

Tuesday - October 8, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson

Absent: City Manager James L. Westbrook Jr.

INVOCATION

Councilman Skalski gave the invocation.

I. PROCLAMATIONS:

Mayor Martin welcomed Ms. Kathy Kline and her 6th grade students from Carolina Day School.

A. PROCLAMATION PROCLAIMING THE WEEK OF OCTOBER 6-12, 1996, AS "FIRE PREVENTION WEEK"

Mayor Martin proclaimed the week of October 6-12, 1996, as "Fire Prevention Week" in the City of Asheville and presented the proclamation to Fire Chief John Rukavina who briefed the Council on some activities that would be taking place during the week.

B. PROCLAMATION PROCLAIMING SUNDAY, OCTOBER 13, 1996, AS "FIREFIGHTER MEMORIAL SUNDAY"

Mayor Martin proclaimed Sunday, October 13, 1996, as "Firefighter Memorial Sunday" in the City of Asheville and presented the proclamation to Fire Chief John Rukavina who invited City Council and the public to their ceremonies on that day.

C. PROCLAMATION PROCLAIMING THE WEEK OF OCTOBER 13-19, 1996, AS "NATIONAL FOOD BANK WEEK"

Mayor Martin proclaimed the week of October 13-19, 1996, as "National Food Bank Week" in the City of Asheville and presented the proclamation to Mr. Toby Ives, Executive Director of Manna Food Bank, who briefed the Council on some activities that would be taking place during the week.

D. PROCLAMATION PROCLAIMING THE WEEK OF OCTOBER 14-21, 1996, AS "RAPE AND ASSAULT PREVENTION WEEK"

Mayor Martin proclaimed the week of October 14-21, 1996, as "Rape and Assault Prevention Week" in the City of Asheville and presented the proclamation to Mr. Carl Wilcox who briefed the Council on some activities that would be taking place during the week.

E. PROCLAMATION PROCLAIMING THE WEEK OF OCTOBER 20-26, 1996, AS "NATIONAL ADULT IMMUNIZATION AWARENESS WEEK" AND SUNDAY, NOVEMBER 3, 1996, AS "SENIOR VACCINATION SUNDAY" IN THE CITY OF ASHEVILLE

Mayor Martin proclaimed the week of October 20-26, 1996, as "National Adult Immunization Awareness Week" and Sunday, November 3, 1996, as "Senior

Vaccination Sunday" in the City of Asheville and presented the proclamation to Ms. Barbara Dalton from the Disease

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Control Division of the Buncombe County Health Dept., who briefed the Council on some activities that would be taking place.

F. LETTER OF APPRECIATION FROM MAYOR OF KARAKOL, KIRGYZSTAN - ASHEVILLE'S SISTER CITY

Mr. Dennis Hodgson read a letter from the Mayor of Karakol, Kirgyzstan, which expressed Karakol's appreciation to the City of Asheville for their friendship and good relations between the two cities.

Vice-Mayor Field recognized Ms. Kiki Suarez, internationally known folk artist from San Cristobal, Chiapas, Mexico. She invited the public to attend Ms. Suarez's exhibition on Friday, October 11, 1996, at the Broadway Arts Building beginning at 5:00 p.m.

II. CONSENT:

A. APPROVAL OF THE AMENDED MINUTES OF THE WORKSESSION HELD ON SEPTEMBER 17, 1996, THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 24, 1996, AND THE WORKSESSION HELD ON OCTOBER 1, 1996

Summary: The minutes of the worksession held on September 17, 1996, are amended for clarification purposes regarding the matter of the 155 acre rezoning request between Overlook Road and Hendersonville Road.

B. MOTION AUTHORIZING THE PARKS & RECREATION DEPARTMENT TO DEVELOP A STRATEGIC PLAN FOR BELE CHERE FESTIVAL

C. MOTION APPROVING THE LOGO FOR COMMUNITY ORIENTED GOVERNMENT

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

III. UNFINISHED BUSINESS:

A. MOTION DIRECTING THE PLANNING & ZONING COMMISSION TO CONSIDER APPROPRIATE ZONING OF THE OI PORTIONS OF PIN NOS. 9655.09-15-2013 AND 9655.09-15-0415 LOCATED WEST OF HENDERSONVILLE ROAD

Councilman Cloninger moved to direct the Planning & Zoning Commission to consider appropriate zoning of the OI portions of PIN Nos. 9655.09-15-2013 and 9655.09-15-0415 located west of Hendersonville Road. This motion was seconded by Councilman Worley.

