

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, FEBRUARY 9, 2023
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
Robert L. Brown, Jr., Assistant Chief of Police
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Michael D. Rhoney, PE, Water Resources Director
Jeffrey C. Sugg, City Attorney

1. Call to order

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

2. Moment of Silent Prayer and Pledge of Allegiance

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

3. Presentation to Representative Pat Hurley of a Key to the City

Mayor Smith presented a plaque with a key to the city to Representative Pat Hurley for her service in representing the 70th District in the North Carolina House of Representatives from 2007-2023.

OLD BUSINESS

4. Continuation of the Legislative Hearing for Case No. RZ-22-14

An application to rezone property located on Golda Avenue, east of 210 Golda Avenue, approximately 850 feet east of intersection of North Fayetteville Street, from R10 to RA6 (CZ) zoning

Mayor Smith recognized Community Development Director Trevor Nuttall in order to receive an overview of the zoning map amendment application received from Darren Lucas on November 4, 2022. This application, which was assigned file number RZ-22-04, sought to rezone the applicant’s approximately 8.593 acres of land from R10 medium-density residential to RA6 (CZ) high-density residential conditional zoning allowing a development with multiple family dwellings having a floor area ratio of up to 17%.

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The applicant's land for which the above-stated conditional zoning has been requested is identified by Randolph County Parcel Identification Number 7763129076 and will be referred to as the Zoning Lot. This lot is located east of 210 Golda Avenue, approximately 850 feet east of N. Fayetteville Street.

The requested zoning map amendment was initially considered during a legislative hearing opened during the council's regular meeting on January 5, 2023. As discussed in the approved meeting minutes for the regular city council meeting held in January 2023, no final decision was made at that time. The case was continued to the regular February 2023 city council meeting.

Mr. Nuttall reported that, since the date of the January 2023 regular meeting, the applicant has made changes to the site plan. These changes specifically include a reduction in the number of units from 46 to 44, the inclusion of an additional row of evergreen trees planted at 20-foot intervals adjacent to the Lamar Drive properties on the west side of the Zoning Lot, and additional sidewalk connections on the south side of the Zoning Lot as discussed during the January city council meeting.

The community development director utilized a slide show in conjunction with his comments. The planning staff analysis, as of February 9, 2023, noted the points of information listed below.

1. The Zoning Lot is inside the city limits.
2. Golda Avenue is a local, city-maintained street that has an apparent pavement width of less than 20 feet in various locations between the Zoning Lot and N. Fayetteville Street. The city's public works division has indicated that improvements to Golda Avenue, including resurfacing that may result in additional roadway width between the Zoning Lot and N. Fayetteville Street, was expected to occur in the next few years. According to the city engineering department, if the requested rezoning is approved, the public street improvement project will move up in priority status.
3. The application is for a multi-family development with a floor area ratio (a ratio of total conditioned building square footage to property square footage) of up to 17 percent. 44 units are proposed for one parcel of land, equaling approximately 5.1 dwellings per acre. The proposed floor area ratio is approximately 9.7 percent. Two dwelling units on the west side of the Zoning Lot, toward Lamar Drive, were removed from the plan after the city council meeting on January 5, 2023. No new lots are proposed to be created by the project.
4. The area includes primarily single-family dwellings, with some two-family dwellings. Two multi-family developments, which access N. Fayetteville Street, are in the vicinity of the Zoning Lot. The Matthew Grande Apartments are located approximately 500 feet to the north, and Summers Run Apartments are approximately 1200 feet to the west and across North Fayetteville Street.
5. One entrance is proposed to the development on Golda Avenue. Access will be via a privately maintained driveway. The proposed project layout, including the private driveway, limits an opportunity for a future street connection between Golda Avenue and Eckerd Street. It is likely that the city would seek to preserve this opportunity for a project proposing to subdivide the property.
6. The proposed units are single-story duplex (two-family) style units with approximately 825 square feet in each unit. Parking is shown in front of each unit within a surface parking lot.
7. The Applicant is proposing a 35-foot setback around the perimeter of the property. Within the first 10 feet of the setback, except for the area of the city's existing sewer easement, the plan notes that "1 Evergreen tree every 20 feet and 1 shrub every 5 feet (Burford Holly & Leyland Cypress) or existing hardwood trees" will be provided on the north, west, and south sides of the Zoning Lot with an additional row of evergreen trees on the west side of the Zoning Lot, closest

to Lamar Drive. 29 additional trees are shown dispersed throughout the parking lot.

