

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, JUNE 4, 2020
7:00 PM**

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 Physically Present in the Council Chamber
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
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Jeffrey C. Sugg, City Attorney
D. Richard Thompson, Jr., Police Captain

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 comply with the applicable executive orders, specifically including physical distancing guidance, during the current public health emergency.

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 Cases Continued from a Previous Meeting:

- (a) RZ-20-01 (Public Hearing): An application to rezone property at 137 North Randolph Avenue (Randolph County Parcel Identification Number 7761027972) from R7.5 to B2 zoning.**

Mayor Smith re-opened the public hearing on an application to rezone property located at 137 North Randolph Avenue from R7.5 to B2 zoning. This public hearing had been continued from the Council’s meetings on April 9, 2020 and May 7, 2020.

Community Development Director Trevor Nuttall presented a written request from Mr. Brandon Allen, the Applicant, to continue the above-referenced public hearing to the Council’s regular July 9, 2020 meeting. The Applicant made this request in order to have more time to convert his application into a request for Conditional Use B2 zoning and for a corresponding conditional use permit.

Upon motion by Council Member Bell and seconded by Council Member Burks, the Council voted unanimously to continue the public hearing to its July 9, 2020 regular meeting. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

- (b) **RZ-CUP-20-03 (Quasi-Judicial Hearing): An application to rezone property at 1420 East Salisbury Street and 358 Patton Avenue (Randolph County Parcel Identification Number 7761513992) from R10 to CU-I2 zoning and to obtain a conditional use permit authorizing land uses identified as Motor Vehicle Repair, Major and Rental/Sales of Domestic Vehicles.**

Mayor Smith re-opened the public hearing on the combined request from Kenneth and Bridget Gallimore (the “Applicants”) 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. This hearing was continued from the council meeting held on May 7, 2020.

Mr. Nuttall, who was originally placed under oath on May 7, 2020, testified that legal notices for this hearing were published and mailed as required by law. There required notices were mailed to adjoining property owners on April 20, 2020.

The Zoning Lot that is the subject of this application is approximately 2.1 acres in size. At the time of the hearing of this case, the lot was owned by Deborah a. Maness, who signed the application submitted by the Gallimores.

Mr. Nuttall presented the planning staff’s analysis of the Applicants’ request that included a properly submitted site plan for the Conditional Use Permit. The analysis of the requested rezoning to a CU-I2 zoning district noted in part:

1. The property is located outside the city limits. Connection to city services will require annexation consistent with city policies.
2. East Salisbury Street is a state-maintained minor thoroughfare. Patton Avenue is a state-maintained road connecting East Salisbury Street and N.C. Highway 42 North that is 15-16 feet wide in front of the subject property.
3. The area primarily consists of residential, commercial (including Randolph Mall to the east) and office/institutional uses. Also, along the north side of East Salisbury Street are automotive repair uses that are industrially zoned.
4. The zoning ordinance statement of intent for the underlying I2 zoning district is “to produce areas for intensive manufacturing, warehousing, processing and assembly uses, controlled by performance standards to limit the effect of such uses on adjacent districts.”
5. In addition to the rezoning request, the Applicant has filed an application for a Conditional Use Permit allowing motor vehicle repair, major and rental/sales of domestic vehicles.
6. The Land Development Plan proposed land use map designates the northern portion of the property along East Salisbury Street as “Office and Institutional.” A small portion on the southern part of the property is designated “Urban Residential.”

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 12-15: Located outside of watershed area, Outside of Special Hazard Flood Area, disturbance area not located on Steep Slopes, not located on poor soils

Use and Location Compliance: High Priority Checklist #5 – The proposed rezoning is compliant with the objectives of the Growth Strategy Map.

Use and Location Compliance: Medium Priority Checklist #8 – The request is an adaptive reuse of a vacant or unused lot, or is an infill lot.

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

Checklist Item 1: Not compliant with the Proposed Land Use Map.

Policy 2.1.1: 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 uses.

Mr. Nuttall also presented the staff's analysis of the Conditional Use Permit application. The analysis noted, in part, as follows:

1. The Applicant proposes two structures. These include a 12,800 square foot building for motor vehicle repair and an office, and a 2,800 square foot structure used for storage.
2. The site plan shows access from East Salisbury Street and no access from Patton Avenue.
3. The required buffering/screening is either a 10' Type C screen or 25' Type C buffer adjacent to the residentially zoned (R10) property on the south side of the property. The Applicant is proposing using a combination of evergreen trees and a fence adjacent to this residential property. In addition, the Applicant proposes a combination of trees and shrubs within the front yards on East Salisbury Street and Patton Avenue as required by the zoning ordinance.
4. 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:

Since initial adoption of the Land Development Plan in 2000, the city has approved two requests for conditional use industrial zoning districts in the vicinity of the subject property, the most recent being property owned by the Applicant just to the northeast in 2016. Like these prior requests, this application is not compliant with the Land Development Plan's Proposed Land Use Map but is supported by other plan goals and objectives. Namely, approval of the request would promote development, annexation, and provision of public services to the property in accordance with the Land Development Plan's Growth

Strategy Map which designates the property as Adjacent Developed Area.

Compatibility with residential uses, especially to the west and south, and Patton Avenue's limited road capacity are of concern, but staff believes the Conditional Use permitting process can help to mitigate potential adverse impacts from any development.

Considering these factors, staff believes the request is generally consistent with the Land Development plan, and is reasonable and in the public interest.

The Applicant, Mr. Kenneth Gallimore, and Real Estate Broker H.R. Gallimore 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. As part of his testimony, the Applicant consented to the following conditions that were recommended by the planning staff for attachment to the requested Conditional Use Permit.

1. Prior to the issuance of a zoning compliance permit for the proposed land use, the Applicant shall submit documentation detailing the following approvals:
 - (i) Driveway permit from NCDOT
 - (ii) Erosion control approval from the N.C. Department of Environmental Quality.
2. Prior to the issuance of a zoning compliance permit, the Applicant shall provide detail concerning proposed outdoor lighting in compliance with Section 316A.B.1 (Performance Standards in Industrial Districts, Light).
3. Should the number of parking spaces required to serve the proposed land use be determined to be less than the amount of parking shown on the site plan, a change to the amount of parking that is compliant with the zoning ordinance specifications shall not be considered a modification of the project requiring Council approval. The Applicant shall submit a revised site plan for review by the city staff for inclusion into the file.
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.

While no one presented testimony in opposition to the requested land use approval during the quasi-judicial hearing, a letter dated May 6, 2020, from the Associate General Counsel for the Hull Property Group, which owns the Asheboro Mall, was distributed. The letter reflected concerns held by the Hull Property Group about the land use request. No one from the Hull Property Group was present during the hearing of this case.