Ms. Barbara Darden, representative of Center for World Servers, said that the zoning was changed to OI at the time of the annexation. The reason why that portion was zoned OI was because of the Center's activities being of a public service. The Center is asking that their property not be rezoned. She, personally, regretted the offer to buy the property by the Texas firm that wanted to build 300 units. She was devastated that they wanted to remove the trees and take the beauty of the property away. However, she is also a real estate broker and they have asked her to represent them in the listing of the

property in the spring of 1997. She said that she will be responsible that the property is put to proper use.

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Ms. Darden also said that she has lived at the Center for almost seven years and the noise from the air conditioners at Ingles and the Gerber factory are intolerable. To change that to a residential zoning would defeat the whole sale of the property due to the noise factor.

Councilman Cloninger said that Council is only asking for a study of the OI portion of property. He encouraged the World Servers, along with Mr. Morosani (who owns the other 5 acre OI tract) and the residents in Blake Mountain Estates and their attorney, to meet and see if they can come to some mutual agreement as to the use of the property that all sides can live with - that will allow both sides to be able to use their property as they want to.

Mr. Jim Siemens, attorney representing the Blake Mountain Estates residents, said that he felt referring this matter to the Planning & Zoning Commission was the appropriate thing to do at this time. He said that he would be happy to work with Mr. Morosani and representatives of World Servers in the interim.

Councilman Skalski said that he said that he will vote in favor of this motion, however, he pointed out that in an earlier meeting he made a motion to study the entire 155 acres, not to just isolate these properties. He also agreed with Councilman Cloninger that there needs to be dialog between the groups. However, he felt that the dialog might solve the problem temporarily, but not long term and not with the planning area as a whole.

Councilman Hay stated that staff has informed Council that they cannot move forward with the UDO if the 155 acres were to be studied. It was a choice Council had to make.

Councilman Cloninger said that in effect the City will be studying the whole 155 acres as part of the UDO process.

Ms. Betty Budd, Coalition of South Asheville Neighbors, wanted Council to remember that World Servers is now owned by a company in California. She said that many community meetings were held in South Asheville when the extensive zoning in that area was done. They looked at many issues involved with bringing more homes into the area, such as the schools, road and water. She was glad that Council will be looking at the entire 155 acre parcel because it will affect the quality of life of many people in South Buncombe.

Mayor Martin then asked that a voice vote be taken on Councilman Cloninger's motion. Said motion carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING 112 LOTS IN THE WILSHIRE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

ORDINANCE NO. 2322 - ORDINANCE TO REZONE 112 LOTS IN THE WILSHIRE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

Mayor Martin said that this public hearing was originally scheduled for September 24, 1996, but had to be rescheduled until this date due to a notice to the public error.

Mayor Martin then opened the public hearing at 5:36 p.m.

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City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that on July 23, 1996, City Council directed the Planning Department to study the Wilshire Park area for possible rezoning. The Planning staff reviewed the petition and found it to be valid and submitted the petition to the Planning & Zoning Commission for their recommendation.

The subject property is approximately 54.32 acres. The 112 lots are located within the area called Wilshire Park which is directly west of Patton Avenue. The 2010 Plan recommends this area to be low density residential.

Of the 112 lots, 108 have a single family residential structure, one is owned by a church and three lots are currently vacant. All 112 lots conform to the R-1A standards which is minimum lot size of 5400 square feet and minimum lot width of 50 feet. The petition contains 96 verified property owner signatures or 85% of the property owners and the 96 lots constitute 71% of the land area.

The Planning staff reviewed the petition and recommends that the 112 lots in the Wilshire Park area be rezoned from R-3 to R-1A. At the September 4, 1996, Planning & Zoning Commission meeting, the Commission voted 6-1 to recommend approval of the rezoning request. Mr. Ownbey could not recall the reason for the one vote against the rezoning by the Commission.

When Vice-Mayor Field asked approximately how many staff hours it took for the Planning Department to bring this matter to City Council, Mr. Ownbey said that this rezoning request took approximately 40 hours of work.

Upon inquiry of Mr. H.K. Edgerton, President of the NAACP, Mayor Martin said that none of this land is suitable for the Housing Authority's quadruple apartments.

Mr. George Watt, Treasurer of the Wilshire Park Community Club, spoke in support of the rezoning request.

