

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, JULY 12, 2012  
7:00 p.m.**

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

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

John N. Ogburn, III, City Manager  
Holly H. Doerr, CMC, City Clerk/Paralegal  
John L. Evans, Assistant Community Development Director  
Casandra M. Fletcher, Marketing Specialist  
Michael Leonard, Assistant City Engineer  
Ralph W. Norton, Assistant Chief of Police  
Trevor L. Nuttall, Community Development Director  
Deborah P. Reaves, Finance Director  
Jonathan M. Sermon, Recreation Services Superintendent  
Jeffrey C. Sugg, City Attorney  
Felix L. Ward, Cultural and Recreation Services Director

**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 say the pledge of allegiance.

In addition to welcoming everyone in attendance, Mayor Smith recognized boy scouts from Troop 527 who were in attendance as a requirement for their citizenship merit badge.

**3. Consent agenda.**

Upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to adopt/approve the following consent agenda items:

- (a) The minutes of the City Council’s regular meeting on June 7, 2012.**
- (b) The minutes of the City Council’s special meeting on June 28, 2012.**
- (c) The findings of fact, conclusions of law, and order pertaining to the land use approvals sought under Community Development Division file numbers CUP-12-05 and SUB-12-01.**

IN THE MATTER OF THE APPLICATIONS BY THREE EAGLES, LLC FOR VARIANCES FROM THE  
SUBDIVISION ORDINANCE, SUBDIVISION SKETCH DESIGN PLAT APPROVAL, AND A  
CONDITIONAL USE PERMIT AUTHORIZING A RESIDENTIAL PLANNED UNIT DEVELOPMENT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING, WITH CONDITIONS, THE  
REQUESTED LAND USE APPROVALS

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THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for a properly advertised combined quasi-judicial public hearing on the questions of whether to grant the applicant's requests for subdivision ordinance variances, subdivision sketch design plat approval, and the issuance of a Conditional Use Permit for a Residential Planned Unit Development. The public hearing was opened and sworn testimony received during a regular meeting of the Asheboro City Council that was held on June 7, 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. Three Eagles, LLC, also known as Three Eagles Development, LLC, (hereinafter referred to as the "Applicant") submitted to the City of Asheboro the prescribed application materials for the following land use approvals: (a) Variances from the Asheboro Subdivision Ordinance's public street right-of-way specifications, (b) Subdivision sketch design plat approval, and (c) A Conditional Use Permit authorizing a land use identified in the Asheboro Zoning Ordinance's table of uses as a Residential Planned Unit Development.

2. The property for which the above-stated land use approvals are sought is located on the south side of Old Lexington Road, approximately 2300 feet east of Chamberlin Drive, and is shown as "New Lot 5 Section II" on a plat of survey recorded in the Office of the Randolph County Register of Deeds in Plat Book 109, Page 64. This property will be hereinafter referred to as the "Zoning Lot."

3. The Zoning Lot is located in a CU-R10 zoning district.

4. Section 102 of the Asheboro Zoning Ordinance, provides as follows:

Within a CU District, only those uses specifically permitted in the zoning district to which the CU district corresponds (i.e. R15 and CUR15) shall be permitted, and all other requirements of the corresponding district shall be met. It is the intent of this ordinance that all requirements within a CU District be equal to or more stringent than those in a corresponding non-CU District.

5. Asheboro Zoning Ordinance Section 102 further provides that, within a conditional use district, "no use shall be submitted except as pursuant to a Conditional Use Permit authorized by the City Council, which shall specify the use or uses authorized."

6. Additionally, pursuant to the said Section 102, the quasi-judicial proceedings and standards used for the issuance of a Conditional Use Permit preclude the need to obtain a separate Special Use Permit for a use that the Council has authorized in compliance with all of the requirements of the Asheboro Zoning Ordinance under the Conditional Use Permit process.

7. Pursuant to the Asheboro Zoning Ordinance's Table 200-2 (Table of Permitted Uses by District), Planned Unit Developments are permitted in the R10 zoning district by Special Use Permit only. Consequently, such a land use must comply with the regulations specified in Article 600 of the Asheboro Zoning Ordinance for Planned Unit Developments.

8. 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.

9. The Applicant's current proposal is classified as a "major" subdivision under the Asheboro Subdivision Ordinance, and the Applicant has submitted a subdivision sketch design plat for review and approval.

10. Without certain variances from the specifications for the minimum widths of public street rights-of-way within the proposed subdivision, the Applicant's sketch design plat will be non-compliant with the Asheboro Subdivision Ordinance, and, in turn, the Applicant's application for a Conditional Use Permit would not meet the required conditions and specifications of the Asheboro Zoning Ordinance.

11. 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.

12. As part of the Applicant's request for variances from the subdivision ordinance, the Applicant's engineer, H. Mack Summey, Jr., P.E., wrote in a letter, dated June 4, 2012, as follows:

On behalf of the new developers of Olde Towne Village, we would like the City of Asheboro to consider a request for a variance in regulatory codes allowing us to use street right-of-way widths and tree plantings within those rights-of-way according to the cross-section detail sketches that are attached and a part of this request.

The original topographic conditions had a vertical rise of one hundred and twenty five feet (125') from the western part of the site to the eastern most part of the site. This has required extraordinary creativity to potentially develop one of the most intriguing subdivisions within the City of Asheboro. The site will be blended with retaining walls, rolling streets and landscaping to traverse that extreme gradient.

Furthermore, this request is simply due to a change in ownership of the property. Much of the grading has already been completed as a result of the Councils (sic) initial approval of the same request back on March 5, 2009 which allowed the site to be developed as it is now.

To complete what was begun several years ago, we request your assistance by providing the variance as detailed. Thank you for your consideration and for the opportunity to make such a request.

13. The subdivision ordinance variances sought by the Applicant are more specifically described as follows:

(a) Without a variance, public streets that have street trees located in the public right-of-way must be constructed within a public right-of-way that has a minimum width of 60'. The Applicant has requested variances that would allow a 50-foot public right-of-way for a portion of Olde Towne Parkway, as shown on the plans submitted for this hearing, and a 56-foot public right-of-way for Middleton Circle. The application does not include a request for a reduction in the width of the streets themselves.

(b) Without a variance, public streets that do not have street trees located in the public right-of-way must be constructed within a public right-of-way that has a minimum width of 50'. The Applicant has requested variances that would allow 40-foot public rights-of-way for Milbrook Drive and Frankton Court. The application does not include a request for a reduction in the width of the streets themselves.

