

**AMENDED AGENDA
REGULAR MEETING
CITY COUNCIL, CITY OF ASHEBORO
THURSDAY, DECEMBER 4, 2014, 7:00 PM**

1. Call to order.
2. Moment of silent prayer and pledge of allegiance.
3. Presentation of Key to the City of Asheboro to Harold Holmes upon his retirement from the Randolph County Board of Commissioners.
4. Presentation of the 2014 William D. Hatfield Award to Michael R. Wiseman for outstanding performance and professionalism in wastewater treatment plant operations.
5. Report from Tammy O'Kelley, Director, Heart of North Carolina Visitors Bureau on Asheboro tourism activities for calendar year 2014.
6. Consent agenda:
 - (a) Approval of the minutes of the city council's regular meeting that was held on November 6, 2014.
 - (b) Acknowledgement of the receipt from the Asheboro ABC Board of meeting minutes for the meetings held on October 6, 2014, and November 3, 2014.
 - (c) Approval of an ordinance setting the dates of the City Council's regular meetings during the 2015 calendar year.
 - (d) Approval of a resolution authorizing the entry of the city into a Wire Transfer Service Agreement with CommunityOne Bank, N. A.
 - (e) Approval of a resolution authorizing the acceptance and recording of a gift deed conveying to the city an undeveloped lot containing city-maintained sanitary sewer lines.
 - (f) Approval of a resolution to award a service side arm to a retiring officer of the Asheboro Police Department.
 - (g) Approval of a resolution authorizing the entry of the city into a revised sidewalk agreement with the North Carolina Department of Transportation.

7. Mr. Nuttall will present the following Community Development items:
 - (a) Zoning Case RZ-14-11: A legislative zoning hearing continued from the City Council meeting held on November 6, 2014, on the application filed by H. R. Gallimore to rezone property located at 379 Patton Avenue from R10 (Medium-Density Residential) to OA6 (Office-Apartment). **A continuance has been requested by the applicant until the January 8, 2015, City Council meeting.**
 - (b) Zoning Case RZ-14-14: A legislative zoning hearing on the application filed by Attorney Ben C. Morgan to rezone property located at 520 Greensboro Street from R7.5 (Medium-Density Residential) and RA6 (High-Density Residential) to O & I (Office and Institutional). **A continuance has been requested by the applicant until the January 8, 2015, City Council meeting.**
 - (c) Authorization to solicit applications for a vacancy on the Redevelopment Commission due to the resignation of Mr. Michael Moore.
 - (d) Reappointment of Ritchie Buffkin to a 5 year term of office on the Asheboro Planning Board.
 - (e) Consideration of a resolution supporting and authorizing an application on behalf of the Randolph County Society for the Prevention of Cruelty to Animals for funding from the North Carolina Department of Commerce to assist with the renovation of a building located at 300 W. Bailey Street.
 - (f) Nonresidential Building Maintenance Code:
 - (i) Public hearing on the question of enacting a nonresidential building maintenance code.
 - (ii) Discussion and vote on the question of adopting an ordinance to enact the proposed code.
8. Public comment period.

9. Upcoming events:

- Annual Christmas Parade begins at 7:00 PM on December 5, 2014.
- Crossroad Retirement Community Christmas Parade Saturday, December 6, 2014, begins at 9:45AM.
- "Christmas on Sunset" street festival begins at 6:00 PM on December 12, 2014.
- Asheboro Fire Department Christmas Party at Station #1 from 6:00PM to 9:00PM on December 17, 2014.
- Chamber of Commerce Christmas Party at the Exchange 5:30PM to 7:30PM on December 18, 2014.
- Asheboro Police Department Christmas Party at PW Conference Room from 11:30 to 1:30PM on December 22, 2014.

10. Adjournment.

City of Asheboro
Water Resources
Division

To: John N. Ogburn, III
From: Michael D. Rhoney, Water Resources Director
CC: Trevor Nuttall
Date: 11/26/2014
Re: William D Hatfield award presentation for December, 2014 City Council Meeting

It is my honor to recognize Michael R. Wiseman as the 2014 recipient of the William D. Hatfield Award. The William D. Hatfield Award is presented to operators of wastewater treatment plants for outstanding performance and professionalism. The award was established in honor of Dr. William D. Hatfield, Superintendent of the Decatur, Illinois Sanitary District, who was President of the Central States Sewage Works Association in 1944-45 and served as President of the Federation in 1958-59.

Qualifications of this award include membership in the North Carolina Water Environment Association; a successful system of reports from the operator to his or her superiors that fulfill the information requirements and provide the operator with a forum for suggestions for improvements; use of a good public relations program; the contribution to the dissemination of information concerning advancements in the field.

The North Carolina WEA is permitted to honor on member of the Section with this award. The purpose of the William D. Hatfield Award is to recognize operators of wastewater and waste treatment plants who are doing an outstanding job in performance of their duties as well as to operators demonstrating distinguished professionalism. The aspects of plant operation upon which the award is based serve these purposes:

- a) Encourage better public relations between plant operators and the public.
- b) Recognize the outstanding reports which serve the requirements of the operator's superior officials and provide a basis for recommendations by the operator for improvements to his plant for better efficiency of treatment and economy of operation.
- c) Recognize the outstanding reports which serve the requirements of the funds and care of the treatment plant and accessories entrusted to the operator.
- d) Advancement of the art and knowledge of wastewater treatment by dissemination to other engineers and operators the basic information and data concerning a particular plant and process through papers, articles, meetings, and reports.

Please join me in congratulating Michael on this award.

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Minutes of the meeting of the Asheboro Alcoholic Beverage Control Board held on October 6, 2014

The Asheboro ABC Board met on October 6, 2014, at 5:00 PM, in the Board office, 700 South Fayetteville Street, Asheboro, NC.

Present were Board Member Steve Knight and General Manager Rodney Johnson (GM). Chair Brooke Schmidly and Board Member Bob Morrison attended via telephone conference. A quorum being present, the Chair called the meeting to order for the transaction of business and business transacted as follows:

The Chair inquired as to any known conflict of interest, appearance of a conflict of interest, or objections concerning agenda items before the Board; after the Chair and both Board members voiced having no conflict, and there being no objection, the agenda was adopted.

The Board reviewed and there being no objection, approved the Minutes from the September 2, 2014, regular meeting.

Steve Knight and the GM reviewed Board finances and reported all finances remain consistent.

The GM reported information he obtained while researching possible investment options for the Asheboro ABC Board's Future Facility Fund. State laws require certain safeguards when investing public funds. Because of restrictions designed to ensure public funds are not at risk and remain fluid, the best investment option appears to be purchasing a public funds certificate of deposit (CD) from a local financial institution. After discussion, the Chair moved that the GM make an investment recommendation to Board members via email before the Board's next meeting, and upon a majority approval, move forward with the approved investment. The motion was approved by the Board.

Pursuant to Asheboro ABC Board Policy Section 33, the Board in its sole discretion shall approve or disapprove any pay adjustment or bonus. At its June 2, 2014, Board Meeting, the Board approved the Asheboro ABC Board Budget for Fiscal Year 2014-2015 which included funding for employee merit increases. The GM will be eligible for a merit increase effective October 15. After discussion, Chair Schmidly moved to approve the GM's merit increase and the motion was approved by the Board.

The Board heard reports from the General Manager concerning the following issues:

1. The Change-Fund Report ending September 30, 2014, was reviewed with nothing remarkable noted.
2. Asheboro ABC sales statistics comparing:
 - September 2014 sales with the previous month indicate:
 - An overall -10.9% change (all sales and tax collections)

- September 2014 sales with sales from the same month last year indicate:
 - Retail Sales +4.4%
 - Mixed Beverage Sales: +5.5%
 - Sales Tax Collections: +4.3%
 - Overall Collections: +4.5%
- September 2014 bottle sales with bottle sales from the same month last year indicate:
 - Retail Bottle Sales: +1.7%
 - Mixed Beverage Bottle Sales: +8.7%
 - Overall Bottle Sales: +2.2%

Charts reflecting sales histories were handed out to Board members for review and discussion.

The next regular Asheboro ABC Board meeting will be held Monday, November 3, 2014, at 5:30 p.m.

There being no further business, the meeting was adjourned.

Prepared by Rodney Johnson, GM, and Approved by the Board

11-3-2014 
GM

J. Bruce Schmid
Stephen R Knight

Minutes of the meeting of the Asheboro Alcoholic Beverage Control Board held on November 3, 2014

The Asheboro ABC Board met on November 3, 2014, at 5:30 PM, in the Board office, 700 South Fayetteville Street, Asheboro, NC.

Present were Chair Brooke Schmidly, Board Member Steve Knight, and General Manager Rodney Johnson (GM). Board Member Bob Morrison attended via telephone conference. A quorum being present, the Chair called the meeting to order for the transaction of business and business transacted as follows:

The Chair inquired as to any known conflict of interest, appearance of a conflict of interest, or objections concerning agenda items before the Board; after the Chair and both Board members voiced having no conflict, and there being no objection, the agenda was adopted.

The Board reviewed and there being no objection, approved the Minutes from the October 6, 2014, regular meeting.

Steve Knight and the GM reviewed Board finances and reported all finances remain consistent.

The first deposit to the Board's Future Facility Fund was made on October 21, 2014, with the purchase of a \$40,000 two-year public funds certificate of deposit (CD) from Community One Bank.

Asheboro ABC Policy Section 33 provides the Board may grant bonus pay at such times as it deems appropriate. After discussion, Bob Morrison moved to approve payment of a Christmas bonus equal to 3% of an employee's salary during the period beginning December 1, 2013, and ending November 30, 2014, with a minimum payment of \$100. The motion was approved by the Board.

The Board heard reports from the General Manager concerning the following issues:

1. The Change-Fund Report ending October 31, 2014, was reviewed with nothing remarkable noted.
2. Asheboro ABC sales statistics comparing:
 - October 2014 sales with the previous month indicate:
 - An overall +18% change (all sales and tax collections)
 - October 2014 sales with sales from the same month last year indicate:
 - Retail Sales +12.6%
 - Mixed Beverage Sales: -2.1%
 - Sales Tax Collections: +12.4%
 - Overall Collections: +10.9%

- October 2014 bottle sales with bottle sales from the same month last year indicate:
 - Retail Bottle Sales: +9.2%
 - Mixed Beverage Bottle Sales: -2.1%
 - Overall Bottle Sales: +8.4%

Charts reflecting sales histories were handed out to Board members for review and discussion.

The next regular Asheboro ABC Board meeting will be held Monday, December 1, 2014, at 5:30 p.m.

There being no further business, the meeting was adjourned.

Prepared by Rodney Johnson, GM, and Approved by the Board 12-1-14


GM

J. Bruce Schmid
Stephen R Knight
Robert W. Ward

ORDINANCE NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**AN ORDINANCE SETTING THE DATES FOR REGULAR MEETINGS OF
THE ASHEBORO CITY COUNCIL DURING THE
2015 CALENDAR YEAR**

WHEREAS, Section 31.04(A) of the Code of Asheboro provides that the “City Council shall hold a regular meeting on Thursday after the first Monday of each month;” and

WHEREAS, in an effort to avoid reasonably foreseeable scheduling conflicts with the Independence Day and Labor Day holidays, the members of the Asheboro City Council have decided to reschedule the Council’s regular meetings in July 2015 and September 2015;

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

Section 1. The regular meeting of the Asheboro City Council in July 2015 shall be held in the Council Chamber at Asheboro City Hall, with a beginning time of 7:00 p.m., on the 16th day of July, 2015.

Section 2. The regular meeting of the Asheboro City Council in September 2015 shall be held in the Council Chamber at Asheboro City Hall, with a beginning time of 7:00 p.m., on the 17th day of September, 2015.

Section 3. For purposes of clarity, the schedule for regular meetings of the Asheboro City Council during the 2015 calendar year is as follows:

<u>Month</u>	<u>Meeting Date</u>
January	8 th
February	5 th
March	5 th
April	9 th
May	7 th
June	4 th
July	16 th

August	6 th
September	17 th
October	8 th
November	5 th
December	10 th

Section 4. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed to the extent that such ordinances conflict with the intent of the Asheboro City Council to hold its regular meetings in accordance with the schedule found in Section 3 of this Ordinance. With the exception of rescheduling the Asheboro City Council's regular meeting in July and September 2015, the provisions of Section 31.04 of the Code of Asheboro remain in full force and effect.

Section 5. This Ordinance shall become effective upon adoption and shall sunset on December 31, 2015.

This ordinance was adopted in open session during a regular meeting of the Asheboro City Council that was held on the 4th day of December, 2014.

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

ATTEST:

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

RESOLUTION NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**WIRE TRANSFER SERVICE AGREEMENT WITH
COMMUNITYONE BANK, N.A.**

WHEREAS, the City of Asheboro has received a proposed Wire Transfer Service Agreement from CommunityOne Bank, N.A.; and

WHEREAS, the said Wire Transfer Service Agreement (hereinafter referred to as the "Agreement") prepared by the bank for the purpose of enabling the city to obtain the desired wire transfer services is attached hereto as EXHIBIT 1 and is hereby incorporated into this resolution by reference as if copied fully herein; and

WHEREAS, the Agreement includes a "Customer Administrators Resolution and List" that must be completed and executed as part of the city's entry into the proposed Agreement; and

WHEREAS, the city manager and finance director have recommended entering into the proposed Agreement with CommunityOne Bank, N.A.; and

WHEREAS, the City Council has concluded that the entry of the city into the proposed Agreement is consistent with good administrative and financial practices for the city;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the attached Agreement is hereby approved; and

BE IT FURTHER RESOLVED that the Mayor, City Clerk, and all other necessary city officials are hereby authorized to execute the attached Agreement, including without limitation the authorization for the city manager and the finance director to administer the authority to initiate the wire transfer of funds on behalf of the city.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 4th day of December, 2014.

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

ATTEST:

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

EXHIBIT 1

CommunityOne Bank, N.A.

Wire Transfer Service Agreement

This Wire Transfer Service Agreement between the Customer identified on the signature line below ("Customer") and CommunityOne Bank, N.A. ("Bank") sets forth the terms and conditions and rights and responsibilities of the Bank and Customer with respect to Wire Transfer Services ("Wire Services").

Wire Services

The Wire Services offered under this Agreement permit the Customer to transfer funds electronically and, as appropriate, to transmit related messages. These transfers may be made according to a specific request from the Customer or according to the Customer's standing instructions.

Authority

Subject to the terms and conditions of this Agreement, Customer hereby authorizes the Bank and the Bank hereby agrees to honor, execute, and charge to Customer's designated account(s) at Bank all telephonic, oral or written (including via facsimile transmission or via electronic or other means) requests by Customer for the wire transfer of funds.

Authorized Representative

Customer may designate a person to act as your authorized representative ("Authorized Representative") with full account access and authorization to set up Customer Administrators for you and to appoint one or more Authorized Representatives to act in your place. If you do so, the Authorized Representative will be responsible for creating and maintaining subsequent Customer Administrator accounts for you, including assigning and revoking access privileges and wire limits for those Customer Administrators and providing new and subsequent company IDs, user IDs, passwords and tokens to those Customer Administrators. The Authorized Representative will be Bank's main contact with respect to the Wire Services and will be responsible for managing all aspects of Customer's use of the Wire Services, including but not limited to managing security, verifying the initial services set up, setting up Customer Administrators and assigning them access privileges, advising Bank of changes in Customer Administrators and wire authorities, training Customer Administrators, and notifying Bank of changes in contact and other relevant information. The Authorized Representative will be required to sign a signature card on any Customer account designated for wire service use. If the Authorized Representative should change, Customer understands that a new signature card will be required to be executed.

Customer Administrators

Customer shall provide the written designation of each person ("Customer Administrators") authorized to act on Customer's behalf in making telephonic, oral or written wire transfer requests in the form attached to this Agreement and the wire authority limit of each such Customer Administrator. Customer has responsibility for notifying the Bank in a timely manner of any changes in Customer's approved list of Customer Administrators or changes in their authority limits. The Bank shall be entitled to rely upon the authority of each such person until such time as Bank receives written notice from the Customer of the revocation of such authority.