Mr. John Wilson, owner of 7 lots designated as two tax lots in the proposed area, said that he bought this property over six years ago and it was zoned R-3. He said that he didn't do anything to his property for a long time because you can't use the property the way it was - it was very steep. Last year he spent \$10,000 extending Luther Road so he could get onto his property and build. He met with the neighborhood and explained that he wanted to put duplexes on his property and the terrain dictated that they would have basements. He felt they would be an asset to the neighborhood, however, the neighborhood does not want them built. He noted that there are already three duplexes in the area along with two businesses, one is a Beauty Shop at 42 Wilshire Drive and the other is Asheville Home Improvements at 2 Wilburn. He said that property rights were very important and the neighbors should not be allowed to take his rights away from him.

Vice-Mayor Field said that even though this area has not been mapped yet under the UDO, she said that it was her understanding that in the UDO duplexes will be allowed in most residential zones.

Ms. Margaret Sexton, 60 Luther Street and Secretary of the Wilshire Park Community Club, felt that duplexes will bring in

additional traffic, on a street that can't handle anymore traffic, and noise to the area.

Mayor Martin closed the public hearing at 5:48 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Sellers moved for the adoption of Ordinance No. 2322. This motion was seconded by Councilman Skalski.

Councilman Hay felt that this area really is an R-1A neighborhood that's been zoned R-3. At the time it was zoned R-3, he didn't think that R-1A was an available zoning designation. He felt that the area should have been zoned R-1A from the beginning.

On a roll call vote of 7-0, Ordinance No. 2322 passed on its first and final reading.

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B. PUBLIC HEARING TO REZONE 11 LOTS IN THE BURTON STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CS COMMERCIAL SERVICE DISTRICT

Mayor Martin said that this public hearing was originally scheduled for September 24, 1996, but had to be rescheduled until this date due to a notice to the public error.

Mayor Martin then opened the public hearing at 5:51 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that the original petition was to rezone 15 lots from R-3 Medium Density Residential to CS Commercial Service. Two lots were recommended to be added by the Planning staff that were not part of the original petition so that there would not be an illegal spot zoning. Prior to the request being considered by the Commission, two property owners withdrew their request for the rezoning of their three lots on the west side of Burton Street (PIN Nos. 9639.14-44-3992 & 4927 and 9638.10-45-4022) leaving the rezoning request for a total of 14 lots. The Planning staff reviewed the rezoning request and recommended approval of just 11 of the lots and deny rezoning of three lots (PIN Nos. 9638.10-45-4124, 4228 and 5401). The 11 lots recommended for rezoning are identified as PIN Nos. 9638.10-45-6027, 6187, 6285, 6365, 6477, 7033, 7038, 7356 and 7593 and 9638.10-44-6919 and 7928 and are all on the east side of Burton Street.

The subject properties are approximately 6.5 acres. The 17 lots are located on Burton Street just north of Haywood Road. The 17 lots contain eight residential structures, two commercial structures, six vacant lots, and two lots with commercial storage. The 2010 Plan recommend this area be low density residential with some commercial on the southern fringe. The subject properties are surrounded on the north and west by residential, on the east by I-240, and on the south by commercial. The existing commercial structure and the surrounding vacant lots on the east side of Burton Street have potential for commercial development. The lots on the west side of Burton Street, that are not vacant, have existing residential structures. These vacant

lots should be looked at for further residential development as well as to continue to provide a buffer for the existing residential area.

At the September 4, 1996, Planning & Zoning Commission meeting, the Commission voted 5-2 to recommend approval of the rezoning of the 11 lots.

Mr. Ownbey said that a valid protest petition has been filed.

Upon inquiry of Mayor Martin relative to buffering requirements, Mr. Ownbey said that there would be a 20 foot buffer strip that would be required for the commercial development.

Councilman Worley asked if there was a building on the east side of Burton Street tract. He replied that there is a commercial building on that tract that is being renovated and that the building has been there since the 1920's.

Upon inquiry of Vice-Mayor Field about the four buildings presently on the affected property on east side of Burton Street, Mr. Ownbey said that two of the buildings are owned by the petitioner which are rented and two are owned by other individuals (one of which signed the rezoning petition). All four buildings are permitted uses in the CS District.

Ms. Gloria Johnson, resident of 87 Burton Street and Chairperson of the Burton Street Community, said that the 90% of the property owners in the Burton Street area request that Burton Street remain a residential street. They feel that way because the traffic flow on Burton Street is very heavy and dangerous to the children due to the fact that some children walk to and from school and the community center. She said Mrs. King, a property owner whose property abuts the proposed CS, sent a letter to Mr. Ownbey noting that she does not support the rezoning request and would like for it to remain residential.

