

Tuesday - May 27, 1997 - 5:00 p.m.

Asheville Civic Center - Banquet Room

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 Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Hay gave the invocation.

I. PROCLAMATIONS:

A. AWARD RECOGNITION

Mayor Martin said that the City of Asheville received the North Carolina American Planning Association Award for the Asheville Riverfront Homeownership Zone. In selecting this project, the Planning Association noted that the project provides a collaborative approach involving Pisgah Legal Services, the Affordable Housing Coalition and Mountain Housing Opportunities to empower residents and business owners to redevelop their neighborhood. He presented Mr. Marvin Vierra, Community Development Director, the award and thanked him for his efforts.

II. CONSENT:

Councilman Hay asked that Items C, D, E, F, G, H, I, J and K be removed from the Consent Agenda to be voted on separately.

Vice-Mayor Field, Chairman of the City Council Boards and Commissions Committee, said it was her understanding that if there was a 7-0 straw vote in the worksession, those appointments were to go on the consent agenda. She suggested Council discuss this procedure at a later date.

RESOLUTIONS & MOTIONS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 13, 1997, AND THE WORKSESSION HELD ON MAY 20, 1997

B. MOTION SETTING A PUBLIC HEARING ON JUNE 10, 1997, RELATIVE TO ADOPTION OF THE 1997-97 GENERAL OPERATING BUDGET

C. RESOLUTION APPOINTING A MEMBER TO THE CARRIAGE PERMIT ADVISORY BOARD

This item was pulled off the Consent Agenda to be voted on separately.

D. RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

This item was pulled off the Consent Agenda to be voted on separately.

E. RESOLUTION APPOINTING A MEMBER TO THE CIVIL SERVICE BOARD

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This item was pulled off the Consent Agenda to be voted on separately.

F. RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE DOWNTOWN COMMISSION

This item was pulled off the Consent Agenda to be voted on separately.

G. RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY DRUG COMMISSION

This item was pulled off the Consent Agenda to be voted on separately.

H. RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ELECTRICAL EXAMINERS

This item was pulled off the Consent Agenda to be voted on separately.

I. RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

This item was pulled off the Consent Agenda to be voted on separately.

J. RESOLUTION ENDORSING APPOINTMENT OF MEMBER TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

This item was pulled off the Consent Agenda to be voted on separately.

K. RESOLUTION REAPPOINTING MEMBERS TO THE RECREATION BOARD

This item was pulled off the Consent Agenda to be voted on separately.

L. RESOLUTION NO. 97-69 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE DOWNTOWN ASSOCIATION'S 1997 EVENTS

Summary: The Parks and Recreation Department recommends that the possession of open containers of malt beverages and/or unfortified wine and the consumption of malt beverages and/or unfortified wine be allowed for the 1997 events of the Asheville Downtown Association at the locations and times specified.

For many years, the Asheville Downtown Association has co-sponsored with the City of Asheville events to bring both the public and visitors to the Downtown area. During these years, the events were facilitated by the City Development Office. Beginning in 1997, these events will be facilitated by the Parks and Recreation Department. These events include: Moonlight Over Downtown, Honda Hoot Public Rally, and four Downtown After Five activities. The Asheville Downtown Association has requested permission to allow possession and consumption of beer and wine during these events as they have been allowed in the past.

RESOLUTION BOOK NO. 24 - PAGE 70

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M. RESOLUTION NO. 97-70 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CARL WALKER INC. TO CONDUCT A COMPREHENSIVE PARKING STUDY FOR DOWNTOWN, BILTMORE VILLAGE AND WEST ASHEVILLE

Summary: staff is requesting City Council to consider the selection a consulting firm to perform a Comprehensive Parking Study for Downtown, Biltmore Village and West Asheville.

The City of Asheville has requested proposals for a detailed analytical and comprehensive parking study reviewing existing and future parking needs of three areas of the City (Downtown, Biltmore Village, West Asheville). The study will provide an action plan that will address and include the following:

- (1) the projected demand for parking;
- (2) identification of and proposed locations for various parking improvements;
- (3) feasibility analysis of the various parking improvements including financial plans utilizing various financial options;
- (4) plans for mitigating impacts on traffic flow and surrounding neighborhoods;
- (5) parking enforcement options;
- (6) equipment needed; and
- (7) overall implementation plans

Partial funding for this project will come from the Unified Planning Work Program of the Asheville Urban Area Metropolitan Planning Organization, City of Asheville, Buncombe County and private donations. The "Request for Proposal" (RFP) solicited by the City included input and data from City Staff, The Downtown Commission and the Asheville Downtown Association's Parking Task Force, the City of Asheville's 2010 Plan, South Pack Square Redevelopment Plan, the Asheville Area Transportation Improvement Plan, Biltmore Village Development Plan and the West Asheville Priority Setting Findings.

This process began in December 1996 as per direction from the City Council. A total of 55 RFP's were sent out across the country. Fourteen firms responded and seven firms submitted proposals. The following is a summary of the proposals received:

Rich \$39,500

Law \$45-90,000

McLaurin \$93,800

Wilbur Smith \$147,000

RBA \$62,000

Ramp Assoc. \$55,500

Carl Walker \$92,400

The proposals were reviewed by City Staff consisting of the Assistant City Manager, the Director of Public Works, the Planning and Development Director, the Finance Director, the City Traffic Engineer, the Parking Services Manager, and the Downtown Development Manager and members of the Parking Task Force and ranked to determine the three finalists to be interviewed. Carl Walker, Inc., Wilbur Smith Engineering and the RBA Group were the finalists shortlisted by staff.

Interviews were conducted with each of the three firms. It was determined, almost unanimously, that the Carl Walker, Inc. Team (consisting of Day Wilburn Engineering, Springsted Financial Advisors, -4-

A-1 Staffing and Personnel and Purcell and Associates Realty) was the most qualified firm that met the requirements of the RFP.

Carl Walker, Inc. has proposed to complete the study within 180 days for a fee of \$92,400.00. This includes some modification to the base proposal amount concerning additional community meetings and a land-use survey of all commercial districts.

CARL WALKER PROPOSAL:

If separated: Combined:

Downtown Asheville \$ 62,300

Biltmore Village \$ 22,000

West Asheville \$ 22,000

\$106,300 \$ 91,200

Add'l meeting \$ 1,200 \$ 1,200

Downtown \$107,500 \$ 92,400

Based upon funding available from the Asheville Metropolitan Planning Organization in conjunction with funds from the City, the County as well as from private donations, adequate funds exist to perform the entire scope of the project in all three study areas.

Funding for this project is calculated as follows:

Carl Walker Proposal \$92,400.00

MPO - Work Program (80% State) -73,920.00

(20% Local) 18,480.00

Solicit 50% Participation - 9,240.00

Buncombe County

9,240.00

City of Asheville - 9,240.00

\$ - 0 -

City staff recommends that the City Manager be authorized to enter into a contract with Carl Walker, Inc. for the amount not to exceed \$92,400.00 to provide a comprehensive parking study for Downtown, Biltmore Village and West Asheville.

RESOLUTION BOOK NO. 24 - PAGE 72

N. RESOLUTION NO. 97-71 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH W.P. LAW INC. TO MANUFACTURE AND DELIVER 42 DECORATIVE STREET LIGHTS AND ASSOCIATED EQUIPMENT AND SUPPLIES FOR THE BILTMORE VILLAGE HISTORIC DISTRICT

Summary: The Asheville City Council has entered into an agreement with Biltmore

Village Historic Museum Commission, Inc. as representatives of the Biltmore Village property owners concerning the purchase of decorative street lighting for 42 locations within the Biltmore Village Historic District in the scope of Phase 1 of this project.

The City has solicited bids for the manufacture of the decorative street lighting and has received 6 bids.

The lowest most reasonable bids that meet the City's and Museum's requirement was received from W. P. Law, Inc. from Greer, S.C. for a bid price as follows:
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- 42 Cast Aluminum Decorative Street Light Poles,
Lanterns and Lantern Brackets \$50,963.64
- 22 Cast Aluminum Sign Brackets and Frames 2,487.84

Total: \$53,451.48

The City of Asheville has received \$20,000.00 from Biltmore Village Museum toward the purchase and installation of these 42 decorative street lights and associated equipment and supplies as part of the Street Light Agreement. The Traffic Engineering Division has budgeted \$70,000.00 for this project. Therefore, sufficient funds are in-hand for completion of Phase 1 of this project.

Staff recommends that the City Manager be authorized to enter into a contract with W. P. Law, Inc. to provide decorative street lighting for Biltmore Village Historic District as per the Street Light Agreement.

RESOLUTION BOOK NO. 24 - PAGE 73

O. RESOLUTION NO. 97-72 - RESOLUTION COVERING LITTLE LEAGUE COACHES UNDER THE CITY'S GENERAL LIABILITY AND WORKERS' COMPENSATION PROGRAM AS VOLUNTEERS FOR THE CITY

Summary: The Parks and Recreation Department requests City Council's approval of coaches in the six Little League programs co-sponsored by the City of Asheville to be covered under the City's general liability and workers' compensation program.

During the month of March, all six Little League associations co-sponsored by the Parks and Recreation Department conducted a series of clinics in conjunction with Parks and Recreation staff. During these clinics, each coach was given instruction in regard to proper conduct for dealing with youth, emergency first aid instruction, general philosophy of the Parks and Recreation Department, as well as on-the-field skills training. A list of coaches from the various organizations who completed the training is available. The Parks and Recreation staff is recommending that City Council approve this list of coaches so they can be covered under the City's general liability and workers' compensation program as volunteers for the City.

The Parks and Recreation Department requests City Council's approval of the list of Little League coaches to be covered under the City's general liability and workers' compensation program.

RESOLUTION BOOK NO. 24 - PAGE 74

P. MOTION SETTING A PUBLIC HEARING FOR JUNE 10, 1997, RELATIVE TO AMENDING

CHAPTER 20 OF THE CODE OF ORDINANCES REGARDING TREES

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

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

ORDINANCES:

A. ORDINANCE NO. 2364 - BUDGET AMENDMENT RELATIVE TO FUEL COST INCREASES -6-

Summary: Consideration of an amendment to the Fleet Management Fiscal Year 96-97 budget increasing motor vehicle fuel expenditures.

