

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, AUGUST 6, 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:

David H. Smith) – Mayor Presiding

Clark R. Bell)

Edward J. Burks)

Walker B. Moffitt) – Council Members Present

Jane H. Redding)

Katie L. Snuggs)

Charles A. Swiers)

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

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Jason A. Hanson, Police Captain
Trevor L. Nuttall, Community Development Director
Jeffrey C. Sugg, City Attorney

1. Call to order.

A quorum thus being present, Mayor Smith called the meeting to order for the transaction of business, and business was transacted as follows. 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 Smith asked everyone to stand and recite the pledge of allegiance.

3. Old Business – Land Use Case Continued from July 9, 2020:

RZ-CUP-20-08 (Quasi-Judicial Hearing): An application to rezone property (Randolph County Parcel Identification Numbers 7762231577 & 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 to CU-R10 zoning and to obtain a conditional use permit authorizing five single-family dwellings and related structures.

Mayor Smith re-opened the hearing on the above-described land use case by Darren Hackett (the “Applicant”)

Mr. Nuttall was placed under oath and presented a written request by the Applicant to continue the land use case to the Council’s next regular meeting on September 17, 2020. Upon motion by Council Member Bell and seconded by Council Member Moffitt, the council voted unanimously to continue the hearing to the council’s regular meeting

on September 17, 2020. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

A copy 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.

4. Public comment period.

Mayor Smith opened the floor for public comments.

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

5. Consent Agenda:

Upon motion by Council Member Burks and seconded by Council Member Redding, 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 July 9, 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 July 15, 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 minutes and general account of the closed session held on July 15, 2020.

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

(d) A resolution sealing the general account of the closed session held on July 15, 2020.

RESOLUTION NUMBER 14 RES 8-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**Resolution Sealing the General Account of a Closed Session
Conducted during a Special Joint Meeting with the
Randolph County Board of Commissioners on July 15, 2020**

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

WHEREAS, pursuant to Section 143-318.11(a)(1) and Section 131E-97.3 of the North Carolina General Statutes, the city council, upon unanimous adoption of a properly made and seconded motion, went into closed session on July 15, 2020, during a joint special meeting with the Randolph County Board of Commissioners, in order to discuss privileged and

3. In compliance with the Ordinance, the Applicant included as part of his application a site plan showing the proposed land use on a parcel of land that he owns. This parcel of land (the "Zoning Lot") is identified by Randolph County Parcel Identification Number 7761027972 and is located at 137 North Randolph Avenue, which is at the corner of East Salisbury Street and North Randolph Avenue.

4. The Zoning Lot is approximately 0.31 of an acre in size.

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

6. East Salisbury Street is a state-maintained major thoroughfare.

7. The site plan submitted during the hearing of this case shows access to the Zoning Lot as coming from an adjoining lot that is itself accessed from East Salisbury Street.

8. No structures are proposed for the Zoning Lot. The Applicant proposes a graveled display area on the Zoning Lot for vehicles that will be for sale or rent. The office for this proposed land use will be located on an adjoining lot that is not subject to the requested conditional use permit.

9. The Zoning Lot is in a CU-B2 (Conditional Use General Commercial) zoning district because of legislative action taken by the Council on July 9, 2020, immediately prior to the Council's deliberations concerning the Applicant's request for a conditional use permit.

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. The rental/sales of domestic motor vehicles land use is a permitted principal use in the underlying B2 zoning district.

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

North:	Car Wash	East:	Single-Family Residential
South:	Single-Family Residential	West:	Motor Vehicle Repair – Minor

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 a primary growth area, and the proposed land development plan map designates the area as commercial.

16. The Applicant's site plan proposes a solid wooden fence and evergreen plantings on the south side of the Zoning Lot, adjacent to the residential use. Front yard landscaping consisting of shrubs is also proposed along the front 10' of East Salisbury Street and Randolph 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 a conditional use permit issued to the Applicant:

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

(C) *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.*

19. Mr. Robert E. Wilhoit, Esq., who served as legal counsel for the Applicant, unequivocally stated that the Applicant accepted the conditions proposed by city planning staff for attachment to the requested conditional use permit.

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

21. John Gatlin, who is a licensed realtor with twenty years of experience, reviewed the Applicant's site plan and the area in which the Zoning Lot is located. Mr. Gatlin offered uncontroverted testimony as to his opinion that the proposed land use, if developed as proposed, will be in harmony with the area surrounding the Zoning Lot and will not have an adverse impact on adjoining properties.