In the absence of any sworn witnesses other than the Applicants and their real estate expert, 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 Moffitt seconded the motion, to adopt the plan consistency statement printed below and to approve the requested rezoning with the following multi-part motion:

1. Since the initial adoption of the Land Development Plan in 2000, the city has approved two requests for conditional use industrial zoning districts in the vicinity of the subject property, the most recent being property owned by the Applicant just to the northeast in 2016. While this application is not compliant with the Land Development Plan's Proposed Land Use Map, the application is supported by other plan goals and objectives. Namely, approval of the request will promote development, annexation, and provision of public services to the property in accordance with the Land Development Plan's Growth Strategy Map which designates the property as Adjacent Developed Area.

Compatibility with residential uses, especially to the west and south, and Patton Avenue's limited road capacity are of concern, but the Conditional Use permitting process will mitigate potential adverse impacts from any development. 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-I2 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 Moffitt, the Council voted unanimously to approve the requested Conditional Use Permit, with the stated conditions, authorizing motor vehicle repair, major and rental/sales of domestic motor vehicles. 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 July 9, 2020.

Copies of the slide show utilized by Mr. Nuttall and the letter submitted by the Hull Property Group are on file in the city clerk's office.

4. Public comment period.

Mayor Smith opened the floor for public comments. The following individuals presented comments and concerns pertaining to current events focusing the attention of the nation and local communities such as Asheboro on issues of how policing is conducted and the presence of systemic racism in our society:

1. Jennyfer Burcado
2. Bobby Crutchfield
3. Jane Gant
4. Clyde Foust, Jr.
5. Maria Foust
6. Charles Antinori
7. Michael Trodgon
8. Adam Goodman
9. Helen Settle
10. Dimitria McSwain
11. India Little

12. Amber Smith
13. Madison Perdue
14. Cristen Bailey

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

5. Finance Items:

(a) Discussion of the impact on utility billing operations from the executive orders issued in response to the novel coronavirus.

Finance Director Deborah Reaves gave an overview of the impact of the current public health emergency and the corresponding executive orders on the city's utility operations.

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

(b) Consideration of an ordinance amending Section 50.006 (Paying Service Charges) in the Code of Asheboro.

Ms. Reaves presented and recommended adoption, by reference, of an ordinance amending Section 50.006 (Paying Service Charges) in the Code of Asheboro.

Upon motion by Council Member Bell and seconded by Council Member Burks, 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. There were no dissenting votes.

ORDINANCE NUMBER 15 ORD 6-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

AN ORDINANCE TO AMEND SECTION 50.006 (PAYING SERVICE CHARGES) IN THE CODE OF ASHEBORO

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, Subsection (F) in Section 51.35, which pertains to user charges for the city's commercial sanitation customers, in the Code of Asheboro provides as follows:

The collection charges instituted in this section will be added to the sanitation customer's water and sewer bill. Payment terms will be the same as for the water and sewer bill. In the event of nonpayment of

this charge, collection of the customer's refuse/recyclables will be discontinued until payment is remitted in full. All payments for solid waste/recycling services user fees and water and sewer charges whether full or partial payments shall be applied to the customer's account as follows: First, to any solid waste services user fee charges including any arrears charges; second, to any recycling services user fee charges including arrears charges; and third, to any water and sewer charges including arrears charges. In the event of partial payments, the utility charges will be considered outstanding and the prescribed disconnection of services for non-payment will be enforced; and

WHEREAS, Subsection (B) in Section 51.36, which pertains to user charges for the city's residential sanitation customers, in the Code of Asheboro provides as follows:

The collection charges instituted in this section will be added to the sanitation customer's water and sewer bill. Payment terms will be the same as for the water and sewer bill. In the event of nonpayment of this charge, collection of the customer's refuse/recyclables will be discontinued until payment is remitted in full. All payments for solid waste/recycling services user fees and water and sewer charges whether full or partial payments shall be applied to the customer's account as follows: First, to any solid waste services user fee charges including any arrears charges; second, to any recycling services user fee charges including arrears charges; and third, to any water and sewer charges including arrears charges. In the event of partial payments, the utility charges will be considered outstanding and the prescribed disconnection of services for non-payment will be enforced; and

WHEREAS, Section 50.006 in the Code of Asheboro contains regulations that guide the city's billing and collections department in administering water and sewer service charges; and

WHEREAS, the city manager and finance officer have recommended listing in Section 50.006 of the Code of Asheboro the order in which payments are to be applied by the billing and collections department to customers' accounts; and

WHEREAS, the city manager and finance officer have also recommended amending the rules found in Section 50.006 of the Code of Asheboro to specifically address the order in which payments are to be applied to a customer's account when that account includes a payment plan established in compliance with gubernatorial executive orders issued to address the impact of the novel coronavirus; and

WHEREAS, the Asheboro City Council concurs with the recommendations received from the city manager and the finance officer.

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

Section 1. Section 50.006 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 50.006 PAYING SERVICE CHARGES

- (A) Water and sewer accounts are payable to the City Water Department, 146 North Church Street, Asheboro, North Carolina. All bills are due and payable on receipt, and, subject to division (C) of this section, all accounts for which payment is not received by the Water Department within 15 days from the billing date indicated on the bill shall be considered delinquent. Once an account becomes delinquent, a \$10 fee shall be assessed against the account as a first tier late fee. If an account remains in a state of delinquency as of the 25th day from the billing date indicated on the bill, an additional \$20 fee shall be assessed against the

account as a second tier late fee. Upon assessment, any and all late fees shall be immediately due and payable. For all delinquent accounts that are in a state of delinquency of 25 days or more, a cut-off notice shall be mailed which shall specify a final date by which payment must be remitted or service will be discontinued pursuant to and in accordance with § 50.007. The cut-off notice shall also provide notice that customers may submit disputed bills to the Water and Sewer Billing and Collections Department supervisor for review; the supervisor or his or her deputy shall be authorized to make adjustments to the billing amount in accordance with § 50.021 if such is deemed proper following the review. The notice shall specify the hours during which a customer may call or come by for a review of disputed unpaid bills. After the review process, any customer who does not pay or make arrangements to pay the amount determined by the review process to be owed to the city shall be entered on a list of delinquent customers whose services are to be terminated pursuant to and in accordance with § 50.007.