- 8. The existing R10 zoning permits one single-family dwelling on a lot with at least 10,000 square feet or one two-family dwelling on a lot with 15,000 square feet. If a subdivision using public streets were proposed, a maximum of 18 lots with 36 dwellings could likely be accommodated.
- 9. The RA6 Residential District is “intended to produce a high intensity of residential uses in close proximity to major nodes of non-residential development, characterized primarily by group housing, plus the necessary governmental and other support facilities to service that level of development. Land designated RA6 shall normally be located with access to a minor thoroughfare or higher classification street with access to local residential streets discouraged.”
- 10. 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.”
- 11. The conditional zoning process allows an applicant to propose a project-specific zoning district that establishes permitted uses, development conditions, and site development requirements. The project-specific zoning district is allowed to diverge from the zoning ordinance’s predetermined land use requirements. The only deviation from the city’s standard requirements for a multi-family development is the applicant’s request to not provide a screened parking area for recreational vehicles. Typically, a project of this size would require approximately 3300 square feet of screened recreational vehicle parking area. None is proposed. However, the plan does provide a total of 27 visitor spaces for the project; only nine visitor spaces are required.
- 12. The plan has been routed to North Carolina Department of Transportation (NCDOT), the Asheboro City Schools, and the United States Postal Service. The Asheboro City Schools indicated no concern with the plan. The United States Postal Service requested the ability to review a community mail box location. NCDOT commented that future development beyond the number of units shown may require road improvements on N. Fayetteville Street, but didn’t raise an objection to the development as proposed.

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:	Northeast
Growth Strategy Map:	Primary Growth
LDP Goals/Policies Supporting the Request:	
<u>Checklist Item 5:</u>	Complies with Growth Strategy Map
<u>Checklist Items 12, 13:</u>	12.) The property is located outside of watershed. 13.) The property is located outside of Special Hazard Flood Area.
LDP Goals/Policies Which Do <u>Not</u> Support the Request:	
<u>Checklist Item 1:</u>	Rezoning is not compliant with the Proposed Land Use Map

Checklist Item 3:

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

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 (Updated after January 5, 2023)

- (A) The use approved shall be a development consisting of 44 dwelling units within a multiple family development with a floor area ratio of up to 17 percent.
- (B) All parties involved in this request, including the owner, and the owner's heirs, successors, and assigns, agree to the conditions and approved site plan.
- (C) Enclosure of concrete pads or other additions to the rear of dwellings shall not be considered a modification unless the cumulative additional square footage leads to a project floor area ratio of more than 17%.
- (D) Maintenance of all recreation areas, roads, any utilities not publicly maintained in accordance with city policies, and drainage facilities that are not specifically labeled on the approved site plan as publicly maintained shall be the responsibility of the property owner and any successors in interest.
- (E) Installation of traffic and street signs within the development shall be the responsibility of the developer. Approval of any proposed name of the private road shall be obtained from Randolph County for E-911 purposes.
- (F) If solid waste disposal facilities as shown on the site plan are deemed to be inadequate, the property owner shall be responsible for ensuring that additional facilities or measures are installed. Any such facilities shall be consistent with city policies and codes.
- (G) No recreational vehicle storage or similar outdoor storage shall be permitted on the Zoning Lot.
- (H) Prior to the issuance of a zoning compliance permit for the proposed land use, the applicant shall submit documentation detailing permitting from the North Carolina Department of Environmental Quality.
- (I) Prior to the issuance of a zoning compliance permit, construction plans concerning water, including provisions for fire hydrants determined to be required by Asheboro Fire and Rescue, 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.
- (J) Prior to the issuance of a zoning compliance permit, the applicant shall submit a site plan reflecting any revisions necessary to comply with city codes and conditions of approval.
- (K) Any road name(s) proposed shall be subject to review and approval from the city engineering department. All required traffic control and road signs shall be erected by the developer.
- (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 zoning in the chain of title for the Zoning Lot.

