

**REGULAR MEETING
ASHEBORO CITY COUNCIL
THURSDAY, DECEMBER 6, 2007
7:00 p.m.**

This being the time and place for a regular meeting of the Mayor and the City Council, a meeting was held with the following officials and members present:

David H. Jarrell) – Mayor Presiding

Talmadge S. Baker)
Linda H. Carter)
J. Keith Crisco)
Nancy Hunter) – Council Members Present
Walker B. Moffitt)
Archie B. Priest, Sr.)
David H. Smith)

Edward J. Burks) – Council Member Elect

John N. Ogburn, III, City Manager
Edsel L. Brown, Code Compliance Inspector
Dumont Bunker, P.E., City Engineer
Richard L. Cox, Jr., Community Planning and Development Department Intern
Holly H. Doerr, City Clerk/Senior Legal Assistant
John L. Evans, Planner
R. Wendell Holland, Jr., Zoning Administrator
Richard Foster Hughes, Recreation Director
Deborah P. Juberg, Finance Director
Gary L. Mason, Chief of Police
R. Reynolds Neely, Jr., Planning Director
O. Lynn Priest, Community Development Director
Jeffrey C. Sugg, City Attorney

1. Call to Order.

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

2. Pledge of Allegiance.

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend John Shook, Pastor of Bailey’s Grove Baptist Church, gave the invocation.

3. Appearance and recognition of guests and citizens.

Mayor Jarrell welcomed everyone in attendance.

4. Consent Agenda.

Upon motion by Mr. Crisco and seconded by Ms. Hunter, Council voted unanimously to approve the following consent agenda items:

- (a) The minutes of the regular meeting of the City Council that was held on November 8, 2007.**
- (b) The findings of fact, conclusions of law, and order in the matter of SUP-07-05.**

Case No. SUP-07-05
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION BY THE CITY OF ASHEBORO FOR A SPECIAL USE PERMIT
AUTHORIZING A PUBLIC USE FACILITY

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE REQUESTED SPECIAL
USE PERMIT

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during meetings of the Council that were held on August 9, 2007, and October 4, 2007. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. The City of Asheboro (hereinafter referred to as the "Applicant") has properly filed an application for a Special Use Permit that would allow a Public Use Facility to be located at 3005 Zoo Parkway, which is north of Old Cox Road. As proposed, this facility would be constructed on an approximately 64.94 acre parcel of land (hereinafter referred to as the "Zoning Lot") owned by the Applicant and more specifically described by Randolph County Parcel Identification Number 7669589611.

2. Prior to formally considering the issuance of a Special Use Permit, the Council adopted the recommendation of the Planning Board and legislatively rezoned the lot from Conditional Use R-10 (Medium-Density Residential) and Conditional Use R-15 (Low-Density Residential) zoning to straight R-15 zoning.

3. Zoo Parkway and Old Cox Road are major thoroughfares.

4. The Zoning Lot is located in an area that is characterized by a mixture of low-density residential, medium-density residential, and institutional uses.

5. The city water system is currently available to the Zoning Lot, but the municipal sanitary sewer system is not available at this time. As part of the development of the proposed public use facility, a pump station is proposed for the project in order to provide municipal sanitary sewer service to the site.

6. The proposed use of the Zoning Lot is for a public park that will be administered by the Asheboro Parks and Recreation Department. The submitted site plan indicates that the proposed park will include soccer fields, horseshoe pits, bocce courts, a walking trail, a volleyball court, a playground, picnic areas, a concession area with meeting space, tournament tents, an amphitheater, and a dog park.

7. The submitted site plan indicates that one (1) entrance is planned for the park, and this entrance is located along Zoo Parkway.

8. A public park is classified by the Asheboro Zoning Ordinance as a Public Use Facility, and a Public Use Facility is permitted in all zoning districts with the issuance of a Special Use Permit.

9. Section 602.2(b) of the Asheboro Zoning Ordinance provides as follows:

In cases where there is a deficiency in the ability of a Public Use Facility to meet all regulatory requirements of the Zoning Ordinance, City Council shall review the application for a Public Use Facility and evaluate whether or not a Special Use Permit shall be issued for the proposed public use facility solely on the basis of the general standards prescribed by Section 602.1 of this Ordinance. For the limited purpose of evaluating public use facilities under General Standard No. 2 of Section 602.1, a public use facility shall be deemed to have satisfied this standard if a site plan has been submitted in accordance with Section 1005 of this Ordinance.

10. The proposed public park does not meet all of the regulatory requirements of the Asheboro Zoning Ordinance, but a site plan was submitted in compliance with Section 1005 of the Asheboro Zoning Ordinance.

11. Mr. Richard Foster Hughes offered uncontroverted testimony during the hearing of this matter that the city's parks do not generate significant problems in terms of providing a setting for malicious or criminal activities. The biggest problem encountered by the city's parks in terms of unwanted activities is the presence of graffiti three (3) or four (4) times a year.

12. The Applicant is going to adhere to directives and utilize recommendations from the North Carolina Department of Transportation in order to handle vehicular traffic accessing the park and in order to attempt to direct traffic away from zoo related congestion.

13. The proposed park is part of the city's recreation master plan.

14. Mr. Hughes also offered uncontroverted testimony citing a professionally prepared study supporting the proposition that potential homebuyers are willing to pay more for a home located near a park.

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

CONCLUSIONS OF LAW

1. The Council has concluded that the proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
2. The evidence received during the public hearing established that the proposed use meets the required conditions and specifications of the Asheboro Zoning Ordinance.
3. The evidence presented during the course of the hearing of this matter established that the proposed use would not substantially injure the value of the adjoining/abutting property.
4. The location and character of the Applicant's proposed use, if developed according to the approved plan, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

Based on the above-recited findings of fact and conclusions of law, the Council hereby enters the following:

ORDER

The Applicant is hereby issued a Special Use Permit authorizing the development and operation on the Zoning Lot of a Public Use Facility. This permit shall be valid so long as, and only so long as, the Applicant, and its successors and assigns, conducts the approved land use in compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance.

Adopted by the Asheboro City Council in regular session on the 6th day of December, 2007.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

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

(c) The findings of fact, conclusions of law, and order in the matter of CUP-07-10.

CUP-07-10
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION BY MATTHEW RYAN SALYER AND LISA SALYER FOR AN AMENDED CONDITIONAL USE PERMIT AUTHORIZING A HEALTH PRACTITIONER'S OFFICE

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council that was held on October 4, 2007. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. Matthew Ryan Salyer and Lisa Ann Salyer (hereinafter referred to as the "Applicants") properly filed an application for a Conditional Use Permit that would amend an existing Conditional Use Permit issued under Asheboro Planning Department file number CUP-07-16 for a Health Practitioner's Office. The existing permit is for a zoning lot that consists of approximately 2.1 acres of land owned by the Applicants and located along the west side of Browers Chapel Road, approximately 700 feet south of East Dixie Drive.

2. While the application for an amended Conditional Use Permit referenced only a portion of this 2.1 acres of land, the amended permit will have to encompass the same acreage as the existing permit since a storm water retention pond that is a necessary part of the design for the proposed land use is located on both of the parcels of land that comprise the 2.1 acre zoning lot. The 2.1 acres, more or less, of land subject to the requested amended Conditional Use Permit are more particularly described by Randolph County Parcel Identification Numbers 7760378696 and 7760378856, and these combined parcels shall be hereinafter referred to as the "Zoning Lot."

3. Under the Asheboro Zoning Ordinance, a Health Practitioner's Office is a permitted land use in a B2 zoning district, and the Zoning Lot is located in a Conditional Use B2 zoning district.

4. The land uses surrounding the Zoning Lot are commercial uses to the north and east, while residential land uses are located to the south and west. The Zoning Lot itself is currently undeveloped.

5. The Zoning Lot is located within the corporate limits of the City of Asheboro. Municipal water and sewer service is available to the site.

6. Browers Chapel Road is a state-maintained minor thoroughfare.

7. The previously approved Conditional Use Permit for a Health Practitioner's Office adopted a site plan that depicted a 2-story structure with a total of seven thousand (7,000) square feet. The revised site plan submitted with the current application for a Conditional Use Permit depicts a 2-story structure with a total of seven thousand eight hundred forty-four (7,844) square feet.

8. The Applicants have also submitted a landscape plan showing landscaping that is required by the zoning ordinance and an additional amount of landscaping that is proposed by the Applicants above and beyond the requirements of the zoning ordinance.

9. The site plan, landscaping plan, and building elevations submitted by the Applicants in support of their application for an amended Conditional Use Permit are in conformity with the Asheboro Zoning Ordinance.

10. No evidence was offered during the hearing of this matter to indicate that the proposed Health Practitioner's Office will have any abnormally dangerous or hazardous activity occurring on the premises of the office.

11. Ms. Salyer offered uncontroverted testimony during the hearing of this matter that the proposed revision of the site plan does not undermine the validity of the evidence previously submitted to this Council in support of the issuance of the Conditional Use Permit currently in effect.

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

CONCLUSIONS OF LAW

1. The Council has concluded that the proposed use, as revised, will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

2. The evidence received during the public hearing established that the proposed use, as revised, continues to meet all of the required conditions and specifications of the Asheboro Zoning Ordinance.

3. The evidence presented during the course of the hearing of this matter established that the proposed use, as revised, would not substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicants' proposed use, as revised and if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

Based on the above-recited findings of fact and conclusions of law, the Council hereby enters the following:

ORDER

The Applicants are hereby issued a Conditional Use Permit authorizing the development and operation of a Health Practitioner's Office on the Zoning Lot. This Conditional Use Permit shall be valid so long as, and only so long as, the Applicants, and their heirs, successors, and assigns, conduct the approved land use in compliance with the approved revised site plan, as modified by this Order, the provisions of the Asheboro Zoning Ordinance, and the following conditions that are attached to this permit:

a. An engineering study of storm water runoff shall be made of the entirety of the Zoning Lot. If this study indicates that post development runoff will exceed predevelopment conditions, plans for runoff control, specifically including without limitation the installation of a retention pond that shall serve the Applicants' entire zoning lot, shall be designed and certified by a professional engineer. Such controls shall be designed to reduce the runoff during the occurrence of a 10-year storm to predevelopment volumes and rates. Prior to the issuance of a certificate of occupancy, a professional engineer shall provide certification that the storm water controls were built according to the plans. Any

open water retention or drainage areas shall be sprayed regularly for mosquito control. The continued maintenance of all runoff control measures shall be the responsibility of the property owner.

b. For safety purposes, any retention pond installed on the above-described parcel of land shall be enclosed by a chain link fence in accordance with generally accepted industry standards.

c. Required landscaping (including front yard landscaping, buffering along the southern and western parts of the property, and interior parking lot landscaping) as shown on the landscaping plan shall be installed or guaranteed prior to the issuance of a certificate of occupancy. All landscaping shown on the site plan that is not required by the Asheboro Zoning Ordinance shall be installed within one (1) year of the issuance of a certificate of occupancy.

d. The Applicants shall amend the revised site plan submitted to the Council during the hearing of this matter in order to clarify and explicitly show the inclusion of the entirety of the Zoning Lot within the scope of the Conditional Use Permit authorized by this Order. This amended site plan shall be submitted in a timely manner to the planning department for staff review, approval, and inclusion in the file without further review by the Council. This site plan amendment shall strictly relate to effectively implementing this condition, and not to revisions that would otherwise be defined as a permit modification.