14. As alluded to in the letter from the Applicant's engineer, the Zoning Lot has been partially developed as a Planned Unit Development in reliance upon a Conditional Use Permit issued under Community Development Division (formerly referred to as the Planning Department) file number CUP-09-02. The findings, conclusions, and order entered under CUP-09-02 are as follows:

#### FINDINGS OF FACT

1. Routh Builders (Routh Builders, and its successors and assigns, will be hereinafter referred to as the "Applicant") properly filed an application with the City of Asheboro for a Conditional Use Permit that would functionally amend an existing Conditional Use Permit originally issued under City of Asheboro Planning Department File No. CUP-07-06.

2. The existing Conditional Use Permit authorized the development of a residential planned unit development on land that is currently owned by The Cornerstone Group of NC, LLC and located on the south side of Old Lexington Road, approximately two thousand three hundred feet (2,300') east of Chamberlin Drive. The land for which a new Conditional Use Permit is sought (the said land is

hereinafter referred to as the "Zoning Lot") is more specifically described as a portion of Randolph County Parcel Identification Number 7741889270 and "New Lot 5 Section II" on a plat of survey entitled "Minor Subdivision for First National Bank & Trust Company Section I & II" that is recorded in Plat Book 109, Page 64, Randolph County Public Registry.

3. The Zoning Lot encompasses approximately 21.61 acres of land.
4. The Zoning Lot is located in a CU-R10 conditional use medium-density residential zoning district.
5. While grading has been occurring on the Zoning Lot in accordance with the existing Conditional Use Permit, the existing use of the lot would still be described as undeveloped and vacant residential.
6. The Growth Strategy Map identifies the area in which the Zoning Lot is located as a "long-range growth" area, and the Proposed Land Development Plan Map designates the area in question as "suburban residential."
7. The land uses surrounding the Zoning Lot are described as low-density-residential uses along with undeveloped land to the north and east, undeveloped land to the south, and low-density residential use along with a subdivision in a R15 low-density residential zoning district to the west.
8. Under the existing Conditional Use Permit, the Applicant received authorization for a residential planned unit development on the Zoning Lot with twenty-six (26) single-family homes, twenty-six (26) townhouse lots with attached dwellings (the townhouses are attached in a duplex configuration), common and recreational area, and a commons building housing a community room and a commercial real estate sales office.
9. Given the location of the Zoning Lot in a CU-R10 zoning district, the proposed development is supported by several goals and policies of the city's Land Development Plan. In particular, the Land Development Plan advocates for a mixture of housing types, preservation of open space, the incorporation of compatible non-residential land uses in developments, and the construction of sidewalks in new developments. The site plan submitted by the Applicant depicts a proposed development that is consistent with these goals and policies.
10. Under the Asheboro Zoning Ordinance, a residential planned unit development is permitted in an R10 zoning district with the issuance of a Special Use Permit. Consequently, a residential planned unit development is permitted in a CU-R10 zoning district with the issuance of a Conditional Use Permit.
11. The Applicant has submitted a revised site plan and is seeking a new Conditional Use Permit for the same land use that was previously approved. The revised site plan reflects the inclusion of street trees in the development in accordance with amendments of the City of Asheboro Subdivision Ordinance (Article X, Section F of the subdivision ordinance). Similarly, the revised site plan reflects the fact that variances to public street right-of-way requirements were obtained by the Applicant under the subdivision ordinance subsequent the date of issuance of the existing Conditional Use Permit. With the aid of these approved variances, the Applicant has now designated as publicly maintained certain platted streets that were formerly labeled as private streets. Finally, the revised site plan reflects a different layout of parking for the overflow/visitor parking spaces and the commons area along with a modification of the proposed development's internal traffic circulation pattern, specifically including the elimination of one of the alleys.
12. The Applicant has not proposed any changes to the number of lots or residential units.
13. The revisions described above in paragraph number eleven (11) are deemed under the provisions of the Asheboro Zoning Ordinance to be modifications of the approved site plan that must be approved by the Council by means of the issuance of a new Conditional Use Permit.
14. No evidence was submitted during the hearing of this matter to undermine the continuing validity of the evidence previously relied upon by the Council to issue under file number CUP-07-06 a Conditional Use Permit for a residential planned unit development on the Zoning Lot.
15. No testimony was offered by any individual or entity in opposition to the Applicant's request for a new Conditional Use Permit.

16. Staff members in the city's planning department have reviewed the Applicant's revised site plan, and the said site plan does comply with the requirements of the Asheboro Zoning Ordinance. However, in order to ensure that the intent and purpose of the Asheboro Zoning Ordinance is served, the planning department staff did offer the following suggested conditions:

- a. Additions located to the rear of individual dwellings or the enclosure of patios and porches shall not be considered a modification of this permit, if one is issued.
- b. The installation of landscaping/screening as shown on the pump station landscaping plan shall be the responsibility of the developer.
- c. Pump station access and ownership shall be provided in accordance with city policies.
- d. All lighting, decorative or otherwise, shall comply with Section 318A of the Asheboro Zoning Ordinance.
- e. Homeowners' documents prohibiting recreational vehicle (including boat) parking as required by the Subdivision Ordinance shall be submitted and recorded with the final plat.
- f. If a Subdivision Ordinance variance is granted to allow a variance from Article IX I B 1.a.2, Attachment IX-A (Street Section Illustration) that requires a 50-foot right-of-way, the Applicant shall submit a revised site plan for review by staff members and inclusion in the file without further review by the Council.
- g. The fence around the dumpster area, as shown on the revised site plan, is not required by the Asheboro Zoning Ordinance. The Applicant may submit a revised site plan eliminating the said fence. Such a limited revision may be reviewed by staff and included in the file without further review by the Council.
- h. All storm sewers not located in the public right-of-way shall be maintained by the homeowners' association.
- i. A 20-foot wide sanitary sewer easement shall be provided to the City of Asheboro along all 8-inch sanitary sewer lines that are not located within the public right-of-way.
- j. A 20-foot wide water line easement shall be provided to the City of Asheboro along all water lines connecting the municipal water mains to the fire hydrants and water meters that are not located within the public right-of-way.
- k. A 20-foot wide easement for the entire force main from the pump station shall be granted to the City of Asheboro at or before the time the final plat is recorded for Section 2.
- l. If the Applicant elects to develop the proposed land use in phases and is successful in obtaining variances from the temporary turn around specifications prescribed by the design standards in Article IX, Section B.5. of the City of Asheboro Subdivision Ordinance for Olde Town Parkway, Middleton Circle, Frankton Court, and/or Millbrook Drive, then the implementation of such variances shall not be deemed to be a modification of the approved site plan.
- m. If the Applicant elects to use decorative street signage that complies with all applicable laws and regulations and conforms to the street signage policy that is to be adopted by the City of Asheboro at a later date, then such street signage shall not be deemed to be a modification of the approved site plan.

