

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, FEBRUARY 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
Edsel L. Brown, Code Enforcement Officer
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
David J. Hutchins, Public Works Director
Michael L. Leonard, P.E., City Engineer
Mark T. Lineberry, Police Major
Trevor L. Nuttall, Community Development Director
Randy C. Purvis, Chief Building Inspector
Deborah P. Reaves, Finance Director
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. Appearance and recognition of guests and citizens.

Mayor Smith welcomed everyone in attendance.

4. 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 January 12, 2017.

A copy of the approved minutes is 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 general account of the closed session held during the city council's regular meeting on January 12, 2017.

A copy of the approved general account is on file in the city clerk's office.

(c) A resolution to seal the general account of the closed session on January 12, 2017.

The following resolution was approved as part of the consent agenda by unanimous vote of the city council.

RESOLUTION NUMBER 02 RES 2-17

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

Resolution Sealing the General Account of a Closed Session
Held on January 12, 2017

WHEREAS, Section 143-318.10(e) of the North Carolina General Statutes provides, in pertinent part, that the “minutes or an account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session;” and

WHEREAS, pursuant to Section 143-318.11(a)(4) of the North Carolina General Statutes, the city council, upon unanimous adoption of a properly made and seconded motion, went into closed session during a regular meeting on January 12, 2017, in order to discuss matters relating to the location or expansion of industries or other businesses in the City of Asheboro; and

WHEREAS, the purpose for going into closed session on January 12, 2017, would be frustrated if the general account of the closed session were to be made available for public inspection at this time;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the general account of the said closed session held on January 12, 2017, is to be sealed so long as public inspection of the records would frustrate the purpose of the closed session; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that the city manager is hereby authorized to act as the council’s agent with the authority to unseal these records when the purpose of the closed session would no longer be frustrated by making the records available for public inspection or when the unsealing of the said general account is otherwise required by law.

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

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

ATTEST:

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

- (d) **Acknowledgement and announcement of the 15-day notice of a construction project to replace existing water lines along the following street locations:**
 - (i) **Pennsylvania Avenue (from Hopewell Street to the end of Pennsylvania Avenue); and**
 - (ii) **Westmont Circle (from the intersection of Park Drive to the intersection of Westmont Drive).**

- (e) **An ordinance to amend the Economic & Tourism Development Fund.**

The following ordinance was approved as part of the consent agenda by unanimous vote of the city council.

03 ORD 2-17

ORDINANCE TO AMEND THE ECONOMIC & TOURISM DEVELOPMENT FUND FY 2016-2017

WHEREAS, the City Council of the City of Asheboro was presented with an economic development project relating to the manufacturing facility expansion of Technimark LLC, and;

WHEREAS, Technimark’s project would result in an investment of approximately \$6 million dollars in real property to expand its manufacturing facility and hire a minimum of 224 new employees, and;

WHEREAS, the City Council authorized the City of Asheboro to support Technimark’s expansion through an agreement for economic incentives payments signed December 5th, 2014, and;

WHEREAS, the City of Asheboro will provide economic incentives in the amount of \$500,000 to be paid over 6 years in equal installments of \$80,000 per year during year 1 thru year 5 and \$100,000 in the final year 6, and;

WHEREAS, the City of Asheboro is ready to set up the financial accounting infrastructure to manage the revenues and expenses relating to this incentives agreement, and;

WHEREAS, the budget as adopted requires amendment to be in compliance with all generally accepted accounting principles, and;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: That the following Revenue line item be increased:

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>	<u>Amended Budget</u>
72-370-0001	Contribution for Technimark 12-2014 agreement	500,000	500,000

Section 2: That the following Expense line item be increased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>	<u>Amended Budget</u>
72-850-3100	Technimark Incentive 12-2014 agreement	500,000	500,000

Adopted this the 9th day of February, 2017.

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

ATTEST:

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

(f) The final decision document for land use case no. CUP-17-01.

The following final decision document was approved as part of the consent agenda by unanimous vote of the city council.

Case No. CUP-17-01
City Council
City of Asheboro, North Carolina

IN THE MATTER OF THE APPLICATION BY CF PROPERTIES, LLC FOR A CONDITIONAL USE PERMIT AUTHORIZING A LAND USE IDENTIFIED AS MANUFACTURING, PROCESSING, AND ASSEMBLY – LIGHT

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

THIS MATTER came before the Asheboro City Council (the "Council") for a properly advertised quasi-judicial hearing on the question of whether to approve an application by CF Properties, LLC for a Conditional Use Permit. The hearing was opened and sworn testimony received during a regular meeting of the Asheboro City Council that was held on January 12, 2017. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby enter the following:

FINDINGS OF FACT

1. CF Properties, LLC (the "Applicant") has properly filed an application for a Conditional Use Permit ("CUP") authorizing a land use labeled by the Asheboro Zoning Ordinance (the "Ordinance") as a Manufacturing, Processing, and Assembly – Light use on the Applicant's land that is located along the north side of East Dorsett Avenue and is more specifically identified by Randolph County Parcel Identification Number 7750973085 (the said property for which the CUP has been requested will be hereinafter referred to as the "Zoning Lot").

2. The specific permit sought by the Applicant is needed to construct and operate, in compliance with the Ordinance, the hemp processing facility that the Applicant wants to establish on the Zoning Lot.

3. During the fall of 2016, the Council conducted a quasi-judicial hearing and, on the basis of the evidence presented during the hearing, issued a CUP that provided the necessary land use authorizations for constructing and operating a hemp processing facility. The existing CUP was issued under community development division file no. CUP-16-12, and the final decision document for that case was approved by the Council on November 10, 2016.