Adopted by the Asheboro City Council in regular session on the 6th day of December, 2007.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

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

(d) The findings of fact, conclusions of law, and order in the matter of CUP-07-12.

CUP-07-12
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION BY HOTELS AT EXECUTIVE WAY, LLC FOR AN AMENDED
CONDITIONAL USE PERMIT ALLOWING A HOTEL

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council that was held on October 4, 2007. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. Hotels at Executive Way, LLC (hereinafter referred to as the "Applicant") properly filed an application with the City of Asheboro for a Conditional Use Permit that would amend an existing Conditional Use Permit issued under Asheboro Planning Department file number CUP-07-08 for a hotel land use.

2. The existing permit issued under file number CUP-07-08 authorizes the development and operation of a hotel land use on approximately 2.83 acres of land owned by the Applicant. This 2.83-acre zoning lot (hereinafter referred to as the "Zoning Lot") is located on the east side of Dublin Road, approximately four hundred feet (400') north of East Dixie Drive, and the west side of Executive Way.

3. The Zoning Lot is located in a Conditional Use B2 zoning district.

4. The Growth Strategy Map identifies the area in which the Zoning Lot is located as a "Primary Growth" area, and the Proposed Land Development Plan Map designates the area in question as "Commercial."

5. Under the Asheboro Zoning Ordinance, hotels are a permitted land use in the underlying B2 zoning district.

6. The land uses surrounding the Zoning Lot are commercial uses to the south and east, while undeveloped commercial property is located to the north. Single-family residential land uses are located to the west. The Zoning Lot itself is currently undeveloped.

7. Dublin Road is a state maintained minor thoroughfare, and Executive Drive is a city maintained street serving commercially zoned properties.

8. Executive Way is the street to be utilized to access the proposed hotel.

9. The Applicant proposes to leave existing vegetation along Dublin Road as a buffer and to provide a 25-foot type C buffer along the western boundary of the Zoning Lot as required by the Asheboro Zoning Ordinance.

10. The Zoning Lot is located within the corporate limits of the City of Asheboro. Municipal water and sewer service is available to the site from Executive Way.

11. Members of the planning department's staff have reviewed the Applicant's revised site plan, and this site plan does comply with the requirements of the Asheboro Zoning Ordinance.

12. The testimony provided during the hearing of this matter indicated that no noxious fumes or unusually hazardous materials are associated with the proposed use.

13. The traffic associated with the hotel is directed to a street, Executive Way, that is designed to handle commercial traffic.

14. Since the initial issuance of a Conditional Use Permit, the Applicant has made design changes in the proposed hotel that essentially lengthens the building by approximately twenty feet (20') and reduces its height by approximately five feet (5'). The original building elevations showed a 4-story, ninety-five (95) room hotel. The revised plan shows a 3-story, ninety-five (95) room hotel.

15. Mr. Jonathan Megerian, Esq. offered uncontroverted testimony during the hearing of this matter that the proposed revision of the site plan does not undermine the validity of the evidence previously submitted to the Council in support of the issuance of a Conditional Use Permit for a hotel under planning department file number CUP-07-08. The continuing validity of the previously offered testimony includes, without limitation, the professional opinion of Mr. Jim Wright, who is a certified real estate appraiser in North Carolina with approximately twenty-five (25) years of experience, that the proposed hotel use would not injure the value of properties adjoining the Zoning Lot.

16. Section 1013.2 of the Asheboro Zoning Ordinance provides as follows:

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

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

The City Council shall make these general findings based upon substantial evidence contained in its proceedings. It shall be the responsibility of the applicant to present evidence in the form of testimony, exhibits, documents, models, plans and the like to support the application for approval of a Special Use (sic).

17. The plans submitted by the Applicant during the hearing of this matter do show a patio with some lighting on the west side of the building. This lighting will be attached to the building on the ground floor only. The berm shown on the submitted site plan is higher than the location where this limited lighting would be attached to the building.

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

CONCLUSIONS OF LAW

1. The Council has concluded that the proposed use, as revised, will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

2. The evidence received during the public hearing established that the proposed use, as revised, continues to meet all of the required conditions and specifications of the Asheboro Zoning Ordinance.

3. The evidence presented during the course of the hearing of this matter established that the proposed use, as revised, would not substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicant's proposed use, as revised and if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

Based on the above-recited findings of fact and conclusions of law, the Council hereby enters the following:

ORDER

The Applicant is hereby issued a Conditional Use Permit authorizing the development of a hotel on the Zoning Lot. This Conditional Use Permit shall be valid so long as, and only so long as, the Applicants, and its successors and assigns, develop and conduct the approved land use in compliance with the approved revised site plan and elevations, the provisions of the Asheboro Zoning Ordinance, and the following supplementary conditions that are attached to this permit:

a. The berm and landscaping combination as shown on the submitted site plan shall be constructed in combination with an 8-foot high solid fence. This solid fence is to be constructed in a manner that is architecturally compatible with the surrounding development and in a manner that maximizes the height of this screening/buffering measure.

b. The exterior lighting utilized by the proposed hotel shall consist of indirect and accent lighting. No lighting above an elevation of eight hundred feet (800') shall be attached to the west side of the building. All lighting, including parking lot lighting, is to be directed away from the western boundary of the Zoning Lot where existing residential land uses are located.

c. Illuminated signage is prohibited on the north and west side of the hotel building.

d. As indicated on the approved site plan, a no cut zone shall be established on the portion of the Zoning Lot located between Dublin Road, a parcel of land owned by Billy Essick, and the parcel of land upon which the Rite Aid drug store is located. This no cut zone shall be maintained so long as this Conditional Use Permit is in effect.

If any conflicts in interpretation are discovered between the approved site plan and the supplementary conditions, the specifications found within the supplementary conditions shall be deemed to be controlling.

Adopted by the Asheboro City Council in regular session on the 6th day of December, 2007.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

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

(e) An ordinance authorizing a stop sign to be installed to stop traffic on Barclay Place entering Windover Road.

60 ORD 12-07

**AN ORDINANCE AUTHORIZING A STOP SIGN
TO BE INSTALLED TO STOP TRAFFIC ON BARCLAY PLACE
ENTERING WINDOVER ROAD
BY THE CITY COUNCIL
CITY OF ASHEBORO, NORTH CAROLINA**

BE IT ORDAINED by the City Council of the City of Asheboro:

Pursuant to Chapter 70, Section 70.29 of the Code of the City of Asheboro, the City Manager is hereby ordered to cause the installation of a stop sign as described below on a street that lies within the corporate boundary of the City of Asheboro:

- Stop Traffic on Barclay Place entering Windover Road

Adopted in Regular Meeting held on December 6, 2007.

s/ David H. Jarrell

David H. Jarrell, Mayor

ATTEST:

s/ Holly H. Doerr

Holly H. Doerr, City Clerk

OLD BUSINESS

5. Land Use Issues:

- (a) RZ-07-29: Technical Amendments to the Zoning Ordinance. An application filed by Kim Markham to amend Article 300A, Section 316A.C of the Asheboro Zoning Ordinance by eliminating Design Standards in Industrial Districts.

Mayor Jarrell re-opened the public hearing on the following request, which was continued from the Council's November 8, 2007 regular meeting.

Mr. Neely summarized the procedural history of the request by Mr. Kim Markham to amend Article 300A, Section 316A.C of the Asheboro Zoning Ordinance by eliminating the design standards for industrial districts.

At its November 8, 2007 regular meeting, Council directed the Planning Department staff to research the possibility of changing the designation of Southmont Drive from that of a minor thoroughfare in order to address the specific concerns raised by Mr. Markham. The Planning Department Staff found that:

"[a]ccording to the North Carolina Department of Transportation, no amendments may be made to existing 'Thoroughfare Plans' due to The Department of Transportation's policy to phase these documents out. NCDOT is requiring municipalities convert existing thoroughfare plans to Comprehensive Transportation Plans in order for any change to be made. The process involves changing the entire plan and requires coordination with NCDOT engineering staff and the city's Rural Planning Organization (RPO) Coordinator. It also involves considerable public input and requires the endorsement of the Planning Board, City Council, the RPO Director and NCDOT. Staff was advised by NCDOT that, conservatively, this is a six-month process."

Mr. Markham was available to answer questions.

Pursuant to the Asheboro Zoning Ordinance, the Council has the option, after receiving the recommendation of the Planning Board and conducting a public hearing, of approving the application, approving a modified version of the application, or denying the application. On November 5, 2007, the Planning Board recommended that the Council deny Mr. Markham's application and supported the elimination of vinyl siding as an approved building material in industrial districts.

After Mayor Jarrell closed the public hearing, and after substantive discussion about the need to hold a separate working session on design criteria subjects such as the status of vinyl siding as an approved building material, the Council decided that it would exercise the authority to approve a modified version of the application. Upon motion by Mr. Smith and seconded by Ms. Hunter, Council voted unanimously to modify the request and amend the zoning ordinance by applying in industrial districts the commercial design standards prescribed by Section 317A.D. (Commercial Design Standards) only to structures located on major thoroughfares. The approved amendment deleted references within 317A.C. to minor thoroughfares or whether a structure is located within 200 feet of the centerline of a major or minor thoroughfare when determining whether a structure must meet the requirements of Section 317A.D.

[A copy of the zoning ordinance, as amended, is on file in the City Clerk's office.]

- (b) SUP-07-11: Special Use Permit for a Church in a Residential (R-10/R-40) Zoning District. The property of Craig Hamlet is located on the north side of Hub Morris Road and consists of approximately 44.17 acres of land. Randolph County Parcel Identification Number 7763544550 more specifically identifies the property.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely was sworn in and presented the staff's analysis of the Applicant's request including the submitted site plan. The Applicant, Bishop Peter Jugis, requested a Special Use Permit for a

church in a residential zoning district. The proposed church is a new facility for St. Joseph Catholic Church.

Mr. Jonathan Megerian, Esq., was sworn in and addressed the four standard tests on behalf of the applicant. Additionally, Mr. Jim Wright, a certified real estate appraiser with Brubaker and Associates, Inc., was sworn in and presented comments in support of the request.

There being no further comments and no opposition from the public, Mayor Jarrell closed the public hearing. An audiotape of the testimony presented during this hearing is on file in the City Clerk's office.

Upon motion by Ms. Hunter and seconded by Mr. Priest, Council voted unanimously to approve the requested Special Use Permit. The issuance of this permit was based on the four standard tests being met.

The formal findings of fact, conclusions of law, and order granting the Special Use Permit will be entered by Council during regular session on January 10, 2007. This order will reflect certain conditions imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

NEW BUSINESS

6. Organizational Meeting:

(a) Oath of office for City Council

Talmadge S. Baker, Edward J. Burks, and John K. Crisco were sworn in as members of the City Council for the City of Asheboro.