22. During the quasi-judicial hearing on July 9, 2020, no testimony was offered in opposition to the Applicant's 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 rental/sales of domestic motor vehicles land use on the Zoning Lot in a CU-B2 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, 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 rental/sales of domestic motor vehicles 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 City of Asheboro Zoning Ordinance, the site plan presented and approved during the hearing of this matter, and the following supplementary conditions:

- (A) No driveway access shall be permitted from North Randolph Avenue.
- (B) Additional information related to outdoor lighting shall be submitted to city staff demonstrating compliance with Section 317A.1 in the City of Asheboro Zoning Ordinance (Performance Standards for All Commercial Zoning Districts – Light) for inclusion in the file without further review by the city council.
- (C) 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 August 6, 2020.

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

ATTEST:

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

- (f) Acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for June 1, 2020.**

The minutes of the meeting held by the Asheboro ABC Board on June 1, 2020 have been received by the city clerk, distributed to Mayor Smith and the Council Members for review, and have been filed in the city clerk's office.

- (g) An ordinance to amend the Economic and Tourism Development Fund.**

21 ORD 8-20

**ORDINANCE TO AMEND THE ECONOMIC & TOURISM DEVELOPMENT FUND
FY 2020-2021**

WHEREAS, In September 2016, VSR LLC purchased property located at 133 S. Church Street now referred to as Mill 133, and;

WHEREAS, the Asheboro City Council approved the 2018-2023 Central Business District Redevelopment Plan on June 7, 2018; and,

WHEREAS, Central Business District Redevelopment Plan's Project #1 is The Square on Church, Mill 133; and,

WHEREAS, the City of Asheboro enlisted Duke Energy to relocate utilities on the property due to placement of the required driveway for a proposed hotel development in The Square on Church, Mill 133, and the estimated cost of this work is approximately \$26,000, and;

WHEREAS, the City desires to allocate funding and appropriate for the expense in the Economic and Tourism Development fund, and;

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

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase / decrease</u>
72-381-0000	Contribution for The Square on Church, Mill 133	26,000

That the following expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Appropriated Amount</u>
72-800-0001	The Square on Church, Mill 133 Redevelopment	26,000

Adopted this the 6th day of August 2020.

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

ATTEST:

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

- (h) **A resolution approving a correction to the purchase agreement for the walk-in rescue truck that is to be acquired for the Asheboro Fire Department.**

RESOLUTION NUMBER 15 RES 8-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION AUTHORIZING THE CORRECTION OF A PREVIOUSLY APPROVED PURCHASE AGREEMENT FOR A WALK-IN RESCUE TRUCK NEEDED BY THE ASHEBORO FIRE DEPARTMENT

WHEREAS, during a regular meeting on July 9, 2020, the Asheboro City Council (the “Council”) authorized, by means of adopting Resolution No. 11 RES 7-20, the execution of a purchase agreement by the city manager on behalf of the municipal corporation in order to purchase for the Asheboro Fire Department a Pierce Lance walk-in rescue truck with vehicle identification number 4P1CT02S3WA000216 (the “Rescue Truck”) currently owned by Robbins Hose Company No. 1, Inc., which is a Delaware corporation that provides fire protection services for Dover, Delaware; and

WHEREAS, further examination of the Rescue Truck confirmed that the truck referenced in the approved purchase agreement as a 1997 model year truck was in fact manufactured in December 1997, but the “Certificate of Title to Motor Vehicle” issued by the State of Delaware for this Rescue Truck lists 1998 as the model year for the truck sought by the Asheboro Fire Department; and

WHEREAS, except for the model year, the information listed in the approved purchase agreement for the Rescue Truck is accurate; and

WHEREAS, Chief Willie Summers of the Asheboro Fire Department and Asheboro City Manager John N. Ogburn, III have confirmed that, in their professional opinions, the purchase of the Rescue Truck, with the corrected model year, is in the best interest of the City of Asheboro.

- 6. Land Use Case RZ-CUP-20-09 (Quasi-Judicial Hearing): 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.**

Mayor Smith opened the public hearing on the 2-part request from Brandon McKenzie (the “Applicant”) to legislatively rezone the above-described property (the “Zoning Lot”) and to issue a Conditional Use Permit on the basis of evidence presented during the quasi-judicial hearing.

Community Development Director Trevor Nuttall was placed under oath and testified that legal notices for this hearing were published and mailed as required by law. The required notices were mailed to adjoining property owners on July 21, 2020.

