

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, JULY 13, 2017  
7:00 P.M.**

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

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

John N. Ogburn, III, City Manager  
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  
Donald R. Thompson, Jr., Police Captain  
Tammy M. Williams, Deputy City Clerk

**1. Call to order.**

A quorum thus being present, Mayor Smith called the meeting to order at 7:00 p.m. for the transaction of business, and business was transacted as follows. Mayor Smith welcomed everyone to the meeting. Mr. Rudy Olivo, a representative from Congressman Mark Walker's office, spoke to the council about the recent opening of the Congressman's office in the Asheboro area. Mr. Olivo is excited to have an office in the Randolph County area and emphasized that the office is available to provide constituent services such as help with interactions between constituents and the Veterans Administration, Internal Revenue Service, the Social Security Administration, and any other federal agencies.

**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 repeat the pledge of allegiance.

**3. Jody Terry, who is a Randolph County 4-H program assistant, informed the city council about a successful youth leadership program with the YMCA.**

Mayor Smith welcomed Jody Terry with the Randolph County 4-H Program, and she introduced a group of middle school aged children who were selected for the NEXT Program. NEXT stands for Needing Excellence Today.

Ms. Terry is working in conjunction with Patrick O'Hara, Executive Director of the Randolph/Asheboro YMCA. The NEXT program is operating with funding secured with the assistance of North Carolina Senator Rick Gunn.

Senator Gunn approached Mr. O'Hara and asked him to start a program for at-risk youth here in the Randolph County area. The YMCA purchased a new bus with part of the funding to help with transportation.

As currently designed, the NEXT program is focused on middle school students. There were 22 students selected from the North Asheboro and South Asheboro Middle Schools.

In preparation for a recent trip to Raleigh, the youth were taken to buy new outfits. For many of these young people, this trip was the first time they had been able to spend the night in a hotel with their own bed and to go to restaurants they would not ordinarily have the opportunity to utilize. Different students shared with the elected officials the students' experiences during the trip.

Some of the future events planned for these children are Wet and Wild Emerald Point in Greensboro, Preppy Possum to do some painting, and turning some pottery in Seagrove. Mayor Smith thanked the YMCA and the program organizers for their good work.

**4. Consent Agenda.**

Two consent agenda items, which were meeting minutes for two council meetings in June 2017, were pulled from the agenda because of a staff need for additional time to work on the documents. With the exception of the meeting minutes for June the 8<sup>th</sup> and June the 27<sup>th</sup>, no consent agenda items were removed, modified, or individually discussed.

Mr. Bell moved to approve, with the exception of the above-referenced meeting minutes that were pulled from consideration, the following consent agenda items as presented. Council Member Burks seconded the motion, and the council voted unanimously in favor of the motion. Council Members Bell, Burks, Carter, Redding, and Snuggs voted in favor of the motion to approve the following consent agenda items:

**(a) Acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for May 1, 2017. [Consent Agenda Item (c)]**

A copy of the Asheboro ABC Board's meeting minutes for May 1, 2017, is on file in the city clerk's office.

**(b) Approval of a resolution appointing Stephen R. Knight to a new 3-year term of office on the Asheboro ABC Board. [Consent Agenda Item (d)]**

RESOLUTION NUMBER 23 RES 7-17

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

APPOINTMENT OF STEPHEN R. KNIGHT TO A NEW THREE-YEAR TERM  
OF OFFICE ON THE ASHEBORO ABC BOARD

WHEREAS, the Asheboro ABC Board (the "Board") consists of three (3) members that are appointed by the Asheboro City Council (the "Council"); and

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

If the board is a three-member board, one member of the initial board of a newly created ABC system shall be appointed for a three-year term, one member for a two-year term, and one member for a one-year term. As the terms of initial board members expire, their successors shall each be appointed for three-year terms; and

WHEREAS, when the initial appointments to the Board were made by the Council, Stephen R. Knight was appointed to a three-year term of office that began on August 12, 2008, and the Council subsequently reappointed Mr. Knight to the Board for two additional three-year terms of office in 2011 and 2014, respectively; and

WHEREAS, the Board has consistently performed its duties in a very efficient and professional manner; and

WHEREAS, the Council believes that it is in the best interest of the Asheboro ABC system and the municipal corporation to reappoint Stephen R. Knight to the Board for another three-year term of office, and Mr. Knight has agreed to accept this reappointment;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, effective August 12, 2017, Stephen R. Knight is reappointed to the Asheboro ABC Board for another three-year term of office.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 13<sup>th</sup> day of July, 2017.