17. The Applicant's attorney, Mr. Ben Morgan, Esq., informed the Council during the hearing of this matter that the Applicant would be willing to agree to the suggested staff conditions if the Council ultimately decided to issue the requested Conditional Use Permit.

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

#### CONCLUSIONS OF LAW

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

2. The evidence received during the public hearing established that the proposed use, as revised, meets all required conditions and specifications of the Asheboro Zoning Ordinance.

3. The evidence presented during the course of the hearing of this matter established that the proposed use, as revised, will not substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicant's proposed use, as revised, and if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

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

ORDER

The Applicant is hereby issued a Conditional Use Permit that authorizes a residential planned unit development land use to be conducted on the Zoning Lot. This Conditional Use Permit shall remain valid so long as the Applicant, and its successors and assigns, conduct this approved land use in compliance with the approved site plan, the provisions of the Asheboro Zoning Ordinance, and the following conditions that are hereby attached to this permit:

- a. Additions located to the rear of individual dwellings or the enclosure of patios and porches shall not be considered a modification of this permit, if one is issued.
- b. The installation of landscaping/screening as shown on the pump station landscaping plan shall be the responsibility of the developer.
- c. Pump station access and ownership shall be provided in accordance with city policies.
- d. All lighting, decorative or otherwise, shall comply with Section 318A of the Asheboro Zoning Ordinance.
- e. Homeowners' documents prohibiting recreational vehicle (including boat) parking as required by the Subdivision Ordinance shall be submitted and recorded with the final plat.
- f. If a Subdivision Ordinance variance is granted to allow a variance from Article IX I B 1.a.2, Attachment IX-A (Street Section Illustration) that requires a 50-foot right-of-way, the Applicant shall submit a revised site plan for review by staff members and inclusion in the file without further review by the Council.
- g. The fence around the dumpster area, as shown on the revised site plan, is not required by the Asheboro Zoning Ordinance. The Applicant may submit a revised site plan eliminating the said fence. Such a limited revision may be reviewed by staff and included in the file without further review by the Council.
- h. All storm sewers not located in the public right-of-way shall be maintained by the homeowners' association.
- i. A 20-foot wide sanitary sewer easement shall be provided to the City of Asheboro along all 8-inch sanitary sewer lines that are not located within the public right-of-way.
- j. A 20-foot wide water line easement shall be provided to the City of Asheboro along all water lines connecting the municipal water mains to the fire hydrants and water meters that are not located within the public right-of-way.
- k. A 20-foot wide easement for the entire force main from the pump station shall be granted to the City of Asheboro at or before the time the final plat is recorded for Section 2.
- l. If the Applicant elects to develop the proposed land use in phases and is successful in obtaining variances from the temporary turn around specifications prescribed by the design standards in Article IX, Section B.5. of the City of Asheboro Subdivision Ordinance for Olde Town Parkway, Middleton Circle, Frankton Court, and/or Millbrook Drive, then the implementation of such variances shall not be deemed to be a modification of the approved site plan.

m. If the Applicant elects to use decorative street signage that complies with all applicable laws and regulations and conforms to the street signage policy that is to be adopted by the City of Asheboro at a later date, then such street signage shall not be deemed to be a modification of the approved site plan.

These findings of fact, conclusions of law, and order were adopted by the Asheboro City Council in open session during a special meeting held on the 21<sup>st</sup> day of May, 2009.

15. Subsequent to the issuance of the Conditional Use Permit under file number CUP-09-02, the ownership of the Zoning Lot did change. Carolina Bank currently owns the Zoning Lot, and the bank did consent to the submission of the applications for the land use approvals described herein.

16. Uncontroverted testimony was offered during the hearing of this matter that the changes made by the current Applicant to the previously approved plans for the land use do not undermine the compatibility of the proposed Planned Unit Development with the Asheboro Subdivision and Zoning Ordinances.

17. The current proposal contemplates a different layout for the Planned Unit Development. The proposed modifications can be summarized as follows:

- (a) No change is proposed to the number of lots or residential units, but the Applicant is proposing to modify the buildings' architectural style.
- (b) The proposal is to change the ratio of detached and attached residential units from the previous ratio of 26 detached and 26 attached dwellings to a new ratio of 30 detached dwellings and 22 attached dwellings.
- (c) The circulation of vehicles within the development is also proposed for change in that previously proposed alley ways are to be eliminated throughout a portion of the development.
- (d) A commercial aspect (real estate sales office) of the previously approved Planned Unit Development has been deleted by the current Applicant.

18. These modifications of the previously approved development plans necessitated the current Applicant receiving a new sketch design approval under the subdivision ordinance and a new Conditional Use Permit under the zoning ordinance.

19. During the course of the hearing, the Applicant's attorney indicated that the Applicant is agreeable to the following conditions that could be attached to the requested Conditional Use Permit in order to ensure that the proposed land use meets the standards established by ordinance for the granting of the requested land use approvals:

- (a) Additions located to the rear of individual dwellings or the enclosure of patios and porches shall not be considered a modification of the Conditional Use Permit;
- (b) Homeowner association documents prohibiting recreational vehicle (including boat) parking as required by the subdivision ordinance shall be submitted and recorded with the final plat.
- (c) All storm sewers located outside of the public rights-of-way shall be maintained by the homeowners' association.
- (d) A 20-foot wide City of Asheboro sanitary sewer easement shall be provided along all 8-inch sanitary sewer lines located outside of the public rights-of-way.
- (e) A 20-foot wide City of Asheboro water line easement shall be provided along all water lines connecting the City of Asheboro Water System to fire hydrants and water meters located outside of the public rights-of-way.
- (f) Clerical errors and omissions were identified on the combined subdivision sketch design plat/Conditional Use permit site plan initially dated April 2012 and marked as revised on May 21, 2012. These errors and omissions pertain to the following issues:

- i. The labeling of open/recreation space (detailing the recreation area that is proposed adjacent to Lots 16-23);
- ii. Flood zone boundaries;
- iii. A required City of Asheboro storm sewer easement;
- iv. City limit boundaries;
- v. Street names and street right-of-way widths (including corrections to right-of-way boundaries);
- vi. Street maintenance responsibilities; and
- vii. Delineation of phase lines.

