

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, JULY 9, 2020
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:

Walker B. Moffitt) – Mayor Pro Tempore Presiding

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

Linda H. Carter) – Council Member Present by Telephone Conference Call

David H. Smith) – Mayor Absent

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Michael L. Leonard, PE, City Engineer
Mark T. Lineberry, Chief of Police
Trevor L. Nuttall, Community Development Director
Jeffrey C. Sugg, City Attorney
Willie Summers, Fire Chief

1. Call to order.

A quorum thus being present, Mayor Pro Tem Moffitt called the meeting to order for the transaction of business, and business was transacted as follows. The number of elected officials, city employees, and private citizens physically present in the council chamber at any point in time was limited in order to maintain the physical distancing recommended by public health authorities during the current coronavirus pandemic.

During each vote, specific inquiries were made to ensure that Council Member Carter, who was participating by conference call, was on the line and able to cast her vote.

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 Pro Tem Moffitt asked everyone to stand and recite the pledge of allegiance.

3. Old Business – Land Use Case Continued from Previous Meetings:

RZ-CUP-20-01 (Quasi-Judicial Hearing): An application to rezone property at 137 North Randolph Avenue (Randolph County Parcel Identification Number 7761027972) from R7.5 to CU-B2 zoning and to obtain a conditional use permit authorizing the rental/sales of domestic motor vehicles.

Mayor Pro Tem Moffitt re-opened the public hearing on the application by Brandon Allen (the “Applicant”) to legislatively rezone the above-described property (the “Zoning Lot”) and to obtain a Conditional Use Permit. This hearing, which was conducted as a quasi-judicial proceeding because of the conversion of the original application to a request for conditional use zoning with an accompanying Conditional Use Permit, was continued from the council’s meetings on April 9, 2020, May 7, 2020, and June 4, 2020.

Community Development Director Trevor Nuttall was placed under oath and presented the procedural history of this land use case. The previous substantive hearing of this case occurred on May 7, 2020.

The following italicized text has been excerpted from the council's approved meeting minutes for the May 2020 regular meeting in order to describe the information that was previously provided to the council and that was referenced as part of the quasi-judicial hearing on July the 9th:

In the matter of land use case file number RZ-20-01, Mayor Smith opened the public hearing on the application by Brandon Allen (the "Applicant") to rezone approximately 0.31 of an acre from R7.5 (Medium-Density Residential) to B2 (General Commercial). The parcel of land for which B2 zoning is requested (the "Zoning Lot") is owned by the Applicant and is more specifically identified by Randolph County Parcel Identification Number 7761027972.

Community Development Director Trevor Nuttall stated that, in addition to publishing the required notice of this hearing, legal notices were mailed to adjoining property owners. These notices were mailed on March 19, 2020.

Mr. Nuttall utilized a slide show to summarize the planning staff's analysis of the rezoning application. This analysis was summarized as follows:

- 1. The property is located inside the city limits.*
- 2. East Salisbury Street is a State-Maintained Major Thoroughfare.*
- 3. The most recent 2014 Comprehensive Transportation Plan identifies this segment of East Salisbury Street/NC Highway 42 as overcapacity based on 2012 volumes measuring average annual daily vehicles/day (11,600 capacity vs. 13,000 AADT 2012 volume).*
- 4. In order to relieve the congestion that currently exists on NC Highway 42 North, the current NCDOT Transportation Improvement Program has proposed road improvements (Project No. U-5743) along NC Highway 42 extending between the East Salisbury Street intersection and US Highway 64 (East Dixie Drive). Proposed improvements include the addition of a center turn lane, sidewalks, curbing, and guttering. The project's timetable anticipates a let date of late 2021.*
- 5. The city has submitted a request for consideration to the North Carolina Department of Transportation for a future widening of East Salisbury Street from Elm Street to the funded Project No. U-5743 as mentioned above. Draft 2023-2032 STIP release date is tentatively scheduled for February 2022.*
- 6. The requested B2 General Zoning district is intended to serve the convenience goods, shoppers goods retail, and service needs of the motoring public, both local and transient. This district should always be located with access directly to minor thoroughfares or higher classification streets, but never local residential streets.*
- 7. Approval of the request would allow any use permitted by right in the B2 district.*

In considering the goals and policies of the Land Development Plan, the planning staff's report noted that the Proposed Land Use Map designation is commercial, the Central Small Area Plan is applicable to the Zoning Lot, and the Growth Strategy Map designation is primary growth.

When the City of Asheboro Planning Board considered Mr. Allen's application, the recommendation from the planning board was to approve the requested rezoning. This recommendation was based on the Planning Board's concurrence with the following planning staff analysis that evaluated the consistency of the requested rezoning with the adopted comprehensive plans as well as the reasonableness of the request and whether the requested rezoning is in the public interest:

A commercial rezoning request is supported by the Land Development Plan's Proposed Land Use Map which calls for commercial development of this property as well as property immediately to the south and east, likely due to adjacent development and the continued growth in traffic volumes. A commercial designation for the property also is supported by current zoning to the north and west of the property, which is B1 Neighborhood Commercial and B2 General Commercial respectively. The property's proximity to the Center-City Activity Center tends to support the request; there are only six residentially zoned properties between the subject parcel and this Activity Center.

While ideally there is some transition between commercial and residential zoning districts and uses, any non-residential development of the property will be requested to install a landscape buffer or screen along the southern property line for the benefit of the adjacent residential property. Furthermore, front yard landscaping along East Salisbury Street and North Randolph Avenue also must be installed as part of any future commercial project. Moreover, design standards also will apply to any building constructed or located on the property, helping to advance the LDP's goal of encouraging commercial development to be visually appealing; the use of metal or vinyl on the front façade of any building will be restricted.

Considering all these factors, staff believes the request to be consistent with the Land Development, reasonable and in the public interest.

The Applicant, Brandon Allen, presented comments in support of the request.

Mr. Owen George presented comments and concerns in opposition to the requested rezoning. Additionally, Mr. George presented a signed petition from individuals who identified themselves as "Asheboro Property Owners and Residents of East Salisbury Street." The stated purpose of the petition was to express the petition signatories' "concern regarding a proposed rezone of property at 137 North Randolph Avenue from R7.5 Medium Density Residential to B2 (General Commercial) without requiring a conditional use permit."

A copy of the petition submitted to the city council is on file in the city clerk's office.

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

Initially, Council Member Bell moved to deny the requested rezoning and to adopt a consistency statement that rejected the requested zoning map amendment as inconsistent with the applicable plans. In concluding that the requested rezoning is inconsistent with the comprehensive plan, Council Member Bell applied greater weight than the planning staff to the incompatibility of the request with the applicable Small Area Plan, and he also applied greater weight than the planning staff to the concern that the requested rezoning would not promote the type of development described in the Design Principles. This motion did not receive a second from another member of the council.

After a substantive discussion about the above-stated concerns and the petition that referenced the conditional use permit process, the Applicant requested to continue the consideration of his application to the next regular council meeting. Council Member Bell then formally withdrew his initial motion to deny the request and moved to continue this land use case, including the public hearing, to the next regular council meeting on June 4, 2020. Council Member Carter seconded the motion to continue the case to the June meeting.

Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

During the quasi-judicial hearing held on July the 9th, Mr. Nuttall testified that the Applicant has now applied for CU-B2 Conditional Use General Commercial zoning and has applied for a Conditional Use Permit that would authorize the rental/sales of domestic motor vehicles on the Zoning Lot.

Mr. Nuttall also testified that legal notices for this hearing were published and mailed as requested by law. The required notices were originally mailed on March 19, 2020, and, due to the subsequent request for a Conditional Use Permit, were also mailed on June 23, 2020.

