

Wednesday - March 26, 1997 - 5:00 p.m.

Unified Development Ordinance Public Hearing on Text

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Thomas G. Sellers

Mayor Martin opened the public hearing on the text of the UDO at 5:00 p.m. Mayor Martin said presentations by the public shall be limited to no more than 10 minutes for the main spokesperson for a group and no more than three minutes for other individuals. Additional information may be conveyed to the City Council in written form.

Mayor Martin said that at the conclusion of the meeting, City Council plan to recess their public hearing until the following day (March 27, 1997) at 5:00 p.m. in the Banquet Room of the Asheville Civic Center. Mayor Martin then opened the public hearing at 5:00 p.m.

Councilman Worley, Chairman of the UDO Committee, said that City Council intends to pass the UDO on May 27, 1997. This is the first public hearing before City Council. The public hearing tonight, March 27, 1997, and April 3, 1997, is on the text of the UDO. The Planning & Zoning Commission has reviewed and passed onto Council the text with their recommended changes and the text is now up for consideration by City Council. The purpose of this public hearing is the text. The mapping recommendations have been out in the community for some time. There have been a series of mapping meetings. The maps are not yet before City Council. Those are still before the Planning & Zoning Commission for review.

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

Mr. Mike Lewis, Vice-President of the Coalition of Asheville Neighborhoods, felt that the UDO replaces a set of ordinances which currently pose a lose-lose situation for both City Council and the public in regard to controversial developments with a lose-lose situation for only the public. The UDO would do so by putting development decisions largely in the hands of public employees (the Planning staff). Those folks have been and will be subject to political pressure, and they should not have the responsibility for decisions which should be made by elected officials. While the proposed ordinance will make life easier for City Council, it can make it sheer hell for everyone else, particularly residential property owners.

Mr. Lewis said the UDO is a user-hostile document. The UDO should be comprehensible to the citizens of Asheville who will have to live with its ramifications. An unintelligible document will be opposed by all segments of the community and serves no one well.

Mr. Lewis offered the following comments: (1) The numbering of sections is such that when reading a long section running several pages one loses track of where one is. Print the final document with at least the section and subsection numbers on each page. (2) Where is Appendix B (Checklists for Applications) in 7-5-9 A. 4.a. (3) No reference to "speculative grading" in the document itself though there is a brief definition in the glossary. (4) Change Figure 11-13 if the new zoning categories are, in part, to protect neighborhoods. (5)

Footnoting would go far to illuminate the text. (6) Infrastructure assessments should be -2-

made public before a TRC meeting is held. Let people know what the technicians have found. In many cases, that differs from the actual experience of the people working and living in the area under proposed development. (7) Asheville-Buncombe vision has placed education as the community-wide priority, but schools are not included in the community planning process. (8) Schedule hearings on rezonings and changes to the 2010 Plan at least two weeks apart so that interested parties can study the implications of such far-reaching changes.

Mr. Jay Garner, President of the Asheville Area Chamber of Commerce, stated that the Chamber is very interested in the UDO as it will affect the economic development of the Asheville area. He specifically talked about the site plan review process. For Level 3 projects, please allow industrial projects up to 30 acres for Level 2 projects, allow office or institutional structures with a gross floor area of more than 35,000 square feet to be approved through the TRC Committee without having to go before a public hearing. We are requesting that these levels be returned to their original rank before they were lowered by the Planning & Zoning Commission. If these thresholds are not reinstated, we are concerned about what impact this could have on economic development in our area. For a Level 3 review, public hearings in Asheville can devastate a project that can bring jobs to our area just because a few people do not want the project. If an industrial proposal meets all criteria, a public hearing should not be necessary. After conducting research of other major cities in North Carolina, we have found that mostly only require public hearings for new industrial buildings that involve a rezoning. Additionally he has worked in economic development in both Georgia and Alabama and they are the same. Please don't make it erroneous for businesses to develop in the Asheville area.

Mr. Lee Woods, local businessman and member of the Chamber of Commerce's Local Issues Committee, spoke to affordable housing. Affordable housing doesn't have to be single-family homes on a 1/4 acre or more. It could be proper usage of the land that we have around Asheville. We must make more use of what we have here with the land. We are 9th in size in this State and yet rank 2nd in the cost of housing. The Chamber requests that the City ensure that the UDO address this situation in that it ensures that the zoning document provide adequate zoning and regulations that support affordable housing. He urged Council to consider making affordable housing part of its issue.