The applicant shall submit a revised plat/site plan reflecting the correction of the deficiencies identified above. This revised plat/site plan shall be submitted to staff members in the City of Asheboro Community Development Division for staff review and inclusion in the file without further review by the City Council.

These corrections shall not be deemed to be modifications of the land use proposed on the subdivision sketch design plat/Conditional Use Permit site plan that was submitted in a timely manner as part of the Conditional Use Permit application process.

(g) In addition to demonstrating compliance with the City of Asheboro Subdivision Ordinance, any subdivision plat submitted for review and approval shall provide adequate turnaround and maneuvering space on existing and future public streets for municipal vehicles, specifically including garbage trucks and fire trucks, in accordance with design standards in effect as of the date of approval of this Conditional Use Permit.

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

20. No testimony was offered in opposition to the land use approvals requested for the Zoning Lot.

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

#### CONCLUSIONS OF LAW

1. Because of the topographical conditions present on the Zoning Lot, and in light of the previous subdivision variance approvals that were relied upon in order to lawfully grade the partially completed Planned Unit Development, the Council is authorized to grant the requested variances from the Asheboro Subdivision Ordinance.

2. With the approval of the requested subdivision ordinance variances, and with the correction of certain clerical/labeling errors on the combined subdivision plat/Conditional Use Permit site plan, the proposed subdivision sketch design plat is compliant with the Asheboro Subdivision Ordinance.

3. The Council has concluded that, with the proposed conditions described hereinabove, the requested Conditional Use Permit can be issued on the basis of the following rationale:

(a) The proposed Planned Unit Development will not materially endanger the public health or safety if the proposed land use is located where proposed and developed according to the plan as submitted and approved;

(b) The evidence received during the public hearing established that the proposed land use does meet all of the required conditions and specifications of the Asheboro Zoning Ordinance;

(c) The evidence presented during the course of the hearing of this matter established that the proposed land use will not substantially injure the value of the adjoining or abutting property; and

(d) The location and character of the Applicant's proposed land use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

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

#### ORDER

The Applicant, and its successors and assigns, is hereby granted the following land use approvals:

(1) The requested variances from the City of Asheboro Subdivision Ordinance, as described hereinabove, are hereby approved.

(2) Subject to the immediately following condition, the subdivision sketch design plat that calls for 52 lots plus common area with an average lot size of 3,489 square feet for both detached single-family dwellings and attached single-family dwellings (two dwellings per structure) is hereby approved. This sketch design plat approval, however, is conditioned on the timely correction of the clerical/labeling errors noted on the combined subdivision sketch design plat/ Conditional Use Permit site plan described in the following subpart to this Order.

(3) Subject to the following conditions, a Conditional Use Permit authorizing a Residential Planned Unit Development with a total of 30 detached single-family homes and 22 attached (two units per structure) single-family homes is hereby approved for the Zoning Lot. The continuing validity of this permit is hereby made expressly contingent upon the Applicant, and its successors and assigns, complying at all times with the applicable provisions of the Asheboro Zoning Ordinance, including without limitation the



site plan approved by this Order, and, furthermore, accepting and remaining in strict compliance with the following supplementary conditions:

- (a) Additions located to the rear of individual dwellings or the enclosure of patios and porches shall not be considered a modification of the Conditional Use Permit;
- (b) Homeowner association documents prohibiting recreational vehicle (including boat) parking as required by the subdivision ordinance shall be submitted and recorded with the final plat.
- (c) All storm sewers located outside of the public rights-of-way shall be maintained by the homeowners' association.
- (d) A 20-foot wide City of Asheboro sanitary sewer easement shall be provided along all 8-inch sanitary sewer lines located outside of the public rights-of-way.
- (e) A 20-foot wide City of Asheboro water line easement shall be provided along all water lines connecting the City of Asheboro Water System to fire hydrants and water meters located outside of the public rights-of-way.
- (f) Clerical errors and omissions were identified on the combined subdivision sketch design plat/Conditional Use permit site plan initially dated April 2012 and marked as revised on May 21, 2012. These errors and omissions pertain to the following issues:

- i. The labeling of open/recreation space (detailing the recreation area that is proposed adjacent to Lots 16-23);
- ii. Flood zone boundaries;
- iii. A required City of Asheboro storm sewer easement;
- iv. City limit boundaries;
- v. Street names and street right-of-way widths (including corrections to right-of-way boundaries);
- vi. Street maintenance responsibilities; and
- vii. Delineation of phase lines.

The applicant shall submit a revised plat/site plan reflecting the correction of the deficiencies identified above. This revised plat/site plan shall be submitted to staff members in the City of Asheboro Community Development Division for staff review and inclusion in the file without further review by the City Council. These corrections shall not be deemed to be modifications of the land use proposed on the subdivision sketch design plat/Conditional Use Permit site plan that was submitted in a timely manner as part of the Conditional Use Permit application process.

(g) In addition to demonstrating compliance with the City of Asheboro Subdivision Ordinance, any subdivision plat submitted for review and approval shall provide adequate turnaround and maneuvering space on existing and future public streets for municipal vehicles, specifically including garbage trucks and fire trucks, in accordance with design standards in effect as of the date of approval of this Conditional Use Permit.

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

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 July 12, 2012.

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

ATTEST:

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

- (d) Reappointment of Cynthia Bailey to the Asheboro Redevelopment Commission.**
- (e) Change Order #2 (Final) with Terry's Plumbing and Utilities, Inc. on the Veterans Loop Road Industrial Development Water and Sanitary Sewer Improvements Project decreasing the contract amount by \$17,192.74 to \$278,417.26 for adjustment of quantities as built and increasing the contract time by 28 days to June 11, 2012, due to weather related delays.**

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

**(f) Acknowledgement of the receipt from the Asheboro ABC Board of the following items:**

- (i) Minutes of the ABC Board meeting held on May 7, 2012.**
- (ii) Minutes of the ABC Board meeting held on June 4, 2012, including the board's adopted annual budget and meeting schedule for fiscal year 2012-2013.**

[Copies of the above-referenced minutes of the ABC Board meetings are on file in the City Clerk's office.]

