

**REGULAR MEETING
ASHEBORO CITY COUNCIL
PUBLIC WORKS FACILITY, 1312 N. FAYETTEVILLE STREET
NOVEMBER 9, 2017
7:00 p.m.**

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 city management team members present:

David H. Smith) – Mayor Presiding

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

John N. Ogburn, III, City Manager
D. Jason Cheek, Police Captain
Holly H. Doerr, CMC, NCCMC, NCCP, City Clerk/Paralegal
Michael L. Leonard, PE, City Engineer
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Jonathan M. Sermon, Recreation Services Superintendent
Jeffrey C. Sugg, City Attorney

1. Call to order.

A quorum thus being present, Mayor Smith called the meeting to order for the transaction of business, and business was transacted as follows.

2. Moment of 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 say the pledge of allegiance.

3. Consent agenda.

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

(a) The meeting minutes of the city council’s regular meeting on October 5, 2017.

The approved minutes are on file in the city clerk’s office, and an electronic copy of the approved minutes is posted on the city’s website.

(b) The temporary closure from 7:00 p.m. to 8:30 p.m. on Friday, December 1, 2017, of the streets indicated on the parade permit application and map for the Asheboro/Randolph Chamber of Commerce Christmas Parade.

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. The said temporary street closure was approved as requested in the application.

(c) The temporary closure from 6:00 p.m. to 9:00 p.m. on Friday, December 8, 2017, of the streets indicated on the parade permit application and map for the annual “Christmas on Sunset” event sponsored by the Asheboro/Randolph Chamber of Commerce Downtown Development Committee.

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. The said temporary street closure was approved as requested in the application.

4. Community Development items:

(a) Request for approval to schedule for December 7, 2017, and to advertise, public hearings on the following list of zoning cases.

Mr. Nuttall requested approval to schedule the following zoning cases for the December 7, 2017 regular city council meeting. Additionally, Mr. Nuttall requested that the meeting be held in the main conference room at the City of Asheboro Public Works Facility, 1312 North Fayetteville Street, Asheboro, North Carolina 27203.

Upon motion by Mr. Bell and seconded by Mr. Swiers, Council voted unanimously to approve the scheduling and advertising of public hearings for the following zoning cases to be heard during the December 7, 2017 regular council meeting that will begin 7:00 PM at the City of Asheboro Public Works Facility:

- (i) An application to rezone the property at 3367 Zoo Parkway along with a parcel of land at the corner of Zoo Parkway and Old Cox Road (Randolph County Parcel Identification Number 7669466475) from R40 (Low-Density Residential) and CU-OA6 (Conditional Use Office-Apartment) to OA6 (Office-Apartment);
- (ii) Application to rezone property located at 1828 and 1834 Rayburn Street plus property located on the west side of Rayburn Street from R10 (Medium-Density Residential), B2 (General Commercial), and I1 (Light-Industrial) to O&I (Office & Institutional);
- (iii) Application to rezone property located at 151 West Presnell Street from R10 (Medium-Density Residential) to OA6 (Office-Apartment); and
- (iv) Application to rezone property located at 458 and 468 Veterans Loop Road from R10 (Medium-Density Residential) to I2 (General Industrial).

(b) Quasi-judicial hearing on Case No. SUP-17-02: An application for a special use permit authorizing a Special Non-Residential Intensity Allocation within a watershed for property located north of Pineview Road, east of 850 Pineview Road, and west of the Norfolk Southern Railroad.

Mayor Smith opened the quasi-judicial hearing on the request to issue a Special Use Permit for a Special Non-Residential Intensity Allocation.

Mr. Nuttall was placed under oath and presented the Community Development Division staff's analysis of the request that included a properly submitted site specific development plan. This request pertains to approximately 30.61 acres of land owned by Cetwick Real Estate Holdings, LLC that is located north of Pineview Road, west of the Norfolk Southern Railroad, and east of 850 Pineview Road. Randolph County Parcel Identification Numbers 7753684191, 7753487218, 7753781486, and 7753596125 more specifically identify the property for which a Special Use Permit has been requested.

Mr. Nuttall utilized a visual presentation to provide the following staff analysis of the Special Use Permit application:

1. The property is inside the city limits and has access to city services. Pineview Road is a state-maintained minor thoroughfare.
2. The property was previously used as an accessory recreational use (ball field and playground) to a former manufacturing, processing, and assembly land use on the property.
3. Fibertex Personal Care has proposed to use the property, which is located within a watershed, for a manufacturing, processing, and assembly use that is permitted by right in an I2 (General Industrial) zoning district.
4. Watershed areas are divided into critical and balance areas, with critical areas imposing the most stringent requirements. The property is located within the balance of the Back Creek Lake Watershed area, and the Special Use Permit ("SUP") has been sought in order to allow an increase in the built-upon area.
5. Generally, 12 percent built-upon area is the limit for a project such as the land use proposed by Fibertex. However, with the issuance of the requested SUP for a Special Non-Residential Intensity Allocation ("SNIA") within the watershed, this project could be developed with up to 70 percent built-upon area.
6. Overall, ten percent of each watershed area may be designated as SNIA area. Within the Back Creek Lake Watershed balance area, 205.48 acres remain for this special allocation. If granted, 14 of the available 205.48 acres would be used by the SUP to authorize the SNIA for the development of up to 70 percent built-upon area.