Security Procedures

The Customer will comply with all security procedures that are established by the Bank, as the same may be modified from time to time, in connection with the Bank's provision of the Wire Services. These security procedures will involve required access codes and tokens, which may be required to be changed periodically.

The Customer agrees that the security procedures are commercially reasonable. The Customer agrees to maintain the confidentiality and control of all access codes and tokens for each individual Customer Administrator and to take all reasonable precautions to safeguard the codes and prevent unauthorized access to your account(s) and codes. The Customer agrees to establish internal procedure to safeguard its security procedures. The Customer further agrees that the security procedures are in place to verify the authenticity of the request delivered in the name of the Customer to the Bank and not to detect errors in the transmission or content of any request. Customer agrees that Bank has no duty to discover or report Customer's errors in wire transfer requests, and the Bank has no responsibility for any failure of the security procedures to detect such errors.

For all customers other than those requesting wires in the branches (i.e., Customer who wishes to authorize wires orally or by facsimile), you are required to put in place internal controls to ensure that all wire transfer requests are approved by a person other than the person inputting, sending, or delivering the wire transfer request to the Bank (Dual Control) where applicable. If Customer determines that, notwithstanding Bank's requirement, it wishes Bank to accept and process outgoing wire transfer requests with the approval of only one Customer Administrator, Customer shall sign the waiver form attached to this Agreement, and shall be bound by any payment order (whether or not authorized) issued in the Customer's name and accepted by the Bank using only one Customer Administrator. In addition, in the event of a business interruption of Customer's systems, where it may be necessary to request a wire at a branch location, Bank may, in its discretion, accept a wire request on the basis of the signature of one Customer Administrator, provided that Bank also may require telephonic confirmation of such Customer Administrator's authority.

For wire transfer requests initiated by Customer online, the Customer is provided online identification credentials and electronic tokens for Customer Administrators to enter wire transfer requests and transmitting to the Bank. Customer is responsible for safeguarding all online identification credentials, passwords, and tokens and ensuring that only Customer Administrators are allowed access to or use of the identification credentials, passwords or tokens. Customer has sole responsibility for ensuring that Customer's computers or other electronic equipment used to enter wire transfer requests are within its custody and control, secure and free from all types of electronic virus's and malware that can compromise their security or the security of identification credentials, passwords or tokens. Customer should understand that the online services are accessed through the Internet, which is a public system over which Bank has no control and that accordingly, Customer should use a computer or other electronic device to enter wire transfer requests that is in a secured location and used only by Customer Administrators and that Customer's network and network hardware is secure. Customer further agrees that it is Customer's responsibility to set up, maintain and review Customer's security arrangements, and to update, maintain and properly use industry standard security products that are appropriate for the Customer, including firewalls, anti-virus protection, anti-spyware protection, and patches that apply to a known exploitable vulnerability. Customer agrees that no individual will be allowed to initiate a wire transfer request or other instruction or have access to any security procedure or information without proper supervision and strict security controls. Bank shall be fully protected in relying on the correct online identification credentials, passwords and electronic tokens and absent a breach of security in the Bank's internal systems, or where the Bank does not act in good faith, Bank shall have no responsibility for and Customer assumed full responsibility for, any transfer of funds, payment instructions or other transactions resulting from a breach of security, including a breach of security occurring on or in connection with your systems, such as viruses, Trojans, worms, phishing, pharming, key-logging or other fraudulent activity enables by malware or other destructive or disruptive components, regardless of the source or cause.

If any wire transfer request, or any request for cancellation or amendment of any wire transfer request, received by Bank purports to have been transmitted or authorized by the Customer, it will be deemed effective as the Customer's wire transfer request even though the wire transfer request was not actually authorized by the Customer, provided the Bank acted in good faith and in compliance with the security procedures with respect to such wire transfer request. If any wire transfer request, or any request for cancellation or amendment of any wire transfer request, received by Bank was transmitted or authorized by Customer, it will be deemed effective as Customer's wire transfer request, whether or not such wire transfer request was erroneous in any respect.

Customer Responsibilities

Customer shall provide the Bank with a written list, in a form acceptable to the Bank, of the Customer Administrators to perform the duties required under this Agreement to affect Wire Services, and shall keep this list updated as necessary to reflect any changes in Customer Administrators.

Customer must maintain and designate account(s) with the Bank which the Bank may, without prior notice or demand, use for debiting or crediting any wire transfer requests and related adjustments and charges. Customer must maintain collected and available funds on deposit in these designated account(s) which, when added to funds which may be made available under a line of credit, are sufficient to cover its payment obligations hereunder.

Customer agrees to deliver each wire transfer request in accordance with the requirements set forth in this Agreement. Customer agrees that it shall not initiate any wire transfer request which would cause the applicable account balance to be exceeded. If a conflict occurs between the Customer's account records and the Bank's, the Bank's records will be controlling for the processing of any request.

Customer shall pay the Bank the amount of each payment made under a wire transfer request by having funds in the applicable account by the time the request is processed. Bank may, at its discretion, at any time without notice, require payment before Bank begins to process a Customer's wire transfer request. Even if the Bank has done so in the past, Bank is not obligated to process any wire transfer request without having first been paid by Customer, but if Bank does so, the amount is immediately due and payable without notice or demand.

Customer agrees to pay the Bank for the amount of any returned or rejected transaction or any adjustments which the Bank has previously credited to the Customer's account.

If Bank receives more than one wire transfer request or other items payable from Customer's account(s) in any one business day, Bank may debit the Customer's account in any order Bank determines in its sole discretion.

Bank's Responsibilities

Subject to Customer complying with its obligations under this Agreement, including the security procedures, and the other conditions set forth below, the Bank will process a wire transfer request received from a Customer by transmitting payment instructions. The Bank will use its best efforts to execute each wire transfer request received from the Customer, as sender, on the business day it is received, provided that (a) the wire transfer request is received prior to any applicable cutoff hour, and (b) the Customer has sufficient available and collected funds on deposit in its account at the Bank to satisfy the wire transfer.

Bank may reject any wire transfer request which does not comply with the requirements of this Agreement, including any processing limits that may be imposed on Customer or its Customer Administrators, or which

Bank is not able to verify through the security procedures. Bank also may reject any wire transfer request which is in excess of the Customer's available and collected funds on deposit in the designated account(s).

Bank may reject any wire transfer request if it may be returned for any reason under the applicable national payment system rules of the receiving country of Customer's transaction.

Bank may give notice of rejection to the Customer by telephone, by electronic means, or by mail, depending upon the method of origination. Notices of rejection are effective when given.

Except as otherwise expressly provided herein, the Bank shall not be required to act upon any notice or instruction received from the Customer or any other person or to provide any notice or advice to the Customer or any other person with respect to any matter under this Agreement. The Bank may rely on oral instructions from any person who identifies himself or herself by a name included on the written list of Customer Administrators from the Customer. If Customer's record about any communication differs from the Bank's, Bank's records will control.

Wire Transfer Credits

Any payment to a Customer by the Bank for any transaction Bank credits to Customer's account(s) is provisional until the Bank receives final settlement for the transaction. If final settlement is not received, the Bank is entitled to a refund and the Bank may charge the Customer's account for the amount previously credited. The Bank may delay the availability of any amount credited for a transaction if the Bank believes that there may not be sufficient funds in the Customer's account to cover chargebacks or return of the transaction.

Customer Liability

The Customer shall be liable to the Bank for and shall indemnify and hold the Bank harmless from any and all claims, causes of action, damages, expenses (including reasonable attorney's fees and other legal expenses), liabilities and other losses resulting from acts, omissions, or provision of invalid or inaccurate data by the Customer or any other person acting on the Customer's behalf, including without limitation; (a) a breach by the Customer of any provision of this agreement; (b) the Bank's debiting or crediting of the account of any person as requested by the Customer; and (c) the failure to act or delay by any financial institution other than the Bank.

Bank Liability

The Bank is responsible only for conducting Wire Services as provided in this Agreement and shall be liable only for its gross negligence or willful misconduct in conducting these Services. The Bank shall not be liable for Customer's acts or omissions (including, without limitation, any acts or omissions relating to the amount, accuracy, timeliness of transmittal or due authorization of any wire transfer request, or any failure to comply with the security procedures specified herein), or any other person including, without limitation, any funds transfer system, any Federal Reserve Bank, any beneficiary's bank, and any beneficiary, none of which shall be deemed the Bank's agent. In no event shall Bank be liable for any penalties or any consequential, special, punitive or indirect loss of damage which Customer may incur or suffer resulting from any electronic funds transfer. Substantial compliance with the terms of this Agreement shall constitute good faith and the exercise of ordinary care by the Bank hereunder.

Cancellation of Wire Transfer Requests

If the Customer requests that the Bank cancel, amend or recall a wire transfer request and the Bank is able to verify the authenticity of the request, the Bank will make a reasonable effort to act on that request, provided that such cancellation is received by the Bank in such time and manner that the Bank has a reasonable opportunity to act prior to execution of the wire transfer, but the Bank shall have no liability if that request cannot be acted on in time. Customer agrees to indemnify the Bank against any and all liabilities, claims, costs, expenses and damages of any nature, including legal fees or other costs that may be incurred by the Bank in connection with a request to cancel, amend, or recall any wire transfer.

Accuracy

Customer acknowledges and agrees that if any wire transfer request describes the beneficiary of such wire transfer request inconsistently by name and account number, such request shall be executed by the Bank on the basis of the account number, even if the account number identifies a person different from the named beneficiary, and the Customer shall be obligated to pay the amount of the wire transfer request to the Bank notwithstanding such circumstances. Neither Bank nor any other bank has a duty to determine whether a wire transfer request contains an inconsistent name and number.

Fees

Customer agrees to pay, promptly upon receipt of a demand or statement therefore, all of the Bank's fees and charges for the Wire Services rendered by the Bank, in accordance with the Bank's current schedule of fees for these Wire Services.

Fedwire Notice

In connection with the Customer's use of the Wire Services, the Bank and any other bank in acting on a request, may use Fedwire. The rights and obligations of the Customer and the Bank in a funds transfer using the Fedwire system are governed by the Fedwire regulations, as in effect from time to time.

Miscellaneous

This Agreement and any fee schedule related thereto may be amended by the Bank from time to time by notice by Bank to Customer not less than thirty (30) days prior to the effective date thereof. Unless Customer terminates this Agreement prior to the effective date, the amendment shall become part of this Agreement.

Neither party may assign or transfer any of its rights or obligations under this Agreement, except that Bank may transfer its rights and obligations to any subsidiary or affiliate of the Bank.

Either party may terminate this Agreement by written notice to the other party, sent not less than thirty (30) days prior to the effective date of such termination; provided, however, that no such termination shall affect any claim, action or cause of action that existed, or relates to actions or omissions occurring prior to the date of such termination. The provisions of this Agreement under "Security Procedures," "Customer Liability," "Bank Liability," "Cancellation of Wire Transfer Notices," and "Fees" shall survive termination, and the obligations of Customer and Bank shall remain effective for any wire transfer request that has not settled prior to termination until final settlement is received.

This Agreement and all rights of the parties hereto shall be subject to and governed by federal law and to the extent applicable, the laws of the State of North Carolina, and the Customer consents to the personal jurisdiction and venue of the courts located in North Carolina with respect to any action or proceeding arising under this Agreement or relating hereto. In requesting any Wire Services under this Agreement, the Customer

agrees to comply with all applicable payment system rules, including those of the country in which funds are sent, and other applicable laws and regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by signature of their duly authorized corporate officers as of the date set forth below.

CUSTOMER: City of Asheboro

By: _____

Print Name: Deborah P Reaves

Title: Finance Director

Date: _____

BANK: CommunityOne Bank, N.A.

By: Holly Delk

Print Name: Holly Delk

Title: AVP/Senior Personal Banker

Date: _____

Account Numbers to which this Agreement applies: 0154024

CommunityOne Bank, N.A.
Customer Administrators Resolution and List

Resolution Designating Individuals Authorized to Initiate Wire Transfers

Customer Name: City of Asheboro

To: CommunityOne Bank, N.A.

The individuals below are authorized by this company to administer the authority to initiate wire transfer of funds with the Bank on behalf of the company.

Name:	Title:
Deborah P Reaves	
John N Ogburn III	

This is to certify that the above mentioned names and titles were authorized by a meeting of the Board of Directors of the company held _____ (date) and have not been amended or rescinded, and I further certify you are authorized to recognize them until notified in writing of any change.

Witness my hand and the seal of the corporation this the _____ day of _____, _____.

Customer Name: City of Asheboro

By: _____

Name: _____

Title: _____

Date: _____

Secretary: _____

CommunityOne Bank, N.A.
Waiver of Recommended Wire Transfer Procedure

As part of the Bank's procedures for submitting outgoing wire transfer requests on behalf of Customer, outgoing wire transfer requests require the expressed approval via Internet or via phone call, authorization, of two (2) authorized representatives (i.e., Dual Control), whereby one authorized representative submits the request and the other Authorized Representative approves the request.

Customer has considered the Bank's requirement to have two (2) authorized representatives approve each outgoing wire transfer request, but requests that the Bank accept and process outgoing wire transfer requests with the approval of only one authorized representative.

In consideration of Bank accepting that request, Customer hereby waives any protection offered by the use of the Dual Control procedure and agrees to be bound by any payment order (whether or not authorized) issued in the Customer's name and accepted by the Bank by one authorized representative in compliance with the above security procedure selected by Customer.

Accepted by Customer:

BY: _____
(Authorized Person – Signature)

Deborah P Reaves
(Authorized Person – Printed Name)

Finance Director
(Title)

(Date)

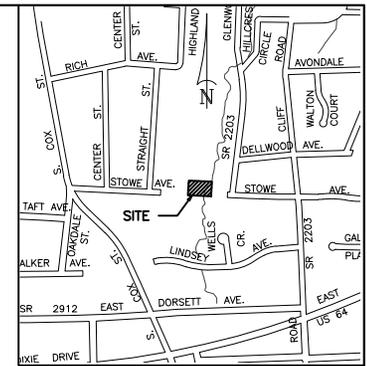
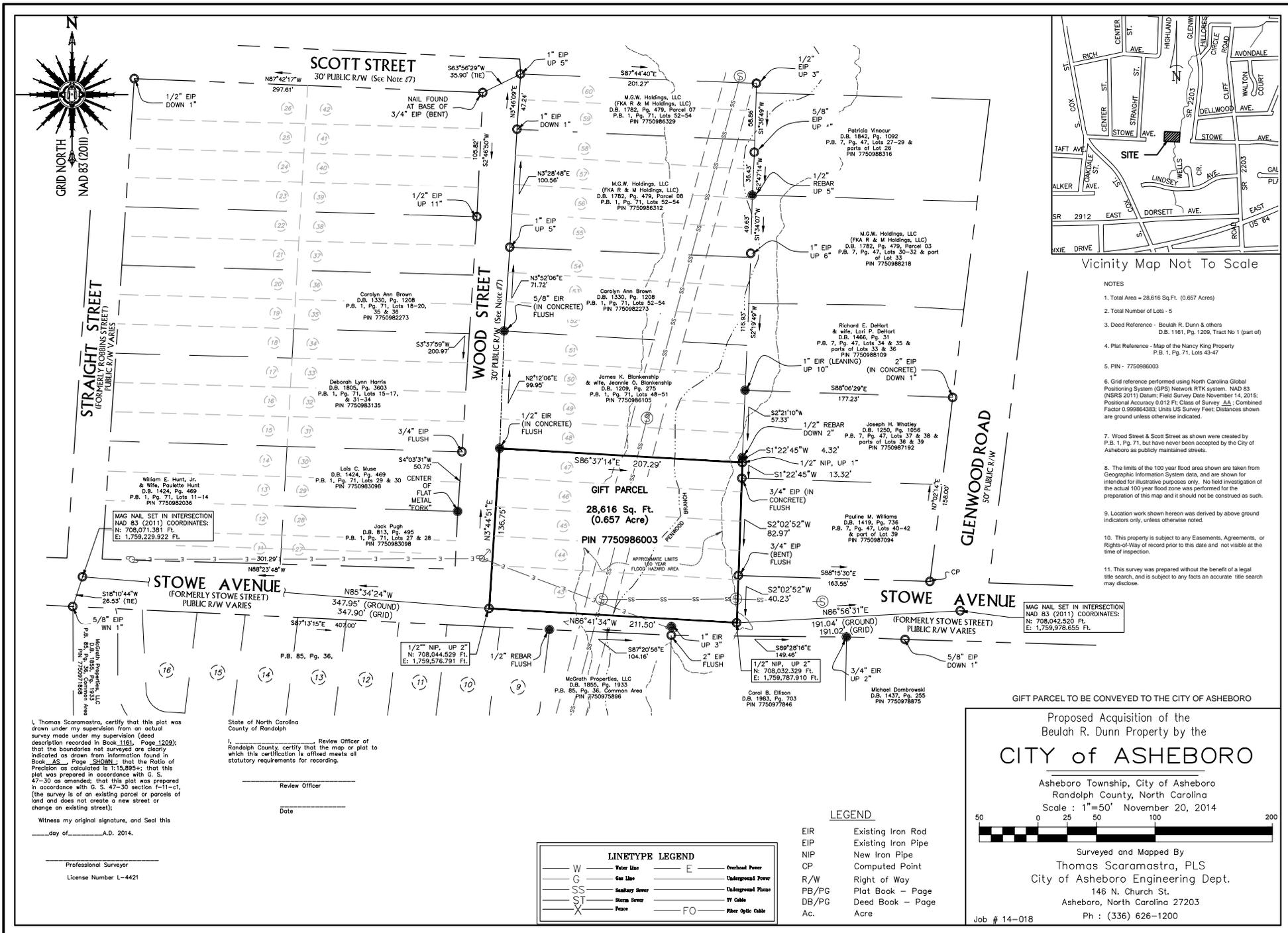
Accepted by Bank:

