

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, JULY 14, 2022
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)
Kelly L. Heath)
William N. McCaskill) – Council Members Present
Walker B. Moffitt)
Jane H. Redding)
Charles A. Swiers)

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Michel L. Leonard, PE, City Engineer
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Jeffrey C. Sugg, City Attorney
Charles D. Wagner, Police Captain
Tammy M. Williams, CMC, Deputy City Clerk

1. Call to Order

A quorum thus being present, Mayor Smith called the meeting to order for the transaction of business, and business was transacted as follows.

2. Moment of Silent Prayer and Pledge of Allegiance

After a moment of silence was observed in order to allow for private prayer and meditation, Mayor Smith asked everyone to stand and recite the pledge of allegiance.

3. Public Comment Period

Mayor Smith welcomed everyone in attendance and opened the floor for comments from the public.

Mr. Ward Russell commented on suggested modifications to the process for considering/evaluating options for improving public access to McCrary Park at 138 Southway Road.

Mr. Richard Caviness commented on a land use case for which a public hearing had been scheduled for later in the meeting. Mr. Caviness agreed to hold his substantive comments on the land use case until the public hearing could be opened on the question of the land use application that was of concern to the speaker.

Ms. Maria Foust commented on issues surrounding the public debate about the confederate soldier statue located on the grounds of the Randolph County courthouse complex.

In the absence of any other speakers, Mayor Smith closed the public comment period.

4. Consent Agenda

Prior to calling for a vote of the consent agenda, Mayor Smith asked if any item should be removed for individual consideration. City Attorney Jeff Sugg requested the withdrawal from the consent agenda of a resolution pertaining to the public auction of surplus city-owned vehicles. This resolution was identified on the meeting agenda as item 4(g).

With the exception and exclusion of meeting agenda item 4(g), Council Member Burks moved, and Council Member Heath seconded the motion, to approve/adopt the following consent agenda items. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

(a) City Council Meeting Minutes for June 9, 2022

The meeting minutes for the city council's regular meeting on June 9, 2022, were approved and have been filed in the city clerk's office. An electronic copy of the approved document has been posted on the city's website.

(b) City Council Meeting Minutes for June 28, 2022

The meeting minutes for the city council's special meeting on June 28, 2022, were approved and have been filed in the city clerk's office. An electronic copy of the approved document has been posted on the city's website.

(c) Asheboro ABC Board Meeting Minutes for June 6, 2022

The council acknowledged the receipt of the Asheboro ABC Board's approved meeting minutes for June 6, 2022. This document has been filed in the city clerk's office and distributed to the city's elected officials.

(d) Amendment of Contract # 2021-042-3201-2587 with the North Carolina Department of Commerce

An amendment of contract # 2021-042-3201-2587 was approved with the adoption of the consent agenda. The listed contract pertaining to the StarPet Inc. / Project Avocado economic development project was made by and between the Rural Economic Development Division of the North Carolina Department of Commerce and the City of Asheboro. Within Paragraph 3 (Term of Agreement), the text "terminate on 12/10/2022" was deleted, and the text "terminate on 12/10/2023" was added. All other terms and conditions of the agreement were unaltered.

(e) Appointment to the Asheboro Redevelopment Commission

Gene Isom was appointed to the Asheboro Redevelopment Commission. This vacancy was created when Linda Carter stepped down from the commission. Mr. Isom's term of office will expire on April 1, 2024.

(f) Resolution Authorizing the Advertising by Electronic Means Only of Electronic Public Auctions of Surplus City-Owned Personal Property

With the adoption of the consent agenda, the resolution printed at the top of the immediately following page was unanimously approved by the city council.

RESOLUTION NUMBER 18 RES 7-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION AUTHORIZING THE ADVERTISING OF ELECTRONIC
AUCTIONS OF SURPLUS CITY-OWNED PERSONAL PROPERTY BY
ELECTRONIC MEANS ONLY**

WHEREAS, Section 160A-270(c) of the North Carolina General Statutes authorizes the City of Asheboro to conduct public auctions of personal property by means of electronic auction procedures and to advertise electronic auctions by electronic means only; and

WHEREAS, the Asheboro City Council finds that advertising electronic auction sales of personal property by electronic means only increases the efficiency of the property disposal process and saves public funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the following procedures are hereby approved:

1. All sales of surplus city-owned personal property by electronic public auction may be advertised by electronic means only;
2. Electronic advertisements of the sale of personal property shall be posted at least 10 calendar days prior to the date on which bidding for the property opens;
3. Electronic advertisements shall be posted on the City of Asheboro website and, where feasible, by any other electronic means through which notice of the electronic auction may be broadly advertised; and
4. Electronic advertisements shall identify and provide a general description of the property to be sold, the date and time at which electronic bidding opens, the electronic address where information about the property to be sold can be found, the electronic address where electronic bids may be posted, a reference to the resolution authorizing the sale, where applicable, and any other relevant terms and conditions of sale.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 14th day of July, 2022.

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

ATTEST:

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

[As noted above, item 4(g) on the meeting agenda was withdrawn at the request of city staff. The following consent agenda items, while numbered sequentially in accordance with the item numbers used for these meeting minutes, correspond to the item numbers listed on the meeting agenda as items 4(h), (i), and (j).]

(g) General Fund Budget Amendment

With the adoption of the consent agenda, the ordinance printed at the top of the immediately following page was unanimously approved by the city council.

37 ORD 7-22

**ORDINANCE TO AMEND
THE GENERAL FUND
FY 2022-2023**

WHEREAS, the City Council of the City of Asheboro was presented with an economic development project relating Fibertex Personal Care Corporation's plans to construct a new manufacturing facility on approximately 30.61 acres of land.

WHEREAS, Fibertex Personal Care's project would result in an investment of approximately \$114 million dollars in real and personal property and will result in the creation of 145 new full time jobs.

WHEREAS, the City Council authorized the City of Asheboro to support the Fibertex Personal Care's project through an agreement for economic incentives payments signed April 2, 2018.

WHEREAS, the Fibertex Personal Care has submitted documentation verifying that the company has met the required performance for the first economic incentive payment with investment in real property and creation of 44 new full time jobs;

WHEREAS, the City Council appropriated \$50,000 at the June 28, 2022 meeting as a transfer to the Economic Development Fund for the first incentive payment of \$50,000 to Fibertex.

WHEREAS, the correct amount of the First Incentive payment is \$100,000 so an additional \$50,000 needs to be appropriated.

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

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

That the following revenue line item be increased

<u>Account #</u>	<u>Expense Description</u>	<u>increase / (decrease)</u>
10-000-399.0000	Fund Balance Allocation	50,000

That the following Expense line item be increased / (decreased):

<u>Account #</u>	<u>Expense Description</u>	<u>increase / (decrease)</u>
10-490-572.0000	Contribution to ED fund	50,000

Adopted this 14th day of July, 2022.

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

ATTEST:

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

(h) Economic & Tourism Development Fund Amendment

With the adoption of the consent agenda, the ordinance printed at the top of the immediately following page was unanimously approved by the city council.

**ORDINANCE TO AMEND THE ECONOMIC & TOURISM DEVELOPMENT FUND
FY 2022-2023**

WHEREAS, the City Council of the City of Asheboro was presented with an economic development project relating Fibertex Personal Care Corporation’s plans to construct a new manufacturing facility on approximately 30.61 acres of land.

WHEREAS, Fibertex Personal Care’s project would result in an investment of approximately \$114 million dollars in real and personal property and will result in the creation of 145 new full time jobs.

WHEREAS, the City Council authorized the City of Asheboro to support the Fibertex Personal Care’s project through an agreement for economic incentives payments signed April 2, 2018.

WHEREAS, the Fibertex Personal Care has submitted documentation verifying that the company has met the required performance for the first economic incentive payment with investment in real property and creation of 44 new full time jobs.

WHEREAS, the City Council appropriated \$50,000 at the June 28, 2022 meeting as a transfer to the Economic Development Fund for the first incentive payment of \$50,000 to Fibertex.