7. The approval of the requested SUP would have no effect on general watershed requirements (hazardous material storage, stream buffer requirements, etc.) that protect water quality.
8. As part of the SUP application process, Fibertex Personal Care has requested a zoning vest right for a term of five years. The council has the authority to grant this request after considering the size of the development, the level of investment, the need for or desirability of the development, economic cycles, and market conditions. A zoning vest right is a right, pursuant to G.S. 160A-385.1, to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

In addition to Mr. Nuttall, Ms. Katherine Ross, Esq., Mr. Chris Lowe of Samet Corporation, and Mr. Brian Crutchfield, PE of the Timmons Group were placed under oath. These individuals offered testimony in support of the request, with a focus on addressing the four general standards for issuance of the requested SUP. As part of her testimony, Ms. Ross expressed the Applicant's agreement with the following conditions that were recommended by the planning staff for attachment to the requested SUP:

1. The site plan depicts areas designated for further development, which will include additional built-upon area beyond the area depicted in the first phase of development. Subject to the maximum built-upon area approved by the SUP, land use activities that do not require a SUP are permitted to the full extent permitted by the Asheboro Zoning Ordinance and shall not be deemed to be a modification requiring the issuance of a new SUP. For purposes of illustration and not limitation, this shall include structure(s) and parking areas associated with the "manufacturing, processing, and assembly" use identified on the approved site plan.
2. A revised site plan noting, "Approval of this plan establishes a zoning vested right under G.S. 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until December 7, 2022" shall be submitted to city staff for inclusion into the file without further review by City Council.

No witnesses came forward in opposition to the issuance of the requested SUP. There being no additional witnesses or evidence to be presented, Mayor Smith transitioned to the deliberative phase of the public hearing.

Upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to approve, with the staff recommended conditions, the requested Special Use Permit and the associated 5-year zoning vested right. A final decision document with the formal findings of fact, conclusions of law, and order will be adopted by the Council during regular session on December 7, 2017. This order will reflect the conditions imposed upon this permit as a consequence of the testimony during the public hearing.

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

(c) Legislative hearing on Case No. RZ-17-11: An application to rezone property located at 364 and 384 N.C. Highway 42 North, including a vacant lot located between the parcels, from R10 (Medium-Density Residential) and M (Mercantile) to B2 (General Commercial).

Mayor Smith opened the public hearing, which was legislative in nature, on the request by L & N Investment, LLC to rezone approximately 1.18 acres of land from R10 (Medium-Density Residential and M (Mercantile) to B2 (General Commercial). The land to be rezoned is owned by L & N Investment, LLC and is identified by Randolph County Parcel Identification Numbers 7761413138, 7761414104, and 7761414160.

Mr. Nuttall utilized a visual presentation to summarize the planning staff's analysis of the request. The staff report noted the following:

1. The property is outside the city limits. However, the property is currently served by city water. City sewer is located approximately 280 feet from the subject property, but can be extended in compliance with city policies upon annexation.
2. N.C. Highway 42 North is a state-maintained boulevard.
3. The 2014 Comprehensive Transportation Plan identifies this segment of N.C. Highway 42 North as over capacity based on 2012 volumes measuring average annual daily vehicles/day (11,600 capacity vs. 13,000 AADT 2012 volume).
4. In order to relieve the congestion that currently exists on N.C. Highway 42 North, the current NCDOT Transportation Improvement Program has committed funding to road improvements (Project No. U-5743). Proposed improvements include the addition of center turn lanes, sidewalks, curbing, and guttering. Public right-of-way acquisition is currently scheduled to begin in 2019, with construction scheduled to begin in 2020.

5. There are currently two single-family dwellings on the property. If the property is rezoned to the requested B2 district, the existing uses of the property for single-family dwellings will become legal non-conforming and, consequently, subject to the provisions of Article 800 of the zoning ordinance that restrict the expansion or modification of non-conforming situations.
6. The undeveloped parcel is zoned Mercantile, a commercial zoning district which is more restrictive than the B2 district (in terms of permitted uses/maximum square footage), but less restrictive than other commercial districts.
7. The properties are located on a segment of N.C. Highway 42 North that contain a mix of commercial activities (primarily to the southeast) and residential, office/institutional (including medical uses), primarily to the northeast.

The Planning Board recommended approval of the request. This recommendation was based on the Planning Board's concurrence with the following analysis from the Community Development staff that evaluated the consistency of the requested rezoning with the adopted comprehensive plans, the reasonableness of the request, and whether the requested rezoning was in the public interest:

The proposed B2 General Commercial district is supported by the Land Development Plan's designation of the property for commercial use. The requested B2 district is also consistent with other properties zoned B2 along this section of N.C Highway 42 North.

The property's growth strategy designation as an "Adjacent Developed Area" and the close proximity of city sewer service to the property also support the request and designating the property with a B2 General Commercial district.