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

ATTEST:

/s/ Tammy M. Williams  
Tammy M. Williams, Deputy City Clerk

**(c) Approval of the final decision document for land use case nos. CUP-17-03 and SUB-17-01. [Consent Agenda Item (e)]**

Case Nos. CUP-17-03 and SUB-17-01  
City Council of the City of Asheboro, North Carolina

IN THE MATTER OF THE APPLICATION BY WATERFORD RE, LLC FOR A CONDITIONAL USE  
PERMIT SUBDIVISION SKETCH DESIGN APPROVAL AUTHORIZING A RESIDENTIAL  
PLANNED UNIT DEVELOPMENT

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

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THIS MATTER came before the Asheboro City Council (the "Council") for a properly advertised quasi-judicial hearing on the question of whether to approve an application by Waterford RE, LLC for a Conditional Use Permit and the corresponding subdivision sketch design review for a residential planned unit development. The hearing was initially opened and sworn testimony received during a regular meeting of the Asheboro City Council held on May 4, 2017, with additional testimony from witnesses and deliberation by the Council during a continuation of the hearing that was conducted on June 8, 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. Waterford RE, LLC (the "Applicant") properly applied, by and through attorney Tom Wright, Esq., for the issuance of a conditional use permit and the requisite subdivision sketch design review and approval authorizing a land use identified in Table 200-2 of the Asheboro Zoning Ordinance (the "AZO") as a residential planned unit development ("PUD").

2. In compliance with the AZO, the Applicant included with the application a site plan and subdivision sketch design plat showing the proposed land use on five parcels of land owned by the Applicant. These parcels of land (collectively, the "Zoning Lot") are located at the northern terminus of the publicly maintained portion of Waterside Drive, north of Hub Morris Road and on the west side of Forest Park Drive. The parcels of land that form the Zoning Lot are more specifically identified by the following Randolph County Parcel Identification Numbers: 7763265981, 7763275095, 7763270025, 7763265467, and 7763265562.

3. The Zoning Lot contains approximately 38 acres and is inside the city limits of Asheboro with access to municipal services.

4. During the initial hearing of these cases on May 4, 2017, the Zoning Lot was placed in a CURA6 zoning district, which is a conditional use high-density residential zoning district.

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. Section 210 of the AZO contains a statement of intent for the RA6 residential zoning district, and this statement of intent provides as follows:

*The RA6 Residential District is intended to produce a high intensity of residential uses in close proximity to major nodes of non-residential development, characterized primarily by group housing, plus the necessary governmental and other support facilities to service that level of development. Land designated RA6 shall normally be located with access to a minor thoroughfare or higher classification street with access to local residential streets discouraged.*

9. A PUD, which is the land use for which the Applicant is seeking approval, is permitted by special use permit in an RA6 zoning district, and the Zoning Lot is zoned CURA6.

10. Section 630, Subsection A of the AZO lists the following specific requirements for the issuance of a special use permit, which will be a conditional use permit in this case, allowing a PUD:

1. *Residential Planned Unit Developments may be permitted in any R40, R15, R10, R7.5, RA6 or OA6 zoning district as long as the proposed development contains a minimum of 2 acres. Those uses ordinarily permitted by right, by SUP, or as an accessory within the district (where) the development is to be located may be included in the development.*
2. *Review of an application for a PUD SUP shall occur simultaneously with a review of plats submitted in compliance with the Asheboro Subdivision Ordinance. If the PUD requires review as a "major" subdivision the Sketch Design Plat shall be properly submitted, reviewed and recommended by the Planning Board for the City Council's consideration as the PUD SUP. The Sketch Design Plat and the site plan required for the SUP may be combined on one plat so long as the requirements for each are met. If the PUD requires a minor subdivision the required subdivision plat shall be properly submitted for approval. Approval shall be subject to any conditions of the PUD SUP and granted only after approval of the SUP by the City Council.*
3. *Residential PUDs may have direct access to City streets or State roads which are not major or minor thoroughfares, provided such access will not create safety hazards due to design or congestion.*
4. *Streets within a PUD may be public or private according to the regulations of the Asheboro Subdivision Ordinance.*

5. *The yard and height regulations set forth in Table 200-1 may be modified for a PUD, provided that, for such development as a whole, excluding public street right-of-ways or the area dedicated to private streets but including individual lots, common areas, parks and other permanent open spaces, there shall not be less than the required area per dwelling unit for the district in which such development is located.*

