

**REGULAR MEETING
ASHEBORO CITY COUNCIL
THURSDAY, OCTOBER 7, 2004
7:00 PM**

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

David Jarrell) – Mayor Presiding

Talmadge Baker)
Linda Carter)
Keith Crisco)
Nancy Hunter) – Council Members Present
John McGlohon)
Archie Priest)
David Smith)

John N. Ogburn, City Manager
Carol J. Cole, CMC, City Clerk
Dumont Bunker, P. E., City Engineer
Debbie Juberg, Finance Director
Reynolds Neely, Planning Director
Lynn Priest, CD Director
Wendell Holland, Zoning Administrator
Trevor Nuttall, Planner
Holly Hartman, Legal Assistant
Jeff Sugg, City Attorney

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

1. Pledge of Allegiance and Invocation.

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend John Rogers, pastor of First Baptist Church, gave the invocation.

2. Appearance and Recognition of Guests and Citizens.

Mayor Jarrell welcomed everyone in attendance.

3. Consent Agenda.

Mayor Jarrell asked council if it wished to discuss any items on the Consent Agenda separately or to vote on the items collectively.

Upon motion by Mr. Smith and seconded by Mrs. Carter, council voted unanimously to approve the following Consent Agenda items:

(a) Minutes From Previous Meetings

The minutes of the regular meeting and closed session of September 9, 2004 and the special joint meeting of September 23, 2004 were approved as presented.

(b) Findings of Fact for CUP-04-23

Case No. CUP-04-23
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF GLENN KING OF TRIANGLE PARK
ASSOCIATES FOR AN AMENDMENT TO AN EXISTING CONDITIONAL USE PERMIT

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on September 9, 2004. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINIDNGS OF FACT

1. Glenn King of Triangle Park Associates (hereinafter referred to as the "Applicant") properly submitted an application to amend the existing Conditional Use Permit that regulates certain real property owned in part by the Applicant and located at 3140 Zoo Parkway.
2. The Applicant's development is a planned unit development, and Phase 1, which consists of twelve (12) Townhomes, has been constructed.
3. The amendment sought by the Applicant to the existing Conditional Use Permit does not impact Phase 1 of the development since these Townhomes have already been constructed and sold. Thus, only 5.58 acres (Phase 2) of the development's total acreage of 7.75 acres is at issue with this amendment.
4. The requested amendment essentially adjusts the size and design of the units so as to increase the heated square footage of each unit and adds a double garage rather than the currently approved single garage for the units. These adjustments in the size and design of the units will result in a reduction in the total number of units forty (40) to thirty-five (35).
5. The Zoning Lot is located in an area that is designated on the Growth Strategy Map as a "Resource Conservation" area, and said area is identified on the Proposed Land Development Plan Map as "Conservation Residential."
6. As previously noted, the existing land use on the Zoning Lot is partially developed.
7. The Zoning Lot itself consists of approximately 5.68 acres and is comprised of twenty-nine (29) parcels of land. The said parcels of land are more specifically identified by Randolph County Parcel Identification Numbers 7669369567, 7669463380, 7669463340, 7669463311, 7669462371, 7669462322, 7669461384, 7669461356, 7669461338, 7669460483, 7669406466, 7669406459, 7669460532, 7669396419, 7669368488, 7669368456, 7669368425, 7669367597, 7669368529, 7669368651, 7669368682, 7669369635, 7669369667, 7669369699, 7669460720, 766941609, 7669461626, 7669461633, 7669461650.
8. Zoo Parkway is a major thoroughfare.
9. The property was annexed into the city in 2000 and city services are available.
10. A mix of residential and vacant land uses characterizes the area in which the Zoning Lot is located.
11. The Council approved a CUP (CUP-01-02) to allow a Floor Area Ratio of up to .22 in 2000. According to submitted plans, the Floor Area Ratio for the entire development will be approximately .215.
12. The Applicant testified during the hearing of this matter that he is prepared to accept the conditions that have been proposed by the Planning Department staff to the Council in order to ensure the compatibility of the Applicant's proposed use of the property with surrounding land uses.
13. The proposed amendment of the site plan does not change or call into question the credibility or reliability of the evidence originally relied upon by the Council as the basis for the issuance of the existing Conditional Use Permit in February of 2000.
14. No testimony or other form of evidence was submitted to the Council during the hearing of this matter in opposition to the Applicant's requested amendment of the existing Conditional Use Permit.

