

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, MAY 9, 2019
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) – Council Members Present
Walker B. Moffitt)
Jane H. Redding)
Charles A. Swiers)

Katie L. Snuggs) – Council Member Absent

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Michael L. Leonard, PE, City Engineer
Mark T. Lineberry, Assistant Chief of Police
Jody Maness, Assistant Recreation Services Director
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 recite the pledge of allegiance.

3. Consent agenda.

Immediately prior to the council members acting on the consent agenda, the city manager requested the withdrawal from consideration of a proposed engineering services agreement for the City of Asheboro Sanitary Sewer Lift Station No. 3 Improvements Project (this agreement was listed as Item 3(h) on the meeting agenda). The removal of the agreement from the consent agenda was requested because staff needed more time to address certain drafting issues. City staff anticipates presenting for approval a final draft of the engineering services agreement during the next regular meeting in June.

Council Member Burks moved to remove from consideration Item 3(h), which was the engineering services agreement discussed in the preceding paragraph, and to approve the remaining items on the consent agenda. Council Member Carter seconded the motion. Council Members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted unanimously in favor of the motion to adopt/approve the following consent agenda items:

- (a) **The meeting minutes for the city council's regular meeting on April 4, 2019.**

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 April 16, 2019.**

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) **The minutes and general account of the closed session held during the council's special meeting on April 16, 2019.**

The approved minutes and general account of the above-referenced closed session are on file in the city clerk's office. However, in compliance with the resolution approved as the next consent agenda item, the general account of the closed session is not currently available for inspection because such an inspection would frustrate the purpose of the closed session.

- (d) **A resolution sealing the general account of the closed session held on April 16, 2019.**

RESOLUTION NUMBER 17 RES 5-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**Resolution Sealing the General Account of a Closed Session
Conducted during a Special Joint Meeting with the
Randolph County Board of Commissioners
on April 16, 2019**

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

WHEREAS, pursuant to Section 143-318.11(a)(1) and Section 131E-97.3 of the North Carolina General Statutes, the city council, upon unanimous adoption of a properly made and seconded motion, went into closed session on April 16, 2019, during a joint special meeting with the Randolph County Board of Commissioners, in order to discuss privileged and confidential information pertaining to competitive healthcare activities by or on behalf of Randolph Health; and

WHEREAS, the purpose for going into closed session on April 16, 2019, would be frustrated if the general account of the closed session were to be made available for public inspection at this time.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the general account of the closed session conducted on April 16, 2019, is hereby sealed and will remain sealed so long as public inspection of the records would frustrate the purpose of the closed session; and

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

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on May 9, 2019.

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

ATTEST:

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

(e) The final decision document for land use case number CUP-19-04.

Case No. CUP-19-04
Final Decision Document
City Council of the City of Asheboro, North Carolina

**IN THE MATTER OF THE APPLICATION BY WYNNEFIELD
PROPERTIES, INC. FOR A CONDITIONAL USE PERMIT AUTHORIZING A
MULTIPLE FAMILY RESIDENTIAL DEVELOPMENT WITH
A FLOOR AREA RATIO OF UP TO 43%**

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

THIS LAND USE CASE came before the Asheboro City Council (the “Council”) for a properly advertised quasi-judicial hearing on April 4, 2019. During the hearing, the Council received evidence, including sworn testimony, and considered all competent evidence and argument. On the basis of competent, material, and substantial evidence, the Council hereby enters the following:

FINDINGS OF FACT

1. Wynnefield Properties, Inc. (the “Applicant”) has properly applied for a Conditional Use Permit (a “CUP”) authorizing a multiple family residential development with a floor area ratio of up to 43% (the “Multi-Family Development”).
2. The Multi-Family Development is proposed for approximately 4.01 acres of land (the “Zoning Lot”) owned by Debra Burrows Setzer and spouse, Timothy G. Setzer, the Milton F. Yates Trust Dated May 22, 1995, and Roger D. Yates and spouse, Rhonda Annette Yates.
3. The street address associated with the existing single-family dwelling on the Zoning Lot is 481 North Carolina Highway 49 South.
4. The Zoning Lot is more specifically identified by two Randolph County Parcel Identification Numbers: 7740931871 and 7740941140.
5. In a legislative act, the Council placed the Zoning Lot in a CU-RA6 (Conditional Use High-Density Residential) zoning district before deliberating about the requested CUP.
6. Section 102 of the City of Asheboro Zoning Ordinance (the “Ordinance”) 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.

7. Section 102 of the Ordinance 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.

8. Section 1013.2 of the Ordinance establishes the following standards for the issuance by the Council of a CUP:

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.*
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.*

9. Section 210 of the Ordinance 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.

10. A Multi-Family Development with a floor area ratio of up to 43% is permitted by special use permit in an RA6 zoning district.

11. For the proposed land use, Table 200-1 in the Ordinance prescribes an open space ratio of 40% and a recreation ratio of 6.6%.