When Councilman Hay asked if the Chamber of Commerce's position is consistent with the Affordable Housing Coalition's position of doing away with the distinction between single family and multi-family districts, Ms. Angie Chandler, Vice-President of Communications and Public Affairs at the Chamber of Commerce, said that the Chamber's position is more of a general position in requesting that Council does allow for affordable housing in the Asheville area and that it be spread throughout the community.

Mr. Richard Green, speaking on behalf of the Coalition of Asheville Neighborhoods and member on the Executive Board, put most of their concerns in a publication called "The Community Voice" available at the door to the Banquet Room. The expressed concern that the UDO does propose to eliminate approximately 95% of the public hearings that are presently required. These will be eliminated as a result of the higher thresholds that are put on projects. A 1,000 unit apartment complex could be built adjacent to your neighborhood with no public hearing as long as the developer breaks his project up into contiguous pieces and has those projects approved in a piece-meal fashion.

Councilman Worley said that the UDO would permit your example of a 1,000 unit apartment building to be built in a piece-meal fashion. That is not supported by the current ordinance nor the UDO. Mr. Green responded that he would provide Council with written documentation from the Planning Department indicating that the Planning Department's policy is that they will approve projects in a piece-meal fashion which will allow the developer to circumvent the public hearing process.

Ms. Susan Andrew, Kenilworth resident, felt that part of the problem that the UDO has had in gaining acceptance by the public is that the public has been fairly well shut out in certain ways. There are some ways the UDO is hostile towards public involvement as shown by the proposal to raise the threshold at which a proposed development triggers a public hearing from 8 units to 150 units. That robs the public from input.

Councilman Worley stated that the process to date has been as publicly involved as Council can possibly have it. Every committee meeting has been open, public input has been received at every committee meeting, and Council has tried to be available for community meetings and for any group. He felt the Council has gone out of their way to encourage public input.

Ms. Hazel Fobes said that success of the UDO hinges on the contents being so applicable that they can be enforced. She gave examples of how key words are essential in the UDO. The rules must include specifically what is permitted and what is not permitted. Plans brought to the Planning & Zoning Commission should be the complete plan of a project, not a piece-meal plan.

Mr. Steve Gruber asked for clarification of the planned unit development and conditional use processes. Mr. Gerald Green, Senior Planner, said that the processes are very similar. In the planned unit development, the neighborhood meeting is a recommended, not required, meeting. In that instance the neighborhood could have some input but it would not have a bearing on the approval of the project. The next step is review by the TRC Committee which is made up of staff from various City departments. That Committee would evaluate whether the proposed project meets the standards and requirements of the City with regard to such details as setback, landscaping, access, fire protection, water, sewer availability, etc. They would have to clear that hurdle in order to have a viable project to take on to the Planning & Zoning Commission. The Planning & Zoning Commission would review the proposed project and in the instance of a planned unit development, they would review the master plan, approve that and recommend approval of the zoning overlay which would allow the planned unit development. That would go on to City Council which has the final approval. That is pretty much the same process for the conditional use. The staff level review, again, is just to assure that the project meets the standards and regulations of this City as set forth in the City's ordinances and regulations. The Planning & Zoning Commission would recommend either approval, denial or approval with conditions, and again the City Council would have final approval authority.

When Mr. Gruber asked if the neighborhood mounted enough protest could they kill a project before anybody saw a final plan, Mr. Green responded that the TRC bases their decisions and recommendations on the project's ability to meet the standards and requirements as set forth by the City. The neighborhood opposition or the neighborhood being in favor of the project would have no bearing on the TRC's recommendation. The project would proceed on with the approval process and City Council would review it regardless of the type of input from the neighborhood. -4-

The community would have an opportunity to speak and present their information before City Council and City Council would then make their decision.

Councilman Worley noted that the ordinance does set forth the standards for the review that City Council would have to follow in reviewing a conditional use project. Those are found in Sec. 7-5-5 F. 4.

Ms. Leah Karpen asked for the definition of overlay district. Mr. Green said that an overlay district is an overlay over an existing zoning district which provides either a tightening of the standards, additional standards or in some cases a loosening of the underlying standards.

Ms. Karpen then asked what the procedure is to amend the UDO. Councilman Worley said that City Council intends to periodically review the UDO. They intend to have a review a year after adoption, at a minimum, so see if there are things that haven't worked. The procedure for amending is like any ordinance. City Council can initiate an amendment, it would go to the Planning & Zoning Commission for a review and public hearing. It would then come to City Council for a public hearing and whatever action City Council chose to take.

