, benches, gazebos, community gardens, and bike paths/walking trails.

**High intensity color** is defined as the pure hue of any color.

**Florescent color** is defined as a brilliant color that emits or appears to emits a glow.

**Metallic Color** is defined as a color having iridescent and reflective properties.

**Built upon area** is defined as that portion of a development project that is covered by impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g., tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

**Pervious** is defined as the area that is not built upon.

**Impervious** is defined as the area that is built upon.

**Transparency** is defined as having the property of transmitting light without appreciable scattering so that bodies lying beyond are seen clearly

**Scale** is defined as a comparison of the dimensions of various components of a building to other related elements and to human dimensions. Scale also refers to the size relationships between adjacent buildings and between buildings and adjacent open spaces.

**Human Scale** is defined as a scale that is achieved by using small (normal sized) windows, doors and details. It is also conveyed by using normal floor-to-floor heights and floor-to-eave heights. Human scale avoids vast blank building walls facing streets, and breaks large building masses into smaller elements.

**Arcade** is defined as a series of arches supported by columns, piers, or pillars that may be freestanding or attached to a structure. An arcade may be a roofed passageway between buildings and often has a decorative purpose

After reviewing the proposals listed above, the Planning Board concurred with the following Community Development Division staff's analysis:

“Staff believes the proposed text amendments will improve the administration and clarity of the Zoning Ordinance, promote neighborhood redevelopment, and offer development provisions that offer greater flexibility to allow infill development, while ensuring that such development exhibits qualities that promote the public health, safety, and general welfare.”

Based on their approval of this analysis, the Planning Board recommended approval of the proposed text amendments.

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

After some discussion and upon motion by Mr. Bell and seconded by Ms. Carter, Council followed the recommendation of the Community Development Division staff and Planning Board and voted unanimously to approve the above-listed amendments to the Asheboro Zoning Ordinance.

**(b) New Business:**

**Consideration of final subdivision plat approval for a phase of the Olde Towne Village Subdivision (Community Development File No. SUB-09-03).**

On behalf of the Community Development Division staff, Mr. Neely presented the staff's written analysis of the final subdivision plat for Section II, Phase I of the Olde Towne Village Subdivision. Carolina Bank is the successor in interest to the original developer and has requested this final plat approval in order to proceed with the assumption of ownership by the City of Asheboro of infrastructure that is to be publicly maintained.

The proposed subdivision contains a total development of approximately 21.61 acres of land, but this request only pertains to approximately 2.87 acres of land (2.49 acres of land in public right-of-way and 0.38 of an acre of land for a pump station tract). This portion of the final plat encompasses the infrastructure serving the development including, but not limited to, streets, sidewalks, street lighting, and a pump station. A separate final plat showing lots that contain the individual residences will be submitted at a later date.

The Community Development Division staff and the Planning Board recommended approval of the final plat with the following condition and comments:

**Condition:** A section of the sewer force main infrastructure, which is essential for Section II, Phase 1, is located beyond the scope of the subdivision plat receiving final approval. Consequently, a deed of easement conforming to standards previously approved by the City Attorney must be executed by Carolina Bank and recorded by city staff along with the approved final plat.

**Comments:** “Homeowners' documents restricting RV parking as required by the Ordinance shall be submitted and recorded with the final plat.”

(A guarantee for certain improvements (final layer of asphalt, sidewalks, pump station landscaping, etc.) had been received when this matter was heard by the Council.)

Upon motion by Ms. Carter and seconded by Mr. Hunter, Council unanimously granted approval for the final plat submitted for Olde Towne Village Section II, Phase 1 with the above-stated condition and comments.

(The aforementioned final plat is on file in the City Clerk's office.)

**7. Public comment period.**

Mayor Smith opened the public comment period.

Mr. Neely presented to Mr. Swiers a resolution of appreciation adopted by the Planning Board in recognition of his service on the Planning Board.

