

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, JULY 12, 2018
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, NCCP, City Clerk/Paralegal
Mark T. Lineberry, Assistant Chief of Police
Trevor L. Nuttall, Community Development Director
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. Consent agenda.

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

(a) The meeting minutes for the city council's regular meeting on June 7, 2018.

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

(b) The meeting minutes for the city council's special meeting on June 26, 2018.

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

(c) Acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for June 4, 2018.

The minutes of the meeting held by the Asheboro ABC Board on June 4, 2018 have been received by the city clerk, distributed to the mayor and members of the city council for review, and are on file and available in the city clerk's office.

- (d) The final decision document for land use case nos. CUP-18-06 and SUB-18-01.

**Case Nos. CUP-18-06 and SUB-08-01
Final Decision Document
City Council of the City of Asheboro, North Carolina**

**IN THE MATTER OF THE APPLICATION BY JOHN T. ROBBINS FOR A CONDITIONAL USE PERMIT,
INCLUDING SUBDIVISION SKETCH DESIGN APPROVAL, AUTHORIZING A RESIDENTIAL
PLANNED UNIT DEVELOPMENT KNOWN AS ZOOCREST TOWNHOMES**

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

THIS LAND USE CASE initially came before the Asheboro City Council (the "Council") for a properly advertised quasi-judicial hearing on May 10, 2018, and was ultimately heard by the Council during its regular meeting on June 7, 2018. During the hearing on June 7, 2018, the Council received evidence, including sworn testimony, and deliberated upon the question of whether to approve John T. Robbins' application for a Conditional Use Permit ("CUP") and to grant the corresponding subdivision sketch design approval for a residential planned unit development ("PUD"). 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. John T. Robbins (the "Applicant") has properly applied for a CUP and corresponding subdivision sketch design approval for a PUD with 36 dwelling units.

2. The PUD is proposed for a parcel of land owned at the time of the hearing by James Pierce Hill, Jr. and located at 1223 Crestview Church Road. This parcel of land (the "Zoning Lot") is approximately 10.46 acres in size and is more specifically identified by Randolph County Parcel Identification Number 7669289834.

3. In a legislative act, the Council placed the Zoning Lot in a CU-R10 (Conditional Use Medium-Density Residential) zoning district before deliberating about the requested CUP.

4. Section 102 of the City of Asheboro Zoning Ordinance (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.

5. Section 102 of the AZO also provides:

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 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.

6. 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.*

7. Section 210 of the AZO contains a statement of intent for the R10 residential zoning district, and this statement of intent provides as follows:

The R10 Residential District is intended to provide regulations which will produce a moderate intensity of residential uses, usually single family or two family in character and served by central water supply and sewage disposal systems, plus the necessary governmental and other support facilities to service such urban intensity living.

8. A PUD, which is the land use for which the Applicant is seeking approval, is permitted by special use permit in an R10 zoning district, and the Zoning Lot is now zoned CUR10.

9. Section 630, Subsection A of the AZO lists the following specific requirements for the issuance of a special use permit, which will be a CUP 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.*

10. The land uses surrounding the Zoning Lot are as follows:

North: Low-Density Residential

East: Low-Density Residential

South: Low-Density Residential

West: Low-Density Residential /
Undeveloped

11. 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 secondary growth area, and the proposed land development plan map designates the area as neighborhood residential.

12. The Zoning Lot's existing land use is classified as undeveloped.

13. The Applicant's proposal is to develop a PUD, which is to be known as ZOOCREST TOWNHOMES, with 36 lots. A duplex style will be used with two units in each of the 18 structures. Consequently, there will be 36 attached single-family dwellings.

14. Based on the submitted site plan, a typical dwelling unit is a single-story design with approximately 1,600 heated square feet plus a two-vehicle garage. The evidence submitted during the hearing of this case indicates that the proposed development will include a range of unit sizes with a minimum size of approximately 1,400 heated square feet.

15. Consistent with the requirements for PUD applications, the Applicant has submitted a major subdivision sketch design for review.