Ms. Karpen asked why is Council rezoning property at this point under the existing zoning ordinance when the UDO is in process. Councilman Worley said that until the UDO is passed, the City has an existing zoning ordinance that provides for people to come in and apply for a rezoning. That right can't be taken away while we're going forward with the UDO. We have to live with the existing ordinance until we have a new one in its place. We do, however, try to look at rezonings in the context of what the UDO may be recommending.

Ms. Leni Sitnick said that the UDO is cumbersome and difficult for most people to understand and while Council has made great attempts to educate the public, that is the hostility we feel with this document. With Community Oriented Government, the thresholds should be rethought. If you are a property owner or renter in this City and there's going to be a project going on in your backyard, you have the right to have an opportunity to ask questions and express concerns about it. She thinks that the UDO should be stringent, clear, be applied even-handedly, be fair to all and variances should be the exception and should never set precedence. She appreciated the review mechanism but wondered if it would be practical to review on an annual basis any controversial issues that come from the application of the UDO. She appreciated the prior Council's appointment of a member of the Tree Commission to the TRC Committee. She would also like this Council to consider the possibility of appointing a member of the Water Efficiency Task Force to the TRC Committee so that developers can be made aware of all of the water saving opportunities and options that so many businesses and industries in this City have actually benefited from financially. There might need to be a mechanism in the UDO that shows if a particular area looks like it can't take any more via infrastructure or impact on neighborhood, maybe there should be a tool that City Council can use so you stay out of harms way of liabilities and lawsuits. She felt the developers should have the option of using computer technology to visual a property. There should be clear guidelines in the UDO about toxic spewing plants. UDO should make it easy to do good development. We should do everything to eliminate the us and them mentality in this community and the UDO should provide City Council with the tools to use your discretionary authority regarding health, safety and welfare. It's not about your powers, it's about your responsibility. -5-

Ms. Beth Maczka, Director of Affordable Housing Coalition, said that her specific concern was Sec. 7-1-2 - the purpose. She thinks our purpose is missing an opportunity to promote a vision of what we do want in Asheville. She was concerned about several phrases that, to her, implicitly are used to

reduce density - to prevent overcrowding of the land, to avoid undue concentration of population, and to encourage the most appropriate use of the land throughout the City's jurisdiction. Density is not a bad thing. If we don't allow concentration of housing and business in our City area, we will promote urban sprawl and we will have a circle of poverty around the City of Asheville where low income people have to go live in the County in order to work in Asheville. She used the example of the Town of Davidson in their purpose - a healthy town is one that provides housing and transportation chooses for its citizens, it protects its unique natural features and physical qualities, and provides places to live, work, shop, and take one's leisure, all connected by a pattern of safe and inviting public spaces. Their purpose was drawn both through both an upfront discussion about density where it's not a negative thing, where it doesn't promote urban sprawl and where it will actually promote more green space within the City by encouraging a concentration in smaller land area. There are examples out there that we can learn from. If the use of the UDO is used to lower the density of our City we will never go back and miss the opportunity to be a sustainable, walkable community. She then spoke about the standards for review and one of those is by looking at the lowering of property values myth. She presented Council with a document of recently sold single-family homes that are in proximity to multi-family apartment buildings. The selections are typical of city-wide increases in property value, reflecting that location near multi-family housing does not diminish property value or the ability to successfully re-sell a home at a profit. She felt that most people are concerned about design and if we have design criteria that people can agree on, there will be a vision that people can work towards. This policy will impact poor people incredibly. It should be a challenge to the community to make sure that we have a wide range of housing options that lead to thriving safe neighborhoods and individual and family self sufficiency. Please consider that and re-write the purpose.

Mr. Albert Sneed felt that this ordinance would create a number of serious nonconformities, not only of nonconformity of use but nonconforming lots, and nonconforming setbacks. He asked Council to review that to see if there isn't some room to create some amelioration. There should be some way to make minor changes to add for instance a loading dock or a lunch room to a factory that will not be properly zoned; (2) Consider allowing nonconforming uses if you have another use that's not the same but it's not anymore impact to all the use of the property to be changed without a more serious impact; (3) There are too many buffers. Commercial uses don't need to have so many buffers between differing type of commercial uses; (4) If there is an error to be made, make it on the side of leniency because it will be difficult to undue the damage later; (5) There are no penalties in the UDO in the event that some staff member takes a willful or an erroneous application of the ordinance and applies it to a property owner and causes damage; (6) The setbacks in Sec. 7-10-4 c. principally setback from major arteries are measured from the edge of the right-of-way and he felt wide rights-of-way are not necessary; and (7) Consider the provision that says that the ordinance shall be strictly construed against the land owner and in favor of the City. That's in the flood section. He was sure that the common law is that this ordinance should be liberally construed in favor of the property owner and strictly against the City.