The Fleet Management Fiscal Year 96-97 fuels budget was developed in January 1996 based on an assumed fuel purchase price of \$0.90 per gallon throughout the entire year. Prices have significantly increased since that time. Actual prices paid during the year have never dropped as low as the budgetary assumption and have been as high as \$1.1495 for unleaded, \$1.045 for kerosene and \$0.979 for diesel.

The budget amendment adds \$130,000 to the motor vehicle fuels expenditure line item to enable continued bulk fuel purchases for the remainder of the Fiscal Year. The offsetting revenue is from fuel prices charged to the various City departments each time they refuel their vehicles at the City's service station. The prices charged the departments have been adjusted throughout the year to parallel the actual costs of each bulk fuel purchase by the City.

ORDINANCE BOOK NO. 16 - PAGE 192

B. ORDINANCE NO. 2365 - BUDGET AMENDMENT TO FUND REMAINDER OF ASHEVILLE AREA RESCUE SQUAD REQUEST FOR FISCAL YEAR 1995/96

Summary: The Asheville Area Rescue Squad has requested \$ 5,625 from the City of Asheville as the remainder of funding approved for the agency for fiscal year 1995/96.

The City Council Outside Agency Committee met to discuss the funding request of \$ 5,625 from the Asheville Area Rescue Squad. The Asheville Area Rescue Squad had been approved by the City Council for a total of \$11,250 in outside agency funding for fiscal year 1995/96. The Rescue Squad had complied with the terms of the contract on a timely basis for the first two quarterly payments and received payments totaling \$ 5,625 but failed to submit required reports for the final two quarters of the fiscal year in a timely manner. The Rescue Squad has since submitted such required reports and is requesting payment for the two last quarters of the 1995/96 fiscal year. As those funds are not appropriated in the current year, an appropriation of General Fund Contingency is required to meet the funding request.

The City Council Outside Agency Committee recommends the City Council approve the \$ 5,625 funding request from the Asheville Area Rescue Squad for the fiscal year 1995/96. This appropriation will leave a General Fund Contingency uncommitted balance of \$46,653.

ORDINANCE BOOK NO. 16 - PAGE 194

C. ORDINANCE NO. 2366 - BUDGET AMENDMENT FOR 42 DECORATIVE STREET LIGHTS AND ASSOCIATED EQUIPMENT AND SUPPLIES FOR THE BILTMORE VILLAGE HISTORIC DISTRICT

Summary: This budget amendment, in the amount of \$90,000 is for 42 decorative street lights and associated equipment and supplies for the Biltmore Village Historic District.

ORDINANCE BOOK NO. 16 - PAGE 196

D. ORDINANCE NO. 2367 - BUDGET AMENDMENT FOR A COMPREHENSIVE PARKING STUDY FOR DOWNTOWN, BILTMORE VILLAGE AND WEST ASHEVILLE

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Summary: This budget amendment, in the amount of \$92,400 is a comprehensive parking study for downtown, Biltmore Village and West Asheville.

ORDINANCE BOOK NO. 16 - PAGE 198

E. ORDINANCE NO. 2369 - ORDINANCE AMENDING ARTICLE 9 OF THE CODE OF ORDINANCES TO AMEND THE TERMS OF THE BOARD OF ELECTRICAL EXAMINERS FROM TWO TO THREE YEARS

ORDINANCE BOOK NO. 16 - PAGE 200

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

Councilman Skalski moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, the Ordinance Consent Agenda was adopted on its first reading.

ITEMS PULLED FROM THE CONSENT AGENDA TO BE VOTED ON SEPARATELY

RESOLUTION NO. 97-73 - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: The terms of J. Howard Collins, Nancy Williams and Stephen Toomey expire on June 30, 1997. This resolution will reappoint Mr. Collins, Ms. Williams and Mr. Toomey to each serve an additional three year term, respectively. Their terms will expire June 30, 2000, or until their successors have been appointed.

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

Councilman Hay moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Cloninger and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 75

RESOLUTION NO. 97-74 - RESOLUTION APPOINTING A MEMBER TO THE CARRIAGE PERMIT ADVISORY BOARD

Summary: On March 19, 1997, Deena Knight resigned as a member of the Carriage Permit Advisory Board. This resolution will appoint Ms. Susan Dodson to serve the unexpired term of Ms. Knight. Ms. Dodson's term will expire on June 25, 1999, or until her successor is appointed.

Mayor Martin said that members of Council have been previously furnished with a

copy of the resolution and it would not read.

Vice-Mayor Field moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 76

RESOLUTION NO. 97-75 - RESOLUTION APPOINTING A MEMBER TO THE CIVIL SERVICE BOARD

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Summary: The term of Johnny Lloyd, as a member of the Civil Service Board, expired on May 21, 1997. This resolution will appoint Dr. Nancy Kauffman to serve a two year term, term to expire May 21, 1999, or until her successor has been appointed.

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

Councilman Worley moved for the adoption of Resolution No. 97-73. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 77

RESOLUTION NO. 97-76 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: On February 19, 1997, Mr. Chuck Pickering resigned as a member of the Asheville Downtown Commission. This resolution will appoint Mr. Timothy Fierle to serve the unexpired term of Mr. Pickering. Mr. Fierle's term will expire on December 31, 1997, or until his successor is appointed.

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

Councilman Cloninger moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 78

RESOLUTION NO. 97-77 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY DRUG COMMISSION

Summary: The term of John Ingersoll, as a member of the Buncombe County Drug Commission, expires on July 1, 1997. This resolution will appoint Mr. Michael Harney to serve a three year term. Said term will begin on July 1, 1997, and expire on July 1, 2000, or until his successor has been appointed.

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

Councilman Sellers moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 79

RESOLUTION NO. 97-78 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ELECTRICAL EXAMINERS

Summary: The terms of Eugene Presley, Joe Enderle, Harold Garland, Ray Burleson and Kevin Butler expire on July 1, 1997. This resolution will reappoint Eugene Presley, Joe Enderle and Harold Garland and appoint Ronnie McAbee and Terry Ponder to serve a three year terms, respectfully. All terms will expire on July 1, 2000, or until their successors have been duly appointed.

Vice-Mayor Field explained that because there are certain requirements for this board, i.e., a utility representative, a journeyman electrician, an electrical contractor, and a licensed engineer, some of these members being appointment do not live in the -9-

City of Asheville. She further explained that because the Board meets only quarterly for two year terms, two board members have been reappointed to a third term.

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

Vice-Mayor Field moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 80

RESOLUTION NO. 97-79 - - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: The terms of Ms. Shirley Early and Dr. Pam Nickless expire on July 1, 1997. This resolution will reappoint Ms. Early and Dr. Nickless to each serve an additional three year term, respectively. Their terms will expire July 1, 2000, or until their successors have been appointed.

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

Councilman Sellers moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Hay and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 81

RESOLUTION NO. 97-80 - RESOLUTION ENDORSING APPOINTMENT OF MEMBER TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Summary: The term of Annette Coleman, as a member on the Housing Authority, expires on June 11, 1997. This resolution will endorse the reappointment by Mayor Russ Martin of Mrs. Coleman to serve an additional five year term. Her term will expire on June 11, 2002, or until her successor has been appointed.

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

Vice-Mayor Field moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 82

RESOLUTION NO. 97-81 - RESOLUTION REAPPOINTING MEMBERS TO THE RECREATION BOARD

Summary: The terms of Mr. Thomas McMahan, Mr. William Stewart, Mr. Jim Orr and Mr. Samuel Camp expire on June 30, 1997. This resolution will reappoint Mr. McMahan, Mr. Stewart, Mr. Orr and Mr. Camp to each serve an additional three

year term, respectively. Their terms will expire June 30, 2000, or until their successors have been appointed.

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

Councilman Worley moved for the adoption of Resolution No. 97-73. This motion was seconded by Vice-Mayor Field and carried unanimously.

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RESOLUTION BOOK NO. 24 - PAGE 83

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO A ZONING VESTED RIGHT REQUEST FOR THE ASHEVILLE CITY SCHOOL BOARD AT THE LUCY HERRING FACILITY ON MOUNTAIN STREET

Mayor Martin opened the public hearing at 5:32 p.m.

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

Mr. Mike Matteson, Urban Planner, said that Asheville City School Board is requesting zoning vested rights pursuant to Section 30-14-1 of the zoning ordinance in order to expand their administrative office use at the Lucy Herring Facility on Mountain Street.

The property in question is a 4.26 acre lot owned by the Asheville City School Board. The building currently houses approximately 2,100 square feet of administrative offices. This use will be expanded to approximately 24,000 square feet.

A variance to allow a reduction in off-street parking spaces has been reviewed and unanimously approved by the Board of Adjustment. The site plan meets all applicable development standards.

The City Planning and Development staff recommends approval of the zoning vested rights as the site plan meets all requirements of the existing zoning ordinance.

Upon request of Mr. Halliburton about the use of the property, Mr. John Cort, Cort Architectural Group, explained that this will allow the School Board to occupy all of the building, not just the first floor.

Mayor Martin closed the public hearing at 5:39 p.m.

Vice-Mayor Field moved to approve the zoning vested right for the Asheville City School Board at the Lucy Herring Facility on Mountain Street. This motion was seconded by Councilman Sellers and carried unanimously.

B. PUBLIC HEARING TO DETERMINE THE PARKING REQUIREMENTS FOR THE VOLUNTEERS OF AMERICA ELDERLY HOUSING FACILITY LOCATED AT 650 CARIBOU ROAD

Mayor Martin opened the public hearing at 5:39 p.m.

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

Ms. Erin McLoughlin, Urban Planner, said that this proposal is for a two story,

51 unit elderly housing development. The parcel is zoned R-2 (low to medium density residential). The project meets all zoning, parking, and landscaping requirements. Letters of approval have been received from the Water Resources Department, the Fire Department and MSD.

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

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The developer has requested a reduction in the amount of off-street parking required as stated in Sec. 30-2-11 (H). This section states that City Council will determine the amount of parking required for elderly or low or moderate income housing projects after receiving recommendations from the Planning & Development Department staff and the Planning & Zoning Commission. Their request is for 64 parking spaces rather than 102 spaces. This is a reduction of 38 spaces. City Council set a public hearing for May 27, 1997, to discuss and decide on the requested parking reduction.

The Planning & Development Department staff recommends approval of the group development with no conditions and approval of the requested reduction in parking.