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





feet to a point not set (computed point); thence South 43 degrees 51 minutes 40 seconds West 10.01 feet to a point; thence South 43 degrees 51 minutes 40 seconds West 54.85 feet to an existing iron pipe/pin with an angled point; thence South 43 degrees 50 minutes 08 seconds West 89.74 feet to a ¾-inch existing iron pipe/pin with a pinched top that is flush with the ground; thence departing from the existing primary corporate limits line and proceeding North 58 degrees 50 minutes 25 seconds West 189.95 feet along the northeastern boundary line of the Lloyd Hamlet property described in Deed Book 683, Page 138, Randolph County Public Registry to the point and place of BEGINNING, and containing 0.473 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 Gary Logsdon." 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 job number listed on the plat is 11-LOGSDON-01. The said plat of survey is dated December 17, 2011, with revision dates of December 29, 2011, January 4, 2012, and January 17, 2012.

**9. Consideration of ordinance to amend the Economic Development Fund.**

Ms. Reaves presented and recommended adoption, by reference, of an ordinance to amend the Economic Development Fund.

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

**04 ORD 2-12**

**ORDINANCE TO AMEND THE ECONOMIC DEVELOPMENT FUND FY 2011-2012**

WHEREAS, on November 4, 2010, the City Council of the City of Asheboro adopted a budget for the Allen Precision Economic Development project (aka Veterans Loop Industrial Development Water & Sanitary Sewer Improvements Project) establishing the total project expenditure level at \$446,405, and;

WHEREAS, the bid for construction services from Terry's Plumbing & Utilities accepted by the City Council on December 8, 2011 amended the estimated project costs to be at \$339,478, and,

WHEREAS, Change order #1, increasing Terry's Plumbing and Utilities contract by the amount of \$20,000 to appropriate funding for temporary rock check dams and a yard inlet etc., was presented to and approved by City Council on February 9, 2012 and changed estimated project costs to \$359,478, and;

WHEREAS, the budget expense line items have changed from those originally estimated, and:

WHEREAS, the budget as adopted requires amendment 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: The following expense line item titles be changed as follows:

<u>Account #</u>	<u>Current Description</u>	<u>New Description</u>
72-900-0000	Permits	Permits
72-900-0001	Cul-De-Sac	Sewer Permits
72-900-0002	Engineering	Water Permits
72-900-0003	Environ Assessment / admin	Erosion Control Permits
72-900-0004	Water Improvements	delete
72-900-0005	Sewer Improvements	delete

Section 2: The expense line item budgets be changed and reestablished as follows:

<u>Account #</u>	<u>Description</u>	<u>Budget</u>
72-900-0000	Permits	
72-900-0001	Sewer Permits	480
72-900-0002	Water Permits	150
72-900-0003	Erosion Control Permits	1,260
72-900-1000	Construction	
72-900-1001	Sanitary Sewer (Part A)	123,750
72-900-1002	Water System (Part B)	84,850
72-900-1003	Cul- De- Sac & Erosion Control	87,010
72-900-2000	Engineering	
72-900-2001	Water & Sewer	27,000
72-900-2002	Cul-De-Sac	3,500
72-900-3000	Environmental Studies	6,445

72-900-4000	Advertisements	639
72-900-5000	Well Installation & Sewer Pump & Haul	25,204
72-900-6000	Contingency	86,177
Total Budget		446,405

Adopted this the 9<sup>th</sup> day of February 2012.

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

ATTEST:

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

**10. Consideration of the adoption of a written procedural framework for appointing citizens to city authorities, boards, commissions, and committees.**

During the Council's special meeting on January 19, 2012, a discussion was held in regards to a draft policy of certain guidelines for filling vacancies on city authorities, boards, commissions, and committees. As a result of that discussion, the Community Development Division has refined said policy. Ms. Fletcher presented and recommended adoption of the following process for considering appointments to city authorities, boards, commissions, and committees.

**Process for Considering Appointments to City Authorities, Boards, Commissions and Committees**

(Hereafter collectively referred to as "Boards")

At all times: Application and instructions on applying for board placed on web site. The web site will also list the names of all current board members and their terms of service. Interested persons should submit application form and resume. Application files are maintained by City Clerk.