While staff recognizes the limitations of the existing N.C. Highway 42 North, improvements that have been committed to in the current approved Transportation Improvement Program help mitigate concerns over traffic impacts from uses allowable in the B2 district.

Finally known environmental factors (outside of a watershed, flood area, or area with significantly steep slopes) are supportive of this request.

Given these factors, staff believes the requested B2 district allows a reasonable use of property and is generally in the public interest.

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

Upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to follow the staff and Planning Board recommendations to approve the requested rezoning and adopted a multi-part motion that included the following actions:

1. Approval and adoption as its own by the Council of the above-stated consistency, reasonableness, and public interest analysis in support and explanation of the council's decision to grant the requested rezoning; and
2. In light of the Council's above-stated determination/analysis, the application for the requested zoning amendment was approved, without any modifications, due to the above-described consistency of the requested rezoning with the adopted plans.

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

- (d) Quasi-judicial hearing on Case No. RZ/CUP-17-12: An application to rezone property located at 1930 and 1940 Gold Hill Road from R10 (Medium-Density Residential) to CU-R40 (Conditional Use Low-Density Residential) and obtain a conditional use permit authorizing a solar farm.**

Mayor Smith opened the quasi-judicial hearing on the combined request to legislatively rezone property and to issue a conditional use permit ("CUP") on the basis of evidence introduced during the hearing.

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 for the CUP. The request pertains to approximately 7.3 acres out of a total of 38.99 acres of land owned by Margaret Millikan at 1930 and 1940 Gold Hill Road. The said 7.3 acres of land, more or

less, are a portion of the parcel of land more specifically identified by Randolph County Parcel Identification Number 7762798310.

The Applicant, Tanager Holdings, LLC, is requesting to rezone the above-described property from the current R10 (Medium-Density Residential) zoning to CU-R40 (Conditional Use Low-Density Residential) zoning. Contingent on the success of the legislative rezoning application, the Applicant has also applied for a CUP authorizing a solar farm land use on the property.

During his presentation, Mr. Nuttall presented the staff's analysis. This analysis of the application for rezoning to a CU-R40 zoning district noted in part:

1. Gold Hill Road is a state-maintained minor thoroughfare.
2. The majority of the property is within Randolph County's zoning jurisdiction. The portion of the property within the city limits is the subject of the rezoning application submitted to the city.
3. City services are available to the portion of the property within the city limits.
4. The portion of the property within Randolph County's zoning jurisdiction was formerly in the City of Asheboro's zoning district. In 2013, the city released a substantial portion of its extraterritorial planning jurisdiction (ETPJ) to Randolph County, including the above-referenced portion of the Millikan property currently subject to county jurisdiction.
5. The portion of the property formerly in the city's zoning jurisdiction was zoned R40 (Low-Density Residential) prior to its release from the city's jurisdiction.
6. There is currently a single-family residence on the property located within the City of Asheboro's zoning jurisdiction.
7. The area is primarily low-to medium-density residential, with a public use facility (electric substation) less than five hundred (500) feet from the property.
8. The R40 (Low-Density Residential) or CU-R40 (Conditional Use Low-Density Residential) district are the only residential zoning districts that permit a solar farm. In the R40 district, a special use permit is required for a solar farm. In the CU-R40 district, a CUP is required for a solar farm.
9. The zoning ordinance statement of intent describes the underlying R40 zoning district as "intended to provide regulations which will produce a low intensity mixture of single family, duplex dwellings, and Class A Mobile Home dwellings usually served by individual wells and/or sewage disposal systems, plus the necessary governmental and other support facilities to provide service to such suburban intensity living."
10. A small area on the southern side of the property within the city's jurisdiction is identified as having slopes greater than 20%.
11. Development of the remainder of the parcel in Randolph County's jurisdiction is subject to the requirements of Randolph County.

Mr. Nuttall also presented the staff's analysis of the application for a CUP. The CUP analysis noted as follows:

1. The request is for a CUP authorizing a solar farm, which is defined in part as a facility producing solar energy for retail or wholesale sale of generated energy.
2. A solar farm is permitted with a special use permit in the R40 Low-Density Residential zoning district. The requested CUP precludes the need for a special use permit.
3. A solar farm requires a 50-foot landscaped screen (Screen "D") around the perimeter of the property, which includes evergreen trees and/or shrubs.
4. There is a single-family dwelling on the property that will remain.
5. The majority of the property owner's land is within Randolph County's zoning jurisdiction. A separate review process is occurring with Randolph County. The requested CUP only includes the portion of the property within the city's zoning jurisdiction.

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

Staff's analysis considers all development that is permitted in the underlying zoning district including the requested solar farm use. While a general R40 district may not be appropriate at this location where most residentially zoned properties are designated R10 (Medium-Density Residential), the Conditional Use permitting process helps mitigate concerns over whether potential development can be compatible with surrounding properties, which is a primary concern with properties designated for "Neighborhood Residential" use by the Land Development Plan.