The report prepared by the planning department staff identified the following Land Development Plan goals/policies as supporting the rezoning request:

- Checklist Item 1:** Rezoning is compliant with the Proposed Land Use Map.
- Checklist Item 3:** The property on which the rezoning district is proposed fits the description of the Zoning Ordinance. (Article 200, Section 210, Schedule of Statements of Intent)
- Checklist Item 5:** The proposed rezoning is compliant with the objectives of the Growth Strategy Map.
- Checklist Item 10:** Rezoning is consistent with Land Category Descriptions
- Checklist Item 12:** Property is located outside of the watershed area, or the rezoning request will not impose a significant, negative environmental impact.
- Checklist Item 13:** The property is located outside of Special Hazard Flood Area.
- Checklist Item 14:** Rezoning is not located on steep slopes (>20%) or rezoning (and the development intensity permitted with the proposed district) is unlikely to create additional problems due to steep slopes.
- Checklist Item 15:** The rezoning is not located on poor soils or the rezoning district is unlikely to create additional problems caused by poor soil conditions.

In contrast, the report prepared by the planning department staff identified the following Land Development Plan goals/policies as not supporting the rezoning request:

Checklist Item 7: The proposed rezoning is not compatible with the applicable Small Area Plan.

Checklist Item 11: Rezoning will not promote the type of development described in Design Principles.

Mr. Nuttall's testimony then focused on the staff's analysis of the Conditional Use Permit application, which included a properly submitted site plan. The staff report submitted to the council noted, in part, as follows:

1. The request is for a Conditional Use Permit for rental/sales of domestic motor vehicles.
2. The Applicant has also filed a request to rezone the property from R7.5 Medium-Density Residential to CU-B2 (Conditional Use General Commercial). The Applicant's request has been modified from the previous B2 General Commercial District request.
3. No structures are proposed for this proposal. The Applicant proposes a graveled display area for vehicles for sale or rent. The office for the proposed land use is located on an adjoining property that is not part of this request.
4. The site plan shows access from the adjoining property, which has access from East Salisbury Street.
5. The site plan proposes a solid wooden fence and evergreen plantings on the south side of the property, adjacent to the residential use. Front yard landscaping consisting of shrubs is also located along the front 10' of East Salisbury Street and Randolph Avenue.
6. The zoning ordinance and city code generally prohibit outdoor storage of junked motor vehicles and junk materials. No open storage areas of other materials are shown on the site plan, therefore, this would not be permitted.

The planning board adopted the planning staff's analysis of the rezoning request and recommended approval of the requested rezoning for the Zoning Lot. The basis for this recommendation was articulated as follows:

A commercial rezoning request is supported by the Land Development Plan's Proposed Land Use Map which calls for commercial development of this property as well as property immediately to the south and east, likely due to adjacent development and the continued growth in traffic volumes. A commercial designation for the property also is supported by current zoning to the north and west of the property, which is B1 Neighborhood Commercial and B2 General Commercial respectively. The property's proximity to the Center-City Activity Center tends to support the request; there are only six residentially zoned properties between the subject parcel and this Activity Center.

While ideally there is some transition between commercial and residential zoning districts and uses, a conditional use zoning classification and permitting process can help ensure that any proposed use is not out of character with surrounding land uses.

Considering all factors, staff believes the request to be consistent with the Land Development Plan, reasonable, and in the public interest.

On behalf of the Applicant, Mr. Robert E. Wilhoit, Esq. and Real Estate Broker John Gatlin were placed under oath and offered testimony in support of the application. This testimony specifically included addressing the four standards for the issuance of a Conditional Use Permit.

The Applicant's attorney testified as to the Applicant's agreement with the following conditions that were recommended by the planning staff for attachment to the requested Conditional Use Permit.

1. No driveway access shall be permitted from North Randolph Avenue.
2. Additional information related to outdoor lighting shall be submitted to city staff demonstrating compliance with Section 317A.1 of the Zoning Ordinance (Performance Standards for all Commercial Zoning Districts-Light) for inclusion into the file without further review by city council.
3. 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.

There being no further comments and no opposition from the public, Mayor Pro Tem Moffitt transitioned to the deliberative phase of the hearing.

With regard to the requested zoning map amendment, the city council concurred with the staff and planning board's analysis of the consistency of the request with the land development plan. Council Member Bell moved, and Council Member Snuggs seconded the motion, to adopt the plan consistency statement printed below and to approve the requested rezoning with the following multi-part motion:

1. This commercial rezoning request is supported by the Land Development Plan's Proposed Land Use Map which calls for commercial development of this property as well as property immediately to the south and east, likely due to adjacent development and the continued growth in traffic volumes. A commercial designation for the property also is supported by current zoning to the north and west of the property, which is B1 Neighborhood Commercial and B2 General Commercial respectively. The property's proximity to the Center-City Activity Center tends to support the request; there are only six residentially zoned properties between the subject parcel and this Activity Center.

The council recognizes that ideally there is some transition between commercial and residential zoning districts and uses. However, a conditional use zoning classification and permitting process helps to ensure that any proposed use is not out of character with surrounding land uses. Thus, the city council finds the rezoning request to be reasonable and in the public interest.

2. In light of the above-stated analysis, and looking at the totality of the evidence, the requested zoning map amendment to place the Zoning Lot in a CU-B2 zoning district is approved as consistent with the adopted plan.

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

After approving the requested zoning map amendment, the Council Members concluded that the standards for granting the requested Conditional Use Permit had been met. Upon motion by Council Member Bell and seconded by Council Member Burks, the council voted unanimously to approve the requested Conditional Use Permit, with the stated conditions, authorizing the rental/sales of domestic motor vehicles on the Zoning Lot. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

The final decision document authorizing the Conditional Use Permit and specifying the conditions attached to the permit will be entered by the council during regular session on August 6, 2020.

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

4. Consent Agenda:

Upon motion by Council Member Bell and seconded by Council Member Burks, the council voted unanimously to approve/adopt the following consent agenda items. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

- (a) The meeting minutes for the city council's regular meeting held on June 4, 2020.**

The approved meeting 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 held on June 11, 2020.**

The approved meeting 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 meeting minutes for the city council's special meeting held on June 25, 2020.**

The approved meeting 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.

- (d) The final decision document for the land use case identified by file number CUP-20-03.**

**Case No. CUP-20-03
Final Decision Document
City Council of the City of Asheboro, North Carolina**

**IN THE MATTER OF THE APPLICATION BY KENNETH GALLIMORE AND
BRIDGET GALLIMORE FOR A CONDITIONAL USE PERMIT AUTHORIZING
LAND USES IDENTIFIED AS MOTOR VEHICLE REPAIR – MAJOR AND
RENTAL/SALES OF DOMESTIC MOTOR VEHICLES**

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

THIS LAND USE CASE came before the City Council of the City of Asheboro (the "Council") for a properly advertised quasi-judicial hearing on the question of whether to approve an application for a conditional use permit. The hearing was initially opened on May 7, 2020, and continued so that substantive sworn testimony could be received during a regular Council meeting on June 4, 2020. Having considered all competent evidence and argument presented on June 4, 2020, the Council, on the basis of competent, material, and substantial evidence, does hereby enter the following:

FINDINGS OF FACT

1. Kenneth Gallimore and Bridget Gallimore (the “Applicants”) properly submitted an application for a conditional use permit authorizing land uses identified in the City of Asheboro Zoning Ordinance (the “Ordinance”) as motor vehicle repair – major and rental/sales of domestic motor vehicles.

2. In compliance with the Ordinance, the Applicants included with their application a site plan showing the proposed land use on a parcel of land identified by Randolph County Parcel Identification Number 7761513992 (the “Zoning Lot”) that was owned by Deborah A. Maness at the time of the hearing. Deborah Maness signed the application form along with the Gallimores in order to indicate her consent to this land use case moving forward.

3. The Zoning Lot is approximately 2.24 acres in size and has two street addresses associated with the parcel of land: 1420 East Salisbury Street and 358 Patton Avenue.

4. The Zoning Lot is located outside of the city limits. In order to connect to city water and sewer utility services, annexation into the city limits must occur in compliance with the applicable statutes, ordinances, and city policies.

5. East Salisbury Street is a state-maintained minor thoroughfare, and Patton Avenue is a state-maintained road connecting East Salisbury Street and North Carolina Highway 42 North. Patton Avenue is 15 feet to 16 feet wide in front of the Zoning Lot.