16. The subdivision sketch design review reveals that the average lot size for the 36 proposed lots is 2,630 square feet. In addition to the 36 lots, there is also common area. One recreation area with a picnic and play area is proposed for location between a pond on the Zoning Lot and Zoo Parkway.

17. The Zoning Lot is located at the intersection of Crestview Church Road with Zoo Parkway (North Carolina Highway 159). Zoo Parkway is a state-maintained major thoroughfare, and Crestview Church Road is a state-maintained minor thoroughfare.

18. There is one entrance to the overall development from Crestview Church Road, while two of the development's proposed units are directly accessible from Zoo Parkway. Vehicular access to the remainder of the units is proposed to be from new public streets within the development. Driveway permit approval from the North Carolina Department of Transportation will have to be obtained for the two units that are directly accessible from Zoo Parkway.

19. Community Development Director Trevor Nuttall provided uncontroverted testimony as to the planning department's favorable analysis of the sketch design plat's compliance with the specifications in the City of Asheboro Subdivision Ordinance. Prior to the hearing of this case, and in compliance with the applicable ordinance provisions, the City of Asheboro Planning Board reviewed the subdivision sketch design plat and forwarded a recommendation to approve the sketch design plat. This recommendation was accompanied by the comment that homeowner documents, which must include maintenance mechanisms for the common area and restrictions pertaining to recreational vehicle parking, will have to be recorded with the final subdivision plat.

20. Mr. H.R. Gallimore, who is an experienced real estate agent, offered uncontroverted testimony that the proposed land use will not have a negative impact on the marketing of properties surrounding the Zoning Lot and that past history indicates no injury will be done by the proposed PUD to the value of the adjoining parcels of land. Mr. Gallimore discussed the history of other developments comparable to the Applicant's proposed land use, and the Council finds this expert opinion credible.

21. The proposed PUD does not pose any elevated risk of generating health and safety concerns.

22. Community Development Director Trevor Nuttall provided uncontroverted testimony that, with the addition and benefit of seven conditions, the site plan submitted to the Council is in general compliance with the AZO regulations applicable to the proposed land use. The conditions offered by Mr. Nuttall are as follows:

- A. The site plan shows preservation of existing vegetation, outside of areas of necessary site disturbance, along the northern property boundary adjacent to the northern property boundary of Charles W. Wollard and Karla A. Wollard (See Deed Book 2032, Page 244, Randolph County Registry). If the vegetation is not preserved in this area, a Type A Buffer or Screen shall be installed by the developer.
- B. The enclosure of concrete pads to the rear of dwellings or other additions to the rear of residential dwellings outside of common area shall not be considered a modification of the permit requiring Council review.
- C. Units shall possess a minimum of 1,400 square feet of heated space.
- D. Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the Applicant shall provide documentation detailing the following approvals:
 - (1) Driveway permit approval from the North Carolina Department of Transportation.
 - (2) Erosion control approval from the North Carolina Department of Environmental Quality.
- E. Prior to the issuance of a certificate of occupancy for Unit 35 and Unit 36, the driveway for each unit shall be installed in compliance with Section 408, Subsection I of the AZO so that all maneuvering occurs on private property consistent with Section 408 of the AZO.
- F. If the driveway approvals issued by the North Carolina Department of Transportation for Unit 35 and Unit 36 (these units have driveway access directly from Zoo Parkway) require a different configuration for access and/or maneuvering, this change shall not be considered a modification requiring a new CUP. In such a case, information shall be submitted to city staff demonstrating compliance with the applicable AZO requirements for review, approval, and inclusion in the city planning department files without further review by the Council.
- G. Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute and deliver to the zoning administrator for recordation in the Office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the city attorney for the purpose of placing notice of the conditions attached to this CUP in the chain of title for the Zoning Lot.

23. Mr. Mack Summey, PE offered uncontroverted testimony that, in his professional opinion, the submitted site plan reflects a proposed land use that will comply with all applicable environmental permitting requirements.