**(g) A resolution updating the City's policy for mutual assistance with other law enforcement agencies.**

**26 RES 7-12**

**RESOLUTION ADOPTING A POLICY FOR MUTUAL ASSISTANCE  
WITH OTHER LAW ENFORCEMENT AGENCIES**

**WHEREAS**, pursuant to Section 160A-288 of the North Carolina General Statutes, the city council is authorized to adopt appropriate guidelines for the purpose of enabling the Asheboro Police Department to enter into mutual assistance agreements with other municipal and county law enforcement agencies; and

**WHEREAS**, pursuant to the above-cited statutory authorization, such mutual assistance agreements between law enforcement agencies authorize the lending of officers to work temporarily with officers of the requesting agencies, including in an undercover capacity, in addition to authorizing the lending of equipment and supplies; and

**WHEREAS**, it is deemed to be in the best interests of the citizens of the City of Asheboro to adopt a reasonable policy whereby reciprocal law enforcement assistance can be temporarily rendered to and obtained from other law enforcement agencies; and

**WHEREAS**, such reciprocal assistance is necessary to maintain the availability of effective law enforcement resources that enhance the ability of the Asheboro Police Department to provide continuing protection for the citizens of the City of Asheboro;

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

1. The Chief of Police is hereby authorized to temporarily provide assistance to other North Carolina municipal and county law enforcement agencies, provided that the head of the requesting law enforcement agency makes such a request in writing.

2. The Chief of Police is hereby authorized to permit officers of the Asheboro Police Department to work temporarily with officers of the requesting agency, including in an undercover capacity, and the Chief of Police may lend such equipment and supplies to requesting agencies as he deems advisable.

3. All such requests and authorizations shall be made and performed in accordance with Section 160A-288 of the North Carolina General Statutes, as applicable.

4. While working with a requesting agency, an Asheboro police officer shall have the same jurisdiction, powers, rights, privileges, and immunities (including those relating to the defense of civil actions and the payment of judgments) as the officers of the requesting agency. Such jurisdiction, powers, rights, privileges, and immunities are in addition to, and not in lieu of, those an Asheboro police officer normally possesses.

5. While on duty with the requesting agency, an Asheboro police officer shall be subject to the lawful operational commands of the officer's superior officers in the requesting agency, but the Asheboro police officer shall, for personnel and administrative purposes that include without limitation payroll purposes, remain under the control of the Asheboro Police Department. Furthermore, an Asheboro police officer shall be entitled to workers' compensation and other benefits to the same extent as though the officer were functioning within the normal scope of his or her duties as an Asheboro police officer.

6. The Chief of Police is hereby expressly authorized to enter into mutual assistance agreements with other law enforcement agencies in accordance with the guidelines established by this resolution and with such additional reasonable arrangements, terms, and conditions, not inconsistent herewith, as may be agreed upon between the respective heads of the law enforcement agencies.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on July 12, 2012.

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

ATTEST:

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

(h) A resolution authorizing the disposal of a damaged police vehicle.

27 RES 7-12

**RESOLUTION AUTHORIZING THE DISPOSAL OF A DAMAGED POLICE VEHICLE**

**WHEREAS**, Article IX, Section 9.3 of the Charter of the City of Asheboro provides that the City Council shall have the power granted by Chapter 160A, Article 12 of the General Statutes of North Carolina to sell any personal property belonging to the City of Asheboro; and

**WHEREAS**, Section 160A-265 of the North Carolina General Statutes authorizes the City of Asheboro (hereinafter referred to as the City), in the discretion of the City Council, to dispose of personal property belonging to the City regardless of the method utilized by the City to acquire the property; and

**WHEREAS**, Section 160A-266 of the North Carolina General Statutes authorizes the utilization of private negotiation and sale for the disposal of an item of personal property belonging to the City where the item of personal property is valued at less than thirty thousand and no/100 dollars (\$30,000.00); and

**WHEREAS**, Section 160A-267 provides that if the City Council proposes to dispose of property by private sale, a resolution must be adopted authorizing a city official to dispose of the personal property by private sale at a negotiated price and notice of the contents of the resolution authorizing the private sale shall be published once after the adoption of the resolution; and

**WHEREAS**, a city-owned 2011 Ford Crown Victoria (VIN 2FABP7BV7BX112035) assigned to the municipal police department was damaged when it collided with another vehicle on April 21, 2012; and

**WHEREAS**, after an appraisal was performed by representatives of the Interlocal Risk Financing Fund of North Carolina, which is the risk pool through which the city obtained collision insurance coverage for the damaged vehicle, city staff members were informed that the damaged vehicle was deemed to be a total loss; and

**WHEREAS**, in settlement of the city's claim for damages under its collision insurance coverage, and after accounting for the city's deductible of five hundred dollars (\$500.00), the risk pool has offered to pay to the city the sum of seventeen thousand five hundred twelve and fifty hundredths dollars (\$17,512.50) on the condition that the city assign title to the vehicle to the North Carolina League of Municipalities so that the said vehicle can be sold for salvage; and

**WHEREAS**, the Asheboro City Council has concluded that the proposed settlement of the city's claim is reasonable;

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

**Section 1.** The said 2011 Ford Crown Victoria (VIN 2FABP7BV7BX112035), which has been appraised as a total loss as a consequence of a collision with another vehicle on April 21, 2012, is hereby declared to be surplus personal property.

**Section 2.** The Asheboro City Manager is hereby authorized to assign the title to this surplus vehicle to the North Carolina League of Municipalities for salvage in consideration of the payment to the City of seventeen thousand five hundred twelve and fifty hundredths dollars (\$17,512.50) in settlement of the City's claim for damages under the automobile collision coverage provided through the Interlocal Risk Financing Fund of North Carolina.

**Section 3.** In accordance with Section 160A-267 of the North Carolina General Statutes, a summary of the contents of this resolution shall be published once in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, and the sale of this surplus vehicle shall not be consummated until ten (10) days have elapsed since the date of publication of the said notice.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on July 12, 2012.

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

ATTEST:

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

**4. Community Development Division items:**

- (a) Public Hearing: A request for a Special Use Permit authorizing a solar farm on property located along U.S. Highway 64 West (Community Development Division file number SUP-12-01).**

Mayor Smith opened the public hearing on the following request.

Mr. Nutall was sworn in and presented the Community Development Division staff's analysis of the Applicant's request that included a properly submitted site plan. The Applicant, Mr. Mc Alee Lemene of Soleil Energy Solutions, requested a Special Use Permit for a Solar Farm to be located along the south side of U.S. Highway 64 West, approximately four hundred twenty feet (420') west of the centerline of Three B Road. The property for which the solar farm is proposed is more specifically identified by Randolph County Parcel Identification Number 7740483651.