When Councilman Skalski asked if it would be possible to keep the area rezoned R-3 on the east side and allow the commercial use that's in there now to be on a conditional use, he was told it was not possible. He then noted that if the property on the west side of Burton Street remains residential, anything on those properties that's not residential would have to be removed.

When Councilman Skalski asked if the neighborhood has a problem with what's in the area now, Ms. Johnson said not really because the only thing Mr. Aliferis has on that property is the U-Haul trailers. She did talk with Mr. Aliferis and he said he wanted to use the building as for storage and office space. However, if Mr. Aliferis sells the property, it can be used for anything allowable in the CS district. They're just getting cleared up the drug and traffic problems on their Street and they fear what can be built in a commercial zone. She said the area has been residential for over 40 years and it should remain residential.

Mr. Spiro Aliferis, petitioner, said that even though the buffering requirements call for 20 feet, he would be willing to extend that to 30 or 40 feet. He said that building has been on his property since 1921 and last year he started renovating it so he could use it. However, when he came in for a permit, he was told the area was not zoned properly for that commercial building and that is why he is asking for the area to be rezoned. He said the building would be used for the

U-Haul business and the inside will be sub-divided into mini-warehouses. On a

good day, he anticipated no more than 15 people would be in the building.

Mr. H.K. Edgerton, President of the NAACP, spoke in strong opposition to rezone this property to commercial. He said the U-Hauls that are there now leading into a traditional African-American community are an eye-sore.

Pastor Carl Arrington, Wilson Chapel United Methodist Church located on Burton Street, said that the Burton Street residents have worked hard to clean up their homes and better their neighborhood. They do not want to see their investment threatened by the uncertainties of creeping commercialism. The greatest fear is what might be brought into their neighborhood if it is zoned commercial. He requested this rezoning petition be denied.

Upon inquiry of Mr. Richard Nantelle, West Asheville resident, about what the UDO mapping for this area would likely be, Councilman Worley said that the Planning staff would be looking at existing uses and trying to map the area so as much as possible to not create non-conformities. He was not sure how the staff would look at a lot that is zoned residential but has had a commercial use on it for a substantial period of time. Mr. Gerald Green, Senior Planner, also responded by saying that this portion of West Asheville has not been mapped yet, but in looking at a situation like this, the staff would defer to the 2010 Plan to see what direction that might provide for that area. They would then look closely at the impact on the surrounding neighborhood with regard to use, access, infrastructure, etc.

Ms. Jane Mathews, Planning & Zoning Commission member (one of two members who voted against the rezoning), felt that this should not be rezoned. She felt this was an issue of the quality of residential development and how we can enhance a neighborhood that is struggling to maintain it's residential quality. She felt that commercial uses that are there are not in compliance with the zoning ordinance due to lack of enforcement and that lack of enforcement is allowing the commercial encroachment. She reminded Council that once is area is rezoned commercial, any use allowable under the designation can be built. She felt that the infrastructure in terms of the road is not there for that kind of development to go down into Burton Street. She strongly felt that this is very much of a commercial encroachment that was not beneficial to the City or the residential neighborhood in the long run.

Councilman Sellers noted that the area was a mess for years and Mr. Aliferis has spent approximately \$40,000 to clean it up and make improvements, then only to be told that he can't use it. He spoke in favor of the rezoning.

Mayor Martin closed the public hearing at 6:30 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Field said that she has not had an opportunity to visit the area in question and had a difficult time in deciding since both sides had valid points. She asked that this matter be tabled and since there is a valid protest petition which would require 6 out of 7 Council members voting in favor of the rezoning petition.

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Councilman Skalski agreed with Vice-Mayor Field because he does support businesses along the neighborhood fringes but he doesn't think this neighborhood should suffer for something they did not create. At this point he could not vote in favor of the rezoning, but he would be in favor of tabling this to give the parties a chance to come up with a solution that maybe the

UDO, with more zoning districts and more flexibility, would allow.

Vice-Mayor Field moved to table this matter until October 22, 1996. This motion was seconded by Councilman Skalski.

Councilman Worley had no objection in tabling this matter, however, he has given this matter a lot of thought and believed that Council should approve the rezoning request for the following reasons: (1) there is a long history of this property being used as commercial property; and (2) if Council leaves it residential, he felt it was unlikely that someone would go to the expense to tear the building down and reconstruct dwelling units because the expense involved in preparing that property would be too high.