24. The Zoning Lot owner was present during the hearing of this matter and is supportive of the Applicant's request. Mr. Jonathan Megerian, Esq. appeared on behalf of the property owner and the Applicant. Mr. Megerian testified that the Applicant accepts the conditions attached to the requested land use approvals.

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 that is located in a CU-R10 zoning district.

3. In light of the evidence and the Applicant's acceptance 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 AZO.

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, with the comments and conditions noted herein, is compliant with the applicable land use regulations.

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 approved site plan, and the following supplementary conditions:

- (A) The site plan shows preservation of existing vegetation, outside of areas of necessary site disturbance, along the northern property boundary adjacent to the northern property boundary of Charles W. Wollard and Karla A. Wollard (See Deed Book 2032, Page 244, Randolph County Registry). If the vegetation is not preserved in this area, a Type A Buffer or Screen shall be installed by the developer.
- (B) The enclosure of concrete pads to the rear of dwellings or other additions to the rear of residential dwellings outside of common area shall not be considered a modification of the permit requiring Council review.
- (C) Units shall possess a minimum of 1,400 square feet of heated space.
- (D) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the Applicant shall provide documentation detailing the following approvals:
 - (1) Driveway permit approval from the North Carolina Department of Transportation.
 - (2) Erosion control approval from the North Carolina Department of Environmental Quality.
- (E) Prior to the issuance of a certificate of occupancy for Unit 35 and Unit 36, the driveway for each unit shall be installed in compliance with Section 408, Subsection I of the Asheboro Zoning Ordinance so that all maneuvering occurs on private property consistent with Section 408 of the zoning ordinance.
- (F) If the driveway approvals issued by the North Carolina Department of Transportation for Unit 35 and Unit 36 (these units have driveway access directly from Zoo Parkway) require a different configuration for access and/or maneuvering, this change shall not be considered a modification requiring a new Conditional Use Permit. In such a case, information shall be submitted to city staff demonstrating compliance with the applicable Asheboro Zoning Ordinance requirements for review, approval, and inclusion in the city planning department files without further review by the Council.
- (G) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute and deliver to the zoning administrator for recordation in the Office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the city attorney for the purpose of placing notice of the conditions attached to this Conditional Use Permit in the chain of title for the Zoning Lot.

Part 2 – Subdivision Sketch Design Approval

The subdivision sketch design plat submitted under Case No. SUB-18-01 for the residential planned unit development known as ZOOCREST TOWNHOMES is hereby approved with the following comments/conditions:

only, or by means of a special use permit. In the RA6 zoning district, the table of uses does not permit professional services as a principal use, as an accessory use only, or by means of a special use permit.

7. Section 210 of the Ordinance contains a statement of intent for the RA6 residential zoning district. 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 serve 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.

8. The city's community development director, Trevor Nuttall, utilized the staff report prepared by the city's planning department to offer uncontroverted testimony as to the following details about the Zoning Lot and the larger parcel of land within which the Zoning Lot is located:

- (a) The parcel of land owned by ESIA is located within the city limits, and all city services are available to the property;
- (b) The parcel of land is contiguous with Brewer Street and Franks Street;
- (c) Brewer Street and Franks Street are both local streets;
- (d) In 1982, a special use permit (Case No. SUP-82-15) was issued for a large child care facility in the structure located on the Zoning Lot at 624 Brewer Street;
- (e) In 2001, the portion of the parcel of land owned by ESIA with a structure bearing the street address of 621 Franks Street was rezoned from an RA6 zoning district to a CU-B2 zoning district. This change in zoning enabled the city to issue a conditional use permit for a membership organization that in turn enabled the use of the gym located at 621 Franks Street by groups such as the boys and girls club. The current application does not involve any changes to the portion of the ESIA parcel of land associated with the 621 Franks Street address;
- (f) The professional services land use proposed for the Zoning Lot at 624 Brewer Street is permitted by right in the OA6 (Office-Apartment), O&I (Office and Institutional), M (Mercantile), B2 (General Commercial), B3 (Central Commercial), I1 (Light Industrial), and I2 (General Industrial) zoning districts. The professional services land use is not permitted by right in the RA6 zoning district;
- (g) No new structures or additions to existing structures are proposed for the Zoning Lot; and
- (h) The land uses surrounding the Zoning Lot are single-family residential and the Eastside public park to the north, single-family residential and undeveloped property to the south, undeveloped residential property to the east, and multi-family residential (Eastside Homes) to the west.