12. Section 653 of the Ordinance is titled "Residential Development with Multiple Family Structures with a Gross Floor Area Ratio in Excess of 0.22 and Up to 0.43." This section of the Ordinance lists the following specific requirements for the issuance of the requested land use approval:

653.1 Development shall comply with all applicable zoning and subdivision ordinance standards except as modified herein.

653.2 Access shall be from a minor thoroughfare or higher classification street.

653.3 No parking shall be permitted within the first 25 feet of the required front yard.

653.4 Overflow parking spaces for visitors shall be provided. One overflow parking space shall be provided for every ten (10) required parking spaces within the development.

653.5 Parking of recreational vehicles, including but not limited to watercraft, travel trailers, and campers, is not permitted unless such parking occurs within an entirely enclosed structure that complies with the requirements of the Zoning Ordinance.

653.6 Within the required front yard, there shall be planted and maintained one tree which is not less than six feet in height at the time of planting, for each twenty linear feet of street frontage or portion thereof, and one evergreen shrub for each ten linear feet of street frontage or portion thereof. The balance of the required front yard shall be covered with evergreen ground cover or mulch.

653.7 A Type D buffer or screen shall be provided adjacent to single or two-family uses or zoning districts. A Type A buffer or screen shall be provided adjacent to all other uses or zoning districts.

653.8 Foundation plantings consisting of evergreen shrubs shall be installed along the entire front foundation wall of each building. Plant installation shall be a minimum of two feet in height planted at six-foot intervals.

653.9 All Facades: One hundred (100) percent of the area below the facia of any building, excluding trim and similar architectural detailing but including doors and windows, shall be finished with any Building Code approved material except:

- (a) *Unfinished wood, concrete block (except split-faced block), vinyl siding, metal panels, metal painted panels and any metal panel with "rib" or "u" configuration.*
- (b) *Laminated, composite or press board wood type materials composed of layers of firmly united wood materials made by bonding or impregnating superposed layers with resin and compressed under heat.*

653.10 *All multifamily structures less than three (3) stories in height using a sloped roof shall have a minimum slope of 5 in 12 on the principal roof. All multifamily structures not using a sloped roof shall have a parapet wall above the roof of at least three (3) feet in height.*

653.11 *Stormwater control measures designed by a licensed professional in accordance with the current North Carolina Department of Environmental Quality Stormwater BMP Manual shall be provided. Measures shall control the ten-year post-development peak discharge rates to pre-development peak flow rates. Prior to a Certificate of Occupancy, a licensed professional shall provide certification that the storm water control measures were built according to the plans. Any open water retention or drainage areas shall be managed to control mosquitos. The maintenance of all runoff control measures shall be the responsibility of the property owner.*

653.12 *The minimum recreation ratio may be satisfied with a mixture of indoor and outdoor amenity space, provided that no more than fifty (50) percent of the recreated space is located within an enclosed structure.*

653.13 *A full-time on-site manager shall be provided for multifamily dwellings with a total of 75 units or more. A permanent office shall be provided for the manager. The floor area contained in the on-site manager's office shall not be counted in the total FAR.*

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

North:	Industrial/Commercial/ Single-Family	East: Commercial
South:	Undeveloped Commercial	West: Commercially Zoned with Legal Non-Conforming Residential

14. 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 commercial.

15. The Zoning Lot is located inside the city's corporate limits.

16. North Carolina Highway 49 South is a state-maintained major thoroughfare.

17. The area in which the Zoning Lot is located is characterized by a mix of commercial, industrial, and residential uses, including a multi-family residential development to the southeast consisting of 216 dwelling units.

18. The Applicant's proposal calls for a multiple family residential development with a total of 72 residential units.

19. The proposed development consists of two 3-story residential structures plus an office/clubhouse and an outdoor recreation area for the use of the residents.

20. One entrance to the development from North Carolina Highway 49 South is proposed. Based on the feedback received from the North Carolina Department of Transportation, a traffic signal will not be required. However, some restriping of North Carolina Highway 49 South may be required.

21. Sidewalks have been proposed by the Applicant. The Department of Transportation has indicated that the sidewalk shown within the public right-of-way will need to be moved further south away from the travel lanes.

22. Community Development Director Trevor Nuttall provided uncontroverted testimony that the Applicant's proposal, with the attachment to the CUP of the staff's recommended conditions, is compliant with the specifications listed by the Ordinance for projects such as this Multi-Family Development.