OATH OF COUNCIL MEMBER

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH
CITY OF ASHEBORO

I, Talmadge S. Baker, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of council member of the City of Asheboro, on which I am about to enter, according to my best skill and ability; so help me, God.

s/ Talmadge S. Baker
Talmadge S. Baker

Sworn to and subscribed before me this 6th day of December, 2007.

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

OATH OF COUNCIL MEMBER

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH
CITY OF ASHEBORO

I, Edward J. Burks, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of council member of the City of Asheboro, on which I am about to enter, according to my best skill and ability; so help me, God.

s/ Edward J. Burks
Edward J. Burks

Sworn to and subscribed before me this 6th day of December, 2007.

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

OATH OF COUNCIL MEMBER

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH
CITY OF ASHEBORO

I, John K. Crisco, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of council member of the City of Asheboro, on which I am about to enter, according to my best skill and ability; so help me, God.

s/ John K. Crisco
John K. Crisco

Sworn to and subscribed before me this 6th day of December, 2007.

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

- (b) **Without objection from the Council, Mayor Jarrell moved the formal recognition of Ms. Hunter's service (Agenda Item Number 7) ahead of the remainder of the City Council's organizational activities.**

Resolution honoring council member Nancy Hunter.

Mayor Jarrell presented the following resolution honoring council member Nancy Hunter. Upon motion by Ms. Carter and seconded by Mr. Baker, Council voted unanimously to adopt the following resolution.

61 RES 12-07

RESOLUTION

WHEREAS, the City Council of Asheboro, North Carolina hereby desires to express commendation and appreciation for the untiring and valuable service rendered to the City by

Mrs. Nancy W. Hunter

as a member of the City Council and that the City Clerk is hereby authorized and instructed to spread a copy of this resolution upon the city records and to transmit a copy thereof to Mrs. Hunter, and

WHEREAS, Mrs. Hunter has served as a member of the City Council for twenty years, giving generously of her time and efforts, unselfishly in all deliberations in a dignified, faithful, and businesslike manner, now,

THEREFORE BE IT RESOLVED, by the City Council, City Staff, and the Citizens of Asheboro extend to Mrs. Hunter its humble expression of esteem for her in serving the City faithfully and well, and its best wishes for good health, success, and prosperity for many years to come.

Adopted this the sixth day of December, 2007.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly H. Doerr
Holly H. Doerr

s/ John N. Ogburn, III
John N. Ogburn, III
City Manager

s/ Talmadge Baker
Talmadge Baker

s/ Eddie Burks
Eddie Burks

s/ Linda Carter
Linda Carter

s/ Keith Crisco
Keith Crisco

s/ Walker Moffitt
Walker Moffitt

s/ Mack Priest
Mack Priest

s/ David Smith
David Smith

Ms. Carter presented Ms. Hunter with a pottery commemorative plate picturing Asheboro City Hall. Ms. Carter thanked Ms. Hunter for her faithfulness in serving the Asheboro community.

Mayor Jarrell thanked Ms. Hunter for her dedication and leadership as he presented her with a key to the City of Asheboro. On behalf of the employees of the City of Asheboro, Mr. Ogburn presented a video thanking Ms. Hunter for her twenty (20) years of service to the citizens of Asheboro.

Ms. Hunter thanked everyone for allowing her to serve the City of Asheboro for many years.

(c) Appointment of council committees

Mayor Jarrell made the following appointments, subject to the approval of the Council to the respective Council Committees:

- Public Works Committee
David Smith, Chairperson
Mack Priest,
Eddie Burks
Walker Moffitt
- Finance Committee
David Jarrell, Chairperson
Linda Carter
Talmadge Baker
Keith Crisco
- Parks & Recreation Committee
Talmadge Baker, Chairperson
Walker Moffitt
Eddie Burks
Keith Crisco
- Community Appearance Committee
Linda Carter, Chairperson
Mack Priest
David Smith
David Jarrell

Upon motion by Mr. Crisco and seconded by Mr. Priest, Council voted unanimously to approve the Mayor's appointees to the respective Council Committees.

(d) Election of Mayor Pro Tempore

Upon motion by Mr. Crisco and seconded by Mr. Baker, Council voted unanimously to elect Mr. David Smith as Mayor Pro Tempore.

7. Land Use Issues (Agenda Item Number 8):

- (a) **RZ-07-35 Request to rezone from Conditional Use General Business (CU-B2) to Medium-Density Residential (R-10).** The property of Rebecca C. Provancha is located at 940 East Salisbury Street and consists of approximately 19,605 square feet of land. Randolph County Parcel Identification Number 776132036 more specifically identifies the property.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely presented the staff's analysis of the request by Rebecca Provancha to rezone the above-described property from CU-B2 (Conditional Use General Business) to R-10 (Medium-Density Residential). The Planning Department Staff and the Planning Board recommended approval of the request based on the following:

"The land development plan designates this property as neighborhood residential. The current use of the property (single-family residence) complies with the intent of this designation which is to 'accommodate existing and encourage new medium density residential uses in designated areas.' Furthermore, the central small area plan encourages the preservation and revitalization of existing residential neighborhoods. Therefore, the rezoning request complies with the map and text of the land development plan and staff believes that the request is generally in the public interest in encouraging a reasonable use of the property."

Mr. Brian Provancha presented comments in support of the request.

There being no further comments and no opposition from the public, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Baker and seconded by Mr. Crisco, Council voted unanimously to adopt the recommendation of the Planning Board and placed the above-described property in an R-10 Medium Density Residential zoning district.

- (b) **RZ-07-36: City initiated request to amend the Asheboro Zoning Ordinance by replacing the current Article 700 (Flood Damage Prevention Ordinance) and adopting new overlay Flood Zone Maps.**

Mr. Neely presented the request by the City of Asheboro to replace Article 700 of the Asheboro Zoning Ordinance and to adopt a new Overlay Flood Zone Maps. The Planning Board recommended approval in that these amendments are supported by the North Carolina Department of Crime Control and Public Safety in order to have the most up to date information available concerning flood damage prevention.

Upon motion by Mr. Smith and seconded by Ms. Carter, Council voted unanimously to adopt the following amendments to the Asheboro Zoning Ordinance.

ARTICLE 700: FLOOD DAMAGE PREVENTION ORDINANCE

701 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

701.1 STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the City Council of the City of Asheboro, North Carolina, does ordain as follows:

701.2 STATUTORY AUTHORIZATION.

- (1) The flood prone areas within the jurisdiction of the City of Asheboro are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

701.3 STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

701.4 OBJECTIVES.

The objectives of this ordinance are to:

- (1) protect human life, safety, and health;
- (2) minimize expenditure of public money for costly flood control projects;
- (3) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) minimize prolonged business losses and interruptions;
- (5) minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (7) ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

702 DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

“Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.

“Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

"Building" see "Structure".

"Chemical Storage Facility" means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Disposal" means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Elevated Building" means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Encroachment" means the advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

"Existing Manufactured Home Park or Manufactured Home Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; and/or
- (2) the unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Boundary and Floodway Map (FBFM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

"Flood Insurance" means the insurance coverage provided under the National Flood Insurance Program.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

"Flood Insurance Study (FIS)" means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

"Flood Prone Area" see "Floodplain"

"Floodplain" means any land area susceptible to being inundated by water from any source.

"Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain Development Permit" means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in

the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Freeboard” means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Lowest Adjacent Grade (LAG)” means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

“Lowest Floor” means lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

"Mean Sea Level" means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

"Non-Encroachment Area" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

"Pre-FIRM" means construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

"Principally Above Ground" means that at least 51% of the actual cash value of the structure is above ground.

"Public Safety" and/or "Nuisance" means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational Vehicle (RV)" means a vehicle, which is:

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck; and
- (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Reference Level" is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus 2 feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least 2 feet above the highest adjacent grade.

"Remedy a Violation" means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Salvage Yard" means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

"Solid Waste Disposal Facility" means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

"Solid Waste Disposal Site" means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

"Special Flood Hazard Area (SFHA)" means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 703.2 of this ordinance.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as

garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 704 and 705 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of ~~coastal~~ riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

703 GENERAL PROVISIONS.

703.1 LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable, of City of Asheboro and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

703.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Randolph County dated January 2, 2008, which are adopted by reference and declared to be a part of this ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:
Randolph County Unincorporated Area and the City of Asheboro, dated July 16, 1981.

703.3 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 703.2 of this ordinance.

703.4 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

703.5 ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

703.6 INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be:

- (a) considered as minimum requirements;
- (b) liberally construed in favor of the governing body; and
- (c) deemed neither to limit nor repeal any other powers granted under State statutes.

703.7 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Asheboro or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

703.8 PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Asheboro from taking such other lawful action as is necessary to prevent or remedy any violation.

704 ADMINISTRATION

704.1 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Planning Director, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

704.2 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

- (1) Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
 - (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 703.2, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 703.2;
 - (iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Section 703.2.
 - (v) the Base Flood Elevation (BFE) where provided as set forth in Section 703.2; Section 704.3; or Section 705.4;
 - (vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - (vii) the certification of the plot plan by a registered land surveyor or professional engineer.

- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and
 - (iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
 - (c) If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
 - (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 705.2(4)(c) when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;
 - (e) Usage details of any enclosed areas below the lowest floor.
 - (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
 - (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
 - (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 705.2, subsections (6) and (7) of this ordinance are met.
 - (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (2) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:
- (a) A description of the development to be permitted under the floodplain development permit.
 - (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 703.2.
 - (c) The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - (d) The regulatory flood protection elevation required for the protection of all public utilities.
 - (e) All certification submittal requirements with timelines.
 - (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
 - (g) The flood openings requirements, if in Zones A, AO, AE or A1-30.
 - (h) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
- (3) Certification Requirements.

(a) Elevation Certificates

- (i) An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- (ii) An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
- (iii) A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificate

If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- (c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 705.2(3)(b).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - (i) Recreational Vehicles meeting requirements of Section 705.2(6)(a);
 - (ii) Temporary Structures meeting requirements of Section 705.2(7); and
 - (iii) Accessory Structures less than 150 square feet meeting requirements of Section 705.2(8).

704.3 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.
- (3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 705.6 are met.
- (6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with Section 704.2(3)
- (7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 704.2(3).
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 704.2(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 704.2 and Section 705.2.
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When Base Flood Elevation (BFE) data has not been provided in accordance with Section 703.2, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 705.4(2)(b), in order to administer the provisions of this ordinance.
- (12) When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with Section 703.2, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

- (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Section 704.4.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Section 703.2 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

704.4 CORRECTIVE PROCEDURES.

- (1) Violations to be Corrected: When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) that the building or property is in violation of the floodplain management regulations;
 - (b) that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (c) that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

704.5 VARIANCE PROCEDURES.

- (1) The Board of Adjustment as established by the City of Asheboro hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court,

as provided in Chapter 7A of the North Carolina General Statutes.