4. On the basis of the CUP issued under file number CUP-16-12 (the "Initial CUP"), a land disturbance permit has already been issued to the Applicant to allow grading on the Zoning Lot.

5. However, the Applicant has changed the layout proposed on the site plan approved with the Initial CUP by reorienting and expanding the proposed building.

6. Section 1013.5 (Minor Changes to be Approved by Zoning Administrator / Modifications Require Action by City Council) of the Ordinance addresses the issue of changes and modifications in plans that are part of an approved CUP by providing as follows:

The Zoning Administrator is authorized to approve minor changes in the approved plans of Conditional Uses, as long as they are in harmony with action of the approving body, but shall not have the power to approve changes that constitute a modification of the approval. A modification shall require approval of the City Council and shall be handled as a new application.

The following actions shall constitute a modification, unless expressly authorized by the permit.

- A. *(Reserved for future amendments)*
- B. *The erection of a new structure or the addition to an existing structure that:*
 - 1. *exceeds 1,000 square feet, either cumulatively or non-cumulatively;*
 - 2. *exceeds 10% of the useable floor area, either cumulatively or non-cumulatively, approved by the City Council as part of its review of the applicable Conditional Use Permit; or*
 - 3. *results in any portion of a structure being located closer than thirty (30) feet to an adjoining property developed with a single-family or two-family dwelling.*
- C. *An increase in number of dwelling or lodging units.*
- D. *An increase in outside land area devoted to sales, displays, or demonstrations.*
- E. *Any change in parking areas resulting in an increase or reduction of 5% or more in the number of spaces approved by the City Council. In no case shall the number of spaces be reduced below the minimum required by the ordinance.*
- F. *Structural alterations significantly affecting the basic form, style, ornamentation and the like of the building as shown on the approved plan.*
- G. *Substantial change in the amount and/or location of open space, recreation facilities or landscape buffers/screens.*
- H. *A change in use.*
- I. *Substantial changes in pedestrian or vehicular access or circulation.*
Notwithstanding any other provision within this Section, the Zoning Administrator is expressly prohibited from approving any changes that would be in conflict with the requirements of the Zoning Ordinance or significantly contrary to the Findings of Facts, Conclusions of Law, or Order as outlined (for) the applicable Conditional Use Permit. The Zoning Administrator shall, before making a determination as to whether a proposed action is a minor change or a modification, review the record of the proceedings on the original application for the approval of the Conditional Use.

The Zoning Administrator shall, if he determines that the proposed action is a modification, require the applicant to file a request for approval of the modification, which shall be submitted to the City Council. The Council may approve or disapprove the application for approval of a modification.

7. Section 1013.7 of the Ordinance provides as follows:

The City Council may change or amend any Conditional Use Permit after a public hearing, and subject to the same consideration as provided for in this Article for the original issuance of a Conditional Use Permit.

8. The changes proposed by the Applicant in the new application, specifically including the revised site plan and building elevations, consist of increasing the square footage of the proposed building from 5,200 square feet to 6,287 square feet, increasing the building height from 16' to 22' on the building front, and moving parking and driveway locations so as to move the parking further from the adjoining residential properties to the north and east with the resulting effect of this change bringing the building closer to the said residential properties.

9. Mr. Bob Crumley presented testimony on behalf of the Applicant and in support of the request for a new CUP. Based on Mr. Crumley's uncontroverted testimony, the relocation of the building on the Zoning Lot was prompted by a desire to avoid building a retaining wall that would be subject to disturbance from heavy trucks unloading the facility's dumpster. The change in design will put the dumpster on the west side rather than the east side of the lot, and this change in location will lower the profile of the dumpster. The other changes in the building design flowed from this redesign of the facility layout.

10. The increased building height is still compliant with the height restrictions prescribed by the Ordinance.

11. The community development director offered uncontroverted testimony that the revised site plan and building elevations submitted for this case (Case No. CUP-17-01) comply with the specifications and standards established by the Ordinance.

12. Mr. Crumley offered uncontroverted testimony that the number of employees, types of equipment, and volume of activity at the proposed facility has not changed since the last time he appeared before the Council to request the Initial CUP. Except for the changes specifically noted above, Mr. Crumley testified, without challenge from any party, that the evidence originally presented in support of the Initial CUP remains valid, and he incorporated by reference the previous testimony and evidence submitted to the Council for the Initial CUP.

13. The findings entered by this Council on the basis of the evidence submitted in support of the Initial CUP were as follows:

1. *Mr. Bob Crumley has properly submitted an application on behalf of CF Properties, LLC (the "Applicant") for a Conditional Use Permit authorizing a land use identified in Table 200-2 of the Asheboro Zoning Ordinance (the "AZO") as Manufacturing, Processing, and Assembly - Light.*

2. *In compliance with the AZO, the Applicant included with the application a site plan showing the proposed land use on a parcel of land owned by the Applicant. This parcel of land (the "Zoning Lot") is located on the north side of East Dorsett Avenue and is more specifically identified by Randolph County Parcel Identification Number 7750973085.*

3. *The Zoning Lot is approximately 23,674 square feet (0.543 of an acre) in size and is inside the city limits of Asheboro with access to municipal services.*

4. *The Zoning Lot is in a CUB2 (Conditional Use General Business) zoning district. While a small area along the eastern boundary of the Zoning Lot is shown on the geographic information system to be subject to R7.5 (Medium-Density Residential) zoning, no evidence has been found in other public records to confirm the existence of this residential zoning area within the Zoning Lot. Furthermore, Section 103.3 of the AZO provides, in pertinent part, as follows:*

"Where a district boundary line divides a lot or tract in single ownership, the district requirements for the least restricted portion of such lot or tract shall be deemed to apply to the whole thereof, provided such extensions shall not include any part of a lot or tract more than fifty (50) feet beyond the district boundary line. The term 'least restricted' shall refer to zoning restrictions, not lot or tract size."