When board vacancy opens: Notice placed on web site, on Ch. 8 and media release sent to local publications. Applicants on file are contacted to see if they are still interested in being considered



City Council is given the list of applicants. Council may choose to select a person for appointment, or they may decide to forward the list of applicants to the board for further screening.



If the list is forwarded to the board, the board members will return a minimum of two recommendations for each opening for City Council consideration



City Council votes selects the appointee.

Upon motion by Ms. Carter and seconded by Mr. Baker, Council voted unanimously to adopt the above-referenced process for considering appointments to city authorities, boards, commissions, and committees.

**11. Continuation of the discussion of potential changes in the city's animal control operations and regulations.**

Mr. Sugg presented a working draft of an ordinance rewriting Chapter 91 of the Code of Asheboro. This rewrite is necessary in order for the city to successfully contract with the Randolph County Health Department for the provision of animal control field services. A preliminary draft of the rewrite was originally presented to the Council during a special meeting on January 19, 2012. Per Council's discussion during said meeting, Mr. Sugg revised certain regulations that are highlighted in the following working draft of an ordinance rewriting Chapter 91 of the Code of Asheboro (the former provisions of Chapter 91 that are to be replaced in their entirety by the following rewritten text are not shown in these minutes):

**AN ORDINANCE REWRITING CHAPTER 91 OF THE CODE OF ASHEBORO**

**WHEREAS**, Chapter 91 of the Code of Asheboro prescribes animal control regulations that are applicable within the city's territorial jurisdiction; and

**WHEREAS**, the Randolph County Board of Commissioners has adopted an ordinance governing the general control of animals in Randolph County; and

**WHEREAS**, the Board of Commissioners adopted this animal control ordinance for the following purpose:

To provide for the orderly, humane treatment of domesticated animals, to control and prevent the spread of rabies and other communicable diseases, to regulate the possession or harboring of exotic reptiles and wild and dangerous animals, to provide for the operation of an animal shelter for such animals, to appoint animal control officers as well as animal cruelty investigators, and to promote the health, safety, and welfare of the citizens of Randolph County; and

**WHEREAS**, the Asheboro City Council believes the animal control ordinance adopted by the Randolph County Board of Commissioners to be a well reasoned legislative enactment that advances the public health, safety, and welfare; and

**WHEREAS**, the Asheboro City Council has concluded that the animal control officers employed by Randolph County, who are under the supervision of the Randolph County Health Director, perform their duties in a very professional manner; and

**WHEREAS**, after developing certain supplemental regulations designed to address animal control issues that are unique to the more densely populated urban areas within the city, the Asheboro City Council has decided, with the cooperation and support of the Randolph County Health Director, to take the necessary steps to make the animal control ordinance adopted by the Randolph County Board of Commissioners applicable within the corporate limits of the City of Asheboro; and

**WHEREAS**, one of the necessary steps for updating and improving the city's animal control regulations and operations is to rewrite Chapter 91 (Animals) of the Code of Asheboro;

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

**Section 1.** Chapter 91 of the Code of Asheboro is hereby rewritten as follows:

**§ 91.01 Definitions**

Unless otherwise specifically provided or unless otherwise clearly required by the context, the following words and phrases shall have the meaning indicated when used in this Chapter:

- (1) Code Enforcement Officer. Any person or persons designated by the city manager of the City of Asheboro to perform the responsibilities assigned by this chapter to the "Code Enforcement Officer."
- (2) Animal Control Ordinance. The ordinance entitled "An Ordinance Governing the General Control of Animals in Randolph County," as adopted by the Randolph County Board of Commissioners on January 10, 2000, and as amended on June 5, 2000, September 5, 2000, March 11, 2002, July 7, 2003, August 4, 2003, October 4, 2004, January 7, 2008, July 7, 2008, July 11, 2011, and including any future amendments thereto by the Randolph County Board of Commissioners.