6. The site plan submitted during the hearing of this case shows access to the improvements proposed by the Applicants for the Zoning Lot as coming from East Salisbury Street. No access is shown from Patton Avenue.

7. The Zoning Lot is in a CU-I2 (Conditional Use General Industrial) zoning district because of legislative action taken by the Council on June 4, 2020, immediately prior to the Council’s deliberations concerning the Applicants’ request for a conditional use permit.

8. Section 102 of 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.

9. A separate paragraph of Section 102 of the Ordinance further 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.

10. Section 1013.2 of the Ordinance 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.*

11. The motor vehicle repair – major land use and the rental/sales of domestic motor vehicles land use are both permitted uses in the underlying I2 zoning district.

12. The Applicants proposed to construct two structures on the Zoning Lot. One structure will be a 12,800-square foot building for motor vehicle repair and for an office. The second structure will be a 2,800-square foot building for storage.

13. The surrounding land uses are as follows:

North:	Single-Family Residential & Industrial	East:	Multi-Use Commercial Development (Randolph Mall)
South:	Single-Family Residential	West:	Single-Family Residential (Zoned OA-6)

14. Consistent with the information in the preceding paragraph, the area around the Zoning Lot primarily consists of residential, commercial (including Randolph Mall to the east), and office/institutional uses. Along the north side of East Salisbury Street, there are automotive repair land uses that are industrially zoned.

15. With regard to the city's comprehensive development plans, the Growth Strategy Map identifies the area in which the Zoning Lot is located as an adjacent developed area, and the proposed land development plan map designates the area as office and institutional/urban residential.

16. Pursuant to the Ordinance, the required buffering/screening is either a 10-foot Type C screen or a 25-foot Type C buffer adjacent to the residentially zoned (R10) property on the south side of the Zoning Lot. The Applicants are proposing to use a combination of evergreen trees and fencing adjacent to this residential property. In addition, and in

compliance with the Ordinance, the Applicants propose to use a combination of trees and shrubs within the front yards on East Salisbury Street and Patton Avenue.

17. The Code of Asheboro, including the zoning ordinance, generally prohibits outdoor storage of junked motor vehicles and junk materials. No open storage areas of other materials are shown on the site plan. Consequently, such open storage areas will not be permitted.

18. In an effort to ensure the compatibility of the proposed development of the Zoning Lot with surrounding land uses and to ensure future compliance with the Ordinance, the city planning staff recommended the following conditions for attachment to any conditional use permit that may be issued to the Applicants:

- (A) *Prior to the issuance of a zoning compliance permit for the proposed land uses, the Applicants shall submit documentation detailing the receipt of the following approvals:*
 - (1) *The requisite driveway permit from the North Carolina Department of Transportation; and*
 - (2) *The required erosion control approval(s) from the North Carolina Department of Environmental Quality.*
- (B) *Prior to the issuance of a zoning compliance permit, the Applicants shall provide the details concerning proposed outdoor lighting that are necessary to establish and demonstrate compliance with standards found in subsection B.1 pertaining to lighting within Section 316A of the Ordinance, which specifies performance standards in industrial districts.*
- (C) *If the number of parking spaces required to serve the proposed land uses are ultimately calculated to be less than the amount of parking shown on the site plan, a change to the amount of parking that is compliant with Ordinance specifications will not be considered a modification requiring Council approval. In such a case, the Applicants shall submit a revised site plan for review by the authorized city staff members to ensure compliance with the Ordinance and for retention in the appropriate file.*
- (D) *Prior to the issuance of a zoning compliance permit for the proposed land uses, 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.*

19. H.R. Gallimore, who is a licensed North Carolina broker, offered uncontroverted testimony as to his opinion that the proposed land uses, if developed as proposed, will have no adverse impact on the prices of property adjoining the Zoning Lot.

20. With the acceptance and attachment of the above-stated conditions, the site plan presented to the Council conforms to the regulations prescribed by the Ordinance.

21. Kenneth Gallimore testified as to the acceptance by the Applicants of the conditions suggested by the city planning staff.

22. No testimony was offered in opposition to the Applicants' request for a conditional use permit.

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

CONCLUSIONS OF LAW

1. When an applicant has produced competent, material, and substantial evidence tending to establish the existence of the facts and conditions that the Ordinance requires for the issuance of a conditional use permit, prima facie the applicant is entitled to

the permit. A denial of the permit has to be based upon findings contra that are supported by competent, substantial, and material evidence appearing in the record.

2. In this case, the Applicants properly submitted an application for a conditional use permit authorizing a motor vehicle repair – major land use and a rental/sales of domestic motor vehicles land use on the Zoning Lot in a CU-I2 zoning district.

3. In light of the evidence and the acceptance by the Applicants of the conditions proposed for attachment to the conditional use permit by the Council, the Applicants' proposed land uses are compliant with the applicable requirements of the Ordinance.

4. On the basis of substantial evidence in the record, the Council has concluded that the proposed land uses meet the four general standards for granting the requested conditional use permit. More specifically, the proposed land uses will not materially endanger the public health or safety, meet 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 the land uses are to be located and are 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 the requested motor vehicle repair – major land use and rental/sales of domestic motor vehicles land use on the Zoning Lot is hereby approved and issued to the Applicants and the Applicants' heirs, successors, and assigns. The continuing validity of this conditional use permit is hereby made expressly contingent upon the Applicants and the Applicants' heirs, successors, and assigns complying at all times with the applicable provisions of the Ordinance, the site plan presented and approved during the hearing of this matter, and the following supplementary conditions:

- (A) Prior to the issuance of a zoning compliance permit for the proposed land uses, the Applicants shall submit documentation detailing the receipt of the following approvals:
 - (1) The requisite driveway permit from the North Carolina Department of Transportation; and
 - (2) The required erosion control approval(s) from the North Carolina Department of Environmental Quality.
- (B) Prior to the issuance of a zoning compliance permit, the Applicants shall provide the details concerning proposed outdoor lighting that are necessary to establish and demonstrate compliance with standards found in subsection B.1 pertaining to lighting within Section 316A of the Ordinance, which specifies performance standards in industrial districts.
- (C) If the number of parking spaces required to serve the proposed land uses are ultimately calculated to be less than the amount of parking shown on the site plan, a change to the amount of parking that is compliant with Ordinance specifications will not be considered a modification requiring Council approval. In such a case, the Applicants shall submit a revised site plan for review by authorized city staff members to ensure compliance with the Ordinance and for retention in the appropriate file.
- (D) Prior to the issuance of a zoning compliance permit for the proposed land uses, 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 on July 9, 2020.

/s/Walker B. Moffitt
Walker B. Moffitt, Mayor Pro Tempore

ATTEST:

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

- (e) The final decision document for the land use case identified by file number CUP-20-06.

Case No. CUP-20-06
Final Decision Document
City Council of the City of Asheboro, North Carolina

**IN THE MATTER OF THE APPLICATION BY BAYBUILT PROPERTIES, LLC
FOR A CONDITIONAL USE PERMIT AUTHORIZING A
BANQUET/RECEPTION FACILITY LAND USE**

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

THIS LAND USE CASE came before the City Council of the City of Asheboro (the “Council”) on June 4, 2020, for a properly advertised quasi-judicial hearing on the question of whether to approve an application for a conditional use permit. 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. Baybuilt Properties, L.L.C., by and through Ben Tuggle in his capacity as a manager for the limited liability company, properly submitted an application for a conditional use permit authorizing a land use identified in the City of Asheboro Zoning Ordinance (the “Ordinance”) as a banquet/reception facility.

2. In compliance with the Ordinance, Baybuilt Properties, L.L.C. (the “Applicant”) included with its application a site plan showing the proposed land use on a portion of a parcel of land identified by Randolph County Parcel Identification Number 7751426889.

3. The portion of the above-described parcel of land upon which the banquet/reception facility is proposed for development and that will be subject to a conditional use permit (the “Zoning Lot”) is approximately 1.07 acres in size and is owned by Asheboro Community Church, Inc. The Zoning Lot is more specifically identified as Lots 6-17 and a portion of Lot 18 as described in Deed Book 2503, Page 1392 in the Office of the Register of Deeds for Randolph County, North Carolina.

