

Tuesday - August 26, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; 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: Councilman Edward C. Hay Jr.

INVOCATION

Councilman Sellers gave the invocation.

I. PROCLAMATIONS:

A. OUTSTANDING RECREATION AND PARK BOARD AWARD

Mayor Martin presented Chairman of the Recreation Board Bill Estes with the Outstanding Recreation and Park Board Award from the North Carolina Recreation and Parks Society. Mr. Estes thanked the Recreation Board members, City Council and City staff for their time, effort, expenditures and interest in parks and recreation in the City of Asheville.

B. PROCLAMATION PROCLAIMING AUGUST 29-31, 1997, AS "GOOMBAY! FESTIVAL DAYS"

Mayor Martin read the proclamation proclaiming Friday, August 29, Saturday, August 30, and Sunday, August 31, 1997, as "Goombay! Festival Days" in the City of Asheville. He presented the proclamation to Mr. Gene Ellison who briefed the Council on the activities that will be taking place on those days.

PUBLIC HEARING RELATIVE TO REZONE PROPERTY ON BOONE STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY TO INDUSTRIAL DISTRICT

Mayor Martin said that on August 25, 1997, Mr. Barry Eavenson appealed the Planning & Zoning Commission's "negative recommendation" of the 100-foot strip along the vacant lot on Boone Street from RM-8 Residential Multi-Family Medium Density to Industrial District. Since the "affirmative recommendation" of the Commission has been advertised for today, the City Council will need to reschedule this public hearing for September 9, 1997, so that the entire lot can be considered for rezoning.

Vice-Mayor Field moved to reschedule this public hearing for September 9, 1997. This motion was seconded by Councilman Sellers and carried unanimously.

PUBLIC HEARING RELATIVE TO REZONE FOUR PROPERTIES ON OR BEHIND EAST CHESTNUT STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY TO OFFICE

Due to an error in advertising, Councilman Worley moved to reschedule the public hearing until September 9, 1997. This motion was seconded by Councilman Skalski and carried unanimously.

II. CONSENT AGENDA:

At the request of Mr. Ralph Bishop, Item A. was removed from the Consent Agenda for discussion.

At the request of Mr. Mel Thomason, Item K. was removed from the Consent Agenda for discussion.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 12, 1997; THE SPECIAL MEETING HELD ON AUGUST 15, 1997; AND THE WORKSESSION HELD ON AUGUST 19, 1997

This item was removed from the Consent Agenda for discussion.

B. RESOLUTION NO. 97-138 - RESOLUTION EXTENDING THE TERMS OF MEMBERSHIP ON THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE FROM TWO TO THREE YEAR TERMS

Summary: City Council feels it would be in the best interest of the City to amend the terms of the Americans with Disabilities Compliance Committee from two years to three years.

RESOLUTION BOOK NO. 24 - PAGE 166

C. RESOLUTION NO. 97-139 - RESOLUTION FINDING THE RHODODENDRON CIRCLE PROJECT COMPLETE, ASSESSING THE TOTAL COST AND CALLING FOR A PUBLIC HEARING ON SEPTEMBER 9, 1997, ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL

RESOLUTION BOOK NO. 24 - PAGE 167

D. RESOLUTION NO. 97-140 - RESOLUTION TO SET A PUBLIC HEARING ON SEPTEMBER 23, 1997, TO CLOSE PORTION OF OLD HAYWOOD ROAD

RESOLUTION BOOK NO. 24 - PAGE 169

E. RESOLUTION NO. 97-141 - RESOLUTION ACCEPTING A REPORT ON THE DISPOSAL OF CITY-OWNED PERSONAL PROPERTY

Summary: Consideration of a resolution accepting a report on the sale of City-owned property for the Parks & Recreation Department, the Water Resources Department and the Fleet Management Division.

Resolution No. 85-99 adopted by City Council on June 25, 1985, established procedures for disposing of personal property valued at less than \$500. Pursuant to these procedures, the resolution identifies property disposals for the Parks & Recreation Department, the Water Resources Department and the Fleet Management Division during the period of January 1, 1997 through June 30, 1997.