BY: Holly Delk
(Signature)

Holly Delk
(Printed Name)

AVP/Senior Personal Banker
(Title)

(Date)



- NOTES
- Total Area = 28,616 Sq. Ft. (0.657 Acres)
 - Total Number of Lots - 5
 - Deed Reference - Beulah R. Dunn & others D.B. 1161, Pg. 1209, Tract No 1 (part of)
 - Plat Reference - Map of the Nancy King Property P.B. 1, Pg. 71, Lots 43-47
 - PIN - 7750986003
 - Grid reference performed using North Carolina Global Positioning System (GPS) Network RTK system, NAD 83 (NRS 2011) Datum; Field Survey Date November 14, 2015; Positional Accuracy 0.012 Ft. Class of Survey $\Delta\Delta$ Combined Factor 0.999864383; Units US Survey Feet; Distances shown are ground unless otherwise indicated.
 - Wood Street & Scott Street as shown were created by P.B. 1, Pg. 71, but have never been accepted by the City of Asheboro as publicly maintained streets.
 - The limits of the 100 year flood area shown are taken from Geographic Information System data, and are shown for illustrative purposes only. No field investigation of the actual 100 year flood zone was performed for the preparation of this map and it should not be construed as such.
 - Location work shown hereon was derived by above ground indicators only, unless otherwise noted.
 - This property is subject to any Easements, Agreements, or Rights-of-Way of record prior to this date and not visible at the time of inspection.
 - This survey was prepared without the benefit of a legal title search, and is subject to any facts an accurate title search may disclose.

GLENWOOD ROAD
30' PUBLIC R/W

MAG NAIL SET IN INTERSECTION
NAD 83 (2011) COORDINATES:
N: 708,042.520 Ft.
E: 1,759,978.655 Ft.

GIFT PARCEL TO BE CONVEYED TO THE CITY OF ASHEBORO

Proposed Acquisition of the
Beulah R. Dunn Property by the
CITY of ASHEBORO
Asheboro Township, City of Asheboro
Randolph County, North Carolina
Scale : 1"=50' November 20, 2014

Surveyed and Mapped By
Thomas Scaramastra, PLS
City of Asheboro Engineering Dept.
146 N. Church St.
Asheboro, North Carolina 27203
Ph : (336) 626-1200

Job # 14-018

- LEGEND**
- EIR Existing Iron Rod
 - EIP Existing Iron Pipe
 - NIP New Iron Pipe
 - CP Computed Point
 - R/W Right of Way
 - PB/PG Plat Book - Page
 - DB/PG Deed Book - Page
 - Ac. Acre

LINETYPE LEGEND

W	Water Line	E	Overhead Power
G	Gas Line	U	Underground Power
SS	Sanitary Sewer	U	Underground Phone
ST	Storm Sewer	TV	Cable
X	Fence	FO	Fiber Optic Cable

I, Thomas Scaramastra, certify that this plat was drawn under my supervision from an actual survey made under my supervision (see description recorded in Book 1161, Page 1209); that the boundaries not surveyed are clearly indicated as drawn from information found in Book 1161, Page 1209; that the Ratio of Precision as calculated is 1:15,895+; that this plat was prepared in accordance with G. S. 47-30 as amended; that this plat was prepared in accordance with G. S. 47-30 section 1-11-c1; (the survey is of an existing parcel or parcels of land and does not create a new street or change an existing street);

Witness my original signature, and Seal this ____ day of _____ A.D. 2014.

Professional Surveyor
License Number L-4421

State of North Carolina
County of Randolph

I, _____ Review Officer of Randolph County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

RESOLUTION NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**AWARD OF A SERVICE SIDE ARM TO A RETIRING OFFICER OF THE ASHEBORO
POLICE DEPARTMENT**

WHEREAS, after rendering honorable and invaluable service to the City of Asheboro and its citizens since the date of her initial employment with the Asheboro Police Department on September 5, 1986, effective February 1, 2015, Master Police Lieutenant Carmel Maxine Wright will begin her retirement from employment with the City of Asheboro; and

WHEREAS, pursuant to and in accordance with Section 20-187.2 of the North Carolina General Statutes, the Asheboro City Council wishes to recognize and honor Lieutenant Wright for her valuable service to the city by awarding to her, at a minimal monetary cost, the service side arm issued to the officer at the time of her retirement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that, effective February 1, 2015, in consideration of the combination of her dedicated service to the City of Asheboro and the payment to the City of Asheboro of one dollar (\$1.00), Carmel Maxine Wright is to be awarded, upon a determination by the Chief of Police that Ms. Wright is not ineligible to own, possess, or receive a firearm under the provisions of federal or North Carolina law, ownership of her city-issued service side arm (a Glock 23 Generation 4 with serial no. SFS922 and three magazines).

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting that was held on the 4th day of December, 2014.

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

ATTEST:

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

RESOLUTION NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**REVISED SIDEWALK AGREEMENT WITH THE NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION**

WHEREAS, the City of Asheboro has requested enhancement funding administered by the North Carolina Department of Transportation (hereinafter referred to as the “NCDOT”) for the construction of a section of sidewalk along the north side of East Dixie Drive (United States Highway 64 East) between Dublin Road and Executive Way; and

WHEREAS, city staff members have recommended, and the City Council has agreed, that it is advisable for the city to enter into an agreement with the NCDOT and secure federal funding to construct additional sidewalk area along East Dixie Drive; and

WHEREAS, such a sidewalk agreement was previously approved by the City Council with the adoption of Resolution Number 37 RES 10-14 on October 9, 2014; and

WHEREAS, subsequent to the adoption of Resolution Number 37 RES 10-14, the NCDOT revised the agreement approved by means of the adoption of the October 2014 resolution in order to incorporate legislative action taken by the North Carolina General Assembly with regard to the interplay between municipal contracting requirements and the E-Verify program; and

WHEREAS, city staff members have reviewed the NCDOT’s revised agreement and found no substantive changes in the agreement that would warrant withdrawing the previously granted authorization to execute a sidewalk agreement prepared by NCDOT for the purpose of providing the sidewalk funding described in the above-stated recitals; and

WHEREAS, the City Council concurs with the analysis performed by the city staff members; and

WHEREAS, consistent with the earlier version of the sidewalk agreement, the NCDOT has agreed, subject to the terms and conditions found in the attached revised SIDEWALK AGREEMENT (hereinafter referred to as the “Revised Agreement”) prepared by the NCDOT, to participate in the cost of the proposed sidewalk construction; and

WHEREAS, the said Revised Agreement that must be executed in order to procure the requested funding for sidewalk construction is attached hereto as EXHIBIT 1 and is hereby incorporated into this resolution by reference as if copied fully herein;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the attached Revised Agreement is hereby approved; and

BE IT FURTHER RESOLVED that the Mayor, City Clerk, and all other necessary city officials are hereby authorized to execute duplicate originals of the said Revised Agreement.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 4th day of December, 2014.

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

ATTEST:

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

EXHIBIT 1

NORTH CAROLINA
RANDOLPH COUNTY

SIDEWALK AGREEMENT

DATE: 11/07/2014

NORTH CAROLINA TRANSPORTATION OF
TRANSPORTATION

AND

Project: ER-2971H

WBS Elements: 3608.3.08

CITY OF ASHEBORO

CFDA: 20.205

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the City of Asheboro, a municipal corporation, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, Section 1113 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA – LU) requires that Surface Transportation Program funds be available for transportation enhancement activities in the Statewide Transportation Improvement Program; and,

WHEREAS, the Municipality has requested enhancement funding for the construction of sidewalks in Randolph County; and,

WHEREAS, the Department has agreed to participate in the cost of said sidewalks subject to the conditions hereinafter set forth;

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

GENERAL PROVISIONS

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT

All parties to this Agreement, including contractors, subcontractors, and subsequent workforces, associated with any work under the terms of this Agreement shall provide reports as required by the Federal Funding Accountability and Transparency Act (FFATA) for this Project.

PERSON IN RESPONSIBLE CHARGE

If the Municipality is performing the work under this Agreement, then the Municipality shall designate a person, or persons, to be in responsible charge of the Project, in accordance with Title 23 of the Code of Federal Regulations, Part 635.105. The person, or persons, shall be expected to:

- Administer governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
- Maintain knowledge of day to day project operations and safety issues;
- Make or participate in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- Visit and review the project in accordance with the project scope and scale;
- Review financial processes, transactions and documentation to reduce the likelihood of fraud, waste, and abuse;
- Direct project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation; and
- Be aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

The person in responsible charge must be a full-time employee of the Municipality, but the duties may be split among several employees, if necessary.

COMPLIANCE WITH STATE/FEDERAL POLICY

The Municipality, and/or its agent, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures, stated both in this Agreement and in the Department's guidelines and procedures, including the Local Programs Management Handbook.

FAILURE TO COMPLY - CONSEQUENCES

Failure on the part of the Municipality to comply with any of the provisions of this Agreement will be grounds for the Department to terminate participation in the costs of the Project and, if applicable, seek repayment of any reimbursed funds.

SCOPE OF THE PROJECT

1. The Project consists of construction of concrete sidewalk along US 64 (E. Dixie Drive) from Executive Way to SR 2197 (Dublin Road) in Asheboro, Randolph County.

PROFESSIONAL SERVICES

2. If the Municipality causes the professional engineering services required by this Agreement to be performed by contracting with a private engineering firm and seeks reimbursement for said services under this agreement, it is agreed as follows:
 - A. The Municipality shall ensure that an engineering firm is obtained through an equitable selection process and that prescribed work is properly accomplished in a timely manner, at a just and reasonable cost.
 - B. The Municipality, when procuring architectural, professional and engineering services, must adhere to North Carolina Department of Transportation Rules and Regulations for Major Professional or Specialized Services Contracts. This policy conforms to N.C.G.S. 143-64, Parts 31 and 32, and Title 23 of the Code of Federal Regulations, Part 172. The Municipality shall comply with the policies and standards for negotiated contracts as contained in the Federal-Aid Policy Guide, Part 172; said policies and standards being incorporated in this Agreement by reference, and currently available at (www.fhwa.dot.gov/legregs/legislat.html).
 - C. The Municipality shall submit all professional services contract proposals to the Department for review and approval prior to execution of any professional services contract by the Municipality. In the event that the professional services contract proposal (engineering) exceeds \$30,000, a pre-negotiation audit must be requested from the Department's External Audit Branch.
 - D. Reimbursement for construction administration costs cannot exceed fifteen percent (15%) of the total construction cost. This applies to private engineering firms and/or work performed by the Municipality and/or the Department. The Municipality and/or its agent, shall perform project administration in accordance with all Departmental and Federal policies and procedures.

PLANNING AND DESIGN

3. The Municipality, shall be responsible for the preparation of all environmental documentation (Categorical Exclusion), including any environmental permits, required for said project. All work shall be accomplished in accordance with Departmental and Federal procedures and guidelines.

4. The Municipality shall be responsible for the development of the design and preparation of project plans specifications, quantities and details for said project. Said work shall be accomplished in accordance with Departmental and Federal standards and specifications and submitted to the Department for review and approval prior to any work being performed by the Municipality.

UTILITIES AND RIGHT OF WAY

5. The Municipality at no expense or liability whatsoever to the Department, shall relocate and adjust all utilities in conflict with the project, and provide and/or acquire any needed right of way or construction easements for said project. Acquisition of all right of way and/or construction easements shall be in accordance with the Right of Way Acquisition Policy contained in the Federal-Aid Policy Guide, Part 712, Subpart B; and the North Carolina Department of Transportation Right of Way Manual. The Municipality shall be solely responsible for all damages and claims for damages associated with the acquisition of right of way.

CONSTRUCTION

6. The Municipality shall construct, or cause to be constructed, the project in accordance with the project plans and with Departmental and Federal policies and procedures. The Municipality, and/or its agent, shall let the contract and administer the project in accordance with Title 23 of the Code of Federal Regulations, Part 635; and North Carolina General Statute § 143-129; and the procedures set out herein below:
 - A. The Department's Division Engineer, at his discretion, may assign a resident engineer to the project who shall have the right to inspect any portion of the work being performed by the Municipality or the Municipality's contractor to ensure compliance with the provisions of this Agreement. The resident engineer will be the Department's representative on the project. The resident engineer will furnish the Municipality with any forms that may be needed in order to follow standard Department practices and procedures in the administration of the contract.
 - B. During construction of the project, if any changes in the sidewalk plans are necessary, such changes must be approved by the Division Engineer prior to the work beginning.
 - C. All materials incorporated into the project and workmanship performed by the contractor shall be in reasonable close conformity with the Standards and Specifications of the Department.
 - D. The Municipality shall not retain any portion of a payment due the contractor.
 - E. Prior to the final acceptance and payment by the Department, the Division Engineer shall make a final inspection of the completed work. The Division Engineer will be responsible for final acceptance of the completed work on behalf of the Department.

- F. During construction of the project, the Municipality shall provide and maintain adequate barricades, signs, signal lights, flagmen, and other warning devices for the protection of traffic in conformation with standards and specifications of the Department and the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways* published by the Federal Highway Administration.
- G. The Municipality shall complete said work within one (1) year of execution of this agreement.

FUNDING

- 7. Subject to compliance by the Municipality with the provisions set forth in this Agreement, and the availability of federal funds, the Department shall participate in the actual construction and engineering costs of the project not to exceed \$20,000. Costs which exceed this amount shall be borne by the Municipality.

- A. Upon completion of the project, the Municipality shall bill the Department for actual construction costs as herein stated by submitting an itemized invoice to the Department's Division Engineer. Reimbursement shall be made in one final payment upon receipt and approval of said itemized invoice by the Division Engineer and the Department's Financial Management Division. Said invoice must be submitted within six months of completion and acceptance of the project.

Along with each invoice, the Municipality is responsible for submitting the FFATA Recipient Information Form, which is available at

<https://connect.ncdot.gov/municipalities/Funding/Pages/default.aspx>.