Due to the fact that the purported R7.5 zoning extends less than 50 feet beyond the zoning boundary line, the district requirements for a CUB2 zoning district apply to the entire Zoning Lot.

5. *Section 102 of the AZO describes a Conditional Use District as follows:*

"Each Conditional Use District corresponds to a related district in this Ordinance. Where certain types of zoning districts would be inappropriate under certain conditions, and the rezoning applicant

desires rezoning to such a district, the CU District is a means by which special conditions can be imposed in the furtherance of the purpose of this Ordinance.”

6. Section 102 of the AZO further 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.

In addition, within a CU District no use shall be submitted (sic) except as pursuant to a Conditional Use Permit authorized by the City Council, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use or uses, the number of dwelling units or Floor Area Ratio, the location and extent of supporting facilities including but not limited to parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting a Conditional Use Permit, the Council may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done.

The authorization of a Conditional Use Permit in any CU District for any use which is permitted only as a Special Use in the zoning district which corresponds to the CU District shall preclude any requirement for obtaining a Special Use Permit for any such use from the City Council.”

7. Section 1013.2 of the AZO establishes the following standards for the issuance by the Council of a Conditional Use Permit:

“In considering an application for a Conditional Use Permit, the City Council shall give due regard that the purpose and intent of this ordinance shall be served, public safety and welfare secured and substantial justice done. If the City Council should find, after a public hearing, that the proposed Conditional Use Permit should not be granted, such proposed permit shall be denied. Specifically the following general standards shall be met:

- 1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.*
- 2. That the use meets all required conditions and specifications.*
- 3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, and,*
- 4. That the location and character of the 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.”*

8. The Manufacturing, Processing, and Assembly – Light land use (also referred to as “Manufacturing, Processing, and Assembling, Light” in the AZO) is defined by the AZO to mean the following:

“Activities described in Manufacturing, Processing and Assembling, Heavy conducted wholly within an enclosed structure and not employing more than 10 persons and utilizing no more than a total of 25 horsepower in power driven machines and material handling equipment.”

9. The Manufacturing, Processing, and Assembling, Heavy land use is defined by the AZO to mean the following:

“The mechanical or chemical transformation of materials or substances into new products. The land uses engaged in these activities are usually described as plants, factories, or mills and characteristically use power-driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered under this definition, if the new product is neither a fixed structure nor other fixed improvement. Also included is the blending of materials such as lubricating oils, plastics, resins or liquors.”

10. *The Manufacturing, Processing, and Assembly – Light land use is permitted by Special Use Permit in a B2 zoning district, and the Zoning Lot is in a CUB2 district.*

11. *Section 628 (Manufacturing, Processing, and Assembly, Light) of the AZO addresses the requirements for the issuance of a Special Use Permit authorizing a Manufacturing, Processing, and Assembly, Light land use and specifically provides as follows:*

“Light manufacturing activities may be permitted in B2 districts subject to the following standards:

628.1 *Off-street parking and loading spaces provided in accordance with Article 400.*

628.2 *The applicant shall have adequate facilities (water, sewerage, etc.) so that the proposed operation shall meet the requirements of the City Fire, Building Inspection, and Engineering Departments.*

628.3 *The activity shall not endanger, damage, or have any other undesirable effects upon nearby non-industrial development by reason of its existence and operation.*

628.4 *Buffering and screening shall be required as set forth in Article 304A.*

628.5 *Approvals granted under this section shall be for one specific use, to be identified by the applicant at the time of application, and shall not be transferable to other light industrial uses. Requests for such changes in use shall be covered by the submission of a separate Special Use Permit Application.*

628.6 *Light Manufacturing, Processing and Assembly as permitted by this SUP shall mean activities which are conducted within a fully enclosed structure, require no outdoor storage, utilizes no boilers or other equipment in excess of 25 HP individually, and employ a total of 10 or fewer employees.”*

12. *The surrounding land uses are as follows:*

North: *Single-Family Residential*

East: *Single-Family Residential*

South: *Commercial*

West: *Commercial*

13. *With regard to the city’s comprehensive development plans, the Growth Strategy Map identifies the area in which the Zoning Lot is located as a primary growth area, and the proposed land development plan map designates the area as neighborhood residential.*

14. *While the Land Development Plan’s Proposed Land Use Map identifies the area in which the Zoning Lot is located as neighborhood residential, the property has been zoned commercial since 1988.*

15. *The Zoning Lot is currently used for a gravel parking lot, but the Applicant is proposing to construct a new 5,200-square foot building on the Zoning Lot for hemp processing.*

16. *One access driveway is proposed from East Dorsett Avenue, which is a city-maintained street.*

17. The Applicant is proposing 12 parking spaces for the Zoning Lot, and, in light of the maximum number of employees authorized by the above-quoted Section 628, this proposal is compliant with the parking requirements of the AZO.