Vice-Mayor Field felt that tabling the matter two weeks might give the parties an opportunity to get together and arrive at a solution. Her concern was that this area makes a lot of sense to be a transitional overlay and she personally does not, although Council continues to do it, think Council should be considering rezonings in the middle of the UDO mapping process. Council has protected a lot of neighborhoods in this community and this particular neighborhood has a tremendous amount of spirit and soul and Council needs to respect their wishes as much as the wishes of some of the other West Asheville communities, like Wilshire Park. She does not necessarily think we should be creating a non-conforming use and she totally respects the needs for commercial there.

Councilman Worley realized that when Council rezones an area, they rezone it not based on what the petitioner says the usage is going to be, but rezones it based on the whole realm of possible uses under that new zoning area. This Council cannot dictate to a petitioner any kind of restrictions on those uses. He understands that Mr. Aliferis has indicated to the neighborhood what he does intend to use the property for. He knows that it is possible for Mr. Aliferis and the neighborhood to reach an agreement for him to impose voluntarily some sort of deed restrictions on the use of the property. That is one possibility and he's not suggesting that he does or does not do that, but that is a possibility.

When Mayor Martin called for a vote on the motion to table this matter until October 22, 1996, said motion carried on a 5-2 vote, with Councilmen Cloninger and Sellers voting "no".

V. NEW BUSINESS:

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council

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determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on October 2, 1996:

DEAL BUICK (MERRIMON AVENUE) ADDITION

Mr. Gerald Green, Senior Planner, said that this is a proposal for a 9,600

square foot service building to be located on the Deal Buick property at 136 Merrimon Avenue.

The approximately six acre property is zoned CH commercial highway. Adjacent zoning is CH to the North, South and East and R-3 and R-4 to the West. The proposal meets all zoning and Group Development requirements.

Staff has received no comments in opposition to the group development.

The City Planning and Development staff recommends approval of the Group Development with one contingency being that the City receive letters confirming water and sewer availability and adequate water pressure for fire protection. The fire protection for the facility has been approved and staff is still awaiting the letters regarding water and sewer availability and they have spoken with representatives of those departments and those letters are on the way.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group development with the above condition.

Council accepted the report of the Planning and Zoning Commission with the above condition, thereby approving the project by taking no action.

41 Atkins Street Duplexes

Mr. Green said that this proposal is for five duplex buildings and one existing house for a total of 11 units to be located at the west end of Atkins Ave.

The property totals 1.975 acres and is zoned R-2 which allows six units per acre. Adjacent zoning is R-2 to the North and West, HI to the South, and R-4 to the East. The proposal meets all zoning and group development requirements.

Staff has received numerous comments in opposition to this group development regarding traffic. The City's Traffic Engineer reported that Atkins Avenue would be able to accommodate the traffic generated by the proposed development.

The Planning and Development staff recommends approval of the group development with the contingency that the City receive a letter of sewer availability. That letter has been received.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group development with the above condition.

Council accepted the report of the Planning and Zoning Commission with the above condition, thereby approving the project by taking no action.

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Nordon Apartments (Rathfarnham Road)

Mr. Green said that this proposal is for three buildings with four, two bedroom apartments in each building to be located on Rathfarnham Road.

The .84 acre parcel is zoned R-3 which allows 16 units per acre. The proposed development will have a density of 14.3 units per acre. Adjacent zoning is R-3 to the North, South, East and West. The proposal meets all zoning and group development requirements.

Staff has received a few comments in opposition to this group development regarding traffic impact, noise and impact on the adjacent Ravenscroft Condominiums.

The Planning and Development staff recommends approval of the group development with no conditions.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group development with no conditions.

Council accepted the report of the Planning and Zoning Commission with no conditions, thereby approving the project by taking no action.

Wingate Inn (2 Kenilworth Knoll)

Mr. Green said that this proposal is for a four-story, 140 room Wingate Inn to be located at 2 Kenilworth Knoll.

The property totals approximately 6.75 acres and is zoned CH commercial highway. The property will be subdivided and a 1.4 acre outparcel will be created. This is considered a minor subdivision and has been approved by staff.

A variance is requested (from Section 30-3-14 F. of the zoning ordinance) from the requirement that a parking lot buffer be placed between the Wingate Inn parking lot and an adjacent lot.

Staff has received no public comment regarding this project.

The Planning and Development staff recommends approval of the group development.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group Development and the variance request. The recommendation regarding the variance was contingent upon the required number of trees being provided elsewhere on the site.