6. *Utilities shall be planned and installed according to the Asheboro Subdivision Ordinance.*

7. *Provisions and plans for garbage and waste collection shall be included with the application.*

8. *Buffers and/or screening shall be installed and maintained based on the types of individual uses contained within the development as per Article 304A.*

9. *Signs will be regulated as per Article 500.*

10. *Off street parking shall be provided as per Article 400.*

11. *General landscaping shall be installed and maintained. Plans indicating all required and non-required landscaping shall be submitted as part of the application.*

11. The surrounding land uses are as follows:

**North:** Medium-Density Residential

**East:** Low to Medium-Density Residential

**South:** Existing PUD/  
Low to Medium-Density Residential

**West:** Low-Density Residential/  
Commercial/Industrial

12. 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.

13. The Zoning Lot's existing land use is classified as undeveloped/residential planned unit development previously under construction.

14. Hub Morris Road is a state-maintained minor thoroughfare. Forest Park Drive is a state-maintained road.

15. The Zoning Lot is currently identified as Phase 2 of Waterford Villas. The existing special use permit authorizes 80 dwelling units on 80 lots. A total of 40 structures, each containing two dwelling units, are permitted. Under the R10 zoning that existed prior to the placement of the Zoning Lot in a conditional use district, if the existing special use permit had been abandoned, there is enough acreage to support more than 100 single-family lots and dwelling units or 65 two-family lots with 130 dwelling units.

16. The Applicant is proposing a PUD with a total of 117 dwelling units. The dwelling units are proposed with either two or three units in each of the 45 residential structures. The proposed development also includes common and recreational areas along with an optional storage building proposed for the owners' use. Both public streets and private alleys, which are to be maintained by a homeowners' association, are incorporated into the development design.

17. With the original issuance of a special use permit, the city council first granted approval for a PUD at this location in 2006. Construction of the development began after preliminary plat approval in 2007. Since that time, 28 lots in Phase 1 have been recorded with the associated public infrastructure. Much of the infrastructure within Phase 2 has also been constructed, but this infrastructure has not been dedicated to public ownership and use.

18. The increase in the number of units (80 to 117), the addition of a resident storage facility, and the inclusion of three dwelling units in many of the structures triggers the need for a new special use permit, which is satisfied in a conditional use district by the issuance of a conditional use permit.

19. The proposed units are a single-story design, ranging from approximately 1,346 square feet to 1,522 square feet of gross floor area, with a 2-vehicle garage for each unit.

20. The inclusion of three dwelling units in certain structures required rezoning the property to the conditional use high-density residential zoning district.

21. With regard to the subdivision sketch design review, the Applicant has submitted a subdivision plat for review that is compliant with the City of Asheboro Subdivision Ordinance.

22. Prior to the Council entering a decision as to the Applicant's requests, the City of Asheboro Planning Board concurred with the planning department staff's analysis of the sketch design application and recommended approval of the subdivision sketch design plat.

23. The Applicant's expert, Tonya Brady, is a certified residential real estate appraiser with approximately 20 years of experience. She has reviewed the proposed land use, the Zoning Lot, and another PUD on Old Lexington Road. The Council finds credible Ms. Brady's expert testimony that the proposed land use will not have a negative impact on surrounding properties.

24. The land use proposed for the Zoning Lot does not pose any elevated risk of generating health and safety concerns.

25. As previously noted, the Applicant was represented by an attorney, Mr. Wright, and certain property owners, whose standing was not challenged during the hearing, retained the services of Benjamin Albright, Esq. Mr. Wright and Mr. Albright submitted for the Council's consideration negotiated conditions for potential attachment to the requested conditional use permit. With the joint submission of these negotiated conditions, the primary area of disagreement became focused on the proposed construction of a large storage building within the development. On this point, the parties initially had very divergent contentions. However, during the portion of the hearing held on June 8, 2017, the represented parties endorsed mutually agreeable potential conditions to the permit that would enhance the compatibility of the storage building with the surrounding properties.

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

27. Mr. Wright testified that the Applicant accepted the conditions that the Council ultimately concluded should be attached to the requested conditional use permit.

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 AZO 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 for a conditional use permit authorizing a PUD on the Zoning Lot located in a CURA6 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 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, with the clarifications and protections provided by the conditions attached to this permit, the proposed land use 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.

5. The Applicant's subdivision sketch design review application is compliant with the City of Asheboro Subdivision Ordinance.