Furthermore, many properties in the area, including the subject property, currently have lower-density than what is allowable in the existing R10

zoning district, which also helps make the requested CU-R40 district appropriate. The former R40 designation on the balance of the parcel that was located within the city's extraterritorial jurisdiction prior to 2013 also helps support the request.

Given these factors, staff believes the requested CU-R40 zoning designation will allow a reasonable use of property and is generally in the public interest.

Mr. Brian Bednar, President of Birdseye Renewable Energy, was placed under oath and offered testimony in support of the request. The testimony was focused on addressing the four standards for issuance of a CUP. As part of his testimony, Mr. Bednar expressed the Applicant's agreement with the following conditions that were recommended by the planning staff for attachment to the requested CUP.

1. Land use activities not requiring a conditional or special use permit in the underlying R40 district shall be permitted, with the exception of Manufactured/Mobile Homes (Class A or B, single wide or double wide). Staff shall be given the authority to review uses permitted by right to the full extent of the Asheboro Zoning Ordinance without further review by the City Council.
2. The site plan does not indicate any additional outdoor lighting at this time. If the applicant proposes outdoor lighting at a later date, it shall not be considered a modification requiring a new CUP. Information shall be submitted to city staff demonstrating compliance with Section 318A.1 of the Asheboro Zoning Ordinance (Performance Standards for Residential Zoning Districts-Light) for inclusion into the file without further review by the City Council.
3. The buffer on the southern boundary of the property adjacent to the Eloisa Tejada Patino tract (DB 1832, 2702) shall consist of plantings required for a Screen D, and may use existing vegetation within a 50' buffer/screening yard.
4. Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the application shall submit documentation detailing the following approvals:
 - (i) Driveway permit from NCDOT
 - (ii) Erosion Control approval from N.C. Department of Environmental Quality
5. 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 CUP in the chain of title for the Zoning Lot.

Mr. Rashidi Everett asked questions and expressed concerns pertaining to the proposed solar farm's potential effect on radio transmissions (specifically including CB radios) and WiFi. Additionally, Mr. William Burrow expressed comments and concerns regarding the buffer proposed for the solar farm. There being no further comments, Mayor Smith transitioned to the deliberative phase of the hearing process.

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. Approval and adoption as its own by the Council of the above-stated consistency, reasonableness, and public interest analysis in support and explanation of the council's decision to grant the requested rezoning; and
2. In light of the Council's above-stated determination/analysis, the application for the requested zoning amendment was approved, without any modifications, due to the above-described consistency of the requested rezoning with the adopted plans.

The above-stated motion to rezone the property was made by Mr. Bell and seconded by Mr. Moffitt. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion and thereby approved the requested zoning amendment.

After its approval of the requested zoning amendment, the Council Members concluded that, with the staff proposed conditions, the standards for granting the request CUP had been met. Upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to approve the requested CUP, with the staff suggested conditions, authorizing a solar farm.

The formal findings of fact, conclusions of law, and order reflecting the action taken on the requested CUP will be entered by the Council during regular session on December 7, 2017.

(e) Quasi-judicial hearing on Case No. RZ/CUP-17-13: An application to rezone property located at 1378, 1380, 1510, 1514, 1530, and 1538 Old Cedar Falls Road from R10 (Medium-Density) residential to CU-R40 (Conditional Use Low-Density Residential) and to obtain a conditional use permit authorizing a solar farm.

Mayor Smith opened the quasi-judicial hearing on the combined request from Old Cedar Solar, LLC to legislatively rezone property from R10 (Medium-Density Residential) to CU-R40 (Conditional Use Low-Density Residential) zoning and to issue a Conditional Use Permit ("CUP") authorizing a solar farm.

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 for the CUP. The request pertains to approximately 45.48 acres of land owned by John Harris Kidd and Kathy Kidd at 1378, 1380, 1510, 1514, 1530, and 1538 Old Cedar Falls Road. This land is more specifically identified by Randolph County Parcel Identification Number 7761548926.

During his presentation, Mr. Nuttall presented the following staff analysis of the application to place the property in a CU-R40 zoning district:

1. Old Cedar Falls Road and East Presnell Street are state-maintained minor thoroughfares.
2. The property is outside the city limits. Water is currently available to the property. Sewer is currently unavailable to the property, located approximately 1300 feet southwest along Old Cedar Falls Road.
3. There are currently two single-family dwellings on the property. There is also a structure that was designed and last used for retail activities that have been discontinued.
4. The applicant has filed a request for a CUP authorizing a Solar Farm. The R40 (Low-Density Residential) or CU-R40 (Conditional Use Low-Density Residential) districts are the only residential zoning districts that permit a solar farm. In the R40 zoning district, a special use permit must be issued in order for a solar farm to be developed. In the CU-R40 zoning district, a CUP is required for a solar farm.
5. The area primarily consists of low to medium-density residential uses. There are also some institutional uses: (two places of worship), a public use facility (electric substation), and a congregate living facility adjacent to the property.
6. A small area on the eastern side of the property is identified as having slopes greater than 20%.
7. The zoning ordinance statement of intent describes the underlying R40 zoning district as "intended to provide regulations which will produce a low intensity mixture of single family, duplex dwellings, and Class A Mobile Home dwellings usually served by individual wells and/or sewage disposal systems, plus the necessary governmental and other support facilities to provide service to such suburban intensity living."