4. An authorized representative of Asheboro Community Church, Inc. executed the application form along with the Applicant in order to express consent for this land use case to move forward.

5. The Zoning Lot is located inside the city limits.

6. The street address associated with the Zoning Lot is 801 Sunset Avenue. The parcel of land upon which the Zoning Lot is situated is at the intersection of Sunset Avenue and South Cherry Street.

7. Sunset Avenue and South Cherry Street are both state-maintained minor thoroughfares at this location.

8. The last use of the property was a non-commercial use as a place of assembly/church. The lot is currently vacant.

9. The Zoning Lot is in a CU-M (Conditional Use Mercantile) zoning district because of legislative action taken by the Council on June 4, 2020, immediately prior to the Council's deliberations concerning the Applicant's request for a conditional use permit. The remaining portion of the overall parcel of land upon which the Zoning Lot is located retained its OA6 (Office-Apartment) zoning where all land uses permitted by right in that district will continue to be allowed.

10. Section 102 of 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.

11. A separate paragraph of Section 102 of the Ordinance further 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.

12. Section 1013.2 of the Ordinance 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.*

13. Subsection (I) in Section 210 of the Ordinance describes the mercantile limited general commercial district as follows:

The Mercantile (M) District is intended to provide for a greater number of potential business activities than the B1 Zoning District. The Mercantile District is distinguished from the B2 General Commercial District by excluding certain uses permitted in the B2 District that are likely to create the greatest external impact (traffic, noise, lighting, etc.) and by its additional standards that address compatibility with adjoining residential neighborhoods. These districts should be located in nodes along minor thoroughfares or higher classification streets.

14. Among other requirements, the underlying mercantile district sets a maximum of 6,000 square feet for all structures, including existing structures, on the Zoning Lot, restricts drive through services, prohibits open storage, and requires additional pedestrian connectivity.

15. The banquet/reception facility land use is a permitted use in the underlying mercantile zoning district.

16. In addition to the underlying zoning, the Zoning Lot is located within an overlay zone known as Center City Planning Area Tier 3: Commercial and Employment Center Planning Area.

17. The surrounding land uses are as follows:

North:	Single-Family/Multi-Family Residential	East:	Undeveloped Property
South:	Single-Family Residential	West:	Personal Services (Tattoo)

18. Consistent with the information in the preceding paragraph, the area around the Zoning Lot consists of a mix of single-family, multi-family, institutional, and some office uses.

19. 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 a city activity center.

20. The Applicant proposes to use an existing structure, which previously served as a church fellowship hall, for the banquet facility.

21. The Applicant's site plan proposes to use existing driveways along Sunset Avenue for access to the Zoning Lot.

22. The Applicant's proposals for satisfying landscaping requirements include front yard landscaping using a combination of trees and shrubs, parking lot landscaping, and extending the fence on the south and west sides of the property to screen the lot from lower intensity uses.

23. In an effort to ensure the compatibility of the proposed development of the Zoning Lot with surrounding land uses and to ensure future compliance with the Ordinance, the city planning staff recommended the following conditions for attachment to any conditional use permit that may be issued to the Applicant:

- (A) *Existing vegetation may be retained to count towards the minimum required landscaping specified by the following Sections of the Ordinance: Section 317A.F.m (Front Yard Landscaping), Section 304A (Buffers and Screening), and Section 409B2 (Landscaping Standards for Off-Street Parking).*
- (B) *The site plan indicates that no new outdoor lighting is proposed at this time. If the Applicant proposes outdoor lighting at a later date, it shall not be considered a modification requiring a new conditional use permit. Information shall be submitted to city staff demonstrating compliance with Section 317A.1 of the Ordinance (Performance Standards for All Commercial Zoning Districts – Light) for inclusion in the file without further review by the Council.*
- (C) *Prior to the issuance of a zoning compliance permit for the proposed land use, the Applicant shall submit documentation detailing the following approvals:*
 - (1) *Driveway approval from the North Carolina Department of Transportation; and*
 - (2) *The final decision document from the City of Asheboro Board of Adjustment indicating approval of the Applicant's requested variances from the Ordinance's front yard parking setback requirement and the maximum impervious coverage specification.*
- (D) *A dumpster shall be provided on the Zoning Lot with screening in compliance with Ordinance Section 317A.F.j. If this required dumpster and its access area reduces the number of parking spaces beyond the 5 percent reduction from the approved site plan that is expressly authorized by Ordinance Section 1013.5.E, this reduction in parking shall not be considered a modification of the conditional use permit. The Applicant shall submit a revised site plan showing this change to city staff without further review by the Council.*
- (E) *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. Uncontroverted testimony was offered as to the absence of any adverse impact on the value of adjoining property as a consequence of the Applicant restoring the functionality of the former church fellowship hall to serve as a banquet/reception facility.

25. With the acceptance and attachment of the above-stated conditions, the site plan presented to the Council conforms to the regulations prescribed by the Ordinance.

26. The Applicant unequivocally accepted the permit conditions suggested by the city planning staff.

27. No testimony was offered in opposition to the Applicants' request for a conditional use permit.

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

CONCLUSIONS OF LAW

1. When an applicant has produced competent, material, and substantial evidence tending to establish the existence of the facts and conditions that the Ordinance requires for the issuance of a conditional use permit, prima facie the applicant is entitled to

the permit. A denial of the permit has to be based upon findings contra that are supported by competent, substantial, and material evidence appearing in the record.

2. In this case, the Applicant properly submitted an application for a conditional use permit authorizing a banquet/reception facility land use on the Zoning Lot in a CU-M zoning district.

3. In light of the evidence and the acceptance by the Applicant of the conditions proposed for attachment to the conditional use permit 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 the proposed land use meets the four general standards for granting the requested conditional use permit. More specifically, 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 the land use 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 the requested banquet/reception facility land use 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 Ordinance, the site plan presented and approved during the hearing of this matter, and the following supplementary conditions:

- (1) Existing vegetation may be retained to count towards the minimum required landscaping specified by the following Sections of the Ordinance: Section 317A.F.m (Front Yard Landscaping), Section 304A (Buffers and Screening), and Section 409B2 (Landscaping Standards for Off-Street Parking).
- (2) The site plan indicates that no new outdoor lighting is proposed at this time. If the Applicant proposes outdoor lighting at a later date, it shall not be considered a modification requiring a new conditional use permit. Information shall be submitted to city staff demonstrating compliance with Section 317A.1 of the Ordinance (Performance Standards for All Commercial Zoning Districts – Light) for inclusion in the file without further review by the Council.
- (3) Prior to the issuance of a zoning compliance permit for the proposed land use, the Applicant shall submit documentation detailing the following approvals:
 - (a) Driveway approval from the North Carolina Department of Transportation; and
 - (b) The final decision document from the City of Asheboro Board of Adjustment indicating approval of the Applicant's requested variances from the Ordinance's front yard parking setback requirement and the maximum impervious coverage specification.
- (4) A dumpster shall be provided on the Zoning Lot with screening in compliance with Ordinance Section 317A.F.j. If this required dumpster and its access area reduces the number of parking spaces beyond the 5 percent reduction from the approved site plan that is expressly authorized by Ordinance Section 1013.5.E, this reduction in parking shall not be considered a modification of the conditional use permit. The Applicant shall submit a revised site plan showing this change to city staff without further review by the Council.

- (5) Prior to the issuance of a zoning compliance permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute, and deliver to the zoning administrator for recordation in the Office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the city attorney for the purpose of placing notice of the conditions attached to this 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 on July 9, 2020.

/s/Walker B. Moffitt
Walker B. Moffitt, Mayor Pro Tempore

ATTEST:

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

- (f) **A resolution appointing Stephen R. Knight to a new three-year term of office on the Asheboro ABC Board.**

RESOLUTION NUMBER 10 RES 7-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

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

WHEREAS, the Asheboro ABC Board (the “Board”) consists of three members who are appointed by the Asheboro City Council (the “Council”) to terms of office that are three years in duration; and

WHEREAS, when the Council made the initial appointments to the Board, Stephen R. Knight was appointed to a three-year term of office that began on August 12, 2008, and the Council subsequently reappointed Mr. Knight to the Board for three additional three-year terms of office in 2011, 2014, and 2017, respectively; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, effective August 12, 2020, Stephen R. Knight is reappointed to the Asheboro ABC Board for another three-year term of office.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of July, 2020.