The City of Asheboro Planning Board considered the rezoning application and recommended placement of the Zoning Lot into the requested 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. The planning staff's analysis is summarized in the following indented paragraphs.

The Land Development Plan designates the subject property for Neighborhood Residential development. This designation advocates for new residential projects to be of similar density to surrounding areas. Such designation traditionally has not supported new multi-family development; the Land Development Plan designates areas for multi-family development through the Urban Residential designation.

Yet, the Land Development Plan does envision property on the north side of Golda Avenue, across from the subject property, developing at Urban Residential densities similar to the Matthew Grande and Summers Run apartments. The primary distinction between those developments and the adjacent property identified for Urban Residential Development is the direct access those properties have to N. Fayetteville Street, a major thoroughfare.

The application seeks to develop a relatively low-density multi-family project when compared to density typically permitted by the RA6 district (44-825 s.f. units proposed versus 77-825 s.f. units that a 17% FAR could otherwise accommodate on this property). The proposal to construct single-story duplex-style units, rather than multi-story units, is more consistent with the surrounding pattern of residential development.

The total number of units is the primary inconsistency related to the Land Development Plan that staff has identified. It is conceivable that the current zoning could accommodate a subdivision proposing two-family dwellings (duplexes) with approximately 40 units after accounting for expected land area necessary for street right-of-way. R10 does not permit multi-family development, and the application requests approval for 44 multi-family units (a reduction from the 46 units previously presented to the city council on 01-05-2023).

Other goals and policies of the Land Development Plan, however, are advanced by the application. The community will possess sidewalks connecting all of the units (with additional sidewalks added on the basis of council feedback provided during the meeting on January 5, 2023), significant open space is proposed to be preserved, additional landscaping has been proposed based on comments offered during the January council meeting, and a limited amount of recreational amenities will be provided.

In response to Mayor Smith inviting public participation in the legislative hearing, Darren Lucas presented comments in support of the rezoning application. Ruta Spivey presented comments in opposition to the application. 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 multi-part motion.

1. The Land Development Plan designates the Zoning Lot for Neighborhood Residential development. Such a designation has not traditionally supported new multi-family development.

The Land Development Plan designates areas for multi-family development through the Urban Residential designation. In this unique case, the Land Development Plan does envision property on the north side of Golda Avenue, across from the Zoning Lot, developing at Urban Residential densities similar to the Matthew Grande and Summers Run apartments. The primary distinction at issue with those developments and the adjacent property identified for Urban Residential development is direct access to N. Fayetteville Street, a major thoroughfare.

The applicant is seeking to develop on the Zoning Lot a relatively low-density multi-family project when compared to the density typically permitted by the RA6 district outside of the conditional zoning context. The proposed site plan shows 44 units that are 825 square feet in size as opposed to the theoretical possibility of 77 units with a similar size that a 17% FAR could otherwise accommodate on this property. Furthermore, the proposal to construct single-story duplex units, rather than multi-story units, is more consistent with the surrounding pattern of residential development.

In the absence of RA6 zoning, it is conceivable that the current zoning could accommodate a conventional subdivision proposing two-family dwellings (duplexes) with approximately 40 units after accounting for the expected land area necessary for street right-of-way. While the existing R10 zoning does not permit multi-family development, the application requests approval for 44 multi-family units subject to project and site specific development standards facilitated by the conditional zoning ordinance requested by the applicant.

These project and site specific development standards advance other goals and policies of the Land Development Plan. The community will possess sidewalks connecting all of the units, the addition of landscaping and the preservation of significant open space is proposed, and a limited amount of recreational amenities will be provided.

In light of the above-stated analysis, the applicant's request is consistent with the city's adopted comprehensive plans, is reasonable, and is in the public interest.

2. With the attachment to the requested conditional zoning ordinance of the above-printed supplemental conditions recommended by the city planning staff and accepted by the applicant, the zoning map amendment application seeking to place the Zoning Lot into an RA6 (CZ) conditional zoning district allowing a development consisting of 44 dwelling units within a multiple family development with a floor area ratio of up to 17 percent, as shown on the site plan reviewed by the city council on February 9, 2023, is hereby approved.