9. The large child care facility land use was authorized by the Ordinance in the RA6 zoning district when the above-referenced special use permit was issued in 1982. Subsequent to that date, the Ordinance was amended to remove that land use from the list of permitted land uses in the RA6 zoning district. The previously permitted large child care facility could continue as a legal nonconforming land use. As of the date of the hearing of this case, the large child care facility land use at 624 Brewer Street has ended.

10. Pursuant to the regulations of the Ordinance as of the date when the Applicant sought approval for a professional services land use on the Zoning Lot, the only procedural mechanism in the Ordinance that could be used to obtain the requested land use approval is found in the Ordinance's Article 800 (Nonconformities).

11. Section 803(B) of the Ordinance provides as follows:

(B) *Change of Use*

- (1) *A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.*

- (2) *A nonconforming use may be changed to another nonconforming use only in accordance with a Special Use Permit issued by the City Council. The Council shall issue such a permit if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for. If a nonconforming use is changed to any use other than a conforming use without obtaining a Special Use Permit pursuant to this paragraph, such a change shall constitute a discontinuance of the nonconforming use, with consequences as stated in subsection . . . 803(C).*
- (3) *If a nonconforming use and a conforming use, or any combination of conforming and nonconforming uses, or any combination of nonconforming uses exist on one lot, the use made of the property may not be changed substantially (except to a conforming use), only in accordance with a Special Use Permit issued by the City Council. The Council shall issue such a permit if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use or combination of uses in operation at the time the permit is applied for.*

12. Article 600 of the Ordinance addresses Special Uses. With regard to the general standards for special uses, Section 602.1 of the Ordinance provides as follows:

Except as provided in Section 602.2 of this Ordinance (Section 602.2 pertains to public use facilities and is inapplicable to this case), the City Council shall find that the following general standards shall be met by all applicants for approval of Special Uses:

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*
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.*

The City Council shall make these general findings based upon substantial evidence contained in its proceedings. It shall be the responsibility of the applicant to present evidence in the form of testimony, exhibits, documents, models, plans and the like to support the application for approval of a Special Use.

13. Mr. Tim Vincent, who is a representative of the Applicant, offered uncontroverted testimony that Ready 4 Change is properly licensed to offer at the professional services establishment proposed for the Zoning Lot outpatient treatment and counseling services for individuals dealing with mental health issues, substance abuse, and developmental disabilities.

14. Mr. Vincent also offered uncontroverted testimony as to the fact that Ready 4 Change already successfully operates the above-described treatment and counseling services in Greensboro and High Point. However, no substantive evidence was offered to explain the similarities and/or differences between the area in which the Zoning Lot is located and the sites in Greensboro and High Point where Ready 4 Change has been operating.

15. The Applicant did not offer testimony or documentary evidence relevant to examining the compatibility of the large child care facility land use authorized in the Zoning Lot's neighborhood since 1982 in comparison to the compatibility of the proposed professional services land use with the neighborhood in which the Zoning Lot is located.

16. No expert testimony was offered in connection with the impact of the proposed professional services land use on the value of the property adjoining 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 special use permit, prima facie the applicant is entitled to the permit.

2. In this case, the Applicant is seeking authorization for a professional services land use on a Zoning Lot that is located in an RA6 zoning district. Since professional services land uses are not permitted in the RA6 zoning district, this sort of application would normally be denied because of the failure to comply with the Ordinance's table of permitted uses and because the absence of the proposed use from the list of uses approved for a district reflects a legislative concern about the lack of harmony of the omitted land use with the other land uses that are permitted in the zoning district.