The Zoning Lot is approximately 0.47 of an acre in size. Mr. Nuttall presented the planning staff’s analysis of the Applicant’s request that included a properly submitted site plan for the Conditional Use Permit. The analysis of the requested rezoning to a CU-B3 zoning district noted:

1. The property is located inside the city limits.
2. South Fayetteville Street is a state-maintained major thoroughfare.
3. The property is located within the Center City Planning Area, Tier 2 (Central Business District Fringe Development area). As described by the zoning ordinance: “This planning area encompasses blocks adjacent to Tier 1, the core Central Business Area. Properties in this planning area, unlike those in Tier 1, are not readily accessible to public downtown parking. Coordinated development of a variety of mixed uses is encouraged.”
4. Tier 2 also has heightened requirements for buffering, green space, pedestrian connectivity, and design standards for building and screening of certain features, such as mechanical equipment and solid waste facilities.
5. Along with the rezoning request, the Applicant has applied for a conditional use permit proposing a commercial development with multiple uses (and/or structures) plus dwelling(s) within a mixed use structure.
6. The property is currently zoned B2, which is generally considered the broadest commercial district, allowing the widest range of commercial uses. Most uses permitted in the B2 district are also permitted in the B3 district.
7. The underlying B3 district is described by the zoning ordinance statement of intent as “intended to be applied to the traditional commercial, governmental, administrative, and service core of Asheboro, commonly known as the Central Business District.”
8. Distinctions between the current B2 General Business District and the underlying requested B3 are that the B3 district allows for a mixed use structure with commercial and residential uses, and does not require off-street parking. However, the conditional use permitting process can require off-street parking, along with other site improvements that exceed the minimum requirements for the underlying B3 district.

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 1:** Rezoning is compliant with the Proposed Land Use Map.
- Checklist Item 5:** Compliance with Growth Strategy Map
- Checklist Item 8:** The request is an adaptive reuse of a vacant or unused lot, or is an infill lot.
- Checklist Item 10:** Rezoning is consistent with Land Category Descriptions.
- Checklist Item 11:** Rezoning will promote the type of development described in Design Principles.
- Checklist Items 12-14:**
- 12.)** Property is located outside of the watershed area, or the rezoning request will not impose a significant, negative environmental impact.
 - 13.)** The property is located outside of Special Hazard Flood Area.
 - 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.

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 3:** The property on which the rezoning district is proposed does not fit the description of the Zoning Ordinance (Article 200, Section 210, Schedule of Statements of Intent).

Mr. Nuttall also presented the following staff's analysis of the Conditional Use Permit application:

1. The Applicant is requesting a Conditional Use Permit for a commercial development with multiple uses and/or structures. The Applicant proposes using the existing two-level structure, which totals approximately 12,673 square feet.
2. Commercial development with multiple uses and or structures in the B3 district allows dwellings within a mixed use structure on floors other than ground floor.
3. The property is located in the Center City Planning Area, Tier 2. In addition to enhanced landscaping and building design standards, one of the requirements of this overlay area is a maximum impervious or "built upon" area of 70 percent of the land area. Although the maximum built upon area is exceeded, this is a legal non-conforming situation that the ordinance allows to continue.
4. The Applicant is proposing a total of four (4) residential dwelling units on the second floor of the structure. The Applicant also has the option of using some or all of this area for non-residential uses.
5. The B3 district does not mandate minimum parking for uses since the district is designed to be applied in the downtown area in close proximity to public on and off-street parking. The Applicant has elected to request a conditional use permit and district in order to identify site-specific development conditions, including proposed parking.

6. The Conditional Use permitting process can lead to the exclusion of certain uses that may not be appropriate given property location and configuration.
7. The site plan shows one entrance from South Fayetteville Street, which is existing. The North Carolina Department of Transportation must approve access from this driveway and may require improvements or modifications.

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:

While the property is not directly contiguous to Asheboro's traditional central business district, the property lies just outside of this area and has certain characteristics that support a rezoning to Conditional Use – Central Commercial.

Most notably, the Land Development Plan includes this property in the City Activity Center implying that adaptive reuse projects creating "pedestrian-friendly, community focal points" that contain "a mixture of commercial, office and institutional, entertainment, open space, and residential uses and housing types" should be thoughtfully considered. The requested district could facilitate such a project while providing safeguards through the conditional use permitting process that can allow evaluation of potential development issues such as off-street parking and specific uses.

Second, the property is immediately north of a general B3 district that was approved in 2002 and is, in fact, closer to the city's historic central core.