At their May 8, 1997, meeting, the Planning and Zoning Commission voted unanimously to recommend approval the group development with no conditions and they approved the requested reduction in parking.

Mayor Martin closed the public hearing at 5:41 p.m.

Vice-Mayor Field moved to approve the reduction of the required number of parking spaces from 102 spaces to 64 spaces for the Volunteers of America Elderly Housing facility located at 650 Caribou Road. This motion was seconded by Councilman Worley and carried unanimously.

Councilman Worley moved to approve the Volunteers of America Elderly Housing Facility at 650 Caribou Road. This motion was seconded by Councilman Sellers and carried unanimously.

C. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE REGARDING GOVERNMENTAL SIGNS AND SIGNS LOCATED IN THE RIGHT-OF-WAY

Due to an error in advertising for this public hearing, Councilman Sellers moved to reschedule the public hearing for 5:00 p.m. on June 10, 1997, in the Council Chamber of the City Hall Building. This motion was seconded by Councilman Worley and carried unanimously.

IV. UNFINISHED BUSINESS:

A. CONTINUATION OF PUBLIC HEARINGS HELD ON APRIL 10, 1997 (TEXT) AND APRIL 24, 197 (MAPPING) RELATIVE TO THE ADOPTION OF THE UNIFIED DEVELOPMENT ORDINANCE

ORDINANCE NO. 2369 - AN ORDINANCE TO ENACT NEW DEVELOPMENT REGULATIONS AND TO CONSOLIDATE THE CURRENT AND THE NEW DEVELOPMENT REGULATIONS INTO A UNIFIED DEVELOPMENT ORDINANCE

ORDINANCE NO. 2370 - AN ORDINANCE TO ADOPT NEW ZONING CLASSIFICATION MAPS AND GIVE EFFECT TO NEW ZONING REGULATIONS FOR THE CITY OF ASHEVILLE

Mayor Martin stated that the sequence of events at this public hearing will be as follows:

1. Summarize the UDO process so far, especially the last 18 months.
2. Receive Staff Report on text and maps; there are some unfinished details that require further discussion. -12-
3. Re-open public hearing on maps and text - usual rules in effect. Close public hearing.
4. Further Council consideration of suggested revisions to proposed final UDO zoning classification maps. The same process will be used as was during worksessions on May 13 and May 20 - discussion, questions to staff, consensus or straw vote.
5. Further consideration by Council of proposed changes to final UDO text. Pursuant to earlier Council motion, re-opening debate on any section of proposed text requires an affirmative vote of 5 members of Council. The same process will be used as before - discussion, questions to staff, consensus or straw vote.
6. Final vote on text, as revised. This will require one vote.
7. Final vote on UDO zoning classification maps. It is anticipated that this will require three votes, two informal and one formal.

The Mayor summarized the UDO process to date as follows: The City staff, City Council, and Planning & Zoning Commission have been working off and on over the last seven years, and in earnest for the last 18 months, to develop a Unified Development Ordinance or "UDO" for the City of Asheville. The City of Asheville's current land development ordinances are out of date, have been adopted at different times, and are contained in different parts of the City Code. They are not well coordinated and resemble more a patchwork than a seamless fabric. As a result of this, our experience has been that some development proposals do not receive the appropriate type or level of review, and this inconsistency is frustrating to developers, citizens, and City staff.

As the City has grown over the last several decades and as times have changed, our zoning classifications and maps have not always kept up in response. New concepts and legal requirements, as well as revitalized old ideas, such as walkable communities, planned developments, new urbanism, diversity of housing and business opportunities, ecological and environmental sensitivity, and greater public participation are either not favored under the current ordinance or are difficult to accomplish. These innovations require a degree of flexibility in zoning regulations that Asheville's current regulatory system simply could not be amended to incorporate.

The proposed UDO represents the City's attempt to collect all regulations affecting land use in one place, regularize the processes, and reduce the time and paperwork involved in getting development proposals considered and acted upon. The proposed UDO likewise provides for a greater degree of public notification and involvement in the review processes than exists under the current City Code. The level of public participation and review processes proposed under the UDO is in fact much greater than what the law requires.

Beginning in the Winter, the Planning & Zoning Commission began formal consideration of the UDO text. Since then, the Planning & Zoning Commission and City Council have put in many hours, both in formal meetings and in informal discussions, considering the UDO text and maps. Many Council members have met or talked individually many times with citizens to hear their concerns. There were five community -13-

presentations by City staff on the UDO, held in different parts of town. The City Council alone has had over 20 hours of public hearings on the UDO, and taken hours of public comment at its work sessions. There were two nights of joint meetings with the City Council and the Planning & Zoning Commission. The Planning & Zoning Commission has probably logged more meeting hours than City Council. The City staff has likewise met with many citizens outside of the normal meeting context. The concerns raised in those meetings have been brought to Council's attention.

The City Council is now ready to receive final public comments on the UDO, give it final consideration, and take final action on its adoption. In considering the text and maps up to this point, the Council has received and considered many suggestions regarding changes to the proposed final text and maps. These changes have been suggested by citizens, staff, the Planning & Zoning Commission, and the City Council. Council has agreed with many of these changes and they have been incorporated as revisions to the proposed final text and maps.

The first order of business tonight is to hear the Staff Report on the proposed final text and maps. Council will then reopen the public hearing that was continued from April 24 and take further public comment. After the close of the public hearing, the proposed final text and proposed final zoning classification maps will be open for Council consideration and debate, subject to the procedures that Council has established. Following that debate, Council will take a final vote on the text, followed by a final vote on the maps.

It should be emphasized that, in the process of making revisions to the proposed maps and text, Council has indicated its direction and wishes to staff either by consensus or by a non-binding, informal straw vote. No Council member is precluded by his or her previous vote or indication of consensus on any item from bringing that item or any other item before the Council for further consideration, in accordance with the procedures that have been established.

Planning & Development Director Julia Cogburn said that the notebook that was delivered to City Council earlier today contains the revised UDO text. She said that basically what staff has done since Council took an affirmative vote with respect to the UDO text draft, is to make the changes that Council had indicated and voted affirmatively needed to be made to the UDO text. They have also done a final editing job on the text. She explained that staff looked to clarify wording, improved definitions, moved things from one section to another to clarify (not changing anything substantively); made some corrections in terms of legal issues; and gone back through existing ordinances to make sure that staff had not lost anything without good reason from those existing ordinances. Those non-substantive changes are reflected in the notebook and staff does not feel Council needs to deal with those tonight. She suggested that, in addition to anything Council would like to revisit in terms of the text, three items from staff be revisited. It was her understanding that Council's previous motion indicated that it would take an affirmative vote of 5 members of Council to revisit the items. She felt all three were fairly minor in nature but substantive enough to warrant Council's attention. The suggested staff revisions are as follows:

1. Section 7-7-2. Initiation of Amendments. The following sentence be added at the end of Sec. 7-7-2: "Provided, however, that non-substantive changes to Appendix 7A Map and Plan Standards and -14-

Appendix 7B Checklist for Applications may be made at the direction of the Director of Planning and Development."

2. Section 7-13-3. Signs Prohibited in All Zoning Districts. The following be

added as a new letter "P". "P. Portable or moveable display signs."

3. Changes to the following sections of Article 8, General Use Districts. Changes are basically clean-up and to assure that uses permitted in one district are permitted elsewhere and in like districts and also to ensure that staff has not lost anything in the many revisions. These changes have been incorporated into the draft before City Council and are changes from the last draft Council reviewed.

Sections 7-8-2, 7-8-3 and 7-8-4, "Duplexes," "Quadrplexes" and "Triplexes" are listed as conditional uses.

Section 7-8-6 D. "Residential related commercial services" are deleted.

Section 7-8-8 B. "Shoe repair shops" have been deleted. "Repair and service businesses" has been added.

Section 7-8-9 B. "Civic, social service, and fraternal facilities" has been added. "Fraternal organizations" has been deleted.

Section 7-8-9 D. "Antenna" and "Restaurants" have been added.

Section 7-8-10 B. "Health and fitness facilities," "Instructional services" and "Other accessory structures" have been added. "Vocational and training schools" has been deleted.

Section 7-8-10 D. "Townhouses" has been added.

Section 7-8-11 B. "Recreational uses, commercial indoor" and "Instructional services" has been added. "Self-service cleaning businesses," "Services" and "Self-defense instruction" have been deleted.

Section 7-8-11 D. "Townhouses" has been added.

Section 7-8-12 B. "Instructional services" and "Retail gasoline sales" have been added. "Repair shops with no outside storage," "Services" and "Self-defense instruction" have been deleted.

Section 7-8-13 B. "Accessory Structures" has been added. "Bar, nightclubs" were moved from Sec. 7-8-13 B. to 7-8-13 D.

Section 7-8-14 B. "Instructional services" and "Accessory structures" has been added. "Bookstores," "Fraternity and sorority houses" were moved from 7-8-14 B. to 7-8-14 D.

Section 7-8-15 B. "Instructional services" and "Accessory structures" have been added. "Services" has been deleted. "Repair and service businesses" was moved from Section 7-8-15 B. to 7-8-15 D.

Section 7-8-15 D. "Adult establishments" and "Recycling collection centers" were added.

Section 7-8-16 B. "Instructional services," "Lumber yards" and "Accessory structures" were added. "Services" has been deleted. -15-

"Repair and service businesses" was moved from Section 7-8-16 B. to 7-8-16 D.

Section 7-8-17 B. "Instructional services" and "Accessory structures" has been added. "Services" and "Retail gasoline sales" have been deleted.

Section 7-8-19 B. "Accessory apartments," "Bed and breakfast homestays," "Bed and breakfast inns," "Instructional services," "Lumber yards," "Motor freight terminals" and "Accessory structures" have been added. The old term "Bed and breakfast establishments" was deleted.

Section 7-8-20 B. "Accessory structures" was added. "Recycling and resource recovery" was deleted.

Vice-Mayor Field asked that staff revise Section 7-1-2. Purpose, according to revisions approved by City Council earlier. Ms. Cogburn stated that this was an oversight and would be corrected.