- (B) If notification is received that a check has not been honored and has been returned due to insufficient funds or for any other reason, a charge of \$25 shall be added to the customer's current bill, and such charge shall become immediately due and payable. Additionally, if payment in full with good funds has not been received within 15 days from the billing date indicated on the customer's bill, the account shall be considered delinquent. In the event an account becomes delinquent due to a financial institution not honoring a check, a \$10 late fee shall be assessed against the account as a first tier late fee. If the account is or remains in a state of delinquency as of the 25th day from the billing date, an additional \$20 fee shall be assessed against the account as a second tier late fee. A customer shall have five business days from the date of notification to the city that the customer's check has not been honored to make payment in full, including any assessed fees, with good funds to the City Water Department. If the outstanding balance is not paid in full with good funds within the time period specified in the preceding sentence or by the 25th day of the month in which the bill is first due and payable, whichever is later, the customer's water service will be discontinued without further notice pursuant to and in accordance with § 50.007. Whenever within any 12-month period the city is notified on two separate occasions that a customer's check has been returned due to insufficient funds in the account or for any other reason, such a customer shall be required to make payment in good funds for 12 consecutive billing periods before such a customer is eligible to make payments in any other form.
- (C) As with all other customers, water and sewer accounts that are paid by means of automatic draft are payable to the City Water Department, 146 North Church Street, Asheboro, North Carolina. Customers who choose to make payments on their water and sewer accounts by means of automatic draft may make arrangements with the City Water Department to have an appropriate account at a financial institution drafted for payment in full of a regular billing on the tenth day, fifteenth day, twentieth day, or twenty-fifth day of the month in which a bill is due and payable. If notification is received that an attempted automatic draft of a payment has failed due to insufficient funds in a customer's designated account or for any other reason, a charge of \$25 shall be added to the customer's current bill, and such charge shall become immediately due and payable. Additionally, if any attempted automatic draft of a customer's account fails and payment in full with good funds has not been received within 15

days from the billing date indicated on the customer's bill, the account shall be considered delinquent. In the event an account becomes delinquent, a \$10 late fee shall be assessed against the account as a first tier late fee. If the account is or remains in a state of delinquency as of the 25th day from the billing date, an additional \$20 fee shall be assessed against the account as a second tier late fee. A customer shall have five business days from the date of notification to the City Water Department that an automatic draft of the customer's designated account has not been honored to make payment in full, including any assessed fees, with good funds to the City Water Department. If the outstanding balance is not paid in full with good funds within the time period specified in the preceding sentence or by the twenty-fifth day of the month in which the bill is first due and payable, whichever is later, the customer's water service will be discontinued without further notice pursuant to and in accordance with § 50.007. Whenever within any 12-month period the City Water Department is notified on two separate occasions that an attempt to automatically draft a customer's designated account for payment has failed due to insufficient funds in the account or for any other reason, such a customer shall be required to make payment in good funds only for 12 consecutive billing periods before such a customer is eligible to make payments to the city in any form other than good funds.

(D) Payments will be applied to a customer's bill in the following order:

- (1) Solid waste services user fees and charges, inclusive of any and all fees and charges found in Chapter 51 of the Code of Asheboro other than recycling services user fees and charges;
- (2) Recycling services user fees and charges;
- (3) Installment payments made in compliance with a payment plan established in response to gubernatorial executive orders or local state of emergency declarations that modify utility collection practices;
- (4) Sampling fees;
- (5) Surcharge fees;
- (6) Miscellaneous fees and charges found in Chapter 50 of the Code of Asheboro and not otherwise addressed by this division, including without limitation any and all late fees and disconnection fees;
- (7) Sewer service charges; and
- (8) Water service charges.

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

Section 3. This Ordinance shall take effect and be in force from and after July 1, 2020.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 4th day of June, 2020.

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

ATTEST:

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

(c) Consideration of a resolution approving installment financing agreement terms between the city and Truist Bank.

Ms. Reaves presented and recommended adoption, by reference, of a resolution approving installment financing terms with Truist Bank.

Upon motion by Council Member Moffitt 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 08 RES 6-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A Resolution Approving Installment Financing
Terms with Truist Bank**

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

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

WHEREAS, by means of adopting Resolution Number 27 RES 8-19 on August 8, 2019, the Asheboro City Council stated its intent, prior to the execution of any installment financing agreement and consistent with the city’s budget ordinance for fiscal year 2019-2020, to expend a maximum of \$921,938.00 from the General Fund during the current fiscal year for certain vehicles and equipment referenced in the adopted Resolution of Intent; and

WHEREAS, with the adoption of Resolution Number 27 RES 8-19, the Asheboro City Council formally and explicitly declared the official intent of the City of Asheboro to fully reimburse, with loan proceeds from an installment financing agreement to be executed prior to the end of the 2019-2020 fiscal year, any and all expenditures from the General Fund for the purchase during the current fiscal year of the vehicles and equipment identified in the Resolution of Intent as necessary to the provision of essential municipal services; and

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

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

Section 1. The determination is hereby made that the City will finance the Project through Truist Bank (“Truist”) in accordance with the proposal dated May 5, 2020. The amount financed shall not exceed \$921,938.00, the annual interest rate (in the absence of a

default or a change in tax status) shall not exceed 1.99%, and the financing term shall not exceed 59 months from closing.

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

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

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

Section 5. In addition to the above-referenced Resolution of Intent (Resolution Number 27 RES 8-19), the City intends that the adoption of this Resolution will be a declaration of the City's official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the Truist financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City's General Fund or any other fund related to the Project for Project costs may be reimbursed from the financing proceeds.

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

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 4th day of June, 2020.

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

ATTEST:

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

(d) Consideration of a budget ordinance amendment pertaining to the General Fund for fiscal year 2019-2020.

Ms. Reaves presented and recommended adoption, by reference, of an ordinance to amend the general fund for fiscal year 2019-2020.

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. There were no dissenting votes.

ORDINANCE TO AMEND
THE GENERAL FUND
FY 2019-2020

WHEREAS, the City has contracted with Ready Telecom Inc. to extend high speed internet to Bicentennial Park & Downtown at a cost of \$33,066, and;

WHEREAS, The City and Randolph County are sharing consulting fees associated with the Randolph Health Bankruptcy and reorganization and the City's share of the current invoices is \$18,873, and;

WHEREAS, the Asheboro Fire Department has been approved to offer a fire Fighter trainee program similar to the Police Officer trainee program and they would like to move forward with implementation of this program and thus has requested funds to cover salaries for June 2020 at \$17,300, and;

WHEREAS, the Engineering department's salary line items needs to be amended by \$23,790, and;

WHEREAS, the City has a need to do some additional feasibility studies / design work for McCrary Ballpark improvements for \$12,351, and;

WHEREAS, the earlier in the year, funding for pay plan changes were able to be absorbed vs moved from the budgeted line item in Human Resources budget leaving some available funds to be reallocated and the City Manager authorized a transfer of funds in May via internal amendment (#1413, 1414, 1415, 1416) between departments, and;

WHEREAS, as outlined in the Budget Ordinance, the City Manager needs to report the amendment detail for formal approval at the next scheduled council meeting, and;

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

THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro, North Carolina that following revenue and expense line items are changed as follows:

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
10-490-0400	Professional Services	51,939
10-575-0200	Salaries	20,400
10-575-0702	FICA	1,560
10-575-0705	Retirement	1,830
10-530-0200	Salaries	17,300
10-620-0400	Professional Services	12,351
10-590-0600	Unallocated Pay Plan Funds	<u>(105,380)</u>
	Total Change	0

Adopted this 4th day of June, 2020.

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

ATTEST:

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

- (e) **The introduction of the proposed annual budget for fiscal year 2020-2021.**

Ms. Reaves introduced the proposed annual budget for fiscal year 2020-2021.