Revenues from these sales totals \$2,420.10 and have been deposited as follows: \$279.00 in the 20 fund for the Parks & Recreation Department, \$405.60 in the 44 fund for Fleet Management Division and \$1,735.50 in the 30 fund for the Water Resources Department.

RESOLUTION BOOK NO. 24 - PAGE 170

F. RESOLUTION NO. 97-142 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN ENCROACHMENT AGREEMENT WITH NORFOLK SOUTHERN RAILWAY FOR THE PIPELINE REPLACEMENT PROGRAM - PHASE II, CONTRACT B - EAST ASHEVILLE/EAST BUNCOMBE WATERLINE PROJECT

Summary: The consideration of a contract with Norfolk Southern Railway to allow a pipeline under their track as a part of the Pipeline Replacement Program - Phase II, Contract B.

The Engineering Department developed construction plans for the Pipeline Replacement Program Phase II - Contract B, East Asheville/East Buncombe Water Line Project and this right of way is included to complete the construction of the water pipeline. In order to move forward with the project, a resolution needs to be adopted authorizing the City Manager to execute on behalf of the City of Asheville a contract with Norfolk Southern Railway Company, for the City of Asheville to install, maintain, and operate a six inch water pipeline in a sixteen inch casing pipe, under and across the right of way or property and any tracks of Railway, at Milepost T-8 plus 3,275 feet, wholly within the confines of Candler School Road, for the construction of the Pipeline Replacement Program Phase II -Contract B, East Asheville/East Buncombe Water Line project.

Staff recommendations that City Council adopt a resolution authorizing the City Manager to execute a contract with Norfolk Southern Railway Company for the right of way for the Pipeline Replacement Program Phase II - Contract B, East Asheville/East Buncombe Water Line Project.

RESOLUTION BOOK NO. 24 - PAGE 172

G. RESOLUTION NO. 97-143 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A UTILITY AGREEMENT WITH N.C. DEPT. OF TRANSPORTATION FOR THE IMPROVEMENTS OF US 70 (TUNNEL ROAD), US 74 (SOUTH TUNNEL ROAD) AND SR 2863 (HAW CREEK LANE) NEAR THE ASHEVILLE MALL

Summary: This resolution will be to authorize the City Manager to sign a municipal agreement with the N.C. Dept. of Transportation ("NC DOT") for improvements at the intersection of US 70 (Tunnel Road), US 74 (South Tunnel Road) and SR 2863 (Haw Creek Lane).

The City Council authorized the City Manger to negotiate with NC DOT outlining the City's agreement to participate in sidewalks on intersection of US 70 and US 74. The NC DOT's preliminary estimate was \$16,300 for the sidewalk. The final estimate for the construction of the sidewalks is \$16,300, with the City's portion being 40% of estimate which is \$6,520.00. Funding for the South Tunnel Road sidewalk was included in the Fiscal 1995-1996 Sidewalk Program. Construction is scheduled to begin January 1998.

An additional 30-inch water line may need to be relocated as a result of this construction, but the design is not complete at this time. The preliminary estimate NC DOT has given on the relocation of the water line is approximately \$93,000. When the design is finalized then staff will request Council approve funds necessary to relocate the water line.

Staff recommends that City Council allow the City Manager to sign the Municipal Agreement for improvements at the intersection of US 70 (Tunnel Road), US 74 (South Tunnel Road) and SR 2863 (Haw Creek Lane).

RESOLUTION BOOK NO. 24 - PAGE 173

H. RESOLUTION NO. 97-144 - RESOLUTION APPROVING UNDERWRITER FOR THE ISSUANCE OF CERTIFICATES OF PARTICIPATION

Summary: City Council has previously provided direction to staff to proceed with the following projects: Renovation of the Municipal Building and Water Maintenance Building; Repair of City Hall roof; Team with The Grove Arcade Public Market Foundation to renovate the Grove -4-

Arcade; and Team with Biltmore Farms, Inc. and others to construct a High Tech/Flex Space Building. Currently estimated approximate costs of the projects

are: \$15 million Municipal and Water Maintenance Buildings; \$1.1 million City Hall Roof; \$2.25 Grove Arcade; and \$2.5 High Tech/Flex Space Building. These projects will be financed through the issue of Certificates of Participation. Additionally, current market conditions indicate that it may be cost effective to refinance a portion of the City's presently outstanding debt. Such refinancing will not only result in lower effective interest rates on the "old" debt; but, also may provide flexibility and potentially lower interest rates on the "new" financings. Combining the refinancing and "new" financings in a single offering will result in a significant reduction in the costs of issuance.