Regarding the maps, Ms. Cogburn then said that as a result of the May 13 and May 20 worksessions, Planning staff has compiled a list, which is attached hereto as "Exhibit A", of those issues which Council voted on in terms of map revisions. Items 1-49 were items for which Council either by consensus, or not bringing up a particular issue from the Planning & Zoning Commission discussion and recommendation, or by an affirmative unanimous vote indicated they would like to see change to the advertised maps. Items 50-58 are those items for which there was a split vote from Council for a change. These map revisions would be revisions from the map that was advertised in the newspaper and presented at the joint public hearing with the Planning & Zoning Commission. There were some items that Council discussed at the last worksessions where there were split votes and of the votes that were taken, the majority indicated that Council would not like to see a change. Those do not appear on Exhibit "A" but staff is prepared to discuss them again if Council chooses.

One item Council asked staff to research further was possibly changing the CBI to Neighborhood Business at the intersection of New Haw Creek and Beverly Roads. Staff determined that there would be two types of non-conformities at that intersection if Council zoned it to NB. The convenience store/hardware store would be non-conforming due to size; the upholstery shop would be non-conforming since the NB is very restricted in its permitted uses and that is not one; and, the real estate office would be non-conforming since offices are not permitted in NB.

The other item Council asked staff to research was the Arco Road neighborhood. Staff did meet with the petitioner and basically they were able to work out a compromise where staff could carve out an area that would be primarily single family in nature that is now zoned RM-6 and some RS-8. The area staff looked at for RS-4 was the area basically between Tunnel Road and New Haw Creek Road.

Mayor Martin said that the public hearing on the text and maps have been continued to this date by earlier Council action. At this time (6:31 p.m.), Council re-opened the public hearing. Speakers are reminded that the usual rules are in effect: Persons speaking for themselves will be limited to 3 minutes per speaker. Each speaker should identify him/herself and the particular matter or property about which they wish to speak. Persons speaking with respect to more than one property may be allowed additional time only in Council's discretion. Persons representing a group or organization will be -16- allowed to speak for 10 minutes, regardless of the number of individual items or properties that the group wishes to address.

Mayor Martin explained that the public should be urged not to repeat what another speaker may already have said with respect to any particular item. In observance of this, the Mayor may direct that no further comment be taken with respect to a particular item, and may shorten the time allotted to any individual speaker. Under State law, G.S. 160A-69 and 160A-81, and Council's own Rules, Council Rule 9, the Mayor is the presiding officer and controls the

debate. Throughout the public hearing City staff responded to questions from Council and the public regarding their requested zoning changes.

Mr. Joe Adams, speaking on behalf of the Grove Park Sunset Neighborhood Association, requested City Council zone the area from I-240 to Chestnut Street CBI, not CBII. He also asked Council to zone the last two houses on the corner of Edwin and Gertrude Place RS-4, not RM-6.

Mr. Doug Brock requested the property on Hill Street be all zoned CBI with no RM-6.

Mr. Barry Edmundson, President of Appalachian Stove in the Emma section, asked Council to not zone their adjoining pieces of property residential - properties which they plan to further expand their business. PIN Nos. 9639.19-62-4295, 9639.18-31-8279 and 9639.18-31-5890.

Ms. Elizabeth Graham asked that the property at the Head of Montford (bordered by both Gudger and Hill street) not be zoned residential but be zoned CBI. PIN Nos. 9649.17-11-3138, portion of 5240, 2119 and 2170.

Mr. Ron Dame, Edgewood Road resident, asked that the parcel at the bottom of Chatham Road be zoned RS-8, not RM-16. PIN No. 9649.06-36-1040.

Ms. Mary Jo Brezny, speaking on behalf of the Montford neighborhood, urged Council to zone the property in the Hill street as was on the original maps presented at the North Asheville Library - which was basically a strip of office about one lot deep along Hillside, leaving RM-6 between the office and the schools.

Mr. Derwin Williams, representing the Oakley Neighborhood Association, asked the large piece of property that is divided by Broadview Drive be zoned RS-4, not RS-8. He presented Council with a copy of the map with the requested change.

Mr. Doug Wilson, member on the Board of Directors of RiverLink, said that following the Council worksession on May 13, he met with Mr. Sternberg and many of the riverfront property owners. It has become clear to the RiverLink Board members that there has been a lack of communication and some misunderstanding regarding the River District zoning as it pertains to many of the riverfront property owners. We believe that the process must include the riverfront property owners, the City of Asheville, RiverLink and the citizens to accomplish our goals in riverfront revitalization efforts. He thanked the Planning & Zoning Commission, Planning staff and City Council that voted for the current wording of the UDO. We feel they sincerely intended to do the best thing for the City of Asheville and the riverfront district. -17-

RiverLink tried to cooperate, but it has become apparent that many people have felt left out of the process. Therefore, our Board recommends that the UDO go back to the original wording for the River District, i.e., a list of prohibited uses with other things not listed as prohibited being permitted. From the original wording, the two things that we have discussed and agreed upon should be included on the list of prohibited uses was asphalt plants and papermills. We believe this step is necessary to clear the air and open communications among all the parties involved in this revitalization effort. We recognize the River District is a very large district and has many different uses on it and deserves further study, work and planning which they look forward to doing with the City, with the riverfront property owners and others. We believe that the Swannanoa and French Broad River valley corridors represent the next great opportunity in the City of Asheville and we look forward to doing our part in working to make them a great place to live, work and play for all the citizens

of Asheville.

Mr. Jerry Sternberg, representative of the river property owners in both the French Broad and the Swannanoa River basins, thanked Mr. Wilson and RiverLink for helping to bring about an agreement that everyone can live with. He pledged to Council, RiverLink and to the community the full cooperation of the river property owners in any further plans that they have to upgrade the river. We would be particularly interested in the specifics of any plan that you have there and we pledge to try to work with you to bring the river to a level that will suit all the citizens of this community. He thanked Council, in advance, for returning the River District back to the original wording as outlined above by Mr. Wilson, with the two prohibitions of asphalt plants and papermills being included in the list of prohibited uses.

Pastor W. H. Hutchison, 27 Eagle Street, asked Council to zone properties in the Hill Street CBI, not residential. He also asked his property on Clingman Avenue be zoned commercial, not residential.

Mr. Mike Ward, resident of Albemarle Park District and Albemarle Park representative to the Charlotte Street Small Area Plan, asked Council to zone the area from I-240 to Chestnut Street CBI, not CBII.

Mr. Lowell Pearlman, owner of Pearlman's Carpet at 80 Charlotte Street, asked that Council keep the area on Charlotte Street from I-240 to Chestnut Street zoned CBII.

Mr. Cliff Feingold asked that his property between 289 East Chestnut Street and 95 Charlotte Street be zoned to allow him to build a professional (dental) office on that undeveloped land. PIN No. 9649.15-63-2080.

At 7:21 p.m., Mayor Martin announced a 30-minute recess.

Ms. Beth Maczka voiced concern over the reduction of multi-family housing, both through zoning to single-family and through encroachment of office business and industrial uses into neighborhoods. She asked Council to zone her Norwood neighborhood, in particular the area of Farrwood and Garden Terrace and Vineyard to a multi-family designation, not single-family. She hoped that when Council revisits the UDO in the future that Council appoint a citizens advisory committee that would include people from the neighborhoods, affordable housing advocates and the business community. -18-

Mr. Richard Kerber, resident of the Albermarle/Charlotte Street area, asked Council to zone the area on Charlotte Street from I-240 to Chestnut Street to CBI, not CBII.

Mr. Freddie Mitchell, resident of Asheville, asked that property on Clingman Avenue be zoned commercial, not residential.

Mr. Craig Justus, attorney representing the Hildebrand family, said that on May 20 City Council informally proposed, for the two Hildebrand properties, an OB designation for the northern piece and an RM-6 designation for the southern portion. It was his understanding that the intent behind the RM-6 zone was to block off office or commercial traffic from Beaucatcher Road. Since that meeting he has spoken with Mrs. Long in Florida, who has the controlling interest in that southern parcel, and she would like to request a 75 foot buffer zoned RM-6 which would keep commercial and office traffic off Beaucatcher Road and that the rest of the property (including the northern piece) be zoned OB.

Mr. Larry Holt, Farrwood Avenue resident, supported changing his neighborhood

to multi-family designation.

Ms. Ellen Johnson, Beaucatcher Road resident, urged Council to support the zoning of the northern piece of Hildebrand property OB and the entire southern piece of Hildebrand property RM-6.

Mr. Pete Hildebrand, resident in Chunns Cove, urged Council to zone the northern and southern pieces of Hildebrand property on Beaucatcher Road to OB with a 75 foot buffer zoned RM-6 on the southern piece.

Ms. Bernie Wolfe, President of the Albemarle Park Neighborhood Association, asked that (1) Item No. 52 (Crescent Street area) on Exhibit "A" be zoned RM-8; (2) Item No. 51 (East Chestnut Street/Furman Avenue area) be zoned RM-8; (3) Item No. 45 (Arlington Street) be zoned RS-2; (4) Item No. 15 (276 East Chestnut Street) not be zoned CBI; and (5) the area on Charlotte Street from I-240 to Chestnut Street be zoned CBI.

Mr. Clarence Birmingham, property owner of 14 lots on Clingman Avenue, urged Council to zone his property commercial, not residential.

Mr. Jerry Bailey, 247 Charlotte Street, asked staff to confirm, and Ms. Cogburn did, that the Charlotte Street charette was not the end result of a year of discussion.

Ms. Jane Hildebrand, resident in Chunns Cove, urged Council to zone the northern and southern pieces of Hildebrand property on Beaucatcher Road to OB with a 75 foot buffer zoned RM-6 on the southern piece. She also stressed that a 20-25 foot buffer will also be required.

Ms. Maurie McClure, resident on Beaucatcher Road, asked Council to support the zoning of the northern piece of Hildebrand property OB and the entire southern piece of Hildebrand property RM-6. She also read a letter from a resident at 437 Beaucatcher Road who also requested the northern piece of Hildebrand property be zoned OB and the entire southern piece of Hildebrand property be zoned RM-6. -19-

Mr. Chris Knorr, 273 Murdock Avenue, spoke in support of the Norwood Park Avenue area (approximately between Norwood Avenue and Farrwood off of Murdock Avenue) being zoned RS-8.

Ms. Betsy Simpson, Montford resident, reminded Council of the petition she submitted last week with 44 signatures, asking that the area along Hill Street, zoned office on the current UDO maps, be reduced to the smaller size that was on the original UDO maps presented at the North Asheville Library. The original area was smaller and between the office district and Randolph School there had been some resident.