The proposed fiscal year 2020-2021 budget is balanced at \$48,249,510.00. The city manager, who serves as the budget officer, has recommended that the property tax rate remain at \$0.665 cents per \$100.00 value. Likewise, no change is recommended in the charges that support the water and sewer fund.

The public hearing for the proposed budget will held during a special meeting of the city council on June 11, 2020, and the annual budget adoption meeting is scheduled for June 25, 2020 at 7:00 p.m. in the council chamber located in Asheboro City Hall at 146 North Church Street, Asheboro, North Carolina.

A copy of the slide show utilized by Ms. Reaves is on file in the city clerk's office. The council took no action on the proposed budget at this time.

6. Consent Agenda:

Upon motion by Council Member Burks and seconded by Council Member Bell, 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. There were no dissenting votes.

- (a) **The meeting minutes for the city council's regular meeting held on May 7, 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 acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for April 6, 2020.**

The minutes of the meeting held by the Asheboro ABC Board on April 6, 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.

- (c) **The acknowledgement of the receipt, on May 21, 2020, of the budget message and proposed budget for the Asheboro ABC Board for fiscal year 2020-2021.**

The budget message from the Asheboro ABC Board's general manager/budget officer and the proposed Asheboro ABC Board budget for fiscal year 2020-2021 were received by the city clerk on May 21, 2020, distributed to Mayor Smith and the Council Members for review, and have been placed on file in the city clerk's office.

[The remainder of this page was intentionally left blank.]

- (d) The final decision document for the land use case identified by file number CUP-20-04.

Case No. CUP-20-04
Final Decision Document
City Council of the City of Asheboro, North Carolina

**IN THE MATTER OF THE APPLICATION BY TRICOR INTERNATIONAL LLC
FOR A CONDITIONAL USE PERMIT AUTHORIZING A COMMERCIAL
DEVELOPMENT WITH MULTIPLE USES AND/OR STRUCTURES**

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

THIS MATTER came before the Asheboro City Council (the “Council”) for a properly advertised quasi-judicial hearing on May 7, 2020. During the hearing, sworn witnesses provided testimony and documentary evidence in support of the application submitted by Tricor International LLC (the “Applicant”) for a Conditional Use Permit (“CUP”). 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. The Applicant properly submitted, by and through Marc Hagle, who is the company’s chief executive officer, a complete application for a CUP authorizing the proposed land use, which is identified by the Asheboro Zoning Ordinance (the “Ordinance”) as a commercial development with multiple uses and/or structures. Along with building elevations, the Applicant submitted the site plan required by Section 1005 of the Ordinance.

2. Aside from the above-referenced label applied to the proposed land use by the Ordinance, the commonly used description for the Applicant’s proposed land use is multi-tenant building for office and retail uses.

3. The proposed site for this multi-tenant building is a parcel of land, which is identified by Randolph County Parcel Identification Number 7760584122, at 1226 East Dixie Drive. This parcel of land (the “Zoning Lot”) is approximately 22.11 acres in size and is owned by Middleton Income Investors Asheboro LLC.

4. In his capacity as an authorized signatory for Middleton Income Investors Asheboro LLC, Peter L. Holstein signed the application submitted to the city by Tricor International LLC for the purpose of obtaining a CUP authorizing a commercial development with multiple uses and/or structures.

5. During his testimony, City of Asheboro Community Development Director Trevor Nuttall testified that the required notices of the application for the issuance of a CUP were mailed and published in accordance with the applicable legal requirements. The legal notices were mailed to adjoining property owners on April 20, 2020.

6. The Zoning Lot is currently located in a Conditional Use B-2 zoning district.

7. 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.

8. Section 102 of the Ordinance also provides:

Within a CU District, only those uses specifically permitted in the zoning district to which the CU District corresponds (i.e., R15 and CUR15) shall be permitted, and all other requirements of the corresponding district shall be met. It is the intent of this ordinance that all requirements within a CU District be equal to or more stringent than those in a corresponding non-CU District.

In addition, within a CU District no use shall be submitted except as pursuant to a Conditional Use Permit authorized by the City Council, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use or uses, the number of dwelling units or Floor Area Ratio, the location and extent of supporting facilities including but not limited to parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting a Conditional Use Permit, the Council may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done.

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

In considering an application for a Conditional Use Permit, the City Council shall give due regard that the purpose and intent of this ordinance shall be served, public safety and welfare secured and substantial justice done. If the City Council should find, after a public hearing, that the proposed Conditional Use Permit should not be granted, such proposed permit shall be denied. Specifically the following general standards shall be met:

1. *That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.*
2. *That the use meets all required conditions and specifications.*
3. *That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.*
4. *That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.*

10. Section 210 of the Ordinance contains a statement of intent for the B2 General Commercial District, and this statement of intent provides as follows:

The B2 General Commercial District is intended to serve the convenience goods, shoppers' goods retail and servicing 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.

11. According to Table 200-2 of the Ordinance, commercial developments with multiple uses and/or structures, which is the type of land use proposed by the Applicant for the Zoning Lot, are permitted as a principal use in the underlying B2 zoning district.

12. The Ordinance's supplemental regulations for commercial developments with multiple uses and/or structures, which are found as Note 9 in the notes to Table 200-2, provide as follows:

This type of development generally includes more than (sic) one principal structure and use with associated accessory structures and uses on one zoning lot which will not be subdivided into customary building lots. The development as a whole (including all principal structures and accessory structures) may not exceed the permitted FAR for the district in which the development is located. All yard, height, setback, parking, buffer and screening etc. requirements of this ordinance shall be met for the development as a whole.

13. With regard to the Zoning Lot, the surrounding land uses are as follows:

North:	Commercial	East:	Commercial/ Residential including Undeveloped buffer)
South:	Residential	West:	Undeveloped Commercial

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

15. East Dixie Drive is a state-maintained boulevard.

16. The Zoning Lot is already subject to a CUP that was issued when the property was developed in 1998. This existing permit was for a retail/commercial use, which is synonymous with the Ordinance's current nomenclature of "commercial development with multiple uses and/or structures."

17. On the basis of the existing permit, commercial development with multiple uses and/or structures has already occurred on the Zoning Lot (e.g., the existing Walmart Supercenter).

18. The Applicant's proposal constitutes a modification in the form of the addition of an approximately 8,400-square foot structure for additional uses and the reconfiguration of some parking. This modification requires a new CUP.

19. The requested CUP will allow all uses permitted by right in the B2 zoning district so long as such uses are developed and conducted in accordance with the CUP approved by the Council.

20. The structure proposed by the Applicant will be located within the interior of the Zoning Lot, between the existing commercial development and East Dixie Drive. As required by the Ordinance, additional plantings will be required within the newly reconfigured parking area that will serve the proposed addition. Other buffering and screening required by the Ordinance as well as requirements of the existing CUP will be required to be maintained on the Zoning Lot.