Ms. Karen Vernon-Young, resident in Beaverdam Community, felt that this has not been the most user-friendly process. She reminded Council -6-

that as Council completes this task that they will at all times consider the impact of their decisions and their actions not just on the Asheville of today, but on the quality of our life in Asheville for future generations. She urged Council to act to preserve our neighborhoods while providing for commercial development in very appropriate and plentiful locations.

A representative from the Interfaith Alliance for Justice, Economic Justice Task Force, spoke about their concern on the negative impact in the UDO on affordable housing, which is in many cases multi-family housing. It was their understanding that single-family housing is going to cover a lot more area in Asheville with multi-family being cut anywhere from 75% to 40%.

Ms. Laurel Eide felt that from the lack of turnout at this meeting, the community is not aware of the UDO. She agreed that there has been some limited advertising but Council promised there would be advertising throughout the community.

Councilman Worley said that there has been a tremendous amount of advertising. It has included a cable TV program on the UDO that ran at least three times a week in January, numerous newspaper articles, and Council members have made several talks on the UDO to various groups. They do wish that there would be a greater participation and greater interest in the process. They wish there was a way to excite more of the citizens of Asheville in this process.

Councilman Cloninger also said that there have been a lot of other opportunities for the public to give their input about the UDO. We had community meetings in different parts of the community that were well attended in which the public had an opportunity to review the maps of the proposed zoning districts and give Council and staff their thoughts. Council has also received a lot of letters and telephone calls. Also, as Councilman Worley noted, several Council members have spoke to many civic groups and had question and answer sessions where hopefully informed people were informed about the nuts and bolts of the UDO. So while he was disappointed by the lack of turnout today, he felt that word getting out in other ways helped answer people's questions.

Upon inquiry of Ms. Hazel Fobes about the \$48,000 budgeted for advertising, Mr. Green said that a great deal of the \$48,000 that will be expended is yet to be seen. There will be two page ads run in the paper for 4 separate times over the next few weeks primarily detailing the mapping that will go along with the UDO. The cost for those advertisements in the paper is approximately \$25,000. That's where the bulk of the money has gone. The cable TV shows, the public notices in the paper, the advertisements by the different media, including radio, costs, but the bulk of the money is for the ads in the newspaper starting tomorrow. He noted that the legal requirements are for publication in the newspaper of general circulation and the Asheville Citizens Times meets that requirement. That is why we selected that newspaper for the two page ads.

Vice-Mayor Field said that she was at the last public hearing the Planning & Zoning Commission held and it was very well intended. She wrote over 40 comments down from people who represented organizations and themselves. She also said that people bring their concerns to Council's attention at different meetings, luncheons, or breakfasts. This is just another venue for Council to hear the public. She thinks that the momentum will build up once the maps are out in the paper.

-7-

Mayor Martin agreed that the UDO is hard to understand, however, it is prepared by our professional staff so that the zoning in place can be backed up. The document has to be comprehensive and meet legal requirements. He understands the complexity and the frustration, but he also understands a compilation of our ordinances must be adopted. The document will be reviewed one year from adoption and he has recommended the document be comprehensively reviewed every five years.

Ms. Susan Andrew felt that after the public hearings and comments are made, the public doesn't know what happened to their comments. She suggested comments be distilled, summarized and their effects on the document demonstrated. She felt it would be helpful to know directly what impacts Council's listening has on the ordinance itself.

Councilman Worley said that a draft was compiled in November, 1996. The process has the draft going to the Planning & Zoning Commission first for review and recommendations. The Planning & Zoning Commission has reviewed the document and have now made their recommendations to City Council. It is now City Council's opportunity to make changes they want.

Councilman Cloninger said that there have been some changes in both the text and mapping for the proposals as to the text and the mapping from comments received by the UDO Committee and the public last year. Also, at the different location mapping meetings, staff did take notes. He then asked Mr. Green to expand on what staff did with the notes they took at the community meetings. Mr. Green said that after each meeting the staff met, reviewed the comments made at the public meetings regarding the mapping and then recommended changes. The maps were changed from that first draft. He made available copies of the changes recommended by the Planning & Zoning Commission as a result of their review and also attached to that document are the comments staff received at the mapping meetings and staff's recommendations with regard to changes to be made resulting from those comments.

Mr. Freddie Mitchell, Asheville resident, asked that Clingman Avenue be zoned commercially. He felt that Clingman Avenue should not be zoned residential with the amount of volume of traffic on that road.

Councilman Worley suggested Mr. Mitchell attend the mapping public hearings which will be held on April 23 and 24, 1997, beginning at 5:00 p.m. in the Banquet Room of the Civic Center.