Ms. Quanita Landolfi, resident on Orchard Road, asked Council to zone the area on Charlotte Street from I-240 to Chestnut Street to CBI, not CBII.

Ms. Jeanie Warner, 67 Cherokee Road, asked Council to zone the area on Charlotte Street from I-240 to the Manor Inn to CBI, not CBII. She also asked that Council retain the designation of RM-8 in the East Chestnut/Furman Avenue and Crescent Street areas (Item Nos. 51 & 52).

Mr. Jerry Sternberg, resident of 400 Charlotte Street, spoke in favor of zoning the portion on Charlotte Street from I-240 to Chestnut Street CBII.

Ms. Peggy DeBell, 131 Arlington Street, asked Council to zone the area on Charlotte Street from I-240 to Chestnut Street to CBI, not CBII. She was also

concerned about the big jump from RS-2 to RS-8 on Arlington Street (Item No. 45).

A resident from 60 Terrace Road said that by voting for CBII or CBI on Charlotte Street, Council is already receptive to requests that will arise in the future for changing the residential property. He hoped Council would vote for where they see the trends of change happening on Charlotte Street.

Mr. Rick Hulme, 414 Beaucatcher Road, urged Council to support the zoning of the northern piece of Hildebrand property OB and the entire southern piece of Hildebrand property RM-6.

Mr. Jonathan Guest, Falconhurst resident, suggested keeping the review thresholds like they are, but to work with neighborhood organizations, CAN, developers and other interests to structure that review process.

Mr. Fred H. Martin, 11 Spring Park Road and President of the Kenilworth Forest Community Club, asked that the small section on the northern part of the Kenilworth Forest area that is now designated RM-16 be zoned RS-4.

Ms. Leni Sitnick, 90 Gertrude Road, asked Council to zone the last two houses on the corner of Edwin and Gertrude Place RS-4, not RM-6. She hoped (1) the designation on Charlotte Street will protect everybody's investment on Charlotte Street; (2) the UDO is used fairly, that it's used in balance, that it's used even-handedly and that it invites all of the players to the table; (3) the UDO will eliminate the need for variances except in hardship cases; (4) the UDO will eliminate the setting of bad precedence; (5) the UDO is strongly enforced, both by political will and by funding; (6) the UDO takes into consideration the informing of various advisory boards, for instance the Tree/Greenway Commission, prior to decisions made by Council, by the Planning & Zoning -20-

Commission and by the Board of Adjustment; and (7) the UDO will be reviewed and revised as necessary and that the Council will keep the public in this process. She requested a new designation in the Use Districts - "P" for parks.

Ms. Kathy Gibbs, 107 Orchard Road, said that it seems like the neighborhood is fighting the same issue of big business year after year on Charlotte Street. She spoke to the issue of not zoning property on Charlotte Street CBII.

Mayor Martin closed the public hearing at 9:02 p.m.

Mayor Martin then said that at the April 24 meeting, following the public hearing on the text, the City Council voted to close its debate on the text unless there was a vote by five members of the Council to reopen the debate. Thus, in order to reopen Council's debate on any part of the text, a motion will be required indicating specifically that part of the text to be further considered or debated, and this motion would have to pass by an affirmative vote of five members of the Council.

The Planning Staff has come up with several suggested substantive changes which it deems important enough to require Council action at this meeting. It is suggested that staff be asked to identify what those changes are and that there be a motion and vote in order to allow for further consideration by Council. This would also be the appropriate time for Council members to request consideration of any additional proposed revisions to the text. Further consideration by Council with respect to any proposed text changes should follow the form that was established at earlier meetings: discussion, questions for Staff, consensus or straw vote. Any further revisions coming out of this process will be incorporated into the final proposed text.

Councilman Worley moved to re-open the text to discuss the three staff items. This motion was seconded by Councilman Hay and carried unanimously.

Staff Item No. 1. Section 7-7-2. Initiation of Amendments. The following sentence be added at the end of Sec. 7-7-2: "Provided, however, that non-substantive changes to Appendix 7A Map and Plan Standards and Appendix 7B Checklist for Applications may be made at the direction of the Director of Planning and Development." Councilman Hay moved to amend the text in Section 7-7-2. This motion was seconded by Councilman Worley and carried unanimously.

Staff Item No. 2. Section 7-13-3. Signs Prohibited in All Zoning Districts. The following be added as a new letter "P". "P. Portable or moveable display signs." Vice-Mayor Field moved to amend the text in Section 7-13-3. This motion was seconded by Councilman Hay and carried unanimously.

Staff Item No. 3. Changes to the following sections of Article 8, General Use Districts as follows:

Sections 7-8-2, 7-8-3 and 7-8-4, "Duplexes," "Quadraplexes" and "Triplexes" are listed as conditional uses.

Section 7-8-6 D. "Residential related commercial services" are deleted.

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Section 7-8-8 B. "Shoe repair shops" have been deleted. "Repair and service businesses" has been added.

Section 7-8-9 B. "Civic, social service, and fraternal facilities" has been added. "Fraternal organizations" has been deleted.

Section 7-8-9 D. "Antenna" and "Restaurants" have been added.

Section 7-8-10 B. "Health and fitness facilities," "Instructional services" and "Other accessory structures" have been added. "Vocational and training schools" has been deleted.

Section 7-8-10 D. "Townhouses" has been added.

Section 7-8-11 B. "Recreational uses, commercial indoor" and "Instructional services" has been added. "Self-service cleaning businesses," "Services" and "Self-defense instruction" have been deleted.

Section 7-8-11 D. "Townhouses" has been added.

Section 7-8-12 B. "Instructional services" and "Retail gasoline sales" have been added. "Repair shops with no outside storage," "Services" and "Self-defense instruction" have been deleted.

Section 7-8-13 B. "Accessory Structures" has been added. "Bar, nightclubs" were moved from Sec. 7-8-13 B. to 7-8-13 D.

Section 7-8-14 B. "Instructional services" and "Accessory structures" has been added. "Bookstores," "Fraternity and sorority houses" were moved from 7-8-14 B. to 7-8-14 D.

Section 7-8-15 B. "Instructional services" and "Accessory structures" have been added. "Services" has been deleted. "Repair and service businesses" was moved from Section 7-8-15 B. to 7-8-15 D.

Section 7-8-15 D. "Adult establishments" and "Recycling collection centers" were added.

Section 7-8-16 B. "Instructional services," "Lumber yards" and "Accessory structures" were added. "Services" has been deleted. "Repair and service businesses" was moved from Section 7-8-16 B. to 7-8-16 D.

Section 7-8-17 B. "Instructional services" and "Accessory structures" has been added. "Services" and "Retail gasoline sales" have been deleted.

Section 7-8-19 B. "Accessory apartments," "Bed and breakfast homestays," "Bed and breakfast inns," "Instructional services," "Lumber yards," "Motor freight terminals" and "Accessory structures" have been added. The old term "Bed and breakfast establishments" was deleted.

Section 7-8-20 B. "Accessory structures" was added. "Recycling and resource recovery" was deleted.

Councilman Hay moved to amend the above sections in Article 8. This motion was seconded by Councilman Cloninger and carried unanimously.

Vice-Mayor Field asked if a vote would be required amending Section 7-1-2. Purpose, according to revisions approved by City Council -22-

earlier. City Attorney Oast said that Council did approve the language Vice-Mayor Field recommended and the fact that it was not included in the text before Council tonight is an oversight. He said there is no vote necessary to be taken to include that language in the ordinance.

Councilman Worley moved to re-open the text to discuss the River District. This motion was seconded by Councilman Skalski and carried on a 6-1 vote with Councilman Cloninger voting "no".

Vice-Mayor Field said that the River District text is an excellent example and strong model of how people can get together and come to a compromise.

Councilman Skalski moved to (1) restore the River District language to its original text before November, 1996, (2) add asphalt plants and the papermills to the list of prohibited uses; and (3) amend Sec. 7-8-18 F. 12 (design and operation standards) as follows:

"The speculative grading of land within the River District is prohibited. Natural slopes in excess of forty-five degrees (45 deg.) shall not be graded and the existing vegetation shall not be removed.

River Resource Yard - A river resource yard equal to twenty percent (20%) of the lot depth, with a maximum depth of fifty (50) feet and a minimum depth of twenty (20) feet shall be required of those properties fronting the French Broad River and Swannanoa River banks for all new development on these lots. This river resource yard is to be measured from the top of the banks of the rivers. Existing continuous tree stands shall be preserved to stabilize the river banks. Selective pruning or removal of diseased trees and shrubs in the river resource yard is permissible, provided that a live root system stays intact to provide for bank stabilization. erosion control. and improved water quality.

Uses located within the River District shall be subject to the noise standards set forth in the City's Noise Ordinance (Article IV of the Code of ordinances of the City of Asheville, Sec. 10-81 through Sec. 10-83). No new outdoor loud systems shall be allowed within the River District.

Exposed sources of light shall be shielded so no direct beam of light crosses lot lines. The top of light fixtures shall not exceed thirty (30) feet in height in parking lots and free standing poles, and, where affixed to structures, shall not exceed the top of such structures.

Outdoor storage of materials is prohibited in the required front setback and within fifty (50) feet of a residential district.

River District Design Guidelines: All construction work requiring building, sign, demolition, and zoning permits and projects requesting a variance within the River District shall be subject to a mandatory review/voluntary compliance procedure to address compliance with the River District Design Guidelines as set forth -23-

in the adopted Riverfront Plan and the Riverfront Open Space Guidelines."

This motion was seconded by Councilman Worley.

Councilman Cloninger said that while he welcomed the pledge of cooperation between RiverLink and the riverfront owners, he was going to vote against this motion. City Council should stick to the fair and reasonable River District language Council adopted in April. We should not pass River District language that will make the City vulnerable to another situation like we had with the proposed asphalt plant. With the passage of this motion we will subject ourselves to that same vulnerable situation. The language we passed in April grandfathered all existing uses along the river, but at the same time provides a safety valve which allows us to prevent new industry that poses a danger to the health and safety of our citizens from locating along the river. The language proposed in this motion before us now provides us with no such protection. The language in this motion does include a short list of prohibited uses that would not be allowed along the river, including asphalt plants. However, any use not on that prohibited list would be allowed along the river, even if it is not allowed in any other part of the City, and the City will be powerless to stop it - no matter how dangerous that use may be. This would create both an unreasonable and unnecessary risk to the public. It makes no sense to pass language that forces the people of Asheville to keep their fingers crossed and hope that nothing dangerous locates along the river when we on City Council have a fair and reasonable means to prevent it. Our decision today should be guided by what is in the overall best interests of the people of Asheville. He believed that those interests are best served by sticking with the language we approved in April.

