

Tuesday - October 28, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bisette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; City Attorney Patsy Brison; City Manager Douglas O. Bean; and City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter R. Boland and Corporation Counsel William F. Slawter.

INVOCATION

Vice the State Baptist Association. She said Dr. Turner was also the Past President of the North Carolina League of Municipalities and Mayor ProTem of Lumberton, North Carolina. She extended a welcome to Dr. Turner and other members attending the state convention of the North Carolina Baptist Association.

APPROVAL OF THE MINUTES - OCTOBER 14, 1986 MEETING

1. Consideration was given to the approval of the minutes of the October 14, 1986 meeting.

Mayor Bisette said the minutes were amended to delete the wording, at the bottom of page 275, "the closing of these alleys will be subject to easements for water and sewer lines to be determined at a later date."

Mayor Bisette said the resolution, as adopted, already provided for the necessary water and sewer easements.

Mayor Bisette announced the approval of the minutes as amended.

PROCLAMATION - UNITED NATIONS DAY - OCTOBER 24, 1986

2. Mayor Bisette read a proclamation proclaiming Thursday, October 24, 1986, as United Nations Day.

Mayor Bisette recognized Barbara Dardin, Richard Martello, and Herman Allen and presented the proclamation to them.

RESOLUTION 86-202 - RESOLUTION ENDORSING THE NAMING OF A MAJOR NAVAL SHIP AS U.S.S. ASHEVILLE

3. Consideration was given to a resolution endorsing the naming of a major naval ship as U.S.S. Asheville.

Mayor Bisette read the resolution.

Upon motion of Councilman Price, seconded by Councilman Tisdale, Resolution No. 86-202 was unanimously adopted.

Complete copy of Resolution No. 86-202 will be found in Resolution Book No. **16** at page **281**.

PUBLIC HEARING - SITE PLAN - MUSE BUSINESS PARK

4. A public hearing was held relative to the proposed Muse Business Park to be located on Johnson School Road.

Mayor Bisette said the Asheville Planning and Zoning Commission at a meeting held September 10, 1986, reviewed the site plan of the proposed Muse Business Park to be located on Johnson School Road. The plan was prepared by Robert Moody, Architect, for Troy Muse, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project, subject to: 1) compliance with Erosion Control Ordinance; 2) that the wall signs for each of the

buildings not exceed 20 square feet; 3) that no access be granted to Scottsdale Drive; 4) that buffering be provided on the east side; 5) that on the west side the setback on Scottsdale Drive be increased to 40' minimum; 6) that a minimum of 20' buffer be provided along Scottsdale, along entire property line, prior to going to City Council; and 7) final approval from NCDOT on curb cut.

Mayor Bissette opened the public hearing at 4:32 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the site plan does comply with the group development ordinance.

Mayor Bissette closed the public hearing at 4:36 p.m.

Vice-Mayor Frank moved to approve the site plan subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Tisdale and carried unanimously.

PUBLIC HEARING - SITE PLAN - BOB BARBOUR DEVELOPMENT - 1616 PATTON AVENUE

5. A public hearing was held relative to a site plan of the proposed Bob Barbour Development to be located at 1616 Patton Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 10, 1986, reviewed the site plan of the proposed Bob Barbour Development to be located at 1616 Patton Avenue. The plan was prepared by Vaughn & Melton, Engineers, for Bob Barbour, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to buffering and compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:37 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said Phase I of the development on Patton Avenue, in the vicinity of Malvern Hills, had recently been rezoned. He said a lot of natural buffer will be provided and that all access will be on Patton Avenue. He said the Planning and Zoning Commission had voted to recommend approval of the project subject to and compliance with the Erosion Control and Buffering Ordinances.

Mayor Bissette closed the public hearing at 4:44 p.m.

Councilman Tisdale moved to approve the site plan of the proposed Bob Barbour Development subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Councilman Michalove and carried unanimously.

PUBLIC HEARING - SITE PLAN - PROPOSED ADDITION TO GROVE PARK INN

6. A public hearing was held relative to a site plan of the proposed addition to Grove Park Inn.

Mayor Bissette said at a meeting held October 8, 1986, the Asheville Planning and Zoning Commission reviewed a site plan of the proposed addition to Grove Park Inn consisting of new guests rooms, meeting rooms, restaurant, convention facilities, and parking deck. The plan was prepared for Jack Tar Hotels - Grove Park Inn, Developer, by Daniel International Corporation, Greenville, S.C. The Commission moved to recommend approval of the plans as presented subject to provisions of off-street parking for construction personnel, subject to access from Club View Road during construction, provision of buffering and lighting to be approved by staff, and the provision of a 40' wide easement along the north property line to avoid future problems at that point before the issuance of an occupancy permit

(clarified to say that this allows issuance of a building permit and allows construction; however, the occupancy permit would be contingent upon having a recorded 40' easement for a fire lane). Commission further moved to recommend that City Council set up a liaison committee during construction. This public hearing was scheduled at the October 14, 1986 meeting.