On behalf of the Applicant, Mr. Ben Morgan, Esq., was sworn in and addressed the four standard tests. As part of the Applicant's case, documentary evidence was entered into the record and a visual presentation was utilized in support of the application for a Special Use Permit. Additionally, the Applicant, Mr. Mc Alee Lemene, and Ms. Patsy Woodruff, a real estate agent, were sworn in and presented testimony in support of the request.

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

Upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to approve, with conditions, the requested Special Use Permit. This approval is based on the four standard tests being met.

The formal findings of fact, conclusions of law, and order for this Special Use Permit will be entered by the Council in regular session on August 9, 2012. This order will reflect conditions imposed upon this permit as a consequence of the testimony presented during the public hearing.

- (b) Preliminary Subdivision Plat Review: Consideration of a preliminary plat submitted for the Olde Towne Village Subdivision (Community Development Division File No. SUB-12-01).**

Mr. Nuttall presented the preliminary plat for the proposed Olde Towne Village Section II Subdivision. Three Eagles Development, LLC requested the approval of a preliminary plat for the subdivision to be located along the south side of Old Lexington Road. The proposed subdivision contains approximately 21.61 acres of land with approximately 52 lots plus common area. The average lot size in the subdivision is 3,489 square feet.

The proposed subdivision is part of a residential planned unit development for which a Conditional Use Permit was approved by the Council in June 2012. This preliminary plat review and approval is part of the continuing development process.

The Community Development Division and the Planning Board recommended approval of the preliminary plat with the following comment:

"Homeowners' documents restricting RV parking as required by the ordinance shall be submitted and recorded with the final plat."

Upon motion by Ms. Carter and seconded by Mr. Bell, Council voted unanimously to approve, with the immediately preceding comment/condition, the preliminary plat submitted for the Olde Towne Village Section II Subdivision.

The aforementioned preliminary plat is on file in the City Clerk's office.

**5. Public comment period.**

Mayor Smith opened the floor for comments from the public, and none were offered.

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

**6. Cultural and Recreation Services Division Items:**

**(a) Sunset Theatre Project:**

**(i) Resolution setting the date for a public hearing on the question of financing the cost of the theatre renovation project.**

Mr. Ward presented and recommended adoption, by reference, of the aforementioned resolution.

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

**28 RES 7-12**

**RESOLUTION OF OFFICIAL INTENT TO FINANCE THE  
SUNSET THEATRE RENOVATION PROJECT**

**WHEREAS**, the City of Asheboro acquired the Sunset Theatre and subsequently undertook concerted efforts to secure additional resources for the preservation, renovation, and reinvigoration of this historic facility as part of the city's comprehensive approach to maintaining a vibrant downtown; and

**WHEREAS**, the city has undertaken a \$1.2 million capital campaign to raise funds for the renovation of the Sunset Theatre, and, to date, the city has received contributions and funding pledges that total at least \$1 million; and

**WHEREAS**, in compliance with the applicable public contracting laws, the city advertised for sealed bids for the Sunset Theatre renovation project; and

**WHEREAS**, on June 29, 2012, these sealed bids were opened, and the bids, inclusive of the base bid plus the three alternate components of the proposed work that will provide for a comprehensive renovation project, can be summarized as follows:

Bar Construction	\$2,284,000;
Hodgin Construction	\$2,332,160;
Inland Construction	\$2,368,279;
Lomax Construction	\$2,475,600;
Rehab Builders	\$1,768,375; and

**WHEREAS**, Section 143-129(b) of the North Carolina General Statutes provides that, when "the lowest responsible bids are in excess of the funds available for the project," negotiations may be entered with the apparent lowest responsible bidder in order to make "reasonable changes in the plans and specifications as may be necessary to bring the contract price within the funds available . . .;" and

**WHEREAS**, Section 160A-20(b) of the North Carolina General Statutes provides as follows:

A unit of local government may finance . . . the construction or repair of fixtures or improvements on real property by contracts that create in some or all of the fixtures or improvements, or in all or some portion of the property on which the fixtures or improvements are located, or in both, a security interest to secure repayment of moneys advanced or made available for the construction or repair; and

**WHEREAS**, Section 160A-20(g) of the North Carolina General Statutes provides that, before entering into an installment financing contract to secure funds for a project such as the renovation of the Sunset Theatre, the city "shall hold a public hearing . . .," and "notice of the public hearing shall be published once at least 10 days before the date fixed for the hearing;" and

**WHEREAS**, upon recommendation of the city's finance director and city manager, the Asheboro City Council has concluded that it is in the best operational and financial interests of the city to consider proceeding with a comprehensive renovation project for the Sunset Theatre by means of utilizing, contingent on receiving the mandated approvals from the Local Government Commission, installment financing to procure the desired construction work;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that negotiations are to be entered into with Rehab Builders, which is the apparent lowest responsive, responsible bidder, in order to make reasonable changes in the plans and specifications as may be necessary to bring the contract price for the desired renovation of the Sunset Theatre within the amount of funds available for this project; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Asheboro that a public hearing on the question of entering into an installment contract to finance the renovation of the Sunset Theatre will be held during the City Council's next regular meeting, which will begin at 7:00 p.m. on the 9<sup>th</sup> day of August, 2012, in the Council Chamber at Asheboro City Hall, 146 North Church Street, Asheboro, North Carolina 27203; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Asheboro that notice of the aforesaid public hearing shall be published in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to August 9, 2012; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Asheboro that the city manager, with the assistance of the city's finance director and any other necessary staff member(s), is hereby directed to take, as the city's authorized representative, the administrative actions necessary to explore installment financing, specifically including without limitation requesting installment financing proposals from banks.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 12<sup>th</sup> day of July, 2012.

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

ATTEST:

\_\_\_\_\_  
/s/Holly H. Doerr  
Holly H. Doerr, CMC, City Clerk  
City of Asheboro, North Carolina

- (ii) **Resolution approving an agreement with the Rural Economic Development Center, Inc. for grant funding in the amount of \$50,000.00 for the renovation of the Sunset Theatre.**

Mr. Ward presented and recommended adoption, by reference, of the aforementioned resolution.