- (3) Variances may be issued for:
 - (a) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
 - (b) functionally dependent facilities if determined to meet the definition as stated in Section 702 of this ordinance, provided provisions of Section 704.2(9) (b)(c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
 - (c) any other type of development, provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - (a) the danger that materials may be swept onto other lands to the injury of others;
 - (b) the danger to life and property due to flooding or erosion damage;
 - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) the importance of the services provided by the proposed facility to the community;
 - (e) the necessity to the facility of a waterfront location as defined under Section 702 of this ordinance as a functionally dependent facility, where applicable;
 - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) the compatibility of the proposed use with existing and anticipated development;
 - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (9) Conditions for Variances:
 - (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if

the variance would result in any increase in flood levels during the base flood discharge.

- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
- (a) The use serves a critical need in the community.
 - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
 - (c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
 - (d) The use complies with all other applicable Federal, State and local laws.
 - (e) The City of Asheboro has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

705 PROVISIONS FOR FLOOD HAZARD REDUCTION

705.1 GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
- (9) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the

floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

- (10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 704.5(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of Section 704.2(3).
- (11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (15) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

705.2 SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 703.2, , or Section 705.4, the following provisions, in addition to the provisions of Section 705.1, are required:

- (1) **Residential Construction.** New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 702 of this ordinance.
- (2) **Non-Residential Construction.** New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 702 of this ordinance. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 705.7. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 704.2(3) along with the operational and maintenance plans..
- (3) **Manufactured Homes.**
 - (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 702 of this ordinance.
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 705.2(4).
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.
- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
- (a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - (b) shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;
 - (c) shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (5) Additions/Improvements.
- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - (b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
 - (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

- (6) Recreational Vehicles. Recreational vehicles shall either:
- (a) be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
 - (b) meet all the requirements for new construction.
- (7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- (a) a specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
 - (b) the name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - (b) Accessory structures shall not be temperature-controlled;
 - (c) Accessory structures shall be designed to have low flood damage potential;
 - (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - (e) Accessory structures shall be firmly anchored in accordance with the provisions of Section 705.1(1);
 - (f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 705.1(4); and
 - (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of Section 705.2(4)(c).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 704.2(3).

705.3 RESERVED.

705.4 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 703.2, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 705.1, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the regulatory flood protection elevation shall be determined based

on the following criteria:

- (a) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 705.1 and 705.2.
- (b) When floodway data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of Sections 705.2 and 705.6.
- (c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 703.2 and utilized in implementing this ordinance.
- (d) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section 702. All other applicable provisions of Section 705.2 shall also apply.

705.5 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Sections 705.1 and 705.2; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

705.6 FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 703.2. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 705.1 and 705.2, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
 - (b) a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.
- (2) If Section 705.6(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - (a) the anchoring and the elevation standards of Section 705.2(3); and
 - (b) the no encroachment standard of Section 705.6(1).

705.7 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)

Located within the Special Flood Hazard Areas established in Section 703.2, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Section 705.1 and 705.2 all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of (4) feet, above the highest adjacent grade; or at least (4) feet above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 705.7(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 704.2(3) and Section 705.2(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

706 LEGAL STATUS PROVISIONS

706.1 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted (April 10, 1975) as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the City of Asheboro enacted on April 10, 1975, adoption date of the community's initial flood damage prevention ordinance), as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Randolph County is May 4, 1987.

706.2 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

706.3 EFFECTIVE DATE.

This ordinance shall become effective January 2, 2008

706.4 ADOPTION CERTIFICATION

I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the City Council of the City of Asheboro, North Carolina, on the _____ day of _____, 200__.

WITNESS my hand and the official seal of _____, this the _____ day of _____, 200__.

(signature)

- (c) **RZ-07-37: Request to rezone from R-7.5 (Medium Density Residential) to B-2 (General Business).** The property of Michael L. Allen and Kathy B. Allen is located to the immediate south of 410 East Salisbury Street and consists of approximately 4,830 square feet of land. Randolph County Parcel Identification Number 7761027921 more specifically describes the property.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely presented the staff's analysis of the request by Michael L. Allen to rezone the above-described property from R7.5 Medium-Density Residential to B-2 General Business. The Planning Department Staff and the Planning Board recommended approval based on the following:

"Although the land development plan identifies the specific portion of this parcel as 'neighborhood residential,' the portion of this parcel that is being utilized as a single-family residence is designated as commercial on the land development plan map. Therefore, the land development plan envisioned accommodating existing commercial development in the immediate area and providing for limited expansion of commercial development in designated locations. The land development plan identifies this portion of Salisbury Street with a mix of uses, including commercial, residential, and office, while the LDP encourages preserving East Salisbury Street further to the east as neighborhood residential, with more limited non-residential use such as office and institutional use. Therefore, staff believes the rezoning request supports a reasonable use of the property and is generally within the public interest."

Mr. Mike Allen presented comments in support of the requested rezoning.

There being no further comments and no opposition from the public, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Baker and seconded by Mr. Burks, Council voted unanimously to adopt the recommendation of the Planning Board and placed the above-described property in a B-2 General Business zoning district.

8. Public Comment Period (Agenda Item Number 9).

No comments were offered by the public during this portion of the meeting.

9. Consideration of a request by Ronnie E. Tew to establish a "No Parking Any Time" zone at 402 West Kivett Street (Agenda Item Number 10).

Mr. Ronnie Tew, who resides at 402 West Kivett Street, requested that a "No Parking Any Time" zone be established in order to eliminate the hazards and nuisance created by the parking of vehicles in this area. A sketch of the area to be encompassed by the requested "No Parking Any Time" zone was prepared by the city's engineering department. A copy of this sketch and a copy of the letter from Ronnie E. Tew are on file in the City Clerk's office.

Upon motion by Mr. Smith and seconded by Ms. Carter, Council voted unanimously to direct staff to draft an ordinance establishing a "No Parking Any Time" zone for the above-described area. A proposed ordinance will be presented to the Council for consideration at the regular January meeting.

10. Consideration of a petition received from the Jesse Tate Leonard Family Trust requesting contiguous annexation of 0.616 acre along the west side of Brook Drive (Agenda Item Number 11).

Mayor Jarrell opened the public hearing on the annexation of 0.616 of an acre of land located along the west side of Brook Drive.

There being no comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Mr. Bunker presented and recommended adoption, by reference, of an ordinance to extend the corporate limits of the City of Asheboro, North Carolina.

Upon motion by Mr. Smith and seconded by Mr. Burks, Council voted unanimously to adopt the following ordinance by reference.

Ordinance Number 61 ORD 12-07
ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH
CAROLINA
(0.616 of an Acre of Land along the West Side of Brook Drive)

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all of the real property located within the area hereinafter described was

heretofore presented to the City Council, by which petition a request was made that said area be annexed to the City of Asheboro; and

WHEREAS, the City Council has by resolution directed the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the City Clerk has certified the sufficiency of the said petition; and

WHEREAS, the City Council did publish notice to the public on the 20th day of November, 2007, in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held during the City Council's regular meeting at 7:00 o'clock p.m. on the 6th day of December, 2007, at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing the said area to the City of Asheboro; and

WHEREAS, the said public hearing was in fact held on the 6th day of December, 2007; and

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

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

Section 1. By virtue of the authority granted in the North Carolina General Statutes, Chapter 160A, Article 4A, Part 1, the following described area is hereby annexed and made part of the City of Asheboro, North Carolina:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe/pin found in the western margin of the 35-foot platted right-of-way for Brook Drive (North Carolina Secondary Road 2810) and located North 07 degrees 05 minutes 19 seconds East 175.04 feet from an existing iron pipe/pin found at the intersection of the western margin of the right-of-way for Brook Drive with the northern margin of the right-of-way for Foster Street (North Carolina Secondary Road 2932); thence from the said Beginning point North 84 degrees 55 minutes 12 seconds West 128.68 feet to a point not set in the existing primary corporate limits line for the City of Asheboro, this point can be located by means of the North Carolina Coordinate System at the coordinates of North 703,996.19 feet and East 1,757,962.15 feet (NAD 27); thence along the existing primary corporate limit line for the City of Asheboro the following course and distance: North 12 degrees 51 minutes 33 seconds East 228.20 feet to a point not set that can be located by means of the North Carolina Coordinate System at the coordinates of North 704,218.67 feet and East 1,758,012.94 feet (NAD 27); thence South 86 degrees 02 minutes 05 seconds East 107.98 feet to an existing iron pipe/pin found in the western margin of the right-of-way for Brook Drive; thence along the western margin of the right-of-way for Brook Drive the following course and distance: South 07 degrees 37 minutes 59 seconds West 228.43 feet to the point and place of the BEGINNING, and containing 0.616 acres of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "Annexation Survey City Of Asheboro Plat Prepared For The Jesse Tate Leonard Family Trust" that was drawn under the supervision of Michael R. Stout, Professional Land Surveyor with Registration No. L-3492. This plat of survey is dated September 28, 2007 and is identified as Job No. 07-MARTENS-01-SV.

Section 2. Upon and after December 6, 2007, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to section 160A-58.10 of the North Carolina General Statutes.

Section 3. The Mayor of the City of Asheboro shall cause to be recorded in the Office of the Register of Deeds of Randolph County, and in the Office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Randolph County Board of Elections, as required by Section 163-288.1 of the North Carolina General Statutes.

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

Section 5. This ordinance shall be in full force and effect upon and after the 6th day of December, 2007.

Adopted by the Asheboro City Council in regular session on the 6th day of December, 2007.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

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

Approved as to form:

s/ Jeffrey C. Sugg
Jeffrey C. Sugg, City Attorney

11. Consideration of petitions received from Zoolander, LLC, Trollinger Investment Company, George Trollinger, Chris Holland and the Asheboro Pentecostal Holiness Church requesting contiguous annexation of 134.01 acres along Old Cedar Falls Road, Gold Hill Road and East Presnell Street (Agenda Item Number 12).

Mayor Jarrell opened the public hearing on the annexation of 134.01 acres of land located along Old Cedar Falls Road, Gold Hill Road and East Presnell Street.

There being no comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Mr. Bunker presented and recommended adoption, by reference, of an ordinance to extend the corporate limits of the City of Asheboro, North Carolina.

Upon motion by Mr. Crisco and seconded by Mr. Baker, Council voted unanimously to adopt the following ordinance by reference.