3. However, because of the unusual situation in which the existing use (a large child care facility in this case) is a legal nonconforming land use, Article 800 of the Ordinance offers the Applicant for a special use permit authorizing another nonconforming land use an opportunity to overcome the obstacles created by the general standards for the issuance of a special use permit.

4. In this case, the Applicant, pursuant to Section 803(B) of the Ordinance, must present competent, material, and substantial evidence that will enable the Council to find that the proposed professional services land use will be more compatible with the surrounding neighborhood than the previously permitted large child care facility land use.

5. The Applicant in this case did not present competent, material, and substantial evidence to satisfy the standard articulated in the immediately preceding paragraph.

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

ORDER

The Applicant's request for a special use permit authorizing a professional services land use on the Zoning Lot is hereby denied.

The foregoing final decision document was adopted by the Asheboro City Council in open session during a regular meeting held on the 12th day of July, 2018.

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

ATTEST:

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

- (f) **A resolution appointing Robert E. Morrison to a new 3-year term of office on the Asheboro ABC Board.**

RESOLUTION NUMBER 16 RES 7-18

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION APPOINTING ROBERT E. MORRISON TO
A NEW THREE-YEAR TERM OF OFFICE ON THE ASHEBORO ABC BOARD**

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

WHEREAS, in accordance with Section 18B-700(a) of the North Carolina General Statutes, the Council currently appoints Board members to terms of office that are three years in duration; and

WHEREAS, in August 2018, Robert E. Morrison will complete his second three-year term of office on the Board; and

WHEREAS, from the date of its creation in 2008 and throughout Mr. Morrison's two terms of service, 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 Robert E. Morrison to the Asheboro ABC Board for another three-year term of office, and Mr. Morrison has agreed to accept this reappointment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, effective August 13, 2018, Robert E. Morrison 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 12th day of July, 2018.

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

ATTEST:

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

- (g) **A resolution awarding to Charles L. Hamilton, upon his retirement from the Asheboro Police Department, his service side arm.**

RESOLUTION NUMBER 17 RES 7-18

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION AWARDING TO CHARLES L. HAMILTON, UPON HIS RETIREMENT FROM THE ASHEBORO POLICE DEPARTMENT, HIS SERVICE SIDE ARM

WHEREAS, after rendering honorable and valuable service to the City of Asheboro and its citizens since the date of his initial employment with the Asheboro Police Department on May 16, 2008, Master Police Officer Charles Lloyd Hamilton will begin his retirement from employment with the city effective August 1, 2018; and

WHEREAS, pursuant to and in accordance with Section 20-187.2 of the North Carolina General Statutes, the Asheboro City Council wishes to recognize and honor Officer Hamilton for his dedicated service to the city by awarding to him, at a minimal monetary cost, the service side arm that he carried at the time of his retirement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, effective August 1, 2018, in consideration of the combination of his dedicated service to the City of Asheboro and the payment to the city of \$1.00, Charles Lloyd Hamilton is to be awarded ownership of his city-issued service side arm (a Glock 23 Generation 4 with serial no. SFS 968 and three magazines) upon a determination by the chief of police that Mr. Hamilton is eligible under the applicable federal and state laws to receive, own, or possess a firearm.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting that was held on the 12th day of July, 2018.

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

ATTEST:

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

- (h) **A professional services proposal from ECS Southeast, LLP in the amount of \$5,000 for an environmental engineering study for the proposed Zoo City Sportsplex.**

[The approved professional services agreement is on file in the city engineering department.]

- (i) **The North Carolina Department of Transportation State Aid to Airports Block Grant Agreement to purchase property adjacent to the Asheboro Regional Airport.**

[The approved grant agreement is on file in the city engineering department.]

- (j) **Approval to schedule for August 9, 2018, and to advertise, public hearings pertaining to the following land use cases:**

- (i) Request to rezone property located at the western corner of East Dixie Drive and Arrowwood Road (Randolph County Parcel Identification Numbers 7760177267 and 7760177187) from CU-B2 (Conditional Use General Commercial) to B2 (General Commercial).