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

NEW BUSINESS

5. Year-End Audit Report for Fiscal Year 2021-2022

Due to a scheduling conflict, the auditor was not available to present this report. The year-end audit report will be presented during the council's special meeting on Friday, February 24, 2023.

6. Public Comment Period

Mayor Smith opened the floor for comments from the public.

Kevin Price commented on his traffic safety concerns related to the fading markings on the pavement at the intersection of N. Fayetteville Street and Vision Drive.

Quinton Louris and Gene Woodle presented Mayor Smith and City Manager John Ogburn with shirts and rings from the Asheboro Raiders youth football team in appreciation for the city’s support of the program.

Carey Durham commented on his traffic safety concerns, most specifically the status of any improvements that may be proposed for Old Lexington Road in the vicinity of Lexington Commons.

Maxine McIver commented on her concerns about the level of city support for improving the quality of life for residents on the eastern side of the Asheboro community.

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

7. **Consent Agenda**

Prior to the consideration of the consent agenda, and at the request of city staff, Mayor Smith removed consent agenda item 7(b). The item will be considered at the council’s regular March meeting.

Council Member Heath moved, and Council Member Burks seconded the motion, to approve/adopt, with the exception of agenda item no. 7(b), 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 January 5, 2023**

The meeting minutes for the city council’s regular meeting on January 5, 2023, 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 Minutes for January 20, 2023**

The above-referenced item was removed from the consent agenda and will be considered at the council’s regular March meeting.

(c) **Asheboro ABC Board Minutes for December 5, 2022**

The council acknowledged the receipt of the Asheboro ABC Board’s approved meeting minutes for December 5, 2022. This document has been filed in the city clerk’s office and distributed to the city’s elected officials.

(d) **Award of a Service Side Arm to a Retiring Member of the Asheboro Police Department**

RESOLUTION NUMBER 4 RES 2-23

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION AWARDING TO TROY GABLE VINCENT
HIS SERVICE SIDE ARM UPON RETIREMENT FROM THE
ASHEBORO POLICE DEPARTMENT**

WHEREAS, after rendering honorable and valuable service to the City of Asheboro and its citizens throughout the course of his Asheboro Police Department career, which began on December 7, 2000, Master Police Officer Troy Gable Vincent will begin his retirement from employment with the city on March 1, 2023; and

WHEREAS, pursuant to and in accordance with Section 20-187.2 of the North Carolina General Statutes, the Asheboro City Council wishes to recognize and honor Officer Vincent for

his dedicated service to the city by awarding to him, at a minimal monetary cost, the service side arm that he carried at the time of his retirement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, effective March 1, 2023, in consideration of the combination of his dedicated service to the City of Asheboro and the payment to the city of \$1.00, Troy Gable Vincent is to be awarded ownership of his city-issued service side arm (a Glock model 45 9mm with serial no. BLKC034 and three magazines) upon a determination by the police department command staff that Mr. Vincent is eligible under the applicable federal and state laws to receive, own, or possess a firearm.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on February 9, 2023.

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

ATTEST:

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

- (e) Approval to Schedule for March 9, 2023, and to Advertise, Legislative Hearings on the Following Applications:**
 - (I) Application to rezone property at 853 East Salisbury Street (Randolph County Parcel Identification Nos. 7761229556, 7761229618, 7761229996, and 7761227703) from OA6 to OA6 (CZ) zoning to allow a development with multiple family dwellings with a floor area ratio of up to 22 percent; and**
 - (II) Application to rezone property at 133 Southway Road (Randolph County Parcel Identification No. 7751346551) from R7.5 (CZ) and R15 to O&I (CZ) zoning to allow a business services with related/accessory enclosed storage.**

The council approved the above-referenced request from the Community Development Division to schedule for March 9, 2023, and to advertise, legislative hearings on the above-referenced applications.