23. Mr. Davis Ray was placed under oath and provided testimony on behalf of the Applicant. As part of his testimony, Mr. Ray expressed agreement with the following conditions that were recommended by the city's planning staff in order to ensure long-term compliance of the proposed development with the Ordinance:

1. *If additional pedestrian, vehicular, and/or driveway connections to adjoining properties are proposed in a manner that is consistent with the requirements of the Asheboro Zoning Ordinance, the Applicant shall submit a revised site plan to city staff for review and inclusion in the file without further review by the city council.*
2. *The exact location of the sidewalk parallel to North Carolina Highway 49 South shall be subject to approval by the North Carolina Department of Transportation ("NCDOT"). If the NCDOT does not issue an encroachment agreement for a sidewalk within the public right-of-way, the Applicant may construct on the Zoning Lot a sidewalk parallel to North Carolina Highway 49 South.*
3. *If the Applicant provides additional dumpster(s), that action will not be considered a modification so long as such an action is consistent with the requirements of the Asheboro Zoning Ordinance.*
4. *The following information shall be included on a revised site plan to be reviewed by city staff for inclusion into the file without further review by the city council:*
 - a. *Front yard landscaping details that comply with the Asheboro Zoning Ordinance.*
 - b. *Spelling of "space" in open space.*
 - c. *Corrected calculation of recreational space. [Staff Note: The Applicant labels less recreation space (3,000 square feet) than the amount shown on the site plan.]*
5. *Prior to issuance of a zoning compliance permit, the following approvals are required:*
 - a. *NCDOT driveway permit and encroachment agreement if a sidewalk is to be built within public right-of-way.*
 - b. *An erosion control permit from the North Carolina Department of Environmental Quality ("NCDEQ").*

- c. *Plans showing outdoor lighting information compliant with Section 318A of the Asheboro Zoning Ordinance.*
6. *Prior to the issuance of a certificate of zoning compliance, the developer shall provide a plat, prepared by a licensed surveyor, that is acceptable to the city and identifies easements necessary for public maintenance of any city utility including, but not limited to, water lines serving required fire hydrants. Upon plat acceptance, the property owner shall execute the necessary instrument, prepared by the city's legal department, to grant such easements to the city.*
7. *Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute and deliver to the Zoning Administrator for recordation in the office of the Randolph County Register of Deeds, a Memorandum of Land Use Restrictions prepared by the city attorney for the purpose of placing notice of the conditions attached to this Conditional Use Permit in the chain of title for the Zoning Lot.*

24. The proposed Multi-Family Development does not pose any elevated risk of generating health and safety concerns.

25. Mr. Ray, the Applicant's authorized representative, offered uncontroverted testimony as to the Applicant's experience with multiple family residential developments such as the current proposal and the positive impacts on value that these developments had produced for adjoining properties.

26. No testimony was offered in opposition to the Applicant's request or the testimony/evidence introduced during the hearing of this land use case.

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 CUP, 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 CUP authorizing a Multi-Family Development on the Zoning Lot, which is located in a CU-RA6 zoning district.

3. In light of the evidence and the Applicant's acceptance of the conditions attached to the CUP by the Council, the Applicant's proposed land use is compliant with the applicable requirements of the 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 CUP. The proposed land use will not materially endanger the public health or safety, meets all required conditions and specifications of the Ordinance, will not substantially injure the value of adjoining or abutting property, and will be in harmony with the area in which it is to be located and is in general conformity with Asheboro's plan of development.

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

ORDER

Subject to the following conditions, a Conditional Use Permit authorizing on the Zoning Lot the proposed multiple family residential development with a floor area ratio of up to 43% is hereby approved and issued to the Applicant and the Applicant's heirs, successors, and assigns. The continuing validity of this CUP 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:

1. If additional pedestrian, vehicular, and/or driveway connections to adjoining properties are proposed in a manner that is consistent with the requirements of the Asheboro Zoning Ordinance, the Applicant shall submit a revised site plan to city staff for review and inclusion in the file without further review by the city council.
2. The exact location of the sidewalk parallel to North Carolina Highway 49 South shall be subject to approval by the North Carolina Department of Transportation ("NCDOT"). If the NCDOT does not issue an encroachment agreement for a sidewalk within the public right-of-way, the Applicant may construct on the Zoning Lot a sidewalk parallel to North Carolina Highway 49 South.
3. If the Applicant provides additional dumpster(s), that action will not be considered a modification so long as such an action is consistent with the requirements of the Asheboro Zoning Ordinance.
4. The following information shall be included on a revised site plan to be reviewed by city staff for inclusion into the file without further review by the city council:
 - a. Front yard landscaping details that comply with the Asheboro Zoning Ordinance.
 - b. Spelling of "space" in open space.
 - c. Corrected calculation of recreational space. [Staff Note: The Applicant labels less recreation space (3,000 square feet) than the amount shown on the site plan.]
5. Prior to issuance of a zoning compliance permit, the following approvals are required:
 - a. NCDOT driveway permit and encroachment agreement if a sidewalk is to be built within public right-of-way.
 - b. An erosion control permit from the North Carolina Department of Environmental Quality ("NCDEQ").
 - c. Plans showing outdoor lighting information compliant with Section 318A of the Asheboro Zoning Ordinance.
6. Prior to the issuance of a certificate of zoning compliance, the developer shall provide a plat, prepared by a licensed surveyor, that is acceptable to the city and identifies easements necessary for public maintenance of any city utility including, but not limited to, water lines serving required fire hydrants. Upon plat acceptance, the property owner shall execute the necessary instrument, prepared by the city's legal department, to grant such easements to the city.
7. Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute and deliver to the Zoning Administrator for recordation in the office of the Randolph County Register of Deeds, a Memorandum of Land Use Restrictions prepared by the city attorney for the purpose of placing notice of the conditions attached to this Conditional Use Permit in the chain of title for the Zoning Lot.