Mr. Nuttall also presented the following staff analysis of the CUP application:

1. The request is for a solar farm, which is defined in part as a facility producing solar energy for retail or wholesale sale of generated energy.
2. A solar farm is permitted with a special use permit in the underlying R40 (Low-Density Residential) zoning district. The requested CUP precludes the need for a special use permit.
3. A solar farm requires a 50-foot landscaped screen (Screen "D") around the perimeter of the property, which includes evergreen trees and/or shrubs.
4. There are two single-family dwellings on the property, one of which may be removed.
5. A non-residential structure also exists on the property. The last identified use was retail shoppers/convenience goods. This is currently a non-conforming use in the R10 district and would continue to be a non-conforming use in the CU-R40 district.

The planning staff and the Planning Board recommended approval of the requested legislative rezoning to a CU-R40 zoning district on the basis of the following analysis:

Staff's analysis considers all development that is permitted in the underlying zoning district including the requested solar farm use. While a general R40 district may not be appropriate at this location where most residentially zoned properties are designated R10 (Medium-Density

Residential), the Conditional Use permitting process helps mitigate concerns over whether potential development can be compatible with surrounding properties, which is a primary concern with properties designated for "Neighborhood Residential" use by the Land Development Plan.

There is also R40 zoning directly across Old Cedar Falls Road from the subject property, and some of the area, including the subject property, has developed at a density similar to what is allowable in the R40 district, which helps support the request.

The current lack of public sewer accessible to this property hampers the ability to fully support the medium-density residential development described by the Land Development Plan's Neighborhood Residential Land Category Descriptions, along with other intensive economic development activities.

Given these current constraints, staff believes the requested CU-R40 zoning designation will allow a reasonable use of property and is generally in the public interest.

The following individuals were placed under oath and offered testimony in support of the request:

1. Nathan Duggins, Esq.
2. Steve Evans, Outreach Manager-Development, Cypress Creek Renewables
3. Rich Kirkland, MAI, Kirkland Appraisals
4. Chris Sandifer, PE

The above individuals' testimony was focused on addressing the standards for issuance of the requested CUP. Mr. Duggins testified as to the Applicant's agreement with the following conditions that were recommended by the planning staff for attachment to the requested CUP:

1. Land use activities not requiring a conditional or special use permit in the underlying R40 district shall be permitted, with the exception of Manufactured/Mobile Homes (Class A or B, single wide or double wide). Staff shall be given the authority to review uses permitted by right to the full extent of the Asheboro Zoning Ordinance without further review by the City Council.
2. Existing structures and uses shown are noted on the approved site plan and have no functional relationship with the approved solar farm use. The issuance of this CUP is not construed as an entry of any finding, conclusion, or order as to the legal status of these existing structures. The existing structures that are noted on the approved site plan and for which the CUP is not required may continue so long as such buildings and uses are utilized in strict compliance with the zoning ordinance.
3. The site plan indicates a 20-foot emergency access drive within the fenced areas containing solar panels. Changes to the configuration internally within these fenced areas, including elimination of the drive, shall not be deemed a CUP modification if conducted in strict compliance with emergency services requirements. Such changes may be reviewed by city staff for inclusion in the file without further review by the City Council.
4. The site plan does not indicate any additional outdoor lighting at this time. If the applicant proposes outdoor lighting at a later date, it shall not be considered a modification requiring a new CUP. Information shall be submitted to city staff demonstrating compliance with Section 318A.1 of the Asheboro Zoning Ordinance (Performance Standards for Residential Zoning Districts-Light) for inclusion into the file without further review by the City Council.
5. Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the applicant shall submit documentation detailing the following approvals:
 - (i) Driveway permit from NCDOT
 - (ii) Erosion control approval from N.C. Department of Environmental Quality
6. The applicant indicates use of a Screen D and existing vegetation to meet the requirements of Section 652.2(ii) of the Asheboro Zoning Ordinance. The applicant shall submit additional landscaping details showing compliance with these requirements. The applicant may use existing vegetation as indicated on the site plan, however, additional plantings will be required if existing vegetation is deficient in meeting the requirements of landscaping equivalent to a Screen D.
7. 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 CUP in the chain of title for the Zoning Lot.

Mr. James Pemberton was placed under oath and expressed comments/concerns pertaining to the potential impact of the proposed solar farm on the community. Additionally, Mr. Nuttall noted that, prior to the council meeting, the planning staff received a written statement in opposition to the proposed solar farm from Ms. Addie Luther.

There being no further testimony to be received, Mayor Smith transitioned to the deliberative phase of the application process.

With regard to the request to place the property in the CU-R40 zoning district, the Council adopted a multi-part motion that included the following actions:

1. Approval and adoption as its own by the Council of the above-stated consistency, reasonableness, and public interest analysis in support and explanation of the council's decision to grant the requested rezoning; and
2. In light of the Council's above-stated determination/analysis, the application for the requested zoning amendment was approved, without any modifications, due to the above-stated description of the consistency of the request with the adopted plans.