Ordinance Number 62 ORD 12-07
ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH CAROLINA
(134.01 Acres of Land along Old Cedar Falls Road, Gold Hill Road, and E. Presnell Street)

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all of the real property located within the area hereinafter described was heretofore presented to the City Council, by which petition a request was made that said area be annexed to the City of Asheboro; and

WHEREAS, the City Council has by resolution directed the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the City Clerk has certified the sufficiency of the said petition; and

WHEREAS, the City Council did publish notice to the public on the 20th day of November, 2007, in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held during the City Council's regular meeting at 7:00 o'clock p.m. on the 6th day of December, 2007, at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing the said area to the City of Asheboro; and

WHEREAS, the said public hearing was in fact held on the 6th day of December, 2007; and

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

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

Section 1. By virtue of the authority granted in the North Carolina General Statutes, Chapter 160A, Article 4A, Part 1, the following described area is hereby annexed and made part of the City of Asheboro, North Carolina:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a computed point in the western margin of the 60-foot right-of-way for Gold Hill Road (North Carolina Secondary Road 2183) that is located by means of the North Carolina Coordinate System at the coordinates of North 717,548.085 feet and East 1,766,052.147 feet (NAD 27); thence from the said Beginning point along the western margin of the right-of-way for Gold Hill Road the following courses and distances: North 27 degrees 53 minutes 28 seconds East 320.72 feet to a computed point; thence North 26 degrees 39 minutes 39 seconds East 150.41 feet to a computed point; thence North 23 degrees 00 minutes 55 seconds East 229.11 feet to a computed point; thence North 23 degrees 37 minutes 08 seconds East 96.13 feet

to a computed point; thence North 20 degrees 40 minutes 27 seconds East 65.38 feet to a computed point; thence North 19 degrees 28 minutes 51 seconds East 97.31 feet to a computed point; thence North 17 degrees 30 minutes 45 seconds East 107.18 feet to a computed point; thence North 16 degrees 54 minutes 07 seconds East 236.93 feet to a computed point; thence across the right-of-way for Gold Hill Road the following course and distance: South 87 degrees 06 minutes 42 seconds East 61.84 feet to a computed point in the eastern margin of the right-of-way for Gold Hill Road; thence South 87 degrees 06 minutes 42 seconds East 740.84 feet along the Fred T. and Frances Roberts property described in Deed Book 1078, Page 646, Randolph County Public Registry to a computed point; thence South 87 degrees 11 minutes 51 seconds East 2462.83 feet to a computed point; thence along the William T. Shaw property (Deed Book 905, Page 448; Deed Book 905, Page 450; and Deed Book 1055, Page 85 in the Randolph County Public Registry) as well as the Dwight D. Wall property (Deed Book 1409, Page 1529, Randolph County Public Registry) the following course and distance: 08 degrees 04 minutes 07 seconds West 823.85 feet to a computed point; thence along the Street and Mary L. Morgan property described in Deed Book 476, Page 260, Randolph County Public Registry the following courses and distances: North 87 degrees 16 minutes 37 seconds West 289.99 feet to a computed point; thence North 87 degrees 28 minutes 55 seconds West 174.76 feet to a computed point; thence North 87 degrees 27 minutes 18 seconds West 126.52 feet to a computed point; thence North 87 degrees 22 minutes 39 seconds West 229.06 feet to a computed point; thence South 01 degree 18 minutes 39 seconds West 160.49 feet to a computed point; thence South 01 degree 30 minutes 58 seconds West 189.59 feet to a computed point; thence South 01 degree 29 minutes 23 seconds West 26.71 feet to a computed point in the northern margin of the right-of-way for East Presnell Street (North Carolina Secondary Road 2345); thence South 01 degree 29 minutes 23 seconds West 181.91 feet to a point in the southern margin of the right-of-way for East Presnell Street; thence continuing along the Street and Mary L. Morgan property described in Deed Book 476, Page 260, Randolph County Public Registry the following courses and distances: South 01 degree 29 minutes 23 seconds West 644.21 feet to a computed point; thence South 01 degree 32 minutes 40 seconds West 311.04 feet to a computed point; thence South 64 degrees 48 minutes 30 seconds West 298.06 feet along the Charles E. Kinney, Jr. property described in Deed Book 1995, Page 325, Randolph County Public Registry to a computed point; thence South 64 degrees 48 minutes 34 seconds West 184.11 feet along the Glenn D. and Phyllis D. Rainey property described in Deed Book 1414, Page 1345, Randolph County Public Registry to a computed point; thence South 64 degrees 43 minutes 07 seconds West 175.07 feet along the J.H. Bell property described in Deed Book 1185, Page 1891, Randolph County Public Registry to a computed point; thence along the Grace C. Craven property described in Deed Book 1202, Page 1003, Randolph County Public Registry the following courses and distances: South 64 degrees 51 minutes 41 seconds West 161.68 feet to a computed point; thence North 88 degrees 09 minutes 37 seconds West 47.95 feet to a computed point; thence along the Charlie M. Harmon, Jr. property described in Deed Book 1116, Page 383, Randolph County Public Registry the following courses and distances: North 88 degrees 17 minutes 21 seconds West 161.68 feet to a computed point; thence North 88 degrees 16 minutes 03 seconds West 142.41 feet to a computed point; thence North 88 degrees 14 minutes 11 seconds West 195.70 feet to a computed point; thence South 04 degrees 22 minutes 31 seconds West 376.80 feet to a computed point; thence along the Rogelio and Maria S. Jaimes property described in Deed Book 1707, Page 1409, Randolph County Public Registry the following courses and distances: North 78 degrees 48 minutes 00 seconds West 295.22 feet to a computed point; thence South 06 degrees 14 minutes 58 seconds West 199.94 feet to a computed point in the eastern margin of the 60-foot right-of-way for Rock Crusher Road (North Carolina Secondary Road 2191); thence across the right-of-way for Rock Crusher Road the following course and distance: South 55 degrees 51 minutes 53 seconds West 60.05 feet to a computed point in the western margin of the right-of-way for Rock Crusher Road; thence along the western margin of the right-of-way for Rock Crusher Road the following courses and distances: North 28 degrees 18 minutes 33 seconds West 42.09 feet to a computed point; thence North 34 degrees 08 minutes 07 seconds West 136.97 feet to a computed point; thence North 50 degrees 01 minute 33 seconds West 132.93 feet to a computed point; thence North 17 degrees 28 minutes 43 seconds West 84.92 feet to a computed point; thence North 45 degrees 22 minutes 18 seconds West 89.61 feet to a computed point; thence North 51 degrees 23 minutes 20 seconds West 91.43 feet to a computed point; thence North 62 degrees 57 minutes 53 seconds West 100.63 feet to a computed point in the southern margin of the right-of-way for East Presnell Street; thence along the southern margin of the right-of-way for East Presnell Street the following courses and distances: North 88 degrees 25 minutes 18 seconds West 206.73 feet to a computed point; thence North 88 degrees 25 minutes 19 seconds West 167.94 feet to a computed point; thence North 88 degrees 23 minutes 33 seconds West 157.20 feet to a computed point; thence across the right-of-way for

East Presnell Street the following course and distance: North 01 degrees 36 minutes 27 seconds East 123.38 feet to a computed point in the northern margin of the right-of-way for East Presnell Street; thence North 38 degrees 12 minutes 41 seconds East 255.09 feet along the Faith Temple Holiness Church property described in Deed Book 1440, Page 1294, Randolph County Public Registry to a computed point; thence South 89 degrees 58 minutes 12 seconds East 150.19 feet along the Jolanda M. Robinson property described in Deed Book 1058, Page 800, Randolph County Public Registry to a computed point; thence South 71 degrees 17 minutes 45 seconds East 325.70 feet to a computed point; thence South 72 degrees 05 minutes 23 seconds East 104.80 feet to a computed point; thence South 71 degrees 20 minutes 56 seconds East 156.69 feet to a computed point in the northern margin of the right-of-way for East Presnell Street; thence along the northern margin of the right-of-way for East Presnell Street the following course and distance: North 78 degrees 46 minutes 51 seconds East 34.17 feet to a computed point; thence North 06 degrees 54 minutes 47 seconds East 290.82 feet to a computed point in the southern margin of the 60-foot right-of-way for Lansdowne Road (North Carolina Secondary Road 2294); thence across the Lansdowne Road right-of-way the following course and distance: North 64 degrees 55 minutes 56 seconds East 105.80 feet to a computed point in the northern margin of the right-of-way for Lansdowne Road; thence North 12 degrees 19 minutes 47 seconds East 365.85 feet a computed point; thence South 89 degrees 21 minutes 00 seconds East 174.43 feet to a computed point; thence North 71 degrees 34 minutes 11 seconds East 205.00 feet to a computed point in the western margin of the 60-foot right-of-way for Fawnwood Circle; thence along the terminus of the right-of-way for Fawnwood Circle the following course and distance: North 56 degrees 16 minutes 11 seconds East 63.41 feet to a computed point in the eastern margin of the right-of-way for Fawnwood Circle; thence South 63 degrees 25 minutes 49 seconds East 50.24 feet to a computed point; thence North 69 degrees 01 minute 11 seconds East 77.00 feet to a computed point; thence North 10 degrees 50 minutes 19 seconds West 179.45 feet to a computed point; thence North 63 degrees 16 minutes 11 seconds East 33.57 feet to a computed point; thence North 69 degrees 01 minute 11 seconds East 270.00 feet to a computed point; thence North 40 degrees 14 minutes 11 seconds East 111.47 feet to a computed point; thence North 19 degrees 33 minutes 41 seconds East 206.00 feet to a computed point; thence North 40 degrees 17 minutes 19 seconds West 251.01 feet to a computed point in the southern margin of the 60-foot right-of-way for Fox Run Drive; thence North 44 degrees 06 minutes 19 seconds West 60.00 feet across the right-of-way for Fox Run Drive; thence North 40 degrees 17 minutes 19 seconds West 153.45 feet to a computed point; thence along the Kathy M. Criscoe property described in Deed Book 1169, Page 231, Randolph County Public Registry the following courses and distances: North 49 degrees 42 minutes 41 seconds East 58.00 feet to a computed point; thence North 40 degrees 17 minutes 19 seconds West 150.00 feet to a computed point in the southern margin of the 60-foot right-of-way for Old Cedar Falls Road (North Carolina Secondary Road 2216); thence across the right-of-way for Old Cedar Falls Road North 33 degrees 16 minutes 49 seconds West 60.45 feet to a computed point; thence along the Evon L. Cromedy property described in Deed Book 1568, Page 1044, Randolph County Public Registry the following courses and distances: North 40 degrees 12 minutes 49 seconds West 175.00 feet to a computed point; thence South 49 degrees 42 minutes 41 seconds West 100.00 feet to a computed point; thence along the Thermon and Diane M. Howard property described in Deed Book 1087, Page 35, Randolph County Public Registry the following courses and distances: South 35 degrees 40 minutes 41 seconds West 103.11 feet to a computed point; thence South 40 degrees 07 minutes 45 seconds East 150.32 feet to a computed point in the northern margin of the right-of-way for Old Cedar Falls Road; thence along the northern right-of-way for Old Cedar Falls Road the following courses and distances: South 49 degrees 43 minutes 22 seconds West 232.57 feet to a computed point; thence South 49 degrees 57 minutes 47 seconds West 53.73 feet to a computed point; thence along the James P. Goldston property described in Deed Book 1259, Page 760, Randolph County Public Registry the following courses and distances: North 37 degrees 55 minutes 19 seconds West 150.00 feet to a computed point; thence South 52 degrees 08 minutes 11 seconds West 134.98 feet to a computed point; thence South 52 degrees 01 minute 12 seconds West 135.02 feet along the Gladys M. Silver property described in Deed Book 1107, Page 110, Randolph County Public Registry to a computed point; thence South 52 degrees 04 minutes 41 seconds West 135.07 feet along the Craig and Margaret G. McDonald property described in Deed Book 1458, Page 1228, Randolph County Public Registry to a computed point; thence South 51 degrees 57 minutes 20 seconds West 134.94 feet along the Earlene M. Shoffner property described in Deed Book 1109, Page 579, Randolph County Public Registry to a computed point; thence South 52 degrees 16 minutes 51 seconds West 137.48 feet along the Mark R. and Elaine M. Shoffner property described in Deed Book 1756, Page 2239, Randolph County Public Registry to a computed point; thence South 51 degrees 56 minutes 57 seconds West 100.00 feet along the Mark R. and Earline M. Shoffner property described in Deed Book 1858, Page 1931, Randolph County

Public Registry to a computed point; thence North 22 degrees 37 minutes 48 seconds West 161.18 feet to a computed point; thence North 22 degrees 33 minutes 18 seconds West 150.01 feet to a computed point; thence South 76 degrees 56 minutes 14 seconds West 264.69 feet to a computed point; thence South 76 degrees 48 minutes 28 seconds West 119.73 feet along the Armeta M. Staley property described in Deed Book 1171, Page 124, Randolph County Public Registry to a computed point; thence North 83 degrees 50 minutes 02 seconds West 160.99 feet to a computed point in the eastern right-of-way for Gold Hill Road; thence North 83 degrees 50 minutes 02 seconds West 65.24 feet to a computed point in the western margin of the right-of-way for Gold Hill Road; thence along the western margin of the right-of-way for Gold Hill Road and the existing primary corporate limits for the City of Asheboro the following course and distance: North 27 degrees 47 minutes 38 seconds East 33.79 feet to the point and place of the BEGINNING, and containing 134.01 acres of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "ANNEXATION PLAT PREPARED FOR City Of Asheboro E. Presnell St. & Gold Hill Rd. Area" that was drawn under the supervision of Glenn Lee Brown, Professional Land Surveyor with Registration No. L-3663. This plat of survey is dated November 2, 2007 and is identified as Job No. G07135AX.