The foregoing final decision document was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of May, 2019.

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

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina

(f) Acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for March 4, 2019.

The minutes of the meeting held by the Asheboro ABC Board on March 4, 2019, have been received by the city clerk, distributed to Mayor Smith and the Council Members for review, and are on file in the city clerk's office.

(g) Approval to schedule for June 6, 2019, and to advertise public hearings pertaining to the following land use cases:

- (i) Legislative Hearing: An application to rezone the property located at 2473 United States Highway 64 East (Randolph County Parcel Identification Number 7771263341) from B2 General Commercial to I1 Light Industrial.**
- (ii) Legislative Hearing: An application to rezone the property located at 2382 United States Highway 64 East (Randolph County Parcel Identification Numbers 7771159252 and 7771241808) from R40 Low-Density Residential to B2 General Commercial.**

The above-listed land use cases will be advertised and heard by the Council on June 6, 2019.

(h) Reappointment of the following individuals to 5-year terms of office on the Asheboro Redevelopment Commission:

- (A) Ms. Linda Carter**
- (B) Mr. David Jarrell**
- (C) Ms. Ann McGlohon**
- (D) Ms. Delilah Warner**

The above-stated reappointments were collectively identified as consent agenda item 3(i) on the meeting agenda prior to the previously discussed removal from the consent agenda of the engineering services agreement.

4. Community Development Items:

- (a) Case No. RZ-19-06: A legislative hearing on an application to rezone property located on the north side of East Salisbury Street, between 853 and 933 East Salisbury Street, from R7.5 (Medium-Density Residential) to OA6 (Office-Apartment). This property is more specifically identified by Randolph County Parcel Identification Numbers 7761229556, 7761229618, and 7761229996.**

Mayor Smith opened the public hearing, which was legislative in nature, on the request by Stephen "Bo" Davidson (the "Applicant") to rezone approximately 4.5 acres of land from R7.5 (Medium-Density Residential) to OA6 (Office-Apartment). The land to be rezoned (the "Zoning Lot") is owned by Davidson Builders and Properties, Inc.

Mr. Nuttall certified that the required notices of the requested rezoning had been provided and utilized a visual presentation to summarize the planning staff's analysis of the rezoning application. The staff report noted the following:

1. The property is inside the city limits.
2. The most recent 2014 Comprehensive Transportation Plan identifies this segment of East Salisbury Street/N.C. Highway 42 (a state-maintained major thoroughfare) as over capacity based on 2012 volumes measuring average annual daily vehicles/day (11,600 capacity vs. 13,000 AADT 2012 volume).
3. In order to relieve the congestion that currently exists on N.C. Highway 42 North, the current NCDOT Transportation Improvement Program has committed funding to road improvements (Project No. U-5743) along N.C. Highway 42 extending between the East Salisbury Street intersection and U.S. Highway 64 (East Dixie Drive). Proposed improvements include the addition of a center turn lane, sidewalks, curbing, and guttering. Public right-of-way acquisition is currently scheduled to begin in 2019, with construction scheduled to begin in 2020.
4. The requested zoning district allows residential (single-family, two-family, multiple-family) uses, office and institutional uses, and limited commercial uses. The OA6 zoning district is described by the zoning ordinance as "intended to produce moderate intensity office and residential development to serve adjacent residential areas and to provide a transition from residential to commercial uses. Land designated OA6 shall normally be located with access to a minor thoroughfare or higher classification street with access to local residential streets discouraged." Heavier commercial uses (such as retail, eating establishments, motor vehicle sales and major/minor repair, etc.) are prohibited in the OA6 district.

The Planning Board recommended approval of the request. This recommendation was based on the Planning Board's concurrence with the following analysis from the Community Development Division staff that evaluated the consistency of the requested rezoning with the adopted comprehensive plans as well as the reasonableness of the request and whether or not the requested rezoning is in the public interest:

Staff's analysis considers the appropriateness of both residential and non-residential uses permitted in the requested OA6 district.

The residential component of the district is supported by the LDP's designation of the property for "urban residential" uses.

Zoning and uses of properties for commercial or institutional purposes to the north, east, and south help make the OA6 district an appropriate transitional district at this location. Limitations on the types of commercial uses and development standards for non-residential uses also help protect adjoining residential properties from adverse impacts.

Additionally, committed road improvements for both motorists and pedestrians help alleviate concern over the current capacity issues of East Salisbury Street.

Considering these factors, staff believes the requested OA6 district is consistent with the Land Development Plan and therefore reasonable and generally in the public interest.