Councilman Skalski felt that the reason the UDO took so long was for participation by all the players.

Vice-Mayor Field said that since the current ordinance has been in effect since the late 1970's, Council has had only one issue of an asphalt plant and they managed to deal with that issue.

Councilman Cloninger reminded Council that there are only 9 items on that prohibited list. He said that the list Council passed back in April had many more prohibited items. He asked if representatives of the riverfront owners would say that our hands are completely tied from this day forward to ever add to that list of prohibited uses or whether they would acknowledge that we would have certainly the right to add to that list as we become aware of uses that we would not want to allow. He asked Mr. Sternberg his position on that.

Mr. Sternberg said that there are more than 9 prohibited uses. However, he thought that "it was within the purview of this Council that anytime to amend this ordinance to put in a prohibition if they see fit. It's still the

responsibility of Council to protect the public. If someone proposes a nuclear plant - there's no way you're going to put it in. There's always a lot of talk about clean industry in this area. There is no such thing as dirty industry anymore. You put up a dirty industry and you're going to go to the penitentiary. I can tell you that right now - the federal government protects you, if nothing else. But I see no reason at all that if there is somebody that finds a use that is so erroneous that it's going to affect the whole community, the City Council has every right and every responsibility to make it prohibited. I think the example of the asphalt plant was a perfect example of how public opinion drove out an industry that was permitted because it was considered to erroneous by all the citizens. Nobody ever -24-

said that this community is going to be free of controversy. But nobody ever said also that people of good will, such as this Council and the

citizens of this community, can agree when something is seriously negative to the community."

Councilman Cloninger said that what he was going by for the 9 uses is from a letter Mr. Sternberg wrote April 2, 1997, to RiverLink in which Mr. Sternberg listed about 9 items which he assumed were the same items that was in the original proposal.

Councilman Cloninger asked Councilmen Skalski and Worley if they would consider amending the list of prohibited uses to those which Council passed in April. He noted that he was against this motion regardless, but he did ask that if this motion passes, which it appears that it will, that the least this Council could do is make that list of prohibited uses as extensive as we had planned to make it with what Council passed in April.

When Councilman Cloninger inquired about what uses are on the prohibited list, Senior Planner Gerald Green said that asphalt plants and papermills were added. Also, at the request of CP&L, utility substations was deleted from the list of prohibited uses. Mr. Sternberg said that stockyards were on the prohibited use, but they have asked that it be withdrawn.

Ms. Cogburn read the list of prohibited uses as follows: asphalt plants; automobile salvage yards, excluding automobile parts recycling when conducted in an enclosed building; businesses manufacturing or storing materials listed as H1 hazardous materials in Sec. 4-8.1 of the 1991 North Carolina State Building Code (1993 Revisions); gas manufacturing; manufacture or storage of ammunition, dynamite, or other high explosives; mining; papermills; slaughter houses; solid waste landfills; and uses prohibited by the Asheville Flood Protection Standards.

Councilman Cloninger said that what's happened in the last two-three months is a classic example of the weakness in what the motion is going back to. Papermills just came up tonight - no one had thought of it. He guaranteed that there are a lot of other items that haven't been thought of and when someone does try to locate them on the river, if this motion passes, our hands will be tied completely. He wanted to make sure the public is very aware of that.

The motion made by Councilman Skalski and seconded by Councilman Worley carried on a 6-1 vote, with Councilman Cloninger voting "no".

Councilman Skalski moved to re-open the text to discuss the thresholds for review of larger projects. This motion died for a lack of a second.

Councilman Cloninger commented that on several of the threshold limits he voted for lower standards than what was ultimately passed. However, he didn't think

there would be any purpose served in trying to proceed with that again tonight.

Councilman Skalski said the increases that are proposed in the UDO go anywhere from 400-800 percent over what we have now in the current zoning ordinance. He feels very strongly about public participation in government and if we are going to take 80% of the site development out of the purview of the public, he wouldn't be able to support it.

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Mayor Martin called for a motion relative to the adoption of the proposed final text of the Unified Development Ordinance with revisions made as a result of direction given at tonight's meeting. The motion will be to repeal several existing sections of the City of Asheville Code of Ordinances and to replace them with the Unified Development Ordinance. The ordinance is proposed to be effective upon its adoption, subject to adoption of the proposed new zoning classification maps. He said that even though it will take a few minutes, it would be a good idea to have a staff member read the complete motion and provide any further explanation that the Council desires.

City Attorney Oast read the ordinance to enact new development regulations and to consolidate the current and the new development regulations into a Unified Development Ordinance.

Councilman Worley moved for the adoption of Ordinance No. 2369 as read by City Attorney Oast. This motion was seconded by Vice-Mayor Field and carried on a 6-1 vote, with Councilman Skalski voting "no".

ORDINANCE BOOK NO. 16-PAGE 201 (COMPLETE TEXT-IN FREESTANDING UDO BOOK)

Regarding the maps, Mayor Martin said that there will be three votes: The first vote will be to adopt the original proposed map which has been contained in all public notices. The second motion will be to adopt the proposed list of revisions to that map, with whatever additional revisions Council has indicated it wishes to make. Because the law requires it, each of the proposed revisions will be identified by staff at least by a brief description, but these revisions may be voted on as a group, and no individual votes need be taken. Finally, there will be a third vote to adopt the maps as revised. This last vote will be the vote that implements the proposed zoning changes.

Councilman Cloninger said that since this is the first time Mr. Edmundson, from Appalachian Stove, has raised his concern about the mapping and since staff has not had an opportunity to review his request, he suggested Mr. Edmundson to go through the normal rezoning procedure and then moved to waive Mr. Edmundson's fee to apply for a rezoning request. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Cloninger then suggested (for the same reasons as outlined above for Mr. Edmundson) Mr. Feingold go through the normal rezoning procedure and then moved to waive Mr. Feingold's fee to apply for a rezoning request, if such rezoning request is received within 60 days from today. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Cloninger then moved to amend his prior motion relative to Mr. Edmundson with the fee waiver being contingent upon receipt of the rezoning request within 60 days from today. This motion was seconded by Councilman Sellers and carried unanimously.

The following map revision items were raised by individual Council members and discussed with information provided by Planning staff:

Councilman Sellers moved to rezone the Deaverview Road property from RM-16 to CI. This motion was seconded by Councilman Worley and carried on a 4-3 vote, with Councilmen Cloninger, Hay and Skalski voting "no".

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Councilman Worley moved rezone the Arco Road property according to the compromise staff and the petitioner reached (basically property fronting on both sides of New Haw Creek Road extending south from New Haw Creek Road to the northern border of the commercial zoning on Tunnel Road) from RS-8 to RS-4 and RM-6. This motion was seconded by Councilman Skalski and carried unanimously.

Councilman Sellers moved to rezone the small section in the northern part of Kenilworth from RM-16 to RS-8. This motion was seconded by Councilman Skalski. Said motion failed on a 3-4 vote with Vice-Mayor Field and Councilmen Cloninger, Hay, Worley voting "no".

Councilman Worley moved to rezone the small section in the northern part of Kenilworth from RM-16 to RM-8. This motion was seconded by Councilman Cloninger and carried unanimously.

At 10:00 p.m., Mayor Martin announced a five minute break.

Councilman Skalski moved to rezone a small piece of property between Stoner Road and the current property owned by the Slosman Corporation from RM-8 to CI. This motion was seconded by Councilman Worley and carried unanimously. PIN No. 9647.08-89-9932.

Councilman Hay moved to rezone the two houses on the corner of Edwin and Gertrude Place from RM-6 to RS-4. PIN Nos. 9649.11-55-5664 and 5723. This motion was seconded by Councilman Worley and carried unanimously.

Vice-Mayor Field moved to rezone the property (1.9 acres) just to the north of the Rhodes property from RM-16 to RM-8. This motion was seconded by Councilman Cloninger and carried on a 6-1 vote with Councilman Sellers voting "no". PIN Nos. 9649.06-38-1010 and 1807.

Vice-Mayor Field moved to rezone 100 feet of the southern piece of Hildebrand property on Beaucatcher Road to RM-6 and the rest of the southern piece along with the northern piece of Hildebrand property be rezoned to OB. This motion was seconded by Councilman Sellers.

Councilman Worley offered a substitute motion to rezone 75 feet of the southern piece of Hildebrand property on Beaucatcher Road to RM-6 and the rest of the southern piece along with the northern piece of Hildebrand property be rezoned to OB. This motion was seconded by Councilman Sellers. Said substitute motion failed on a 3-4 vote with Vice-Mayor Field and Councilmen Cloninger, Hay and Skalski voting "no".

Mayor Martin then called for a vote on the main motion to rezone 100 feet of the southern piece of Hildebrand property on Beaucatcher Road to RM-6 and the rest of the southern piece along with the northern piece of Hildebrand property be rezoned to OB. This motion carried on a 5-2 vote, with Councilmen Sellers and Skalski voting "no". PIN Nos. 9659-05.08.1285 (100 foot portion of southern piece being zoned RM-6).

Councilman Sellers moved to rezone property on Clingman Avenue (14 lots) from RM-8 to CI. This motion died for a lack of a second.

Councilman Hay moved to rezone the property (12 acres) on the west side of Broadview from RM-8 to RS-8. This motion was seconded by Councilman Cloninger and carried unanimously. PIN No. 9657-08.88-6104.

It was stressed that City Council is committed to the overlay district on Charlotte Street which will impose restrictions with a lower density than the CBII. City Council also expressed disappointment with -27-

the inappropriate comments addressed to them during this past week with regard to this issue.

Councilman Skalski moved to leave the zoning on Charlotte Street north of Chestnut Street CBI and rezone the area on Charlotte Street south of Chestnut Street to I-240 from CBII to CBI. This motion was seconded by Councilman Hay. Said motion failed on a 2-5 vote, with Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Sellers and Skalski voting "no".

Councilman Cloninger moved to request Planning staff to report to City Council within 90 days with a proposed overlay district plan for the area on Charlotte Street at least south of Chestnut Street to I-240. This motion was seconded by Councilman Worley and carried unanimously.