WHEREAS, the correct amount of the First Incentive payment is \$100,000 so an additional \$50,000 needs to be appropriated.

WHEREAS, the budget as adopted requires amendment to be in compliance with all generally accepted accounting principles, and;

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

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

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>
72-000-375.0000	Contribution for Fibertex 4-2018 agreement	50,000

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
72-000-871.0000	Fibertex Incentive 4-2018 agreement	50,000

Adopted this the 14th day of July 2022.

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

ATTEST:

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

(i) Water and Sewer Fund Budget Amendment

With the adoption of the consent agenda, the ordinance printed at the top of the immediately following page was unanimously approved by the city council.

**ORDINANCE TO AMEND
THE WATER & SEWER FUND
FY 2022-2023**

WHEREAS, the current budget appropriation in the system maintenance department provided for a replacement vehicle in the amount of \$55,000, and

WHEREAS, since adoption of the budget, it has been determined that the need for a replacement vehicle is greater in the technical services department.

WHEREAS, the City of Asheboro wishes to reallocate funding for a vehicle from the system maintenance department to the technical services department.

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

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

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

That the following Expense line item be increased / (decreased):

<u>Account #</u>	<u>Expense Description</u>	<u>increase / (decrease)</u>
30-860-574.0000	Capital Outlay – Technical Svcs	55,000
30-870-574.0000	Capital Outlay – System Maint.	(55,000)
Total Increase / (Decrease)		0

Adopted this14th day of July, 2022.

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

ATTEST:

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

5. Legislative Hearings on Land Use Cases

(a) Case No. RZ-22-06: Application for an Amendment to the Existing RA6 (CZ) Zoning on Property at 3140 Zoo Parkway

Mayor Smith opened the legislative hearing on the above-referenced zoning map amendment application. Prior to recognizing any speakers, Mayor Smith honored Council Member Moffitt’s request to disclose for transparency purposes that he previously had an ownership interest in a lot within the development currently under review. The ownership interest in question has been sold, and Council Member Moffitt had no financial interest of any kind in the development under review when this land use case came before the city council for review.

The zoning map amendment application pertains to the RA6 (CZ) zoning district that encompasses the Parkway South Townhomes at 3140 Zoo Parkway, inclusive of all the addressed units within the development as well as the city-owned pump station. The parcels of land included within this application are identified by the following

Randolph County Parcel Identification Numbers: 7669367599, 7669368424, 7669368457, 7669368498, 7669368631, 7669368673, 7669369540, 7669369637, 7669369669, 7669460397, 7669460439, 7669460475, 7669460507, 7669460513, 7669460570, 7669460699, 7669460701, 7669461318, 7669461355, 7669461382, 7669461615, 7669461642, 7669462370, 7669462454, 7669462483, 7669462566, 7669462595, 7669462663, 7669462770, 7669463259, 7669463300, 7669463413, 7669463452, 7669463524, 7669463553, 7669463609, 7669463648, and 7669463676.

The land for which the amended conditional zoning district is proposed (the entirety of the parcels of land located within the proposed zoning district will be hereinafter collectively referred to as the “Zoning Lot”) is approximately 7.62 acres in size. The Zoning Lot is described in the Office of the Register of Deeds for Randolph County, North Carolina in Condo Book 1, Page 64; Condo Book 1, Page 83; and Plat Book 113, Page 14.

The Zoning Lot is currently zoned RA6 (CZ). The existing land uses on the Zoning Lot are a city-owned sewer pump station and a residential planned unit development.

The Parkway South Homeowners’ Association submitted the zoning ordinance map amendment application. If the application is approved, the current RA6 (CZ) high density residential conditional zoning under which the residential planned unit development exists will be modified to transfer street maintenance within the development to the City of Asheboro.

After confirming to the governing board that the required legal notice of this proceeding had been mailed, published, and posted on the Zoning Lot, Community Development Director Trevor Nuttall utilized a slide show to present the planning staff’s analysis of the application. Mr. Nuttall noted the following:

1. The Zoning Lot is inside the city limits.
2. Zoo Parkway (North Carolina Highway 159) is a state-maintained major thoroughfare.
3. The current use of the property is a residential planned unit development (Parkway South), consisting of 35 residential townhome units.
4. This request does not include construction of any new dwellings or structures or new construction. The primary question presented by the application is whether the city will assume maintenance and ownership of the private streets within the development. However, the request does also require the city council to consider and approve new building setbacks from the proposed public rights-of-way within the development.
5. After receiving the application, the planning staff contacted other city departments about the request. Various city departments have reviewed the application and offered input. While no objection has been raised to converting the streets to publicly maintained city streets, the following comments have been offered:
 - a. The road design is inadequate for individual sanitation can pick-up; dumpster service will continue to be necessary.
 - b. Council will need to separately consider any request for a reduced speed limit, and any request for an ordinance specifically prohibiting on-street parking.
 - c. The streets will need to be named if the application is approved. This street naming process will lead to properties being readdressed. All dwellings are currently

assigned a single Zoo Parkway address with individual unit numbers.

6. The Zoning Lot is part of a Village Activity Center, which emphasizes a pedestrian friendly mix of compatible land uses. Sidewalks are not included within the development because the development was constructed before sidewalks were required within residential planned unit developments.
7. Public streets are typically 28 feet wide from gutter to gutter, within a 50-foot public right-of-way. Streets within this development are approximately 19 feet of asphalt plus valley curbing. The proposed public right-of-way is from the back of the curb to the back of the curb, with easements proposed for city utilities and street signs.

Mr. Nuttall noted that, when evaluating a rezoning application, careful consideration must be given to each goal and policy as outlined in the Land Development Plan.

Proposed Land Use Map Designation:	Activity Center (property is part of Village Activity Center)
Small Area Plan:	Southeast
Growth Strategy Map Designation:	Primary Growth

LDP Goals/Policies Which Support Request:

Goal 3.1: Enhancement, maintenance, and preservation of the built environment.

LDP Toolkit Description of Primary Growth Area (PGA) – Areas with prime access to existing city infrastructure and urban services and located within existing city limits. Suitable development sites within PGAs should be given the highest level of encouragement and incentives for short-range development

Goal 5.1: Cost effective, efficient, and coordinated infrastructure in appropriate locations.

LDP Goals/Policies Which Do Not Support Request:

(d) Policy 5.3.2: The City will amend the Zoning and Subdivision Ordinances to discourage development patterns (i.e., excessive use of cul-de-sacs, lack of connectivity within and between developments) that result in the city (and its taxpayers) incurring unnecessary infrastructure costs.

As part of its analysis, the city planning staff also offered suggested conditions believed to be necessary to ensure Land Development Plan consistency and general conformity with city codes.

Suggested Conditions from Planning Staff

- (A) The use approved shall be a residential planned unit development.
- (B) All parties involved in this request, including the owner, successors, heirs, and assigns, agree to the conditions and approved site plan.
- (C) Solid waste collection must be done via dumpster service. The City of Asheboro will not pick up individual cans within the development. The final plat publicly

dedicating the street right-of-way shall state that the City of Asheboro will not pick up individual cans for the development.

- (D) The following shall be established, by the Applicant, prior to the City of Asheboro's acceptance of streets within the development as public streets:
 - (i) Any signs, excluding governmental regulatory/traffic signs, shall be removed from the public right-of-way by the homeowners' association.
 - (ii) On-street parking shall be prohibited.
- (E) Prior to the recording of a final plat consistent with the conditional zoning district, 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 zoning ordinance in the chain of title for the Zoning Lot.

The City of Asheboro Planning Board considered the zoning map amendment application and recommended placement of the Zoning Lot into the modified RA6 (CZ) zoning district. In making this recommendation, the planning board concurred with the planning staff's analysis of the consistency of the proposed development with the adopted comprehensive plans as well as the reasonableness of the proposal.