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

**29 RES 7-12**

**RESOLUTION AUTHORIZING THE EXECUTION OF CONTRACT DOCUMENTS WITH THE RURAL ECONOMIC DEVELOPMENT CENTER, INC. FOR THE SUNSET THEATRE RENOVATION PROJECT**

**WHEREAS**, the Rural Economic Development Center, Inc. (hereinafter referred to as the "CENTER") was organized for the purpose of coordinating and stimulating research and demonstration projects in the area of rural economic development among public and private sectors in North Carolina and to encourage economic development in the state's rural areas; and

**WHEREAS**, in order to stimulate and encourage economic development and research in the state's rural areas, the CENTER contracts with academic, public, and private entities for the purpose of engaging in the activities described in the immediately preceding paragraph; and

**WHEREAS**, the CENTER has approved a \$50,000 Supplemental Business Development Grant to be awarded to the City of Asheboro for the renovation of the Sunset Theatre; and

**WHEREAS**, in order for the city to receive this grant funding, the municipal corporation's duly authorized officials must execute, on behalf of the city, a formal agreement between the City of Asheboro and the CENTER; and

**WHEREAS**, a true and correct copy of the agreement that must be executed by the city is attached to this resolution as EXHIBIT 1, and EXHIBIT 1 is hereby incorporated into this resolution by reference as if copied fully herein; and

**WHEREAS**, no objectionable contractual terms and conditions are present in the proposed agreement;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the grant funding agreement attached hereto as EXHIBIT 1 is hereby approved; and

**BE IT FURTHER RESOLVED** that Mayor Smith is hereby authorized to execute the legal instrument found in EXHIBIT 1 on behalf of the municipal corporation.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 12<sup>th</sup> day of July, 2012.

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

ATTEST:

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

[Exhibit 1 that is referred to in this resolution is attached to the original resolution on file in the City Clerk's office.]

After adoption of the above-referenced resolution, Ms. Reaves utilized a slide presentation in order to update the Council regarding the capital fundraising campaign and to outline the debt financing process for the Sunset Theatre renovation project. A public hearing on the question of entering into an installment contract to finance the renovation project will be held during the Council's regular meeting on August 9, 2012.

A copy of the slide presentation utilized by Ms. Reaves is on file in the City Clerk's office.

**(b) Consideration of an ordinance establishing parking regulations for the Downtown Farmers' Market.**

Mr. Ward presented and recommended adoption, by reference, of the aforementioned ordinance.

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

**20 ORD 7-12**

**AN ORDINANCE AMENDING SECTION 71.53 OF THE CODE OF ASHEBORO**

**WHEREAS**, Section 160A-301(b) of the North Carolina General Statutes provides with regard to off-street parking as follows:

A city may by ordinance regulate the use of lots, garages, or other facilities owned or leased by the city and designated for use by the public as parking facilities. The city may impose fees and charges for the use of these facilities, and may provide for the collection of fees and charges through parking meters, attendants, automatic gates, or any other feasible means. The city may make it unlawful to park any vehicle in an off-street parking facility without paying the established fee or charge and may ordain other regulations pertaining to the use of such facilities; and

**WHEREAS**, Section 160A-302(a) of the North Carolina General Statutes provides that the city has "authority to own, acquire, establish, regulate, operate, and control off-street parking lots, parking garages, and other facilities for parking motor vehicles . . . ;" and

**WHEREAS**, pursuant to Session Law 2012-105, the General Assembly of North Carolina has authorized the City of Asheboro to utilize the following provision to regulate parking at the Downtown Farmers' Market facility:

In a city-owned parking lot that is clearly designated as such by a sign no smaller than 24 inches by 24 inches prominently displayed at the entrance thereto, any motor vehicle, as defined in G.S. 20-4.01, parked in violation of a city ordinance adopted pursuant to this section may be removed from such lot to a place of storage, and the registered owner of that motor vehicle shall become liable for removal and storage charges.

**WHEREAS**, Section 71.53 of the Code of Asheboro specifies the days and hours when parking is enforced in the city-owned parking lots; and

**WHEREAS**, the City of Asheboro Cultural and Recreation Services Division operates the Downtown Farmers' Market on the premises of a sheltered facility with a municipal parking lot that is located at 134 South Church Street in Asheboro; and

**WHEREAS**, except for the days of the week (Tuesday, Thursday, and Saturday during the growing season) when the Downtown Farmers' Market is open with vendors in assigned spaces and when the Cultural and Recreation Services Division has rented the facility to a person or entity for a special event, the parking lot surrounding the sheltered facility at 134 South Church Street is available for use by the motoring public to the same degree as any other municipal lot in Asheboro; and

**WHEREAS**, the increased use of this facility for overnight parking is limiting the ability of city employees in the Cultural and Recreation Services Division to properly assign and make available to paying vendors parking spaces from which the vendors can sell their products to visitors at the Downtown Farmers' Market; and

**WHEREAS**, the Asheboro City Council has concluded that adequate off-street parking is available in the downtown area so as to allow the Council to take regulatory action to resolve the parking issues that are negatively impacting the Downtown Farmers' Market and the vendors that are critical to the success of the said market;

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

**Section 1.** Section 71.53 of the Code of Asheboro is hereby rewritten to provide as follows:

**§ 71.53 DAYS AND HOURS REGULATED**

(A) With the exception of Saturdays, Sundays, and legal holidays, the regulation of parking within city parking lots shall be effective and enforceable daily between the hours of 7:00 a.m. and 7:00 p.m.

(B) Notwithstanding any other provision in this Chapter, and pursuant to G.S. 160A-302, as modified by Session Law 2012-105, the following supplemental regulations are applicable to the municipal parking lot that is accessed from South Church Street and is part of the Downtown Farmers' Market facility located at 134 South Church Street:

(1) The parking of motor vehicles, other than city-owned motor vehicles, in the Downtown Farmers' Market facility parking lot for a time period in excess of twenty-four (24) consecutive hours is prohibited.

(2) On the days of the week when the Downtown Farmers' Market is in operation (Tuesday, Thursday, and Saturday), it is unlawful for any motor vehicle, other than city-owned motor vehicles, to be parked in the Downtown Farmers' Market facility parking lot between the hours of 4:30 a.m. and 6:00 a.m. With the exception of city-owned motor vehicles, any and all motor vehicles found in the parking lot of the Downtown Farmers' Market facility between the hours of 4:30 a.m. and 6:00 a.m. may be removed from the said parking lot at the direction of a city police officer to a place of storage and the registered owner of the motor vehicle shall become liable for the removal and storage fees/charges.