Councilman Skalski praised Mr. Mitchell for expressing how neighborhoods can be planned. He hoped Council and the public can come up with some tools that can be included in the UDO to allow people to have some mechanism where they can design and plan in their areas of town to make really good zoning and planning decisions.

An audience member asked where she can obtain a copy of the ordinance and look at the maps. Councilman Worley said that the ordinance itself is available in the Planning & Development Department on the Fifth Floor in the City Hall Building for \$5.00. The maps are also available in the Planning & Development Department and the Planning staff will be happy to go over the proposed maps with you.

Mr. Bill Becker, President of Ballentree Homeowners Association, said that he didn't see anything in the UDO that would prevent the problems occurring at the Pinnacles. Mr. Green said that in light of the Pinnacles, the staff has recommended some additions to the UDO. One is that properties within 1500 feet of each other owned by the same entity and/or developed by the same entity within a period of 3 years or -8-

less shall be treated as a single development. There's a provision in the subdivision section also which staff recommends a revision there to assure that properties are not continually subdivided in order to circumvent the regulations. There is also another revision recommended with regard to grading that on sites with an average natural slope of greater than 15% not more than 5 acres can be graded at any one time and that 5 acre parcel must be brought into final compliance with the erosion control ordinance before grading can

occur on another parcel that meets those standards with regard to the average natural grade.

Mr. Scott Dedman, 209 Cumberland Avenue, he hoped that Council would take his comments as serious comments about public policy and not as an attack on the process, the UDO as a document or on the staff. The UDO should be seen in a larger context of development in Asheville. The City Council has done much to promote attractive affordable neighborhoods and homes with generous funding from the available federal funds where there is still much to do in this regard. Council and staff give much of their time and attention to this effort. The UDO effort, as the document is currently drafted, will bring about many improvements in the development process. It compiles many ordinances, reduces bureaucratic procedure and some lot size and setback requirements and is particularly helpful where single-family, low density development is concerned. However, he believed that this ordinance will have other consequences as well which have the potential to undue much of the good work that has already been done. Specifically he was concerned about the dramatic reduction in land area which will be available for the development of multi-family housing and the increased segregation of our neighborhoods by income which he believed will result from the mapping. For weeks now he has "gone among you searching for the public policy basis which provides the foundation or support for the dramatic rezoning of land from single-family to multi-family and the dramatic reduction in allowed density in many, if not most, of our neighborhoods." The purpose of the UDO reads in part "'in order to promote the health, safety, morals or general welfare of the community, to lessen congestion in the streets, to prevent the over-crowding of land, to avoid undue concentration of population, to encourage the most appropriate use of land throughout the City's jurisdiction.'" This is a very good purpose, however, it is fairly generic language. ... It is not sufficient for a City as beautiful and special as Asheville. Furthermore, I believe that when we do something as dramatic and radical for our neighborhoods in our planning as we appear to be about to do in the UDO, we should support it and defend it with a grand and noble purpose. When we are about to cut roughly in half the land area available for one-third of our population to live on, our renter population, and when we are about to reduce the allowed density in that area in much of the land remaining, we should not only have a grand purpose but a clearly articulated one. In searching beyond the document itself, my first questions were to the City staff. I asked, why does it benefit Asheville and Asheville's residents to segregate so strictly and to such a great degree the single family dwellers from the multi-family dwellers. Protecting existing neighborhoods from other types of uses was the answer that I got. When I asked other types of uses, it was said protecting single-family neighborhoods from multi-family development. When I asked from what are we protecting these single-family neighborhoods, I was told by the staff member, 'Scott, it's just so basic I can't describe it to you.' So when we add language to the purpose, we should use the word 'protecting' and the word 'basic'. When I asked myself what we would be protecting the single-family residences from, I realize that to protect neighborhoods actually means to protect some of our citizens from others. Obviously the buildings do not need protection from each other. ... What is it about some of our residents -9-

which is so objectionable that we need to protect other residents from it. The next answer from a public policy making was 'so that I won't

get hung.' ... It does have an unpleasant connotation to it. It recalls a day when we were less civilized as a nation and a community when an angry vocal majority felt it was in their interest to protect public schools from integration, to protect public lunch counters and buses from integration. Not only this public official but others have essentially said to me the public wants it and it will be done. I've heard used in recent weeks the phrase