City staff has reviewed the request and has identified no significant maintenance issues related to the condition of the street or utilities. Conditions are suggested to address matters that have been identified during the review process. If approved, the city will assume maintenance costs associated with the roadway and street lighting within the proposed right-of-way. While planned unit developments built under the current code require sidewalk construction, this development predates that requirement and acceptance of the streets for maintenance will not increase the extent of that nonconformity.

In response to Mayor Smith inviting comments from the public, Mr. James Goudy, who is the president of the homeowners' association for Parkway South Townhomes, presented comments in support of the rezoning application. Mr. Goudy, on behalf of the homeowners' association, expressed agreement with the above-listed conditions that were proposed by the planning staff.

No other comments were offered from the public. Mayor Smith then transitioned to the deliberative phase of the process.

After engaging in deliberations about the zoning map amendment application, Council Member Bell moved, and Council Member Swiers seconded to motion, to adopt the plan consistency statement printed below and to approve the requested rezoning with the following two-part motion.

1. The proposed zoning map amendment application is consistent, on balance, with the goals and policies of the Land Development Plan. Due to the absence of significant maintenance issues related to the existing condition of the streets and utilities, no undue burden will be created for the taxpayers with the acceptance of the streets for public maintenance. The built environment in this section of the city will be enhanced, maintained, and preserved with the approval of the requested conditional zoning ordinance. Based on this analysis, and with the attachment of the above-listed conditions, the requested conditional zoning is reasonable and in the public interest.
2. In light of the above-stated analysis, the above-described zoning ordinance map amendment application is approved; provided, however, this approval is conditioned upon the Applicant accepting and agreeing to the above-printed conditions recommended by the city planning staff for attachment to the approved conditional zoning ordinance.

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

A copy of the slide show presentation utilized by Mr. Nuttall is on file in the City Clerk's office.

(b) Case No. RZ-22-07: Application for R7.5 (CZ) Zoning for a Residential Planned Unit Development on the West Side of Zoo Parkway, Approximately 225 Feet South of Ridge Avenue

Mayor Smith opened the legislative hearing on a zoning map amendment application seeking the rezoning of approximately 2.51 acres of land on the west side of Zoo Parkway, exclusive of the public right-of-way for Zoo Parkway, from the existing R10 medium-density residential zoning to R7.5 medium-density conditional zoning with a residential planned unit development. The parcel of land for which R7.5 (CZ) zoning is requested (the "Zoning Lot") is located approximately 225 feet south of Ridge Avenue between 1712 and 1740 Zoo Parkway. The Zoning Lot is owned by Crown Park Townhomes, LLC and is more specifically identified by Randolph County Parcel Identification Number 7750943464.

Darren Lucas (the "Applicant") filed the conditional zoning application. The written consent of the limited liability company that owns the Zoning Lot was noted on the conditional zoning application.

Community Development Director Trevor Nuttall was the first speaker during the legislative hearing. In addition to informing the governing board that the required legal notice of the hearing was mailed, published, and posted on the Zoning Lot, Mr. Nuttall utilized a slide show to present the planning staff's analysis of the application. This analysis included the following information:

1. The application indicates that the requested district would accommodate townhomes. Under the zoning ordinance, such a project is viewed as a residential planned unit development.
2. The Zoning Lot is inside the city limits.
3. Zoo Parkway (North Carolina Highway 159) is a state-maintained major thoroughfare at this location.
4. The planned unit development proposes 14 lots accessed via a private street or driveway. The initial application presented to the planning board indicated 16 units, but the number was reduced following the meeting in which the planning board did not provide a favorable recommendation. One entrance to the development is proposed from Zoo Parkway.
5. The submitted plans indicate homes would be single-story and between 825 and 855 square feet each.
6. The site plan shows buffers on the northern, southern, and western sides of the Zoning Lot, consisting of a combination of existing preserved vegetation and new plantings. The site plan also shows 35 parking spaces, front yard and internal landscaping, internal sidewalks, a dumpster, and recreation space.
7. Both the R10 and R7.5 districts permit single and two-family dwellings.
8. The density of the proposed development, which is considered an attached single-family project, is approximately 6 dwellings per acre after deducting land area for the private drive. The proposed R7.5 district permits a maximum of approximately 6 dwellings per acre when no public or private street right-of-way is required.

9. The requested R7.5 district is described in the zoning ordinance as “intended to provide regulations which will produce a moderate intensity of residential uses, usually single family and no more than two family in character and served by central water supply and sewage disposal systems, plus the necessary governmental and other support facilities to service such urban intensity living.”
10. The neighborhood residential designation of the property is described by the Land Development Plan’s Land Category Description as intended “to accommodate existing medium-density, single family residential neighborhoods, while encouraging new neighborhoods of similar density to provide a greater sense of community.”

Mr. Nuttall noted that, when evaluating a rezoning application, careful consideration must be given to each goal and policy as outlined in the Land Development Plan.

Proposed Land Use Map Designation:	Neighborhood Residential
Small Area Plan:	Central
Growth Strategy Map Designation:	Primary Growth

LDP Goals/Policies Which Support the Request:

<u>Checklist Item 1:</u>	Rezoning is compliant with the Proposed Land Use Map.
<u>Checklist Item 3:</u>	The property on which the rezoning district is proposed fits the description of the Zoning Ordinance (<i>Article 200, Section 210, Schedule of Statements of Intent</i>).
<u>Checklist Item 5:</u>	Complies with Growth Strategy Map.
<u>Checklist Items 12 and 13:</u>	12.) Property is located outside of watershed; and 13.) The property is located outside of Special Hazard Flood Area.

LDP Goals/Policies Which Do Not Support the Request:

<u>Checklist Item 14:</u>	Rezoning is located on steep slopes of greater than 20%.
<u>Checklist Item 15:</u>	Rezoning is not consistent with Land Category Descriptions.

As part of its analysis, the city planning staff also offered suggested conditions believed to be necessary to ensure Land Development Plan consistency and general conformity with city codes.

Suggested Conditions from Planning Staff

- (A) The use approved shall be a residential planned unit development with a total of 14 dwelling units on 14 lots.
- (B) All parties involved in this request, including the owner, successors, heirs, and assigns, agree to the conditions and approved site plan.
- (C) Prior to recording a plat for any phase of the development, homeowners’ association documents, which contain provisions consistent with this order, shall be recorded in the Office of the Randolph County Register of Deeds. Such

homeowners' documents shall include, but not be limited to, maintenance responsibilities of the association, a release of the City of Asheboro from liability due to utility maintenance on private streets (if applicable), indication that walls between units are party walls, and prohibition of parking recreational vehicles (boats, campers, travel trailers, etc.) outdoors. Final plans shall include provisions for ADA accessible parking.

- (D) Maintenance of all recreation areas, parking lots, any utilities not publicly maintained, roads, and drainage facilities that are not specifically labeled on the approved site plan as publicly owned and maintained shall be the responsibility of the property owner and any successors in interest.
- (E) The plat to be recorded shall reflect that the front property line is at the public right-of-way line of North Carolina Highway 159 (Zoo Parkway).
- (F) Prior to the issuance of a zoning compliance permit, plans concerning water, including provisions for fire hydrants, and sanitary sewage that complies with city policies shall be submitted. Surveying of any required city easements shall be the responsibility of the property owner.
- (G) 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 the North Carolina Department of Transportation; and
 - (ii) Erosion control approval from the North Carolina Department of Environmental Quality.
- (H) 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 zoning in the chain of title for the Zoning Lot.

The city planning staff provided the following analysis of the consistency of the proposed development with the adopted comprehensive plans as well as the reasonableness of the proposal.

While the requested conditional zoning district would authorize development exceeding the general density of the surrounding neighborhood, R7.5 zoning is compatible with the Land Development Plan's Neighborhood Residential designation and the plan generally supports a variety of housing options being available to the community. The plan revision reducing the number of homes from 16 to 14 brings the request more in line with density expected to be generated by R7.5 development. Furthermore, the applicant has made additional commitments related to project landscaping and is maintaining, and in the case of open space preservation, exceeding the city's Planned Unit Development standards.