#### **§ 91.02 Adoption of Animal Control Ordinance**

Pursuant to Section 153A-122 of the North Carolina General Statutes and Asheboro City Council Resolution Number RES \_\_\_\_\_, the Animal Control Ordinance, as defined in Section 91.01 of this Code, is applicable within the corporate limits of the City of Asheboro. A copy of the Animal Control Ordinance shall be kept on file in the Office of the City Clerk.

#### **§ 91.03 Administration of Animal Control Regulations**

- (A) Delegation to County. The Asheboro City Council hereby expressly authorizes the Randolph County Health Director and animal control officers appointed by the Randolph County Health Director to enforce the provisions of the Animal Control Ordinance within the corporate limits of the city. The city manager is hereby authorized and directed to enter on behalf of the city into an agreement with Randolph County for enforcement of the Animal Control Ordinance within the corporate limits of the City of Asheboro.
- (B) Enforcement by City Employees. The supplemental animal control laws prescribed by this Chapter that are more specific to the City of Asheboro than the provisions of the Animal Control Ordinance defined in Section 91.01 of this Code may be enforced by any employee of the City of Asheboro that has been designated as a Code Enforcement Officer by the city manager.
- (C) Asheboro Police Department. The Asheboro Police Department shall provide support to county animal control officers and to Code Enforcement Officer(s) when enforcement actions are needed.

#### **§ 91.04 Integration with Animal Control Ordinance**

All definitions and provisions of the Animal Control Ordinance shall apply in the city except where provisions of this Chapter are inconsistent with the provisions of the Animal Control Ordinance and the provisions of this Chapter are more specific.

#### **§ 91.05 Maximum Number of Dogs on Premises**

- (A) It shall be unlawful for any person to keep or maintain more than two (2) dogs per household on any lot or parcel of land having less than thirty thousand (30,000) square feet, and an additional seven thousand (7,000) square feet shall be required for each additional dog. A total of no more than five (5) dogs per household shall be allowed on any lot or parcel of land within the city limits regardless of square footage.
- (B) The limitation prescribed by this Section on the number of dogs per household on a single lot or parcel of land shall not apply to dogs that are less than six (6) months of age.
- (C) Notwithstanding the preceding provisions, and subject to the limitation that, on or after April 1, 2012, no new or additional dogs that would increase or perpetuate the noncompliance of a household with this Section may be kept or maintained in a household, any dog lawfully kept or maintained as part of a household prior to April 1, 2012 may continue to be kept or maintained as part of the same household for the remainder of the dog's life.

#### **§ 91.06 Maximum Number of Cats on Premises**

- (A) It shall be unlawful for any person to keep or maintain more than two (2) cats per household on any lot or parcel of land having less than thirty thousand (30,000) square feet, and an additional seven thousand (7,000) square feet shall be required for each additional cat. A total of no more than five (5) cats per household shall be allowed on any lot or parcel of land within the city limits regardless of square footage.
- (B) The limitation prescribed by this Section on the number of cats per household on a single lot or parcel of land shall not apply to cats that are less than six (6) months of age.
- (C) Notwithstanding the preceding provisions, and subject to the limitation that, on or after April 1, 2012, no new or additional cats that would increase or perpetuate the noncompliance of a household with this Section may be kept or maintained in a household, any cat lawfully kept or maintained as part of a household prior to April 1, 2012 may continue to be kept or maintained as part of the same household for the remainder of the cat's life.

#### **§ 91.07 Keeping Swine**

- (A) Except as provided in Subsection (B) of this Section, it shall be unlawful for any person to keep any hogs, pigs, or swine within the city limits.
- (B) A person may have or keep no more than two (2) miniature or potbellied pigs per household within the corporate limits of the city if the following conditions are satisfied:
  - (1) The miniature or potbellied pig(s) must be provided with adequate shelter to protect it from the elements.
  - (2) Any and all miniature or potbellied pigs kept or maintained in the City of Asheboro must be spayed or neutered.

