

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, AUGUST 4, 2016
7:00 p.m.**

David H. Smith) – Mayor

Clark R. Bell)
Edward J. Burks)
Walker B. Moffitt) – Council Members Present
Katie L. Snuggs)
Charles A. Swiers)

Linda H. Carter)
) – Council Members Absent
Jane H. Redding)

John N. Ogburn, III, City Manager
D. Jason Cheek, Police Captain
Timothy Edward Cockman, Assistant Fire Chief
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Michael L. Leonard, P.E., City Engineer
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Jonathan M. Sermon, Recreation Services Superintendent
Jeffrey C. Sugg, City Attorney
Jody P. Williams, Chief of Police

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 for private prayer and meditation, Mayor Smith asked everyone to stand and repeat the pledge of allegiance.

3. Recognition of the service rendered to the City of Asheboro by retired Police Sergeant Timothy Marlowe.

On behalf of the Asheboro Police Department, Chief Williams presented Sergeant Marlowe with a plaque that included his badge as a token of gratitude for his loyal service to the City of Asheboro. Along with his badge, Chief Williams presented Sergeant Marlowe with his service side arm that he carried at the time of his retirement.

Additionally, on behalf of the City Council, Mr. Ogburn presented Sergeant Marlowe with a retirement plaque from the municipal corporation.

4. Update on the National Night Out events held August 2, 2016.

Chief Williams reported that the National Night Out Events that were held on August 2, 2016 were a great success. Approximately, 800 citizens attended the events within the community. Chief Williams attributed the successful event to the collaborative efforts between the various community watch groups and the City of Asheboro.

5. All-America City Award celebration and recognition:

(a) Recognition of program planning members, team members, and sponsors.

Mr. Ogburn presented the planning members, team members, and sponsors with a plaque that included the All-America City logo and thanked them for their support and efforts in helping the city to achieve this prestigious award.

(b) Presentation of the 2016 Asheboro Pride Award to the All-America City team members and sponsors.

On behalf of the City Council, Mayor Smith presented the 2016 Asheboro Pride Award to the 2016 All-America City team members and sponsors. Mr. Bob Langston accepted the award on behalf of the team and sponsors.

6. Consent agenda:

Upon motion by Mr. Burks and seconded by Mr. Moffitt, Council voted unanimously to approve/adopt, as presented, the following consent agenda items. Council Members Bell, Burks, Moffitt, Snuggs, and Swiers voted in favor of the motion.

(a) The minutes of the city council's regular meeting on July 14, 2016.

Copies of the approved minutes are on file in the City Clerk's office and are posted on the city's website.

(b) The temporary closing of streets for Fall Festival XLIV.

The parade permit application for the requested street closure, including a street closure map, was included in the Council's materials. Copies of these items are on file in the city clerk's office.

(c) Approval to schedule and advertise a public hearing on September 15, 2016, concerning an application to rezone property located at 1431 E. Salisbury Street from B2 (General Commercial) to CU-I2 (Conditional Use General Industrial) and issue a Conditional Use Permit authorizing the following land uses: Motor Vehicle Repair Major and associated Retail Shoppers' Goods (sales of automotive parts).

With the above-stated approval of the consent agenda, the scheduling and advertisement of a public hearing on the described E. Salisbury Street rezoning application was approved.

(d) A contract with the N.C. Department of Transportation for the adjustment and/or relocation of municipally owned water and sewer lines disturbed by the construction of the U.S. Highway 64 Bypass.

The above-referenced contract was approved and a copy is on file in the city clerk's office.

7. Community Development Items:

(a) Quasi-judicial hearing on an application to rezone property located on the south side of Crescent Drive (Randolph County PIN 7771054020) from R40 (Low-Density Residential) to CU-B2 (Conditional Use General Commercial) and issue a Conditional Use Permit authorizing a Mobile Home Sales Lot (Zoning Case RZ-16-08).

Mayor Smith opened the public hearing on the combined request to legislatively rezone property and to issue a Conditional Use Permit on the basis of evidence presented during the quasi-judicial process.

Mr. Nuttall was placed under oath and presented the planning staff's analysis of the Applicant's request that included a properly submitted site plan. The request pertains to approximately 3.38 acres of a total of 7.6 acres of land owned by Mc-Mc Properties, LLC that is located along the south side of Crescent Drive and is more specifically identified by Randolph County Parcel Identification Number 7771054020 (a portion). The property that is the subject of the requested council action is identified in the staff report as "A1" and will be hereafter referred to as the "A1 Property."