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

CONCLUSIONS OF LAW

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

2. The evidence received during the public hearing established that the proposed use does meet all of the required conditions and specifications of the Asheboro Zoning Ordinance.

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

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

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

ORDER

The above-described application submitted by Glenn King of Triangle Park Associates for an amendment of the site plan for the existing Conditional Use Permit issued under file number CUP-00-02 is hereby approved on the express condition that the Applicant and his heirs, successors, and assigns meet and remain in compliance with the following conditions:

1. The development shall be as per the submitted site plan, "PUD #2 for Parkways South," dated June 28, 2004.
2. Subject to condition number one (1) above, prior conditions set by the council during approval of CUP-00-02 shall be maintained, specifically:
 - a. Buffering and screening shall be installed and maintained as required by Article 304A of the Asheboro Zoning Ordinance.
 - b. All facilities shall meet the standards of the N.C. Building Code.
 - c. Offstreet parking shall be provided in accordance with Article 400 of the Asheboro Zoning Ordinance.
 - d. Signage shall be as provided in Article 500 of the Asheboro Zoning Ordinance.
 - e. Storm and sanitary sewerage shall be provided.
 - f. Developers and/or homeowners association shall maintain any sewerage pumping station.

Adopted by the Asheboro City Council in regular session on this 7th day of October, 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC, City Clerk

(c) Findings of Fact for CUP-04-24

Case No. CUP-04-24
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF JOSEPH SHUPING FOR A CONDITIONAL USE PERMIT ALLOWING A LAND USE CLASSIFIED AS A VEHICLE REPAIR BUSINESS - MAJOR

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on September 9, 2004. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. The applicant, Joseph Shuping, (hereinafter referred to as the "Applicant") has properly submitted an application to have certain property located at 1339 East Salisbury Street rezoned to a Conditional Use I2 Zoning District.

2. In addition to requesting that the Council legislatively rezone the above-referenced property, the Applicant has also requested that the Council conduct a quasi-judicial proceeding and issue a Conditional Use Permit allowing a land use at 1339 East Salisbury Street that is classified by the Asheboro Zoning Ordinance as a Vehicle Repair Business - Major. The parcel of real property subject to this application for a Conditional Use Permit will be hereinafter referred to as the "Zoning Lot."

3. The Zoning Lot is located in an area that is designated on the Growth Strategy Map as an "Economic Development" area, and said area is identified on the Proposed Land Development Plan Map as "Urban Residential."

4. The Zoning Lot is currently located in a B2 zoning district, and the existing land use on the property is classified as commercial.

5. The land uses immediately surrounding the Zoning Lot are vacant/ residential uses to the north, office/vacant to the south, residential to the east, and institutional to the west.

6. The Zoning Lot itself consists of approximately 1.521 acres and is more specifically identified by Randolph County Parcel Identification Number 7761427896.

7. East Salisbury Street is a major thoroughfare.

8. The Zoning Lot is located outside the city limits, but it is located within the city's extraterritorial jurisdiction. The Zoning Lot is not served by city services.

9. The area in which the Zoning Lot is located is characterized by a mix of office, institutional, commercial, and residential.

10. A structure, which is in a poor state of repair, is located on the Zoning Lot.

11. Prior to addressing the question of the issuance of the requested Conditional Use Permit, the Council rezoned the Zoning Lot from a B2 Zoning District to a Conditional Use I2 Zoning District.

12. The Applicant has submitted a proper application, including a site plan with elevations, for the requested Conditional Use Permit. Furthermore, through representation by counsel, the Applicant testified during the hearing of this matter that he is prepared to accept numerous conditions that have been proposed by the Planning Department staff and the Applicant himself in order to ensure the compatibility of the Applicant's proposed use of the Zoning Lot with surrounding and uses.

13. The Applicant specifically proposes to use the Zoning Lot for his business, an auto body repair shop.

14. The Applicant's proposed use of the Zoning Lot, in terms of the information provided on the site plan, meets all of the specifications and requirements of the Asheboro Zoning Ordinance.

15. During the hearing of this matter, the Applicant's attorney distributed photographs of another auto body repair facility that is located in another county and that is serving as a positive model for the Applicant's proposed facility in terms of appearance and compatibility with surrounding land uses.