Conditions for the zoning district are proposed . . . and are considered necessary to ensure code compliance. With the inclusion of the conditions, staff finds the amended proposal to be a reasonable request and approval to be in the public's interest.

In response to Mayor Smith inviting comments from the public, Mr. Robert Wilhoit, Esq., Mr. Darren Allen, Esq., and Mr. H.R. Gallimore presented comments in support of the rezoning application. Mr. Richard Caviness presented concerns about the potential increase in traffic along Zoo Parkway as a result of this project. No other comments were offered from the public, and Mayor Smith then transitioned to the deliberative phase of the process.

After engaging in deliberations about the zoning map amendment application, 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 two-part motion.

1. While the requested conditional zoning district will authorize development exceeding the general density of the surrounding neighborhood, R7.5 zoning is compatible with the Land Development Plan's Neighborhood Residential designation and the plan generally supports the availability of a variety of housing options for the community. The 14 homes shown on the site plan submitted to the city council is in line with the density expected to be generated by R7.5 development. Weighing the totality of the factors, the current zoning map amendment application is consistent with the city's adopted comprehensive development plans. Furthermore, the Applicant has made additional commitments related to project landscaping and is maintaining, and in the case of open space preservation exceeding, the city's planned unit development standards. Based on this analysis, and with the attachment of the above-listed conditions, which the Applicant accepted during the course of the legislative hearing, the requested conditional zoning is reasonable and in the public interest.
2. In light of the above-stated analysis, the above-described zoning ordinance map amendment application seeking R7.5 (CZ) zoning for a residential planned unit development is approved; provided, however, this approval is conditioned upon the Applicant accepting and agreeing to the above-printed conditions recommended by the city planning staff for attachment to the approved conditional zoning ordinance.

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

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

(c) Case No. RZ-22-08: Application for a Conditional Zoning Ordinance to Address Three Parcels of Land Located, Respectively, at 342 Patton Avenue, 1352 East Salisbury Street, and 1420 East Salisbury Street

Mayor Smith opened the legislative hearing on a zoning map amendment application filed by Ken and Bridget Gallimore. The Gallimores (the "Applicants") are seeking zoning map amendments that will impact the Applicants' properties at 342 Patton Avenue, 1352 East Salisbury Street, and 1420 East Salisbury Street.

In total, the three parcels of land are approximately 6.19 acres in size. This land is more specifically identified by the following Randolph County Parcel Identification Numbers: 7761510840, 7761512555, and 7761513992.

In addition to confirming for the governing board that the required legal notice for this legislative hearing had been mailed, published, and posted on the real property at issue with the zoning map amendment application, Community Development Director Trevor Nuttall utilized a slide show to present the planning staff's analysis of the application. This analysis included the following information:

1. A portion of the Applicants' property (1420 East Salisbury Street and the northern portion of 1352 East Salisbury Street) is located inside the city limits.
2. East Salisbury Street is a state-maintained minor thoroughfare. Patton Avenue is a state maintained road.
3. The OA6 zoning district is described as "intended to produce moderate intensity office and residential development to serve adjacent residential areas

and to provide a transition from residential to commercial uses. Land designated OA6 shall normally be located with access to a minor thoroughfare or higher classification street with access to local residential streets discouraged.” The I2 description 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.”

4. The site plan shows the following:
 - (a) On the property located at 1420 East Salisbury Street, which was previously rezoned to an I2 (CZ) conditional general industrial district to allow for motor vehicle repair-major and rental/sales of domestic motor vehicles, the site plan is proposing an additional driveway to this property along Patton Avenue, landscaping changes, and the elimination of dumpster screening;
 - (b) On the property located at 342 Patton Avenue, which is currently zoned R10 and for which OA6 (CZ) office-apartment conditional zoning is requested, the Applicants propose converting the existing residential dwelling into a business, personal, and/or professional services use; and
 - (c) On the property located at 1352 East Salisbury Street (west of Patton Avenue), the Applicants are proposing to rezone the property from OA6 to OA6 (CZ) to allow the conversion of the existing residential dwelling to a business, personal, and/or professional services use as well as an overflow parking area associated with the Applicants’ business at 1420 East Salisbury Street. The planning staff noted that while business, professional, and personal services are all permitted by right within the existing OA6 district, parking and vehicle storage associated with major automobile repair and rental/sales of domestic motor vehicles would not be permitted in a general OA6 district.
5. The pavement width of Patton Avenue is 15 to 16 feet in front of the property. The North Carolina Department of Transportation has indicated that improvements to Patton Avenue and/or additional right-of-way for Patton Avenue may be required.
6. The parking location for the proposed office uses at 1352 East Salisbury Street is marginally divergent from the typical ordinance requirement due to its location within the front yard setback. Conditions have been proposed by the planning staff to address this deviation.

Mr. Nuttall noted that, when evaluating a rezoning application, careful consideration must be given to each goal and policy as outlined in the Land Development Plan.

Proposed Land Use Designation:	Urban Residential and Office – Institutional
Small Area Plan:	Central
Growth Strategy Map Designation:	Primary Growth (inside city limits) / Adjacent Developed (outside city limits)

LDP Goals/Policies Which Support the Request:

Checklist Item 1: Rezoning is compliant with the Proposed Land Use Map (except as stated below).

Checklist Item 3: The property on which the rezoning district is proposed fits the description of the Zoning Ordinance (*Article 200, Section 210, Schedule of Statements of Intent*) (except for 342 Patton Avenue)

- 2.1.3:** 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 (related to the property at 342 Patton Avenue).

LDP Goals/Policies Which Do Not Support the Request:

- Checklist Item 1:** Rezoning is not compliant with the Proposed Land Use Map (relates to having a supportive use typically associated with an I1 or I2 zoning district in a proposed OA6 (CZ) district, located at 1420 East Salisbury Street).
- Checklist Item 3:** The property on which the rezoning district is proposed fits the description of the Zoning Ordinance (*Article 200, Section 210, Schedule of Statements of Intent*) (342 Patton Avenue).

As part of its analysis, the city planning staff also offered suggested conditions believed to be necessary to ensure Land Development Plan consistency and general conformity with city codes.

Suggested Conditions from Planning Staff

- (A) The land uses approved shall be as follows:
- (i) 1420 East Salisbury Street: Motor vehicle repair (major) and rental/sales of domestic motor vehicles;
 - (ii) 1352 East Salisbury Street: Business services, personal services, and/or professional services, and overflow parking for motor vehicle repair (major) and rental/sales of domestic motor vehicles located at 1420 East Salisbury Street as well as parking for 342 Patton Avenue; and
 - (iii) 342 Patton Avenue: Business services, personal Services, and/or professional services.
- (B) All parties involved in this request, including the owner, successors, heirs, and assigns, agree to the conditions and the approved site plan.
- (C) All current zoning conditions and site improvement requirements that apply to 1420 East Salisbury Street shall remain in effect except that a new driveway shall be permitted to Patton Avenue if allowed by the North Carolina Department of Transportation (“NCDOT”) and that no protective yard shall be required between 1420 East Salisbury Street and 342 Patton Avenue.
- (D) In addition to front yard landscaping, a row of evergreen shrubs, 5' on center, shall be installed between the parking area and the right-of-way serving the structure at 1352 East Salisbury Street.
- (E) All front yard landscaping, building and parking area separation, and parking/maneuvering areas shall, at minimum, comply with the city’s zoning standards.
- (F) In the event a dumpster, new lighting, or mechanical equipment is proposed, plans shall be submitted to the City of Asheboro Planning Department for review of code compliance and inclusion in the file without further review by the city council.

- (G) A 6' tall opaque privacy fence shall be allowed to be substituted for the privacy landscaping adjacent to the Cranford property.
- (H) The Applicant shall ensure compliance with all applicable NCDOT, North Carolina Department of Environmental Quality, and North Carolina Building Code rules and regulations as part of the proposed project.
- (I) Prior to the issuance of a Zoning Compliance Permit for the proposed land use(s), the owners 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 zoning in the chain of title for the Zoning Lot.