- B. Force account work is only allowed when there is a finding of cost effectiveness for the work to be performed by some method other than contract awarded by competitive bidding process. Written approval from the Division Engineer is required prior to the use of force account by the Municipality. Said invoices for force account work shall show a summary of labor, labor additives, equipment, materials and other qualifying costs in conformance with the standards for allowable costs set forth in Office of Management and Budget (OMB) Circular A-87 (<http://www.whitehouse.gov/omb/circulars/default>). Reimbursement shall be based on actual cost incurred with the exception of equipment owned by the Municipality or its Project partners. Reimbursement rates for equipment owned by the Municipality or its Project partners cannot exceed the Department's rates in effect for the time period in which the work is performed.
- C. In accordance with OMB Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations" (www.whitehouse.gov/omb/circulars/a133/a133.html), dated June 27,

2003, the Federal Single Audit Act Amendments of 1996, and NCGS § 159-34, the Municipality shall arrange for an independent financial and compliance audit of its fiscal operations. The Municipality shall furnish the Department with a copy of the independent audit report within thirty (30) days of completion of the report, but not later than nine (9) months after the Municipality's fiscal year ends.

- D. The Municipality shall adhere to applicable administrative requirements of Title 49 Code of Federal Regulations, Part 18 (www.fhwa.dot.gov/legisregs/directives/fapgtoc.htm) and Office of Management and Budget (OMB) Circulars A-102 (www.whitehouse.gov/omb/circulars/index.html) "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." Reimbursement to the Municipality shall be subject to the policies and procedures contained in Title 23 Code of Federal Regulations, Part 140 and Part 172, which is being incorporated into this Agreement by reference at www.fhwa.dot.gov/legisregs/directives/fapgtoc.htm and by Office of Management and Budget (OMB) Circular A-87 (www.whitehouse.gov/omb/circulars/index.html) "Cost Principles for State, Local, and Indian Tribal Governments." Reimbursement to the Municipality shall be subject to the guidance contained in Title 2 Code of Federal Regulations, Part 170 (<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>) and Office of Management and Budget (OMB) "Federal Funding Accountability and Transparency Act" (FFATA). Said reimbursement shall also be subject to the Department being reimbursed by the Federal Highway Administration and subject to compliance by the Municipality with all applicable federal policy and procedures.
- E. The Municipality agrees that it shall bear all construction costs for which it is unable to substantiate actual costs.
- F. Any costs incurred by the Municipality prior to written notification by the Department to proceed with the work shall not be eligible for reimbursement.
- G. Failure on the part of the Municipality to comply with any of these provisions will be grounds for the Department to terminate participation in the costs of the project.

CONSTRUCTION SUBCONTRACTOR GUIDELINES

8. Any contract entered into with another party to perform work associated with the requirements of this Agreement shall contain appropriate provisions regarding the utilization of Disadvantaged Business Enterprises (DBEs), or as required and defined in Title 49 Part 26 of the Code of Federal Regulations and the North Carolina Administrative Code. These provisions are

incorporated into this Agreement by reference <https://connect.ncdot.gov/municipalities/Pages/Bid-Proposals-for-LGA.aspx>

- A. The Municipality shall not advertise nor enter into a contract for services performed as part of this Agreement, unless the Department provides written approval of the advertisement or the contents of the contract.
- B. If the Municipality fails to comply with these requirements, the Department will withhold funding until these requirements are met.

MAINTENANCE

- 9. The Municipality, at its own expense, shall be responsible for all liability and maintenance for said facility.

ADDITIONAL PROVISIONS

- 10. The Municipality shall comply with Title VI of the Civil Rights Act of 1964, (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.
- 11. It will be the responsibility of the Municipality to follow the current and/or most recent edition of references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes, as stated in this Agreement.
- 12. The Municipality shall maintain all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. Further, the Municipality shall make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of final payment under this agreement, for inspection and audit by the Department's Financial Management Division.
- 13. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.
- 14. The Municipality shall certify to the Department compliance with all applicable Federal environmental laws and regulations and ordinances and shall indemnify the Department against any fines, assessments or other penalties resulting from noncompliance by any entity performing work under contract with the Municipality.

15. The Municipality is solely responsible for all agreements, contracts, and work orders entered into or issued by the Municipality for this Project. The Department shall not be held liable by the Municipality for any expenses or obligations incurred for the Project except those specifically eligible for the federal funds and obligations as approved by the Department under the terms of this Agreement. The Department shall not reimburse the Municipality any costs that exceed the total federal funding at any time.
16. The Municipality will indemnify and hold harmless the Department, FHWA, and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns from and against any and all claims for damage and/or liability in connection with the project activities performed pursuant to this Agreement including construction of the Project. The Department shall not be responsible for any damages or claims for damages, which may be initiated by third parties.
17. All terms and conditions of this Agreement are dependent upon and subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.
18. Where either the Department or the FHWA determines that the funds paid to the Municipality for this Project are not used in accordance with the terms of this Agreement, or if the cost of work done by the Department exceed the funding award, the Department will bill the Municipality.
19. If the Municipality decides to terminate the Project without the concurrence of the Department, the Municipality shall reimburse the Department one hundred percent (100%) of all costs expended by the Department and associated with the Project.
20. By Executive Order 24, issued by Governor Perdue, and N.C. G. S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IT IS UNDERSTOOD AND AGREED that the approval of the project by the Department is subject to the conditions of this Agreement and that no expenditure of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST: CITY OF ASHEBORO
BY: _____ BY: _____
TITLE: _____ TITLE: _____
DATE: _____ DATE: _____

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by _____ of the local governing body of the City of Asheboro as attested to by the signature of Clerk _____ of said governing body on _____ (Date)

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

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

City of Asheboro

P. O. Box 1106

Asheboro, NC 27204

Attn: Mr. John Ogburn, City Manager

DEPARTMENT OF TRANSPORTATION

BY: _____
(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (DATE)



RZ-14-11 Rezone from R10 (Medium-Density Residential) to OA6 (Office-Apartment)

(H.R. Gallimore: 379 Patton Avenue)

Planning Board Recommendation and Staff Report

The applicant is requesting a continuance until the January 8, 2015 City Council meeting.

Planning Board Recommendation & Comments to City Council

NOTE: Have applicant Certify to Council mailings to all adjoining property owners.

Case # RZ-14
-11

Date 10/6/2014 PB

Applicant H.R. Gallimore

Legal Description

The property of Neale A. Kearns and John W. Kearns, located at 379 Patton Avenue, totaling approximately 3.68 acres (+/-) and more specifically identified by Randolph County Parcel Identification Number 7761510840.

Requested Action Rezone from R10 (Medium-Density Residential) to OA6 (Office-Apartment)

Existing Zone R10

Land Development Plan See Rezoning Staff
Report

Planning Board Recommendation
Approve

Reason for Recommendation

The Planning Board concurred with staff reasoning.

Planning Board Comments

Rezoning Staff Report

RZ Case # RZ-14-11

Date 10/6/2014 Planning Bd.
11/6/2014 City Council

General Information

Applicant HR Gallimore
Address 231 South Fayetteville Street
City Asheboro NC 27203
Phone 336-626-5560
Location 379 Patton Avenue
Requested Action Rezone from R10 (Medium-Density Residential) to OA6 (Office-Apartment)

Existing Zone R10
Existing Land Use Single-family residence
Size 3.68 acres
Pin # 7761510840

Applicant's Reasons as stated on application

Neighborhood in transition. Near mall. Will allow urban residential and office-institutional. Area has changed dramatically over the last few years making residential only unlikely.

Surrounding Land Use

North Office/Institutional
South Single-family residential
East Single-family residential
West Office/Single-family residential

Zoning History N/A

Legal Description

The property of Neale A. Kearns and John W. Kearns, located at 379 Patton Avenue, totaling approximately 3.68 acres (+/-) and more specifically identified by Randolph County Parcel Identification Number 7761510840.

Analysis

1. East Salisbury Street is a state-maintained minor thoroughfare at this location. Patton Avenue is a state-maintained road.
2. The area includes a mix of residential, office/institutional, commercial and industrial uses.
3. A portion of the property is outside of the city limits. New development proposed to connect to city services will require the entire tax parcel to be annexed.
4. The proposed land use map designates the northern portion of the property inside the city limits for office and institutional use. The southern portion of the property outside of the city limits is designated for urban residential use.
5. According to the Zoning Ordinance (Art. 200, Sec. 210): "The OA6 District is intended to produce moderate intensity office and residential development to serve adjacent residential areas and to provide a transition from residential to commercial uses. Land designed [sic] OA6 shall normally be located with access to a major or minor thoroughfare with access to local residential streets discouraged."
6. The pavement width of Patton Avenue is approximately 15 to 16 feet in front of the property. Depending on the specific development proposal and subject to North Carolina Department of Transportation (NCDOT) approval, the addition of a driveway(s) on Patton Avenue may require the developer to widen Patton Avenue from the proposed driveway(s) to East Salisbury Street.

Rezoning Staff Report

RZ Case # RZ-14-11

Page 2

Consistency with the 2020 LDP Growth Strategy designations

In reviewing this request, careful consideration is given to each Goal and Policy as outlined in the Land Development Plan. Some Goals and Policies will either support or will not support the request, while others will be neutral or will not apply. Only those Goals and Policies that support or do not support the request will be shown.

Growth Strategy Map Designation	Adjacent Developed
Proposed Land Use Map Designation	Office & Institutional/Urban Residential
Small Area Plan	Central

LDP Goals/Policies Which Support Request

Checklist Item #1: Rezoning is compliant with the Proposed Land Use Map.

Checklist Item #7: The proposed rezoning is compatible with the applicable Small Area Plan.

Checklist Items #12, #13, #14, and #15: 12.) Property is located outside of watershed 13.) The property is located outside of Special Hazard Flood Area. 14.) Rezoning is not located on steep slopes of greater than 20%. 15.) Rezoning is not located on poor soils

Rezoning Staff Report

RZ Case # RZ-14-11

Page 3

LDP Goals/Policies Which Do Not Support Request

Checklist Item 6: Existing infrastructure is not adequate to support the desired zone. (*water, sewer, roads, schools, etc.*). Staff Note: Depending on the type/size of the development proposed, improvements to Patton Avenue may be required to ensure access deficiencies are addressed.

Recommendation

Approve

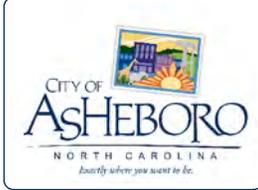
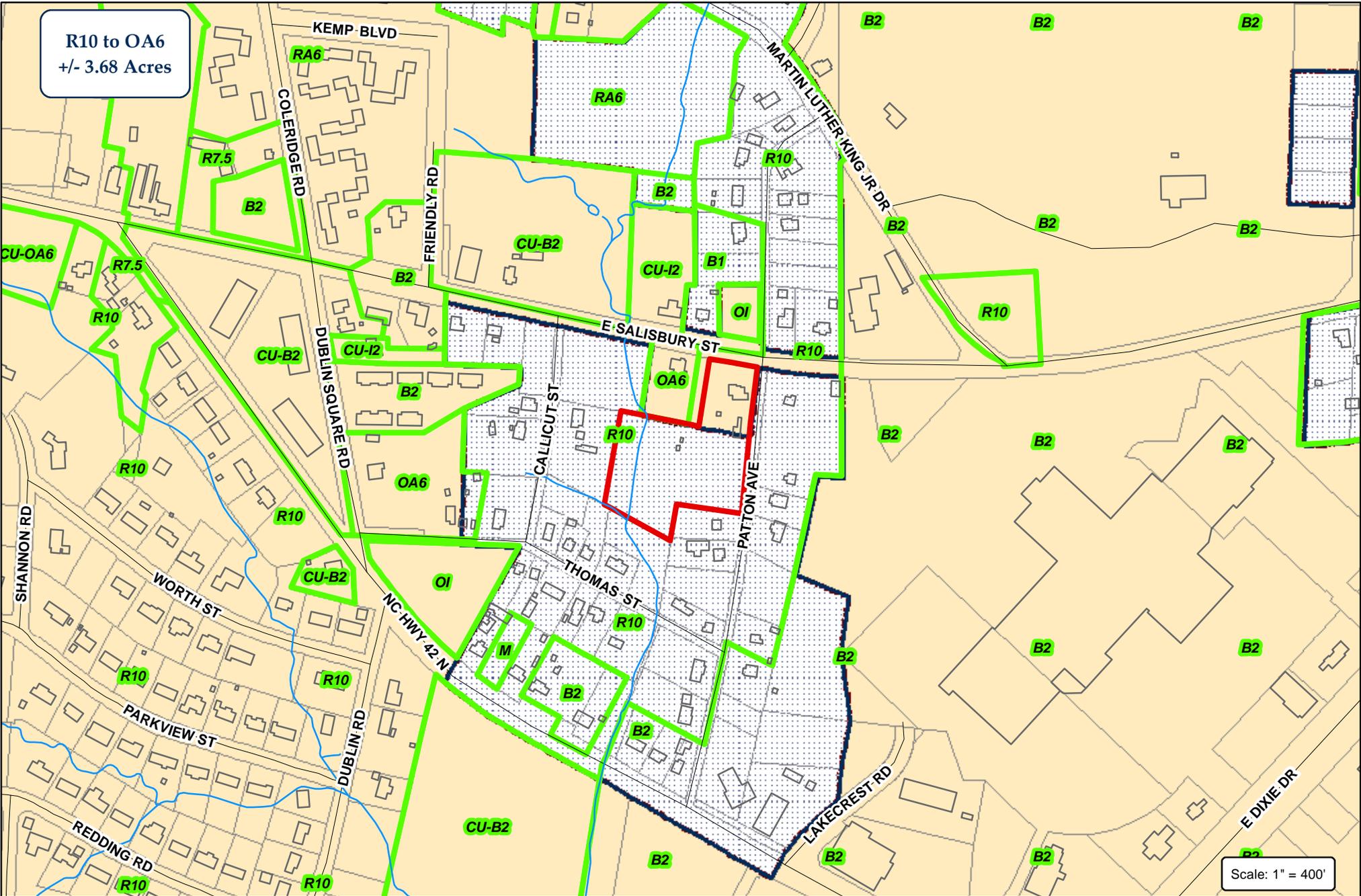
Reason for Recommendation

The request complies with the Land Development Plan proposed land use map which designates the property for office/institutional and urban residential uses, which are consistent with the uses allowed in the OA6 district. The Central Small Area Plan encourages office uses and urban residential uses in strategically designated locations. In this context, the property's proximity to other office, institutional, and commercial uses make the OA6 district appropriate for the property. Additionally, while there is concern over existing conditions on Patton Avenue, driveway permitting requirements and potential improvements required by N.C. Department of Transportation should help ensure safe traffic movements into and out of any future development.

Evaluation of Consistency with Adopted Comprehensive Plans/Reasonableness and Public Interest

Considering the above factors detailed in the recommendation above, staff believes the OA6 designation is in the public interest by allowing a reasonable use of the property and ensuring consistency with the LDP.