The services of a team of underwriters will be required in order to develop the most efficient and economical financing structure and to successfully market the COP issue. A Request for Proposal (RFP) process was used to select the recommended underwriting team. RFPs were sent to 17 underwriting firms (representing regional and nationwide coverage and including racial and gender minority firms). Ten written proposals were received and evaluated. Four were then selected for further evaluation through oral interviews. Based on those evaluations, staff recommends the engagement of: First Union Capital Markets Corp.; Wheat First Butcher Singer; and A.G. Edwards & Sons, Inc. (First Union Capital Markets Corp. and Wheat First Butcher Singer "teamed" to submit a joint proposal.)

Staff recommends City Council adopt the resolution which engages underwriters for the issue of Certificates of Participation.

RESOLUTION BOOK NO. 24 - PAGE 174

I. RESOLUTION NO. 97-145 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 1997 GOOMBAY FESTIVAL

Summary: N.C. Gen. Stat. sec. 18B-300(c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on public streets, and on property owned, occupied or controlled by the City. The City Council of the City of Asheville has adopted an ordinance pursuant to that statutory authority. That ordinance, Section 11-11 in the Code of Ordinances, provides that the City Council may adopt a resolution making other provisions at special event or community festival. The 1997 Goombay! Festival Board, YMI Cultural Center and the Parks and Recreation Department recommends that possession and consumption of malt beverages and/or unfortified wine be allowed at the 1997 Goombay! Festival.

The Parks and Recreation Department recommends that City Council adopt a resolution allowing the possession and consumption of malt beverages and/or unfortified wine at the 1997 Goombay! Festival.

RESOLUTION BOOK NO. 24 - PAGE 175

J. MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 9, 1997, TO REZONE EIGHT PARCELS ON THE SOUTHSIDE OF BROAD STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY TO OFFICE

-5-

K. MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 9, 1997, TO CONSIDER THE "VIEWSHEDS OF SUPERIOR QUALITY" MAP RELATIVE TO THE TELECOMMUNICATION TOWERS AND THEIR VISIBILITY FROM THE BLUE RIDGE PARKWAY

This item was removed from the Consent Agenda for discussion.

L. MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 9, 1997, TO PROPERTY ON EMMA ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY TO CI COMMERCIAL INDUSTRIAL

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

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION

APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 12, 1997; THE SPECIAL MEETING HELD ON AUGUST 15, 1997; AND THE WORKSESSION HELD ON AUGUST 19, 1997

Mr. Ralph Bishop, resident of the City of Asheville, spoke to Council about seeking redress relative to City Council's minutes and the meaning of full and accurate minutes.

At the request of Mayor Martin, City Attorney Oast said that it was his opinion on the basis of opinions from the Supreme Court that G.S. 160A-72, which provides for the keeping of full and accurate minutes of the Council proceedings, does not require the keeping of a verbatim record. Roberts Rules of Order states that the minutes shall be a record of what occurred in the meeting, not what was said, and the Supreme Court has specifically endorsed Roberts Rules of Order on that point.

Councilman Worley felt that the problem seems to be that Mr. Bishop takes the statute that says we are required to keep full and accurate minutes (and there is absolutely no question that that is the law) and then translates in his own mind for that to mean verbatim minutes. One of the rules of legal construction is one of strict construction and that is words are construed very strictly when they are interpreted by the courts. If the legislature had intended verbatim minutes, they would have said verbatim minutes. We do keep full and accurate records. Those records contain a full account of everything City Council does and they are accurate. They are not verbatim. He felt that Mr. Bishop believes that the minutes should be verbatim and we've indicated time and time again that our understanding and our construction of the law supported by a Supreme Court case is that they do not have to be verbatim. We are basically at a position where we disagree.