/s/Walker B. Moffitt
Walker B. Moffitt, Mayor Pro Tempore

ATTEST:

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

- (g) **The Community Development Division's request to schedule and advertise a quasi-judicial hearing to be conducted on August 6, 2020, concerning an application to rezone property at 512, 514, and 516 South Fayetteville Street (Randolph County Parcel Identification Number 7751709933) from B2 to CU-B3 zoning and to obtain a conditional use permit authorizing a commercial development with multiple uses and/or structures.**

The hearing concerning the application for the above-referenced land use approval will be scheduled and advertised in accordance with the applicable statutes/ordinances and then heard by the Asheboro City Council during its regular meeting on August 6, 2020.

5. Community Development Items:

- (a) **RZ-20-07: A public hearing on an application to rezone property at 435 Old Liberty Road (Randolph County Parcel Identification Number 7762168474) from R10 to R7.5 zoning.**

Mayor Pro Tem Moffitt opened the public hearing on the above-referenced application by Darren Hackett (the "Applicant") to rezone approximately two (2) acres of land at 435 Old Liberty Road from R10 to R7.5 zoning. The parcel of land for which R7.5 zoning is requested (the "Zoning Lot") is owned by the Applicant and is more specifically identified by Randolph County Parcel Identification Number 7762168474.

Mr. Nuttall stated that, in addition to publishing the required notice of this hearing, legal notices were mailed to adjoining property owners. These notices were mailed on June 23, 2020.

Mr. Nuttall utilized a slide show to summarize the planning staff's analysis of the rezoning application. This analysis was summarized as follows:

1. The property is inside the city limits.
2. Old Liberty Road is a state-maintained minor thoroughfare at this location. East Bailey Street is a city-maintained collector street that extends from North Fayetteville Street to Old Liberty Road.
3. The current R10 district and the requested R7.5 district both allow single-family and two-family dwellings. The requested R7.5 district is distinguished from the current R10 district with reduced lot sizes and setbacks. The minimum lot size in the R10 district is 10,000 square feet, while the minimum lot size in the R7.5 district is 7,500 square feet.
4. Adjoining properties consist primarily of single-family and two-family dwellings. There are also scattered non-residential uses along Old Liberty Road near the subject property, particularly to the north where much of the corridor has commercial zoning.
5. There is a stream and city sewer easement on the property. The North Carolina Department of Environmental Quality needs to be contacted prior to any land activity that impacts the stream or its banks, and the city's easement must be kept clear from encroachments.
6. The neighborhood residential designation of the property is described by the Land Development Plan's Land Category Description as intended "to accommodate existing medium-density, single family residential neighborhoods, while encouraging new neighborhoods of similar density to provide a greater sense of community."

In terms of Land Development Plan goals/policies that were identified by staff as supporting the rezoning request, the following information was provided to the council:

Checklist Item 3: The property on which the rezoning district is proposed fits the description of the Zoning Ordinance (*Article 200, Section 210, Schedule of Statements of Intent*)

Checklist Item 5: Complies with Growth Strategy Map

Checklist Item 13: The property is located outside of Special Hazard Flood Area.

Checklist Item 14: Rezoning is not located on steep slopes (>20%) or rezoning (and the development intensity permitted with the proposed district) is unlikely to create additional problems due to steep slopes.

Policy 2.1.5: The city will ensure development regulations provide appropriate transitional land uses, such as office and institutional, between high-intensity industrial / commercial and low-intensity residential areas.

The following Land Development Plan goals/policies were identified by staff as not supporting the request:

Checklist Item 11: Rezoning will promote the type of development described in Design Principles.

When the City of Asheboro Planning Board considered the application, the recommendation from the planning board was to approve the requested rezoning. This recommendation was based on the planning board's concurrence with the following planning staff analysis of the consistency of the requested rezoning with the adopted comprehensive plans as well as the reasonableness of the request and whether the requested rezoning is in the public interest:

The primary difference between the existing R10 district and the requested R7.5 district is minimum lot size and lot frontage. In order to accommodate development, the smaller lots in the R7.5 district are subject to slightly lesser setbacks than the R10 district. Potential development in the R10 district is eight (8) single-family lots or five (5) two-family lots; in the R7.5 district that potential increases to eleven (11) single-family lots or seven (7) two-family lots.

While the requested R7.5 district does allow increased density, the property's location on a minor thoroughfare and collector-level street diminish traffic generation concerns over this increase. Furthermore, the property's proximity to a significant node of B2 commercial zoning, which exists on the east side of Old Liberty Road, means that the requested zoning district can help to establish a transition to soften the potential for adverse impacts between long-standing commercial uses and older, established neighborhoods, thereby protecting them from commercial encroachment.

In the right context, a R7.5 zoning district can meet the intent of the Land Development Plan's ("LDP") Neighborhood Residential proposed land use designation, and staff believes the application overall is supported by the LDP.

Considering these factors, staff believes that the requested R7.5 district is reasonable and in the public interest.

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

They city council concurred with the staff and planning board analysis of the rezoning request. Council Member Bell moved, and Council Member Swiers seconded the motion, to adopt the plan consistency statement printed below and to approve the requested rezoning with the following multi-part motion:

1. The primary difference between the existing R10 district and the requested R7.5 district is minimum lot size and lot frontage. In order to accommodate development, the smaller lots in the R7.5 district are subject to slightly lesser setbacks than the R10 district. Potential development in the R10 district is eight (8) single family lots or five (5) two-family lots; in the R7.5 district that potential increases to eleven (11) single-family lots or seven (7) two-family lots.

While the requested R7.5 district does allow increased density, the property's location on a minor thoroughfare and collector-level street diminish traffic generation concerns associated with the increased density. Furthermore, the property's proximity to a significant node of B2 commercial zoning, which exists on the east side of Old Liberty Road, means that the requested zoning district can help to establish a transition to soften the potential for adverse impacts between long-standing commercial uses and older, established neighborhoods, thereby protecting them from commercial encroachment.

In the right context, a R7.5 zoning district can meet the intent of the Land Development Plan's ("LDP") Neighborhood Residential proposed land use designation.

Considering these factors, the city council has concluded that this application for a zoning map amendment is, on the whole, 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 R7.5 zoning is approved as consistent with the adopted plan.

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

(b) RZ-20-08: A public hearing on an application to rezone property (Randolph County Parcel Identification Numbers 7762231577 and 7762230413) located on the west side of Meadowbrook Road Extension and the north side of Honeysuckle Road, approximately 175 feet north of Ideal Drive, from R15 and R10 zoning districts to R10 zoning.

Mr. Nuttall presented a written request by the applicant to continue the above-referenced public hearing to the Council's next regular meeting on August 6, 2020.

Upon motion by Council Member Bell and seconded by Council Member Snuggs, the council voted unanimously to continue the public hearing to the Council's regular meeting on August 6, 2020. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

Copies of the applicant's written request for a continuance are on file in the city clerk's office and in the city's community development division.

- (c) **Update on U.S. 64 Proposed Widening from Bypass to N.C. 49 Interchange (U-5813) and a request for concurrence from the city council on the submission of a Letter of Intent by the city manager to the North Carolina Department of Transportation regarding the city's intention to participate in cost-sharing for the project's sidewalk improvements.**

Mr. Nuttall presented a preliminary cost estimate for urban improvements on TIP Project U-5813 in the City of Asheboro. The city's responsibility for the improvements is approximately \$115,848.00. In light of the cost share estimate, Mr. Nuttall asked for the council's concurrence on the submission of a Letter of Intent by the city manager to the North Carolina Department of Transportation (NCDOT) regarding the City of Asheboro's intention to participate in cost-sharing for the project's sidewalk improvements.