During the legislative hearing, a point of discussion emerged about the fact that the parking arrangements for the land uses on different parcels of land are integrated and a difficulty could arise if the common ownership of the parcels is severed at a future date. In order to address this concern, Community Development Director Nuttall suggested, and the Applicants consented to the suggestion, to add a condition that, at the zoning compliance permit stage, a note shall be added to the approved site plan whereby the property owners acknowledge that the approved parking arrangement for the land uses on the different parcels or tracts of land is integrated (*i.e.*, tied together) and any severance in the common ownership of the parcels or tracts of land will require an active inquiry as to whether the use(s) proposed for the land in question after the severance of common ownership will comply with the city zoning ordinance's parking regulations or will be deemed to be nonconforming and subject to an enforcement action.

The City of Asheboro Planning Board considered the requested rezoning and recommended approval of the Applicants' conditional zoning application. In making this recommendation, the planning board concurred with the following city planning staff analysis of the consistency of the proposed map amendments with the adopted comprehensive plans as well as the reasonableness of the proposal.

Given the existing I2 (CZ) district for the automotive uses located at 1420 East Salisbury Street, the request for a new I2 (CZ) district to allow a secondary driveway and change the buffering requirement against the structure at 342 Patton Avenue, which is now owned by the Applicants, is reasonable.

The transitional nature of the area and mixture of current uses in the vicinity lends validity to an OA6 (CZ) district for the offices and parking/storage lot uses, provided adequate landscaping and screening is installed and appropriate conditions established to ensure compatibility with adjoining properties and consistency with the Land Development Plan.

In response to Mayor Smith inviting comments from the public, H.R. Gallimore, who is a real estate broker, presented comments in support of the rezoning application. In contrast, Kevin Price discussed his traffic safety concerns that were focused on the difficulty encountered by motor vehicles attempting to use the narrow pavement currently found on Patton Avenue. When no other comments were offered by meeting attendees, Mayor Smith transitioned to the deliberative phase of the process.

After engaging in deliberations about the zoning map amendment application, Council Member Bell moved, and Council Member Burks seconded the motion, to adopt the plan consistency statement printed below and to approve the requested conditional zoning with the following two-part motion.

1. Given the existing I2 (CZ) district for the automotive uses located at 1420 East Salisbury Street, the request for an amended I2 (CZ) district to allow a secondary driveway and to change the buffering requirement against the structure at 342 Patton Avenue, which is now owned by the Applicants, is

reasonable. Furthermore, in addition to residential land uses in the area, the Asheboro Mall is located to the east of the Applicants' property, and an office is located to the west, adjacent to 1352 East Salisbury Street. The transitional nature of the area and the mixture of current uses in the vicinity lends validity to an OA6 (CZ) district for the offices and parking/storage lot uses. However, the validity of the request is contingent on the installation of adequate landscaping and screening in conjunction with appropriate conditions to ensure compatibility with adjoining properties and consistency with the Land Development Plan. When viewed in total, the application is generally consistent with the Land Development Plan and is reasonable and in the public's interest.

2. In light of the above-stated analysis, the above-described zoning ordinance map amendment application seeking conditional zoning for the identified parcels or tracts of land is approved; provided, however this approval is conditioned upon the Applicants accepting and agreeing to the above-printed conditions recommended by the city planning staff for attachment to the approved conditional zoning ordinance, specifically including the integrated parking acknowledgment condition added during the legislative hearing.

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

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

6. **Case No. SUB-22-04:** **Subdivision Sketch Design Review for Estates of Cedar Falls, Phase 3**

Community Development Director Trevor Nuttall presented the planning staff's analysis of the sketch design for the Estates of Cedar Falls, Phase 3 subdivision. This subdivision is located along the east side of 2513 Old Cedar Falls Road, Asheboro, North Carolina 27203. This subdivision phase consists of approximately 13.36 acres out of a total of approximately 56.73 acres. Phase 3 is a portion of a parcel of land identified by Randolph County Parcel Identification Number 7762369298.

Brian Thomas, who is the applicant, has requested the approval of a sketch design that shows 38 lots. The property to be subdivided is currently undeveloped and is subject to R10 zoning.

During his presentation, Mr. Nuttall noted the following information.

- (a) The sketch design shows a conventional subdivision. While the subdivision ordinance encourages sidewalks, they are not required in a development that is not a planned unit development.
- (b) Unlike the planned unit development previously approved to the west of the subject property, a conventional residential subdivision is permitted by right in a residential zoning district, subject to meeting the requirements of the subdivision ordinance.
- (c) Access to this subdivision is proposed via the street connection provided in the adjoining Phase 1. The development does not include a connection to the previously approved Thomas Estates Planned Unit Development or a separate connection Old Cedar Falls Road.

The Planning staff and planning board recommended approval of the sketch design with the following comments:

1. The development layout implements the proposal made to the city council with Phases 1 and 2 regarding the provision of access to the adjoining property to the north. No future access to the adjoining property to the east is shown. The

applicant has indicated that projected site grading and topography make such a connection impractical. Generally, the city looks for access to be provided to adjacent properties where future development could occur.

2. Certain provisions of the North Carolina Fire Code can seek to limit development with only one fire apparatus access road to less than 100 dwellings. In this instance, that provision is not applicable due to the review and approval process utilized for this subdivision. The layout as proposed complies with fire apparatus access road requirements.
3. The North Carolina Department of Transportation has indicated that the location of the drive for the site may need to be adjusted and/or clearing of dedicated right-of-way may be needed to obtain a minimum sight distance. Roadway improvements may be required.
4. Fire hydrant locations will need to be approved by the fire department with the preliminary plat.

After discussion, a consensus emerged among the governing board members to concur with the staff and planning board recommendations. Council Member Moffitt moved, and Council Member Heath seconded the motion, to approve, with the above-stated comments, the submitted subdivision sketch design plat. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

7. Update on Community Development Division Projects

(a) Industrial Park Avenue Sidewalk Improvements Project

Community Development Director Trevor Nuttall reported that all of the bids received to perform the work specified for the Industrial Park Avenue Sidewalk Improvements Project exceeded the amount of funding budgeted for the project. Consequently, Mr. Nuttall recommended that the council reject all of the bids received for the project.

Council Member Moffitt moved, and Council Member Burks seconded the motion, to reject all bids received. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

(b) Grant Funding for the David and Pauline Jarrell Center City Garden

Mr. Nuttall reported that work will begin soon with the Piedmont Regional Triad Council to secure grant funding for the David and Pauline Jarrell Center City Garden. A community work day will be scheduled during the fall months in order to engage citizens regarding the plans for the project. In the meantime, steps will be taken in order to secure grant funding for the project's development.

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

8. Engineering Department Update

(a) Airport Lighting Rehabilitation Project

City Engineer Michael Leonard, PE reported that the lighting on the northern portion of the taxiway has been completed, while completion of the southern taxiway will be completed soon. The installation of the lights on the runway is scheduled to be completed in August 2022.

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

The slide show presentation utilized by Mr. Leonard is on file in the city clerk's office.

(b) Zoo City Sportsplex Project

(i) Change Order Number 5 with Terry's Plumbing and Utilities, Inc.

Mr. Leonard recommended council approval of Change Order Number 5 with Terry's Plumbing and Utilities, Inc. for the Zoo City Sportsplex Sitework Project. The original contract price was \$3,700,315.00. Previous change orders adjusted the price to \$6,950,371.54. The contract price due to change order number 5 will be increased by \$2,674,019.00 with a new contract price of \$9,624,390.54. The purpose of the change order is to allow for additional rock removal, building C, paving, and additional services. The work is anticipated to be completed by August 30, 2023.