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

#### ORDER

##### Part 1 – Conditional Use Permit

Subject to the following conditions, a conditional use permit authorizing the proposed residential planned unit development on the Zoning Lot 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 final hearing of this matter on June 8, 2017, and the following supplementary conditions:

- (A) The exact location of sidewalks connecting sidewalks located within public right-of-ways, recreation areas, and the proposed 100' x 100' residents' storage units may be modified to the extent that they comply with the Asheboro Subdivision Ordinance, Article X, Subsection IV.C.5,

- requiring ADA compliant sidewalks that extend from sidewalks along the public right-of-way to all amenities.
- (B) The site plan labels a Type A screen or buffer along portions of the property's perimeter and along Forest Park Drive. 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 (Buffers and Screening) and Section 308A (Front Yard Landscaping) of the AZO shall be required.
  - (C) The 100' x 100' storage building identified on the site plan is not required by the zoning ordinance, subdivision ordinance, or conditional use permit. If constructed, use of the proposed storage building shall be limited to residents of the proposed Phase 2 of Waterford Villas, and residents of Phase 1 of Waterford Villas (Plat Book 115, Page 80, Randolph County Public Registry).
  - (D) Building facades of the 100' x 100' residents' storage building shall consist of materials permitted by Section 318A.D (Design Standards for all Residential Districts) of the AZO.
  - (E) Should any recreational vehicles be located in the parking area surrounding the 100' x 100' residents' storage building, such recreational vehicles shall be screened in accordance with the requirements of Section 305A of the AZO.
  - (F) If topography necessitates the drive providing access to the dam to encroach into the required 5' screening yard on the southern boundary of the property (in cases in which the "Screen A" option is used in lieu of locations where the minimum 15' "Buffer A" is an option), additional plantings/screening as specified by Section 304A.6 (Alternative Buffers and Screening) will be required to ensure that the degree of screening to adjoining properties is equal to or exceeds the degree of screening provided by "Screen A" requirements.
  - (G) Landscaping required adjacent to the northern property boundary of James Markle (DB 1332, PG 55) shall equal or exceed the requirements of a "Screen A" as specified by Section 304A.4. The "Buffer A" option is not permitted at this location.
  - (H) Enclosure of concrete pads to the rear of dwellings or other additions to the rear of residential dwellings outside the common area shall not be considered a modification of the permit requiring Council review.
  - (I) The primary architectural elements for the two-family dwellings shall be substantially similar to those depicted by the building elevation plans submitted showing the three-family dwellings.
  - (J) Prior to the approval of a final plat, the applicant shall provide additional details concerning proposed buffering and screening that are required by the Zoning Ordinance and/or adopted supplementary conditions to the conditional use permit.
  - (K) All residential units shall have brick/stone fronts.
  - (L) Garages: All residences shall have two car garages and all driveways to residences shall be surfaced entirely of concrete.
  - (M) Single Story Construction: All new residences shall be one story except bonus rooms may be constructed in the truss area of the homes.
  - (N) The drive at the end of Waterside Drive shall be constructed entirely of concrete.
  - (O) The rear entrance from Forest Park shall be landscaped consistent with the standards utilized at the entrance at Hub Morris Road except it will not contain a water feature.
  - (P) Developers will leave at least 25 feet between Unit 96 and 97 for access to the dam in the event repairs are needed and further developers shall turn over a non-exclusive easement to Dooley Drive and to the 40 foot easement set out in Plat Book 135, Page 3 to access the dam to the homeowners association.
  - (Q) Hours of operation for the residents' storage building shall be restricted to 7:00 a.m. through 9:00 p.m.
  - (R) There shall be no signs identifying the residents' storage building or area at either entrance, other than address signs or other signs required by applicable local ordinances.
  - (S) The exterior of the residents' storage building shall be consistent with the exterior of the other units at Waterford, Phase Two.
  - (T) Brick Restrictions and Heated Square Foot Size Restrictions:

- (1) The first two triplex units beyond 2458 Waterside Drive, units 1 – 12 on the preliminary map, will be restricted to triplexes with 1500-1350-1500 sq. ft. minimum heated space and three two car garages will all exterior brick/stone.
- (2) The four triplex units facing the pond on Waterford Court, Units 55 – 60 and 88 – 93, will be restricted to triplexes with 1500-1350-1500 sq. ft. minimum heated space and three two car garages and all exterior brick/stone.
- (3) All duplex units will be restricted to duplexes with 1500-1500 sq. ft. minimum heated space and two, two car garages with fronts of all exterior brick/stone.
- (4) All units will have brick/stone fronts.
- (5) The two triplex units across Richardson Lake will be triplex units 1500-1350-1500 sq. ft. minimum heated space and all brick/stone exterior (identified as 2 triplex units 88 – 90 & 91 – 93) and three two car garages per unit.
- (6) All other triplex units to be built in the new second and subsequent phases will have a minimum of 1350 square feet of heated space for the interior (middle) unit and the two outside units will have no less than 1500 heated square feet.
- (7) All duplex units to be built in the new second and subsequent phases will have a minimum of 1500 square feet of heated space in each unit.