Upon motion by Council Member Bell and seconded by Council Member Burks, the council voted unanimously to authorize the city manager to submit a letter of intent to NCDOT regarding the city's intention to participate in cost-sharing for the above-referenced project. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

6. Public comment period.

Mayor Pro Tem Moffitt opened the floor for public comments.

Mr. Lennit Bligen of the East Side Local Development Corporation read a letter written by the late Rev. Dora Atlas, who was the founder of Our Daily Bread Soup Kitchen in Asheboro. Mr. Bligen read aloud the letter that reflected concerns and encouragement for promoting the well-being of children within the African American Community in Asheboro and Randolph County. Mr. Bligen also expressed his appreciation for the support that has been shown for the outreach efforts of the East Side Local Development Corporation.

There being no further comments from the public, Mayor Pro Tem Moffitt closed the public comment period.

7. Police Department Annual Report.

Police Chief Mark Lineberry presented an overview of the Asheboro Police Department's activities during 2019. During his presentation, Chief Lineberry highlighted that there were a total of 25,453 calls for service, with approximately 24.6% of those calls requiring a report.

Additionally, Chief Lineberry reported on the police department's response to the current public health emergency.

No action was requested of the council under this agenda item, and none was taken.

A copy of the department's written annual report is on file in the city clerk's office.

8. Fire Department Annual Report.

Fire Chief Willie Summers presented an overview of the Asheboro Fire Department's activities during 2019. During his presentation, Chief Summers highlighted that the Asheboro Fire Department responded to 4,200 calls for service.

Additionally, Chief Summers reported on the fire department's response to the current public health emergency.

No action was requested of the council under this agenda item, and none was taken.

A copy of the department's written annual report is on file in the city clerk's office.

9. Consideration of a resolution authorizing the purchase of a used walk-in rescue truck for the Asheboro Fire Department.

City Manager John Ogburn and Chief Willie Summers presented and recommended adoption, by reference, of a resolution authorizing the purchase of a previously owned walk-in rescue truck for the Asheboro Fire Department.

Upon motion by Council Member Bell and seconded by Council Member Snuggs, the council voted unanimously to adopt the following resolution by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

RESOLUTION NUMBER 11 RES 7-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION AUTHORIZING THE PURCHASE OF A PREVIOUSLY OWNED WALK-IN RESCUE TRUCK FOR THE ASHEBORO FIRE DEPARTMENT

WHEREAS, in an effort to reconcile operational needs with fiscal constraints, the Asheboro Fire Department's command staff has developed a plan to purchase a used walk-in rescue truck that will meet the fire department's operational needs in a cost-effective manner; and

WHEREAS, the Asheboro Fire Department has located a used walk-in rescue truck (hereinafter referred to as the "Rescue Truck") that is in good condition and satisfies the requirements of the above-described plan; and

WHEREAS, the Rescue Truck is a 1997 Pierce Lance truck currently owned by Robbins Hose Company No. 1, Inc. (a Delaware corporation that provides fire protection services for Dover, Delaware and that is also referred to as the "Dover Fire Department"); and

WHEREAS, the Dover Fire Department has offered to sell the Rescue Truck to the City of Asheboro for a purchase price of \$120,000.00; and

WHEREAS, subject to the successful completion of a professional pre-purchase inspection, the Asheboro Fire Chief and the Asheboro City Manager have recommended purchasing the Rescue Truck from the Dover Fire Department; and

WHEREAS, Section 143-129(e)(10) of the North Carolina General Statutes provides for an exception to the usual competitive bidding procedures for the purchase of used apparatus or equipment; and

WHEREAS, a proposed purchase agreement is attached to this Resolution as EXHIBIT 1 and is hereby incorporated into this Resolution by reference as if copied fully herein.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the expenditure of budgeted funds for the above-described purchase of the Rescue Truck is hereby approved; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that City Manager John N. Ogburn, III is hereby authorized to execute the legal instruments needed to complete the purchase of the Rescue Truck so long as any such instruments are consistent with the material terms of the purchase agreement attached to this Resolution as EXHIBIT 1.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of July, 2020.

/s/Walker B. Moffitt
Walker B. Moffitt, Mayor Pro Tempore

ATTEST:

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

EXHIBIT 1

STATE OF NORTH CAROLINA

**WALK-IN RESCUE TRUCK
PURCHASE AGREEMENT**

COUNTY OF RANDOLPH

THIS WALK-IN RESCUE TRUCK PURCHASE AGREEMENT (the "Agreement") is made and entered into, as of the date of the last signature affixed hereto, by and between the **CITY OF ASHEBORO**, a North Carolina municipal corporation with its principal office located in Randolph County, North Carolina at 146 North Church Street, Asheboro, North Carolina 27203, (the "**Buyer**" or the "**City**") and the **ROBBINS HOSE COMPANY NO. 1, INC.**, a volunteer fire department serving Dover, Delaware that is also known as the Dover Fire Department and is incorporated under the laws of the State of Delaware with a registered address of 103 South Governors Avenue, Dover, Delaware 19904, (the "**Seller**" or "**Dover**").

WITNESSETH:

WHEREAS, the City is seeking to purchase for its municipal fire department a used walk-in rescue truck; and

WHEREAS, Dover has a 1997 model year Pierce Lance walk-in rescue truck identified by vehicle identification number 4P1CT02S3WA000216 (the "Rescue Truck") that will meet the needs of the Asheboro Fire Department; and

WHEREAS, Dover is willing to sell the Rescue Truck to the City for \$120,000.00.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, specifically including the proposed transfer to the City of the unencumbered title to the Rescue Truck in consideration of the payment by the City of the purchase price of \$120,000.00, the City and Dover, intending to be legally bound, hereby agree as follows:

ARTICLE 1. Purchase of Apparatus

1.01 In accordance with the terms and conditions specified herein, Dover will sell the Rescue Truck to the City, and the City will purchase the Rescue Truck.

1.02 The total purchase price to be paid by the City for the Rescue Truck is \$120,000.00.

ARTICLE 2. Delivery and Acceptance of the Rescue Truck

2.01 Prior to the payment of any monetary consideration by the City, Dover is to deliver the Rescue Truck, within 14 calendar days of the final execution of this Agreement, to Atlantic Emergency Solutions, 121 Patriot Drive, Middletown, Delaware 19709 for a professional pre-purchase vehicle/equipment inspection that will be conducted at the City's sole and exclusive expense.

2.02 As a condition precedent to the City's obligation to complete the purchase of the Rescue Truck, the apparatus must pass, without exception or deviation, the pre-

purchase vehicle/equipment inspection that will be performed at Atlantic Emergency Solutions. During this inspection, the following criteria must be satisfied:

- (1) The Rescue Truck must have a diesel engine with a minimum of 450 HP and an automatic transmission;
- (2) The Rescue Truck must have fully operational emergency traffic sound and lighting devices;
- (3) The Rescue Truck must meet all of the minimum requirements found in the applicable federal and North Carolina statutory law and administrative regulations for the use of the apparatus as a walk-in rescue truck on federal and state highway systems;
- (4) The Rescue Truck must have an unexpired, valid FMCSA (Federal Motor Carrier Safety Administration) annual vehicle inspection sticker; and
- (5) In addition to the necessity for satisfactory results from an oil/fluid analysis, the pre-purchase inspection must confirm, to the extent such a confirmation is possible and commercially reasonable, the absence of any condition/defect that would call into question the operational reliability or suitability of the apparatus for use as a rescue truck in accordance with generally accepted fire service standards.

2.03 The City, by and through Asheboro Fire Chief Willie Summers, will provide written notification of the results of the pre-purchase vehicle/equipment inspection as soon as is practicable. This notification will be sent to Dover Fire Chief Ronald Rhodes by means of mutually acknowledged on-going electronic mail transmissions between the two fire chiefs.

2.04 If and when notice of the successful completion of the above-described pre-purchase vehicle/equipment inspection, including any needed repairs or corrective actions that must be authorized by Dover in order to successfully complete the inspection process, is given by the City's fire chief, the above-stated condition precedent to the purchase of the Rescue Truck shall be deemed to be satisfied. Upon the satisfaction of the condition precedent described in Section 2.02 of this Agreement, the City will be deemed to have accepted the delivery of the Rescue Truck at Atlantic Emergency Solutions, 121 Patriot Drive, Middletown, Delaware 19709.