Considering these factors, staff believes that the requested Conditional Use Central Commercial district is reasonable and in the public interest.

On behalf of the Applicant, Mr. Taylor B. Callicutt, Esq. was 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. As part of his testimony, Mr. Callicutt confirmed that the Applicant consented to the following conditions that were recommended by the planning staff for attachment to the requested Conditional Use Permit.

1. The use approved shall be a "Commercial Development with Multiple Uses and/or Structures," excluding the following uses: (a) Car Wash; (b) Columbarium; (c) Crematorium (accessory use); (d) Flea Market, Open Air Sales; (e) Funeral Parlors; (f) Gas Station; (g) Nightclub/Cabaret; and (h) Service Station.
2. Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the Applicant shall submit documentation detailing driveway approval from the North Carolina Department of Transportation (NCDOT). If any improvements required by NCDOT impact the number of parking spaces provided on the Zoning Lot, any change in the number of parking spaces to make required driveway improvements shall not be a modification of the Conditional Use Permit. In such case, the Applicant shall provide a revised site plan for inclusion into the file without further review by the city council.
3. Prior to the issuance of a Zoning Compliance Permit, additional information related to outdoor lighting shall be submitted to city staff demonstrating compliance with Section 317A.1 of the Asheboro Zoning Ordinance (Performance Standards for all Commercial Zoning Districts – Light) for inclusion into the file without further review by the city council.
4. 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.

No one presented testimony in opposition to the requested land use approval. Mayor Smith transitioned to the deliberative phase of the application process.

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. While the property is not directly contiguous to Asheboro's traditional central business district, the property lies just outside of this area and has certain characteristics that support a rezoning to Conditional Use – Central Commercial.

Most notably, the Land Development Plan includes this property in the City Activity Center implying that adaptive reuse projects creating "pedestrian-friendly, community focal points" that contain "a mixture of commercial, office and institutional, entertainment, open space, and residential uses and housing types" should be thoughtfully considered. The requested district could facilitate such a project while providing safeguards through the conditional use permitting process that can allow evaluation of potential development issues such as off-street parking and specific uses.

Second, the property is immediately north of a general B3 district that was approved in 2002 and is, in fact, closer to the city's historic central core. Thus, the 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-B3 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 Snuggs, the Council voted unanimously to approve the requested Conditional Use Permit, with the stated conditions, authorizing a Commercial Development with Multiple Uses and/or Structures. 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 September 17, 2020.

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

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7. **Items presented by the city manager:**

- (a) **Annexation petition requesting the annexation into the city of two parcels of land along East Allred Street and Camelot Drive.**

Mayor Smith opened a public hearing on the question of the annexation petition submitted by Habitat for Humanity of Randolph County, N.C., Inc., a North Carolina non-profit corporation. This petition requested the annexation of a parcel of land owned by the non-profit corporation and located along East Allred Street and Camelot Drive.

As part of the public hearing, City Manager John Ogburn presented the staff's analysis of the annexation petition. No citizen wished to be heard during the public hearing.

Once the city council entered the deliberative phase of the hearing, Council Member Moffitt moved, and Council Member Swiers seconded the motion to approve/adopt the following annexation ordinance by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in unanimously favor of the motion.

ORDINANCE NO. 22 ORD 8-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

ORDINANCE EXTENDING THE ASHEBORO CITY LIMITS BY ANNEXING TWO PARCELS OF LAND LOCATED ALONG EAST ALLRED STREET AND CAMELOT DRIVE THAT ARE CONTIGUOUS TO THE EXISTING PRIMARY CITY LIMITS

WHEREAS, in accordance with Section 160A-31 of the North Carolina General Statutes, Habitat for Humanity of Randolph County, N.C., Inc., a North Carolina non-profit corporation, petitioned the City of Asheboro to annex into the primary city limits approximately 1.335 acres of the non-profit corporation's land along East Allred Street and Camelot Drive; and

WHEREAS, the parcels of land for which annexation has been requested, which are identified by Randolph County Parcel Identification Numbers 7762201718 and 7762211072, are more specifically described by metes and bounds in Section 1 of this Ordinance; and

WHEREAS, on July 9, 2020, by means of a duly adopted resolution (Resolution Number 12 RES 7-20), the Asheboro City Council directed the city clerk to investigate the sufficiency of the petition submitted on behalf of the non-profit corporation, and the city clerk has in fact certified the sufficiency of this annexation petition; and