Vice-Mayor Field moved to approve the minutes of the regular meeting held on August 12, 1997; the special meeting held on August 15, 1997; and the worksession held on August 19, 1997. This motion was seconded by Councilman Worley and carried unanimously.

MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 9, 1997, TO CONSIDER THE "VIEWSHEDS OF SUPERIOR QUALITY" MAP RELATIVE TO THE TELECOMMUNICATION TOWERS AND THEIR VISIBILITY FROM THE BLUE RIDGE PARKWAY

-6-

Mr. Mel Thomason asked that this public hearing be postponed in order that interested parties can meet and reach some kind of agreement that will be in the best interest of the City. He hoped City Council would give direction to staff that Council is interested in proceeding in this manner.

Councilman Cloninger said that the purpose of the public hearing which was held by the Planning & Zoning Commission and the public hearing which will be held by the City Council - for interested parties to comment. He felt, along with two representatives he has spoken with from the Blue Ridge Parkway, that a map needed to be adopted as expeditiously as possible.

Upon inquiry of Councilman Worley, Mr. Thomason said that the Blue Ridge Parkway representatives expressed to him that they wished they would have had the opportunity to meet with interested parties before endorsing the map.

Planning & Development Director Julia Cogburn said that her staff has been in touch with the Blue Ridge Parkway and a meeting is being scheduled with interested parties. However, she recommended that City Council proceed with adoption of a map or some modification to the map because our ordinance references a map. If, after adoption of the map, changes are recommended, the map can be amended.

Councilman Cloninger moved to set a public hearing on September 9, 1997, to consider the "Blue Ridge Parkway - Viewsheds of Superior Quality" map regarding telecommunication towers and their visibility from the Blue Ridge Parkway. This motion was seconded by Councilman Sellers and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING A LOT ON LOGAN AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY TO CB II COMMERCIAL BUSINESS II

City Attorney Oast said that a valid protest petition has been filed. Therefore, any vote in favor of this rezoning will have to pass by a 3/4 majority of the entire Council, and since one member is absent, it would have to be a unanimous vote.

Mayor Martin opened the public hearing at 5:33 p.m.

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

Mr. Carl Ownbey, Urban Planner, asked for consideration of an ordinance to rezone one lot on Logan Avenue (PIN No. 9638.11-75-4218) from RM-8 Residential Multi-Family Medium Density to CB II Community Business II.

The subject property is one lot on Logan Avenue. The 2010 Plan indicates low density residential along the rear part of Haywood Road in this area. However, the current character of this immediate area is small commercial with this lot being used for commercial storage. Due to the terrain, the most convenient access to the adjoining commercial property that fronts on Haywood Road is from this lot. The surrounding properties are residential on the north and west and commercial on the south and east.

-7-

The Planning staff reviewed the rezoning request and recommended approval of the rezoning of lot 9638.11-75-4218 from RM-8 Residential Multi-Family Medium Density to CB II Community Business II. At their July 2, 1997, the Planning & Zoning Commission voted a tie (3 to 3) on the rezoning request (one commissioner was absent).

On July 17, 1997, Ms. Kathy Plemmons Rathbone appealed the Planning & Zoning Commission's decision to City Council.

Mr. Darrell Rathburn, resident on Logan Avenue, presented City Council with a petition containing 48 signatures opposing the Logan Avenue rezoning. The petition reads "The Logan Ave. & Brownwood Ave. areas were and still are designed and used for residential use. In the last 90 days there have been two (2) motor vehicle accidents at the intersection of Logan Ave. & Brownwood Ave. These accidents are directly related to the improper use of property in this area. In addition there are currently dozen of race car tires being stored in the road. We have called the Police Dept. on several occasions due to this and other problems, such as abandoned vehicles. Please investigate this matter thoroughly before making any decision. Also, please help us with the violations that are currently taking place at Logan Ave. and Brownwood Ave. intersection." In addition to presenting the petition, Mr. Rathburn presented City Council with numerous pictures showing the deplorable condition of the lot that is being requested to be rezoned.