18. Under the AZO, the required buffering/screening is either a 10-foot Type C screen or a 25-foot Type C buffer adjacent to the residentially zoned (R7.5) property on the north and east sides of the Zoning Lot. The Applicant is proposing a 10-foot screen that will use a combination of existing vegetation and planted vegetation consisting of deciduous trees, bamboo, and evergreen vegetation. Supplemental vegetation will be used as needed to meet the AZO's buffering/screening requirements.

19. In an effort to ensure the compatibility of the proposed use of the Zoning Lot with surrounding land uses and to ensure future compliance with the AZO, the city planning staff recommended the following conditions for attachment to any Conditional Use Permit that may be issued to the Applicant:

- (A) Consistent with Section 628.5 of the AZO, the specific Manufacturing, Processing, and Assembly – Light land use approved by this permit shall include lawful processes involving agricultural and food products of a similar intensity to the specific products the Applicant identified as part of the use proposed for the Zoning Lot.
- (B) The site plan notes a 10' Type C Screen on the northern and eastern boundaries of the Zoning Lot that are adjacent to residentially zoned property. This Type C Screen indicates one (1) evergreen shrub at five (5) feet on center and one (1) evergreen tree at twenty (20) feet on center or an equivalent combination of vegetation and other screening that meets or exceeds the requirements of a Type C Screen. Existing vegetation may also count towards meeting screening/buffering requirements. However, should any deficiency in meeting the landscaping requirements occur, additional buffering or screening measures consistent with Section 304A of the AZO will be required.
- (C) The site plan indicates that no outdoor lighting is proposed at this time. If the Applicant proposes outdoor lighting at a later date, such a proposal shall not be considered a modification requiring the issuance of a new Conditional Use Permit. In such an event, information shall be submitted to the city's planning staff to demonstrate compliance with AZO Section 317A.1 (Performance Standards for all Commercial Zoning Districts – Light) and for inclusion in the planning department's file for the Zoning Lot without further review by the Council.
- (D) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the Zoning Lot owner 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. Bob Crumley testified in support of the Applicant's proposed use of the Zoning Lot, and this uncontroverted testimony provided the following information:

- (a) The proposed facility will be used for research and processing. The processing of the seeds will include using cold press for oil and roasting for eating. Oil will be bottled and sold at retail. Seeds will also be sold at retail. Cannabinoids will be extracted using organic methods, and the facility will bottle and encapsulate flower extract products. The processing of food and nutritional products will be to food grade and will be subject to federal and state inspections.
- (b) The inventory of bulk raw material will be maintained at the farm sites and delivered to the facility on the Zoning Lot in "tote bags." There will not be any outside bins.
- (c) The proposed building will incorporate a stone look with stucco, glass, and pre-finished metal panels.
- (d) The delivery door for the processing facility will be mounted on the side of the building and will not front the street.

- (e) *The number of employees at the facility and the horsepower used by the facility's portable equipment will stay within the limitations prescribed by the AZO.*
- (f) *The equipment at the hemp processing facility will not generate external noise.*
- (g) *No harsh chemicals are used to process the hemp, and no air or water contaminants will be produced as a result of processing hemp.*
- (h) *The small scale nature of the proposed hemp processing facility will not produce excessive traffic in general or excessive tractor-trailer deliveries in particular.*
- (i) *Mr. Crumley owns a significant amount of adjoining real property, and he cannot see any measurable negative impact on the value of the adjoining property as a consequence of the proposed development of the hemp processing facility.*

21. *The site plan presented to the Council by the Applicant conforms to the regulations prescribed by the AZO.*

22. *Bob Crumley, who is an authorized representative of the Applicant, testified that the Applicant accepts the conditions suggested by the city planning staff.*

23. *No testimony was offered in opposition to the Applicant's request for a Conditional Use Permit.*

14. No testimony was offered in opposition to the Applicant's request for a CUP authorizing the hemp processing facility shown in the revised site plan and building elevations.

15. As with the Initial CUP, the city planning staff recommended conditions for attachment to the requested permit. The goal of these conditions is to ensure the compatibility of the proposed use of the Zoning Lot with surrounding land uses and to ensure future compliance with the Ordinance. During his testimony, Mr. Crumley, on behalf of the Applicant, expressed agreement with the recommendation to attach these conditions to the requested CUP. The recommended conditions are as follows:

- (A) Consistent with Section 628.5 of the Ordinance, the specific Manufacturing, Processing, and Assembly – Light land use approved by this permit shall include lawful processes involving agricultural and food products of a similar intensity to the specific products the Applicant identified as part of the use proposed for the Zoning Lot.
- (B) The site plan notes a 10' Type C Screen on the northern and eastern boundaries of the Zoning Lot that are adjacent to residentially zoned property. This Type C Screen indicates one (1) evergreen shrub at five (5) feet on center and one (1) evergreen tree at twenty (20) feet on center or an equivalent combination of vegetation and other screening that meets or exceeds the requirements of a Type C Screen. Existing vegetation may also count towards meeting screening/buffering requirements. However, should any deficiency in meeting the landscaping requirements occur, additional buffering or screening measures consistent with Section 304A of the Ordinance will be required.
- (C) The site plan indicates that no outdoor lighting is proposed at this time. If the Applicant proposes outdoor lighting at a later date, such a proposal shall not be considered a modification requiring the issuance of a new Conditional Use Permit. In such an event, information shall be submitted to the city's planning staff to demonstrate compliance with the Ordinance's Section 317A.1 (Performance Standards for all Commercial Zoning Districts – Light) and for inclusion in the planning department's file for the Zoning Lot without further review by the Council.
- (D) The site plan shows a Screen C located on the east side of the Zoning Lot that is adjacent to the Darren R. Thornburg and Shannon R. Thornburg property identified by Deed Book 2404, Page 1492, Randolph County Registry. This screening may be changed to the screening required, if any, by Section 304A of the Ordinance in accordance with future land use and zoning classifications for that adjoining property. Consequently, if the screening requirements for this specific portion of the Zoning Lot change in the future due to the application of the Ordinance to the facts on the ground, such a change shall not be deemed to be a modification that would require a new CUP. In the event of an occurrence that comes within the parameters of this condition, a revised site plan shall be submitted to the city's planning staff for review for compliance with the Ordinance and, if compliant, the revised site plan shall be included in the file for this CUP without further review or action by the Council.
- (E) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the Zoning Lot owner 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.