In the event of any conflict between the above-stated provisions of conditional use permit condition (T) and the site plan reviewed on June 8, 2017, the provisions found in condition (T) of the permit shall be the controlling authority. Furthermore, if such a conflict is discovered, the Applicant shall promptly submit a revised site plan that reflects strict conformity with the conditions stated herein.

- (U) Prior to the issuance of a zoning compliance permit for the proposed land use, the attorneys who appeared on behalf of the represented private parties during the quasi-judicial hearing conducted by the Council shall deliver to the zoning administrator an accurate and legible copy of a fully executed private development agreement indicating that their clients have reached a meeting of the minds with regard to the following issues that were raised during the hearing of this matter:
- (1) Restrictive Covenants: The second and subsequent phases will comply with all covenant guidelines currently enforced in Phase 1 as set out and recorded in Book 2064, Page 340 and in Article VII Sections 1 – 10 except as to the heated square footage of the units, which will be as set out in these conditional use requirements.
  - (2) Common Areas: If common areas are developed in the second phase, they will be developed under declarant control, but nothing will be built without a majority of existing homeowners' approval.

The zoning administrator will not review the agreement for legal sustainability, and no city officials will undertake enforcement of the provisions contained within the private development agreement. The city official's sole standard for determining whether this condition has been satisfied is whether a legible copy of a document evidencing an agreement between the represented parties as to the two issues listed in conditional use permit condition (U) has been submitted.

- (V) 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.

#### Part 2 – Subdivision Sketch Design Review

The Application for subdivision sketch design plat submitted under case no. SUB-17-01 is hereby approved with the following comments/conditions:

- (A) Homeowners association documents must be recorded with the final plat, including restrictions pertaining to recreational vehicle parking.
- (B) New Construction plans must be submitted to the city's public works division prior to starting development. Plans must show proposed locations on the site of individual water and sewer services with connections to the mainlines for each of the proposed units.

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 13<sup>th</sup> day of July, 2017.

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

ATTEST:

/s/ Tammy M. Williams  
Tammy M. Williams, Deputy City Clerk

**(d) Approval to schedule and advertise public hearings to be held on August 10, 2017, for the following zoning cases: [Consent Agenda Item (f)]**

- (i) Application to rezone property located at 125 South Church Street (Randolph County Parcel Identification Number 7751725650) from I2 (General Industrial) / B3 (Central Commercial) to entirely B3 zoning;
- (ii) Application to apply city R10 zoning to the Northampton Heights Subdivision territory annexed into the city on June 30, 2017; and
- (iii) Application for Special Use Permit authorizing the Asheboro Housing Authority to add to the administrative building located at 338 Independence Drive (Randolph County Parcel Identification Number 7751617880).

**5. Community Development Director Trevor Nuttall introduced the following land use cases:**

**(a) Combined hearing on the application (Case No. RZ/CUP-17-04) to rezone property at 312 W. Ward Street from RA6 (High-Density Residential) and OA6 (Office-Apartment) to CUB2 (Conditional Use General Commercial) and to obtain a conditional use permit authorizing a large child care center.**

Since this combined hearing was quasi-judicial in nature with the accompanying requirement for witnesses appearing before the council to present sworn testimony, the following individuals were placed under oath before any evidence was received into the record:

- 1. Trevor Nuttall, Community Development Director
- 2. Karen Lassiter, Applicant
- 3. Waylon Robbins, Site Planner
- 4. Ben Morgan, Attorney for Applicant

The applicant, Ms. Lassiter, requested that the council rezone the property at 312 W. Ward Street (hereinafter referred to as the "Zoning Lot"), more specifically identified by Randolph County Parcel Identification Number 7751744501, from a combination of RA6 (High-Density Residential) and OA6 (Office-Apartment) zoning to CU-B2 (Conditional Use General Commercial) zoning. Along with the requested rezoning, Ms. Lassiter also applied for a conditional use permit authorizing a large child care center that could provide services to 80 or more children.