Mayor Bissette opened the public hearing at 4:46 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the concerns voiced at the Planning and Zoning Commission meeting had been resolved concerning water and sewer commitments from the City and MSD. He said the Innsbruck Road residents had voiced concerns relative to buffering and lighting and access to an employee parking lot. He said the plans had been revised to delete any vehicular access on to Innsbruck Road. He said all construction traffic would be restricted through Club View instead of Macon Avenue.

Mr. Emrick said a Grove Park Liaison Committee had been established to work with all involved parties during the construction of the expansion to the Grove Park Inn. He said the committee is composed of himself and Al Kopf from the Planning Department, Barbara Molloy and Max Haner from the Sunset Grove Park Association, and Jack Westall representing the Grove Park Inn. He said this committee has been formed to be a sounding board for parties during the construction period and he hoped that any problems in the neighborhood could be discussed, and a reasonable compromise reached through this committee.

Ken Neilson, Architect, said the addition of the 11-story wing will provide 186 guest rooms, a lounge, 9 meeting rooms, and a 17,000 square foot ballroom with banquet seating for 1,700. He said construction traffic would use Club View Road and that noise from the construction itself would begin around 9:00 a.m. and end around 6:00 p.m., and construction is scheduled to begin in mid-November.

Walter Gale, a resident of Club View Rd., said Club View Rd. is a narrow, steep residential street and the noise, dust and debris from construction and the vehicular traffic will disturb the elderly, retired residents of Club View Road. He suggested that during the off-season they use the Clubhouse entrance in order to miss four houses on Club View and he said some responsible person should be in charge of seeing that the roads are kept clean. Mr. Gale was advised by Mr. Neilson and Mr. Westall that ingress and egress to the construction site would be through the Clubhouse parking lot.

Mr. Jack Westall, Attorney representing Grove Park Inn, said a number of concerns relative to traffic flow, lights, and on-site parking had been addressed through modification of the plans. He said the construction itself should cause very little inconvenience to the residents of the area. He requested that the 40' easement required by the Planning and Zoning Commission be reduced to a 20' easement. He said the plans had been revised to maintain a 20' fire lane.

Max Haner, Grove Park/Sunset Citizen Association, said the developer and contractor had addressed concerns of the association and that the Grove Park/Sunset Citizen Association is encouraged with the spirit of cooperation they have received from the developer and contractor.

Mike Greene, Wick & Greene Jewelers, spoke in support of the project and urged Council to approve. He said this addition would help the City to continue to grow.

Barry Olen said he would like to commend Council and the residents for their spirit of cooperation.

Mayor Bissette closed the public hearing at 5:27 p.m.

Councilman Michalove moved to approve the site plan for the proposed addition to the Grove Park Inn subject to the recommendations of the Planning and Zoning Commission except that the recommended 40' fire lane be reduced to a 20' fire lane to be maintained by Grove Park Inn. This motion was seconded by Councilman Bratton and carried unanimously.

PUBLIC HEARING - WALL STREET DEVELOPMENT PLAN - PHASE II - PARKING DECK

7. A public hearing was held relative to Wall Street Development Plan Phase II, Parking Deck.

Mayor Bissette said at a meeting held October 8, 1986, the Asheville Planning and Zoning Commission reviewed the site plan of Wall Street Development Plan, Phase II - Parking Deck which was prepared by Glave-Newman-

Anderson, Architects, for Southeastern Historic Properties, Developer. The Commission moved to recommend approval of the plan and to recommend to City Council that they review the developer's plans for maintaining access to all businesses that are currently in operation on Wall Street. This public hearing was scheduled at the October 14, 1986 meeting. Memorandum of Agreement and City Agreements are in place.

Mayor Bissette opened the public hearing at 5:29 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission and the Downtown Commission both recommend approval of the plan. He said the developers are sensitive to the issues of the remaining businesses on Wall Street and that these could best be addressed by the City's new Downtown Coordinator Leslie Anderson.

Mr. Glave made a slide presentation showing details of the Wall Street project.