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

CONCLUSIONS OF LAW

1. When an applicant has produced competent, material, and substantial evidence tending to establish the existence of the facts and conditions that the Ordinance requires for the issuance of a Conditional Use Permit, prima facie the applicant is entitled to the permit. A denial of the permit has to be based upon findings contra that are supported by competent, substantial, and material evidence appearing in the record.

2. In this case, the Applicant properly submitted an application, with a revised site plan and building elevations, for a Conditional Use Permit authorizing a Manufacturing, Processing, and Assembly – Light land use, more specifically a hemp processing facility, on the Zoning Lot that is located in a CUB2 zoning district.

3. In light of the evidence and the acceptance by the Applicant of the conditions attached to the Conditional Use Permit by the Council, the Applicant's proposed land use, as revised, is compliant with the applicable requirements of the Asheboro Zoning Ordinance.

4. On the basis of substantial evidence in the record, the Council has concluded that the proposed land use, as revised, meets the four general standards for granting the requested Conditional Use Permit. The proposed land use will not materially endanger the public health or safety, meets all required conditions and specifications of the zoning ordinance, will not substantially injure the value of adjoining or abutting property, and will be in harmony with the area in which it is to be located and is in general conformity with Asheboro's plan of development.

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

ORDER

Subject to the following conditions, a Conditional Use Permit authorizing on the Zoning Lot the above-described Manufacturing, Processing, and Assembly – Light land use, more specifically a hemp processing facility, is hereby approved and issued to the Applicant and the Applicant's heirs, successors, and assigns. The continuing validity of this Conditional Use Permit is hereby made expressly contingent upon the Applicant and the Applicant's heirs, successors, and assigns complying at all times with the applicable provisions of the Asheboro Zoning Ordinance, the site plan presented and approved during the hearing of this matter on January 12, 2017, and the following supplementary conditions:

- (A) Consistent with Section 628.5 of the Ordinance, the specific Manufacturing, Processing, and Assembly – Light land use approved by this permit shall include lawful processes involving agricultural and food products of a similar intensity to the specific products the Applicant identified as part of the use proposed for the Zoning Lot.
- (B) The site plan notes a 10' Type C Screen on the northern and eastern boundaries of the Zoning Lot that are adjacent to residentially zoned property. This Type C Screen indicates one (1) evergreen shrub at five (5) feet on center and one (1) evergreen tree at twenty (20) feet on center or an equivalent combination of vegetation and other screening that meets or exceeds the requirements of a Type C Screen. Existing vegetation may also count towards meeting screening/buffering requirements. However, should any deficiency in meeting the landscaping requirements occur, additional buffering or screening measures consistent with Section 304A of the Ordinance will be required.
- (C) The site plan indicates that no outdoor lighting is proposed at this time. If the Applicant proposes outdoor lighting at a later date, such a proposal shall not be considered a modification requiring the issuance of a new Conditional Use Permit. In such an event, information shall be submitted to the city's planning staff to demonstrate compliance with the Ordinance's Section 317A.1 (Performance Standards for all Commercial Zoning Districts – Light) and for inclusion in the planning department's file for the Zoning Lot without further review by the Council.
- (D) The site plan shows a Screen C located on the east side of the Zoning Lot that is adjacent to the Darren R. Thornburg and Shannon R. Thornburg property identified by Deed Book 2404, Page 1492, Randolph County Registry. This screening may be changed to the screening required, if any, by Section 304A of the Ordinance in accordance with future land use and zoning classifications for that adjoining property. Consequently, if the screening requirements for this specific portion of the Zoning Lot change in the future due to the application of the Ordinance to the facts on the ground, such a change shall not be deemed to be a modification that would

require a new CUP. In the event of an occurrence that comes within the parameters of this condition, a revised site plan shall be submitted to the city's planning staff for review for compliance with the Ordinance and, if compliant, the revised site plan shall be included in the file for this CUP without further review or action by the Council.

- (E) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the Zoning Lot owner 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 held by the governing board on the 9th day of February, 2017.

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

ATTEST:

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

- (g) **Acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for January 2, 2017.**

A copy of the said meeting minutes is on file in the city clerk's office.

- (h) **An ordinance to align the city's malt beverage and wine privilege license tax provisions with the enabling legislation in the North Carolina General Statutes.**

The following ordinance was approved as part of the consent agenda by unanimous vote of the city council.