Vice-Mayor Field moved to rezone Farrwood from a single-family to a multi-family neighborhood. This motion died for a lack of a second.

Mayor Martin reiterated that there will be three votes on the mapping. The first vote will be to adopt the original proposed map which has been contained in all public notices. The second motion will be to adopt the proposed list of revisions to that map, with whatever additional revisions Council has indicated it wishes to make. Because the law requires it, each of the proposed revisions will be identified by staff at least by a brief description, but these revisions may be voted on as a group, and no individual votes need be taken. Finally, there will be a third vote to adopt the maps as revised.

Councilman Worley moved that City Council adopt for consideration the final proposed new zoning classification maps as prepared and presented by staff, and as published in the official public notices for this public hearing. This motion was seconded by Vice-Mayor Field and carried on a 6-1 vote, with Councilman Skalski voting "no".

Councilman Hay moved that City Council adopt for consideration the following revisions to the final proposed new zoning classification map:

1. Park Avenue - PIN No. 9638-08-98-7068 from CI to RM-8
2. Parkway Forest (basically the entire Parkway Forest Subdivision including portions of Oteen Church Road, Grandview Road, Browndale Road, Wagon Road, Birchwood Lane and Pleasant Ridge Road and surrounding properties) from RS-8 to RS-4.
3. The north end of Chunns Cove (basically the area including Utopia Road and Apache Trail and surrounding properties east of Chunns Cove Road and south of Covewood Subdivision) from RM-6 to RS-2.
4. West portion of the lot in Blake Mountain Estates - PIN No. 9655-13-14-3568 - from RM-6 to RS-2.
5. Single lot on Cornell Street - PIN No. 9647-20-91-7169 from RS-4 to Office.
6. 87 Riverside Church Road - PIN Nos. 9639-10-26-9864; 9639-10-36-0766 and

2905; 9639-10-37-0380 and 2320 to Manufactured Housing overlay.

7. Malvern Hills Area (area shown in light green on the advertised maps bounded by Bear Creek Road to the east, Windover Drive to the south and west and the commercial district along Patton Avenue to the north) from RS-8 to RS-4.

8. Falconhurst Area (area shown in light brown on the advertised map roughly the area bounded by Logan Avenue on the east, bordered to the south by Haywood Road and north Patton Avenue and on the west by Mitchell and Druid) from RM-8 to RS-8.

9. North end of Vermont Avenue from the existing RS-8 boundary from RM-8 to RS-8. -28-

10. Vivian Road/Nantahala Street - PIN Nos. 9649-09-15-4974; 9649-09-16-0734, 2885, 7196 and 7270; and 9649-09-17-3141 from RM-8 to Institutional.

11. Portion of the Grove Park Inn property on the east side of Macon Avenue - PIN No. 9649-07-79-4703 from Resort to RS-2.

12. South side of Ottari Road - PIN Nos. 9740-18-42-7296, 8263, 9189 and 9211; 9740-19-52-0147, 1100 and 1212 from RM-8 to RS-8.

13. East Asheville Recreation Center on Tunnel Road - PIN No. 9658-12-87-6254 from RS-4 to CBI.

14. 1 Logan Avenue - PIN No. 9638-12-86-7975 from RM-8 to River.

15. 276 East Chestnut Street - PIN No. 9649-15-63-1258 from RM-8 to CB1.

16. I-40/NC 191 - PIN Nos. 9627-12-97-5330 and 9637-05-07-1739 from RM-8 to Highway Business.

17. Trinity Industries - portion of southwest corner of PIN No. 9639-14-44-8846 from Institutional to Industrial.

18. Biltmore area - PIN No. 9647-08-89-9932 from RM-8 to CI.

19. Old Haywood Road - portion of PIN No. 9628-17-11-5571 south to Patton from RM-8 to Highway Business.

20. Westwood/I-240 - PIN No. 9638-07-78-2505 not currently zoned to Highway Business.

21. Wood Avenue - PIN No. 9658-14-32-7900 from River to Commercial Industrial.

22. Yorkshire Street - PIN Nos. 9647-12-85-6923; 9647-12-86-5192 and 3100 from RS-8 to Office.

23. 304 Cisco Road - PIN Nos. 9659-19-52-8006; 9659-15-62-1546 and 9659-15-63-1315 from RS-2 to RS-4.

24. Oteen Church Road (area that is shown on the advertised maps in light brown - area south of Grandview on the west side of Oteen Church Road, south to Old Lake Craig site and bounded by Azalea Road on the west) from RM-8 to RS-2.

25. Iris and Shady Oak Drive (area bounded by Iris to the east and Shady Oak to the west) from RM-8 to RS-8.

26. Wedgefield Drive property - PIN Nos. 9626-07-67-9777 and 9626-07-77-0962; 9626-07-78-1076, 2157, 3228 and 4307 from Office to CBI.
27. Beaverdam Road - PIN Nos. 9750-05-07-1617 and 9750-09-07-8252 from Neighborhood Business to RS-4.
28. West Chapel/Oakley School Road - PIN No. 9657-18-41-6459 from RS-8 to Industrial.
29. Hendersonville Road (west of Hendersonville Road from Miller Avenue north, south to Rosscraggon Road) from Institution to Highway Business.
30. West End/Clingman (Pioneer Welding site) - PIN Nos. 9648-05-08-0068 and 2121 from Commercial Industrial to RM-8.
31. Arco Road (from Tunnel Road on the south to New Haw Creek Road to the north including Arco Road) from RM-6 to RS-4; PIN Nos. 9658-11-77-1168 and 3004 from RS-8 to RM-6; and small section to go from RS-8 to RS-4.
32. Sand Hill Road - PIN No. 9627-17-12-1184 from RS-2 to Industrial.
33. Hill Street - PIN Nos. 9649-17-11-2119 and 3138; and northern portion of 9649-17-11-5240 which does not abut Hill Street from Office to RM-8.
34. Sand Hill Road - PIN Nos. 9617-16-83-0548 and 9617-16-83-0849 from Office Business to Commercial Industrial.
35. I-40/US 19/23 - PIN Nos. 9617-07-69-2067 and 9617-07-58-0377 from Highway Business and RM-8 to Commercial Industrial.
36. Pond Road (Trueblood property) - PIN No. 9627-19-61-3826 from RS-2 to Commercial Industrial.
37. Property along Leicester Highway that is currently a salmon color on the advertised maps, the strip south and across from Camelot Subdivision - one lot deep bounded by Highway Business Districts on both ends from RM-6 to CBII. - 29-
38. Jackson Park/Woolsey area (properties that are currently shown in light brown on the advertised maps going north to south along Lookout Drive, Fenner Avenue, Maney Avenue, Edgewood, south along Barnard including properties along Lee and Sevier Streets excluding the multi-family development at the southwest corner of Barnard and Edgewood from RM-8 to RM-6 and RS-8.
39. Arlington Street - PIN Nos. 9649-15-62-4667, 5615, 5675 and 5752; PIN No. 9649-19-62-4408, 4478, 5428 and 5478 from Office to RS-8.
40. Old County Home Road - PIN No. 9629-18-31-5705 from RM-6 to CBII.
41. Albemarle Road and Place (area shown in light brown on the advertised maps east of the commercial properties abutting Charlotte Street, properties along Albemarle Road, Albemarle Place, Baird Street, excluding the Von Ruck Apartments, from RM-8 to RS-8.
42. Blue Ridge Avenue - PIN Nos. 9638-09-05-2827, 2912, 2917 and 3937; 9638-09-06-0030, 0127, 2023 and 2039; 9638-09-06-2195 and 2291 from RM-8 to RS-8.
43. Vance Crescent, Brevard Road, Olney Road, Rex Street, Davenport Road, Vance

Crescent Extension and Sand Hill Road area from RM-8 to RS-8.

44. Beaverdam Road - PIN Nos. 9740-14-43-7492 and 9587 from Office to RM-8; and 9740-15-53-1108 from Office to CBI.

45. Arlington Street - PIN No. 9649-15-72-3700 from RS-2 to RS-8.

46. Sweeten Creek Road & I-40 - PIN No. 9657-10-25-5042 from Industrial to Commercial Industrial.

47. Southern portion of Kenilworth bounded to the west by the institutional properties along Biltmore Avenue, south by the River District and the institutional properties of A-B Tech on the east by East Shore Drive and Lake Kenilworth on the north mapped single-family zone districts and including among the streets in that area Forest Hill Drive, Thurland, Lenoir, Lakewood Drive and Dunkirk from RM-6 to RS-8.

48. Riverview Drive (Barlas property) - PIN No. 9638-20-82-7087 from RS-2 to RS-4.

49. Merrimon Avenue - PIN No. 9730-12-85-8726 from RS-4 to CBI.

50. South side of Broad Street - PIN Nos. 9649-14-43-9468 and 9558; 9649-15-53-0547, 0597, 1415, 1419, 2453, 2457, 2545 and 2594 from RM-8 to Office.

51. East Chestnut Street/Furman Avenue area - PIN Nos. 9649-15-63-0070, 2245, 2080 and 4263; 9649-15-62-3969, 4800, 4928, 4979, 5758 and 5965 from RM-8 to RM-16.

52. Crescent Street area (basically area that is shown in light brown on the advertised maps bounded on the east by commercial properties along Charlotte, on the north by Lenox and Murdock, on the west by RM-8 properties along Madison Street, and on the south by the non-residential properties on Broad Street from RM-8 to RM-16.

53. Merrimon Avenue (Rhodes property) - PIN No. 9649-10-37-2444 from RM-8 to RM-16 and CBI.

54. North Louisiana Avenue - PIN Nos. 9638-05-19-9941 and 9978; eastern portion of 9639-17-10-8679; 9639-17-10-9171, 9285 and 9639-17-20-0305 from RM-6 to Office Business.

55. Hazel Mill Road - PIN Nos. 9639-17-00-9007 and 9415 from RS-2 to RM-6.

56. Kenilworth Forest neighborhood - (all of the area of Kenilworth Subdivision behind the Asheville Mall, White Pine Drive and adjacent streets) from RS-8 to RS-4.