Mr. William F. "Buck" Talman, representing Talman Office Supply, Inc., 101 Patton Avenue, spoke of the necessity of clearing residual property rights questions. The areas involved generally were overhead sidewalks, Express Alley, existing easements near the "wall", and access to the property. Continuing, Mr. Talman expressed support for the project and his willingness to work out any problems alluded to.

Mr. William Duckworth, in his role as property manager/agent for the Tench Francis Cox Building and the Anderson Building on Wall and College Street, spoke generally in favor of the project, but stressed the critical need for stronger links of communication between the City, the developer, the property owners, and the tenants. As an example, he cited the problems his clients had experienced with changeover in utilities and service to the rear of the buildings he manages.

Mr. Steve Barden, Attorney representing William Groover, owner of the Trophy House at 58 Wall Street and also representing Doris and Nancy Williams, owners of Accudata Services, Inc., said his clients have long-term leases on their businesses and that they currently have only one access onto Wall Street. He said they are also concerned about parking and loading for their businesses. Mr. Barden said he felt the easement on the bridge was of no benefit to the Trophy House or the Williams' business. He also said, in his opinion, the project is not ready for approval in its current format.

Mr. William G. Smith, President of Southeastern Historic Properties, Inc., said he would be happy to sit down with Mr. Barden and explain the project in detail. He further expressed his desire to work closely with the tenants during this time and during construction of the parking deck. He said he is working with Mr. Talman relative to the property rights question and possible interim relocation during construction.

Councilman Price suggested that Council should consider forming a Liaison Committee to work with the tenants and property owners as the project progresses.

After discussion, all parties (City Council, the developer, property owners, and tenants) agreed that such a committee would be useful and could accomplish a great deal.

Mr. Steve Aceto, Attorney representing Elizabeth Meadows Marple, owner of The Trophy House property, said that his client has long-term leases on the property, and that she feels both legal and moral obligations to these tenants. He said problems of access and parking during the construction should be addressed. He said he would support

Councilman Price's recommendation to form a committee to work together during the construction period. Mr. Aceto said no provision for parking and access have been made for the 8 to 10 month construction period and these concerns should be addressed.

Dr. Erby R. Oglesby, owner of the property at 48 Battery Park, said in his last offer he had received from Southeastern Historic Properties, Inc., he had been notified to vacate his office by November 1, 1986. He said this disturbed him greatly since it was impossible to move a dental office and its equipment within the time frame given. Further, he said the letter had indicated that if he was not out of his office by November 1, 1986, City Council would be requested to start condemnation proceedings. He said this would have an adverse effect on him and he felt the letter was, in his opinion, high-handed and inappropriate.

Upon inquiry of Ralph Bishop, Mayor Bisette said the parking garage would be financed through revenue bonds.

Barry Olen, Wall Street merchant, said the parking study indicates elimination of current on-street parking in order for the new parking deck to be financially feasible. He said he felt it is mandatory that construction follow a specific schedule.

Mike Greene, Wick & Greene Jewelers, said there were 40 to 52 businesses at the beginning of the project and that some had moved out, but nobody had received any financial compensation for moving. He said this would be an excellent project, but without the addition of the 284 spaces in the parking deck, the project would not be feasible. He urged City Council to approve the project.

Doris Williams of Accudata Services, Inc., 62 and 52 Wall Street, said she had not asked for any payoff, but that she would request consideration in terms of her long-term lease. She said it was imperative that she have access to her building during construction, and before final approval was given by City Council, the plan should be looked at very carefully.

Mr. Larry Elliott of Elliott's Rental Mart, 111 Patton Avenue, said he is concerned about parking and loading and unloading during construction. He said he will not be able to conduct his business like this and requested that parking during the construction period be provided.

Councilman Price said she would hope that Southeastern Historic Properties, Inc. would work with current owners, tenants, and leaseholders during this difficult time of construction.

Mr. Steve Aceto reiterated the need for final plans and a schedule for parking and access for all tenants concerned. Further, he expressed the need for Council to appoint a responsible person to coordinate all of these efforts.

Councilman Bratton echoed the suggestion of Councilman Price for the development of a Committee to work with everyone during the construction period of this project.

Bill Smith said he had met with several of the property owners to discuss the project details. He said that even Southeastern has cash flow problems, but the improvements will benefit everyone's investment. He expressed his willingness to meet with every individual involved to discuss their individual problems and concerns and make every effort to arrive at an agreeable solution.

Paul Greene of Wick & Greene Jewelers also expressed his support for the project.