The above stated two-part motion to rezone the property was made by Mr. Moffitt and seconded by Mr. Bell. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

After its approval of the requested zoning amendment, the Council Members concluded that, with the attachment of the staff proposed conditions, the standards for granting the requested CUP had been met. Upon motion by Mr. Moffitt and seconded by Ms. Carter, Council voted unanimously to approve the requested CUP, with the staff suggested conditions, authorizing a solar farm. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

The formal findings of fact, conclusions of law, and order reflecting the Council's actions will be entered by the Council during regular session on December 7, 2017.

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

- (f) **Quasi-judicial hearing on Case Nos. CUP-17-14 and SUB-17-04: An application for a conditional use permit authorizing a residential planned unit development on property located on the north side of Hub Morris Road, approximately 600 feet east of the intersection with North Fayetteville Street, and on the west side of Forest Park Drive. This application includes a subdivision sketch design review for a portion of the property.**

Mayor Smith opened the quasi-judicial hearing on the combined request for a conditional use permit ("CUP") authorizing a residential planned unit development (a "PUD") and the associated subdivision sketch design review and approval.

Mr. Nuttall was placed under oath and presented the planning staff's analysis of the request that included a properly submitted site plan. The requested CUP is for a PUD known as Jackson's Run with 131 detached single-family dwelling lots. This new CUP is designed to replace the CUP previously issued for Waterford Villas, Phase 2. The current applicant is Wade Journey Homes.

The new plans also involve modifications to Waterford Villas, Phase 1. The modifications include changes in open space and street layout that require the earlier phase to also be part of the current review process. Consistent with the requirements triggered by the revised plans, all owners of individual lots and common area within Waterford Villas, Phase 1 have signed onto the current CUP application.

A subdivision sketch design for Jackson's Run has been properly submitted for review. Waterford Villas, Phase 1 has already been recorded and, consequently, does not require new subdivision approval.

When combined, Waterford Villas, Phase 1 and Jackson's Run encompass approximately 50.24 acres of land. Jackson's Run is approximately 38.787 acres in size.

Jackson's Run is proposed to have 131 lots plus common area. 2,222.81 square feet is the proposed average lot size. In terms of new linear feet of public street, approximately 4,431.4 feet (0.84 of a mile) is proposed.

There will be no street connection between Waterford Villas, Phase 1 and Jackson's Run. The applicant proposes to remove undedicated street pavement in order to sever the originally contemplated street connection between the two developments.

During his testimony, Mr. Nuttall noted the following facts:

1. The City Council originally granted approval for a PUD at this location in 2006. Prior to the current application, the Council granted approval for a PUD which allowed an increase in the number of units (80 to 117), the addition of a residents' storage facility, and the incorporation of triplexes.
2. The proposed changes that triggered the need for a new CUP include constructing detached dwellings instead of attached dwellings, plans for two story units, a change in the vehicular access, and changes in the configuration of open space. All landowners in Waterford Villas have signed onto the application requesting the granting of a new permit.
3. Under the current proposal, common area originally planned to be under the control of Waterford Villas will change and will no longer include the existing ponds and dam, which will be controlled by the association for Jackson's Run.
4. The proposed units are single-story and two-story ranging from approximately 1,600 to 2,100 square feet, plus a two-vehicle garage for each unit.

During the hearing, the following witnesses were placed under oath and offered testimony:

1. Tom Wright, Esq.
2. Dave Hodgman
3. Mark Leonard
4. Robert Bloh

No witnesses came forward in opposition to the applicant's request for the issuance of a new CUP. After all of the witnesses were heard, Mayor Smith transited to the deliberative phase of the hearing process.

Upon motion by Mr. Bell and seconded by Ms. Redding, Council voted unanimously to approve, with the staff recommended conditions that were agreeable to all of the interested parties, the requested CUP.

The planning staff and Planning Board do not make recommendations as to the issuance of a CUP. However, both the staff and Planning Board did recommend, with conditions, approval of the subdivision sketch design.

Council Member Bell moved, and Council Member Swiers seconded the motion, to follow the recommendations of the planning staff and board. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted unanimously in favor of the motion and approved the subdivision sketch design with the recommended conditions.

A final decision document with the formal findings of fact, conclusions of law, and orders reflecting the actions taken by the Council, specifically including the conditions attached to the land use approvals, will be entered by the Council during regular session on December 7, 2017.

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

5. Public comment period.

Mayor Smith opened the floor for public comments.

During the public comment period, Mr. James Armstrong expressed his ongoing desire to make Asheboro a better place and to work to continue to work on public safety issues within the city, such as the opioid crisis. Additionally, Mr. Armstrong asked that the city focus on improving the underlying conditions that contribute to high numbers of calls for police services.

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

6. Engineering items:

- (a) **Request for the council to award contracts for the following:**

(i) Replacement of the HVAC System at the public works facility.