residential cleansing. While I did not invent the phrase, I think it is useful to provoke and promote thought and analysis, if nothing else. Such a phrase could make some of us angry because it adds an element to the discussion. It attributes a racial motive if not to the decision makers at least to the pressure which is behind the decisions. This may be unfair. However, you and I know privately some of us have acknowledged at least with a subtle nod of a head that racial bias may at least be in some part whether large or small in the pressure. We know that there has been some agreement privately, not in the decision making but in the pressure, that has lead to some of the decision making. If you can read a neighborhood flyer which spreads the fear of public housing without hearing a racial implication then you're mind is more pure and innocent than mine. I have praised personally for communicating with neighborhood residents with door to door visits before developing affordable housing for working families in a residential neighborhood. However, you were never told, as I tell you now publicly, that right behind me on these door to door visits was a young man from a nearby neighborhood telling residents that there would be black drug dealers living in our affordable housing and asking the neighbors to come out to the public hearing and oppose it. This is not a recent story, this story is from about 3 years ago, but it is a true story. It so happened that the neighbors were much bigger than this and in the large part the neighbors supported the development. I ask you if your neighbor comes to you, if my neighbor comes to me, with segregation on his mind, whether it be economic segregation or racial segregation, and I move in his direction with my policy, is not my policy tainted by those motives, whether they are my motives or not. In other words, in the absence of a clearly articulated opinion, must we not ask, what has motivated the pressure. In this search for the public policy basis for the dramatic increase in segregation of our multi-family dwellers from our single-family dwellers, the closest to a thoughtful answer I have received is the perception of reduced property values. It is not answered reduced property values, it is answered the perception of reduced property values. We could add this to our language in the purpose, to ameliorate the neighborhood perception of reduced property values, however, this is pretty weak soup. I believe that we need to beef it up a little. But since the arguments run both ways, some saying that multi-family properties reduce property values and some say that their multi-family properties which are down-zoned to single-family reduces their property values, I don't know that we have the facts to support this new language. In recent days and weeks, as I have raised such concerns with individual policy makers some of you have expressed disappointment that such basic objections are raised at this late date. However, I do not believe it is too late to proceed in a better way. I believe that what neighborhood residents want most are neighborhoods that are attractive, safe, and well designed. Four units on one acre of land can be beautiful single-family, beautiful multi-family or they can be an ugly disaster either single-family or multi-family. This is not a question of who lives there and whether the homes touch each other or they are divided, it is a question of density and design. I am asking you again to first begin to articulate a clear public purpose which provides a framework for the increased segregation of single-family from multi-family dwellers." Then meet with the community to create a plan which -10-

speaks in a new and creative way to design in density. He asked that we turn this development ordinance into a truly unified development ordinance.

Mayor Martin said that he didn't want anyone to think that anyone on this Council or on staff has said anything about neighborhood cleansing. We have not brought this term up. He said that there has never been any racial aspect regarding the UDO. He said that Council cannot be responsible for what the public does. They can follow Council or anyone around. People have a right to their comments. We have, as a Council, met with Mr. Dedman and members of the Affordable Housing Coalition and we take those meetings seriously. He was not

sure what we can incorporate into the UDO at this time but Council is listening. This Council has a noble purpose and this Council has no inclination, intent or design to do anything in a racial bias. We will listen carefully to public reaction and do what they can to make it as good a document as we possibly can.

Mr. Dedman said that he did not allege that Council has supported racial motives or has stated racial motives to what they are doing. He did not suggest that anyone on Council has used the phrase "neighborhood cleansing." He said that he would provide his comments in writing to Council.

Upon inquiry of an audience member, Councilman Worley said that Council is intent on passing the UDO, it's something that has been going on for far too long and it needs to have closure brought to it. Council is intent on listening to comments, reviewing those and making changes as we move towards passage. They are committed to passage of the UDO, but not committed to any specific language at this point in time.

Ms. Sheila Ingersoll, member of the Interfaith Alliance, said that the people with no or little income are the people who don't get heard. Her perception is that the available land now for those people has been considerably reduced.

Mr. C.D. Williams asked if there is any upgrading in the UDO for the infrastructure over what is required in the 2010 Plan before a project can be built. Mr. Green said that as part of the review process the infrastructure will be considered, a water allocation must be provided, a sewer allocation, and there must be adequate water pressure available to provide fire protection to the proposed use. The major additional requirement is for a traffic impact analysis for all level 2 and level 3 projects and for any level 1 project for which the City Traffic Engineer feels that a traffic problem may be created. The requirements for assuring that infrastructure is available is set forth more clearly in the UDO and there are some additional requirements for assuring that that infrastructure is available to meet the needs of the proposed project.