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

The city council concurred with the staff and planning board analysis of the general consistency of the request with the land development plan. Council Member Bell moved, and Council Member Moffitt seconded the motion, to adopt a consistency statement and to approve the requested rezoning with the following multi-part motion:

1. The residential component of the district is supported by the Land Development Plan's designation of the property for "urban residential" uses.

Zoning and the actual use of properties for commercial or institutional purposes to the north, east, and south help make the OA6 district an appropriate transitional district at this location. Limitations on the types of commercial uses and development standards for non-residential uses also help protect adjoining residential properties from adverse impacts.

Additionally, the North Carolina Department of Transportation's commitment to road improvements for both motorists and pedestrians mitigates the concern over the current capacity issues of East Salisbury Street.

Considering these factors, the Council has concluded that this application for a zoning map amendment is generally consistent with the Land Development Plan, is generally in the public interest, and supports a reasonable use of the property.

2. In light of the above-stated analysis, the requested zoning map amendment to place the Zoning Lot in an OA6 (Office-Apartment) zoning district is approved as consistent with the adopted plan.

Council Members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion. There were no dissenting votes. Consequently, the above-stated motion was adopted unanimously.

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

(b) Case No. SUB-19-01: A preliminary plat review for West Pointe Townhomes (formerly identified as "Sunny Day Townhomes").

Mr. Nuttall presented the preliminary plat for West Pointe Townhomes (formerly identified as "Sunny Day Townhomes"). Mr. Larry McKenzie (the "Applicant") requested the approval of a preliminary plat for 29 lots plus common area. The lots have an average lot size of approximately 3,072 square feet and are located along Sherwood Avenue and 145 and 159 Whitley Street.

The Applicant proposes a mix of detached patio style homes and attached duplex style units. The Council initially approved a Special Use Permit for the development in March 2019 with the approval of the final decision document for the Special Use Permit occurring in April 2019.

The Applicant proposes a combination of city-maintained and privately maintained streets. Whitley Street, which is proposed as a city-maintained street, contains approximately 640 linear feet. The privately maintained streets include approximately 1,000 linear feet.

One recreation area is proposed on the northern side of the property.

The city's subdivision ordinance generally specifies that proposed streets provide future access to adjacent properties. All properties that are adjacent to the subject property are developed. Consequently, this requirement impractical.

Since the time when this subdivision was first presented for review by the Council, a new name, West Pointe Townhomes, has been proposed for the subdivision. Additionally, some streets within the proposed development have revised names.

During his presentation, Mr. Nuttall noted that the Community Development Division staff and the Planning Board recommended approval of the request with the following comments/conditions:

Street names are subject to approval by Randolph County.

Homeowners' documents are required to be recorded with the final plat, which must include maintenance mechanisms for the common area and restrictions concerning recreational vehicle (RV) parking.

Upon motion by Council Member Bell and a second by Council Member Carter, the Council voted unanimously to approve the preliminary plat with the above-stated comments/conditions.

(c) Annual Planning Board Report.

Mr. Nuttall presented the annual report from the City of Asheboro Planning Board. A copy of this written report is on file in the City of Asheboro Community Development Division. No action was taken by the Council.

5. Public comment period.

Mayor Smith opened the floor for public comments.

Mr. Robert Edmonson of 1412 Shamrock Road expressed his on-going concerns regarding the storm-water drainage impacting his Shamrock Road property.

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

6. The award of contracts on the basis of recent bid solicitations:

(a) Flooring in the common areas of the Asheboro Recreation Center.

City Engineer Michael Leonard, PE reported that six (6) bids were received on April 29, 2019, at 2:00 p.m., for the flooring in the common areas of the Asheboro Recreation Center. He recommended the award of contract for this work to the apparent lowest responsive and responsible bidder, Sav-A-Lot Flooring by Flinchums, which submitted a bid of \$44,888.74.

Based on the staff report and recommendation, Council Member Bell moved, and Council Member Carter seconded the motion, to award the contract to Sav-A-Lot Flooring by Flinchums for the above-stated bid amount. Council Members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion.

A copy of the bid summary is on file in the city clerk's office.

(b) Pool deck resurfacing at Memorial Park and at North Asheboro Park.

Mr. Leonard reported that invitations to bid for the pool deck resurfacing project were sent to a total of 19 contractors in North Carolina. Of those, only one company, Carolina Surfacing, responded. Consequently, Mr. Leonard recommended the award of contract for the pool deck resurfacing work at Memorial Park and North Asheboro Park to Carolina Surfacing with the bid of \$201,723.89.

Based on the staff report and recommendation, Council Member Bell moved, and Council Member Swiers seconded the motion, to award the contract to Carolina Surfacing for the above-stated bid amount. Council Members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion.

A copy of the pool deck resurfacing bid summary is on file in the city clerk's office.

7. Annual report from the Asheboro Airport Authority.

Mr. Leonard presented the annual report from the Asheboro Airport Authority. A copy of the written report is on file in the city clerk's office.