City Engineer Michael Leonard, PE, reported that two (2) bids were received on October 30, 2017, at 2:00 p.m., for the replacement of the HVAC System at the City of Asheboro's Public Works Facility. He recommended the award of the contract for the project to Charlie's Heating and Cooling, which was the apparent lowest responsive, responsible bidder with a bid of \$53,640.00.

Based on the staff recommendation, Mr. Bell moved to award the contract to Charlie's Heating and Cooling. Ms. Snuggs seconded the motion, and the motion was adopted unanimously. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

A copy of the bid tabulation presented by Mr. Leonard is on file in the city clerk's office.

(ii) The purchase of windows for the McCrary Gym renovation project.

Mr. Leonard reported that two (2) quotes were received on November 1, 2017, at 2:00 p.m., for the purchase of windows for the McCrary Gym renovation project. He recommended that the city purchase the windows from ABC Supply Co., Inc., which was the apparent lowest responsive, responsible bidder with a bid of \$45,698.74.

Based on the staff recommendation, Mr. Bell moved to award the said contract to ABC Supply Co., Inc. Mr. Burks seconded the motion. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted unanimously in favor of the motion.

A copy of the tabulation of quotes presented by Mr. Leonard is on file in the city clerk's office.

(b) Consideration of a petition to annex a parcel of land (Randolph County Parcel Identification Number 7750736791) at 200 Foster Street.

(i) After receiving an overview of the annexation petition from Mr. Leonard, Council Member Burks moved to adopt the following resolution by reference, and Council Member Snuggs seconded the motion. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion and thereby approved the resolution.

RESOLUTION NUMBER _____ **35 RES 11-17**

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE SUFFICIENCY OF AN ANNEXATION PETITION SUBMITTED BY A TOWN INVESTMENTS, LLC

WHEREAS, A Town Investments, LLC (the "Petitioner") has submitted, by and through its managing members, a petition requesting the annexation into Asheboro of approximately 0.355 of an acre (15,454 square feet) of the Petitioner's land; and

WHEREAS, a structure with the address of 200 Foster Street, Asheboro, North Carolina 27205 is located on the parcel of land for which annexation has been requested, and this parcel (the "Proposed Annexation Territory") is more specifically identified by Randolph County Parcel Identification Number 7750736791; and

WHEREAS, the Proposed Annexation Territory is contiguous, as defined by the General Statutes of North Carolina, with Asheboro's primary city limits; and

WHEREAS, Section 160A-31 of the General Statutes of North Carolina provides that the sufficiency of the petition shall be investigated by the city clerk before further annexation proceedings may take place; and

WHEREAS, in response to this petition, the Asheboro City Council has decided to proceed with the statutorily prescribed voluntary annexation process;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the city clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify to the council the results of her investigation.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of November, 2017.

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

ATTEST:

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

In anticipation of the council's above-state action, the city clerk prepared the following certification in advance of the council meeting and submitted this certificate for the council's review.

CERTIFICATE OF SUFFICIENCY
(Annexation Petition Received from A Town Investments, LLC)

TO: The City Council of the City of Asheboro, North Carolina

I, Holly H. Doerr, am the City Clerk for the City of Asheboro, and I do hereby certify that, with the assistance of staff members in various city departments, I have investigated the petition submitted by A Town Investments, LLC requesting the annexation of approximately 0.355 of an acre (15,454 square feet) of land owned by the limited liability company into Asheboro's primary city limits. The territory for which the petitioner is requesting annexation (the "Proposed Annexation Territory") is more specifically identified by Randolph County Parcel Identification Number 7750736791.

On the basis of the evidence obtained during the course of my investigation, I have concluded that all of the owners of the real property lying in the Proposed Annexation Territory have signed the prescribed petition. The petition appears to be sufficient to satisfy the provisions of Section 160A-31 of the General Statutes of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro in order to make this certification effective as of the 9th day of November, 2017.

(CITY SEAL)

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

- (ii) In light of the preceding council action and the submittal of the city clerk's certification document, Mr. Leonard then presented for the council's consideration a resolution setting the date for an advertised hearing on the question of the requested annexation. Council Member Burks moved to adopt the following resolution by reference, and Council Member Bell seconded the motion. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion and thereby approved the resolution.

RESOLUTION NUMBER 36 RES 11-17

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON THE QUESTION OF THE REQUESTED ANNEXATION OF LAND OWNED BY A TOWN INVESTMENTS, LLC

WHEREAS, by and through its managing members, A Town Investments, LLC (the "Petitioner") has properly submitted a petition requesting the annexation into Asheboro's primary city limits of approximately 0.355 of an acre (15,454 square feet) of the Petitioner's land; and

WHEREAS, a structure with the address of 200 Foster Street, Asheboro, North Carolina 27205 is located on the parcel of land for which annexation has been requested, and this parcel (the "Proposed Annexation Territory") is more specifically identified by Randolph County Parcel Identification Number 7750736791; and

WHEREAS, pursuant to a previously adopted resolution, the city clerk has been directed to investigate the sufficiency of the said annexation petition; and

WHEREAS, the city clerk has certified the sufficiency of the petition for proceeding with setting the date for a public hearing on the question of the requested annexation pursuant to Section 160A-31 of the General Statutes of North Carolina;

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

Section 1. A public hearing on the question of annexing the territory described herein will be held in the main conference room at the City of Asheboro Public Works Facility, which is located at 1312 North Fayetteville Street, Asheboro, North Carolina 27203, during a regular meeting of the Asheboro City Council that will begin at 7:00 o'clock p.m. on the 7th day of December, 2017.