R10 to OA6
+/- 3.68 Acres



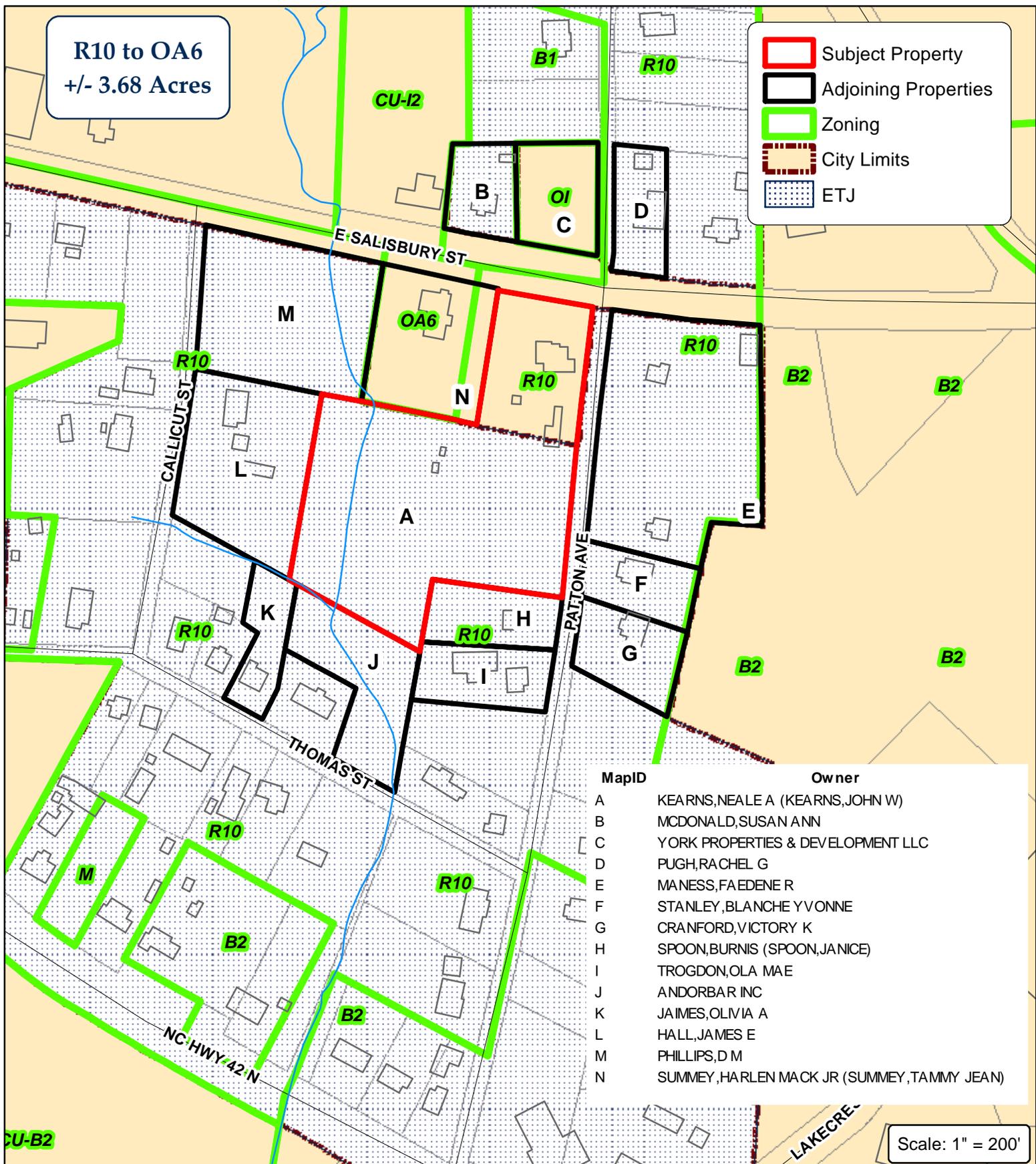
City of Asheboro
Planning & Zoning Department
Rezoning Case: RZ-14-11
Parcels: 7761510840

- Subject Property
- Zoning
- City Limits
- ETJ



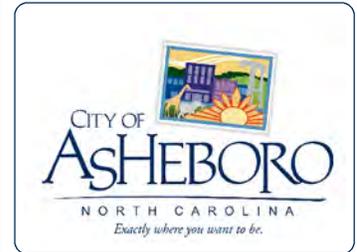
R10 to OA6
+/- 3.68 Acres

-  Subject Property
-  Adjoining Properties
-  Zoning
-  City Limits
-  ETJ



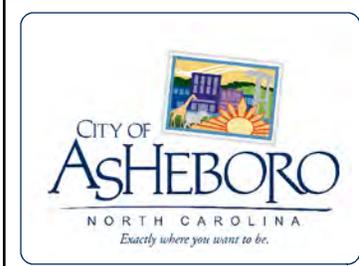
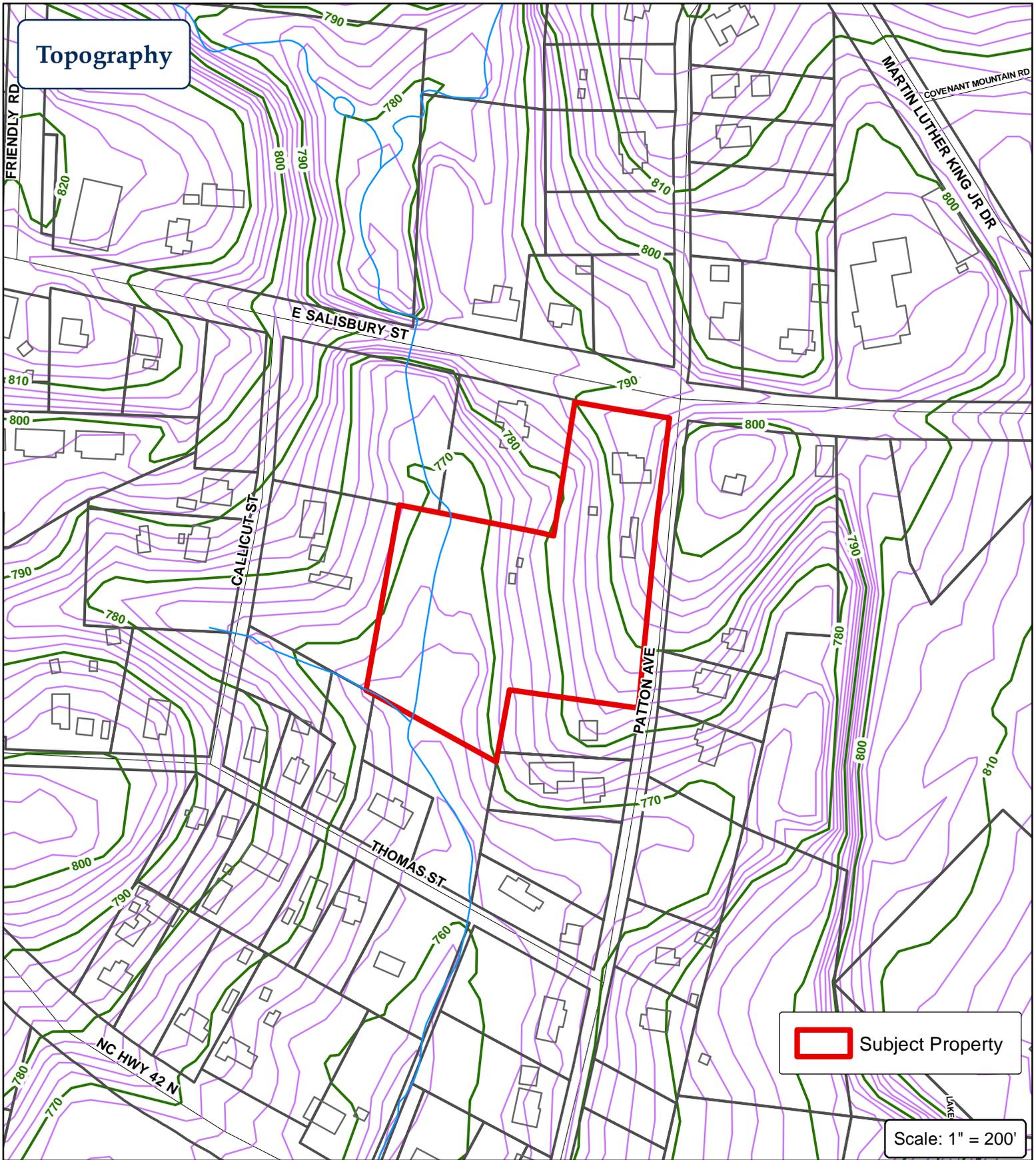
MapID	Owner
A	KEARNS, NEALE A (KEARNS, JOHN W)
B	MCDONALD, SUSAN ANN
C	YORK PROPERTIES & DEVELOPMENT LLC
D	PUGH, RACHEL G
E	MANESS, FAEDENE R
F	STANLEY, BLANCHE YVONNE
G	CRANFORD, VICTORY K
H	SPOON, BURNIS (SPOON, JANICE)
I	TROGDON, OLA MAE
J	ANDORBAR INC
K	JAIMES, OLIVIA A
L	HALL, JAMES E
M	PHILLIPS, D M
N	SUMMEY, HARLEN MACK JR (SUMMEY, TAMMY JEAN)

Scale: 1" = 200'



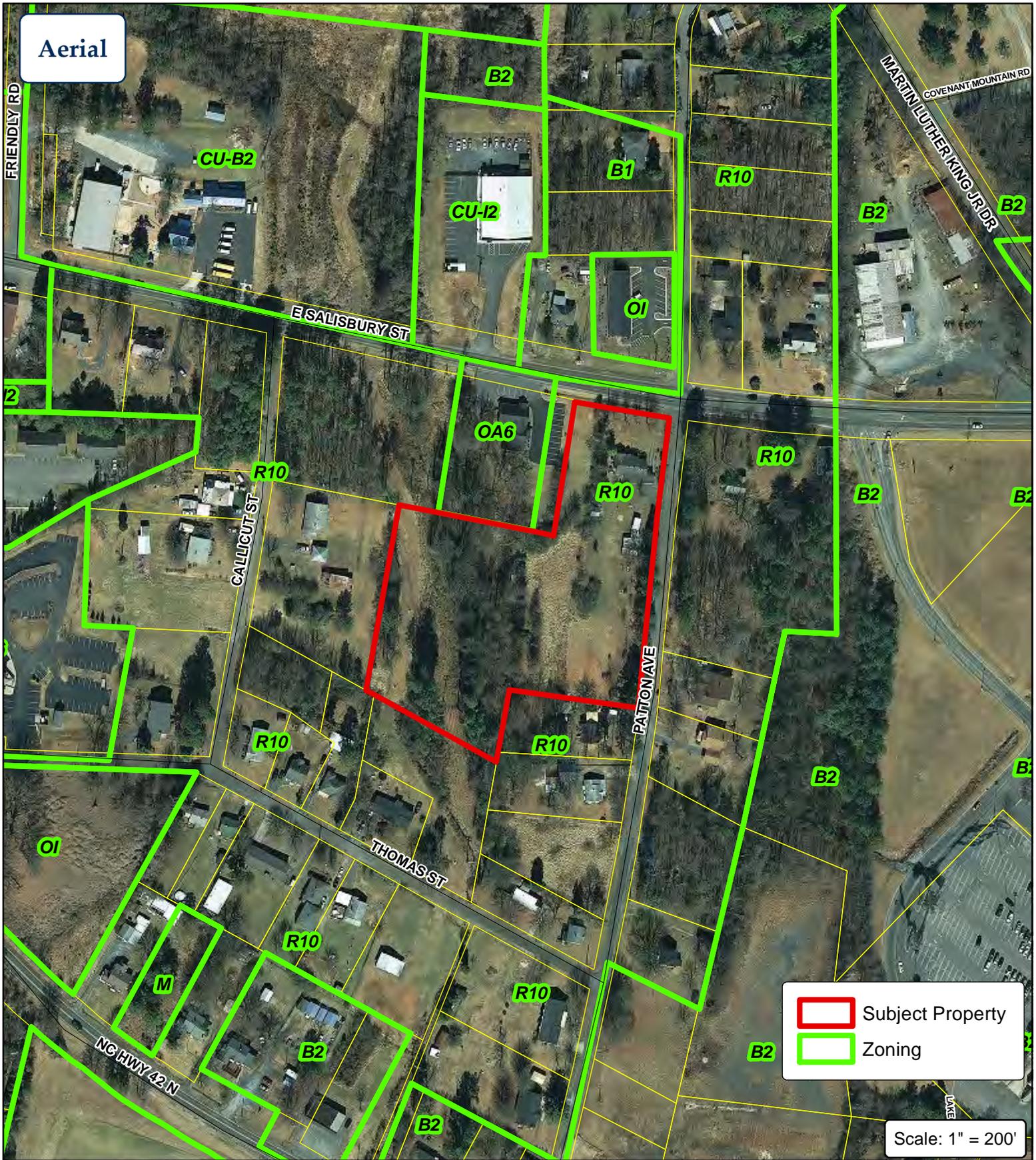
City of Asheboro
Planning & Zoning Department
Rezoning Case: RZ-14-11
Parcels: 7761510840





City of Asheboro
Planning & Zoning Department
Rezoning Case: RZ-14-11
Parcels: 7761510840





City of Asheboro
Planning & Zoning Department
Rezoning Case: RZ-14-11
Parcels: 7761510840





RZ-14-14 Rezone from R7.5 (Medium-Density Residential) and RA6 (High-Density Residential) to O & I (Office-Institutional)

(Walker Eye Care, LLC (c/o Ben C. Morgan, Esq.): 520 Greensboro Street)

Planning Board Recommendation and Staff Report

The applicant is requesting a continuance until the January 8, 2015 City Council meeting.

Planning Board Recommendation & Comments to City Council

NOTE: Have applicant Certify to Council mailings to all adjoining property owners.

Case # RZ-14
-14

Date 11-3-2014 Planning
Board

Applicant Walker Eye Care, LLC (c/o Attorney Ben C. Morgan)

Legal Description

The property of Yvonne Hill Parks and Gwendolyn Hill Morris, located at 520 Greensboro Street, totaling approximately 0.83 acres (+/-) and more specifically defined by Randolph County Parcel Identification Numbers 7751957367 and 7751957445.

Requested Action Rezone from R7.5 (Medium-Density Residential) and RA6 (High Density Residential) to O&I (Office-Institutional)

Existing Zone R7.5/RA6

Land Development Plan See staff report

Planning Board Recommendation

Deny (6-1 vote)

Reason for Recommendation

The Planning Board concurred with staff reasoning.

Planning Board Comments

Rezoning Staff Report

RZ Case # RZ-14-14

Date 11/3/2014 Planning Board
12/4/2014 City Council

General Information

Applicant Walker Eye Care, LLC (c/o Attorney Ben C. Morgan)
Address 150A Scarboro Street
City Asheboro NC 27203
Phone 336-629-7000
Location 520 Greensboro Street
Requested Action Rezone from R7.5 (Medium-Density Residential) and RA6 (High Density Residential) to O&I (Office-Institutional)

Existing Zone R7.5/RA6

Existing Land Use Single-family residence (vacant)

Size 0.83 acres (+/-)

Pin # 7751957367 and 7751957445

Applicant's Reasons as stated on application

There are no alleged errors in the existing Ordinance. The nature of development on Greensboro Street has evolved from primarily residential to office and institutional development. By allowing for the rezoning of the property to office and institutional use the City will be utilizing space that has clearly changed in nature from residential a more commercial nature. By allowing the rezoning the City will be able to enforce the requirements outlined by the Ordinance for the new classification. The property is currently unoccupied and is in need of a substantial amount of repair.

Surrounding Land Use

North Health Practitioner/Pharmacy

East Congregate Living Facility/Single-family dwelling

South Single and Two Family dwellings

West Single family/Health Practitioner

Zoning History A tree had fallen through the roof, resulting in significant damage. A code enforcement case related to damage from the tree was opened in April, 2014, and has since been abated.

Legal Description

The property of Yvonne Hill Parks, Gwendolyn Hill Morrison, Rico Eftson, Lakish Hill, Latoya Carter, and Shante Hoskins, located at 520 Greensboro Street, totaling approximately 0.83 acres (+/-) and more specifically identified by Randolph County Parcel Identification Numbers 7751957367 and 7751957445.

Analysis

1. The property is within the city limits and all city services are available.
2. Greensboro Street is a city-maintained minor thoroughfare at this location.
3. There is currently a vacant single-family structure on the property.
4. The majority of the property is zoned R7.5. A small portion (approximately 0.10 acres) is zoned RA6.
5. The area is characterized by a mix of uses, including single-family residential and office-institutional uses.
6. There have been several rezonings along Greensboro Street in recent years. These rezonings to allow office uses have provided a transition between the more intensive commercial nature of North Fayetteville Street and the residential areas east of Greensboro Street.
7. The Comprehensive Transportation Plan recommends sidewalk construction along Greensboro Street to tie existing sidewalks together. There is a developing sidewalk network in the area of the subject property. In order for a sidewalk to be mandated by the general requirements of the zoning ordinance, a minimum of eight and a half (8.5) feet of right-of-way between the back of the curb and front property line must exist. This property appears to have less than five (5) feet of right-of-way width between the back of the curb and front property line.

Rezoning Staff Report

RZ Case # RZ-14-14

Page 2

Consistency with the 2020 LDP Growth Strategy designations

In reviewing this request, careful consideration is given to each Goal and Policy as outlined in the Land Development Plan. Some Goals and Policies will either support or will not support the request, while others will be neutral or will not apply. Only those Goals and Policies that support or do not support the request will be shown.