- (3) The owner of the miniature or potbellied pig(s) shall provide the pig(s) with access to food and clean water. Active measures shall be taken to limit the availability of this food and water to rodents, wild birds, and predators.
- (4) If an outdoor pen or enclosure is utilized, the dimensions of such a pen or enclosure must be no less than ten feet by twelve feet (10' X 12') for one (1) pig or no less than sixteen feet by sixteen feet (16' X 16') for two (2) pigs.
- (5) No outdoor pen or enclosure, including without limitation fencing, used for sheltering or confining a miniature or potbellied pig is permitted within thirty feet (30') of any property line or public street right-of-way line, and no such outdoor pen or enclosure may be located within one hundred feet (100') of a hospital, school, eating establishment, or dwelling other than the dwelling of the owner of the miniature or potbellied pig. These separation requirements are in addition to and not in lieu of the land use regulations prescribed by the Asheboro Zoning Ordinance. No provision in this Chapter shall be construed or interpreted in any manner that preempts or impacts the application of the land use regulations found in the Asheboro Zoning Ordinance.
- (6) A pen or enclosure used for sheltering or confining a miniature or potbellied pig shall be kept clean, sanitary, and free from accumulations of animal excrement that cause an objectionable odor. Such a pen or enclosure shall be cleaned at least twice each week. All waste material removed from a pen or enclosure used to shelter the miniature or potbellied pig shall be disposed of in a manner that is lawful, does not attract flies, and prevents any detectable odor at the property or street right-of-way line.
- (7) All food kept for feeding the miniature or potbellied pig(s) shall be kept and stored in rat-free and rat proof containers, compartments, or rooms unless kept in a rat proof building.

#### **§ 91.08 Keeping of Fowl**

- (A) Up to two (2) chicken hens or other fowl may be kept by a household within the corporate limits of the City of Asheboro so long as the fowl do not, by reason of noise, odor, or attraction of flies, become a nuisance or health hazard.
- (B) Between three (3) and eight (8) chicken hens or other fowl may be kept on any single lot or parcel in the city if the following conditions are satisfied:
  - (1) The fowl shall not be permitted to run at large and must be maintained in a coop or enclosure of suitable construction and size for the number of fowl maintained in the enclosure.
  - (2) The fowl must be provided with adequate shelter for protection from the elements.
  - (3) The owner of the fowl shall provide the animal with access to food and clean water. Active measures shall be taken to limit the availability of this food and water to rodents, wild birds, and predators.
  - (4) No outdoor coop or enclosure used for keeping fowl is permitted within thirty feet (30') of any property line or public street right-of-way line, and no such outdoor coop or enclosure may be located within one hundred feet (100') of a hospital, school, eating establishment, or dwelling other than the dwelling of the owner of the fowl. These separation requirements are in addition to and not in lieu of the land use regulations prescribed by the Asheboro Zoning Ordinance. No provision in this Chapter shall be construed or interpreted in any manner that preempts or impacts the application of the land use regulations found in the Asheboro Zoning Ordinance.
  - (5) A coop or enclosure used for keeping fowl shall be kept clean, sanitary, and free from accumulations of animal excrement that cause an objectionable odor. Such a pen or enclosure shall be cleaned at least twice each week. All waste material removed from a pen or enclosure used for keeping fowl shall be disposed of in a manner that is lawful, does not attract flies, and prevents any detectable odor at the property or street right-of-way line.
  - (6) All food kept for feeding the fowl shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-proof building.
- (C) Due to the excessive noise created by the following animals, the keeping of roosters and geese is prohibited within the corporate limits of the City of Asheboro.

#### **§ 91.09 Keeping of Horses, Mules, Cows, and Goats Regulated**

It shall be unlawful for any person who owns, operates, or maintains a stable or enclosure in the city, in which horses, mules, cows, or goats are kept, to keep such stable in an unclean or unsanitary condition. There shall be provided a bin or pit which shall be watertight and so arranged that it is fly-proof, or a watertight barrel with a close-fitting lid. Manure accumulating in such stable shall be placed in the bin, pit, or barrel each day and shall be removed from the premises of the owner at least every five days. Effective fly control methods such as the use of approved insecticide shall be practiced during the fly-breeding period from April 15 to November 1 of each year. All food kept for feeding the livestock shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-proof building.