Councilman Skalski stressed that infrastructure in terms of a planning process needs to be addressed. He said that in most cities about 40-60% of the planning that goes on in an area revolves transportation. We are in the process of a comprehensive transportation plan for the City.

Mr. Brian Peterson, speaking on part of behalf of the Coalition of Asheville Neighborhoods UDO Committee, said that basically his recommendations are to allowing greater public input. He passed out a document regarding changes in Article 7, Development Review Procedures, in which they would like to see greater public input and to allow public input at an earlier stage. They feel that the public doesn't find out -11-

about a project until it's been through the Planning Department for months and a developer already has something firm. They would like to see public notification and public input earlier in the process so that if a developer is willing to work with the public, they can hear what the public's concerns are and better explain their plans.

In Sec. 7-3-5 C. add the following sentence: "Members of the public shall have an opportunity to ask reasonable questions and make brief comments."

In Sec. 7-5-4 E. delete letter E and substitute in lieu the following for E: "Notice of an application for a permit for a use by right, subject to special requirement, shall be mailed to the contact person(s) for the neighborhood(s) is (are) known to the Planning and Development Department. This notice shall be

mailed at least ten (10) days before the date on which the request is to be considered by the Planning and Development Director."

Upon inquiry of Vice-Mayor Field, Mr. Peterson explained the amendment he suggested in Sec. 7-5-4 E would be mainly something that is built new like duplexes, quadraplexes, adult care homes, or nursing homes. Projects subject to special requirements, like that it be a certain distance from things. Someone in the neighborhood might have information about what's in that neighborhood that might be helpful to staff in knowing whether the special requirements would be met. That way staff would not be depending upon the word of the person who is looking to add something new.

In Secs. 7-5-5 B 2, 7-5-6 B 2, and 7-5-7 B 2 add the following three paragraphs: "If developer does not meet with the representatives of the neighborhood, the staff with the Planning and Development Department shall meet with representatives of the neighborhood in which the proposed conditional use will be located. Staff should explain the proposed development. This meeting shall be held prior to the Technical Review Committee Meeting.

"Notice of any neighborhood meeting, either with the developer or staff shall be mailed to the owners of abutting property and any other property located within four hundred (400) feet of the property proposed for development at least ten (10) days before the Technical Review Committee meeting.

"Notice of any neighborhood meeting, either with the developer or staff shall be mailed to the contact person(s) for the neighborhood(s) in which the project will be located if the contact person(s) is (are) known to the Planning and Development Department. This notice shall be mailed at least ten (10) days before the Technical Review Committee meeting."

Mr. Green said that the hearings before City Council and the Planning and Zoning Commission, there is a legal requirement that the notices be provided within a certain window of time, not to exceed so many days and not less than so many days. We do have notice requirements there that are mandated by law. He did believe in all cases for all projects we also have a statement that notices be sent out prior to the TRC meeting but he would check on that.

In Secs. 7-5-5 E, 7-5-6 E, 7-5-7 E, and 7-5-9 B 5 be amended to read "This notice shall be mailed to the owners of abutting property ... at least twenty (20) days before the date on which the request is to be considered."

-12-

"This notice shall also be mailed to the contact person(s) for the neighborhood(s) ... at least twenty (20) days before the date on which the request is to be presented."

Sec. 7-5-5 F 4 include "That the proposed use or development will not cause substantial overcrowding of effected public schools;"

"That the proposed use or development will not substantially disrupt the City's unique scenic nature, nor substantially injure the natural and historic resources and the environmental quality of the City."

Vice-Mayor Field said that there was case law that did not allow you to consider the overcrowding of a school in terms of approval or disapproval of a group development issue. City Attorney Oast said that it is against the law to discriminate against families with children in the provision of housing. He said that was in the Fair Housing Amendments Act of 1988.

In Secs. 7-5-6 F and 7-5-7 F add "4. Standards for Review. The Asheville Planning and Zoning Commission and the Asheville City Council shall not approve the Preliminary Master Plan or the PUD District Designation unless each body makes the following findings, based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case: (Add the criteria set out in Sec. 7-5-5.F.4 and the following criteria)

"That the proposed use or development will not substantial overcrowding of effected public schools;"

"That the proposed use or development will not substantially disrupt the City's unique scenic nature, nor substantially injure the natural and historic resources and the environmental quality of the City."