- (f) Approval to Schedule for March 9, 2023, and to Advertise, an Application for a Local Historic Landmark Designation**

The council approved the above-referenced request from the Community Development Division to schedule for March 9, 2023, and to advertise, a hearing on the question of an application to designate as Local Historic Landmarks the Parks Hosiery Mill/McCrary Hosiery Mill at 170 North Street (Randolph County Parcel Identification No. 7751736404) and the Acme-McCrary & Sapona Recreation Center (now the Asheboro Recreation Center) at 148 North Street (Randolph County Parcel Identification No. 7751831174).

- (g) Acknowledgement of the Receipt of a Report Detailing Major Subdivisions Administratively Approved since January 5, 2023**

No major subdivisions have been administratively approved during the relevant time period.

- (h) Approval of a Resolution Supporting the City’s Application for North Carolina Department of Transportation Funding Available for Paved Trails and Sidewalk Feasibility Study Grants**

RESOLUTION NUMBER 5 RES 2-23

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION SUPPORTING THE APPLICATION FOR NCDOT FEASIBILITY
STUDY GRANT FUNDS BY THE CITY OF ASHEBORO

WHEREAS, the Asheboro City Council is the duly recognized decision-making body for the City of Asheboro; and

WHEREAS, the North Carolina Department of Transportation – Integrated Mobility Division has funding available for Paved Trails and Sidewalk Feasibility Study Grants; and

WHEREAS, the City of Asheboro intends to apply for Paved Trails and Sidewalk Feasibility Study Grant funds; and

WHEREAS, the Asheboro City Council recognizes the benefits of bicycle and pedestrian transportation facilities, including economic development, safety, health, reduced vehicle congestion, improved water quality, reduced flooding, and preservation of natural areas; and

WHEREAS, feasibility studies for bicycle and pedestrian transportation facilities are vital to understanding the unique challenges, opportunities, alternatives, and cost of projects.

NOW, THEREFORE, to accomplish the above mentioned goals, it is **RESOLVED** as follows:

The City Council of Asheboro supports applying for the Integrated Mobility Division Paved Trails and Sidewalk Feasibility Study Grant funds.

This resolution was duly adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of February, 2023.

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

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

- (i) **Approval of a Resolution Authorizing the Sale of a Surplus 1998 John Deere 410E Backhoe by Means of Electronic Public Auction**

RESOLUTION NUMBER 6 RES 2-23

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION AUTHORIZING THE SALE OF SURPLUS CITY-OWNED PERSONAL
PROPERTY BY MEANS OF ELECTRONIC PUBLIC AUCTION

WHEREAS, Section 160A-270(b) and Section 160A-270(c) of the North Carolina General Statutes authorize the Asheboro City Council (the “Council”) to sell city-owned surplus personal property by means of an electronic public auction upon adoption of a resolution or order authorizing an appropriate official to dispose of the surplus personal property at public auction; and

WHEREAS, due to the cumulative effect of wear and tear on a city-owned 1998 John Deere 410E backhoe with VIN/Serial Number T0410EX855152 (the “1998 Backhoe”), city staff has concluded that it is no longer cost effective for the city to continue to operate the listed piece of equipment; and

WHEREAS, in response to receiving the evaluation that the continued operation of the above-listed piece of equipment is no longer cost effective, the Asheboro City Manager has recommended the sale of the 1998 Backhoe at electronic public auction; and

WHEREAS, the Council concurs with this recommendation; and

WHEREAS, pursuant to Asheboro City Council Resolution Number 18 RES 7-22, which was adopted on July 14, 2022, the Council has authorized all sales of surplus city-owned personal property by electronic public auction to be advertised by electronic means only.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the 1998 Backhoe is hereby declared to be surplus city-owned personal property that the Asheboro City Manager, or his designee, is authorized to sell and dispose of, without any further governing board action, by means of electronic public auction on GovDeals.com; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that the electronic public auction, which shall begin at 9:00 a.m. on Tuesday, February 28, 2023, shall be conducted in compliance with (1) Section 160A-270 of the North Carolina General Statutes, and (2) the contract between the City of Asheboro and GovDeals.com; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that the terms and conditions of the online sales conducted by means of GovDeals.com shall be as stated in the attached EXHIBIT 1, which is incorporated into this Resolution by reference as if copied fully herein, with the winning bidder paying a 12.50% Buyers Premium, and no fee chargeable to the City of Asheboro; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that notice of the electronic public auction authorized herein shall be advertised by electronic means only in compliance with the provisions stated in Asheboro City Council Resolution Number 18 RES 7-22.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on February 9, 2023.