**§91.10 Location of Stables; Tethering of Horses, Mules, Cows, or Goats**

No person shall locate or maintain upon any lot within the city any horse, mule, cow, or goat stable nearer than one hundred fifty feet (150') to any hospital, school, eating establishment, or dwelling; nor shall any person tether or permit to graze or stand any horse, mule, cow, or goat within fifty feet (50') of any such place.

**§ 91.11 Disposal of Carcasses**

The bodies of dead sheep, goats, hogs, horses, mules, and other animals, or any part of any animal, and all dead fish and dead fowl shall be removed from the city immediately or no later than 24 hours of known death and shall be disposed of by incineration, burial, or transportation to a rendering plant. If a carcass is buried, it shall be buried at a depth of not less than three feet (3') below the surface of the ground and shall not be buried within three hundred feet (300') feet of a stream or body of water.

**§ 91.12 Responsibility for Dogs on Public Rights-of-Way and Property**

It shall be unlawful for the owner or custodian of a dog to fail to remove feces deposited by the dog on any public street, sidewalk, gutter, park, or other publicly owned property.

**§ 91.13 Bird Sanctuary Created**

The area embraced within the corporate limits of the city and all lands owned or leased by the city outside the corporate limits is hereby designated as a bird sanctuary.

**§ 91.14 Prohibited Activities; Exceptions**

- (A) Within the bird sanctuary established by Section 91.12 of the Code of Asheboro, it shall be unlawful for any person to hunt, kill, trap, or otherwise take any native wild birds.
- (B) Notwithstanding subsection (A), the protection afforded to native wild birds within the established sanctuary does not extend to the following situations:
  - (1) No bird classed as a pest under Article 22A of Chapter 113 of the General Statutes and the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971 is protected.
  - (2) A person may hunt, kill, trap, or otherwise take any bird pursuant to a permit issued by the North Carolina Wildlife Resources Commission under G.S. 113-274(c)(1a) or under any other license or permit of the Wildlife Resources Commission specifically made valid for use in taking birds within the city limits.
  - (3) The use of a firearm for hunting ducks and dark geese (includes Canada geese and white-fronted geese) is permitted at Lake Reese when such hunting is undertaken in compliance with Section 91.14 and Section 91.15 of the Code of Asheboro.

**§ 91.15 Use of Firearms at Lake Reese**

- (A) In its discretion, the City Council may approve the date(s) and time(s) each year when the hunting of ducks and dark geese (including Canada geese and white-fronted geese) is allowed upon the waters of Lake Reese.
- (B) During the date(s) and time(s) of the hunting season authorized by the City Council in accordance with subsection (A), the use of a gun for the limited purpose of hunting ducks and dark geese (including Canada geese and white-fronted geese) upon the waters of Lake Reese is permitted. Any guns and ammunition used for such hunting shall comply with all applicable state and federal regulations.

**§ 91.16 Hunting Prohibited on Property beyond City Limits**

- (A) No person shall hunt, trap or snare, with or without firearms, any wild animals or birds, on any property owned by the city which is located outside the city limits.
- (B) Exceptions. Duck and dark geese (including Canada geese and white-fronted geese) hunting will be permitted upon the waters of Lake Reese only during the date(s) and time(s) established by the City Council prior to the season opening each year. Additionally, city employees and/or contractors may hunt, trap, or snare wild animals or birds in compliance with the adopted rules and regulations of the North Carolina Wildlife Resources Commission when such action is deemed necessary by the City Manager in order to ensure the safe and efficient operation of city-owned infrastructure.

**§ 91.17 Signs Erected by Bird Clubs**

Bird clubs in the city are hereby granted permission to erect artistic signs, giving notice of the regulations provided in this Chapter, at such places and of such design as may be approved by the Public Works Director.