Section 2. Upon and after December 6, 2007, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to section 160A-58.10 of the North Carolina General Statutes.

Section 3. The Mayor of the City of Asheboro shall cause to be recorded in the Office of the Register of Deeds of Randolph County, and in the Office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Randolph County Board of Elections, as required by Section 163-288.1 of the North Carolina General Statutes.

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

Section 5. This ordinance shall be in full force and effect upon and after the 6th day of December, 2007.

Adopted by the Asheboro City Council in regular session on the 6th day of December, 2007.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

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

Approved as to form:

s/ Jeffrey C. Sugg
Jeffrey C. Sugg, City Attorney

12. Consideration of a petition received from Neely of Asheboro, Inc. and Cleveland Harper Thayer requesting contiguous annexation of 20.74 acres along the east and west side of Oakmont Drive (Agenda Item Number 13).

(a) Mr. Bunker presented and recommended adoption, by reference, of a resolution directing the city clerk to investigate a petition requesting contiguous annexation of 20.74 acres of land located along the east and west side of Oakmont Drive.

Upon motion by Mr. Priest and seconded by Ms. Carter, Council voted unanimously to adopt the following resolution by reference.

62 RES 12-07

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE AN ANNEXATION PETITION RECEIVED PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES

(20.74 Acres of Land along the East and West Side of Oakmont Drive)

WHEREAS, a petition requesting the annexation of approximately 20.74 acres of land located along the east and west side of Oakmont Drive has been received by the City Council of the City of Asheboro, North Carolina from Neely of Asheboro, Inc. and Cleveland Harper Thayer, who are the owners of the parcel of land for which annexation is requested; and

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

WHEREAS, the City Council of the City of Asheboro has decided, in response to this petition, to proceed with voluntary annexation proceedings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the City Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the City Council the results of her investigation.

Adopted by the Asheboro City Council in regular session on the 6th day of December, 2007.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

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

CERTIFICATE OF SUFFICIENCY

(20.74 Acres of Land along the East and West Side of Oakmont Drive)

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

I, Holly H. Doerr, City Clerk for the City of Asheboro, North Carolina, do hereby certify that I have investigated the petition attached hereto. As a consequence of that investigation, I have found as a fact that all owners of real property lying in the area described therein have signed the said petition, and the petition appears to be sufficient to satisfy the provisions of Section 160A-31 of the North Carolina General Statutes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro, North Carolina in order to make this certification effective as of the 6th day of December, 2007.

(SEAL)

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

(b) As a consequence of the receipt of written certification from the City Clerk as to the sufficiency of said annexation petition, Mr. Bunker presented and recommended adoption, by reference, of a resolution fixing the date for a public hearing on the question of annexation.

Upon motion by Mr. Baker and seconded by Mr. Burks, Council voted unanimously to adopt the following resolution by reference.

63 RES 12-07

RESOLUTION SETTING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES

(20.74 Acres of Land along the East and West Side of Oakmont Drive)

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the City Council of the City of Asheboro, North Carolina has by resolution directed the City Clerk to investigate the sufficiency of this petition; and

WHEREAS, on the basis of her review of information gathered by city staff members during an investigation of the submitted petition, the City Clerk has certified to the City Council the sufficiency of this petition to proceed with setting a date for a public hearing on the question of annexation pursuant to Section 160A-31 of the North Carolina General Statutes.

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

Section 1. A public hearing on the question of annexation of the area described herein will be held in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street in the City of Asheboro, North Carolina, during the City Council's regular meeting that is to be held at 7:00 o'clock p.m. on the 10th day of January, 2008.

Section 2. The area proposed for annexation is described on the attached sheet that is identified as EXHIBIT 1 and is hereby incorporated into this resolution by reference as if copied fully herein.

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

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

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

EXHIBIT 1

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a computed point in the eastern margin of the 50-foot right-of-way for Oakmont Drive (North Carolina Secondary Road 1870), this computed point is located South 08 degrees 20 minutes 33 seconds West 328.75 feet from a computed point in the center of the intersection of Oakmont Drive and Greenmont Drive (North Carolina Secondary Road 1871); thence from the said Beginning point South 89 degrees 01 minute 01 second East 51.01 feet to a computed point; thence along the Vernon and Billie Wilson property described in Deed Book 1125, Page 297, Randolph County Public Registry the following courses and distances: South 87 degrees 55 minutes 56 seconds East 245.67 feet to a computed point; thence South 88 degrees 26 minutes 47 seconds East 53.02 feet to a computed point; thence South 88 degrees 33 minutes 10 seconds East 59.39 feet along the Chandra and Bhavana Vyas property described in Deed Book 1230, Page 10, Randolph County Public Registry to a computed point; thence along the southern property line of the Matthew Gates McArthur and Holly B. McArthur property described in the Randolph County Public Registry in Deed Book 1904, Page 2146 and in Deed Book 1984, Page 1774 the following courses and distances: South 88 degrees 00 minutes 42 seconds East 149.21 feet to a computed point; thence South 88 degrees 24 minutes 40 seconds East 259.61 feet to a computed point; thence South 88 degrees 33 minutes 43 seconds East 303.86 feet along the William J. Armfield, IV and S.A. McMillion property described in Deed Book 1050, Page 500, Randolph County Public Registry to a computed point; thence South 03 degrees 29 minutes 58 seconds West 778.35 feet along the William R. Allred and Glendon B. McCain property described in Deed Book 1067, Page 656, Randolph County Public Registry to a computed point; thence along the existing primary corporate limits of the City of Asheboro the following courses and distances: South 65 degrees 32 minutes 26 seconds West 120.58 feet to a computed point; thence North 41 degrees 59 minutes 33 seconds West 125.37 feet to a computed point; thence North 51 degrees 01 minute 09 seconds West 209.04 feet to a computed point; thence North 56 degrees 52 minutes 19 seconds West 218.22 feet to a computed point; thence North 66 degrees 17 minutes 47 seconds West 154.54 feet to a computed point; thence North 77 degrees 31 minutes 51 seconds West 145.31 feet to a computed point; thence North 88 degrees 03 minutes 12 seconds West 139.83 feet to a computed point; thence South 77 degrees 17 minutes 23 seconds West 140.94 feet to a computed point; thence South 64 degrees 31 minutes 06 seconds West 136.27 feet to a computed point; thence South 58 degrees 58 minutes 36 seconds West 97.74 feet to a computed point; thence North 44 degrees 17 minutes 30 seconds West 221.08 feet along the M. Pressley and Barbara Barnette property described in Deed Book 1128, Page 41, Randolph County Public Registry to a computed point in the eastern margin of the right-of-way for Oakmont Drive; thence South 66 degrees 32 minutes 01 second West 134.35 feet across Oakmont Drive to a computed point in the western margin of the right-of-way for Oakmont Drive; thence North 43 degrees 06 minutes 01 second West 194.65 feet along the Edward L. Clayton, Jr. and Joyia Clayton property described in Deed Book 1466, Page 1779, Randolph County Public Registry to a computed point; thence along the Theodore S. and Sara F. Anderson property described in Deed Book 1662, Page 1024, Randolph County Public Registry the following courses and distances: North 39 degrees 42 minutes 59 seconds East 55.75 feet to a computed point; thence North 00 degrees 41 minutes 57 seconds East 286.77 feet to a computed point; thence South 87 degrees 42 minutes 39 seconds East 184.65 feet along the Thomas W. and Mary M. White property described in Deed Book 1093, Page 429, Randolph County Public Registry to a computed point; thence South 88 degrees 17 minutes 14 seconds East 133.13 feet along the Douglas S. and Debbie R. Shiflet property described in Deed Book 1357, Page 1194, Randolph County Public Registry to a computed point; thence South 88 degrees 20 minutes 27 seconds East 138.87 feet along the Jill Stuart property described in Deed Book 1200, Page 2051, Randolph County Public Registry to a computed point; thence South 88 degrees 26 minutes 46 seconds East 86.43 feet along the Carl Stephen Jones, Jr. and Barbara Ann Jones property described in Deed Book 1224, Page 542, Randolph County Public

Registry to a computed point in the western margin of the right-of-way for Oakmont Drive; thence across Oakmont Drive the following course and distance: South 88 degrees 36 minutes 06 seconds East 62.75 feet to the point and place of the BEGINNING, and containing 20.74 acres of land, more or less, to be annexed.

This description is in accordance with an annexation map prepared by the City of Asheboro Engineering Department and dated November 26, 2007. This plat of survey is identified as Job No. 07034.

13. Consideration of an ordinance regulating the operation of the Asheboro Police Department's rotation wrecker list (Agenda Item Number 14).

Upon motion by Mr. Smith and seconded by Mr. Crisco, Council voted unanimously to continue the above-referenced item to the Council's regular January meeting. This continuance was granted as a consequence of a written request for a continuance submitted by James D. Essick of Essick Body and Towing, Inc. A copy of this written request is on file in the City Clerk's office.

14. Consideration of an ordinance amending Chapter 50 (Water and Sewers) of the Code of Asheboro (Agenda Item Number 15).

Mr. Sugg presented and recommended adoption, by reference of an ordinance amending Chapter 50 of the Code of Asheboro.

Upon motion by Ms. Carter and seconded by Mr. Burks, Council voted unanimously to adopt the following ordinance by reference.

63 ORD 12-07

AN ORDINANCE AMENDING CHAPTER 50 OF THE CODE OF ASHEBORO

WHEREAS, Chapter 50 of the Code of Asheboro prescribes general water and sewer provisions for the City of Asheboro; and

WHEREAS, the City Council has concluded that certain provisions within Chapter 50 should be updated.