/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 approved resolution printed above, is on file in the city clerk's office.]

8. Chatham Advanced Manufacturing Site and a Memorandum of Understanding with the North Carolina Department of Commerce

Water Resources Director Michael D. Rhoney, PE requested authorization for the city manager to execute on behalf of the city a memorandum of understanding (MOU) with the North Carolina Department of Commerce. The MOU pertains to the city's role in using appropriations from the North General Assembly to achieve the public purpose of extending public water supply infrastructure to a point that can serve the Chatham advanced manufacturing site.

After discussion, Council Member Bell moved, and Council Member Burks seconded the motion, to authorize the city manager to execute on behalf of the municipal corporation the MOU printed below. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

MEMORANDUM OF UNDERSTANDING BETWEEN
NORTH CAROLINA DEPARTMENT OF COMMERCE
AND
CITY OF ASHEBORO

This Memorandum of Understanding (MOU) between the North Carolina Department of Commerce (the “DOC”) and the City of Asheboro, North Carolina (the “City”) (hereinafter referenced collectively as the “Parties”), is hereby made effective as of the _____ day of _____, 2023 (“the Effective Date”), and shall remain in effect through the period described in Paragraph IV.

WHEREAS, the North Carolina General Assembly (the “General Assembly”) has determined that it is the policy of the State to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State;

WHEREAS, North Carolina Session Law (N.C.S.L.) 2021-180 § 2.2(m) established the Economic Development Project Reserve (the “Reserve”) within the General Fund for funding expenditures associated with economic development projects meeting or exceeding high-yield project metrics;

WHEREAS, pursuant to N.C.S.L. 2021-180 § 2.2(m), funds from the Reserve are made available only upon an act of appropriation by the General Assembly;

WHEREAS, in N.C.S.L. 2022-74 § 11.10(a), the General Assembly appropriated One Hundred Twelve Million Five Hundred Thousand Dollars (\$112,500,000) in nonrecurring funds from the Reserve for a qualifying project in Chatham County, provided such a project is awarded;

WHEREAS, the General Assembly directed the DOC to allocate the funds pursuant to N.C.S.L. 2022-74 § 11.10(a) (the “Authorizing Legislation”), including Fifty-Five Million Dollars (\$55,000,000) to the City for water infrastructure improvements provided a qualifying project is awarded;

WHEREAS, pursuant to the Authorizing Legislation, a qualifying project is a high-yield project for which the agreement requires that the business manufacture computer chips at the project site, invest at least Four Billion Eight Hundred Million Dollars (\$4,800,000,000) in private funds, and create at least Eighteen Hundred (1,800) Eligible Positions, as that term is defined in N.C.G.S. 143B-437.51;

WHEREAS, on September 9, 2022, the Economic Investment Committee awarded a Job Development Investment Grant (JDIG) to Wolfspeed, Inc. (“the Company”) for a qualifying project in Chatham County (“the Project”); and

WHEREAS, the requisite statutory conditions have been met.

NOW, THEREFORE, in consideration of the mutual promises and such other valuable consideration as set out herein, the Parties mutually agree to the following terms and conditions:

I. The City’s Duties

The General Assembly has authorized nonrecurring funds to be appropriated from the Reserve to the City for water infrastructure improvements needed to support the Project. The City commits to use the funds solely for the purpose(s) allowed under the Authorizing Legislation.

No later than August 1 in each year this MOU is in effect the City will provide the

DOC a detailed report of all the expenditures for which funds were utilized, a description of the current status of the infrastructure improvements, and any other information reasonably requested by the DOC. The City will provide a final report as described above within 30 days of the termination of this MOU.