Council Member Moffitt moved, and Council Member Swiers seconded the motion to approve the above-referenced change order number 5 with Terry's Plumbing and Utilities, Inc. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

(ii) A Budgetary Amendment to Account for Change Order No. 5

Finance Director Deborah Reaves presented and recommended adoption, by reference, of an ordinance to amend the Zoo City Sportsplex Fund. The ordinance recommended for approval is printed below.

In response to the recommendation, Council Member Bell moved, and Council Member Moffitt seconded the motion, to adopt the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

40 ORD 7-22

**ORDINANCE TO AMEND
THE ZOO CITY SPORTSPLEX FUND
FY 2022-2023**

WHEREAS, the scope of work in change order #5 to the Zoo City Sportsplex contract with Terry's Plumbing & Utilities Inc. is for Terry's Plumbing and Utilities to remove additional rock in the amount of approximately \$941K, build "Building C" concession stand in the amount of approximately \$533K and additional site work including but not limited to temporary seeding of fields 5-8, concrete work, asphalt work, clearing, fencing, entrance gates, retaining wall, and drainage pipe installation.

WHEREAS, in the 2022-2023 adopted General Fund budget, funding for this phase of work has already been approved.

WHEREAS, only the Zoo City Sportsplex fund needs to be amended to recognize and appropriate revenue and expenses relating to this work.

WHEREAS, the City Council of the City of Asheboro desires to be in compliance with all generally accepted accounting principles to incorporate new expenditures outline above, and

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 revenue line item be increased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
74-000-370.0000-74	Contribution from General Fund	\$2,674,019

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
74-000-400.9001.74	Construction	2,674,019

Adopted this 14th day of July, 2022.

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

ATTEST:

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

(c) Proposed Intersection Improvements for Dixon Avenue and Dixon Street

Mr. Leonard presented a map of proposed intersection improvements for Dixon Avenue and Dixon Street. The improvements include the installation of stop bars and stop signs in order to convert this intersection into a stop intersection from all directions of travel.

The general consensus of the council members was to proceed with the implementation of the recommendations presented by the city engineer. An ordinance to create a stop intersection at this location will be presented for council action at the governing board's next regular meeting.

(d) Proposed Road Closure at the Eastern Terminus of West Pritchard Street

Prior to the discussion of the above-listed meeting agenda item, due to her family having a property interest in real property located at the eastern terminus of West Pritchard Street, Council Member Redding asked to be excused from any deliberation and council action pertaining to this agenda item. Council Member Heath moved, and Council Member Burks seconded the motion, to excuse Council Member Redding from participating in governing board discussions and actions concerning the potential road closure at the eastern terminus of West Pritchard Street. Council Members Bell, Burks, Heath, McCaskill, Moffitt, and Swiers voted aye. There were no dissenting votes.

Mr. Leonard then presented a proposal for a road closure at the eastern terminus of West Pritchard Street. The general consensus of the council members was to move forward with the procedural steps necessary to hold a hearing on the proposed closure of the eastern terminus of West Pritchard Street. Upon the completion of the needed plat of survey, legal instruments to implement the road closure process will be presented to the governing board in order to hold the appropriate hearing on the question.

(e) Proposed No Parking Zone on West Kivett Street

Mr. Leonard presented a map showing the proposed prohibition of on-street parking on both sides of West Kivett Street between South Church Street and South Park Street. During discussion, the council members concluded that on-street parking in the described area created a safety hazard.

Council Member Bell moved, and Council Member Burks seconded the motion, to direct city staff to draft an ordinance prohibiting on-street parking on both sides of West Kivett Street between South Church Street and South Park Street. Council

Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

(f) Proposed No Parking Zone on East Kivett Street

Mr. Leonard presented a map showing the proposed prohibition of on-street parking on both sides of East Kivett Street between South Cox Street and South Main Street. During discussion, the council members concluded that on-street parking in the described area created a safety hazard.

Council Member Redding moved, and Council Member Heath seconded the motion, to direct city staff to draft an ordinance prohibiting on-street parking on both sides of East Kivett Street between South Cox Street and South Main Street. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

9. Annexation Petitions

(a) Approximately Seven Acres of Land at 923 Meadowbrook Road

Mr. Leonard provided an overview of the annexation petition submitted by Fatima Lazaro Espinoza. This petition pertains to approximately 7.071 acres of land owned by Mr. Espinoza at 923 Meadowbrook Road.

After reviewing the information provided by city staff, Council Member Bell moved, and Council Member Swiers seconded the motion, to approve/adopt the following resolution by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

RESOLUTION NUMBER 19 RES 7-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE
SUFFICIENCY OF AN ANNEXATION PETITION SUBMITTED FOR LAND AT 923
MEADOWBROOK ROAD**

WHEREAS, Fatima Lazaro Espinoza has submitted a petition requesting the annexation into Asheboro of approximately 7.071 acres of land that he owns at 923 Meadowbrook Road, Asheboro, North Carolina 27203; and

WHEREAS, the petitioner's land is contiguous to Asheboro's primary city limits; and

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

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

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

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on July 14, 2022.

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

ATTEST:

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

In anticipation of the council's above-stated action, the city clerk's office conducted an investigation of the annexation petition in advance of the council meeting and prepared the following certificate for the council's review.

CERTIFICATE OF SUFFICIENCY
**(Annexation Petition Submitted for Approximately 7.071 Acres of Land
at 923 Meadowbrook Road)**

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

I, Holly H. Doerr, am the City Clerk for the City of Asheboro. I hereby certify that, with the assistance of staff members in various city departments, I have investigated the annexation petition submitted by Fatima Lazaro Espinoza (the "Petitioner"). I further certify that the following paragraphs accurately state the information obtained during the course of my investigation of the annexation petition.

The Petitioner has requested the annexation into Asheboro of approximately 7.071 acres of land that he owns at 923 Meadowbrook Road. The proposed annexation area is contiguous to the primary corporate limits of the City of Asheboro.

On the basis of my investigation, I have concluded that all of the owners of land lying within the annexation area have signed the prescribed petition. The petition appears to be sufficient to satisfy the provisions of Section 160A-31 of the General Statutes of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro in order to make this certification effective as of July 14, 2022.

(CITY SEAL)

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

In light of the preceding council action and the submittal of the certification from the office of the city clerk, Mr. Leonard then recommended adoption of a resolution setting the date for a public hearing on the question of the requested annexation. Council Member Bell moved, and Council Member Burks seconded the motion, to adopt the following resolution by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

RESOLUTION NUMBER 20 RES 7-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON THE
QUESTION OF THE REQUESTED ANNEXATION OF APPROXIMATELY 7.071
ACRES OF LAND AT 923 MEADOWBROOK ROAD**

WHEREAS, Fatima Lazaro Espinoza has submitted a petition requesting the annexation into Asheboro of approximately 7.071 acres of land that he owns at 923 Meadowbrook Road, Asheboro, North Carolina 27203; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that a public hearing on the question of annexing the territory shown on the plat attached to this Resolution as EXHIBIT 1 will be held in the council chamber on the second floor of Asheboro City Hall at 146 North Church Street, Asheboro, North Carolina 27203 during a regular meeting of the Asheboro City Council that will begin at 7:00 p.m. on August 4, 2022; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that notice of the public hearing scheduled pursuant to this Resolution shall be published in *The Courier-Tribune*, which is a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of the public hearing.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on July 14, 2022.

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

ATTEST:

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

[EXHIBIT 1, which is referenced in the immediately preceding resolution,
is on file in the city clerk's office.]

**(b) Approximately Twenty Acres in the Timber Ridge Subdivision along
East Allred Street**

Mr. Leonard provided an overview of the annexation petition submitted by McDowell Timber Company. This petition pertains to approximately 20.418 acres of land along East Allred Street.

After reviewing the information provided by city staff, Council Member Heath moved, and Council Member Bell seconded the motion, to approve/adopt the following resolution by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

RESOLUTION NUMBER 21 RES 7-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE
SUFFICIENCY OF AN ANNEXATION PETITION SUBMITTED FOR
APPROXIMATELY 20.418 ACRES OF LAND**

WHEREAS, McDowell Timber Company, a North Carolina general partnership, has submitted a petition requesting the annexation into Asheboro of approximately 20.418 acres of land owned by the general partnership along East Allred Street (this land is identified by Randolph County Parcel Identification Number 7762401107); and

WHEREAS, the petitioner's land is contiguous to Asheboro's primary city limits; and

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

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

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

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on July 14, 2022.