The Applicant, Mc-Mc Properties, LLC, is requesting that the A1 Property be rezoned from the current R40 (Low-Density Residential) and placed into a CU-B2 (Conditional Use General Commercial) zoning district.

During his presentation, Mr. Nuttall presented the staff analysis. This analysis noted in part:

1. The Land Development Plan projects the above-described property and those to the east and south as suitable long-term for commercial and economic development growth.

2. U.S. Highway 64 East is a state-maintained boulevard. Crescent Drive is a state-maintained road that is approximately 16' to 18' in width.
3. The Applicant's adjoining property to the south of the A1 Property is currently zoned B2 and is not part of the Applicant's request for a Conditional Use Permit. This portion of the lot may be used as a Mobile Home Sales Lot and/or other uses subject to compliance with zoning requirements for B2 zoning districts.
4. The Planning staff has received written comments opposing the rezoning request, and the Council Members were informed by the city clerk of the names and addresses of the individuals who sent comments about this application.
5. The request is for a Conditional Use Permit for a Mobile Home Sales Lot.
6. The applicant is proposing to use the portion of the property that is being requested for a rezoning to CU-B2 for a mobile home sales lot. Specifically, this area is proposed for display area for the mobile (manufactured homes) offered for sale. The applicant is proposing access from Crescent Drive that would be limited to employees/emergency vehicles.
7. Components of the proposed use (including, but not limited to, the sales office and customer parking) may occur on the portion of the property that is zoned B2, along with other uses permitted by right in that district.
8. Buffering/screening is required adjacent to the place of worship (either a 5' Type A screen or 15' Type A buffer adjacent to the place of worship; plus either a 10' Type C screen or 25' Type C buffer adjacent to the single-family residence on the east side of the property). The applicant is proposing a 20' area of existing vegetation to remain along much of the perimeter of the portion of the property zoned B2.

The planning staff and the Planning Board recommended approval of the requested rezoning based on the following analysis:

"The growth strategy map places the property within an economic development area and the East Small Area Plan specifically calls for expansion of commercial development on U.S. Highway 64 East, which has increasingly occurred in this vicinity in recent years.

While the LDP proposed land map specifies 'commercial' use on the property, the text generally acknowledges the need for a zoning district sensitive to potential negative impacts of commercial development on adjoining uses (particularly residential uses). It also recognizes situations in which infrastructure limitations (i.e. street design, utilities) make a general district rezoning inappropriate on property for which the LDP proposes a commercial use. These considerations, combined with the property's location outside of flood areas, watersheds, or areas with considerably steep slopes make a CU-B2 district request reasonable.

In evaluation these factors, the requested Conditional Use General Commercial district is a suitable commercial designation for the property since the Conditional Use permitting process can consider the proposed use of the property and the manner in which the property is developed to mitigate negative effects on adjoining properties.

For these reasons, staff believes the proposed CU-B2 district is consistent with the adopted comprehensive plan, and therefore reasonable and in the public interest."

Mr. Larry McKenzie was placed under oath and offered testimony on behalf of the Applicant. This testimony was focused on addressing the four standards for issuance of a Conditional Use Permit. As part of his testimony, Mr. McKenzie expressed his agreement with the following conditions that were recommended by the planning staff for attachment to the requested Conditional Use Permit.

1. The site plan shows a 20' wooded buffer maintaining existing vegetation adjacent to all residentially zoned property, adjacent to Crescent Drive, and along the northeastern property boundary adjacent to the western property boundary of Gayle F. Kurdian (See DB 1170, PG 1887). Existing vegetation shall count towards landscaping requirements, however, should any deficiency in meeting the landscaping requirements occur within any portion of the designated 20' buffer area, additional plantings will be required, which at a minimum, meet the requirements of a Type C Screen.
2. Notwithstanding information noted on the site plan, there shall only be one driveway on Crescent Drive. No homes shall be delivered to or from

the property using this Crescent Drive entrance. This entrance along Crescent Drive shall be gated and remain locked except for employee use or emergency vehicles. Solid waste pickup shall not be via the Crescent Drive entrance.

3. 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.

Neighboring property owners offered testimony in opposition to the Application. The concerns prompting the opposition centered on the potential negative impacts on safety and privacy posed by the contemplated land use, especially if traffic from the business uses Crescent Drive.

The names of the witnesses who testified in opposition to the Application are as follows:

- Mr. Gilbert Edwards
- Mr. Robert Ward
- Ms. Sheila Beck
- Mr. Michael Redding
- Mr. Donnie Bell
- Mr. Harvey Latham

There being no further comments, Mayor Smith transitioned to the deliberative phase of the public hearing.