II. The DOC's Duties

The DOC will pay the City as directed by the Authorizing Legislation. The total amount paid by the DOC to the City under this MOU will not exceed Fifty-Five Million Dollars (\$55,000,000). The Department will provide these funds to the City in quarterly disbursements or such other allotments as approved by the Office of State Budget Management. Prior to the disbursement of funds, the City will request the disbursement in the form required by the DOC along with documentation sufficient to show that prior disbursements have been expended or committed for eligible expenditures.

III. MOU Administrators

All notices permitted or required to be given by one Party to the other and all questions about the MOU from one Party to the other shall be addressed and delivered to the other Party's MOU Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial MOU Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its MOU Administrator by giving timely written notice to the other Party.

[The table with the above-referenced contact information for the parties is on file in the city clerk's office.]

IV. Term of MOU

This MOU will be effective as of the Effective Date, and will terminate on August 1, 2024, unless extended or terminated earlier pursuant to the terms of Paragraph V. The DOC may extend the term of this MOU upon written notice by the City, in the event the infrastructure improvements contemplated by the MOU have not been completed. The City will return to the DOC all unexpended funds within thirty (30) days of termination.

V. Termination of MOU

The DOC may terminate this MOU in the event the City fails to utilize the funds consistently with the Authorizing Legislation upon thirty (30) days written notice to the City.

VI. Availability of Funds

The awarding of funds under this MOU is dependent on the allocation and appropriation of funds to the DOC for the purpose(s) specified in this MOU.

VII. Audit of Funds

The records as they relate to this MOU shall be accessible to the DOC, to the North Carolina State Auditor's Office in accordance with N.C. Gen. Stat. §147-64.7, and to any other State or federal entity authorized to conduct audits with respect to activity performed pursuant to this MOU.

VIII. Execution of MOU

This MOU may be executed in one or more counterparts, each of which, when executed,

shall be deemed an original, and such counterpart, together, shall constitute one and the same MOU which shall be sufficiently evidenced by one of such original counterparts.

[The signature pages for the MOU have been omitted from the city council’s meeting minutes.]

9. Zoo City Sportsplex Project

(a) Change Order Number 6

City Manager John Ogburn requested the approval of Change Order Number 6 from Terry’s Plumbing and Utilities, Inc., which adds \$698,496.73 to the previously amended contract price, for work items that include additional rock removal, the addition of a retaining wall, grading for the inclusive playground, and fencing and final regrading around fields 5-8 from turf installation at the Zoo City Sportsplex.

After discussion, Council Member Moffitt moved, and Council Member Burks seconded the motion, to approve the above-referenced Change Order Number 6. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

(b) Change Order Number 7

Mr. Ogburn requested the approval of Change Order Number 7 from Terry’s Plumbing and Utilities, Inc., which adds \$402,260.00 to the previously amended contract price, for the construction of seven picnic shelters at the Zoo City Sportsplex.

After discussion, Council Member Moffitt moved, and Council Member Burks seconded the motion, to approve the above-referenced Change Order Number 7. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

(c) Ordinances to Account for the Preceding Change Orders

(i) An Ordinance to Amend the General Fund

As a consequence of the approval of Change Order Nos. 6 and 7, Finance Director Deborah Reaves presented and recommended adoption, by reference, of an ordinance to amend the general fund.

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

7 ORD 2-23

ORDINANCE TO AMEND THE GENERAL FUND
FY 2022-2023

WHEREAS, the scope of work in change order #6 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 \$325K, an additional retaining walls, additional grading, concrete work, conduit for electrical lines, final regrading around fields 5-8 from turf installation, additional change order work for fields 3 &4, fencing and concrete work.

WHEREAS, the total change order cost for #6 is estimated at \$698,497.

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WHEREAS, the scope of work in change order #7 to the Zoo City Sportsplex contract with Terry's Plumbing & Utilities Inc. is for Terry's Plumbing and Utilities to construct (7) picnic shelters of various sizes.

WHEREAS the total change order cost for #7 is estimated at \$402,260.

WHEREAS, the City of Asheboro wishes to appropriate fund balance for both change order #6 and change order #7, in the amount of \$1,100,757 to be transferred to the Zoo City Sportsplex project for this phase of 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.