(3) When a motor vehicle is towed pursuant to Section 71.53(B)(2), the person or company that tows the motor vehicle at the request of a city police officer is responsible for collecting any removal/towing and storage fees. All of the post-towing procedures prescribed by Chapter 20, Article 7A of the North Carolina General Statutes apply. If a court of competent jurisdiction finds that no probable cause existed for the towing of a motor vehicle, the City of Asheboro shall compensate the tower for the fees/charges that are directly attributable to the Asheboro police officer's direction to tow the motor vehicle from the parking lot.

(4) The parking regulations found in Section 71.53(B) shall be prominently displayed at the vehicular entrance to the Downtown Farmers' Market facility parking lot by means of a sign that is no smaller than twenty-four (24) inches by twenty-four (24) inches.

(5) For purposes of interpreting this subsection, the definition of "motor vehicle" found in G.S. 20-4.01 shall be the controlling definition.

**Section 2.** The city clerk shall enter a description of the parking regulations described in Section 1 of this Ordinance in Schedule 20 of Section 72.02 of the Code of Asheboro.

**Section 3.** All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

**Section 4.** This ordinance shall take effect and be in force from and after July 21, 2012.



This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 12<sup>th</sup> day of July, 2012.

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

ATTEST:

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

**(c) Consideration of formalizing the collaborative efforts between the City of Asheboro and the Randolph/Asheboro YMCA.**

Mr. Ward presented a proposal that the City of Asheboro collaborate with the Randolph/Asheboro YMCA on the following items:

- City REC card holders would pay \$2.50 to use the YMCA's splash pad on Wednesdays from 4:00 p.m. until 6:45 p.m., on Saturdays from 8:00 a.m. until 4:00 p.m., and on Sundays from 1:00 p.m. until 3:00 p.m.
- City REC card holders would pay \$2.50 in order to swim in the YMCA's pool during the months of August through May on Saturdays from 1:00 p.m. until 4:45 p.m. and on Sundays from 2:00 p.m. until 4:45 p.m.
- City REC card holders would pay \$2.50 in order to shoot basketball in the YMCA's gymnasium on Wednesdays from 6:00 a.m. until 12:00 noon and on Saturdays from 8:00 a.m. until 12:00 noon. Additionally, the gymnasium would be available for shooting basketball on Wednesdays from 8:00 p.m. until 10:00 p.m. during the months of May 1 to November 31.

In return for the above services, the city would provide the Randolph/Asheboro YMCA with a credit of \$2,500.00 on its monthly water bill. This credit will not exceed \$2,500.00 per month. This proposal would be for a six month trial period. After the six month trial period, the progress of this endeavor would be reviewed and evaluated by both parties before any permanent agreements or future programs are developed.

Upon motion by Mr. Bell and seconded by Mr. Baker, Council voted unanimously to approve the collaborative efforts between the City of Asheboro and the Randolph/Asheboro YMCA as set forth above, specifically including the issuance to the YMCA of a water bill credit of (a maximum of \$2,500.00 per month) during this 6-month trial period and beginning with the July water usage period.

**7. Receipt of the results of the sealed bid timber sale conducted on June 28, 2012 and consideration of accepting the bid from the highest responsible bidder.**

On May 24, 2012, the City Council authorized the sale of all merchantable timber within the approximately 111-acre portion of the "Little Lakes Property" designated for a clear-cut timber harvest by means of advertisement and sealed bid. Said property is located along Old Lexington Road. An advertisement for sealed bids was published in *The Courier Tribune* on May 26, 2012 and the sealed bid timber sale was conducted on June 28, 2012.

Mr. Ward presented the results of the sale as submitted by Mr. E. Gerald Tugwell, ACF of Tugwell Consulting Forestry, P.A. as follows:

Troy Lumber Company	\$ 374,064.00;
Culp Lumber Company	\$ 305,555.00; and
Allen Brothers Timber Company	\$ 253,898.00.

The high bidder, Troy Lumber Company, submitted a bid that was responsive to the advertisement for sealed bids and provided the required bid deposit of 5% of the bid amount. Mr. Ward reported that Mr. Tugwell has indicated that, on the basis of his past observations of operations conducted by Troy Lumber Company, this bidder is a reputable and professional company.

Mr. Ward presented and recommended adoption, by reference, of a resolution accepting the highest bid received during a timber sale conducted by advertisement for sealed bids. Upon motion by Mr. Moffitt and seconded by Mr. Burks, Council voted unanimously to adopt the following resolution by reference.



Upon motion by Mr. Swiers and seconded by Mr. Bell, Council voted unanimously to approve the following resolution appointing Robert E. Morrison to a three-year term as a member of the Asheboro ABC Board and designating J. Brooke Schmidly as Chair of the Asheboro ABC Board.

**31 RES 7-12**

**RESOLUTION APPOINTING ROBERT E. MORRISON TO A THREE-YEAR TERM AS A MEMBER OF THE ASHEBORO ABC BOARD AND DESIGNATING J. BROOKE SCHMIDLIDY AS CHAIR OF THE ASHEBORO ABC BOARD**

**WHEREAS**, in accordance with Section 18B-700 of the North Carolina General Statutes, the Asheboro ABC Board consists of three (3) members that are appointed by the Asheboro City Council; and

**WHEREAS**, Section 18B-700(a) of the North Carolina General Statutes provides in pertinent part as follows:

One member of the initial board of a newly created ABC system shall be appointed for a three-year term, one member for a two-year term, and one member for a one-year term. As the terms of the initial board members expire, their successors shall each be appointed for three-year terms. The appointing authority shall designate one member of the local board as chairman; and

**WHEREAS**, the Honorable Russell G. Walker, Jr. was previously appointed to the Asheboro ABC Board for a three-year term and designated as Chairman of the Asheboro ABC Board, effective August 12, 2009; and

**WHEREAS**, Chairman Walker has indicated that he does not wish to be reappointed to the Asheboro ABC Board for another three-year term;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro, North Carolina that Robert E. Morrison is appointed, effective August 13, 2012, to the Asheboro ABC Board as a member of the board with a three-year term of office; and

**BE IT FURTHER RESOLVED** that J. Brooke Schmidly is hereby designated, effective August 13, 2012, as Chair of the Asheboro ABC Board.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 12<sup>th</sup> day of July, 2012.

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

ATTEST:

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

There being no further business, the meeting was adjourned at 8:45 p.m.

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

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