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

ATTEST:

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

In anticipation of the council's above-stated action, the city clerk's office conducted an investigation of the annexation petition in advance of the meeting and prepared the following certificate for the council's review.

CERTIFICATE OF SUFFICIENCY
**(Annexation Petition Submitted for Approximately 20.418 Acres of Land
Located along East Allred Street)**

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

I, Holly H. Doerr, am the City Clerk for the City of Asheboro. I hereby certify that, with the assistance of staff members in various city departments, I have investigated the annexation petition submitted by McDowell Timber Company, a North Carolina general partnership, (the "Petitioner"). I further certify that the following paragraphs accurately state the information obtained during the course of my investigation of the annexation petition.

The Petitioner has requested the annexation into Asheboro of approximately 20.418 acres of land owned by the general partnership along East Allred Street (this land is identified by Randolph County Parcel Identification Number 7762401107). The proposed annexation area is contiguous to the primary corporate limits of the City of Asheboro.

On the basis of my investigation, I have concluded that all of the owners of land lying within the annexation area have signed the prescribed petition. The petition appears to be sufficient to satisfy the provisions of Section 160A-31 of the General Statutes of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro in order to make this certification effective as of July 14, 2022.

(CITY SEAL)

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

In light of the preceding council action and the submittal of the certification from the office of the city clerk, Mr. Leonard then recommended adoption of a resolution setting the date of the public hearing on the question of the requested annexation. Council Member Bell moved, and Council Member Burks seconded the motion, to adopt the following resolution by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

RESOLUTION NUMBER 22 RES 7-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON THE
QUESTION OF THE REQUESTED ANNEXATION OF APPROXIMATELY 20.418
ACRES OF LAND LOCATED ALONG EAST ALLRED STREET**

WHEREAS, McDowell Timber Company, a North Carolina general partnership, has submitted a petition requesting the annexation into Asheboro of approximately 20.418 acres of land owned by the general partnership along East Allred Street (this land is identified by Randolph County Parcel Identification Number 7762401107); and

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that a public hearing on the question of annexing the territory shown on the plat attached to this Resolution as EXHIBIT A will be held in the council chamber on the second floor of Asheboro City Hall at 146 North Church Street, Asheboro, North Carolina 27203 during a regular meeting of the Asheboro City Council that will begin at 7:00 p.m. on August 4, 2022; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that notice of the public hearing scheduled pursuant to this Resolution shall be published in *The Courier-Tribune*, which is a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of the public hearing.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on July 14, 2022.

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

ATTEST:

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

[EXHIBIT A, which is referenced in the immediately preceding resolution,
is on file in the city clerk's office.]

10. Council Action on Permitting and Compliance Issues

(a) Quasi-judicial Hearing on a Pawnbroker License Application

Mayor Smith opened the quasi-judicial hearing on a pawnbroker license application submitted by Ronald R. Autry, Inc. d/b/a The Pawn Shack. City Attorney Jeff Sugg presented the application submitted by Mr. Ronald Autry, who is the president of Ronald R. Autry, Inc. The proposed location for The Pawn Shack is 532 South Fayetteville Street in Asheboro.

Sworn testimony was given by Mr. Ronald Autry, Community Development Director Trevor Nuttall, and Police Captain Charles Wagner. No evidence was presented in opposition to the requested pawnbroker license.

After considering the evidence, the council members formed a consensus opinion that the applicant is suitable to hold a pawnbroker license and that 532 South Fayetteville Street is a suitable location for the pawnbroker business. Consequently, Council Member Bell moved, and Council Member Redding seconded the motion, to approve the pawnbroker license sought by Ronald R. Autry, Inc. d/b/a The Pawn Shack. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

(b) Resolution Adopting a Policy for the Prequalification of Bidders for Construction Projects

Mr. Sugg presented the proposed City of Asheboro Policy for the Prequalification of Bidders for Construction Projects. At the conclusion of his presentation, Mr. Sugg recommended the adoption of the proposed policy by means of approving the resolution printed below.

In response, Council Member Burks moved, and Council Member Heath seconded the motion, to approve the following resolution. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes

RESOLUTION NUMBER 23 RES 7-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION ADOPTING THE CITY OF ASHEBORO POLICY FOR THE
PREQUALIFICATION OF BIDDERS FOR CONSTRUCTION PROJECTS**

WHEREAS, Section 143-128.1(c) of the North Carolina General Statutes directs a construction manager at risk to use the prequalification process established by the city in accordance with G.S. 143-135.8; and

WHEREAS, Section 143-135.8(b)(2) of the North Carolina General Statutes provides that the city may use the prequalification process for a particular project when the city council “adopts an objective prequalification policy applicable to all construction or repair work . . .” bid under the separate-prime, single-prime, or dual bidding methods as well as for the selection of first-tier subcontractors utilized on construction manager at risk projects; and

WHEREAS, a policy for the prequalification of bidders for construction projects has been prepared by city staff and attached to this Resolution; and

WHEREAS, the Asheboro City Council concurs with the city staff's recommendation to adopt the City of Asheboro Policy for the Prequalification of Bidders for Construction

Projects that is attached hereto as EXHIBIT 1 and is hereby incorporated into this Resolution by reference as if copied fully herein.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, effective immediately, the attached City of Asheboro Policy for the Prequalification of Bidders for Construction Projects is hereby adopted.

This Resolution was approved by the Asheboro City Council in open session during a regular meeting on July 14, 2022.

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

ATTEST:

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

EXHIBIT 1

CITY OF ASHEBORO POLICY FOR THE PREQUALIFICATION OF BIDDERS FOR CONSTRUCTION PROJECTS

ARTICLE I – PURPOSE

- Section 1.01:** The purpose of this prequalification process is to impartially evaluate a contractor and to properly determine by evaluating the contractor's responsible business practices, work experience, workforce, and equipment whether the contractor is qualified to bid on a construction project. This process is also applicable to contracts awarded to first-tier subcontractors by a Construction Manager at Risk as part of a construction management at risk ("CM at Risk") project. The award of contracts should be the result of open competition in bidding, impartiality in the selection of contractors, integrity in business practices, and the skillful and safe performance of public contracts.
- Section 1.02:** Unless an undertaking is a CM at Risk project, the Bid Agent shall be responsible for prequalifying individual contractors to bid on construction projects when the city believes prequalification is preferred. Prequalification is limited to construction or repair projects (regardless of cost) that are bid under the separate-prime (multi-prime), single-prime, or dual bidding methods. A bidder shall be deemed nonresponsive if it submits a bid on a construction project subject to prequalification for which the bidder has not been accepted for prequalification in accordance with this policy.
- Section 1.03:** Prequalification is prohibited for contracts for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services.
- Section 1.04:** The Construction Manager at Risk shall use the process outlined in this policy for the prequalification of contractors on CM at Risk projects. The Construction Manager and the city shall jointly develop the assessment tool and criteria for each CM at Risk project, including the prequalification scoring values and the minimum required score for prequalification on a specific project.
- Section 1.05:** Notwithstanding the fact that a contractor has been prequalified, the city reserves the right to reject a contractor's bid if it is determined that the contractor has not submitted the lowest responsible and responsive bid. The prequalification of the contractor shall not preclude the city from subsequently concluding that the contractor is not a responsible

bidder. The prequalification of a contractor for a project shall only apply to the individual project. All construction and repair contracts shall be awarded to the lowest responsive and responsible bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

ARTICLE II – SCOPE OF POLICY

Section 2.01: This policy applies to all City of Asheboro divisions and departments.