16. Carol Burrow, who is a realtor and part owner of Coldwell Banker – The Real Estate Shoppe, testified as to her opinion as the owner of a business located on East Salisbury Street that the replacement of the existing structure on the Zoning Lot with the Applicant's proposed land use will be a substantive improvement to the property.

17. Ms. Elizabeth Ruffin, who owns real property adjoining a portion of the Zoning Lot, testified during the hearing of this matter as to her general concerns about the general appearance of an auto body repair shop and the negative impact such a business could have on the value and enjoyment of her property. However, Ms. Ruffin's fears were general in nature and did not pinpoint specific aspects of the Applicant's actual proposal that are problematic under the Asheboro Zoning Ordinance.

18. The Applicant's proposed business will employ four (4) technicians plus himself.

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

CONCLUSIONS OF LAW

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

2. The evidence received during the public hearing established that the proposed use does meet all of the required conditions and specifications of the Asheboro Zoning Ordinance.

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

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

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

ORDER

The above-referenced application submitted by Joseph Shuping for a Conditional Use Permit allowing a Vehicle Repair Business – Major is hereby approved on the express condition that the Applicant and his heirs, successors, and assigns meet and remain in compliance with the following conditions:

1. Subject to any modifications prescribed by these conditions, the development shall be as per the submitted site plan and building elevation.

2. Buffering and screening shall be installed and maintained as required by Article 304A and Article 305A of the Asheboro Zoning Ordinance; provided, however, any and all canopy trees utilized for purposes of complying with this condition shall have a minimum caliper measurement of two inches (2").

3. The performance standards outlined in 316A of the Asheboro Zoning Ordinance shall be met and maintained.

4. Offstreet parking shall be provided in accordance with Article 400 of the Asheboro Zoning Ordinance.

5. Signage shall be as provided in Article 500 of the Asheboro Zoning Ordinance.

6. Outside storage of materials or vehicles associated with the business shall be limited to the storage area identified on the submitted site plan. No outdoor storage of materials, parts, or debris of any kind shall be permitted outside of this area. Junked automobiles shall not be stored more than the customary and usual time for disposition, not to exceed ninety (90) days.

7. All other applicable zoning requirements of the Asheboro Zoning Ordinance shall be met and maintained.

8. Both heating and air condition systems are required for the building so as to ensure that all bodywork is performed in the structure with the bay doors closed.

9. Six (6) foot high chain link fence with visual screen surrounding the gravel automobile storage area located behind the building is required.

10. No wrecked or junked vehicles to be stored on any portion of the Zoning Lot except for that area located behind the building within the "gravel storage area" identified on the site plan. Vehicles towed to the site overnight or on weekends will be allowed to be left in front of building until the next business day when such vehicle(s) must be moved inside the structure or into the storage lot.

11. The permitted hours of operation for the business established on the Zoning Lot shall be from 8:00 o'clock a.m. until 6:00 o'clock p.m., Monday through Saturday. Operation of a business on the Zoning Lot on Sundays or at any other time or times other than those days and times listed in the immediately preceding sentence is expressly prohibited.

12. Any scrap metal or debris from bodywork is to be placed in dumpster located in the automobile storage area behind building and to be removed when full.

Adopted by the Asheboro City Council in regular session on this 7th day of October, 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC, City Clerk

(d) Project Ordinance for Police Computer Project Grant

**PROJECT ORDINANCE
POLICE COMPUTER PROJECT - GRANT V
FY 2004-2005**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO:

Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following Project Ordinance is adopted:

Section 1. The Police Computer Grant Project Grant V, also referred to as a Local Law Enforcement Block Grant (LLEBG #038), is hereby authorized as a project with revenues and expenditures projected for the duration of the project.

Section 2. The officers of the City of Asheboro are hereby authorized to proceed with the project within the terms of the grant documents and contracts approved by the City Council, the rules and regulations of the grant and General Statutes of North Carolina, and the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete this project:

LINE ITEM	DESCRIPTION	AMOUNT
74-348.0500	Federal Grant #LLEBG #038	\$ 10,500
74-367.1005	Contribution General Fund	\$ 1,167
	TOTAL	\$ 11,667

Section 4. The following amounts are appropriated as expenditures for this project:

LINE ITEM	DESCRIPTION	AMOUNT
74-550.3402	Police Grant Match	\$ 1,167
74-550.7400	Capital Outlay	\$ 10,500
	TOTAL	\$ 11,667