With regard to the request to place the property in a different zoning district, the Council considered and took action by adopting a multi-part motion that included the following actions:

1. The Council hereby concludes that the growth strategy map places the property within an economic development area and the East Small Area Plan specifically calls for expansion of commercial development on U.S. Highway 64 East, which has increasingly occurred in this vicinity in recent years. While noting that the LDP proposed land use map specifies "commercial" use on the property, the Council also concurs with the general acknowledgement in the comprehensive plan text that the designated zoning district must be sensitive to potential negative impacts of commercial development on adjoining uses (particularly residential uses). The text also recognizes situations in which infrastructure limitations (i.e. street design, utilities) make a general district rezoning inappropriate on property for which the LDP proposes a commercial use. These considerations, combined with the A1 Property's location outside of flood areas, watersheds, or areas with considerably steep slopes, make a CU-B2 district request reasonable.

The requested Conditional Use General Commercial district is a suitable commercial designation for the property since the Conditional Use permitting process can consider the proposed use of the property and the manner in which the property is developed to mitigate negative effects on adjoining properties.

For these reasons, the requested CU-B2 district is consistent with the adopted comprehensive plan and therefore reasonable and in the public interest.

2. In light of the above-stated analysis, the requested zoning amendment to rezone from R40 to CU-B2 zoning was approved without any modifications.

The above-stated motion was made by Mr. Bell and seconded by Mr. Moffitt. Council Members Bell, Burks, Moffitt, Snuggs, and Swiers voted in favor of the motion.

Prior to the consideration of the application for a Conditional Use Permit, the Council Members discussed certain concerns in regards to accessibility for emergency vehicles. Mr. Timothy Edward Cockman, who is the Assistant Fire Chief, was placed under oath and addressed the Council's concerns.

After substantive discussion of the evidence in support of and in opposition to the Application, the Council Members concluded the standards for granting the requested Conditional Use Permit had been met so long as certain conditions are attached to mitigate potential negative secondary impacts associated with the use of the A1 Property.

Upon motion by Mr. Bell and seconded by Mr. Moffitt, Council voted unanimously to approve the requested Conditional Use Permit, with amended conditions different from those offered by staff, the authorizing a Mobile Home Sales Lot to be located on the A1 Property.

Council Members Bell, Burks, Moffitt, Snuggs, and Swiers voted in favor of the motion.

The formal findings of fact, conclusions of law, and order authorizing the Conditional Use Permit and specifying the conditions attached to the permit, will be entered by the Council during regular session on September 15, 2016.

A copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

(b) Public hearing to consider and possibly take action on a resolution adopting the Randolph County Multi-Jurisdictional Hazard Mitigation Plan.

Mayor Smith opened the public hearing.

Mr. Nuttall presented and recommended adoption, by reference, of a resolution adopting the Randolph County Multi-Jurisdictional Hazard Mitigation Plan.

There being no comments from the public and no further comments from city staff members, Mayor Smith closed the public hearing.

Upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to adopt the following resolution by reference. Council Members Bell, Burks, Moffitt, Snuggs, and Swiers voted in favor of the motion.

23 RES 8-16

**RESOLUTION TO ADOPT THE
RANDOLPH COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN**

WHEREAS, the City of Asheboro is vulnerable to an array of natural hazards that can cause loss of life and damages to public and private property; and

WHEREAS, the City of Asheboro desires to seek ways to mitigate situations that may aggravate such circumstances; and

WHEREAS, the development and implementation of a hazard mitigation plan can result in actions that reduce the long-term risk to life and property from natural hazards; and

WHEREAS, it is the intent of the City of Asheboro to protect its citizens and property from the effects of natural hazards by preparing and maintaining a local hazard mitigation plan; and

WHEREAS, it is also the intent of the City of Asheboro to fulfill its obligation under North Carolina General Statutes, Chapter 166A: North Carolina Emergency Management Act and Section 322: Mitigation Planning, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to remain eligible to receive state and federal assistance in the event of a declared disaster affecting the City of Asheboro; and

WHEREAS, the City of Asheboro, in coordination with Randolph County and its incorporated municipalities has prepared a multi-jurisdictional hazard mitigation plan with input from the appropriate local and state officials;

WHEREAS, the North Carolina Division of Emergency Management and the Federal Emergency Management Agency have reviewed the Randolph County Multi-Jurisdictional Hazard Mitigation Plan for legislative compliance and have approved the plan pending the completion of local adoption procedures;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Asheboro hereby:

1. Adopts the Randolph County Multi-Jurisdictional Hazard Mitigation Plan; and
2. Agrees to take such other official action as may be reasonably necessary to carry out the proposed actions of the Plan.