2.05 The above-described pre-purchase vehicle/equipment inspection and the final written notification as to whether the condition precedent for the acceptance of the Rescue Truck has been satisfied shall be accomplished within 60 business days of the receipt of the Rescue Truck at Atlantic Emergency Solutions. If the Rescue Truck does not pass the above-described inspection, or if the inspection process, inclusive of any needed repair/corrective action that must be authorized by Dover in order for the Rescue Truck to pass the contractually mandated inspection, is not completed within 60 business days of the receipt of the truck by Atlantic Emergency Solutions, the proposed purchase of the Rescue Truck by the City shall be deemed to be canceled.

2.06 In the event the contemplated purchase of the Rescue Truck is canceled because the above-stated condition precedent is not satisfied in a timely manner, neither party shall owe any fees, damages, monetary payments, or charges of any kind to the other party, and title to the Rescue Truck shall remain with the Seller. Furthermore, so long as, and only so long as, Dover removes the Rescue Truck from the premises of Atlantic Emergency Solutions within five business days of the receipt of notification that the condition precedent for the purchase of the truck has not been satisfied, the City will pay for all charges associated with or arising out of the inspection conducted at Atlantic Emergency Solutions. Any storage fees or charges of a similar kind that are charged or accrue after five business days from the date of the cancellation of the purchase of the Rescue Truck shall be the sole and exclusive responsibility of Dover.

ARTICLE 3. Assignment and Warranty of Title

- 3.01** Once notice has been given by the City of the successful completion of the pre-purchase vehicle/equipment inspection and the resulting acceptance of the delivery of the truck to the City at Atlantic Emergency Solutions, 121 Patriot Drive, Middletown, Delaware 19709, the City shall have ten business days to make conclusive arrangements for the delivery to Dover, at a mutually agreed upon location, by the City's authorized representative(s) of a certified bank check payable to Robbins Hose Company No. 1, Inc. in the amount of \$120,000.00.
- 3.02** Contemporaneously with the delivery of good funds for the purchase of the Rescue Truck, an assignment and warranty of title must be signed in the presence of a Notary Public so as to effectively convey to and vest in the City title to the Rescue Truck in accordance with Delaware and North Carolina law.
- 3.03** The Seller warrants to the City that the Seller is the owner of the Rescue Truck, the Seller is selling the Rescue Truck to the City free from all encumbrances and liens of any kind, and the Seller has good right and lawful authority to sell the Rescue Truck in accordance with the terms and conditions found in this Agreement.
- 3.04** The Seller further warrants to the City that the Rescue Truck has not been involved in a collision or other occurrence to the extent that the cost to repair the damage exceeds 25% of the fair market value of the truck, the Rescue Truck is not a flood vehicle, the Rescue Truck is not a reconstructed vehicle, and the Rescue Truck is not a salvage vehicle.

ARTICLE 4. Taxes

- 4.01** The City is exempt from federal excise tax. However, under North Carolina law, the City is not exempt from state and local sales tax.
- 4.02** Sales tax is not included in the above-stated \$120,000.00 purchase price. If Dover is required under Delaware law to collect sales tax from the City, the tax must be invoiced as a separate item with details as to the identities of the taxing authorities and the amount of the tax collected for each taxing authority. The exact amount of the taxes to be paid in addition to the purchase price must be provided to the City at the time arrangements are made with the City's fire chief to exchange the payment of good funds for title to the Rescue Truck. Any applicable sales tax for which the City is invoiced will be added to the certified bank check used to pay the \$120,000.00 purchase price for the Rescue Truck.

ARTICLE 5. Miscellaneous

- 5.01** The City acknowledges and agrees that upon the successful completion of the pre-purchase vehicle/equipment inspection and the acceptance of the delivery of the truck to the City at Atlantic Emergency Solutions, 121 Patriot Drive, Middletown, Delaware 19709, **the sale of the Rescue Truck is an "as is" sale without any warranty other than the warranty of title described in Article 3 of this Agreement.**
- 5.02** The City and Dover each acknowledge and represent that they are duly organized, validly existing, and in good standing and have the right, power, and authority to enter into this Agreement and bind themselves hereto through the officials set forth below as the signatories for the respective parties.
- 5.03** **Time shall be of the essence of this Agreement** and each and every term and condition thereof.
- 5.04** The captions and section numbers appearing in this Agreement are inserted only as a matter of convenience and do not define, limit, construe, or describe the scope of such paragraphs or sections of this Agreement or in any way affect this Agreement.

- 5.05** This Agreement may be executed in several counterparts, any of which shall be regarded for all purposes as an original, and all of which constitute but one and the same instrument.
- 5.06** This Agreement sets forth the entire contractual understanding of the parties with respect to the subject matter of the purchase agreement and supersedes all prior arrangements and communications between the parties. This Agreement may be amended from time to time only by written agreement duly authorized and executed by the parties hereto.
- 5.07** Each party agrees that it will execute any and all documents or other instruments and take such other action as may be necessary to give effect to the terms and conditions of this Agreement so long as such actions are not inconsistent with the terms and conditions of this Agreement.
- 5.08** The representations and warranties contained herein shall survive the termination of this Agreement.
- 5.09** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 5.10** No waiver by either party of any term or condition of this Agreement will be deemed to constitute a waiver of any subsequent breach whether of the same or of a different section, subsection, paragraph, clause, phrase, or other provision of this Agreement. Making payments pursuant to this provision during the existence of a dispute shall not be deemed to and shall not constitute a waiver of any of the claims or defenses of the party making such payment. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted the waiver.
- 5.11** The parties agree and acknowledge that they have jointly participated in the negotiation and drafting of this Agreement. In the event of an ambiguity or if a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed to also refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. If any party has breached any representation, warranty, or covenant contained herein in any respect, the fact that there exists another representation, warranty, or covenant relating to the same subject matter (regardless of the relative levels of specificity) which the party has not breached shall not detract from or mitigate the fact that the party is in breach of the first representation, warranty, or covenant.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the dates indicated below.

CITY OF ASHEBORO,
a North Carolina municipal corporation

By: _____ (SEAL)
John N. Ogburn, III
City Manager of the City of Asheboro

Date: _____

This instrument has been preaudited in the manner prescribed by the Local Government Budget and Fiscal Control Act.

Deborah P. Reaves
Finance Officer
City of Asheboro, North Carolina

ROBBINS HOSE COMPANY NO. 1, INC.,
a Delaware corporation

By: _____ (SEAL)
(Authorized Official's Signature)

(Authorized Official's Printed or Typed Name)

(Authorized Official's Printed or Typed Title)

(Date Signed by Authorized Official)

10. A status report on the progression of the city's development of the Zoo City Sportsplex.

City Engineer Michael Leonard, PE reported on the progress that has been made in developing the Zoo City Sportsplex. This presentation included a discussion of potential intersection improvements for Zoo Parkway and Old Cox Road that are under review.

Copies of the potential intersection improvements discussed by Mr. Leonard are on file in the city clerk's office.

No action was requested of the council under this agenda item, and none was taken.

11. Annexation items:

(a) Petition from Habitat for Humanity of Randolph County, N.C., Inc. – Two parcels of land (Randolph County Parcel Identification Numbers 7762211072 and 7762201718) located along East Allred Street and Camelot Drive.

(i) Consideration of a resolution directing the city clerk to investigate the annexation petition.

After receiving City Engineer Michael Leonard's overview of the annexation petition submitted by Habitat for Humanity of Randolph County, N.C., Inc., Council Member Bell moved to adopt the following resolution by reference, and Council Member Swiers seconded the motion. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion and thereby approved the following resolution. There were no dissenting votes.

RESOLUTION NUMBER 12 RES 7-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE SUFFICIENCY OF THE ANNEXATION PETITION SUBMITTED BY HABITAT FOR HUMANITY OF RANDOLPH COUNTY, N.C., INC.