Adopted this the 7th day of October 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, City Clerk

(e) Redesignation of O. Lynn Priest as Zone Contact for North Carolina Department of Commerce, Division of Community Assistance, State Development Zone

(f) Recommendations for the 2004-2005 Canada Goose & Duck Hunting Season Dates at Lake Reese

November 17, 19, 24, 27
December 2, 4, 23, 30
January 5, 7, 13, 15, 19, 21, 27, 29

(g) Resolution Authorizing the City Manager to Execute a License Agreement Between Norfolk Southern Railway Company and the City of Asheboro for the City to Replace a Sewer Force Main Pipe Discharging From Sewer Pump Station #1 and Crossing the Railroad Near Railroad Street

43 RES 10-04

Resolution Authorizing the City Manager to Execute a License Agreement Between Norfolk Southern Railway Company and the City of Asheboro for the City to Replace a Sewer Force Main Pipe Discharging From Sewer Pump Station #1 at 1592 Sunset Avenue and Crossing the Railroad Near Railroad Street

WHEREAS, the City of Asheboro currently maintains a 10" diameter sewer force main pipe discharging from Sewer Pump Station #1 at 1592 Sunset Avenue and crossing the railroad near Railroad Street; and

WHEREAS, the City of Asheboro desires to replace the 10" diameter sewer force main pipe crossing the railroad with a 16" diameter pipe to improve the capacity and operation of Sewer Pump Station #1; and

WHEREAS, Norfolk Southern Railway Company requires that the existing license agreement for this pipe dated November 4, 1982 be cancelled, and that a new agreement for the proposed replacement pipe be executed; and

WHEREAS, Norfolk Southern Railway Company requires payment of \$16,750.00 by the City of Asheboro to cover the insurance fee (\$1,000) and the one-time occupancy fee (\$15,750) in consideration for this agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the City Manager is authorized to execute the aforementioned license agreement for the City of Asheboro, and that the amount of \$16,750.00 be paid to Norfolk Southern Railway Company for this agreement.

Adopted by the City Council of the City of Asheboro in regular session this 7th day of October, 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC, City Clerk

(h) Change Order #1 on the Wastewater Pumping Station Nos. 2 and 6 Project (Section 2 – Terry's Plumbing and Utilities, Inc.) Increasing the Construction Contract Amount by \$2,010 to \$1,110,705 for a Change in Quantities Based on Construction Conditions, and Increasing the Contract Time by 60 Days Due to Delays in Receiving Materials

4. Motion to Seal the General Account Prepared by the City Clerk of the Closed Session Held on September 9, 2004.

Mayor Jarrell entertained a motion to seal the approved minutes and general account of the council's September 9, 2004, closed session pursuant to Section 143-318.10(e) of the North Carolina General Statutes. The motion should also provide that these records are to be sealed so long as public inspection of the records would frustrate the purpose of the closed session, and the motion would further provide that the city attorney is authorized to act as the council's agent with the authority to unseal these records when the purpose of the closed session would no longer be frustrated by making the records available for public inspection.

Mr. Crisco made the aforementioned motion, which was seconded by Mrs. Carter and carried unanimously.

5. Request by April Hicks of Learning Pointe Academy to Close English Street October 16, 2004.

Ms. Shelby Cox with the Learning Pointe Academy, Inc. announced that the Academy is planning a fall fundraiser and raffle for Saturday, October 16, 2004, from 12:00 Noon until 4:00 PM. Part of the proceeds will go to the Family Crisis Center. Ms. Cox requested that a portion of English Street, from the shopping center parking lot to the end, be closed from 8:00 AM until 5:00 PM for this event. The street closing will not interfere with traffic, as the Randolph County Department of Social Services and the Daily Center for Reporting will be closed this date.

Upon motion by Mr. McGlohon and seconded by Mrs. Hunter, council voted unanimously to approve this request.

6. Public Hearings on Zoning Matters.

Mayor Jarrell opened the public hearing on the following request:

(a) From R-7.5 Residential to B-2 Commercial (RZ-04-25): The property located on the west side of Chestnut Street immediately north of 303 Chestnut Street, more specifically identified by Randolph County Parcel ID Number 7751449883. The applicant is Charles Willard.