ARTICLE III – DEFINITIONS

Section 3.01: Bid Agent – The person designated by the city as having the responsibility to prepare the request for qualification, the bid documents, and the contract documents; the advertisement for bids and proposals; and the opening of bids for contracts. The Bid Agent may be a professional services consultant retained by the city under an approved contract or a city engineer or designee.

Section 3.02: Project Manager – The city employee, usually a division or department head, designated by the city manager as responsible for managing a construction, repair, or purchasing project. The Project Manager shall represent the city in matters relating to the project.

Section 3.03: Construction Manager at Risk – A person, corporation, or entity that provides construction management at risk services. The Construction Manager at Risk may also be referred to as the Construction Manager.

Section 3.04: Prequalification – A process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary for the faithful performance of a construction or repair work contract.

ARTICLE IV – PREQUALIFICATION PROCESS

Section 4.01: Each prospective bidder on contracts identified for prequalification by the Bid Agent, in addition to each prospective first-tier subcontractor on all CM at Risk projects, shall submit an application on an approved prequalification application form in order to become prequalified.

Section 4.02: The approved prequalification application form will require the submittal of information on the ownership of the firm, the experience of the firm's personnel, any affiliations with other construction firms, bonding capacity, financial resources, the type of work performed by the firm, and other objective criteria rationally related to the particular contract to be awarded.

Section 4.03: The Bid Agent shall ensure that applications prepared for a project comply with North Carolina law in general and this policy in particular. The application is to be submitted by the deadline established in the notice of prequalification utilized for a specific project. The single act of submitting the application does not permit the firm to submit a bid. Incomplete applications will be rejected or returned for further detail or correction in the sole discretion of the city.

ARTICLE V – ITEMS, AT A MINIMUM, TO BE ADDRESSED AS PART OF THE APPLICATION

Section 5.01: Organizational Structure – The applicant shall provide a list of all owners, officers, partners, or individuals authorized to represent or conduct business on behalf of the applicant. This list must include full legal names that are typed or printed in a clear, legible form. Applicants experiencing changes in ownership, organizational structure, or material changes in assets must inform the Bid Agent

prior to the award of a contract. Failure of the applicant to comply with this requirement may result in the termination of any contract awarded by the city.

- Section 5.02:** Classification – The applicant shall indicate the type(s) of work the applicant’s workforce and equipment normally perform, specifically including licensure information.
- Section 5.03:** Experience – The applicant shall document the applicant’s experience with projects of similar size, scope, or complexity that involve the type(s) of work for which prequalification is requested.
- Section 5.04:** Financial – The applicant shall provide a minimum of either a current full year audited financial statement or an internal balance sheet with income statement or business tax return.
- Section 5.05:** Litigation/Claims – The applicant shall submit information regarding its litigation history, including litigation with owners and subcontractors.
- Section 5.06:** Timeliness – The applicant must provide information on its success at completing projects on time, including the payment of liquidated damages.
- Section 5.07:** Capacity – The applicant shall demonstrate sufficient bonding capacity, insurance, and resources for the project. The applicant must provide relevant information on the personnel that will be directly responsible for the work, including the location of the office that will be primarily responsible for work.
- Section 5.08:** Safety – The applicant shall demonstrate an acceptable safety history. The applicant must provide copies of any complaints, safety violations, or reports from the North Carolina Qualifications Board, OSHA, North Carolina Department of Labor, or any other regulating agency associated with any construction project.
- Section 5.09:** Legal Authorization – The applicant must provide a copy of its North Carolina Contractor’s License or provide a statement indicating that the applicant will be able to acquire one before submitting a bid on a project. If a statement is required, the applicant shall identify the state(s) in which the applicant is already licensed for the type of work at issue.

ARTICLE VI – REVIEW OF APPLICATION (CITY BID PROJECTS)

- Section 6.01:** Prequalification Committee – For each project, the Project Manager shall establish a prequalification committee to review and score applications.
- Section 6.02:** Review of Applications – The prequalification committee shall use an objective assessment process and criteria for the specific project under review. The prequalification criteria shall not require the applicant to have previously been awarded a construction or repair project by the city. The prequalification criteria used by the committee shall include prequalification scoring values and the minimum required score to be prequalified for the project. The prequalification committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system.
- Section 6.03:** Notice of Decision – The applicant shall be promptly notified of the prequalification committee’s decision via e-mail and first-class mail. The notification to a contractor determined not to be prequalified shall

include the reason(s) for denial. Notice shall be provided prior to the advertisement of bids for the project and with sufficient time for the applicant to protest the denial of prequalification.

ARTICLE VII – REVIEW OF APPLICATION (CM AT RISK PROJECTS)

Section 7.01: Prequalification Committee – The Construction Manager and the Project Manager shall agree upon the members of the Construction Manager’s prequalification committee. The prequalification committee will review prequalification applications and will determine prequalification eligibility for the CM at Risk project.

Section 7.02: Review of Applications – The prequalification committee and the project manager shall agree upon an objective assessment process. The Construction Manager and the Project Manager shall jointly develop the assessment tool and criteria for the specific project, including prequalification scoring values and the minimum required score to be prequalified for the project. The prequalification criteria shall not require the applicant to have previously been awarded a construction or repair project by the Construction Manager or the city. The prequalification committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system.

Section 7.03: Notice of Decision – The applicant shall be promptly notified of the prequalification committee’s decision via e-mail and first-class mail. The notification to a contractor determined not to be prequalified shall include the reason(s) for denial. Notice shall be provided prior to the advertisement of bids for the project and with sufficient time for the applicant to protest the denial of prequalification.

ARTICLE VIII – PROTEST PROCEDURE

Section 8.01: Protest to the City Public Works Director – An applicant may protest the denial of prequalification. A written protest must be received by the city’s public works director, or designee, within five business days of the applicant’s receipt of the notice of denial. The written protest shall identify the project and clearly articulate the reason(s) for the protest. The applicant’s written protest shall include as attachments any documents or additional information that the applicant wants the public works director to consider in support of the applicant’s contentions. The public works director, or designee, will contact the applicant and set up a date and time to discuss the protest. If upon review, the public works director, or designee, determines that the applicant meets the criteria for prequalification, the applicant shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the public works director, or designee, upholds the denial, the applicant shall be notified by email and first-class mail of the confirmation of the denial.

Section 8.02: City Manager Review – If the applicant desires further review after receiving the decision of the public works director, the applicant may request an administrative review and final decision by the city manager, or designee. A written request for administrative review must be received by the city manager, or designee, within five business days of the applicant’s receipt of the written decision from the public works director, or designee. The request for administrative review shall identify the project, clearly articulate the reasons for seeking further review, and attach any documents or additional information in support of the applicant’s position. The city manager, or designee, will contact the applicant and set up a date and time for the administrative review. If, upon review, the city manager, or designee, determines that the applicant meets the criteria for prequalification, the applicant shall be

notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the city manager, or designee, upholds the denial, the applicant shall be notified of the city manager's decision by e-mail and first-class mail.

Section 8.03: General Rules for Protests – As part of the prequalification application process, each applicant shall be provided with an e-mail address for communication with the public works director in the event a protest process is initiated. The applicant shall provide at least two e-mail addresses for use by the public works director in communicating with the applicant during a protest process. The bid opening for the project cannot occur until the protest process is completed. The project bid opening must be scheduled in order to allow sufficient time for a bidder that is prequalified as a result of a protest to submit a bid on that project.

(c) Policies Required for the Expenditure of Funds from the American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Fund

In order to allow more time for staff to refine the referenced policies, City Attorney Jeff Sugg asked for a continuance of the above-referenced item to the council's special meeting on July 26, 2022. In response, Council Member Moffitt moved, and Council Member Burks seconded the motion, to continue the above-referenced item to the council's special meeting on July 26, 2022. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

11. Upcoming Events and Items Not on the Agenda

Mayor Smith and City Manager John Ogburn led a discussion of upcoming events for the city government and within the community. No council action was taken during this portion of the meeting.

There being no further business, the meeting was adjourned at 9:58 p.m.

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

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