ORDINANCE NUMBER _____ **04 ORD 2-17**

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

Ordinance to Align the City of Asheboro Malt Beverage and Wine Privilege License Tax Provisions with Enabling Legislation in the North Carolina General Statutes

WHEREAS, during an annual review of the city's malt beverage and wine privilege license tax provisions, a determination was made by the city's legal counsel that, due to amendments to the North Carolina General Statutes, clear statutory authority does not currently exist to support the imposition of a tax of \$62.50 on wholesalers of both malt beverages and wine; and

WHEREAS, Section 105-113.79 of the North Carolina General Statutes explicitly authorizes the city to charge an annual tax of not more than thirty-seven dollars and fifty cents (\$37.50) for a city malt beverage wholesaler or a city wine wholesaler license; and

WHEREAS, Section 118.01(c) of the Code of Asheboro contains the city privilege license tax provisions applicable to malt beverage and wine wholesalers; and

WHEREAS, on the basis of the above-referenced annual review, the city staff has recommended, and the City Council concurs with this this recommendation, to amend the Code of Asheboro as specified herein for the purpose of updating and conforming the city's code of ordinances with the current interpretation by legal counsel of the applicable provisions in the North Carolina General Statutes;

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

Section 1. Section 118.01 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 118.01 LOCAL PRIVILEGE LICENSE TAXES

- (A) *Retail License and Tax.* A person holding any of the following retail ABC permits for an establishment located within the corporate limits of the City of Asheboro shall obtain from the city clerk a city license for that activity. The annual tax for each license is as stated below.

ABC Permit	Tax for Corresponding License
On-premises malt beverage	\$15.00

- | | |
|---|---------|
| Off-premises malt beverage | \$5.00 |
| On-premises unfortified wine, on-premises fortified wine, or both | \$15.00 |
| Off-premises unfortified wine, off-premises fortified wine, or both | \$10.00 |
- (B) *Tax on Additional License.* The tax stated in division (A) of this section is the tax for the first license issued to a person. The tax for each additional license of the same type issued to that person for the same year is one hundred ten percent (110%) of the base license tax, that increase to apply progressively for each additional license.
- (C) ~~*Tax on Malt Beverage or Wine Wholesalers.* City malt beverage and wine wholesaler licenses are required for businesses located within the corporate limits of the City of Asheboro. No such license is required for a business located outside the city, regardless of whether that business sells or delivers malt beverages or wine inside the city. The amount of the annual tax for each wholesaler license listed in this division is as follows:~~
- (1) ~~The tax for a malt beverage wholesaler is \$37.50;~~
- (2) ~~The tax for a wine wholesaler is \$37.50; and~~
- (3) ~~The tax for a wholesaler of both malt beverages and wine is \$62.50.~~
- (C) *Tax on Malt Beverage and/or Wine Wholesalers.* City malt beverage and wine wholesaler licenses are required for businesses located within the corporate limits of the City of Asheboro. No such license is required for a business located outside the city, regardless of whether that business sells or delivers malt beverages or wine inside the city. The annual tax for a city malt beverage wholesaler and/or city wine wholesaler is \$37.50.

Section 2. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this Ordinance shall be abated or otherwise affected by the adoption of this Ordinance. Similarly, the adoption of this Ordinance shall in no way impair the ability of the city to collect malt beverage and wine privilege license taxes that were due and payable prior to February 9, 2017, and that remain unpaid.

Section 3. All previously adopted ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

Section 4. This Ordinance shall be in full force and effect upon and after the 9th day of February, 2017.

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

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

ATTEST:

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

5. Presentation of the city's fiscal year-end audit report.

The City Council received from Mr. Steve Hackett, CPA the audit report for the fiscal year that ended June 30, 2016. During his presentation, Mr. Hackett reported that the city received what is commonly referred to as a "clean audit" (currently also referred to as an "unmodified opinion") that reflects an unqualified acceptance of the city's financial statements.

6. Randolph County Economic Development Corporation's annual report.

Ms. Bonnie Renfro, who is the President of the Randolph County Economic Development Corporation ("RCEDC"), led the presentation of the annual report from the RCEDC. Ms. Renfro was joined in this presentation by Board of Directors Chair John Grey, P.E, Board of Directors Vice-Chair Skip Marsh, and Kevin Franklin, who is the Existing Business and Industry Coordinator for the RCEDC.

Ms. Renfro discussed highlights from the annual report. Some of these highlights included, but are not limited to, the decrease in the unemployment rate within Randolph County, an increase in the number of jobs created, and an increase in business and project activity such as the development of New Century Business Park.

Additionally, Ms. Renfro thanked the Council for its support over the years as she will be retiring later this year. In return, Mayor Smith thanked Ms. Renfro for her hard work and efforts in supporting economic growth in Randolph County throughout her tenure. He then congratulated Ms. Renfro on her upcoming retirement.

No formal action was taken by the City Council in response to this presentation. Copies of the materials distributed by Ms. Renfro and Mr. Franklin are on file in the city clerk's office.

7. Update on the I-73/74 Association meeting in Washington, DC.

Mayor Pro Tempore Walker Moffitt utilized a visual presentation and gave a brief overview of the National I-73/I-74/I-75 Corridor Association Meeting on February 2, 2017. During his presentation, Mr. Moffitt noted that Mr. Talmadge Baker, who is a former City Council Member was honored at the meeting. He then recognized Mr. Baker, who was in attendance, and presented him with a plaque for his many years of dedicated service to the National I-73/I-74/I-75 Corridor Association.

No formal action was taken by the Council in response to this presentation. A copy of the visual presentation utilized by Mr. Moffitt is on file in the city clerk's office.

8. Public comment period.

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

In the absence of any comments, Mayor Smith closed the public comment period.