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>
10-000-399.0000	Fund Balance Appropriation	\$1,100,757

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
10-620-574.7400	Contribution to Zoo City Sportsplex Fund	\$1,100,757

Adopted this 9th day of February, 2023.

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

ATTEST:

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

(ii) An Ordinance to Amend the Zoo City Sportsplex Fund

Consistent with the council actions on the above-referenced change orders and the subsequent budget amendment pertaining to the General Fund, Ms. Reaves then presented and recommended adoption, by reference, of an ordinance to amend the Zoo City Sportsplex Fund.

Council Member Bell moved, and Council Member Swiers 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.

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

WHEREAS, the scope of work in change order #6 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 \$325K, an additional retaining walls, additional grading, concrete work, conduit for electrical lines, final regrading around fields 5-8 from turf installation, additional change order work for fields 3 &4, fencing and concrete work.

WHEREAS, the total change order cost for #6 is estimated at \$698,497.

WHEREAS, the scope of work in change order #7 to the Zoo City Sportsplex contract with Terry’s Plumbing & Utilities Inc. is for Terry’s Plumbing and Utilities to construct (7) picnic shelters of various sizes.

WHEREAS the total change order cost for #7 is estimated at \$402,260.

WHEREAS, the City of Asheboro wishes to appropriate fund balance for both change order #6 and change order #7, in the amount of \$1,100,757 to be transferred to the Zoo City Sportsplex project for this phase of 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.

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	\$1,100,757

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	1,100,757

Adopted this 9th day of February, 2023.

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

ATTEST:

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

10. Funding for the Downtown Asheboro Inc. Concert Series

Prior to the consideration of agenda item 10, due to statutory restrictions preventing members of the municipal corporation’s governing board from deliberating upon funding requests made by a nonprofit entity with which the elected officials concurrently serve, Council Member Bell moved, and Council Member Redding seconded the motion, to recuse Mayor Smith and Council Member Heath from participating in the discussion and voting concerning the following funding request. Mayor Smith and Council Member Heath both provide service as members of the nonprofit corporation board for Downtown Asheboro Inc.

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

With the recusal of Mayor Smith and Council Member Heath, Mayor Pro Tempore Moffitt served as the presiding officer for this specific agenda item. At the request of Mayor Pro Tempore Moffitt, Ms. Reaves presented and recommended adoption, by reference, of an ordinance to amend the general fund to provide funding that will enable the city to partner with Downtown Asheboro Inc. in presenting an upcoming concert series.

After discussion, Council Member Burks moved, and Council Member Bell seconded the motion, to adopt the following ordinance by reference. The ordinance printed below reflects the modification, which was part of the adopted motion, to correct the initial draft of the budget amendment to reflect that the last concert in the 4-part series will feature a Stevie Wonder tribute band rather than a different band that was originally scheduled to appear as part of the concert series.

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

9 ORD 2-23

ORDINANCE TO AMEND THE GENERAL FUND
FY 2022-2023

WHEREAS, in 2022, the City of Asheboro partnered with DAI to host a 4 band Friday night “Tribute Band” concert series.

WHEREAS the City of Asheboro would like to partner with DAI again to host a 4 band Friday night “Tribute Band” concert series in 2023.

WHEREAS, the musicians and dates selected for 2023 are 1964 (Beatles) 5/26/2023, Petty Breakers (Tom Petty) 7/14/23, On the Border (Eagles) 8/11/2023, and a Stevie Wonder Tribute band 9/29/2023.

WHEREAS, the City of Asheboro would like to appropriate fund balance up to \$75,000 for this purpose.

WHEREAS, the City of Asheboro desires amend the 2022-2023 budget 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 the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-000-399.0000	Fund Balance Allocation	\$75,000

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That the following Expense line items be increased.

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-615-512.0005	Concert Series Partnership with DAI	\$75,000

Adopted this the 9th day of February 2023.

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

ATTEST:

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

11. Upcoming Events and Items not on the Agenda

Mayor Smith and Mr. Ogburn led a discussion of upcoming events within the city government and the community in general. No action was taken by the city council during this discussion.

There being no further business, the meeting was adjourned at 8:40 p.m.

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

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