No action was taken by the Council on this agenda item.

8. Presentation of an ordinance to implement administrative action taken by the airport authority in response to the council's most recent enactment concerning alcoholic beverage options at the airport.

Mr. Sugg presented and recommended adoption, by reference, of an ordinance concurring with a rule change approved by the Asheboro Airport Authority for the Asheboro Regional Airport.

Upon motion by Council Member Bell, and seconded by Council Member Swiers, the Council voted to adopt the following ordinance by reference. Council Members Bell, Burks, Moffitt, Redding, and Swiers voted in favor of the motion. Council Member Carter voted no.

ORDINANCE NUMBER 12 ORD 5-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

An Ordinance Concurring with a Change in the Rules and Regulations at the Asheboro Regional Airport

WHEREAS, the North Carolina Aviation Museum and Hall of Fame, Incorporated, a North Carolina nonprofit corporation, (the "Aviation Museum") is a tenant at the Asheboro Regional Airport; and

WHEREAS, in order to support its operations, the Aviation Museum conducts special fund raising events on the nonprofit corporation's leased premises at the Asheboro Regional Airport; and

WHEREAS, the Aviation Museum would like to have the option to include, in compliance with the applicable laws and administrative regulations, the sale of malt beverages and wine as part of these special events; and

WHEREAS, Section 130.03 of the Code of Asheboro (the Code of Asheboro will be hereinafter referred to as the "Code") regulates the consumption and possession of alcoholic beverages in certain locations, specifically including the city-owned real property at the Asheboro Regional Airport; and

WHEREAS, on April 4, 2019, the Asheboro City Council amended Section 130.03 of the Code to provide the Aviation Museum with an opportunity to host special events that include the serving of malt beverages and wine at the nonprofit corporation's facilities; and

WHEREAS, Section 38.01 of the Code provides as follows:

§ 38.01 ADOPTION BY REFERENCE.

The rules and regulations adopted by the Asheboro Airport Authority on April 16, 1991, and as amended, and entitled "Asheboro Regional Airport Rules and Regulations" are hereby adopted by reference and incorporated as part of this code as fully as if set out at length herein. Copies of the "Asheboro Regional Airport Rules and Regulations" are on file in the Office of the City Clerk.

WHEREAS, prior to the Asheboro Airport Authority meeting on April 16, 2019, Subsection b of Section 11 in the Asheboro Regional Airport Rules and Regulations (the Asheboro Regional Airport Rules and Regulations will be hereinafter referred to as the “Rules”) prohibited, without exception, the open display and use of alcoholic beverages on the airport premises; and

WHEREAS, during its meeting on April 16, 2019, the Asheboro Airport Authority voted to modify the Rules to conform with the city council’s amendment of Section 130.03 of the Code; and

WHEREAS, the Asheboro City Council concurs with the action taken by the Asheboro Airport Authority and deems it advisable to explicitly adopt by ordinance the amendment found in Section 11 of the Rules.

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

Section 1. The Rules, which have been incorporated by reference into the Code, are hereby amended by rewriting Subsection b in Section 11 of the Rules to provide as follows:

ALCOHOLIC BEVERAGES. With the exception of events held on the premises (Hangar G and Hangar L) leased to the North Carolina Aviation Museum and Hall of Fame, Incorporated and for which a special one-time permit for the sale or service of alcoholic beverages has been obtained from the North Carolina Alcoholic Beverage Control Commission, the open display and use of alcoholic beverages on the airport premises is prohibited.

Section 2. All ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

Section 3. This Ordinance shall be in full force and effect on and after May 9, 2019.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of May, 2019.

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

ATTEST:

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

Subsequent to the adoption of Ordinance No. 12 ORD 5-19, Council Member Moffitt moved to open a discussion concerning the option of allowing nonprofit groups to use the Sunset Theatre as a venue for events that include the sale of wine and beer. An ordinance amending the City of Asheboro Cultural and Recreation Services Policy Manual to provide for such an option was indefinitely tabled during the Council’s regular meeting in April 2019.

Council Member Bell seconded the motion to re-open this discussion. Council Members Bell, Burks, Moffitt, Redding, and Swiers voted in favor of the motion. Council Member Carter voted no.

Based on the text in the previously tabled ordinance, City Attorney Jeff Sugg summarized the proposed amendments to the Sunset Theatre rules in Article XIV of the city’s cultural and recreation services policy manual. Due to operational and risk management concerns associated with the city obtaining its own ABC permit in the retail business category, city staff has proposed enabling nonprofit renters such as theatrical production companies to obtain exclusive control of the Sunset Theatre as a venue for the set period of time during which an event will run and to apply for a Special One-Time permit from the North Carolina Alcoholic Beverage Control Commission allowing the sale of wine and beer during the event.

Subject to inspections by the city as the property owner to ensure compliance with the rental agreement, the nonprofit entity would be in charge of the event and the premises, specifically including all concession sales. No other rentals would be allowed at the Sunset Theatre during an event involving the sale of wine and beer by a nonprofit renter. Such an event would typically run for 2-week periods.