21. Subject to the above-described modifications for the addition of a new structure with reconfigured parking, the remaining conditions/restrictions found in the previously approved CUP that are not already addressed by the Ordinance will remain in place under the Applicant's proposal.

22. The city's Growth Strategy Map designates the Zoning Lot as a Primary Growth Area, and the Proposed Land Development Plan Map identifies the area in which the Zoning Lot is located as commercial.

23. Any business that locates within the proposed structure will be required to follow all applicable state and federal health, safety, and licensure regulations (e.g., restaurants, hair salons, etc.).

24. The Walmart Supercenter and the other business already located on the Zoning Lot have been in this location for approximately two decades without any indication of abnormal dangers to health and safety.

25. The site plan for the proposed land use is in compliance with the conditions and specifications prescribed by the Ordinance.

26. Molly Chisholm, who is a licensed North Carolina appraiser, has done substantial work in Randolph County. She performed a market impact study and submitted the results of her study to the Council. Ms. Chisholm was available for direct and cross examination.

27. Molly Chisholm concluded, using paired sales analyses, that the proposed development does not substantially injure the value of adjoining or abutting property.

28. Mr. James M. Stocks, PE testified as to his professional opinion that the proposed land use complies with all applicable requirements.

29. No evidence was presented in opposition to the granting of the requested CUP.

30. Thomas E. Terrell, Jr., Esq., on behalf of his client (the Applicant), proposed the following conditions for attachment to the requested CUP:

- (A) The approved land use is a commercial development with multiple uses and/or structures.
- (B) The continued maintenance of all required berms, fences, buffers, and landscaping, as required by the previous Conditional Use Permit (CUP-98-21), shall be the responsibility of the property owner.
- (C) Parking lot sweeping operations are restricted to the hours of 7:00 a.m. to 10:00 p.m., Mondays through Saturdays. On Sundays, the hours shall be restricted to the hours of 9:00 a.m. to 10:00 p.m.
- (D) Trash collection will be restricted to the hours of 8:00 a.m. to 5:00 p.m.
- (E) Access to Inwood Road or Brower's Chapel Road shall not be permitted.
- (F) All requirements of Section 317A (Performance Standards for Commercial Districts) in the Ordinance shall be met and maintained.
- (G) The property owner shall provide the standard 20' easement to the City of Asheboro for maintenance purposes from the existing city-maintained water line up to and including the new fire hydrant and meter. Surveying and construction drawings for DEQ permitting/easement drafting will be developer's responsibility.
- (H) Trucks loading or unloading or waiting to load or unload shall not be allowed to idle.
- (I) At site plan review, the City may require blanket easements for trash pickup, electrical infrastructure, parking, sewer, and other utilities that were approved as part of the original 1998 conditional use permit.
- (J) The rear walls of the existing Walmart Supercenter located on the Zoning Lot will continue to be finished in earth tone colors encompassing all shades of white, gray, or light or dark colors that do not call visual attention to it. High intensity colors, metallic colors, or fluorescent colors shall be prohibited.

- (K) Prior to the issuance of a zoning compliance permit, documentation that the proposal is acceptable to NCDOT shall be provided.
- (L) 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.

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

CONCLUSIONS OF LAW

1. When an applicant has produced competent, material, and substantial evidence tending to establish the existence of the facts and conditions that the Ordinance requires for the issuance of a CUP, prima facie the applicant is entitled to the permit. A denial of the permit has to be based upon findings contra that are supported by competent, substantial, and material evidence appearing in the record.

2. In this case, the Applicant properly submitted an application for a CUP authorizing a commercial development with multiple uses and/or structures on the Zoning Lot.

3. The Zoning Lot is located in a CU-B2 zoning district. A commercial development with multiple uses and/or structures is permitted in the underlying B2 zoning district, and the status of this district as a conditional use district allows for closer review of the proposed land use and the imposition of individualized conditions that further the legitimate objectives of the Ordinance.

4. On the basis of competent, material, and substantial evidence in the record, and due to the acceptance by the Applicant of the conditions listed hereinbelow for attachment to the CUP, the Applicant's proposed land use meets the four general standards for granting the requested CUP, to wit:

- (A) In light of the testimony, the Applicant's site plan, and the Applicant's commitment to comply with the conditions attached to this CUP, the Council has concluded that the proposed land use will not materially endanger the public health or safety if located where proposed and developed according to the approved plan.
- (B) The Applicant's proposed land use meets all of the Ordinance's required conditions and specifications.
- (C) On the basis of the market impact study submitted during the hearing of this case, the Council has concluded that the proposed land use will not substantially injure the value of adjoining or abutting property.
- (D) The Council has concluded that the location and character of the proposed modification to the existing commercial development with multiple uses and/or structures, 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 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 proposed commercial development with multiple uses and/or structures on the Zoning Lot is hereby approved and issued to the Applicant and the Applicant's heirs, successors, and assigns.

The continuing validity of this Conditional Use Permit is hereby made expressly contingent upon the Applicant and the Applicant's heirs, successors, and assigns complying at all times with the applicable provisions of the Asheboro Zoning Ordinance, the approved site plan, and the following supplementary conditions:

- (A) The approved land use is a commercial development with multiple uses and/or structures.
- (B) The continued maintenance of all required berms, fences, buffers, and landscaping, as required by the previous Conditional Use Permit, which is identified as CUP-98-21, shall be the responsibility of the property owner.
- (C) Parking lot sweeping operations are restricted to the hours of 7:00 a.m. to 10:00 p.m., Mondays through Saturdays. On Sundays, the hours shall be restricted to the hours of 9:00 a.m. to 10:00 p.m.
- (D) Trash collection will be restricted to the hours of 8:00 a.m. to 5:00 p.m.
- (E) Access to Inwood Road or Brower's Chapel Road shall not be permitted.
- (F) All requirements of Section 317A (Performance Standards for Commercial Districts) in the Ordinance shall be met and maintained.
- (G) The property owner shall provide the standard 20' easement to the City of Asheboro for maintenance purposes from the existing city-maintained water line up to and including the new fire hydrant and meter. Surveying and construction drawings for DEQ permitting/easement drafting will be developer's responsibility.
- (H) Trucks loading or unloading or waiting to load or unload shall not be allowed to idle.
- (I) At site plan review, the City may require blanket easements for trash pickup, electrical infrastructure, parking, sewer, and other utilities that were approved as part of the original 1998 conditional use permit.
- (J) The rear walls of the existing Walmart Supercenter located on the Zoning Lot will continue to be finished in earth tone colors encompassing all shades of white, gray, or light or dark colors that do not call visual attention to it. High intensity colors, metallic colors, or fluorescent colors shall be prohibited.
- (K) Prior to the issuance of a zoning compliance permit, documentation that the proposal is acceptable to NCDOT shall be provided.
- (L) 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 the 4th day of June, 2020.

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

ATTEST:

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

- (e) A resolution accepting a grant offer and providing the assurances required for a recipient of an asset inventory and assessment state grant.