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

LDP Goals/Policies Which Support Request

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

Checklist Item 5: The proposed rezoning is compliant with the objectives of the Growth Strategy Map.

Checklist Item 8. The request is an adaptive reuse of a vacant or unused lot, or is an infill lot.

Checklist Items 12, 13, 14, and 15: 12.) Property is located outside of watershed 13.) The property is located outside of Special Hazard Flood Area. 14.) Rezoning is not located on steep slopes of greater than 20%. 15.) Rezoning is not located on poor soils

Rezoning Staff Report

RZ Case # RZ-14-14

Page 3

LDP Goals/Policies Which Do Not Support Request

Checklist Item 1: Rezoning is not compliant with the Proposed Land Use Map.

Checklist Item 10: Rezoning is not consistent with Land Category Descriptions

Checklist Item 11: Rezoning will not promote the type of development described in Design Principles

Recommendation

Deny

Reason for Recommendation

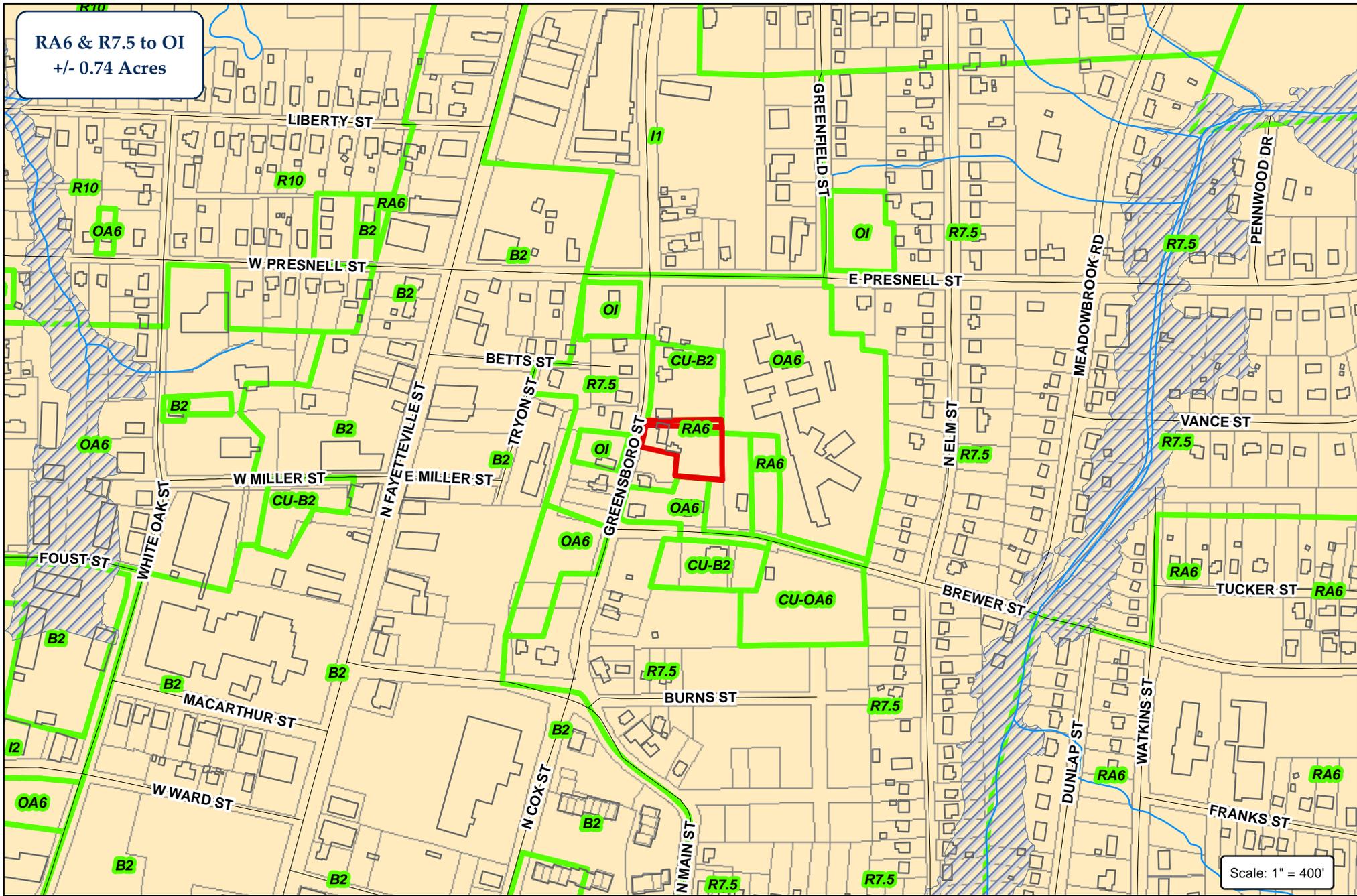
There are a number of Land Development Plan (LDP) goals and policies supporting the request. The O&I district can be an appropriate transition between commercial and residential uses. The area in which the subject property is located has become increasingly transitional with offices (particularly medical) interspersed with residences.

However, several LDP goals and policies do not support the request. The proposed land use map designates the property for neighborhood residential use, and while staff agrees with the applicant that the area is undergoing an evolution from residential uses to office and institutional uses, the proximity of the adjoining residence to the south raises compatibility questions. Additionally, the city's adopted Comprehensive Transportation Plan adopted earlier this year identifies a goal of expanding the sidewalk network, including along Greensboro Street, especially when connecting a mix of land uses. The ability to ensure both compatibility and inclusion of appropriate pedestrian infrastructure becomes impractical without the ability to review a site plan as part of the rezoning application.

Evaluation of Consistency with Adopted Comprehensive Plans/Reasonableness and Public Interest

After considering the above factors, staff believes the existing RA6 and R7.5 zoning designation will allow a reasonable use of the property and ensure consistency with the Land Development Plan and Comprehensive Transportation Plan.

RA6 & R7.5 to OI
+/- 0.74 Acres



City of Asheboro
Planning & Zoning Department
Rezoning Case: RZ-14-14
Parcels: 7751957367 & 7751957445

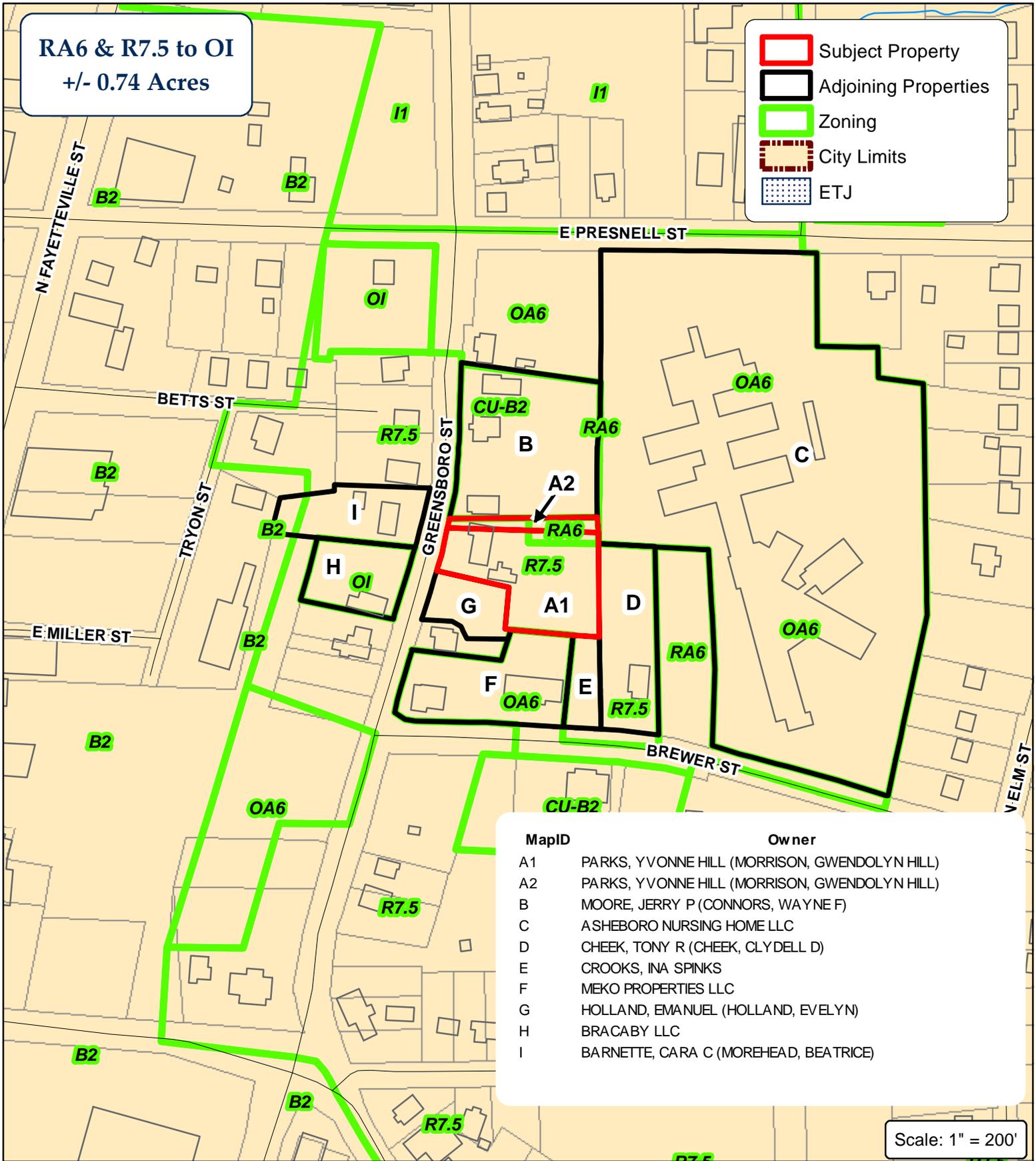
- Subject Property
- Zoning
- City Limits
- ETJ



RA6 & R7.5 to OI
 +/- 0.74 Acres

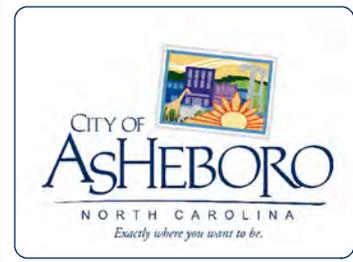
Legend

-  Subject Property
-  Adjoining Properties
-  Zoning
-  City Limits
-  ETJ



MapID	Owner
A1	PARKS, YVONNE HILL (MORRISON, GWENDOLYN HILL)
A2	PARKS, YVONNE HILL (MORRISON, GWENDOLYN HILL)
B	MOORE, JERRY P (CONNORS, WAYNE F)
C	ASHEBORO NURSING HOME LLC
D	CHEEK, TONY R (CHEEK, CLYDELL D)
E	CROOKS, INA SPINKS
F	MEKO PROPERTIES LLC
G	HOLLAND, EMANUEL (HOLLAND, EVELYN)
H	BRACABY LLC
I	BARNETTE, CARA C (MOREHEAD, BEATRICE)

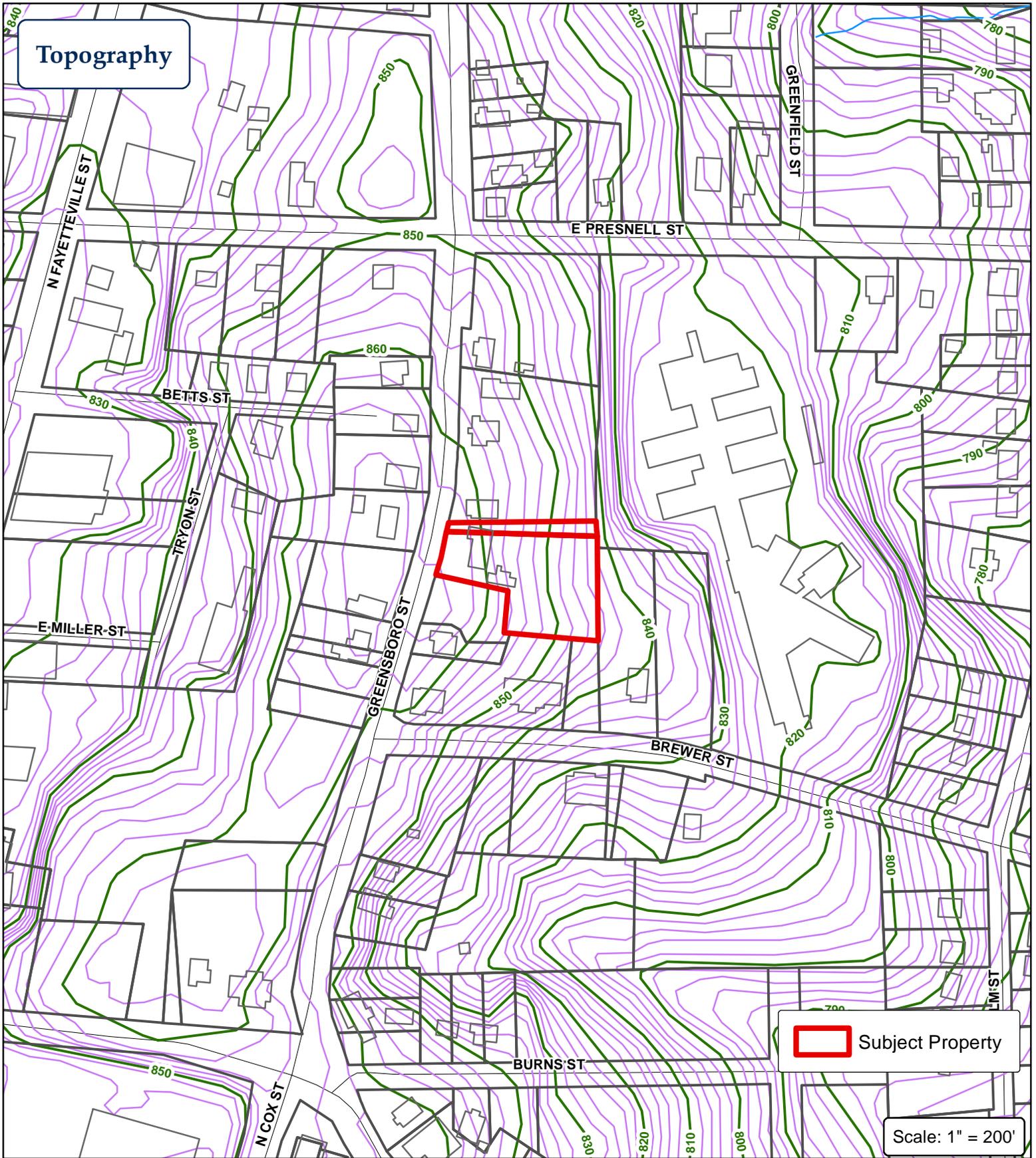
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City of Asheboro
Planning & Zoning Department
Rezoning Case: RZ-14-14
Parcels: 7751957367 & 7751957445