Councilman Michalove moved that the hearing be continued until Wednesday, at which time the City Council is scheduled to meet for other business, so Council could give further consideration to a satisfactory solution to the problems and concerns brought to their attention.

After discussion, Councilman Michalove withdrew his motion.

Mr. William F. Talman suggested that as a way of progressing with the project, that it be approved contingent upon the execution of the necessary agreements to satisfy the property rights questions.

Mayor Bissette closed the public hearing at 7:22 p.m.

Mayor Bissette indicated that at this point Council could only approve the project in concept, since legal documents are not in place. However, he said, the City would like to move ahead with the project on a conditional basis, until the developers, business owners, property owners, tenants, and City staff worked out a satisfactory solution.

Vice-Mayor Frank moved to approve the site plan in concept, contingent upon a construction plan to be approved by the Asheville City Council to include the acquisition of the subject property and the resolution of all property rights concerning those properties; with final approval to be made by the Asheville City Council after a determination of those matters. This motion was seconded by Councilman Michalove and carried unanimously.

City Council supported the establishment of a Wall Street Liaison Committee to work with the tenants and property owners as the project progresses.

PUBLIC HEARING - REZONING PROPERTY ON ARCO ROAD

8. Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 10, 1986, considered the petition of Attorney John Stevens for Mr. and Mrs. Elmer Frink that a portion of Lot 192, Sheet 13, Ward 8, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on Arco Road. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 192, Sheet 13, Ward 8 to within 50' of Arco Road be rezoned from R-2 Residential District to CH Commercial Highway District.

Mayor Bissette opened the public hearing at 7:36 p.m.

Mr. Jack Stevens, Attorney for Mr. and Mrs. Elmer Frink, said this property fronts Tunnel Road and Arco Road, and the Frinks would like to develop the property and put it on the market for sale. He said the best use of the property can be accomplished under the Commercial Highway designation.

Estey McCall, 153 Arco Road, said that her residence was directly in front of this property and that she is opposed to the area being rezoned Commercial Highway.

Doug McCovey, 155 Arco Road, spoke in opposition to the rezoning. He said a 50' strip is needed in order to prevent visual and noise pollution.

Mr. Walter Fletcher, 154 Arco Road, said he does not live at this address but owns the property. He read the minutes of last year's Council meeting concerning this same request. He said the proposed rezoning would result in devaluation of the homes in the area and opens up the possibility of businesses such as fast foods in the area.

Mr. Beale Fletcher, 207 Governor's View Road, presented members of Council with a letter of opposition from the Beverly Hills Homeowners Association. He said the residents strongly object to the rezoning and that a fast food business is a strong possibility for the site. He said there is also a restrictive covenant on this property.

Corporation Counsel William F. Slawter said these are separate matters, and that the zoning considerations are made without consideration of deed restrictions.

Linda Fletcher, wife of Walter Fletcher, 154 Arco Road, said all residents are opposed and that they do not want the noise, trash, traffic and devaluation of property which would occur as a result of the rezoning. She said this area is intended for residential use.

Mayor Bissette said the City does not get involved in the deed restrictive covenants for this area.

Mr. J. D. Netherton, 161 Arco Road, spoke in opposition to the proposed zoning. He said the Commercial Highway designation will kill valuation of all property in the area.

Mr. Elmer Moxley, 32 Pinehurst Road, said all residents of the area object to the proposed rezoning.

Mr. Jack Stevens, Attorney for the Frinks, said most of the opposition from the neighborhood is due to their concern about the increased congestion. He said a fast food service can presently be put in the area and the only thing that they can't do is use the back portion of the property. He said he has serious doubts about the enforceability of the deed restrictions mentioned.

Mr. Dean Hines, 22 Crestwood Lane, said the surrounding property is already commercial and the price should not have any bearing on the rezoning consideration. He said the property should be used to its maximum best use.

Mayor Bissette closed the public hearing at 8:34 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove moved to remand the request back to the Planning and Zoning Commission for inclusion in the comprehensive plan being developed with recommendations for zoning changes throughout the City. This motion was seconded by Councilman Tisdale and carried unanimously.

PUBLIC HEARING - ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY - HILLIARD L. WRIGHT

9. A public hearing was held relative to the issuance of a Certificate of Public Convenience and Necessity to Hilliard L. Wright.

Mayor Bissette said the City Manager will be authorized to issue a Certificate of Public Convenience and Necessity to Hilliard L. Wright pursuant to Section 27-34 of the Code of Ordinances of the City of Asheville upon proof of financial responsibility in accordance with N. C. Gen. Stat. Sec. 20-280.