Section 2. The area proposed for annexation is described by metes and bounds as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING on the existing City of Asheboro primary city limits line at a 1" existing iron pipe flush with the ground in the southern margin of the 40-foot public right-of-way for Foster Street (North Carolina Secondary Road 2932) at the northeastern corner of the A Town Investments, LLC property described in Deed Book 2462, Page 1335, Randolph County Registry (the said A Town Investments Property is all of Lots 317B, 317C, and 317D of the Hammer Park Subdivision as shown on a plat of survey recorded in Plat Book 2, Page 33, Randolph County Registry; this A Town Investments, LLC property will be hereinafter referred to as the "Annexation Parcel"), the 1" existing iron pipe at the beginning point of this metes and bounds description is located by means of the North Carolina Coordinate System at the coordinates of North 703,878.61 feet and East 1,757,820.15 feet (NAD 83); thence from the said beginning point leaving the southern margin of the public right-of-way for Foster Street and proceeding along the Darrell D. Jordan property described in Deed Book 1922, Page 2804, Randolph County Registry by following the eastern boundary line of the Annexation Parcel, which is the proposed new primary city limits line, South 07 degrees 43 minutes 16 seconds West 226.72 feet to a 1" existing iron pipe that is up 8" at the southeastern corner of the Annexation Parcel, the said corner is located by means of the North Carolina Coordinate System at the coordinates of North 703,653.94 feet and East 1,757,789.68 feet (NAD 83); thence departing from the eastern boundary line for the Annexation Parcel and following the proposed new primary city limits line North 86 degrees 45 minutes 37 seconds West 37.69 feet along the Annexation Parcel's southern boundary line to a point in the existing primary city limits line with a 1" existing iron pipe that is up 2" at the southwestern corner of the Annexation Parcel; thence departing from the Annexation Parcel's southern boundary line and proceeding along the existing primary city limits line by following the Annexation Parcel's western boundary line the following courses and distances: North 07 degrees 02 minutes 46 seconds West 85.77 feet to a ¾" pinched top existing iron pipe that is down 2"; thence North 07 degrees 05 minutes 07 seconds West 150.07 feet to a 1-¼" existing iron pipe that is down 12" in the southern margin of the public right-of-way for Foster Street at the northwestern corner of the Annexation Parcel; thence departing from the Annexation Parcel's western boundary line and continuing to follow the existing primary city limits line South 83 degrees 14 minutes 34 seconds East 97.80 feet along the southern margin of the 40-foot public right-of-way for Foster Street to the point and place of BEGINNING, and containing 0.355 acres (15,454 square feet) of land, more or less, to be annexed.

The above-listed description is in accordance with a plat of survey identified as job number 20171030atown, dated in the title block October 30, 2017, and titled "Annexation Survey For: A Town Investments LLC." The said plat was drawn under the supervision of Dan W. Tanner, II, Professional Land Surveyor with Registration Number L-4787.

Section 3. Notice of the 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 the date of the public hearing.

This Resolution was adopted in open session during a regular meeting of the Asheboro City Council that was held on the 9th day of November, 2017.

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

ATTEST:

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

7. Discussion of vacancies on the Asheboro Airport Authority and on the Redevelopment Commission.

Mr. Ogburn informed the council members of vacancies on the Asheboro Airport Authority and on the Asheboro Redevelopment Commission. In accordance with past practice and direction from

the Council, city staff will post public notice of the request for interested citizens to submit applications to the city clerk. The city manager will keep the Council updated as the selection process progresses. No action was taken by the Council at this time.

8. Discussion of potential changes in the council's meeting schedule for 2018.

Mayor Smith led a discussion of whether changes need to be made in the meeting schedule for 2018. The only change from the normal meeting schedule that appeared to be necessary was the change, due to the Independence Day holiday, of the July 2018 meeting from July the 5th to July the 12th. An ordinance setting the schedule for regular meetings during the 2018 calendar year will be presented for adoption during the Council's next regular meeting on December 7, 2017.

9. Closed session.

Mayor Smith opened the floor for a motion to go into closed session pursuant to Section 143-318.11(a)(5) of the North Carolina General Statutes in order to provide instructions concerning the position to be taken in negotiating the price and other material terms for the purchase from Pine Lake Partners, LLC of approximately 8 acres adjoining the proposed Zoo City Park Sportsplex. Mr. Swiers moved to go into closed session, and Mr. Burks seconded the motion. The motion was then adopted unanimously. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

10. Upcoming events.

Upon returning to open session, Mayor Smith briefly led a discussion of upcoming events occurring with the city government and the community in general. No action was taken by the Council during this portion of the meeting.

There being no further business, the meeting was adjourned at 10:41 p.m.

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

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