**§ 91.18 Animals Prohibited at Randolph Arts Guild's Annual Fall Festival**

- (A) Except as provided by this Section, it shall be unlawful for any person to possess any animal(s) within the public areas of the city that are actively utilized for the Randolph Arts Guild's Annual Fall Festival. Furthermore, except as provided by this Section, it shall be unlawful for any person to actively encourage or facilitate the entry or continued presence of any animal(s) within the public areas of the city that are actively utilized for the Randolph Arts Guild's Annual Fall Festival.
- (B) The provisions of this Section are not applicable to "assistance animals," "law enforcement agency animals," and animals allowed to participate in the Annual Fall Festival Parade.
- (C) For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:
- (1) *Animal.* As distinguished from human beings, one of the lower vertebrate animals. By way of illustration and not exclusion, the term includes dogs, cats, birds, reptiles, and fishes.
  - (2) *Assistance Animals.* An animal that is trained and may be used to assist a "handicapped person" as defined in G.S. § 168-1. The term "assistance animal" is not limited to a dog and includes any animal trained to assist a handicapped person as provided in G.S. Ch. 168, Art. 1.
  - (3) *Law Enforcement Agency Animals.* An animal that is trained and may be used to assist a law enforcement officer in the performance of the officer's official duties.
  - (4) *Public Areas of the City that Are Actively Utilized for the Randolph Arts Guild's Annual Fall Festival.* The streets, sidewalks, and public vehicular areas that fall within the perimeter demarcated by the closure, upon order of the city council, of Fayetteville Street from Salisbury Street to Kivett Street; North Street at Salisbury Street; Sunset Avenue at Church Street; Worth Street, Scarboro Street, East Academy Street, and Cranford Street at Cox Street; and West Academy Street at the entrance to the city parking lot.
- (D) The prohibition of animals from public areas of the city that are actively utilized for the Randolph Arts Guild's Annual Fall Festival is only in effect during those times when the Annual Fall Festival is scheduled to be in actual operation.
- (E) The City Manager shall cause notices of the prohibition of animals from public areas of the city that are actively utilized for the Randolph Arts Guild's Annual Fall Festival to be prominently posted at the location of the street closures listed in division (C)(4) above.

**§ 91.19 REMEDIES AND PENALTIES**

- (A) Any person who violates the provisions of this Chapter is guilty of a misdemeanor as provided by Section 14-4 of the North Carolina General Statutes and shall be fined not more than five hundred dollars (\$500.00). Each day's violation of this Chapter is a separate offense.
- (B) Enforcement of the provisions found in this Chapter may include any appropriate equitable remedy, injunction, or order of abatement issuing from a court of competent jurisdiction.
- (C) In addition to or in lieu of any criminal penalties and other sanctions provided in this Chapter, a violation of the provisions found in this Chapter may also subject the offender to the civil penalties hereinafter set forth:
- (1) The Code Enforcement Officer may issue to the owner or possessor of any animal, or other alleged violator of this Chapter, a written warning or a civil penalty citation giving notice of the alleged violation(s). Written warnings or civil penalty citations may be delivered in person or mailed by certified or registered mail to the person charged if that person cannot be readily found. The first civil penalty citation issued to a violator during a rolling 12-month period shall result in the imposition of a civil penalty in the amount of fifty dollars (\$50.00) for each violation of this Chapter. The second citation issued to an offender for an uncorrected violation or for a second violation of this Chapter within a rolling 12-month period shall result in the imposition of a civil penalty in the amount of one hundred dollars (\$100.00) for each violation. The third citation for an uncorrected violation or the issuance of citation for the third time, or more, within a rolling 12-month period shall result in the imposition of a civil penalty in the amount of one hundred fifty dollars (\$150.00) for each violation.
  - (2) Each day that any violation exists after the violator receives a written warning or civil penalty citation identifying the unlawful conduct shall be considered a separate offense for purposes of this Section.
  - (3) Assessed civil penalties shall be paid by the violator or his/her designee in good funds to the City of Asheboro Finance Department within fourteen (14) business days of the receipt of the civil penalty citation that gives notice of the fact that the stated civil penalty is due and payable.
  - (4) In the event the owner or possessor of an animal, or other violator of this Chapter, does not pay the assessed civil penalty within the prescribed time period, a civil action in the nature of

a debt may be commenced by the City of Asheboro to recover the assessed civil penalty and costs associated with the collection effort.