Mr. Neely described the aforementioned property and stated that Chestnut Street is a local street. The site is located within the city limits and all city services are available. The immediate vicinity is residential in character except for commercially-zoned property to the south. Scattered commercial zones are in the area. The property is currently undeveloped. The LDP's Proposed Land Use Map identifies this area as Neighborhood Residential and the properties to the south as Commercial. Since this is a straight rezoning request, approval would allow all uses permitted in the B-2 District.

The planning board recommended denial, as the request does not comply with the goals and policies and map of the Land Development Plan.

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

Upon motion by Mr. McGlohon and seconded by Mr. Priest, council voted unanimously to accept the recommendation from the planning board for denial.

Mayor Jarrell opened the public hearing on the following request:

- (b) From R-7.5 Residential to B-2 Commercial (RZ-04-26): The property located at 420 West Walker Avenue at the northeast intersection of West Walker Avenue and South Park Street, totaling 6.40 acres, more specifically identified by Randolph County Parcel ID Numbers 7750676426 and 7750677720. The First Presbyterian Church is the applicant.

Mr. Neely described the aforementioned property and stated that West Walker Avenue is a designated minor thoroughfare, and South Park Street is a designated major thoroughfare. The property is located within the city limits and all city services are available. The property is currently used for a church (First Presbyterian Church). The site is within the Central Activity Center. The location has become less residential in character. Adjoining land uses to the south, west, and north are institutional in nature. Since this is a straight rezoning request, approval would allow all uses permitted in the B-2 District.

The planning board recommended approval, as the request is supported by the goals, policies, and map of the Land Development Plan.

Mr. John Gray, a member of the church, was present to answer questions. He stated that they propose to make improvements to the church.

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

Upon motion by Mr. Baker and seconded by Mr. Crisco, council unanimously ordained to accept the recommendation from the planning board for approval.

7. Subdivision.

- (a) Sketch Design Approval for Carowood Subdivision (SUB-04-06)

Mr. Neely presented the sketch design for Carowood Subdivision, which is located between Oakwood Acres Road and Mack Road. This subdivision contains 8.31 acres and consists of 10 lots, with the average lot size being 36,198 sq. ft. Mr. Neely reported that this subdivision is served by the Seagrove-Ulah Metropolitan Water District.

Mr. Neely reviewed the comments from the various departments and reported that the planning board recommended approval with said comments.

Upon motion by Mr. McGlohon and seconded by Mrs. Carter, council voted unanimously to accept the recommendation from the planning board for approval of the sketch design.

8. Resolution Requesting Installation of Street Lights on Major Thoroughfares Within the City of Asheboro.

Mr. Priest presented and recommended adoption of a resolution requesting the NC Department of Transportation to design a street lighting plan for major thoroughfares within the City of Asheboro and to consult with Progress Energy in such street lighting design plan. The redevelopment commission also recommended adoption of this resolution.

Upon motion by Mr. Baker and seconded by Mr. Smith, council voted unanimously to adopt the following resolution by reference:

44 RES 10-04

Resolution Requesting Installation of Street Lights

WHEREAS, the Asheboro City Council believes it would be desirable to install street lighting on major thoroughfares within the City of Asheboro; and

WHEREAS, the City of Asheboro requests that the North Carolina Department of Transportation design a street lighting plan; and

WHEREAS, the City of Asheboro requests that such street lighting plan include, but not be limited to, US Highway 220 Bypass, Future I-73/74, from Vision Drive (SR 2269) to McDowell Road (SR 1150); and

City of Asheboro recommends that Progress Energy, Inc. of North Carolina be consulted in such street lighting design plan.

NOW, THEREFORE BE IT RESOLVED by the Asheboro City Council that the above request be established as a priority for the City of Asheboro, and that the City of Asheboro petitions the Board of Transportation to include this priority in its Transportation Improvement Program.

Adopted by the Asheboro City Council this 7th day of October, 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, City Clerk

9. Public Hearing on Contiguous Annexation of 1.071 Acres Along the South Side of East Mine Street (Michael and Heidi Lambert and Steven D. and Cheryl S. Redding).

Mr. Bunker reported that this public hearing has been advertised as provided for by law.

Mayor Jarrell opened the public hearing on consideration of annexing the aforementioned property.