- (ii) Request to rezone property located on the north side of East Allred Street (Randolph County Parcel Identification Number 7762740259), west of 1591 East Allred Street, from R10 (Medium-Density Single-Family Residential) to CU-RA6 (Conditional Use High-Density Residential), issue a Conditional Use Permit authorizing a residential planned unit development, and approve a subdivision sketch design.
- (iii) Request for a Special Use Permit for Manufacturing, Processing, and Assembly (Light) in a Conditional Use General Commercial (CU-B2) district for property located at 307, 313, and 401 East Allred Street (Randolph County Parcel Identification Number 7762112401).
- (iv) Request to rezone property at 624 Brewer Street and 621 Franks Street (Randolph County Parcel Identification Number 7761146503) from RA6 (High-Density Residential) and CU-B2 (Conditional Use General Commercial) to O&I (Office and Institutional).

4. Public comment period.

Mayor Smith opened the floor for public comments.

During the public comment period, Mr. James Armstrong expressed his ongoing desire to work with the elected officials to make Asheboro a better place by continuing to work on public safety issues within the city.

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

5. Update on the recent Coach Russell Murphy football camp.

Mr. Willie Gladden thanked the City of Asheboro for its support of the recent Coach Russell Murphy football camp and reported that the camp was successful. Along with Mr. Gladden, members of the football camp's committee, Rev. John Spencer, Rev. Dexter Trogdon, Mr. Bernard Castelloe, and Vanessa Brooks, were in attendance.

No action was taken by the city council during this portion of the meeting.

6. Quasi-Judicial Hearing: Designation of the exterior of the Asheboro Female Academy, 1839, which is located at 1126 South Park Street, as a local historic landmark.

Mayor Smith opened the public hearing on the following request.

Mr. Ross Holt, County Library Director and member of the Randolph County Historic Landmark Preservation Commission, presented and recommended adoption, of an ordinance designating the exterior of the Asheboro Female Academy, 1839, as a local historic landmark in Randolph County. Additionally, Mr. Owen George presented comments in support of the request.

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

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

ORDINANCE NO. 15 ORD 7-18

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

AN ORDINANCE DESIGNATING THE EXTERIOR OF THE ASHEBORO FEMALE ACADEMY, 1839, AS A LOCAL HISTORIC LANDMARK IN ASHEBORO, NORTH CAROLINA

WHEREAS, Chapter 160A, Article 19, Part 3C of the North Carolina General Statutes provides for the designation of local historic landmarks; and

WHEREAS, the City of Asheboro designated the Randolph County Historic Landmark Preservation Commission as (sic) a joint historic preservation commission on September 4, 2008, having the authority to exercise, within the planning jurisdiction of the City of Asheboro, all powers and duties given it by the Randolph County Historic Preservation Ordinance; and

Holly H. Doerr, CMC, NCCMC, City Clerk

7. **Combined Quasi-Judicial Hearing:** An application to rezone property from R10 (Medium-Density Residential), B2 (General Commercial), and I2 (General Industrial) to CU-I2 (Conditional Use General Industrial) and to issue a Conditional Use Permit for a transfer station, including ancillary manufacturing, processing, and assembly activities. This property is located at 2445 and 2455 North Fayetteville Street and 200, 204, and 208 Pineview Street (Randolph County Parcel Identification Numbers 7753975069, 7753976059, 7753977009, 7753978029, 7753978243, 7763070038, 7753974069, and 7753973059).

Mayor Smith opened the combined public hearing on the question of the above-described requests for land use approvals. Mr. Nuttall was placed under oath and presented a written request from the Applicant to continue the public hearing to the Council's regular August 9, 2018 meeting.

Upon motion by Mr. Burks and seconded by Mr. Swiers, Council voted unanimously to continue the public hearing until the Council's regular August 9, 2018 meeting.

8. **Upcoming events.**

Mayor Smith led a brief discussion of upcoming events occurring with the city government and the community in general. No action was taken by the city council during this portion of the meeting.

There being no further business, the meeting was adjourned at 7:59 p.m.

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

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