City staff members in the community development division provided to the mayor and council members the following analysis of the application to place the Zoning Lot in a CU-B2 zoning district:

The property (Zoning Lot) is located inside the City Activity Center, which is described by the Land Development Plan (LDP) as "the historic core of community life in Asheboro." This description further states that the City Activity Center "incorporates a mix of commercial, office, institutional, residential, and public open space uses."

The property (Zoning Lot) is situated among a mix of uses and zoning districts which are more intense than the requested CU-B2 district. Two sides of the property are adjacent to properties with general district B2 (General Commercial) zoning and I2 (General Industrial) zoning. These surrounding properties have the potential to be more intensive than the requested CU-B2 district.

The requested CU-B2 district can accommodate a number of potential uses that are consistent with the City Activity Center designation, and the conditional use permitting process will help ensure that both the use and manner in which the property develops is an appropriate fit for this location.

Finally, several environmental factors are supportive of the request.

The environmental factors referenced in the staff analysis include the following factors: (1) The Zoning Lot is located outside of any watershed; (2) The Zoning Lot is located outside of any Special Hazard Flood Area; (3) The area for which rezoning is sought is not located on steep slopes of greater than 20%; and (4) The area for which rezoning is sought is not located on poor soils. In light of the above-quoted analysis and the stated environmental factors, the city's planning staff recommended approval of the applicant's rezoning request because the district requested for the Zoning Lot to be reasonable, consistent with the adopted comprehensive plans, and in the public interest.

The Asheboro Planning Board concurred with the planning staff's analysis and recommended approval of the requested rezoning. Prior to deliberating about the requested conditional use permit, the council members addressed the legislative issue of placing the Zoning Lot in a CU-B2 zoning district. Council Member Bell moved (a) to adopt the staff and planning board analysis as the basis for the council's consistency and reasonableness statement and (b) to approve the application to place the Zoning Lot in the requested CU-B2 zoning district. Council Member Carter seconded the motion. Council Members Bell, Burks, Carter, Redding, and Snuggs voted unanimously in favor of the motion.

With the adoption of this two-part motion, the council placed the Zoning Lot in the requested CU-B2 zoning district and adopted as its own the following consistency/reasonableness statement:

The requested rezoning is consistent with the city's adopted comprehensive plans. The Zoning Lot is located inside the City Activity Center, and the City Activity Center is described by the Land Development Plan (LDP) as "the historic core of community life in Asheboro." This description further states that the City Activity Center "incorporates a mix of commercial, office, institutional, residential, and public open space uses."

The Zoning Lot is situated among a mix of uses and zoning districts which are more intense than the requested CU-B2 district. Two sides of the property are adjacent to properties with general district B2 (General Commercial) zoning and I2 (General Industrial) zoning. These surrounding properties have the potential to be more intensive than the requested CU-B2 district.

The requested CU-B2 district can accommodate a number of potential uses that are consistent with the City Activity Center designation, and the conditional use permitting process will help ensure that both the use and manner in which the property develops is an appropriate fit for this location.

Finally, the reasonableness and compatibility of the said rezoning application with the public interest is reinforced by the following environmental factors: (1) The Zoning Lot is located outside of any watershed; (2) The Zoning Lot is located outside of any Special Hazard Flood Area; (3) The area for which rezoning is sought is not located on steep slopes of greater than 20%; and (4) The area for which rezoning is sought is not located on poor soils.

After placing the Zoning Lot in a CU-B2 zoning district, the council deliberations shifted to the question of the issuance of the requested conditional use permit. Council Member Bell moved, on the basis of the evidence presented during the quasi-judicial hearing, to find that the applicant had satisfied the standards for the issuance of a conditional use permit and to approve, with conditions, the issuance of a conditional use permit authorizing the development and operation of a Child Care Center – Large, as defined by the Asheboro Zoning Ordinance, on the Zoning Lot. Council Member Snuggs seconded the motion. Council Members Bell, Burks, Carter, Redding, and Snuggs voted unanimously in favor of the motion.

The final decision document containing the council's findings of fact, conclusions of law, and order, including the specific conditions attached to the permit, will be entered by the council during its next regular meeting on August 10, 2017.

**(b) SUB-17-01: Preliminary Plat for Waterford Villas, Phase 2, Section 1.**

The applicant, Waterford RE, LLC, has submitted a subdivision preliminary plat for Waterford Villas, Phase 2, Section 1 that pertains to approximately 13.04 acres out of 38 acres for the entire Phase 2 of the Waterford Villas subdivision. The Randolph County Parcel Identification Numbers referenced by the planning department staff analysis of this request are as follows: 7763265981, 7763275095, 7763270025, 7763265467, and 7763265562.