57. Tunnel Road (Hildebrand properties) - portion not abutting Beaucatcher Road of PIN No. 9648-08-98-7846 from RM-16 to Office Business; 9658-05-08-0782 from RM-16 to Office Business; and 9658-05-08-1285, except for a 100 foot strip left along Beaucatcher Road) RM-6 the remainder to be Office Business. -30-

58. Brevard Road area (Ingles property) - area shown in light brown on the advertised maps at the intersection of Brevard Road at I-240 across from the Farmer's Market from RM-8 to Regional Business.

59. Deaverview Road property - Map 9628-10 - from RM-16 to Commercial Industrial.

60. Kenilworth Forest - PIN No. 9658-09-06-2425 from RM-16 to RM-8.

61. Stoner Avenue - (property between Stoner Road and the property owned by the Slosman Corporation) - PIN No. 9647-08-89-9932 - from RM-8 to Commercial Industrial.

62. Gertrude Street - PIN No. 9649-11-55-5664 and 5723 from RM-6 to RS-4.

63. Chatham Road property - PIN No. 9649-06-38-1010 from RM-16 to RM-8.

64. Oakley area - parcel west of Broadview - PIN No. 9657-08-88-6104 from RM-8 to RS-8.

This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Cloninger moved to adopt the maps as revised. It was noted that this motion will make the earlier motion on the adoption of the text effective. This motion was seconded by Councilman Worley. The record should reflect that City Council had received a copy of the ordinance and it would not be read.

Upon inquiry of Vice-Mayor Field and Councilman Skalski, City Attorney Oast said that the ordinance is effective as of the date of its adoption.

Vice-Mayor Field voiced concern over an earlier recommendation that she had given to staff in which she felt it was inappropriate to adopt the ordinance without giving the people in the community who are in the process of building a house or developing, some period of time or some way of either complying with the present ordinance or the new ordinance and their being allowed to make that choice. She noted that there are many, many major items changed between the old and new ordinance.

Ms. Cogburn suggested making the effective date 30 or 60 days.

Vice-Mayor Field then moved to amend the motion that Councilman Cloninger made to adopt the UDO and have a 30 day period in which projects that are in the design process or are in the process in some way can either elect to comply with the text of the old ordinance or the text of the new ordinance. This would be accomplished by writing a letter to the Planning staff and asking for one or the other.

City Attorney Oast said that what staff has been doing is that any plan or development proposal that was submitted with a completed application as of 5:00 p.m. today gets considered under the old ordinance.

Vice-Mayor Field recalled being told that the plan needed to have final approval by 5:00 p.m. today - that it could not be in the process. City Attorney Oast responded that that was a misunderstanding. He said that if the City has a proposal that was submitted as of 5:00 p.m. today, then it gets considered under the provisions of the old ordinance - even if the final action on approval is not taken until sometime later this summer.

City Attorney Oast read the effective date section of the text ordinance which states "This ordinance shall take effect and be in force from and after its adoption; provided, that it shall only be effective -31-

upon adoption of zoning classification maps consistent with the regulations herein; further provided, that for those projects for which a complete application for a permit or other approval as required under this ordinance, or any of the provisions of the Code of Ordinances of

the City of Asheville which are replaced, repealed or amended by this ordinance, shall have been submitted prior to the effective date of this ordinance, those applications shall be considered and acted upon under the development regulations in effect prior to the effective date of adoption of this ordinance."

Vice-Mayor Field was concerned about someone who has to stop work in the middle because they don't know which ordinance to conform with. She felt Council would only be dealing with five projects but there needs to be some accommodation for these people. Someone who has designed half a project should not have to go back and pay their engineer, architect or designer again to design a new project because of the adoption of the UDO tonight.

Vice-Mayor Field said that when the North Carolina Building Code makes changes, they allow people time to write a letter and say that they're in the process of designing and they choose to design it under the old Code or the new Code.

Ms. Cogburn said that she has only heard this concern from one individual who did not even have a specific project that they could present to staff. The Planning staff have been working with a number of individuals in the development and business community for the past six months in anticipation of this and have not heard this as a concern at all, except from the one individual who does not even have a specific project that the Planning staff is aware of on the table. She explained that staff did talk about this issue informally with Council and suggested the effective date could be postponed but no one other than Vice-Mayor Field was concerned with the issue so staff did not carry it forward. She said the simple solution would be to pick an effective date or 30, 60 or 90 days from now.

Vice-Mayor Field asked if Councilman Cloninger would be willing to amend his motion to at least not make the ordinance effective until the books are printed and people can at least know what it is they are supposed to comply with.

Councilman Cloninger wondered what the ramifications would be in postponing the effective date 30 days.

City Attorney Oast said that what Vice-Mayor Field is requesting is a delay in the effectiveness of this ordinance which would in effect delay the effective date of the entire UDO for 30 days or whatever period Council decides on. In the interim between now and then, the old ordinance would be in effective just like always and then 30 days from now the new ordinance would be in effect.

Vice-Mayor Field then moved to amend Councilman Cloninger's motion to make the effective date of the mapping May 27, 1997, and the effective date of the text June 27, 1997.

Councilman Cloninger said that any design professional has known for weeks that Council was going to pass the UDO on May 27.

Vice-Mayor Field stressed that the people didn't know what the text was until tonight. She said that she withdrew her amendment to Councilman Cloninger's motion and would have no choice but to vote against the UDO. -32-

Councilman Worley wondered if there was some special language that if someone with a project in process, but who hasn't filed a completed

application yet, can have a two week window, or something similar to that.

City Attorney Oast said that the cleanest way to accomplish what he understands is being requested is to delay the effective date of the ordinance. It's a

little difficult, from a legal standpoint, to adopt an ordinance that is effective for some projects but not for others. If Council is inclined to allow these projects that are in some phase of design, but with respect to which there has been no application completed or submitted, to be processed under the old regulations, he suggested the only way to do that that he can think of right now, is to delay the effective date of the ordinance.

City Attorney Oast then suggested making the ordinance maps and text effective today, but provide a window of 30 days for projects that are in some phase of the design process to submit completed applications. In other words, that would allow Council to do exactly what they are talking about. If someone submits their application within 30 days then they can proceed under the old ordinance, if they wish. He felt that this is not the cleanest or the easiest way, but it addresses what Vice-Mayor Field's objection is.

Councilman Cloninger agreed to the amend his motion to adopt the ordinance maps and text effective today, but provide a window of 30 days for projects that are in some phase of the design process to submit completed applications. The amendment to the motion was accepted by Councilman Worley and motion carried unanimously.

Mayor Martin said that we have just completed a task that has taken a number of years by successive Councils to bring to fruition. The UDO process has been long and arduous, as it should be because it is very important to everyone.

City Council saw the necessity of bringing this long-term project to a close. As with any process and large project of this nature, we did not please everyone. But everyone should remember that the UDO will be a dynamic document, and will continue to be changed to reflect new conditions and unforeseen circumstances that may occur that Council and staff did not know about prior to tonight's vote.

Mayor Martin thanked the entire City Council for their perseverance during this process. We have heard over 40 hours of public hearings. Two Councilmen, Cloninger and Worley, discussed the UDO and the UDO process at many of the community meetings that were held. It has been on cable TV, advertised extensively and Council members have discussed with the public on an individual basis for many more hours, the relative merits of various parts of the UDO. He felt we should all feel good about the process and the end product.

Mayor Martin thanked staff, in particular the Planning & Development Department, for their continued perseverance and professionalism throughout the process. He thanked other City employees who aided materially in the final adoption of the UDO. He also thanked the Planning & Zoning Commission for their review and input to the process.

Last of all, he thanked the public for their continued input at public hearings and at other meetings, on various aspects of the UDO. This is an accomplishment he thought the entire City can take pride in and he's pleased that it is completed. -33-

ORDINANCE BOOK NO. 16 - PAGE 203

V. NEW BUSINESS:

A. REPORT - FOUR YEAR STAGGERED TERMS FOR CITY COUNCIL

City Attorney Oast said that under G.S. 160A-101 (4) the law specifies that City Council may serve terms of office of either two or four years. It further specifies that all of the terms need not be of the same length and all the

terms need not expire in the same year. Currently City Council currently serves two year terms and all seats of Council are open at the same election, including the Mayor. In order for Council to change this, it requires the adoption of a resolution of intent and at the same time Council also establishes a public hearing which must be set between 10 and 45 days from the date of the resolution. Notice must be published at least once, not less than 10 days prior to the hearing. After the public hearing at the next regular meeting of Council, the Council may then adopt an ordinance and within 10 days the City Clerk must publish notice that the ordinance had been adopted.

If Council wishes, he will prepare the necessary resolution before Council at the next worksession. It may require Council to waive the rules in order to vote on the resolution. The important thing to note is that the filing deadline for the November elections comes up in early July. He also pointed out that this would not have the effect of lengthening the current terms of any of the current Council members. It will only be effective for terms beginning after the next election.

Vice-Mayor Field said that when this came up before Council she voted against it because it was very important to her that the citizens of Asheville get a chance to say who their leaders are every two years. She agreed that Council would be much more effective if it could be every four years. Therefore, she suggested that the Mayor's term be every two years and that the Council be split. If we go to a four year staggered, that on the next election that the three top vote getters get the four year terms and the next three vote getters get the two year terms. And then with the Mayor being elected every two years, that would mean that the community would have the right to come forward and change the majority on Council every two years. It would also give everyone the opportunity after the year 2000 to have four year terms.

City Attorney Oast said he would investigate whether it is necessary to designate in advance which seats will be four year seats and which seats will be two year seats.

Upon inquiry of Councilman Skalski, City Attorney Oast said that the change can be done by referendum.

It was the consensus of City Council to direct the City Attorney to prepare the necessary resolution for Council consideration at their next worksession.

VI. OTHER BUSINESS:

A. COMMENTS BY LENI SITNICK

Ms. Leni Sitnick asked that Council reconsider a designation in the UDO under the Use Districts for Parks. She suggested a letter "P". She also asked Council to consider a pooper scooper law.

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B. CLAIMS

The following claims were received by the City of Asheville during the week of May 2-15, 1997: Charles E. Smith (Sanitation), Clarence D. Willis (Sanitation), Gene Szymanski (Finance) and Angela Carswell (Sanitation).

The following claims were received during the week of May 16-22, 1997: Chene Hartman (Streets), Laura Annarino (Streets) and Yvette Jives (Water).

These claims have been referred to Asheville Claims Corporation for

investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 11:55 p.m.

CITY CLERK MAYOR