Mr. Craig Justus, attorney representing the parties interested in buying the lot, hoped that City Council would grant a continuation of this public hearing not only due to a valid protest petition being filed, but also it will allow more time within which to meet with the neighborhood, discuss their concerns and try to reach an agreement that would benefit both the neighborhood and the owner of the lot. He said that unfortunately the transition overlay concept cannot be used in a one lot context. He said that his clients were looking at dedicating one part of the property for a park for the neighborhood and didn't intend to build a structure right up on Logan Avenue. He did note that some of the problems on Logan Avenue are attributable to the commercial development on the corner.

Upon inquiry of Vice-Mayor Field, Mr. Justus said that regardless of whether Council rezones this lot or not, his clients will buy the property and use it for the full maximum RM-8 potential and that may not be what the neighborhood ultimately wants.

Ms. Delores Poor, property owner on Logan Avenue, spoke in opposition to the rezoning. She said the area is residential and they are not opposed to houses building built on the lot.

Mr. Bill Allen, property owner on Logan Avenue, spoke against the rezoning. He felt that the street has been neglected by the City and traffic in the area is a real problem. He said that the neighborhood is trying to make their area a nice place to live.

Mr. Larry Hardin, property owner on Logan Avenue, urged council to deny the rezoning request. He felt that to rezone the lot commercial would take away from the improvements the neighborhood is working on.

Mr. David Beebe, property owner on Logan Avenue, spoke against the rezoning stating that access to the area is miserable.

Mr. Ken Lentz, property owner on Logan Avenue, urged Council not to rezone the property because once the property is rezoned, they or -8-

further owners can built anything on it allowed in the Commercial Business II.

Mayor Martin instructed the City Manager to investigate the concerns raised regarding traffic, tires on the street which are a hazard and narrows the road width, illegally parked trucks, etc.

Mayor Martin closed the public hearing at 6:05 p.m.

Councilman Sellers moved to continue the public hearing until the entire

Council is present. This motion was seconded by Vice-Mayor Field.

Councilman Sellers explained that if it is commercially abutted on both sides and it had an entrance to Haywood Road, it would be a different issue. Postponing this might give the property owner time to see about access to Haywood Road, with possibly a buffer on the back side of Logan Avenue.

When Mayor Martin asked for a vote on continuing the public hearing, Vice-Mayor Field and Councilmen Sellers and Worley voted "yes" and Mayor Martin and Councilmen Cloninger and Skalski voted "no." Therefore, the motion failed.

Councilman Skalski then moved to deny the request to rezone the lot on Logan Avenue from RM-8 to CB II. This motion was seconded by Councilman Worley and carried on a 5-1 vote, with Councilman Sellers voting "no."

B. PUBLIC HEARING TO APPLY THE MANUFACTURED HOUSING OVERLAY TO 31 PROPERTIES ZONED RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY IN THE EAST PORTER ROAD AREA

ORDINANCE NO. 2401 - ORDINANCE TO APPLY THE MANUFACTURED HOUSING OVERLAY TO 31 PROPERTIES ZONED RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY IN THE EAST PORTER ROAD AREA

Mayor Martin opened the public hearing at 6:07 p.m.

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

Mr. Gerald Green, Senior Planner, asked for consideration of an ordinance which seeks to apply the Manufactured Housing Overlay to 31 (thirty-one) properties in the East Porter Road Area.

The proposed rezoning seeks to apply the Manufactured Housing Overlay to 31 properties in the East Porter Road Area of East Asheville. The properties cover approximately 38 acres and consist of: PIN Nos. 9657.12-96-0622, 0367, 1527, 1670, 2624, 2687, 4783, 6582, 4530, 3338, 5302, 2274, 1198, 0077, 4011, 6130; 9657.12-86-5327, 8590, 8247, 8090; 9657.12-85-5924, 6935, 7000, 8903, 9825; 9657.12-95-4707, 1748, 0716, 7787, 6862; and 9657.16-94-3795. The underlying zoning on all the properties involved is RS-8. The 2010 plan appears to indicate this area as low density residential. The area currently contains a mix of site built and manufactured homes. This area was one of the areas previously identified by the Manufactured Housing Overlay Committee (of the UDO process) as a potential area for the application of the manufactured housing overlay zone. The failure to apply the overlay during the UDO mapping process was due to an oversight on the part of the Planning and Development Department Staff. Staff is, therefore, initiating this rezoning in order to correct this omission. -9-

The Planning and Development Staff initiated and recommended this zoning overlay to the Planning and Zoning Commission at their meeting on August 6, 1997. The Commission unanimously voted to recommend approval of this rezoning to the Asheville City Council.