9. Building Inspections annual report.

Mr. Randy Purvis, Chief Building Inspector, presented an overview of the Building Inspection Department's activities during 2016. The department's report reflected a total of 1,039 permits issued with a total of \$96,285.50 in revenue received. A copy of the written report submitted to the council is on file in the city clerk's office.

10. Code Enforcement Annual Report.

Mr. Ed Brown, Code Enforcement Officer, utilized a visual presentation in order to provide an overview of the code enforcement activities during the preceding year. Mr. Brown's report reflected a total of 340 recorded violations for 2016. These violations included, but were not limited to, nuisance violations, non-permitted signs, minimum housing code violations, and zoning violations. A copy of the visual presentation utilized by Mr. Brown is on file in the city clerk's office.

11. Public Works Items.

Public Works Director David Hutchins spoke with the governing board about the operational transition made by the city's public works division, specifically the solid waste handling operations, due to the opening of the county's regional landfill that is sometimes referred to as the Great Oak Landfill. The primary difference is that city garbage trucks are now directly hauling to the county-owned landfill rather than unloading at the city-owned transfer station. At the transfer station, the solid waste would have been loaded onto tractor-trailers owned by the city and transported to an out-of-county landfill.

In addition to discussing operational efficiencies with the change in landfill operations, the public works director also described the operational activities and costs experienced by his division during the most recent winter storm. A copy of the visual presentation used by the public works director during his discussion is on file in the city clerk's office.

No items were presented to the council for action by the public works director. His presentation was informational in nature.

12. Request for council's concurrence with a technical correction of the employee policies and procedures manual's provisions pertaining to holiday leave.

Mr. Sugg presented and recommended adoption, by reference, of a resolution expressing the city council's concurrence with the newly revised City of Asheboro Employee Policies and Procedures Manual.

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

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION EXPRESSING THE CITY COUNCIL'S CONCURRENCE WITH THE NEWLY REVISED
CITY OF ASHEBORO EMPLOYEE POLICIES AND PROCEDURES MANUAL**

WHEREAS, the City of Asheboro Employee Policies and Procedures Manual (formerly known as the City of Asheboro Personnel Policies and Procedures Manual and hereinafter referred to as the "Manual") was originally promulgated by the city manager and approved by resolution of the Asheboro City Council on March 4, 2004; and

WHEREAS, the city manager periodically receives recommendations from the human resources director to revise the Manual so as to eliminate areas of ambiguity and to integrate current best practices in the field of human resources management into the Manual; and

WHEREAS, subsequent to January 1, 2017, which was the effective date of the last revision of the Manual, the human resources director recommended to the city manager making technical corrections to the holiday leave provisions in the Manual; and

WHEREAS, the provisions to be revised, which reflect the holiday leave policies of an earlier time period, are inconsistent with the flexibility purposefully built into the current holiday leave provisions; and

WHEREAS, the text for which revisions are proposed is still present in the Manual simply because this legacy text was overlooked during the last revision; and

WHEREAS, the city manager agrees with this recommendation and has decided to incorporate the attached revisions into the Manual with an effective date of February 9, 2017; and

WHEREAS, the Asheboro City Council has concluded that the city manager's decision to make the above-described corrections and update the Manual by adopting the revisions printed below furthers the governing board's goal to create a positive work environment for city employees that advances the council's mission to, among other things, provide the citizens of Asheboro with excellence in municipal services;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the governing board hereby concurs with the decision by the city manager to make, with an effective date of February 9, 2017, the following revisions to Article IV (Leaves of Absence), Part B (Types of Leave), Section 1 (Holidays) of the City of Asheboro Employee Policies and Procedures Manual:

The following holidays with pay are authorized for all full-time employees, based on one (1) regular work day per holiday.

*New Year's Day
Martin Luther King, Jr. Day
Good Friday
Memorial Day
Independence Day
Labor Day
Thanksgiving - 2 days
Christmas - 3 days*

~~*Regular holidays or unscheduled workdays which occur during a vacation, sick or other leave period of any officer or employee of the city shall not be considered as vacation, sick or other leave.*~~

~~*If any of the above-listed holidays occur during a previously approved leave period (e.g. vacation leave, sick leave, the use of accrued compensatory time off, or otherwise), the available holiday leave will be used to the maximum extent permitted by this section in lieu of any other leave time authorized by this manual. By way of illustration, when calculating the use of accrued leave time, if holiday leave time is available for use by an employee, such holiday leave time shall be used in compliance with this section, as soon as the holiday leave time becomes available for use, in lieu of any other accrued leave time such as compensatory time off, vacation leave, or sick leave.*~~

Due to the obligation of the city to provide municipal services on a 24-hour basis, some employees will be required to adhere to a city work schedule that prevents the use of holiday leave on the actual date of a city-recognized holiday. When the city work schedule prevents an employee from availing himself or herself of holiday leave on the actual date of a city-recognized holiday, such an employee may utilize, and the division/department head is to facilitate the employee's use of, the holiday leave time authorized by this section during a 6-month window of opportunity that shall begin to run on the date of the holiday that is the basis of the accrual of the holiday leave time and shall run through the end of the pay period in which the 6-month timeframe concludes. If an employee fails, for any reason, to avail himself or herself of the holiday leave time privilege during the 6-month window of opportunity, the holiday leave time shall be forfeited by the employee.

Unless an employee wishes to use holiday leave on a different date that is otherwise compliant with the adopted holiday leave policy, regular holidays or unscheduled workdays that occur during an employee's vacation, sick, or other designated leave period shall not be considered as vacation, sick, or other leave.

When any of the aforementioned holidays fall on a Saturday or a Sunday, the day(s) observed will be at the discretion of the city manager.