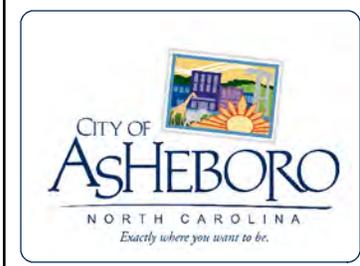


Topography



 Subject Property

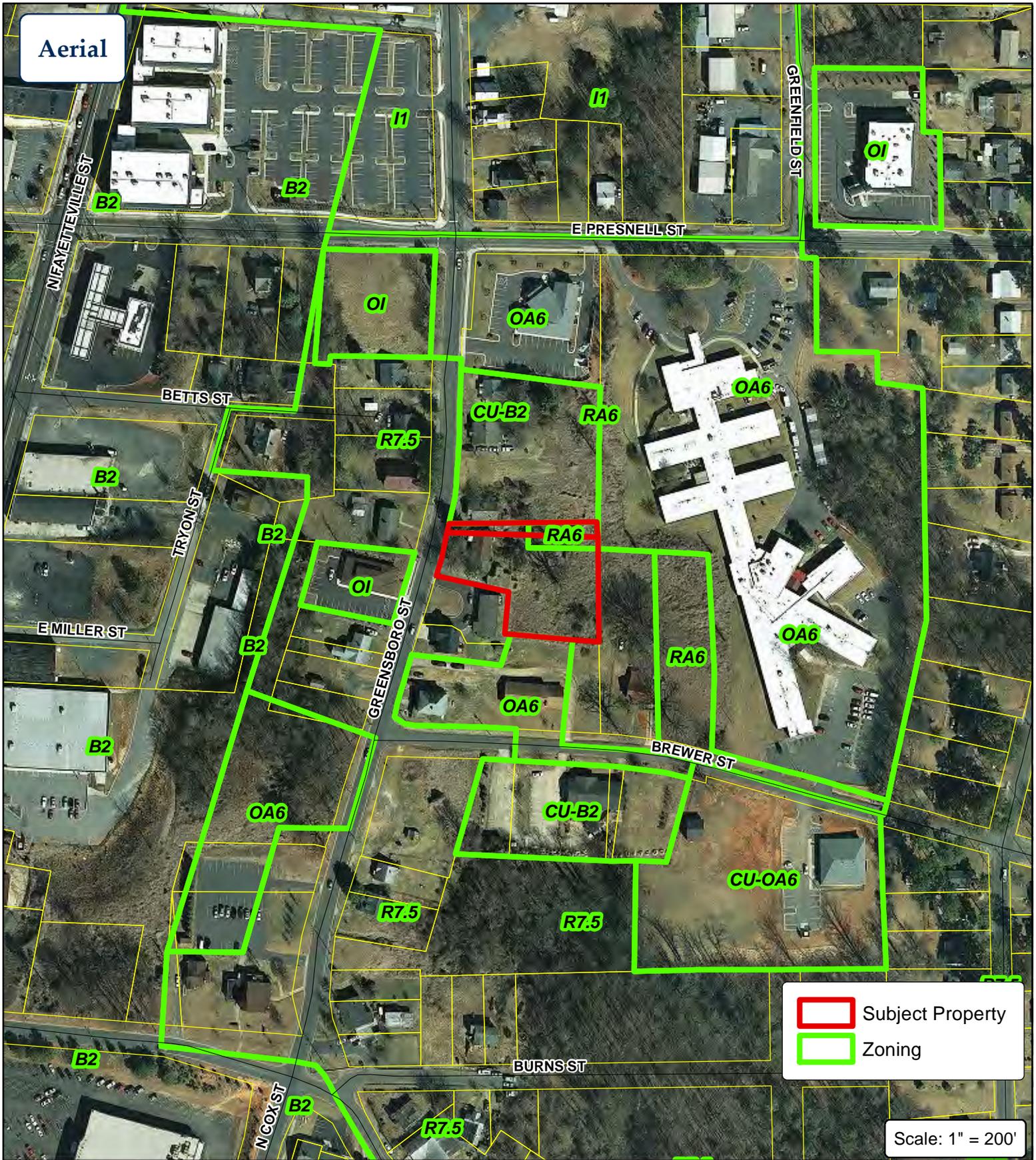
Scale: 1" = 200'



City of Asheboro
Planning & Zoning Department
Rezoning Case: RZ-14-14
Parcels: 7751957367 & 7751957445



Aerial



 Subject Property
 Zoning

Scale: 1" = 200'



City of Asheboro
Planning & Zoning Department
Rezoning Case: RZ-14-14
Parcels: 7751957367 & 7751957445



RESOLUTION SUPPORTING THE RENOVATION OF A BUILDING IN ASHEBORO FOR THE PROPOSED RANDOLPH COUNTY SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS' COMMUNITY ADOPTION CENTER AND AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE NORTH CAROLINA DEPARTMENT OF COMMERCE FOR FUNDING

WHEREAS, the City of Asheboro acknowledges the need to provide community-based and compassionate solutions to address pet overpopulation and promote responsible pet ownership; and

WHEREAS, the Randolph County Society for the Prevention of Cruelty to Animals (hereinafter referred to as "RSPCA") proposes to provide programs to the community, including without limitation low or no-cost spay and neuter services, educational series for students covering bite prevention and guidelines for properly caring for pets that are designed to impact in a positive and meaningful manner the goal of improving the quality of life of the community's animals and their caretakers; and

WHEREAS, RSPCA has purchased a facility at 300 West Bailey Street in Asheboro that, with appropriate renovations, can accommodate the necessary programming to achieve the above-stated goal through its conversion from a former manufacturing facility to an attractive, durable, and environmentally friendly adoption center; and

WHEREAS, the services that will be facilitated by the proposed renovation of the existing building will enable RSPCA to create ten (10) full-time jobs; and

WHEREAS, RSPCA has committed itself to renovating and repurposing the former industrial building by undertaking fundraising efforts to help pay for the estimated \$245,000 building rehabilitation project; and

WHEREAS, the Asheboro City Council is willing to assist RSPCA in obtaining grant funding that can bring the proposed Community Adoption Center to reality; and

WHEREAS, one of the potential sources of grant funding that has been identified for this project is the Building Reuse Program undertaken by the North Carolina Department of Commerce with the design to spur economic activity and job growth; and

WHEREAS, the City of Asheboro as an eligible applicant (an eligible applicant is defined as a unit of government located in a Tier 2 County) may apply for grant funding under the Building Reuse Program in an amount that does not exceed five thousand dollars (\$5,000) per job created; and

WHEREAS, based on the formula stated in the immediately preceding recital, the City Council wishes to proceed with an application for grant funding through the Building Reuse Program in the total amount of fifty thousand dollars (\$50,000);

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the City Council supports the Randolph County Society for the Prevention of Cruelty to Animals' project to renovate the existing building at 300 West Bailey Street and convert this former industrial building into a Community Adoption Center that will enable RSPCA to provide community-based and compassionate solutions to address pet overpopulation and promote responsible pet ownership in Asheboro and Randolph County; and

BE IT FURTHER RESOLVED, by the City Council of the City of Asheboro that the City of Asheboro's financial commitment to the project will satisfy the Building Reuse Program Grant requirement that the applicant provide a cash match of five percent (5%) of the grant request toward the building renovation project; and

BE IT FURTHER RESOLVED that the Mayor and the city's appointed officials are hereby authorized to execute the legal instruments required by the North Carolina Department of Commerce to successfully complete the grant application process prescribed for the Building Reuse Program.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 4th day of December, 2014.

David H. Smith, Mayor

ATTEST:

Holly H. Doerr, CMC, NCCMC, City Clerk

ORDINANCE NUMBER _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

NONRESIDENTIAL BUILDING MAINTENANCE CODE

WHEREAS, Section 160A-439 of the North Carolina General Statutes enables the City Council to adopt ordinances that establish minimum standards of maintenance, safety, and sanitation for nonresidential buildings or structures; and

WHEREAS, the above-referenced minimum standards are to be limited to addressing conditions that are dangerous and injurious to public health, safety, and welfare, and these standards are to identify circumstances under which a public necessity exists for the repair, closing, or demolition of dilapidated nonresidential buildings; and

WHEREAS, staff members in the city’s community development division have recommended consideration of the adoption of a maintenance code for nonresidential buildings or structures located within the corporate limits of the City of Asheboro, and the Asheboro City Council previously responded to this recommendation by adopting Resolution Number 39 RES 11-14 on November 6, 2014; and

WHEREAS, pursuant to Resolution Number 39 RES 11-14, a public hearing on the question of whether to adopt such a maintenance code for nonresidential buildings or structures was advertised and then conducted by the Asheboro City Council during a regular meeting held on the 4th day of December, 2014; and

WHEREAS, based on a review of the information presented during the public hearing held on December 4, 2014, the Asheboro City Council has concluded that a nonresidential building or structure maintenance code should be adopted for the City of Asheboro;

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

SECTION 1. A new Chapter 152 of the Code of Asheboro is hereby enacted to provide as follows:

CHAPTER 152: ~~(RESERVED)~~

CHAPTER 152: NONRESIDENTIAL BUILDING MAINTENANCE CODE

§ 152.01 TITLE.

This Chapter shall be known and may be cited and referred to as the “Nonresidential Building Maintenance Code.”

§ 152.02 **PURPOSE.**

Pursuant to and in accordance with the enabling legislation found in G.S. § 160A-439, this Chapter is enacted for the purpose of protecting the health, safety, and welfare of the city and its citizens by establishing minimum standards of maintenance, sanitation, and safety for nonresidential buildings or structures. Furthermore, this Chapter identifies the circumstances under which a public necessity exists for the repair, closing, or demolition of nonresidential buildings or structures that are dangerous to the public health, safety, and welfare.

§ 152.03 **DEFINITIONS.**

When used in this Chapter, the following words and terms shall, unless the context clearly indicates or requires a different meaning, be defined as follows:

(A) Basic structural elements. The parts of a building which provide the principal strength, stability, integrity, shape, and safety of the building, including but not limited to plates, studs, joists, rafters, stringers, stairs, sub-flooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry, and all other essential components.

(B) Building. Any structure, place, or any other construction built for the shelter or enclosure of persons, animals, chattels, or property of any kind or any part of such structure, shelter, or property.

(C) City Enforcement Officer. The City of Asheboro Chief Building Inspector or the City of Asheboro Code Enforcement Officer.

(D) Nonresidential. Any building or portion of a building occupied or intended to be occupied, in whole or in part, for a use other than a dwelling, home, residing place, living space, or sleeping space for one or more human beings, either permanently or transiently.

(E) Occupant. Any person who is a tenant or has actual possession of a nonresidential building or part thereof.

(F) Operator. Any person who has charge, care, or control of a nonresidential building or part thereof.

(G) Owner. Any person who alone or jointly and severally with others shall have:

(1) Title in fee simple to any nonresidential building, with or without accompanying actual possession thereof; or

(2) Charge, care, or control of any nonresidential building as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any person thus representing the actual owner shall be bound to comply with the provisions of this Chapter, and with any rules,

regulations, and orders adopted pursuant thereto, to the same extent as if he or she were the owner.

(H) *Parties in interest.* All individuals, associations, and corporations who have interests of record in a nonresidential building and any who are in possession thereof.

(I) *Premises.* Any lot or parcel of land inclusive of any building or improvements located thereon.

(J) *Safe.* A condition that is not likely to do harm to humans or to real or personal property.

(K) *Structurally sound.* Substantially free from flaw, defect, decay, or deterioration to the extent that the building or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

(L) *Structure.* Anything constructed or placed upon a property which is supported by the ground or which is supported by another structure, except a currently operable licensed vehicle.

(M) *Unsafe.* A condition which is reasonably likely to do harm to humans or to real or personal property if not corrected or stopped.

(N) *Vacant industrial warehouse.* Any building designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one (1) year and has not been converted to another use.

(O) *Vacant manufacturing facility.* Any building previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one (1) year and has not been converted to another use.

§ 152.04 APPLICABILITY AND COMPLIANCE.

(A) The provisions of this Chapter shall apply to all nonresidential buildings which are now in existence or which may be built within the corporate limits of the city.

(B) Every nonresidential building and the premises on which such a building is situated shall comply with the provisions of this Chapter, whether or not the building shall have been constructed, altered, or repaired before or after the enactment of this Chapter, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or for the installment or repair of equipment or facilities. This Chapter establishes minimum standards for all nonresidential buildings and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building or the equipment/facilities contained therein.

§ 152.05 MAINTENANCE STANDARDS FOR NONRESIDENTIAL BUILDINGS.

(A) All nonresidential buildings shall be free of all conditions that are dangerous and injurious to the public health, safety, and welfare of occupants or members of the general public.

(B) Without limitation of the foregoing requirement, the existence of any of the following conditions shall be deemed tube dangerous to the public health, safety, and welfare:

- (1) Interior walls, vertical studs, partitions, supporting members, sills, joists, rafters, or other basic structural members that list, lean, or buckle to such an extent as to render the building unsafe; that are rotted, deteriorated, or damaged; and that have holes or cracks which might admit rodents;
- (2) Exterior walls that are not structurally sound, free from defects and damages, and capable of bearing imposed loads safely. Where a wall of a building has become exposed as a result of the demolition of an adjacent building, the exposed wall must be painted, stuccoed, or bricked and sufficiently weatherproofed to prevent deterioration of the wall;
- (3) Floors or roofs which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used. Floors or roofs must have adequate supporting members and strength to be reasonably safe for the purpose used. Roofs must be kept structurally sound and must be maintained in such a manner so as to prevent rain or other objects from penetrating into the interior of the building;
- (4) Such damage by fire, wind, or other causes as to render the building unsafe;
- (5) Dilapidation, decay, unsanitary conditions, or disrepair that is dangerous to the health and safety of the occupants or members of the general public;
- (6) Lack of adequate ventilation, light, heating, or sanitary facilities to such an extent as to endanger the health, safety, or general welfare of the occupants or members of the general public;
- (7) Buildings, including their environs, with an accumulation of garbage, trash, or rubbish that creates health and sanitation problems. All garbage and solid waste must be in approved containers or stored in a safe and sanitary manner;
- (8) Buildings with loose and insufficiently anchored overhanging objects that pose a danger of falling on persons or property;
- (9) Buildings, including their environs, that have insufficiently protected holes, excavations, breaks, projections, obstructions, and other such dangerous impediments on and around walks, driveways, parking lots, alleyways, and other areas that are accessible to and generally used by persons on or around the premises;
- (10) Buildings and structures that have cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic, or other objects/materials existing in such quantities and/or configurations as to create dangerous or hazardous conditions;
- (11) Buildings with objects and elements protruding from walls or roofs that are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets, and similar objects;
- (12) Chimneys, flues, and vent attachments thereto that are not structurally sound. Chimneys, flues, gas vents, or other draft-producing equipment that are in use must provide sufficient draft to develop the rated output of the connected

- equipment and must be structurally safe, durable, smoke-tight, and capable of withstanding the action of flue gases;
- (13) Exterior porches, landings, balconies, stairs, or fire escapes that are not structurally sound. All exterior porches, landings, balconies, stairs, and fire escapes must be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same must be kept sound, in good repair, and free of defects;
 - (14) Cornices that are not structurally sound. Rotten or weakened portions must be repaired and/or replaced. Exposed wood must be treated or painted;
 - (15) Improperly attached gutters or down-spouts that are located so as to cause a hazard to pedestrian, vehicular traffic, or adjacent property;
 - (16) Advertising sign structures, attached or freestanding awnings, marquees and their supporting members, and other similar attachments and structures that cause a safety hazard to the occupants or members of the general public;
 - (17) Exterior surfaces that may cause unsafe conditions due to a lack of maintenance. Exterior surfaces must be painted or sealed in order to protect the underlying surface from deterioration. All exterior surfaces that have been painted must be maintained generally free of peeling and flaking. Where 50% or more of the aggregate of any painted surface has peeling or flaking or previous paint worn away, the entire surface must be properly prepped, repainted, or otherwise clad in order to prevent further deterioration;
 - (18) Windows containing broken or cracked glass that could be in danger of falling or shattering. All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints, or broke nor loose mullions;
 - (19) Openings originally designed as windows, doors, loading docks, or other means of egress or ingress that have been temporarily closed by boarding or in some other manner that is non-secure and allows unauthorized admittance. If an opening is temporarily closed by boarding to secure the building or structure, the boarding must be trim fit, sealed to prevent water intrusion, and painted or stained to properly conform to the other exterior portions of the building. The building must be maintained in a state that secures the building from any unauthorized admittance from humans, animals, or birds; and
 - (20) Any combination of conditions that in the judgment of the City Enforcement Officer renders a building dangerous or injurious to the health, safety, or general welfare of occupants or members of the general public.

(C) When any of the conditions listed in Division (B) of this Section are found by the City Enforcement Officer to exist in connection with a nonresidential building located within the City of Asheboro, a public necessity exists for the repair, closing, or demolition of the building, and such conditions must be corrected in accordance with the provisions of this Chapter.

§ 152.06 DUTIES OF THE CITY ENFORCEMENT OFFICER.

(A) The City Enforcement Officer is hereby designated as the public officer to enforce the provisions of this Chapter and to exercise the duties and powers herein prescribed.