In Sec. 7-5-9 A be changed to read "Level II Site Plan Review Process. 1. Purpose. The Level II site plan review process ... a. New construction, renovations, and changes of use. (1) Industrial building(s) or structure(s) with a gross floor area of more than 100,000 square feet or an industrial development containing more than fifteen (15) acres; (2) Commercial buildings, structures, or developments with a gross floor area of more than 50,000 square feet; (3) Office or Institutional building(s) with a gross floor area of more than 50,000 square feet; or (4) Any manufactured housing rental community, camper/trailer park, or residential development containing more than eight (8) individual units. b. Additions with a gross floor area of fifty percent (50%) or more of the above threshold for new construction for that land use. In the case of manufactured housing parks, camper/trailer parks, or residential development; additions of five (5) or more units on one parcel of land."

In Sec. 7-5-9 A, delete 2 and insert the following two paragraphs in lieu thereof "All developments subject to the Level II site plan review process shall require a Conditional User Permit and shall comply with the provisions for Condition Use approval set forth in Sec. 7-5-5.

"All developments subject to the Level II site plan review process shall following the procedures for Conditional Use approval set forth in Sec. 7-5-5 in regards to Pre-Application Procedures, Plan Submittal, Staff Review, Public Notification, Formal Review, Project Phasing, Variances, Appeals, Permit Validity, and Violation."

-13-

Sec. 7-5-9 B Level II Site Plan Review Process be deleted in its entirety and relabeled "B Level I Site Plan Review Process"

In closing he said that the Coalition of Asheville Neighborhoods feels strongly that the public needs to be involved early in the process. The current UDO appears to be anti-democratic in that it doesn't let Council vote on issues and it leaves a lot more to staff and it doesn't allow public opportunity for input. A lot of the meetings are set out a public meetings, not public hearings, so that there is no dialog there. There needs to be more dialog. Neighborhoods would like to see that any development we do have fits in with the character of the neighborhood.

Mr. Jim McCulley, member of the Asheville Transit Authority and member of the Asheville-Buncombe Community Relations Council, wanted to make sure that the UDO addresses the idea of a transportation pod-type facility along the transit route wherever a bus stop is located along our major thoroughfares of Asheville. That pod should contain a small shopping area with shops on the bottom level and perhaps multi-family housing on the upper levels, or something of that nature. He was also concerned about an avenue for residents to address

their concerns regarding projects proposed for their area.

Mr. Green said that under the current ordinance, any decision of the staff can be appealed. That appeal continues under the UDO. Currently a Level I project is appealed to the Board of Adjustment. The Planning & Zoning Commission has recommended that appeals of staff decisions on Level I projects go to the Planning & Zoning Commission. That would be a change as to who hears to the appeal, but both in the existing ordinance and the proposed ordinance has an appeals procedure for any type of staff decision.

Upon inquiry of Mr. McCulley, Mr. Green said that family care homes are permitted in all residential zoning districts in the proposed UDO, which is a more liberal treatment of them than the current zoning ordinance.

Mr. McCulley wondered if our ordinance had any provisions in it to encourage people to build closer to the streets to encourage neighbors to get to know each other. Mr. Green said that the setbacks in all zoning districts, except in RS-2 have been reduced. The minimum setback is now 15 feet as opposed to 35 feet in most of the residential districts under the current zoning ordinance.

Upon inquiry of Ms. Sitnick of the UDO production on the cable TV station, Mr. Green said that we only had to pay for the production of the show which was less than \$1,000. The cable station contributed the time for the actual airing of that program. Councilman Worley stated that they tried to do their best to minimize the production cost - it was shot on one take.

Ms. Sitnick asked if there is something in the UDO that protects residents from having things arbitrarily and/or capriciously changed in the UDO. Councilman Worley stated that nothing prevents those changes because the UDO is like any of our other ordinances. Any City Council can change an ordinance.

Ms. Sitnick suggested Council look for some creative funding for infrastructure needs of the City. One is a special tax district where you tax a neighborhood and the money goes right back into that neighborhood. As the UDO proceeds, she urged Council to think about impact or participation fees. She said the vision process brought up a -14-

good point and that had to do with making sure we had a community that provided a living wage to all of its citizens. The affordable housing issue is much broader than just providing housing that people can afford. When the UDO gets passed, it might be a good time for Council to begin looking at the big picture about that economic gap that seems to be widening in Asheville and other places. The more advantage we can give to those less fortunate amongst us, the stronger we will be as a community.

Ms. Beth Maczka said that PUD overlays is a good opportunity to introduce affordable housing and appreciates staff's attention to that and the bonuses given for affordable housing. She was afraid, however, they will never be used if it's kept to be a rezoning requirement. She hoped Council would reconsider and make this a staff review and not make it political.

At 7:37 p.m., Mayor Martin recessed the meeting until March 27, 1996, at 5:00 p.m. in the Banquet Room of the Civic Center Commission.

---

CITY CLERK MAYOR

---