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

Section 1. Section 50.037 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 50.037 CONNECTION TO CITY WATER SUPPLY REQUIRED; EXCEPTIONS.

(1) Whenever premises within the city limits are required to have a potable water supply, connection to the city water system is required unless a suitable and adequate water supply is provided from a well. Water supply from a well will be permitted for a period of ~~five~~ ten years after public water becomes available. At that time, it shall be the duty of the owner of such premises to make immediate application in writing for connection with the city water system and to have such connection made. Under unusual or special circumstances, the local government may waive this provision.

(2) Upon completion of any extension of the city water system, the city shall send official notice to property owners required by subsection (1) of this section to make connection with the public water system that the system is available and connection to the city water system is required within the time frame specified in subsection (1) of this section.

(3) As an incentive for early connection to the city water system, the water service connection fees prescribed by Section 50.004(A) shall be discounted on the basis of how quickly owners of property required to connect to the city water system pursuant to this section do in fact make the required connections. The base line for determining the amount of the discount for which a property owner is eligible shall be referred to as the notification date, and this notification date is the date on which the notice required by subsection (2) of this section is deposited by the city with the United States Postal Service for delivery as first class mail. If a city water system connection is made within 2½ years of the notification date, the water service connection fee shall be waived. If a connection is made after 2½ years, but before 5 years have lapsed, the water service connection fee shall be discounted by 75%. If a connection is made after 5 years, but before 7½ years have lapsed, the water service connection fee shall be discounted by 50%. If a connection is made after 7½ years, but before 10 years have lapsed, the water service connection fee shall be discounted by 25%. No discount shall be available once 10 years have lapsed since the notification date. This incentive plan does not apply to extensions of the city water system completed prior to January 1, 2008, and this incentive plan does not apply to extensions of the city water system that are undertaken as part of the major subdivision review and approval process prescribed by the City of Asheboro Subdivision Ordinance or are otherwise initiated by some person or entity other than the city.

Section 2. Section 50.027 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 50.027 EMERGENCY WATER MANAGEMENT PROCEDURES

(A) Subject to review by the City Council at any regular or special meeting of the City Council, a "water emergency" may be declared by the City Manager of the City of Asheboro or his designee to exist when any condition or situation exists that may threaten the availability and/or safety of either treated or potable water from the water supply, treatment, and distribution system operated and maintained by the City of Asheboro. A "water emergency" shall be declared by the City Manager or his designee to exist when users of the City of Asheboro water system cannot be supplied with treated or potable water without substantially curtailing the water demand placed on the city's water system. Furthermore, a "water emergency" shall be declared to exist when production, treatment, transmission, and storage facilities are incapable of meeting all daily water demands or when projections of available water show that the available supply of water will not meet the daily water demands.

(B) A declaration of the existence of a "water emergency" by the City Manager or his designee shall specify the level of severity of the emergency and be in the form of a signed executive order that, upon its issuance, shall be distributed to the Mayor and members of the City Council in a manner calculated to provide the most expeditious notification possible. Once the distribution of the declaration of the existence of a "water emergency" to the Mayor and members of the City Council has been undertaken, the City Manager or his designee shall give notice to the general public by means of a public press announcement of the existence of a "water emergency" and the severity thereof. The regulatory provisions authorized by this section will become effective twenty-four (24) hours after the issuance of the public press announcement specified in the preceding sentence.

(C) In the event of a sudden and severe water shortage created by a disrupted waterline or some other malfunction/disruption of the city's water system, the City Manager or his designee may immediately place into effect the appropriate restrictive provisions authorized herein. The restrictive provisions implemented by the City Manager or his designee may include, but are not limited to, the temporary discontinuance of service without prior notice to any person, entity, or structure receiving water from the City of Asheboro water system. Furthermore, such restrictive provisions implemented as a consequence of a sudden and severe disruption of water service may also include, but are not limited to, any combination of the various restrictions found within the different levels of staged water use restrictions prescribed by Subsection (D) of this Section. Any restrictive provisions implemented pursuant to this subsection may be citywide in scope or limited to the geographic area of the city affected by a localized disruption of the city's water system. The necessity of such restrictive provisions shall be reevaluated on a daily basis by the City Manager or his designee, in consultation with the Director of Water Resources, and the restrictive provisions authorized by this subsection shall be terminated by the City Manager or his designee as soon as is practicable. In the event of the imposition of such temporary restrictive provisions due to a sudden disruption to the water system, the notification requirements prescribed by subsection (B) of this section shall be implemented as soon as is practicable.

(D) The severity of a "water emergency" shall be classified and expressed by the City Manager or his designee in terms of the level of staged water use restrictions imposed on consumers of water from the City of Asheboro Water System. For the purpose of this section, the staged water use restrictions are as follows:

(1) **Level I (Voluntary)** During a declared Level I water emergency, consumers of water from the City of Asheboro water system shall be encouraged to implement the following voluntary water conservation practices:

- (a) Watering of lawns, ornamental plants, and gardens should be limited to the hours between 7:00 PM and 7:00 AM; and
- (b) Use of water for wash down of outside areas such as driveways, parking lots, and sidewalks should be curtailed; and
- (c) Faucets should not be left running while shaving, brushing teeth, or washing dishes; and
- (d) The use of clothes and dishwashers should be limited where possible, and these units should be operated with full loads; and
- (e) Washing cars and other vehicles should be curtailed to Saturday and Sundays, and hoses should not be left running while washing; and
- (f) The use of flow restriction and other water saving devices is encouraged; and
- (g) Showers should be used for bathing, and showers should be limited to four (4) minutes or less; and
- (h) Filling of pools should be deferred or limited to hours between 7:00 PM and 7:00 AM.

(2) **Level II (Mandatory)** During a declared Level II water emergency, the following mandatory water use restrictions shall be in effect for consumers of water from the City of Asheboro water system:

- (a) The watering of lawns, ornamental plants, and gardens shall be limited to the hours between 7:00 PM and 7:00 AM; and
- (b) The watering of lawns, ornamental plants, and gardens shall not be done except by handheld containers (buckets, jugs, etc.), and no applications for irrigation meters will be accepted or approved; and
- (c) With the exception of situations where a wash down of outside areas is necessary due to public health and safety concerns, the residential use of water for wash down of outside areas is prohibited. Commercial pressure washers shall be permitted to continue normal operations. However, the commercial pressure washer owners and/or operators shall ensure that water wastage does not occur; and
- (d) Residential washing of cars and other vehicles is prohibited. Automobile retail establishments and commercial automobile washing facilities including those providing hand held washing nozzles shall be permitted to continue normal operations. However, the facility owner/operator shall ensure that water wastage does not occur; and
- (e) Restaurants and other food serving establishments shall serve water to patrons only at the request of the patron(s); and
- (f) Commercial, industrial and construction operations shall eliminate all possible waste of water. Large scale commercial and industrial operations and construction activities that utilize 20,000 cubic feet or more of water per month shall submit a water reduction compliance plan to achieve 25, 50, or 75 percent (%) water reduction as specified under the Level II water emergency declaration within (14) fourteen days of the effective date of the regulations and restrictions specified in the Level II water emergency declaration; and
- (g) Above-ground pools, Jacuzzis, and hot tubs having a capacity of 500 gallons or more and all newly constructed or drained in-ground pools shall be filled by permit only. The Director of Water Resources or his designee shall review applications for such fill permits. The issuance of such a permit may be denied on the basis of the assessment by the Director of Water Resources of the severity of the situation.

(3) **Level III (Mandatory)** During a declared Level III water emergency, the following mandatory use restrictions shall be in effect for consumers of water from the City of Asheboro water system:

- (a) Any form of watering or irrigating lawns, gardens, and/or other plants is prohibited; and
- (b) With the exception of situations where the wash down of certain outside areas is necessary due to public health and safety concerns, the use of water for wash down of outside areas is prohibited; and
- (c) With the exception of situations where the washing of certain items is necessary due to public health and safety concerns, the washing of cars, vehicles, and/or other equipment is prohibited; and
- (d) Restaurants and other food serving establishments shall utilize single serving utensils and plates in addition to serving water to patrons only at the request of the patron(s); and
- (e) Recreational use of potable water, including filling of pools, is prohibited; and
- (f) Large scale commercial and industrial water customers and construction activities utilizing 20,000 cubic feet or more of water per month shall achieve mandatory reductions in daily water usage of 25, 50, or 75 percent (%) through whatever means are available. The target reduction percentage shall be determined by the severity of the water emergency and shall be publicly announced as part of the emergency declaration. The Director of Water Resources shall determine compliance with the daily usage reduction targets. Variances to this restriction may be granted by the Director of Water Resources to public health facilities including, but not limited to, hospitals and nursing homes; and
- (g) Drinking water taps or hydrant permits shall be issued or revoked at the discretion of the Director of Water Resources; and
- (h) Unless a bulk water sale is made pursuant to an existing contract, bulk water sales shall be prohibited.

(4) **Level IV (Mandatory)** During a declared Level IV water emergency, the following mandatory water use restrictions shall be in effect for consumers of water from the City of Asheboro water system:

- (a) All use of water for purposes other than the maintenance of public health and safety is prohibited; and
- (b) Unless a bulk water sale is made pursuant to an existing contract, bulk water sales shall be prohibited; and
- (c) Where the City of Asheboro water system is functional, monthly residential water use shall not exceed 1,200 cubic feet of water at each metered location; and

- (d) Where the City of Asheboro water system is not functional, National Guard and emergency services vehicles shall be utilized to distribute water for household use at prearranged locations within the effected area. Usage by individuals shall be limited to those amounts necessary to sustain life through drinking, food preparation, and personal hygiene; and
- (e) The compliance plan for industries during Level IV remains the same as Level III or as directed by the State of North Carolina Public Health Officials.

(E) In the event of the declaration of a "water emergency" by the City Manager or his designee in accordance with the provisions of this section, it shall be unlawful for any person to use or permit the use of water from the water system of the City of Asheboro in violation of any of the provisions set forth in this section until such time as the City Manager or his designee has declared the restrictive provision(s) in question to be no longer in effect.

(F) Once a "water emergency" has been declared and the appropriate staged restrictions imposed, the Director of Water Resources or his designee shall review the operational status of the city's water system and the supply of water available to the city's water system at least once per calendar day. On a daily basis, the Director of Water Resources shall notify the City Manager or his designee of the operational status of the city's water system and the available water supply. On the basis of the information gathered in order to provide this notification, the Director of Water Resources or his designee shall recommend to the City Manager or his designee during the course of this daily notification procedure whether a different stage of restriction should be implemented. The City Manager or his designee shall make the final determination as to whether any change in the stage of restriction is warranted. If such a change in the stage of restriction is warranted, the notification procedures prescribed by subsection (B) shall be followed in the same manner as for the initial declaration of a "water emergency".

(G) Compliance with the provisions of this section shall be enforced by personnel of the Division of Water Resources, the Asheboro Police Department, and any other personnel designated by the City Manager. Failure to comply with any of the regulations or restrictions of this section shall be unlawful and a violation of the section. All remedies authorized by law for noncompliance with the section, including the issuance of a civil penalty citation or an action for injunctive relief, may be exercised to enforce the provisions of this section. It shall be unlawful to fail to act in accordance with the provisions of this section or to use water in any manner that constitutes an attempted and /or actual evasion or avoidance of the water restrictions prescribed by this section.