RESOLUTION NUMBER 09 RES 6-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION BY THE CITY OF ASHEBORO AS A RECIPIENT OF ASSET INVENTORY AND ASSESSMENT STATE GRANT

WHEREAS, the North Carolina General Statutes Chapter 159G has created Asset Inventory and Assessment grants to assist eligible units of government with meeting their water infrastructure needs; and

WHEREAS, the North Carolina Department of Environmental Quality has offered a State Reserve Grant in the amount of \$150,000 to perform asset inventory and assessment work; and

WHEREAS, the City of Asheboro (hereafter referred to as the "City") intends to perform said project in accordance with the agreed scope of work.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro (hereafter the "Council") that the City does hereby accept the State Reserve Grant offer of \$150,000; and

BE IT FURTHER RESOLVED that the Council does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to; and

BE IT FURTHER RESOLVED by the Council that John N. Ogburn, III, who is the city manager for the City (the city manager will be hereafter referred to as the "Authorized Official"), and any successor so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting that was held on the 4th day of June, 2020.

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

ATTEST:

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

[The remainder of this page was intentionally left blank.]

- (f) **An interlocal agreement with Randolph County for law enforcement dispatch services during fiscal year 2020-2021.**

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

INTERLOCAL AGREEMENT FOR
LAW ENFORCEMENT DISPATCH SERVICES

This Interlocal Agreement (this “**Agreement**”) is made and entered into as of the date of the last signature affixed hereto, by and between the City of Asheboro (“**CITY**”) and Randolph County (“**COUNTY**”). (CITY and COUNTY are hereinafter collectively referred to as the “**Parties.**”)

WITNESSETH:

THAT WHEREAS, CITY desires to enter into a contract with COUNTY for it to provide law enforcement dispatch services for the CITY’s police department.

WHEREAS, COUNTY desires to provide CITY with law enforcement dispatch services on the terms and conditions provided herein.

NOW, THEREFORE, the Parties do agree and contract as follows:

ARTICLE 1. TERM OF AGREEMENT

4.10 Term of Agreement. The term of this Agreement is for one (1) year beginning on July 1, 2020 and terminating on June 30, 2021.

ARTICLE 2. INDEPENDENT CONTRACTOR STATUS AND SERVICES TO BE PROVIDED BY THE RANDOLPH COUNTY

2.1 Independent Contractor Status. At all times when COUNTY and its personnel are rendering services pursuant to this Agreement they shall have the status of independent contractors with respect to CITY. The personnel provided for herein shall at all times be employees of COUNTY and not be employees of CITY. COUNTY shall be solely responsible for the supervision, control, and discipline of its personnel and for the direction of their work activities and assignments. COUNTY shall be solely responsible for the compensation of the personnel including all employee benefits. COUNTY shall be solely responsible for any injury to its personnel and their property.

2.2 Training, Equipping, Supervising, Credentialing. COUNTY is responsible for training, equipping, supervising, and credentialing the personnel provided for herein in a manner that complies with all applicable laws and rules and ensures that they are able to perform services under this Agreement.

2.3 Services to be Provided by COUNTY. COUNTY shall provide law enforcement dispatch services for CITY as provided in Attachment A, Scope of Services, attached to this Agreement and fully incorporated herein by reference.

ARTICLE 3. OBLIGATIONS OF CITY

3.1 Compensation. CITY shall pay COUNTY wages and associated benefits for four (4) full-time telecommunicator positions as provided in paragraph (a) below.

- (a) CITY shall remit to COUNTY monthly the sum of Twenty Thousand One Hundred Six and 67/100 Dollars (\$20,106.67) for services rendered pursuant to this Agreement.

- (b) In no event shall the amount remitted by the CITY under this Agreement be more than Two Hundred Forty-One Thousand Two Hundred and Eighty and 04/100 Dollars (\$241,280.04).

ARTICLE 4. GENERAL PROVISIONS

4.1 Time of Essence. Time is of the essence in performing all obligations under this Agreement.

4.2 Compliance with Laws: COUNTY shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its activities, including those of federal, state, and local agencies having jurisdiction or authority.

4.3 Subcontracting. COUNTY shall not subcontract the performance of its obligations.

4.4 Termination. Either Party may terminate this Agreement at any time by giving one hundred twenty (120) days' notice in writing to the other Party. Upon such termination, CITY shall pay COUNTY for unpaid services completed.

4.5 Assignment. COUNTY shall not assign this Agreement or any interest herein.

4.6 Amendments: This Agreement shall not be amended orally or by performance, but only by written amendments executed by the COUNTY and CITY.

4.7 Entire Agreement: This Agreement, including any exhibits hereto, is the entire agreement between the Parties and supersedes all prior oral or written communications and agreements.

4.8 Survival Clause. The following shall survive the termination or expiration this Agreement: (a) all obligations and liabilities that accrue under this Agreement before the termination or expiration of this Agreement, (b) all obligations under this Agreement to provide reports, documentation, or information to the other Party or to third parties, (c) all indemnity obligations imposed by this Agreement, (d) all provisions of this Agreement that impose an obligation after termination or expiration of this Agreement, and € all obligations under this Agreement which by their nature or context are intended to be performed after the termination or expiration of this Agreement.

4.11 Iran Divestment. Pursuant to N.C. Gen. Stat. §147-86.59, the Parties each certify that it is not identified on a list created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. §147-86.58 as a person engaging in investment activities in Iran. Contractor further certifies that in the performance of this Contract it shall not use any contractor or subcontractor that is identified on such a list.

4.12 E-Verify. Each party to this Agreement hereby attests that it currently complies with and shall continue to comply with, for the duration of this Agreement, Article 2 of Chapter 64 of the North Carolina General Statutes (commonly referred to as "E-Verify") and further attests that it ensures and continues to ensure that any subcontractors utilized by said party also comply with said Article.

IN WITNESS WHEREOF, CITY and COUNTY have each executed this Agreement in duplicate originals.

[The signature blocks are on the following page.]

COUNTY OF RANDOLPH

(SEAL)

Attest:

By: _____
**Darrell L. Frye, Chairman
Randolph County Board of
Commissioners**

Dana Crisco, Clerk to the Board

I, _____, a Notary Public of the County of Randolph, State of North Carolina, do hereby certify that Dana Crisco, who is personally known to me, appeared before me this day and acknowledged that she is the Clerk to the Board for the County of Randolph and that, by authority duly given and as the act of the County of Randolph, the foregoing instrument was voluntarily executed on behalf of the County by Darrell L. Frye, the Chairman of its Board of Commissioners, sealed with the County's corporate seal, and attested by her as Clerk to the Board for the purposes stated therein.

Witness my hand and official stamp or seal, this _____ day of _____, 2020.

Notary Public

My Commission expires: _____.