(B) It shall be the duty of the City Enforcement Officer:

- (1) To carry out the objectives of this Chapter by inspecting and investigating the conditions of nonresidential buildings located in the city in order to determine which nonresidential buildings reflect a lack of adequate maintenance that, in turn, jeopardizes the health and safety of the building's occupants or members of the general public;
- (2) To take such action, together with other appropriate departments, agencies, and public or private entities, as may be necessary to effect the repair or demolition of nonresidential buildings that have not been properly maintained in compliance with the minimum standards established by this Chapter;
- (3) To keep a record of the results of inspections made under this Chapter and an inventory of those nonresidential buildings that have not been properly maintained in compliance with the minimum standards established by this Chapter; and
- (4) To perform such other duties as may be herein prescribed.

§ 152.07 POWERS OF CITY ENFORCEMENT OFFICER.

The City Enforcement Officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Chapter, including the following powers in addition to others herein granted:

- (A) To investigate nonresidential buildings located within the city to determine whether they have been properly maintained in compliance with the minimum standards established by this Chapter so that the safety and health of the occupants and members of the general public are not jeopardized;
- (B) To administer oaths and affirmations, examine witnesses, and receive evidence;
- (C) To enter upon premises for the purpose of making examinations and inspections, provided that the entries shall be made in accordance with all applicable Constitutional protections, statutes, ordinances, and regulations and in such a manner as to cause the least possible inconvenience to the persons in possession; and
- (D) To appoint and designate the duties of such officers, agents, and employees as the City Enforcement Officer deems necessary to carry out the purposes of this Chapter.

§ 152.08 INSPECTIONS.

- (A) For the purpose of making inspections, the City Enforcement Officer is hereby authorized to enter, examine, and survey, at all reasonable times, nonresidential buildings.
- (B) If entry upon the premises for purposes of investigation is necessary, the entry shall be made pursuant to a duly issued administrative search warrant that is obtained and served in

accordance with G.S. § 15-27.2 or with the permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

§ 152.09 **PROCEDURE FOR ENFORCEMENT.**

(A) Preliminary investigation. Whenever it appears to the City Enforcement Officer that a nonresidential building has not been properly maintained and that the safety or health of the building's occupants or members of the general public is jeopardized due to the failure of the property to meet the minimum standards established by this Chapter, the City Enforcement Officer shall undertake a preliminary investigation.

(B) Complaint and hearing. If the preliminary investigation of a nonresidential building discloses evidence of a violation of the minimum standards established by this Chapter, the City Enforcement Officer shall issue and cause a complaint to be served upon the owner and the parties in interest identified during the investigation of the nonresidential building. The complaint shall state the charges and contain a notice that a hearing will be held before the City Enforcement Officer at a place and time on a date specified within the notice, the said hearing date shall not be less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and to give testimony at the place and time specified in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the City Enforcement Officer.

(C) Procedure after hearing.

- (1) If, after notice and hearing, the City Enforcement Officer determines that the nonresidential building has been maintained so as to meet the minimum standards established by this Chapter, the City Enforcement Officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof a copy of the determination.
- (2) If, after notice and hearing, the City Enforcement Officer determines that the nonresidential building has not been properly maintained and, consequently, the safety or health of the building's occupants or members of the general public is jeopardized by the failure of the property to meet the minimum standards established by this Chapter, the City Enforcement Officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order in accordance with the provisions of divisions (C)(3) and (C)(4) of this Section and subject to the limitations set forth in § 152.10 and § 152.11.
- (3) If the City Enforcement Officer determines that the cost of repair, alteration, or improvement of the building would not exceed 50% of the building's then current value, then the City Enforcement Officer shall state in writing the findings of fact in support of the determination and issue an order that requires the owner, within a reasonable time period that shall be no less than sixty (60) days and that shall be clearly stated in the order, to either: repair, alter, or improve the nonresidential

building in order to bring the building into compliance with the minimum standards established by this Chapter; or vacate and close the nonresidential building for any use.

- (4) If the City Enforcement Officer determines that the cost of repair, alteration, or improvement of the building would exceed 50% of the building's then current value, then the City Enforcement Officer shall state in writing the findings of fact in support of the determination and issue an order that requires the owner, within a reasonable time period that shall be no less than sixty (60) days and that shall be clearly stated in the order, to either: repair, alter, or improve the nonresidential building in order to bring the building into compliance with the minimum standards established by this Chapter; or to remove or demolish the nonresidential building.

(D) *Failure to comply with order and subsequent action to be taken.*

- (1) If the owner fails to comply with an order to repair, alter, or improve the nonresidential building or, alternatively, vacate and close the nonresidential building, the City Enforcement Officer shall submit to the City Council an ordinance ordering the City Enforcement Officer to either cause the nonresidential building to be repaired, altered, or improved in order to bring the building into compliance with the minimum standards established by this Chapter or to cause the building to be vacated and closed for any use. The property shall be described in the ordinance. If the City Council adopts the ordinance, the City Enforcement Officer shall cause the building to be repaired, altered, or improved or to be vacated and closed for any use.
- (2) If the owner fails to comply with an order to repair, alter, or improve the nonresidential building or, alternatively, to remove or demolish the building, the City Enforcement Officer shall submit to the City Council an ordinance ordering the City Enforcement Officer to cause the nonresidential building to be removed or demolished. No ordinance shall be adopted to require removal or demolition of a nonresidential building until the owner has first been given a reasonable opportunity to bring the building into conformity with the minimum standards established by this Chapter. The property shall be described in the ordinance. If the City Council adopts the ordinance, the City Enforcement Officer shall cause the building to be removed or demolished.

§ 152.10 **LIMITATIONS ON ORDERS AND ORDINANCES; HISTORIC LANDMARK OR HISTORIC DISTRICT.**

Notwithstanding any other provision of this Chapter, if the nonresidential building is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the City Council determines, after a public hearing, that the nonresidential building is of individual significance or contributes to maintaining the character of the district, and the nonresidential building has not been condemned as unsafe, an order issued by the City Enforcement Officer pursuant to § 152.09(C) and an ordinance approved by the City Council

pursuant to § 152.09(D) may only require that the nonresidential building be vacated and closed until it is brought into compliance with the minimum standards established by this Chapter.

§ 152.11 **LIMITATIONS ON ORDERS AND ORDINANCES; VACANT MANUFACTURING FACILITY OR VACANT INDUSTRIAL WAREHOUSE.**

Notwithstanding any other provision of this Chapter, an order issued by the City Enforcement Officer pursuant to § 152.09(C) and an ordinance approved by the City Council pursuant to § 152.09(D) may not require repairs, alterations, or improvements to be made to a vacant manufacturing facility or a vacant industrial warehouse to preserve the original use. The order and ordinance may require the building to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building closed for any use.

§ 152.12 **VACATED AND CLOSED NONRESIDENTIAL BUILDINGS.**

(A) If the City Enforcement Officer has issued an order and the City Council has adopted an ordinance requiring a nonresidential building to be repaired, altered, or improved or, alternatively, to be vacated and closed, and the building has been vacated and closed for a period of two (2) years pursuant to the order and/or ordinance, then if the City Council finds that the owner has abandoned the intent and purpose to repair, alter, or improve the building and that the continuation of the building in its vacated and closed status would be inimical to the health, safety, and welfare of the city in that the building would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area, then the City Council may, after the expiration of the two-year period, adopt an ordinance and serve the ordinance on the owner setting forth the following:

- (1) The ordinance shall require that the owner repair, alter, or improve the nonresidential building in order to bring the building into compliance with the minimum standards established by this Chapter within ninety (90) days or, alternatively, demolish and remove the nonresidential building within ninety (90) days.
- (2) The ordinance shall require that if the owner fails to repair, alter, or improve the nonresidential building in order to bring the building into compliance with the minimum standards established by this Chapter within ninety (90) days or, alternatively, fails to demolish and remove the nonresidential building within ninety (90) days, then the City Enforcement Officer shall demolish and remove the nonresidential building.

(B) In the case of a vacant manufacturing facility or a vacant industrial warehouse, the building must have been vacated and closed pursuant to an order and/or ordinance for a period of five (5) years before the City Council may take action under this Section.

(C) If the owner fails to comply with the requirements of the ordinance within ninety (90) days, the City Enforcement Officer shall demolish and remove the nonresidential building.

§ 152.13 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

(A) Complaints or orders issued by the City Enforcement Officer under this Chapter shall be served upon persons either personally or by registered or certified mail and, in conjunction therewith, may be served by regular mail. When the manner of service is by regular mail in conjunction with registered or certified mail, and the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after mailing, service shall be deemed sufficient. The person mailing the complaint or order by regular mail shall certify that fact and the date thereof, and the certificate shall be conclusive in the absence of fraud. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(B) If the identities of any owner or the whereabouts of persons are unknown and cannot be ascertained by the City Enforcement Officer in the exercise of reasonable diligence, and the City Enforcement Officer files an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons who have not been identified and/or located may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under the provisions of this Chapter. When service is made by publication, a notice of the pending proceedings shall be posted in conspicuous place on the premises thereby affected.

§ 152.14 IN REM ACTION BY THE CITY ENFORCEMENT OFFICER.

After failure of an owner of a nonresidential building to comply with an order of the City Enforcement Officer issued pursuant to the provisions of this Chapter and upon adoption by the City Council of an ordinance authorizing and directing the owner to do so, as provided by G.S. 160A-439(f) and § 152.09(D) of this Chapter, the City Enforcement Officer shall proceed to cause the nonresidential building to be repaired, altered, or improved to comply with the minimum standards established by this Chapter, to be vacated and closed, or to be removed or demolished, as directed by the ordinance of the City Council. The City Enforcement Officer may cause to be posted on the main entrance of any nonresidential building that is to be vacated and closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building so posted shall be guilty of a Class 3 misdemeanor.

§ 152.15 COSTS ARE A LIEN ON PREMISES.

(A) As provided by G.S. 160A-439(i), the amount of the cost of any repairs, alterations, or improvements, vacating and closing, or removal or demolition caused to be made or done by the City Enforcement Officer pursuant to § 152.09(D) or § 152.12 shall be a lien against the real property upon which the costs were incurred. The lien shall be filed, have the same priority, be

enforced, and the costs collected as provided by G.S. Chapter 160A, Article 10. The amount of the costs shall also be a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(B) If the nonresidential building is removed or demolished by the City Enforcement Officer, such officer shall offer for sale the recoverable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition. Any balance remaining shall be deposited in the Superior Court by the City Enforcement Officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

§ 152.16 EJECTMENT.

If any occupant fails to comply with an order to vacate a nonresidential building, the City Enforcement Officer may file a civil action in the name of the city to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the City Enforcement Officer produces a certified copy of an ordinance adopted by the City Council pursuant to G.S. 160A-439(f) and § 152.09(D) to vacate the occupied nonresidential building, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least thirty (30) days before the filing of the summary ejectment proceeding, that the City Council has ordered the City Enforcement Officer to proceed to exercise his or her duties under G.S. 160A-439(f) and § 152.09(D) to vacate and close or remove and demolish the nonresidential building.

§ 152.17 FILING OF ORDINANCES.

An ordinance adopted by City Council pursuant to § 152.09(D) or § 152.12 of this Chapter shall be recorded in the office of the Register of Deeds of Randolph County and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-439(f) and (g).

§ 152.18 **ALTERNATIVE REMEDIES.**

Neither this Chapter nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise, to enforce this Chapter by criminal process as authorized by G.S. 14-4 and § 152.22 of this Chapter, and to utilize any remedy provided herein or in other ordinances or laws.

§ 152.19 **BOARD OF ADJUSTMENT TO HEAR APPEALS.**

(A) All appeals that may be taken from decisions or orders of the City Enforcement Officer pursuant to this Chapter shall be heard and determined by the Board of Adjustment. As the appeals body, the Board of Adjustment shall have the power to set the times and places of its meetings, to adopt necessary rules of procedure, and to adopt any other rules and regulations that may be necessary for the proper discharge of its duties.

(B) Appeals shall be subject to the following:

(1) An appeal from any decision or order of the City Enforcement Officer may be taken by any person aggrieved thereby. Any appeal from the City Enforcement Officer shall be taken within ten (10) days from the rendering of the decision or service of the order, and shall be taken by filing with the City Enforcement Officer and the Secretary to the Board of Adjustment a notice of appeal that shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the City Enforcement Officer shall forthwith transmit to the Board of Adjustment all of the papers constituting the record upon which the decision under appeal was made. When the appeal is from a decision of the City Enforcement Officer refusing to allow the person aggrieved thereby to do any act, the City Enforcement Officer's decision shall remain in force until modified or reversed. When any appeal is from a decision of the City Enforcement Officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board of Adjustment, unless the City Enforcement Officer certifies to the Board, after the notice of appeal is filed, that by reason of the facts stated in the certificate (a copy of which shall be furnished to the appellant) a suspension of the requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order that may be granted for due cause shown, upon not less than one day's written notice to the City Enforcement Officer, by the Board or by a court of record upon petition made pursuant to G.S. 160A-446(f) and § 152.20.

(2) The Board of Adjustment shall set a reasonable time for the hearing of all appeals, shall give notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board of Adjustment may reverse or affirm, in whole or in part, or may modify the decision or order appealed from and may make such decision and order as in its opinion ought to be made in the matter. To that end, the Board of Adjustment shall have all the powers of the City Enforcement Officer when ruling upon a duly filed appeal. A simple majority of the members of the Board of Adjustment shall be

necessary to reverse or modify any decision or order of the City Enforcement Officer. When considering an appeal, the Board of Adjustment shall have the power, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case by granting a variance to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done; provided, however, that the concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to grant a variance rather than the simple majority that is sufficient, when the variance power is not utilized, to reverse or modify a decision or order of the City Enforcement Officer.

(C) Every decision of the Board of Adjustment shall be subject to review by the Superior Court by proceedings in the nature of certiorari instituted within thirty (30) days of the decision of the Board, but not otherwise.

§ 152.20 **TEMPORARY INJUNCTION REMEDY FOR AGGRIEVED PERSON.**

Any person aggrieved by an order issued by the City Enforcement Officer or a decision rendered by the Board of Adjustment shall have the right within thirty (30) days after issuance of the order or rendering of the decision to petition the Superior Court for a temporary injunction restraining the City Enforcement Officer pending a final disposition of the cause, as provided by G.S. 160A-446(f).

§ 152.21 **CONFLICT WITH OTHER PROVISIONS.**

In the event any provision, standard, or requirement of this Chapter is found to be in conflict with any other ordinance or code of the city, the provisions that establish the higher standard or more stringent requirement for the promotion and protection of the health and safety of the citizens of the city shall prevail.

§ 152.22 **VIOLATIONS; PENALTIES.**

(A) It shall be unlawful for the owner of any nonresidential building to fail, neglect, or refuse to repair, alter, or improve the same, to vacate and close, or to remove or demolish the same upon order of the City Enforcement Officer duly made and served in accordance with the provisions of this Chapter within the time specified in the order, and each day that any such failure, neglect, or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any nonresidential building, with respect to which an order has been issued pursuant to section § 152.09(C) of this Chapter, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration, improvement, or its vacation and closing, and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(B) The violation of any provision of this Chapter shall constitute a misdemeanor, as provided by G.S. 14-4.

(C) In addition to or in lieu of the other remedies provided by this Chapter, any owner of a nonresidential building that fails to comply with an order of the City Enforcement Officer within the time specified therein, shall be subject to a civil penalty in the amount of fifty dollars (\$50) for the first offense, one hundred dollars (\$100) for the second offense in the calendar year, and two hundred fifty dollars (\$250) for the third and subsequent offenses in the calendar year. Each subsequent offense after the third will be subject to a civil penalty of two hundred fifty dollars (\$250). Each 30-day period or part thereof in which a violation is allowed to persist will constitute a separate and distinct offense.

SECTION 2. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 3. Any part or provision of this Ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States of America or the State of North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the Ordinance.

SECTION 4. This Ordinance shall be in full force and effect on and after January 1, 2015.

This Ordinance was adopted in open session during a regular meeting of the Asheboro City Council that was held on the 4th day of December, 2014.

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

ATTEST:

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