(H) Any consumer of water from the City of Asheboro water system who violates any provision of this section shall be subject to civil penalties as follows:

1. During a declared Level II water emergency, residential users who violate any of the mandatory restrictions of this section shall be subject to a written warning for the first offense; a civil penalty in the amount of one hundred dollars (\$100.00) for the second offense; and a civil penalty in the amount of two hundred dollars (\$200.00) for the third and successive offenses. During a declared Level III or Level IV water emergency, there shall be no warnings issued, and residential users who violate any of the mandatory restrictions of this section shall be subject to a civil penalty in the amount of one hundred dollars (\$100.00) for the first offense and a civil penalty in the amount of two hundred dollars (\$200.00) for the second and successive offenses.
2. During any declared water emergency, any non-residential user who violates any of the mandatory restrictions of this section shall be subject to a written warning for the first offense; a civil penalty of two hundred dollars (\$200.00) for the second offense; a civil penalty of five hundred dollars (\$500.00) for the third offense; and a civil penalty of one thousand dollars (\$1,000.00) for the fourth and successive offenses.

Violations shall be accumulated by all consumers of water from the City of Asheboro water system so long as a declared "water emergency", in any stage, is continuously in effect and until no stage of this section has been in effect for one (1) calendar year. Violations of any of the mandatory restrictions of any stage of a declared "water emergency" under the provisions of this section shall accumulate with violations of the mandatory restrictions of any of the other stages under this section. If a customer of the water system moves or ceases service and subsequently renews service during any of the stages of a declared "water emergency" under this section, the customer's violations shall continue to accumulate as if such move or cessation had not occurred.

(I) Any citation that is issued by authorized personnel under this section and that is enforceable by civil penalties shall be subject to administrative review by the Zoning Administrator of the City of Asheboro or his designee. This administrative review shall occur only when the alleged violator has made a written request for such a review within fifteen (15) calendar days of the issuance of the citation at issue. This written request for administrative review must be hand delivered or sent by certified mail to the Zoning Administrator at his office in City Hall. If a request for administrative review is not received in person by the Zoning Administrator or his designee or postmarked within fifteen (15) calendar

days of the date of issuance of a citation, administrative review of the matter shall be deemed to have been waived.

(J) When an alleged violator of the provisions of this section has filed in a timely manner a written request for administrative review that conforms to the provisions of subsection (I) of this section, the Zoning Administrator or his designee shall hold a hearing within thirty (30) calendar days of the date of receipt of the written request for such a hearing. At this hearing, the Zoning Administrator or his designee shall review the violation alleged in the citation and shall provide the alleged violator an opportunity to be heard in response to the allegations alleged in the citation under review. Within five (5) calendar days of the date on which the administrative hearing is held, the Zoning Administrator or his designee shall render a written decision whereby liability or no liability on the part of the alleged violator is found to exist. Such a decision shall be delivered to the person or entity that filed the request for administrative review by means of hand delivery or certified mail, return receipt requested. Upon receipt of notification of any decision finding liability, the violator shall make payment of any civil penalty incurred within fifteen (15) calendar days. If payment of any civil penalty due is not received within fifteen (15) calendar days following receipt of notice of liability after administrative review, the violator shall be liable for an additional civil penalty of one hundred dollars (\$100.00).

(K) A water customer that fails to pay a civil penalty assessed against the customer after the later of either thirty (30) calendar days from the date of receipt of a citation or the date of receipt of notice finding liability following administrative review shall have his water disconnected and shall be assessed a disconnect fee of thirty dollars (\$30.00). In order to have his water service restored, the customer will have to pay the past due civil penalty and any other outstanding fees or charges in accordance with Section 50.007(D).

(L) Upon a fourth violation of this section, a violator shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00) as provided by Section 14-4 of the North Carolina General Statutes, and, in addition thereto, such violation may be enjoined and restrained as provided in Section 160A-175 of the North Carolina General Statutes. The issuing of a criminal warrant shall not prohibit the imposition of further civil penalties.

(M) The Director of Water Resources or his designee shall have the authority to discontinue or restrict water service to any person, entity, or structure in the event of any violation of the mandatory restrictions imposed pursuant to this section. With the exception of the imposition of a discontinuance of service pursuant to Subsection (C) of this section, the Director of Water Resources shall provide by the most expeditious means reasonably available a minimum of two (2) working days written notice of his intent to discontinue or restrict water service to a particular person, entity, or structure before such discontinuance or restriction of service is implemented. During the period of the said two (2) day notice, any person or entity claiming the status of an aggrieved party may make a request of the City Manager or his designee to be heard as to why such discontinuance or restriction of water service should not be enforced. If such a request is received by the City Manager or his designee in a timely manner, the requesting party shall be heard by the City Manager or his designee on the said matter as soon as is practicable. Once a matter is scheduled by the City Manager for hearing, the decision of the Director of Water Resources shall be stayed until the City Manager or his designee renders a decision as to the aggrieved party's request. The decision rendered by the City Manager or his design in such a matter shall be final. When water service has been discontinued or restricted pursuant to and in accordance with this subsection, it shall be unlawful to reactivate such service without the permission of the Director of Water Resources.

(N) Each day's continuing violation of this section shall be a separate and distinct criminal and civil offense. Each violation of this section shall be a separate offense even if occurring on the same day.

(O) Termination of any stage of a declared "water emergency" shall be determined and ordered by the City Manager or his designee when he, in direct consultation with the Director of Water Resources or his designee, determines that the water supply available for use by the City of Asheboro water system is no longer so low as to constitute a "water emergency" under the terms of this section. Upon termination of any "water emergency" and any stage thereof, all fines or penalties incurred by any consumer of water from the city's water system shall remain in effect until paid. Upon such termination, discontinued users may have their service restored upon payment of the regular fees charged to customers who have had their water service disconnected. However, no such fees shall be charged to consumers who had their water service discontinued pursuant to subsection (C) of this section.

(P) The provisions of this section shall apply to all such persons or entities using public water both in and outside the city, regardless of whether any such person or entity using water shall have a contract for water service with the City of Asheboro.

(Q) If any subsection, clause, or provision of this section shall be judged invalid, such adjudication shall apply only to such subsection, clause, or provision so adjudged, and the remainder of this section shall be declared valid and effective.

(R) All ordinances and clauses of ordinances in conflict herewith are stayed while any provision of this section is in effect during a declared "water emergency". Such conflicting ordinances and clauses shall become effective upon termination of the "water emergency."

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

Section 4. This ordinance shall take effect and be in force from and after January 1, 2008.

Adopted by the Asheboro City Council in regular session on the 6th day of December, 2007.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

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

15. Consideration of an ordinance amending Chapter 51 (Garbage) of the Code of Asheboro (Agenda Item Number 16).

Mr. Sugg presented and recommended adoption, by reference, of an ordinance amending Chapter 51 of the Code of Asheboro.

Upon motion by Mr. Crisco and seconded by Ms. Carter, Council voted unanimously to adopt the following ordinance by reference.

64 ORD 12-07

AN ORDINANCE AMENDING CHAPTER 51 OF THE CODE OF ASHEBORO

WHEREAS, Chapter 51 of the Code of Asheboro prescribes general regulations pertaining to the operation of the city's sanitation department and the maintenance of environmental health in the City of Asheboro; and

WHEREAS, the City Council has determined that Section 51.15 of the Code of Asheboro should be updated in order to clarify the procedures to be followed when a container provided by the city for use with the automated garbage collection trucks is damaged.

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

Section 1. Section 51.15 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 51.15 CONTAINER REQUIREMENTS.

(A) Containers to be used with the automated garbage collection trucks shall be provided exclusively by the city and shall be placed within two feet of a curb and at least four feet from any object, such as fences, utility poles, mail boxes, and the like. Waste materials shall be placed in a plastic bag that is properly secured at the top before the materials are placed in the container provided by the city for use with the automated garbage collection trucks. If customers desire to dispose of an amount of waste materials that exceeds the capacity of the container provided by the city, the excess materials shall be collected in a plastic bag or bags, such a bag is not to exceed a holding capacity of 32 gallons, and placed within two feet of a curb and at least four feet from the container provided by the city and any other object, such as fences, utility poles, mail boxes, and the like. The plastic bags shall be properly secured at the top. Metal containers shall not be used in conjunction with the containers provided by the city for use with the automated garbage collection trucks.

(B) These containers provided by the city for use with the automated garbage collection trucks are the property of the city. Residents are permitted to use them only as long as they live within the city limits. When a resident moves, either within the city limits or away, he or she shall leave the container at the residence or dwelling where it has been used prior to the move of the resident. If the move is within the city, another container will be provided at the new location. Persons who take their containers with them upon moving will be charged \$70.00.

(C) The containers provided by the city for use with the automated garbage collection trucks are warranted against defects. Containers which fail in the course of normal use will be replaced by the city at no expense to the user. The warranty does not cover failure resulting from abuse, malicious act(s), or negligent act(s) by the owner(s) and/or occupant(s) of the residence or dwelling where the container has been placed, including acts committed by anyone acting on behalf of or with the consent of the said owner(s) and/or occupant(s). For the purpose of interpreting this section, an act of abuse shall be deemed to include, by way of illustration and without limitation, the act of ~~such as~~ placing chemicals or hot ashes in the container or overfilling with construction debris or other weighty refuse. Containers damaged by abuse, willful acts, or negligent acts will be replaced only upon payments of a \$70.00 replacement fee to the city. Nothing contained within this subsection shall release a person found to have damaged a city-

owned container from liability for so doing, and the provisions of this subsection shall not preclude the city from pursuing a claim for damages and any other remedy available at law or equity for conduct that is the proximate cause of damage to city-owned personal property.

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

Section 3. This ordinance shall take effect and be in force upon and after December 6, 2007.

Adopted by the Asheboro City Council in regular session on the 6th day of December, 2007.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

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

16. Approval of Wayfinding Plan Phase I as a Community Appearance Commission Initiative (Agenda Item Number 17).

Mr. Cox presented a cost estimate of approximately \$2,700 for Phase I of the Wayfinding Plan. Phase I of the plan includes the installation of informational signs directing citizens and visitors to points of interest/significance in the downtown area.

Upon motion by Mr. Crisco and seconded by Mr. Baker, Council voted unanimously to authorize the expenditure of up to \$3,000 for Phase I of this project.

17. Discussion of Items not on the agenda (Agenda Item Number 18).

Mr. Moffitt suggested that a Public Works Committee meeting be scheduled as soon as possible in order to discuss street maintenance concerns.

Upcoming Events:

- Friday, December 7, 2007 at 6:00 p.m. – Christmas Tree Lighting
- Friday, December 7, 2007 at 7:00 p.m. – Christmas Parade
- Friday, December 14, 2007 6:00 p.m. – 9:00 p.m. – “Christmas on Sunset”

There being no further business, the meeting was adjourned at 8:48 p.m.

Holly H. Doerr, City Clerk

David H. Jarrell, Mayor