Council Member Burks then raised the point that, in his capacity as a business owner and subsequent to the last discussion of the proposed Sunset Theatre rule amendments, he entered into a contractual relationship to perform work for Rhinoleap Productions. Rhinoleap is a nonprofit theatrical production company that could avail itself of the potential amendments to the Sunset Theatre rules. Due to this financial conflict of interest, Council Member Burks asked to be excused from participating in the consideration of the proposed amendments to the Sunset Theatre rules.

Council Member Bell moved to excuse Council Member Burks from participating in the consideration of this matter, and Council Member Moffitt seconded the motion. Council Members Bell, Carter, Moffitt, Redding, and Swiers voted in favor of the motion to excuse Council Member Burks.

After some discussion, Council Member Bell moved, and Council Member Redding seconded the motion, to approve the rule changes found in the previously tabled ordinance and outlined during this meeting by the city attorney. The effective date of the Sunset Theatre rule changes would be July 1, 2019.

Council Members Bell, Moffitt, Redding, and Swiers voted in favor of the motion. Council Member Carter voted no. As noted above, Council Member Burks was excused from voting.

The ordinance containing the proposed rule changes will be presented for final consideration and a final vote during the Council's regular meeting in June 2019.

With the conclusion of the consideration of the Sunset Theatre rule changes, Council Member Burks rejoined the other members of the governing board to consider the remaining agenda items.

9. Finance Items:

(a) Consideration of two ordinances to amend the General Fund for fiscal year 2018-2019.

Finance Director Deborah Reaves presented and recommended adoption, by reference, of the above-listed General Fund ordinances.

Upon motion by Council Member Bell, and seconded by Council Member Carter, the Council voted unanimously to adopt the following two ordinances by reference.

13 ORD 5-19

ORDINANCE TO AMEND THE GENERAL FUND FY 2018-2019

WHEREAS, In August 2018, the City of Asheboro applied for a \$250,000 Building Reuse Grant with the NC Department of Commerce Rural Economic Development Division on behalf of the Pemmco Manufacturing Inc. for its 15,000 square feet expansion to its existing building and was awarded the grant November 2018, and;

WHEREAS, this grant has a 5% match to be shared by Randolph County Government and the City of Asheboro, and;

WHEREAS, the City of Asheboro anticipates that the State will be distributing the "pass thru" grant funds of \$250,000 prior to the end of the 2018-2019 fiscal year, and ;

WHEREAS, the City of Asheboro anticipates it will be distributing the City match of \$6,250 prior to the end of the 2018-2019 fiscal year, and

WHEREAS, The City Council of the City of Asheboro desires to amend the budget as required by law to adjust for these changes in revenues and expenditures in comparison to the current fiscal year adopted budget, and;

WHEREAS, the City Council of the City of Asheboro wants to be in compliance with all generally accepted accounting principles, and;

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

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

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>
10-349-0000	State Grants	250,000
10-399-0000	Fund Balance Appropriation	6,250
		<u>256,250</u>

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
10-490-3200	Grants- Pemco	256,250

Adopted this 9th day of May, 2019.

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

ATTEST:

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

14 ORD 5-19

ORDINANCE TO AMEND THE GENERAL FUND FY 2018-2019

WHEREAS, The City Council of the City of Asheboro desires to amend the budget as required by law to adjust for changes in expenditures in comparison to the current fiscal year adopted budget, and;

WHEREAS, the City Council of the City of Asheboro wants to be in compliance with all generally accepted accounting principles, and;

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

Section 1: That the following revenue line item be increased / decreased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase/ Decrease</u>
10-399-0000	Fund Balance Appropriation	200,000

Section 2: That the following expense line item be increased / decreased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase/ Decrease</u>
10-555-3200	Gas Oil Tires- Inventory	200,000

Adopted this 9th day of May, 2019.

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

ATTEST:

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

(b) Consideration of an ordinance to amend the Water and Sewer Fund for fiscal year 2018-2019.

Finance Director Deborah Reaves presented and recommended adoption, by reference, of the above-listed Water and Sewer Fund ordinance.

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

15 ORD 5-19

ORDINANCE TO AMEND THE WATER AND SEWER FUND FY 2018-2019

WHEREAS, The City Council of the City of Asheboro desires to amend the budget as required by law to adjust for changes in expenditures in comparison to the current fiscal year adopted budget, and;

WHEREAS, the City Council of the City of Asheboro wants to be in compliance with all generally accepted accounting principles, and;

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

Section 1: That the following revenue line item be increased / decreased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase/ Decrease</u>
30-399-0000	Fund Balance Appropriation	600,000

Section 2: That the following expense line item be increased / decreased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase/ Decrease</u>
30-810-3401	Meter Replacement	74,000
30-810-4500	Contracted Maintenance	26,000
30-830-3500	Chemicals	200,000
30-820-3500	Chemicals	300,000
		<u>600,000</u>

Adopted this 9th day of May, 2019.