The applicant is proposing developing Phase 2 of the subdivision in several sections. In Section 1, the applicant proposes 26 lots plus common area. The average lot size is approximately 2,277 square feet.

With conditions, the planning staff and the planning board recommended approval of the applicant's subdivision preliminary plat. Mr. Burks moved, and Ms. Redding seconded the motion, to adopt the planning staff and planning board recommendations to approve the preliminary plat with the following conditions: (1) Water/sewer certifications and as-built engineering required with the final plat; (2) The city's public works division will prepare punch lists for all infrastructure to be maintained by the city, and these punch lists must be satisfactorily addressed prior to final plat approval; (3) A proportionate amount of recreation space, including required access to this space, as required by the city's zoning and subdivision ordinances must be installed for this section of the development; (4) Prior to construction, all applicable regulatory approvals must be granted; and (5) Homeowners' association documents, including recreational

vehicle parking restrictions and maintenance mechanisms for the common area, must be recorded with the final plat.

Council Members Bell, Burks, Carter, Redding, and Snuggs voted unanimously in favor of the motion and approved the preliminary plat with the above-stated conditions.

**(c) SUB-17-02: Subdivision Sketch Design approval for Robins Nest, Phase 2.**

The applicant, McDowell Timber Company, has submitted for review and approval a subdivision sketch design for Robins Nest, Phase 2 that is located on the west side of Gold Hill Road, north of East Allred Street. The parcel information included in the planning staff's analysis of the application identifies approximately 27.88 acres of land with the following Randolph County Parcel Identification Numbers: 7762658808, 7762750195, 7762751483, 7762752727, and 7762754678.

The proposed number of lots is 44. The average lot size is shown as approximately 21,320 square feet. The property is located in the city limits of Asheboro and all city services are available.

The proposal is for a conventional residential subdivision with single-family and two-family dwellings that are permitted in the R10 zoning district. A portion of the property is located in a Special Hazard Flood Area. Two existing entrances serve the development from the existing Phase 1.

The planning department staff commented that the city's subdivision ordinance provides as follows: "Permanent dead-end streets shall not exceed five hundred (500) feet in length unless necessitated by topography or property configuration and shall be provided with a turnaround." In connection with this requirement, the applicant has revised the sketch design to show a cul-de-sac with adequate right-of-way to extend to the adjoining property.

A second comment provided by city staff members was that fire hydrant locations must be coordinated with the Asheboro Fire Department. With the inclusion of these two comments, the planning staff recommended approval of the subdivision sketch design. The planning board concurred with the planning staff recommendation and comments.

Council Member Bell moved, and Council Member Burks seconded the motion, to concur with the recommendations of the planning staff and board and to approve, conditioned on the inclusion of the above-stated planning staff comments, the subdivision sketch design. Council Members Bell, Burks, Carter, Redding, and Snuggs voted unanimously in favor of the motion and approved the subdivision sketch design with the above-stated conditions.

**(d) SUB-17-03: Subdivision Sketch Design review for Timber Ridge Subdivision.**

The applicant, McDowell Timber Company, has submitted for review and approval of a subdivision sketch design for the Timber Ridge Subdivision that is located on the south side of East Allred Street, west of Northshore Drive. The parcel information included in the planning staff's analysis of the application lists approximately 23.94 acres of land identified by Randolph County Parcel Identification Number 7762401442.

The proposed number of lots is 42. The average lot size is shown as approximately 19,952 square feet. The property is located outside the city limits of Asheboro. Access to city services such as water and sewer would require annexation of the property.

The proposal is for a conventional residential subdivision. Single-family dwellings are permitted in the R15 zoning district with a minimum of 15,000 square foot lots. A small portion of the property to the rear of four of the proposed lots is zoned R10 Medium-Density residential.

A stream runs through a portion of the property, however, the property is outside of the city's watershed area. A small portion of the property is located in a Special Hazard Flood Area.

Two entrances proposed along East Allred Street.

With regard to comments from the city departments, the engineering department commented that annexation would be required prior to approval of a preliminary plat. A second comment from city staff was that fire hydrant locations must be coordinated with the Asheboro Fire Department.

With the inclusion of these two comments, the planning staff recommended approval of the subdivision sketch design. The planning board concurred with the planning staff recommendation and comments.