Notwithstanding any other provision in this section, the city manager may suspend any previously approved holiday leave when, in the discretion of the city manager, the city is confronting events or circumstances that require the utilization of extraordinary measures and operations by city forces in order to provide the level of service expected of the city. This authority to suspend holiday leave shall not be construed as placing any employee "on-call." Unless an employee is subject to an on-call policy implemented in the regular course of business by a division or department of the city, the city manager's authority to suspend holiday leave does not require employees to remain on the city's premises or in close proximity to city facilities. Under this provision, an employee's obligation is to have accurate contact information on file with the human resources department so that he or she can be reached when not working and advised to return to work as soon as is practicable. This authority to suspend holiday leave is inapplicable to employees who are using holiday leave as part of an approved FMLA leave or during the 7-day waiting period prescribed by the North Carolina Workers' Compensation Act.

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

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

ATTEST:

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

13. Airport items:

- (a) An update on the most recent actions taken to facilitate the construction of a new airport terminal building.**

City Manager John Ogburn discussed with the elected officials the actions that have been taken or will be taken by city staff members, specifically including discussions and visits with federal representatives and governmental relations experts retained by the city, in an effort to procure funding for improvements at the Asheboro Regional Airport. No requests were made for council action at this time. Consequently, no action was taken.

- (b) A request seeking authorization to execute a lease termination agreement for Hangar K.**

Due to changes that have occurred over an extended period of time, Klaussner Corporate Services, Inc. (the "Lessee") no longer needs Hangar K at the Asheboro Regional Airport. The Lessee rented this hangar for a significant period of time from the city. In the absence of a need for the hangar space, the Lessee drafted a lease termination agreement and asked the city to execute the agreement.

City Engineer Michael Leonard, PE is the city's staff liaison to the Asheboro Airport Authority, and he reported that the request is not opposed by the Airport Authority. Similarly, the city's professional staff had no reservations about executing the proposed lease termination agreement with the Lessee.

Upon a motion by Mr. Burks, and a second by Mr. Bell, the Council Members voted unanimously to authorize the execution of the proposed lease termination agreement for Hangar K. A copy of the approved lease termination agreement is on file in the city clerk's office.

- (c) A request seeking authorization to publish notice of the intent to approve proposals altering the leasing arrangements for Hangar A and Hangar J.**

City Engineer Michael Leonard, PE introduced and recommended adoption of the following resolution that initiates the procedural actions necessary for the council to approve a change in leasing arrangements for Hangars A and J at the Asheboro Regional Airport. The proposed change in leasing arrangements is consistent with recommendations received from the Asheboro Airport Authority.

Upon a motion by Mr. Moffitt, and a second by Mr. Bell, the Council Members voted unanimously to adopt, by reference, the following resolution:

RESOLUTION NUMBER 04 RES 2-17

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION STATING THE INTENT TO LEASE
HANGAR A AND HANGAR J AT THE ASHEBORO REGIONAL AIRPORT
UNDER MODIFIED TERMS AND CONDITIONS**

WHEREAS, during its meeting on January 17, 2017, the Asheboro Airport Authority (the "Airport Authority") decided to recommend to the Asheboro City Council modifying the existing leasing arrangements for Hangar A and Hangar J at the Asheboro Regional Airport; and

WHEREAS, with regard to Hangar A, the Airport Authority recommended extending the term of the existing lease by seven years in consideration of the substantive improvements made to the hangar by the current lessee, Mr. Stephen R. Knight, at his own expense; and

WHEREAS, with regard to Hangar J, the Airport Authority recommended approving the joint request from Chris J. Price and Stephen R. Knight to transfer the existing lease agreement from Mr. Price to Mr. Knight with the same material terms and conditions that were previously granted to Mr. Price; and

WHEREAS, the proposed lease areas will not be needed by the city during the terms of the leasing arrangements recommended by the Airport Authority;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that it intends to approve, with the modifications recommended by the Airport Authority, two leasing agreements with Stephen R. Knight for Hangar A and Hangar J, respectively; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that the city clerk is hereby directed to publish in *The Courier-Tribune* the statutorily mandated 30-day legal notice of intent to authorize the described hangar lease agreements during the council's regular meeting on April 6, 2017.

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

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

ATTEST:

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

14. Upcoming events:

Mayor Smith announced, among other events, the following upcoming events that are directly related directly to the city government's activities:

- Regular City Council Meeting on Thursday, March 9, 2017, at 7:00 p.m.
- Randolph County Economic Development Corporation's annual half-day planning retreat on Tuesday, February 28, 2017, from 9:00 a.m. until 1:00 p.m., at the CEIC building at Randolph Community College.
- Town Hall Day on Wednesday, March 29, 2017 in Raleigh, North Carolina.

15. Closed session.

Mayor Smith entertained a motion to go into closed session pursuant to the statutory provisions found in Section 143-318.11(a)(4) of the North Carolina General Statutes in order to discuss matters relating to the location or expansion of industries or other businesses in the area served by the City of Asheboro, including agreement on a tentative list of economic development incentives that may be offered by the city in negotiations.

Upon motion by Ms. Carter and seconded by Mr. Burks, Council voted unanimously to go into closed session for the above-stated reason and pursuant to the above-cited statutory authority.

A separate general account of the closed session held pursuant to Section 143-318.11(a)(4) of the North Carolina General Statutes has been prepared and filed in the city clerk's office.

16. Return to open session.

After returning to open session, there were no further items to be discussed.