WHEREAS, pursuant to Asheboro City Council Resolution Number 13 RES 7-20, a legal notice was published on July 17, 2020, in *The Courier-Tribune*, a newspaper with general circulation in the City of Asheboro, announcing that a public hearing to consider the adoption of an ordinance annexing the described territory into the City of Asheboro would be held during the Asheboro City Council's next regular meeting, which was scheduled to begin at 7:00 p.m. on the 6th day of August, 2020, in the council chamber on the second floor of Asheboro City Hall, 146 North Church Street, Asheboro, North Carolina 27203; and

WHEREAS, the public hearing was held, as advertised, on the 6th day of August, 2020; and

WHEREAS, the Asheboro City Council has determined that the annexation petition meets the requirements of Section 160A-31 of the North Carolina General Statutes.

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

Section 1. By virtue of the authority granted in Section 160A-31 of the North Carolina General Statutes, the following described territory is hereby annexed and made part of the City of Asheboro, North Carolina:

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 line 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 2. Upon and after August 6, 2020, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force

in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. The above-described territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

Section 3. The Mayor of the City of Asheboro shall cause to be recorded in the Office of the Randolph County Register of Deeds and in the Office of the North Carolina Secretary of State an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this Ordinance. Such a map shall also be delivered to the Randolph County Board of Elections as required by Section 163A-1594 of the North Carolina General Statutes.

Section 4. All ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

Section 5. This Ordinance shall be in full force and effect upon and after the 6th day of August, 2020.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 6th day of August, 2020.

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

ATTEST:

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

Approved as to form:

Jeffrey C. Sugg
Jeffrey C. Sugg, City Attorney

(b) Consideration of the proposed ADA Transition Plan for the City of Asheboro.

Mr. Ogburn introduced Mr. Spencer Patton, who is an intern in the city's Engineering Department. Mr. Patton presented and summarized the proposed ADA Transition Plan for the City of Asheboro. Subsequently, Council Member Moffitt moved, and Council Member Burks seconded the motion to approve/adopt the ADA Transition Plan for the City of Asheboro as presented. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted unanimously in favor of the motion.

A copy of the plan can be found on the city's website.

(c) Update on the city's allocation of CARES Act funds distributed by Randolph County.

Mr. Ogburn reported that all nine (9) municipalities of Randolph County have been allocated a portion of CARES Act money to be spent on COVID-19 related expenses within their communities. Asheboro's allocation is \$633,175.00. The federally approved expenditure options include the following:

1. Essential supplies for employees and patrons including, but not limited to, face coverings, gloves, hand sanitizer, face shields, social distancing markers, disinfectant, bleach, safety barriers, and decals.
2. Infrared thermometers to screen employees and patrons entering municipal buildings.
3. Safety kiosk (temperature and checklist questions) to screen employees and patrons entering municipal buildings.

4. Offering COVID-19 drive-through diagnostic testing in the community.
5. Hiring additional help for COVID-19 related assistance, i.e. concierge for municipal buildings.
6. Paying law enforcement's time for COVID-19 related calls, i.e. assisting public health.
7. Adding safety barriers in municipal buildings and automobiles (i.e. barriers in law enforcement cars for COVID-19 protection).
8. Media to educate and inform citizens.
9. Hiring third-party professional cleaning and sanitizing services as needed for rooms, areas, or city-owned automobiles – sanitation of municipal buildings (i.e. fogging machines).
10. Conduct a needs assessment for the municipality to evaluate needs of marginalized populations related to COVID-19.

No action was requested of the council, and none was taken by the council during this portion of the meeting.

(d) Consideration of an ordinance incorporating payment plans established in compliance with gubernatorial executive orders 124 and 142 into the city's water/sewer utility billing and collection regulations.

Mr. Ogburn presented and recommended adoption, by reference, of an ordinance authorizing the creation of repayment plans compliant with executive orders 124 and 142. Upon motion by Council Member Bell and seconded by Council Member Swiers, the Council voted unanimously to adopt the following ordinance by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

ORDINANCE NUMBER 23 ORD 8-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

AUTHORIZATION FOR THE CREATION OF REPAYMENT PLANS COMPLIANT WITH EXECUTIVE ORDERS 124 AND 142

WHEREAS, Section 160A-312(b) of the North Carolina General Statutes provides as follows:

A city shall have full authority to protect and regulate any public enterprise system belonging to or operated by it by adequate and reasonable rules. The rules shall be adopted by ordinance, shall apply to the public enterprise system both within and outside the corporate limits of the city, and may be enforced with the remedies available under any provision of law; and