Mayor Bissette opened the public hearing at 8:44 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Since Mr. Wright was not present at the meeting, Councilman Michalove moved to continue the hearing to November 11, 1986. This motion was seconded by Councilman Price and carried unanimously.

Council requested that Mr. Wright be given notice of the new hearing date.

ORDINANCE NO. 1613 - AN ORDINANCE AMENDING ORDINANCE NO. 322, BEING THE ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (HILLSIDES)

10. Consideration was given to the second reading of Ordinance No. 1613, an ordinance amending Ordinance No. 322, being the zoning ordinance of the Code of Ordinances of the City of Asheville (Hillsides).

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 10, 1986, reviewed and recommended approval of the Mountain/Slope Standards subject to clarification that it only pertains to land over 2,220 feet. This ordinance was read on first reading on October 14, 1986.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1613 passed on second reading.

RESOLUTION NO. 86-203 - RESOLUTION AUTHORIZING MAYOR AND CITY MANAGER TO EXECUTE A SUPPLEMENTAL ENGINEERING AGREEMENT WITH THOMPSON-GORDON-SHOOK

ENGINEERS, INC. FOR THE CHESTNUT STREET REPLACEMENT PROJECT

11. Consideration was given to a resolution authorizing the Mayor and the City Manager to execute a supplemental engineering agreement with Thompson-

Gordon-Shook Engineers, Inc. for the Chestnut Street Bridge Replacement Project.

Mayor Bissette said the City has entered into an engineering contract with Thompson-Gordon-Shook Engineers, Inc. to design replacement of the Chestnut Street Bridge. Upon completion of the design and approval by N.C. DOT and the City, changes are required to the original approved design to accommodate the N.C. DOT Broadway Avenue Project. This resolution will

authorize the Mayor and City Manager to execute an agreement with Thompson-

Gordon-Shook Engineers, Inc. and any change orders within the budgeted amount for the bridge replacement program.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Councilman Frank, Resolution No. 86-203 was unanimously adopted.

Complete text of Resolution No. 86-203 will be found in Resolution Book **16** at page **282**.

MOTION - SCHEDULING PUBLIC HEARING/SITE PLAN - PHASE II TIMBERS CONDOMINIUMS

12. Consideration was given to a motion to schedule a public hearing relative to a site plan of Phase II of Timbers Condominiums to be located on Beaverdam Road for November 4, 1986.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held August 6, 1986, reviewed a site plan of Phase II of Timbers Condominiums located on Beaverdam Road. The plan was prepared by Traber Associates, Architect, for North Asheville Condominium Enterprises, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) a minimum of 25' setback be maintained at any point; 2) provision of buffering in accordance with Ordinance 1592 on the south and east abutting the R-1 District; and 3) compliance with the Erosion Control Ordinance.

Councilman Price moved to schedule the public hearing relative to the site plan of Phase II of Timbers Condominiums for November 4, 1986. This motion was seconded by Councilman Frank and carried unanimously.

CITY MANAGER - AFFIRMATIVE ACTION PLAN

13. The City Manager said he had furnished members of Council with copies of the draft Affirmative Action Plan for the City of Asheville. He said he would be reviewing the draft with Council during the next few weeks.

RESOLUTION NO. 86-204 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ELECTRICAL EXAMINERS

14. Consideration was given to a resolution appointing Jonathan D. Smith, 12 Parkview Dr., Asheville, North Carolina 28805, 298-2969, as a member to the Board of Electrical Examiners to serve the unexpired term of J. Michael Boozer, term expiring July 1, 1987.

From motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-204 was unanimously adopted.

Complete text of Resolution No. 86-204 will be found in Resolution Book No. **16** at page **283**.

CLAIMS - MARY MOSLEY (WATER) - MURPHY GOGGINS (WATER) - BECKY YORK (WATER) - PEARL YARBROUGH (WATER)

15. The City Manager presented claims received from Mary Mosley, Murphy Goggins, Becky York, and Pearl Yarbrough.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

MAYOR BISSETTE ANNOUNCEMENT - PRESS CONFERENCE

16. Mayor Bissette said there would be an important Press Conference at 2:00 p.m. tomorrow. He asked that all members of Council try to attend. He said immediately following the Press Conference, the Council would convene in a short Executive Session.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Michalove, the meeting adjourned until 2:30 p.m. on Wednesday, October 29, 1986.

Mayor City Clerk