Council Member Bell moved, and Council Member Burks seconded the motion, to concur with the recommendations of the planning staff and board and to approve, conditioned on the inclusion of the above-stated planning staff comments, the subdivision sketch design. Council Members Bell, Burks, Carter, Redding, and Snuggs voted unanimously in favor of the motion and approved the subdivision sketch design with the above-stated conditions.

**6. Public hearing on possible applications for funding under Fiscal Year 2017-18 State Community Development Block Grant (CDBG) Program.**

Mayor Smith opened a public hearing to discuss and solicit input on possible applications for funding under the Fiscal Year 2017-2018 State CDBG Program. As part of the advertised hearing, Community Development Director Trevor Nuttall explained that the CDBG Program permits a wide range of development activities directed towards promoting the creation or retention of jobs, enhancing income levels, and providing local employment opportunities principally for persons with low and moderate income. Applications for CDBG assistance must show that at least 60% of the program funding proposed for each activity will benefit low and moderate income persons.

The purpose of this hearing was to obtain citizen input into the identification of economic needs and desired economic development activities. Any input will be incorporated into the consideration and submission of a CDBG application to the Department of Commerce.

After this hearing, if the city decides to pursue any specific projects, a project specific hearing will be scheduled and advertised. In essence, this hearing is step one in a 2-step process.

When Mr. Nuttall concluded his comments, only one citizen, Mr. Tim Greene, came forward to speak. Mr. Greene's comments were in the form of general questions designed to gain a better understanding of the process.

Mayor Smith closed the public hearing when no one else expressed an interest in speaking. No action was requested of the council, and none was taken.

**7. 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.

**8. Recreation Services Superintendent Jonathan Sermon presented the following items related to recreation services:**

**(a) Consideration of awarding a roof replacement contract for the recently acquired recreation facility.**

Mr. Sermon presented to the council a summary of the bids received to complete the roof replacement at the fitness center/recreation facility recently acquired from the Acme-McCrary Corporation. The following bids were opened at 2:00 p.m. on May 1, 2017:

1. BIRS, Inc.	\$245,130.00
2. McRae Roofing, Inc.	\$214,752.00
3. Triad Roofing Company, Inc.	\$189,000.00

Mr. Sermon asked the council to award the roof replacement to the lowest responsive bidder which was Triad Roofing Company, Inc. with a bid of \$189,000.00. Council Member Bell moved to award the roof replacement contract to the said lowest responsive bidder, and this motion was seconded by Council Member Carter. Council Members Bell, Burks, Carter, Redding, and Snuggs voted unanimously in favor of the motion and awarded the roof replacement contract to Triad Roofing Company, Inc.

**(b) Announcement of a special city council meeting on July 25, 2017 to tour the new recreation/fitness center.**

A special meeting will be held at the newly acquired recreation center located at 148 North Street in Asheboro on July 25, 2017. The primary focus of this special meeting is a tour of the recreation facility. During the tour, proposed renovations, improvements, and uses for the facility will be highlighted by the city manager and the recreation services superintendent. This special meeting will begin at 6:30 p.m. on July the 25<sup>th</sup>.

**9. City Engineer Michael Leonard, PE will present the following updates:**

**(a) New Century Drive Extension.**

Mr. Leonard announced that the New Century Drive Project is now complete. The city engineer used a visual presentation to show the council the completed project.

No action was requested of the council, and none was taken.

**(b) Church Street Water Tank Parking Facility Improvements.**

Mr. Leonard announced that, except for waiting for the power pole installation by Duke Progress Energy, the improvements to the parking facility at the Church Street water tank have been completed. The improved parking area has 41 marked spaces.

A visual presentation was used by Mr. Leonard to show the elected officials and anyone in attendance at the meeting the completed improvements to the parking facility. No action was requested of the council, and none was taken.

**10. Entry into closed session.**

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, Council Member Carter moved to go into closed session pursuant to Section 143-318.11(a)(4) of the North Carolina General Statutes. This motion was seconded by Council Member Burks. Council Members Bell, Burks, Carter, Redding, and Snuggs voted unanimously in favor of motion, and the Council then went into closed session.

**11. Upcoming events and items not on the agenda.**

After returning to open session, Mayor Smith announced upcoming events. No items were presented for action by the council, and no action was taken.

**12. Adjournment.**

With no further business to conduct, the meeting was adjourned at 8:54 p.m.

                  /s/Tammy M. Williams                    
Tammy M. Williams, Deputy City Clerk

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