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

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

Upon motion by Mr. Priest and seconded by Mrs. Hunter, council voted unanimously to adopt the following ordinance by reference:

**Ordinance Number 34 ORD 10-04
ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO
(1.071 Acres of Land Located along the South Side of East Mine Street)**

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

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

WHEREAS, the City Council did publish notice to the public on the 15th day of September, 2004, in *The Randolph Guide*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held at 7:00 o'clock p.m. on the 7th day of October, 2004 at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing said area to the City of Asheboro; and

WHEREAS, during said public hearing that was in fact held on the 7th day of October, 2004, no person owning property within the area to be annexed alleged an error in the petition, and no resident of the municipality questioned the necessity of annexation; and

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

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

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

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe that sets on both the current corporate limits line for the City of Asheboro and on the southern right-of-way line of the 60-foot right-of-way for East Mine Street, said existing iron pipe is located South 87 degrees 05 minutes 18 seconds East 171.90 feet from a concrete monument which is itself located by means of the North Carolina Coordinate System at the coordinates of North 702,541.194 feet and East 1,752,045.087 feet (NAD 27); thence from said Beginning point along the current corporate limits line for the City of Asheboro and the southern right-of-way line for East Mine Street the following course and distance: South 87 degrees 05 minutes 18 seconds East 99.49 feet to a new iron pipe; thence South 05 degrees 08 minutes 05 seconds West 465.40 feet to a new iron pipe; thence South 88 degrees 04 minutes 01 second West 99.59 feet along the Carl T. and Juanita C. Stout property described in Deed Book 850, Page 295 and in Plat Book 9, Page 54 of the Randolph County Registry to a new iron pipe; thence North 04 degrees 57 minutes 37 seconds East 58.16 feet to an existing iron pipe; thence North 04 degrees 57 minutes 37 seconds East 181.83 feet along the Nicholas L. Adkins and Sandra L. Clay property described in Deed Book 1649, Page 925, Randolph County Registry to an existing iron pipe; thence along the Fred R. and Carolyn S. Wicker property described in Deed Book 1101, Page 925, Randolph County Registry the following courses and distances: North 05 degrees 10 minutes 20 seconds East 181.05 feet to an existing iron pipe; thence North 05 degrees 10 minutes 20 seconds East 52.77 feet to the point and place of the BEGINNING, and containing 1.071 acres, more or less.

This above-listed description is in accordance with a plat of survey entitled "ANNEXATION PLAT PREPARED FOR CITY OF ASHEBORO, PROPERTY OF W. T. LAMBERT." This plat of survey was drawn under the supervision of Glenn L. Brown, Professional Land Surveyor with Registration Number L-3663, from an actual survey made under his supervision. Said plat of survey is dated August 27, 2004.

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

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

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

Section 5. This ordinance shall be in full force and effect from the 7th day of October, 2004.

Adopted this 7th day of October, 2004.

S/ David H. Jarrell
David H. Jarrell
Mayor of the City of Asheboro

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC
City Clerk of the City of Asheboro

Approved as to form:

S/ Jeffrey C. Sugg
Jeffrey C. Sugg
City Attorney

10. Resolution of Intent to Close an Abandoned Street Right-of-Way at the Loach Street/Cross Street Intersection, as Requested by Barney L. Trogdon, Jr., DD.

Mr. Bunker presented and recommended adoption, by reference, of the aforementioned resolution.

Upon motion by Mr. Smith and seconded by Mrs. Carter, council voted unanimously to adopt the following resolution by reference:

45 RES 10-04

**RESOLUTION OF INTENT TO PERMANENTLY CLOSE A CERTAIN
ABANDONED PORTION OF LOACH STREET THAT IS LOCATED
IN THE VICINITY OF THE INTERSECTION OF LOACH
STREET AND CROSS STREET**

WHEREAS, Section 160A-299 of the North Carolina General Statutes prescribes the procedure to be followed by a city in order to permanently close a street or alley; and

WHEREAS, the City Council of the City of Asheboro has determined that it is advisable to consider permanently closing a certain abandoned portion of Loach Street that is located in the vicinity of the intersection of Loach Street and Cross Street; and

WHEREAS, in order for a municipality to lawfully permanently close a street, Section 160A-299 of the North Carolina General Statutes requires that a city council first adopt a resolution declaring its intent to permanently close the street in question and then call a public hearing on the question.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, this 7th day of October, 2004, as follows:

Section 1. It is the intent of the City Council of the City of Asheboro to permanently close a certain abandoned portion of Loach Street that is located in the vicinity of the intersection of Loach Street and Cross Street. This abandoned portion of Loach Street is located within the corporate limits of the City of Asheboro and is more particularly described as follows:

Asheboro Township, Randolph County, North Carolina

BEGINNING at a new iron pipe that is set on the eastern line of the existing right-of-way for Loach Street and that is located North 25 degrees 26 minutes 04 seconds East 16.33 feet from an existing iron pipe that is itself located South 77 degrees 58 minutes 29 seconds East 2235.93 feet from City of Asheboro Monument 103, said monument is located by means of the North Carolina Coordinate System at the coordinates of North 715,918.921 feet and East 1,760,603.013 feet (NAD 27); thence from said Beginning point along the eastern line of the existing right-of-way for Loach Street the following courses and distances: North 02 degrees 46 minutes 02 seconds East 38.83 feet to a new iron pipe; thence North 02 degrees 46 minutes 02 seconds East 42.26 feet to a new iron pipe; thence along the western line of the former right-of-way for the abandoned portion of Loach Street North 24 degrees 32 minutes 30 seconds East 93.94 feet to a new iron pipe; thence across the abandoned street right-of-way the following courses and distances: North 89 degrees 55 minutes 04 seconds East 17.04 feet to a new iron pipe; thence North 89 degrees 55 minutes 04 seconds East 17.04 feet to an existing iron pipe; thence along the eastern line of the abandoned Loach Street right-of-way the following courses and distances: South 23 degrees 08 minutes 48 seconds West 49.43 feet to an existing iron pipe; thence South 25 degrees 26 minutes 35 seconds West 50 feet to a new iron pipe; thence South 25 degrees 26 minutes 35 seconds West 49.97 feet to an existing iron pipe; thence South 25 degrees 26 minutes 04 seconds West 34.08 feet to the point and place of the BEGINNING and being all of that certain abandoned portion of Loach Street located within the 0.101 of an acre encompassed by the preceding metes and bounds description.

Also included is the right-of-way for the abandoned portion of Loach Street, said abandoned right-of-way is shown on the below-referenced plat of survey.

This description is in accordance with a plat of survey entitled "**Survey Of Proposed Closing Of An Abandoned Street Right Of Way At The Loach St./Cross St. Intersection** For City Of Asheboro", dated October 7, 2004, and drawn under the supervision of Philip M. Henley, P.L.S. with Registration Number L-1494.

Section 2. A public hearing on the matter of the proposed permanent closure of the above-described abandoned portion of Loach Street is hereby called and is to be held at the regular meeting of the City Council of the City of Asheboro on December 9, 2004, at 7:00 p.m. in the Council Chambers of the City of Asheboro Municipal Building located at 146 North Church Street in Asheboro. At said public hearing, any person may be heard on the question of whether or not the intended closing of the specified abandoned portion of Loach Street would be detrimental to the public interest or the property rights of any individual.

Section 3. The City Clerk is hereby directed to cause the publication of this Resolution of Intent once a week for four (4) successive weeks prior to the above-referenced public hearing in the Courier Tribune, a newspaper of general circulation in the City of Asheboro and Randolph County.

Section 4. The City Clerk is further directed to transmit a copy of this Resolution of Intent by registered or certified mail to each owner of property adjoining the above-described abandoned portion of Loach Street. The identity of said property owners is to be determined on the basis of the Randolph County Tax Department's records.

Section 5. The City Clerk is further directed to cause the prominent posting of this Resolution of Intent in a minimum of two (2) locations along the abandoned portion of Loach Street that is proposed for permanent closure.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC, City Clerk

11. Upcoming Events.

Mayor Jarrell announced the upcoming events as follows:

- NCLM Annual Conference, October 24, 25 & 26, Raleigh
- Veterans Parade, November 11, 5:00 PM, Church Street to end at Cox Street
- Tractor Parade, October 9, 10:00 AM, downtown

12. Public Works and Finance and Public Safety Matters.

No official meetings have been held.

13. Items Not on the Agenda.

Mr. Ogburn recommended that Halloween be observed on Saturday, October 30th, since it falls on Sunday this year.

Upon motion by Mr. Baker and seconded by Mrs. Carter, council voted unanimously to accept Mr. Ogburn's recommendation.

There being no further business, the meeting was adjourned at 7:50 PM.

Carol J. Cole, CMC, City Clerk

David H. Jarrell, Mayor

#