Adopted on August 4,, 2016.

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

ATTEST:

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

- (c) **Presentation of staff's recommendation to pursue an amendment to the boundaries of the city's primary fire limits in light of building and fire code enhancements that have occurred since adoption of the primary fire limits in 1983.**

During discussion, Mr. Nuttall presented a map of the city's current primary fire limits and recommended that city staff members evaluate the possibility of amending the current map that is dated 1983. Staff members believe that the current map should be evaluated in order to allow for changes that have been made to the state building and fire codes along with improvements for safety standards.

With the general consent of the council members, city staff will evaluate the process of amending the current primary fire limits and update the council as more information is available.

- (d) **Opportunities to redevelop the city-owned Cranford Mills site located at 133 South Church Street:**

- (i) **Discussion of the site's redevelopment potential.**

Mr. Nuttall indicated that the city-owned land at 133 South Church Street is within the city's center city area and is listed on the National Register of Historic Places. The site includes a locally significant and recognized landmark in the 115-foot tall smokestack, which in 2015 was stabilized for a total cost of \$119,000.

Mr. Nuttall further discussed that portions of the historic manufacturing complex are in advanced states of decay, making selected demolition an integral part of the redevelopment process. The expense for such a project would be substantial. In light of the above-stated facts, city staff recommended that the historic property be declared surplus and offered for sale, with a goal of finding a purchaser that can and will properly redevelop the property with a minimum purchase price of \$119,000.

- (ii) **Consideration of a resolution authorizing the negotiated offer, advertisement, and upset bid process to dispose of this surplus real property.**

In furtherance of the previous discussion regarding the city-owned land at 133 South Church Street, Mr. Nuttall presented and recommended adoption, by reference, of a resolution authorizing the negotiated offer, advertisement, and upset bid process to dispose of the surplus real property.

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

RESOLUTION NUMBER 24 RES 8-16

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION AUTHORIZING THE NEGOTIATED OFFER, ADVERTISEMENT, AND UPSET BID
PROCESS TO DISPOSE OF SURPLUS REAL PROPERTY LOCATED AT
133 SOUTH CHURCH STREET**

WHEREAS, the City of Asheboro (the "City") owns an approximately 1-acre in size parcel of land, which is identified by Randolph County Parcel Identification Number 7751726479, located at 133 South Church Street in downtown Asheboro, the said parcel of land is more specifically described in a North

Carolina General Warranty Deed recorded in the office of the Randolph County Register of Deeds in Book of Record 2408, Page 445 (this parcel of land will be hereinafter referred to as the "Historic Property"); and

WHEREAS, on December 7, 2011, prior to the City acquiring the Historic Property, the site was listed in the National Register of Historic Places as part of the Asheboro Hosiery Mills and Cranford Furniture Company Complex that includes the 115-foot tall Cranford Industries smokestack (the "Smokestack"); and

WHEREAS, with the exception of the Smokestack, the structures located on the Historic Property are in an advanced state of decay that renders demolition of the deteriorating structure(s) as the only economically viable option for future redevelopment and use of the property; and

WHEREAS, the Smokestack is not in a state of decay that requires demolition because the deterioration jeopardizing the stability of the Smokestack was discovered in 2015 by a potential buyer during a due diligence period, and remedial action was taken to stabilize and preserve the Smokestack; and

WHEREAS, this remedial action for the Smokestack created a financial obligation for the City in the amount of \$119,000.00; and

WHEREAS, the City itself has no public use for the Historic Property that would justify the expenditure of an additional substantial amount of public funds to remove the unsafe structure(s); and

WHEREAS, City staff has recommended to the governing board conveying the Historic Property to a buyer capable and willing to redevelop the site in a manner that removes hazardous conditions on the site, has a positive impact on the downtown area, and is respectful of the historical significance of the property, specifically including the Smokestack; and

WHEREAS, Section 160A-269 of the North Carolina General Statutes permits the City to sell the said real property by means of the negotiated offer, advertisement, and upset bid process;

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

Section 1. The city-owned Historic Property identified by Randolph County Parcel Identification Number 7751726479 and more specifically described by a North Carolina General Warranty Deed recorded in the office of the Randolph County Register of Deeds in Book of Record 2408, Page 445 is hereby declared to be surplus property.

Section 2. The Asheboro City Council hereby authorizes the sale of the Historic Property by means of the negotiated offer, advertisement, and upset bid process established in Section 160A-269 of the North Carolina General Statutes.