- (5) The issuance of a written warning or civil penalty citation by the Code Enforcement Officer may be appealed to the city manager or his/her designee in accordance with the provisions of this Section. An appeal is taken by filing a written notice of appeal with the Code Enforcement Officer. The notice of appeal shall identify the written warning or civil penalty citation from which an appeal is taken and shall also state the basis for the appeal. This notice of appeal must be filed within ten (10) business days of the date upon which the written warning or civil penalty citation was served on the violator. Until a final decision is issued by the city manager or his/her designee, a properly filed appeal stays all efforts to collect an assessed civil penalty and/or stays any further enforcement actions conducted under the authority of this Chapter by the Code Enforcement Officer. The city manager or his/her designee shall hear the appeal at the earliest practicable date. Due notice of the date and time of the appeal hearing shall be given to the individual who received the written warning or civil penalty citation and to any individual who has filed a complaint with the Code Enforcement Officer about the condition that formed the basis for the issuance of a written warning or civil penalty citation. After conducting the hearing and considering the available information, the city manager or his/her designee may reverse or affirm, in whole or in part, the Code Enforcement Officer's issuance of a written warning or civil penalty citation. The city manager or his/her designee may also modify the enforcement action(s) taken by the Code Enforcement Officer and, to this end, the city manager or his/her designee shall have all of the powers conferred by this Chapter on the Code Enforcement Officer. The city manager or his/her designee's decision is final, and there shall be no appeal from the decision of the city manager or his/her designee to the City Council.

- (D) This Chapter may be enforced by any one, all, or a combination of the remedies authorized and prescribed herein.

#### **§ 91.20 Exceptions to Supplemental Animal Control Regulations**

Veterinary clinics and retail pet stores are not subject to the supplemental animal control regulations prescribed in Sections 91.05 through 91.09 of this Chapter. The inapplicability of the supplemental regulations found in this Chapter to these businesses does not impair or impact to any degree the applicability to these businesses of any other federal, state, or local law, ordinance, or regulation, including by way of illustration and not limitation the Animal Control Ordinance and the Asheboro Zoning Ordinance.

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

**Section 3.** This ordinance shall take effect and be in force from and after April 1, 2012.

**Section 4.** No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this ordinance shall be abated or otherwise affected by the adoption of this ordinance.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on March 8, 2012.

\_\_\_\_\_  
David H. Smith, Mayor

ATTEST:

\_\_\_\_\_  
Holly H. Doerr, CMC, City Clerk

After some discussion, and with the understanding that donkeys were to be included with the final regulations addressing horses, mules, cows, and goats, Mayor Smith and the council members expressed general approval of the ordinance rewrite as presented in depth by Mr. Sugg. A final draft of the ordinance rewriting Chapter 91 of the Code of Asheboro, along with a resolution approving a contract with the Randolph County Health Department for animal control field services and extending the applicability of the Randolph County Animal Control Ordinance to include the corporate limits of Asheboro, will be presented for Council's consideration during the regular March meeting.

#### **12. Items not on the agenda.**

- Mayor Smith acknowledged the receipt of the minutes of the Asheboro ABC Board's meeting on January 2, 2012.

- Mr. Ogburn announced that Randolph County will be hosting a meeting regarding the Piedmont Triad Community Planning Project on Tuesday, February 21, 2012 from 6:00 p.m. – 8:00 p.m. at the City of Asheboro Public Works Facility.

There being no further business, the meeting was adjourned at 8:48 p.m.

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

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