WHEREAS, Section 160A-314(a) of the North Carolina General Statutes provides as follows:

A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished or to be furnished by any public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to classes of service, and different schedules may be adopted for services provided outside the corporate limits of the city; and

WHEREAS, in response to the coronavirus pandemic, Governor Cooper issued Executive Orders 124 and 142 that placed a moratorium on the disconnection of residential water/sewer accounts from March 31, 2020, to July 29, 2020; and

WHEREAS, during the effective dates of the above-stated moratorium, some water/sewer customers have not paid the balances owed to the city; and

WHEREAS, Executive Orders 124 and 142 require the city to give these customers the opportunity to pay their balance (the amount in arrears) using a reasonable payment arrangement that spreads out repayment of the balance owed over a time period of no less than six months; and

WHEREAS, the Asheboro City Council must incorporate these payment arrangements into the billing and collections framework established by ordinance for the city's water and sewer utility.

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

Section 1. The city manager and finance director are hereby authorized and directed to prepare and implement payment plans compliant with Governor Cooper's Executive Order 124 and Executive Order 142.

Section 2. While each residential customer's payment plan must be calculated according to the details unique to the customer's account(s), the following framework is mandated for each repayment plan developed and implemented pursuant to the gubernatorial executive orders and this Ordinance:

- (A) Residential customers shall be provided with the opportunity to utilize a repayment plan to pay off, over a 6-month time period, the accumulated water and sewer service charges that fall within the scope of the repayment plan program authorized by this Ordinance;
- (B) Water and sewer service charges that are deemed to fall within the scope of this repayment plan program are arrearages incurred from a bill with a listed due date between 12:01 am on March 31, 2020, and 11:59 pm on August 15, 2020;
- (C) Each repayment plan will consist of six equal, fixed monthly installments with a repayment period that shall extend, at a minimum, to January 30, 2021;
- (D) No interest or late fees shall be charged on arrearages that fall within the scope of the repayment plans authorized by this Ordinance;
- (E) A customer can be disconnected in accordance with the city's standard billing and collection practices if the customer misses a payment on his or her repayment plan;
- (F) The amounts due under a customer's repayment plan will not be accelerated if the customer misses a payment on his or her repayment plan. In accordance with guidance received from the Office of the North Carolina Attorney General, the city will not respond to a missed payment on a repayment plan by making the entire amount owed under the repayment plan immediately due and payable;
- (G) No interest or late fee will be charged on arrearages that fall within the scope of the repayment plan, specifically including instances in which a customer misses a payment on his or her repayment plan;
- (H) Notice of the repayment plan program must be sent by the city's water and sewer utility to its customers, and this notice must be designed to reasonably inform customers about their right to a repayment plan; and

- (I) The repayment plan program is limited in scope and does not cover new monthly bills, charges, fees, etc. All new bills are due and payable on or before the due date listed on the bill, and new bills are subject to collection in accordance with the city's standard billing and collection practices.

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

Section 4. This Ordinance shall take effect and be in force from and after the date of its adoption.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 6th day of August, 2020.

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

ATTEST:

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

- (e) **Consideration of a resolution authorizing the acquisition of a parcel of land to support parking at the McCrary Ballpark.**

Mr. Ogburn reported that city staff is currently working on the necessary documents in order to purchase a parcel of land to support parking near McCrary Ballpark. City staff will update the Council Members regarding this acquisition as more information becomes available.

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

8. **The announcement of Asheboro's designation as a "Main Street Community."**

Mayor Smith announced that the City of Asheboro has been designated as a Main Street Community. No formal action was taken by the council during this portion of the meeting.

9. **Upcoming events.**

Mayor Smith 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.

10. **Consideration of entering into closed session to discuss matters relating to the location or expansion of industries or other businesses in the City of Asheboro.**

Mayor Smith opened the floor for a motion to go into closed session pursuant to Section 143-318.11(a)(4) of the North Carolina General Statutes in order to discuss matters relating to the location or expansion of industries or other businesses in the area served by the City of Asheboro, including agreement on a tentative list of economic development incentives that may be offered by the city in negotiations. Council Member Moffitt made the requested motion to go into closed session, and Council Member Burks seconded the motion. The motion was then adopted unanimously. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of going into closed session for the stated purpose.

11. Return to open session.

After returning to open session, there were no further items to discuss or act upon.

There being no further business, the meeting was adjourned at 8:15 p.m.

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

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