Section 3. The city manager is hereby authorized to take all lawful and cost effective measures needed to procure an initial offer for the Historic Property that strictly complies with the terms and conditions specified herein and that is in an amount of no less than \$119,000.00 for the purchase price.

Section 4. Upon receipt of an initial offer, which must be submitted on an offer form drafted by the city attorney, that strictly complies with all applicable laws and the sale terms set by this Resolution, the city clerk shall cause notice of the proposed sale of the Historic Property to be published. This notice shall contain a general description of the Historic Property, the amount and terms of the offer, and the terms under which the offer may be upset.

Section 5. Persons or entities wishing to upset the offer that triggers publication of the notice specified in Section 4 of this Resolution shall deliver to the office of the city clerk, during the city's normal business hours, an upset bid within 10 calendar days after the notice of sale is published. In order to be considered properly delivered, an upset bid must be hand-delivered to the city clerk, or her designee, within the stated time frame on a form drafted by the city attorney and available for distribution to potential bidders in the city clerk's office.

Section 6. If a qualifying upset bid is received, the city clerk shall cause notice of the upset bid to be published. In the event more than one upset bid is filed during an advertised 10-day period for the receipt of upset bids, the first upset bid received shall govern, and all subsequent upset bids received during the stated period shall be returned to the respective bidders. Upon receipt of a qualifying upset bid, the Historic Property will be advertised again for additional upset bids. The city clerk will continue to follow this process until a 10-day period has passed without the receipt of any qualifying upset bid. At that time, the amount of the final high bid shall be reported to the City Council.

Section 7. A qualifying upset bid is a bid that raises the existing offer by not less than 10% of the first \$1,000.00 of the existing offer and by not less than 5% of the remainder of the existing offer.

Mr. Ogburn presented, for council's review, a preliminary engagement agreement with the Franklin Partnership, LLP to perform comprehensive federal affairs representation for the appropriation of federal funds for the proposed Terminal Building at the Asheboro Regional Airport.

A final agreement will be presented to the council for review and consideration at its regular September meeting.

A copy of the preliminary agreement is on file in the city clerk's office.

10. Presentation of an analysis and recommendation pertaining to the bids received for rough grading a portion of the roadway for the New Century Industrial Park Project.

Mr. Leonard presented the following bid summary for the rough grading of a portion of the roadway for the New Century Industrial Park Project.

<u>Company Name</u>	<u>Total Bid</u>
Terry's Plumbing & Utilities, Inc.	\$54,500
Garner Grading	\$60,000

Mr. Leonard recommended that the contract should be awarded to Terry's Plumbing & Utilities, Inc. as the apparent low bidder.

Upon motion by Mr. Moffitt and seconded by Mr. Bell, Council voted unanimously to award the contract to Terry's Plumbing & Utilities, Inc. for the rough grading of a portion of the roadway for the New Century Industrial Park Project. Council Members Bell, Burks, Moffitt, Snuggs, and Swiers voted in favor of the motion.

The bid summary is on file in the city clerk's office.

11. Mayor Smith announced the following upcoming events:

- Southeast Regional American Legion Baseball Tournament at McCrary Park on August 3 through August 7, 2016.
- 3rd Annual Pigs and Pedals KCBS BBQ Cook-off & Criterium at Bicentennial Park on August 5 through August 6, 2016.
- All-America City Celebration at Bicentennial Park on August 6, 2016 at 6:30 p.m.
- Pigs and Pedals Concert featuring Eric and the Chilltones at Bicentennial Park on August 6, 2016 at 6:30 p.m.
- All-America City Celebration Video at Bicentennial Park on August 13, 2016 at 7:30 p.m.
- Movie in the Park, *Zootopia*, at Bicentennial Park on August 13, 2016 at 8:00 p.m.
- Dedication Ceremony Naming a Portion of N.C. Highway 49 in Honor of former City Council Member Talmadge Baker at the Asheboro Regional Airport on August 25, 2016 at 3:00 p.m.
- Annual employee appreciation luncheon at the Public Works Conference Room on August 31, 2016 from 11:00 a.m. until 1:00 p.m.
- Labor Day Holiday Schedule Changes:
 - Redevelopment Commission meeting on September 12, 2016 at 9:00 a.m.
 - Planning Board meeting on September 12, 2016 at 7:00 p.m.
 - Regular City Council meeting on September 15, 2016 at 7:00 p.m.

There being no further business, the meeting was adjourned at 9:03 p.m.

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

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