WHEREAS, Habitat for Humanity of Randolph County, N.C., Inc., a North Carolina non-profit corporation, (the "Petitioner") has submitted a petition requesting the annexation into Asheboro of approximately 1.335 acres of land owned by the Petitioner along East Allred Street and Camelot Drive; and

WHEREAS, the land for which annexation has been requested (the "Annexation Area") is more specifically identified by Randolph County Parcel Identification Numbers 7762201718 and 7762211072; and

WHEREAS, the Annexation Area is contiguous to Asheboro's primary city limits; and

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

WHEREAS, the Asheboro City Council has decided to proceed with the statutorily prescribed voluntary annexation process.

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

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting on the 9th day of July, 2020.

/s/Walker B Moffitt
Walker B. Moffitt, Mayor Pro Tempore

ATTEST:

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

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

CERTIFICATE OF SUFFICIENCY
(Annexation Petition Received from Habitat for Humanity of Randolph County, N.C., Inc.)

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

I, Holly H. Doerr, am the City Clerk for the City of Asheboro. I hereby certify that, with the assistance of staff members in various city departments, I have investigated the annexation petition submitted by Habitat for Humanity of Randolph County, N.C., Inc., a North Carolina non-profit corporation (the "Petitioner"). I further certify that the following paragraphs accurately state the information obtained during the course of my investigation of the annexation petition.

The Petitioner requests the annexation into Asheboro of approximately 1.335 acres of land owned by the non-profit corporation along East Allred Street and Camelot Drive. The

land for which the petitioner has requested annexation (the "Annexation Area") is more specifically identified by Randolph County Parcel Identification Numbers 7762201718 and 7762211072.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro in order to make this certification effective as of the 9th day of July, 2020.

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

(ii) Consideration of a resolution setting the date for a public hearing on the question of annexation.

In light of the preceding council action and the submittal of the city clerk's certification document, Mr. Leonard then presented, for the council's consideration, a resolution setting the date for a hearing on the question of the requested annexation. Council Member Burks moved to adopt the following resolution by reference, and Council Member Snuggs seconded the motion. Council Members Bell, Burks, Carter, Moffitt Redding, Snuggs, and Swiers voted in favor of the motion and thereby approved the resolution. There were no dissenting votes.

RESOLUTION NUMBER 13 RES 7-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON THE QUESTION OF THE REQUESTED ANNEXATION OF LAND OWNED BY HABITAT FOR HUMANITY OF RANDOLPH COUNTY, N.C., INC.

WHEREAS, Habitat for Humanity of Randolph County, N.C., Inc., a North Carolina non-profit corporation, (the "Petitioner") properly submitted a petition requesting the annexation into Asheboro of approximately 1.335 acres of the non-profit corporation's land along East Allred Street and Camelot Drive; and

WHEREAS, the land for which annexation has been requested is more specifically identified by Randolph County Parcel Identification Numbers 7762201718 and 7762211072; and

WHEREAS, pursuant to a previously adopted resolution, the city clerk investigated the sufficiency of the annexation petition; and

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

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

Section 1. A public hearing on the question of annexing the territory described in Section 2 of this Resolution will be held in the council chamber on the second floor of Asheboro City Hall at 146 North Church Street, Asheboro, North Carolina 27203 during a regular meeting of the Asheboro City Council that will begin at 7:00 p.m. on August 6, 2020.

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

Asheboro Township, Randolph County, North Carolina:

BEGINNING on the existing City of Asheboro primary city limits line at a 1-inch existing iron rod that is flush with the ground in the northern margin of the 60-foot public right-of-way for East Allred Street (North Carolina Secondary Road 2182), this beginning point is located by means of the North Carolina Coordinate System at the coordinates of North 720,597.02 Ground US Survey Feet and East 1,762,048.71 Ground US Survey Feet (NAD 83 (2011)) and is at the southwestern corner of the Habitat for Humanity of Randolph County, N.C., Inc. property described in the Office of the Register of Deeds for Randolph County, North Carolina (the "Randolph County Registry") in Deed Book 2643, Page 298 and for which annexation into the City of Asheboro has been requested (the area designated for annexation by the Habitat for Humanity of Randolph County, N.C., Inc. annexation petition consists of two parcels of land identified by Randolph County Parcel Identification Numbers 7762201718 and 7762211072 and will be hereinafter referred to as the "Annexation Area"); thence from the beginning point and following the existing City of Asheboro primary city limits line the next two bearings and distances along the western boundary of the Annexation Area that adjoins the Terra Land Company, LLC property described in Deed Book 2623, Page 718, Randolph County Registry: North 01 degree 47 minutes 05 seconds East 316.78 feet to a 1-inch existing iron pipe that is flush with the ground; thence North 01 degree 55 minutes 32 seconds East 150.93 feet to a 1-inch T-post flush with a stone at the northwest corner of the Annexation Area; thence departing from the existing City of Asheboro primary city limits line and following the proposed City of Asheboro primary city limits line North 77 degrees 48 minutes 22 seconds East 236.77 feet along the northern boundary of the Annexation Area adjoining the Larry W. McKenzie property described in Deed Book 2657, Page 1442, Randolph County Registry to the northeast corner of the Annexation Area at a 5/8-inch new iron rod that is up 4 inches in the western margin of the 60-foot public right-of-way for Camelot Drive (North Carolina Secondary Road 2289); thence continuing to follow the proposed City of Asheboro primary city limits line along the western margin of the public right-of-way for Camelot Drive in a southeasterly direction along the arc of a curve with a radius of 841.81 feet and an arc length of 86.86 feet (delta angle 05 degrees 54 minutes 44 seconds) a chord bearing and distance of South 11 degrees 34 minutes 58 seconds East 86.82 feet to a 3/4-inch existing iron pipe that is flush with the ground at a point in the western margin of the public right-of-way for Camelot Drive that is located by means of the North Carolina Coordinate System at the coordinates of North 721,029.45 Ground US Survey Feet and East 1,762,312.53 Ground US Survey Feet (NAD 83 (2011)); thence continuing to follow the proposed City of Asheboro primary city limits by departing from the western margin of the public right-of-way for Camelot Drive and proceeding along the John E. Palmer property described in Deed Book 2473, Page 310, Randolph County Registry the next two bearings and distances: South 65 degrees 32 minutes 29 seconds West 220.80 feet to a 1-inch existing iron pipe that is flush with the ground; thence South 28 degrees 59 minutes 50 seconds East 191.14 feet to a 5/8-inch new iron rod that is up 4 inches in the northern margin of the public right-of-way for East Allred Street; thence continuing to follow the proposed City of Asheboro primary city limits line along the northern margin of the public right-of-way for East Allred Street the next two bearings and distances: first, in a southwesterly direction along the arc of a curve with a radius of 746.50 feet and an arc length of 57.41 feet (delta angle 04 degrees 24 minutes 23 seconds) a chord bearing and distance of South 43 degrees 28 minutes 28 seconds West 57.40 feet to a point not set/computed point; thence South 41 degrees 16 minutes 13 seconds West 175.86 feet to the point and place of BEGINNING, and containing a total of 1.335 total acres of land, more or less, to be annexed.

The above-stated legal description is in accordance with a plat of survey drawn under the supervision of Dan W. Tanner, II, Professional Land Surveyor with License Number L-4787. The plat of survey is titled "Annexation Survey For: Larry McKenzie" and is identified as Job No. 11975.

Section 3. Notice of the public hearing scheduled by Section 1 of this Resolution shall be published in *The Courier-Tribune*, which is a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of the public hearing.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting on the 9th day of July, 2020.

/s/Walker B. Moffitt
Walker B. Moffitt, Mayor Pro Tempore

ATTEST:

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

- (b) **Petition from Kenneth Gallimore and Bridget Gallimore – One parcel of land (Randolph County Parcel Identification Number 7751513992) at 1420 East Salisbury Street.**

The above-described petition for annexation was withdrawn prior to the meeting.

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

12. Upcoming events.

Mayor Pro Tem Moffitt led a brief 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.

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

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