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

ATTEST:

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

(c) Consideration of an audit contract for fiscal year 2018-2019.

Ms. Reaves presented the proposed audit contract with William R. Huneycutt, CPA, PLLC for fiscal year 2018-2019. The not-to-exceed gross fee for this contract is \$35,000.00.

Upon motion by Council Member Carter, and seconded by Council Member Swiers, the Council voted unanimously to approve, as presented, the above-stated audit contract for fiscal year 2018-2019. Council Members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the contract approval.

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

(d) Consideration of a contract to examine the ORBIT employee census data for the period January 1, 2018, to December 31, 2018, in accordance with the most recent edition of the North Carolina Local Governmental Employee Retirement System Handbook.

Ms. Reaves presented and recommended approval of the above-described proposed contract with William R. Huneycutt, CPA, PLLC. The not-to-exceed gross fee for this contract is \$7,000.00.

Upon motion by Council Member Bell, and seconded by Council Member Burks, the Council voted unanimously to approve, as presented, the contract with William R. Huneycutt, CPA, PLLC to examine the ORBIT employee census data for the period January 1, 2018, to December 31, 2018, in accordance with the most recent edition of the North Carolina Local Governmental Employee Retirement System Handbook. Council Members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the contract approval.

A copy of the contract is on file in the Finance Department.

(e) Consideration of a resolution approving installment financing agreement terms between the city and BB&T.

Ms. Reaves presented and recommended adoption, by reference, of a resolution approving installment financing terms with Branch Banking and Trust Company.

Upon motion by Council Member Moffitt, and seconded by Council Member Bell, the Council voted unanimously to adopt the following resolution by reference.

RESOLUTION NUMBER 18 RES 5-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A Resolution Approving Installment Financing Terms with
Branch Banking and Trust Company**

WHEREAS, the City of Asheboro (the "City") decided at the beginning of the current fiscal year to undertake a project for the financing of vehicles and equipment (the "Project"); and

WHEREAS, Section 160A-20 of the North Carolina General Statutes authorizes the City to finance the purchase of personal property by means of an installment financing contract that creates a security interest in the purchased property in favor of the entity supplying financing for the purchase transactions; and

WHEREAS, by means of adopting Resolution Number 21 RES 9-18 on September 6, 2018, the Asheboro City Council stated its intent, prior to the execution of any installment financing agreement and consistent with the city's budget ordinance for fiscal year 2018-2019, to expend a maximum of \$907,224 from the General Fund during the current fiscal year for certain vehicles and equipment referenced in the adopted Resolution of Intent; and

WHEREAS, with the adoption of Resolution Number 21 RES 9-18, the Asheboro City Council formally and explicitly declared the official intent of the City of Asheboro to fully reimburse, with loan proceeds from an installment financing agreement to be executed prior to the end of the 2018-2019 fiscal year, any and all expenditures from the General Fund for the purchase during the current fiscal year of the vehicles and equipment identified in the Resolution of Intent as necessary to the provision of essential municipal services; and

WHEREAS, after searching for favorable financing rates and terms, the city manager and the finance officer have presented a proposal for the financing of the above-referenced Project.

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

Section 1. The determination is hereby made that the City will finance the Project through Branch Banking and Trust Company (“BB&T”) in accordance with the proposal dated April 10, 2019. The amount financed shall not exceed \$611,738, the annual interest rate (in the absence of a default or a change in tax status) shall not exceed 2.76%, and the financing term shall not exceed 59 months from closing.

Section 2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents and to take all such further action as they may consider necessary or desirable to carry out the financing of the Project as contemplated by the proposal and this Resolution.

Section 3. The finance officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer’s satisfaction. To the extent authorized by law, the finance officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the finance officer shall approve, with the finance officer’s release of any Financing Documents for delivery constituting conclusive evidence of such officer’s final approval of the documents’ final form.

Section 4. The City shall not take or omit to take any action the taking or omission of which will cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as “qualified tax-exempt obligations” for the purpose of Internal Revenue Code Section 265(b)(3).

Section 5. In addition to the above-referenced Resolution of Intent (Resolution Number 21 RES 9-18), the City intends that the adoption of this Resolution will be a continuing declaration of the City’s official intent to reimburse expenditures for the Project that is to be financed from the proceeds of the BB&T financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City’s General Fund, or any other fund related to the Project, for Project costs may be reimbursed from the financing proceeds.

Section 6. All prior actions of City officers in furtherance of the purposes of this Resolution are hereby ratified, approved, and confirmed. All other resolutions (or parts thereof) in conflict with this Resolution are hereby repealed to the extent of any such conflict. This Resolution shall take effect immediately.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of May, 2019.

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

ATTEST:

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

10. Upcoming events.

Mayor Smith led a discussion of upcoming events occurring within 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 8:30 p.m.

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

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