Councilman Worley moved to set a public hearing on October 22, 1996, to consider the approval of a site plan and a request for a variance for Wingate Inn located at 2 Kenilworth Knoll. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mr. Brian Hennessee, HRS Associates, requested that the variance public hearing be for both the proposed restaurant and the hotel since they are both planning to co-use the parking lot. The variance will enable them to keep the parking lot size down and the required trees will be placed in other internal grass medians through the parking lot. Mr. Green said that City Council could only grant a variance for a group development project and the only group development project is the motel.

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The restaurant is considered a small project and any variance requested by the restaurant must be heard by the Board of Adjustment.

Upon inquiry of Vice-Mayor Field, Mr. Green said that under the UDO variances of all types will go to the Board of Adjustment.

Biltmore Health & Fitness Park

Mr. Green said that this proposal is for a medical/office complex to be located

off Hendersonville Road just south of I-40.

The 9.9 acres is zoned CH Commercial Highway and CS Commercial Service. The proposal consists of three buildings. Building A is a proposed two story medical office building and is 60,895 square feet. Building B is a proposed four story medical office building and is 94,986 square feet. Building C is a proposed three story wellness center and is 40,000 square feet. This is a total of 195,881 square feet. Adjacent zoning is CH Commercial Highway to the South, I-40 right-of-way to the North, and the Town of Biltmore Forest to the West. The proposal meets all zoning and group development requirements.

The developer has requested vested zoning rights pursuant to Article 14, Section 30-14-1 of the City Code.

Staff has received no comments in opposition to the group development.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group development with one condition: (1) letter of agreement regarding parking, drainage, and graded needed from Church.

Vice-Mayor moved to set a public hearing on October 22, 1996, to consider the approval of a site plan and a request for a zoning vested right for Biltmore Health & Fitness Park, located on US Highway 25 & I-40. This motion was seconded by Councilman Worley and carried unanimously.

B. REMOVAL OF ITEM FROM CITY AUCTION

Assistant City Manager Spell said that the Town of Woodfin has contacted the City and they have requested a vehicle on our list for sale at the City's auction. They have asked that they be allowed to purchase a 4-wheel drive Blazer. Formal action is needed to remove it from the list of approved surplus property. He suggested Council instruct staff to negotiate with the Town of Woodfin on the price.

Councilman Cloninger moved to authorize and direct the Purchasing Director to remove from the list of City property to be sold at public auction on October 19, 1996, one surplus K-Blazer vehicle, and to negotiate a sale of the vehicle to the Town of Woodfin on such terms and conditions as he shall deem to be in the best interest of the City of Asheville, as authorized by G.S. 160A-274. Provided, that the sale shall not be consummated until 10 days after publication of a notice summarizing the contents of this motion, as required by G.S. 160A-267. This motion was seconded by Councilman Sellers and carried unanimously.

C. SKYLAND VOLUNTEER FIRE DEPARTMENT

City Attorney Slawter has had a request from the attorney from the Skyland Volunteer Fire Department requesting that Council, as soon as possible, consider authorizing the Mayor to execute a document that is

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necessary in connection to the financing they are obtaining for the construction of their new fire department. This will not adversely affect the City's rights, but will only enable the Skyland Volunteer Fire Department to complete their financing with Wachovia.

Councilman Worley moved to authorize the Mayor and City Clerk to execute a Non-Disturbance, Subordination and Attornment Agreement in favor of Wachovia Bank

of North Carolina, N.A., related to property owned by the Skyland Volunteer Fire Department, a portion of which is leased to the City of Asheville. This motion was seconded by Vice-Mayor Field and carried unanimously.

D. CLAIMS

The following claims were received by the City of Asheville during the week of September 13-26, 1996: Lisa Millard (Police), Jon N. Nilsson (Water), Kathryn Enloe (Streets) and Robert Seven (Water).

The following claims were received during the week of September 27-October 3, 1996: BellSouth (Streets), Gary Thrailkill (Water), Horace McDonald (Streets), Jonnie Springs (Police), BellSouth (Water) and Rose Mary Miller (Water).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

C. LAWSUIT

The City was served with a Petition for Writ of Certiorari on September 23, 1996, which is generally described as follows: In re: The Matter of Sears Roebuck & Company - nature of proceeding is appeal to Superior Court of Board of Adjustment decision (sign variance).

This matter will be handled in-house.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:03 p.m.

CITY CLERK MAYOR