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

William Massie, Finance Officer
Randolph County

CITY OF ASHEBORO

(SEAL)

Attest:

By: _____
**David H. Smith, Mayor
City of Asheboro**

Holly H. Doerr, City Clerk

I, _____, a Notary Public of the County of Randolph, State of North Carolina, do hereby certify that Holly H. Doerr, who is personally known to me, appeared before me this day and acknowledged that she is the City Clerk for the City of Asheboro and that, by authority duly given and as the act of the City of Asheboro, the foregoing instrument was voluntarily executed on behalf of the City by David H. Smith, the Mayor, sealed with the City's seal, and attested by her as Clerk for the purposes stated therein.

Witness my hand and official stamp or seal, this _____ day of _____, 2020.

Notary Public

My Commission expires: _____.

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

Deborah P. Reaves, Finance Officer
City of Asheboro

ATTACHMENT A
SCOPE OF SERVICES

1. Answer incoming non-emergency seven-digit telephone line calls for the cities and towns – assisting callers with related questions or issues.
2. Provide safety checks for the officers via radio while on calls, traffic stops, follow-up investigations, etc...
3. Provide cross-communication functions with other public-safety agencies and coordinate appropriate actions to assist the field officers.
4. Contact the Magistrate or other (outside) public-safety officers to assist with related calls or needs within the CITY.
5. Arrange locations for officers to meet other outside officers regarding warrant, suspect, or detainee transactions.
6. Provide cross-communication and coordination with outside agencies and provide constant radio contact with all agencies involved during a vehicle or foot pursuit as it enters or exits the CITY limits.
7. Call utility services, business/property owners, alarm companies, etc... as needed and/or requested by field officers.
8. Call wrecker services and maintain wrecker rotation log for the CITY-approved wrecker services.
9. Radio log all movements and actions of all officers to include traffic stops, business/property checks, meal breaks, funeral processions, school traffic, suspicious person or vehicle checks (officer initiated), etc...
10. Provide requested services for any officer initiated actions not involving a call entry.
11. Division of Criminal Information services provided 24/7:
 - Local, state, national and international wanted checks, to include (NCAWARE, NCIC & III)
 - Communicating with other agencies to arrange pick-up, delivery, or to serve an individual who is wanted and to arrange extradition
 - Provide entries for:
 - Missing/wanted persons
 - Endangered or runaway
 - Stolen vehicles, securities, articles or items
 - Sending attempt to locate messages to other public-safety agencies around the state or nation.
 - Provide clears for:
 - Missing/wanted persons
 - Stolen vehicles, securities, articles, or items
 - Conducting hit confirmations and locate services
 - Entering and/or clearing Silver, Blue and Amber Alerts.
 - Inquiries for valid / invalid concealed carry notifications.
 - Inquiries for driver history / vehicle owner history & identification
 - Inquiries for guns and other registered weapons
 - Accurately maintain the dispatch DCI audit of records for all transactions under the appropriate DCI terminal.
 - Provide officer with appropriate print-outs of driving histories, vehicles histories, criminal histories and the like.
12. Allow citizens to use the 9-1-1 system to report and for a Telecommunicator to provide answering services for animal control, water/sewer, street department, or traffic signal malfunctions (owned by the CITY), or other CITY-specific services after-hours, on weekends and holidays.
13. Contact on-call detectives, alert team, fleet maintenance, and traffic officers after-hours.
14. Maintain audio recordings of all radio traffic on the two primary radio channels for court and public documentation purposes.
15. Provide one additional Telecommunicator during driver check-points.

- (g) **The Community Development Division's request to schedule and advertise hearings to be conducted on July 9, 2020, for the following land use cases:**
- (i) **A legislative hearing on an application to rezone property at 435 Old Liberty Road (Randolph County Parcel Identification Number 7762168474) from R10 to R7.5 zoning.**
 - (ii) **A legislative 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 to R7.5 zoning.**

The hearings concerning the applications for the above-referenced land use approvals 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 July 9, 2020.

7. Community Development Items:

- (a) **RZ-20-05: Public hearing on an application to rezone property (Randolph County Parcel Identification Number 7762068222) located on the south side of East Bailey Street, approximately 500 feet east of 1644 North Fayetteville Street, from RA6 to O&I zoning.**

In the matter of land use case file number RZ-20-05, Mayor Smith opened the public hearing on the application by Balfour Baptist Church (the "Applicant") to rezone approximately 0.57 of an acre from RA6 (High-Density Residential) to O&I (Office and Institutional). The parcel of land for which O&I zoning is requested (the "Zoning Lot") is owned by the Applicant and is more specifically identified by Randolph County Parcel Identification Number 7761227707.

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 May 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 inside the city limits.
2. East Bailey Street is a city-maintained collector street that extends from North Fayetteville Street to Old Liberty Road. The pavement surface of East Bailey Street is approximately 18' wide in this location.
3. The zoning ordinance describes the O&I Commercial District as "intended to produce moderate intensity office and institutional development to serve adjacent residential areas and to provide a transition from residential to commercial uses. Land designated O&I shall normally be located with access to a minor thoroughfare or higher classification street with access to local residential streets discouraged."
4. In 2019, part of the abutting property to the west was rezoned from R10 Medium-Density Residential to O&I Office & Institutional. The front of the adjoining property is zoned B2, extending approximately 200 feet from North Fayetteville Street, with the balanced zoned O&I.
5. The property is located between commercial uses to the west along North Fayetteville Street and residential uses to the east.

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 5: Complies with Growth Strategy Map

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

Checklist Items 12, 13, and 14: 12) Property is located outside of watershed.
13) The property is located outside of Special Hazard Flood Area.
14) Rezoning is not located on steep slopes of greater than 20%.

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

Checklist Item 1: Not compliant with the Proposed Land Use Map.

Checklist Item 6: Existing infrastructure is not adequate to support the desired zone. (*water, sewer, roads, schools, etc.*)

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 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:

Although an office and institutional designation is compliant with the land development plan's proposed land use map, several factors support this request. The property's location between commercial zoning to the west and residential uses to the east, and directly adjacent to property zoned O&I with a long standing institutional use, support an O&I designation of the property. An O&I designation is also consistent with other institutional and public use facilities in the area.

While an Office and Institutional Use is preferably located on a minor thoroughfare or higher classification street, the property is located contiguous to an established use in which East Bailey Street serves as access. Additionally, the O&I district's limited range of non-residential uses and buffering requirements can help mitigate external impacts to adjoining residential properties.

Considering these factors, staff believes that the requested O&I district is reasonable and in the public interest.

Mr. Charles Allen, a representative from Balfour Baptist Church, presented comments in support of the request.

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

The city council concurred with the staff and planning board analysis of the rezoning request. Council Member Bell moved, and Council Member Moffitt

seconded the motion, to adopt the plan consistency statement printed below and to approve the requested rezoning with the following multi-part motion:

1. Although an office and institutional designation is not compliant with the land development plan's proposed land use map, several factors support this request. The property's location between commercial zoning to the west and residential uses to the east, and directly adjacent to property zoned O&I with a long standing institutional use, support an O&I designation of the property. An O&I designation is also consistent with other institutional and public use facilities in the area.

While an Office and Institutional Use is preferably located on a minor thoroughfare or higher classification street, the property is located contiguous to an established use in which East Bailey Street serves as access. Additionally, the O&I district's limited range of non-residential uses and buffering requirements can help mitigate external impacts to adjoining residential properties.

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 O&I zoning is approved as consistent with the adopted plan.

(b) RZ-CUP-20-06: Quasi-judicial hearing on an application to rezone a portion of the property at 801 Sunset Avenue (Randolph County Parcel Identification Number 7751426889) from OA6 to CU-M zoning and to obtain a conditional use permit authorizing a banquet/reception facility.

Mayor Smith opened the hearing on the combined request from Baybuilt Properties, LLC (the "Applicant") to legislatively rezone a portion of the above-described parcel of land and to issue a Conditional Use Permit on the basis of evidence presented during the quasi-judicial hearing.

The property subject to this rezoning and conditional use permit application is identified as Lots 6-17 and a portion of Lot 18 as described in Deed Book 2503, Page 1392, Randolph County Registry (the "Zoning Lot"). The Zoning Lot is owned by Asheboro Community Church, Inc., which executed the application form along with the Applicant.

Mr. Nuttall was placed under oath and 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-M zoning district noted in part:

1. The property is inside the city limits.
2. Sunset Avenue and South Cherry Street are both state-maintained minor thoroughfares at this location.
3. The property is located within Tier 3 of the Center City Planning Area.
4. The zoning ordinance describes the underlying Mercantile's (M) district as *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 street.

5. The requirements of the underlying Mercantile district set a maximum of 6,000 square feet for all permitted uses, restrict drive through services, prohibit open storage, and require additional pedestrian connectivity, among other requirements. Council may also impose additional conditions through the Conditional Use permitting process.
6. The area contains a mix of single-family, multi-family, institutional, and some office uses.
7. The Applicant's request only applies to a portion of the parcel. This portion of the property will require a Conditional Use Permit to be issued by the council prior to any development activity or change of use. The remaining portion of the property retaining OA6 Office-Apartment zoning will continue to allow all uses permitted by right in that 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: | Complies 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 Items 12-13: | 12) The 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. |

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

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

Mr. Nuttall also presented the staff's analysis of the Conditional Use Permit application. This analysis noted, in part, the following:

1. The request is for a Conditional Use Permit for a banquet/reception facility.
2. The Applicant proposes using an existing structure for the banquet facility. The underlying Mercantile zoning district limits the square

footage of all structures, including existing structures, to 6,000 square feet on the zoning lot.

3. The request applies to identifiable portions of the property (Lots 6-17 and the portion of Lot 18 owned by the Applicant, Deed Book 2503, Pages 1392-1397). The eastern portion of the parcel shown on the site plan is not included in the request, but is shown for context.
4. The site plan proposes using existing driveways along Sunset Avenue for access.
5. The Applicant's proposal for meeting landscaping requirements includes 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 property from lower intensity use.
6. With the benefit of variances granted by the City of Asheboro Board of Adjustment in advance of the council meeting, the Applicant's site plan is in compliance with the zoning ordinance.

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

Several factors support the request, including its designation as part of the City Activity Center, which is intended "to create pedestrian-friendly community focal points" containing a mix of uses.

The Sunset Avenue corridor consists of a mix of housing types, and smaller scale non-residential uses. While office and institutional uses allowed by the current OA6 zoning designation are more in alignment with historic development patterns along this section of Sunset Avenue, several properties further west of the property have more permissive General Commercial (B2) zoning than the requested Conditional Use Mercantile district.

The Mercantile district was created specifically to allow for lighter intensity commercial activity, while prohibiting more intense development that would be out of context with established neighborhoods in the city's historic core. Additionally, the Conditional Use permitting process can help ensure that the property develops in a manner appropriate for this location and minimizes potential negative impacts to adjoining residential properties.

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

On behalf of the Applicant, Mr. Barron Thompson, Esq. and Mr. Ben Tuggle 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. As part of his testimony, Mr. Thompson expressed that the Applicant agreed with the following conditions that were recommended by the planning staff for attachment to the requested Conditional Use Permit.

1. Existing vegetation may be retained to count towards minimum required landscaping specified by Sections 317A.F.m (Front Yard Landscaping), 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 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 Applicant shall submit documentation detailing the following approvals:
 - (i) Driveway approval from NCDOT.
 - (ii) Final Decision Document indicating approval of requested variances from front yard parking setback and maximum impervious coverage.
4. A dumpster shall be provided on the Zoning Lot with screening in compliance with 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 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 City 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.

No one offered testimony in opposition of the application. There being no further comments, Mayor Smith transitioned to the deliberative phase of the application process.

With regard to the requested zoning map amendment, the Council agreed with the staff and planning board analysis of the consistency of the request with the land development plan. Council Member Moffitt moved, and Council Member Burks seconded the motion, to adopt the plan consistency statement and to approve the requested rezoning with the following multi-part motion.

1. Several factors support the request, including the Zoning Lot's status as part of the City Activity Center, which is intended "to create pedestrian-friendly community focal points" containing a mix of uses.

The Sunset Avenue corridor consists of a mix of housing types, and smaller scale non-residential uses. While office and institutional uses allowed by the current OA6 zoning designation are more in alignment with historic development patterns along this section of Sunset Avenue, several properties further west of the property have more permissive General Commercial (B2) zoning than the requested Conditional Use Mercantile district.

The Mercantile district was created specifically to allow for lighter intensity commercial activity, while prohibiting more intense development that would be out of context with established neighborhoods in the city's historic core. Additionally, the Conditional Use permitting process will help ensure that the property develops in a manner appropriate for

this location and minimizes potential negative impacts to adjoining residential properties. Thus, the City Council finds the rezoning request to be reasonable and in the public interest.

2. In light of the above-stated analysis, the requested zoning map amendment is approved as consistent with the adopted plan.

Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes.

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 Moffitt and seconded by Council Member Bell, the Council voted unanimously to approve the requested Conditional Use Permit, with the stated conditions, authorizing a Banquet/Reception Facility. 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 conditions attached to the permit will be entered by the Council during regular session on July 9, 2020.

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

8. Items not on the agenda.

Prior to a brief discussion of upcoming events, Mayor Smith presented the North Carolina Mayors' Statement on the Murder of George Floyd and a statement from the Board of Directors for the North Carolina Association of Chiefs of Police regarding the death of Mr. George Floyd. Additionally, Mayor Smith submitted a copy of the Law Enforcement Code of Ethics as an attachment to the statement. Without objection from the Council Members, these documents were entered into the record as presented by Mayor Smith.

No action was taken by the Council during this portion of the meeting. The above-referenced statements are on file in the city clerk's office.

9. Upcoming events. [Agenda Item 8]

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.

There being no further business, the meeting was adjourned at 10:15 p.m.

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

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