Vice-Mayor Field noted that manufactured housing does not increase the City's tax base - that is the County's tax base. She personally felt that manufactured housing is much more dangerous in terms of fires, than stick-built homes and felt that there should be a sprinkler requirement for manufactured homes. But, on the other hand, manufactured homes are affordable.

Mayor Martin closed the public hearing at 6:15 p.m.

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

Councilman Worley moved for the adoption of Ordinance No. 2401. This motion was seconded by Councilman Sellers.

On a roll call vote of 6-0, Ordinance No. 2401 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 281

C. PUBLIC HEARING RELATIVE TO REZONE 88 LOTS ON BREVARD ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM RESIDENTIAL TO RS-8 RESIDENTIAL SINGLE FAMILY

ORDINANCE NO. 2402 - ORDINANCE TO REZONE 88 LOTS ON BREVARD ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM RESIDENTIAL TO RS-8 RESIDENTIAL SINGLE FAMILY

Mayor Martin opened the public hearing at 6:16 p.m.

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

Mr. Carl Ownbey, Urban Planner, asked for Council's consideration of ordinance to rezone 88 lots on Brevard Road from RM-8 Residential Multi-Family Medium Density to RS-8 Residential Single Family.

The subject properties are 88 lots that front directly on Brevard Road from the Masonic Lodge south to I-240 except for the Lauralwood Condominiums which will remain RM-8. The 2010 Plan indicates low density residential along Brevard Road in this area. This request is to correct a mapping error that was overlooked during the UDO hearings and clearly intended by the Planning and Zoning Commission and City Council to be RS-8.

The Planning staff reviewed the rezoning request and recommended approval to rezone the 88 lots from RM-8 Residential Multi-Family Medium Density to RS-8 Residential Single Family. At the August 6, 1997, Planning & Zoning Commission meeting, the Commissioners voted unanimously to approve the rezoning request.

At the request of Ms. Pauline Parker, Mr. Ownbey explained how this rezoning will affect her property.

Mayor Martin closed the public hearing at 6:21 p.m. -10-

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

Councilman Worley moved for the adoption of Ordinance No. 2402. This motion was seconded by Councilman Skalski.

On a roll call vote of 6-0, Ordinance No. 2402 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 283

D. PUBLIC HEARING RELATIVE TO PARTIALLY REZONING 1899 HENDERSONVILLE ROAD FROM HB HIGHWAY BUSINESS TO OB OFFICE BUSINESS

ORDINANCE NO. 2403 - ORDINANCE TO PARTIALLY REZONING 1899 HENDERSONVILLE ROAD FROM HB HIGHWAY BUSINESS TO OB OFFICE BUSINESS

When Vice-Mayor Field asked if she had a conflict of interest since the petitioner is a client of the architectural firm in which she is employed, City Attorney Oast asked if her firm participated in this rezoning request. When Vice-Mayor Field replied that she was not aware of it, then City Attorney Oast said he saw no reason for her to be excused from voting.

Mayor Martin opened the public hearing at 6:21 p.m.

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

Ms. Erin McLoughlin, Urban Planner, said that the petitioner requests that a portion of parcel 9655.13-14-3658 be rezoned from HB Highway Business to OB Office Business.

The petitioner requests that 0.16 acres be rezoned from HB to OB. HB is established to address the needs of commercial development. OB is established for medium scale offices and a limited range of business uses and may serve as a transition area between commercial and residential uses. This request is a minor adjustment of zoning lines and would not impact the surrounding area or infrastructure.

Staff has received no comments in opposition to this rezoning request.

The City Planning and Development staff recommends approval of the rezoning request. At their August 6, 1997, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the rezoning request.

Mayor Martin closed the public hearing at 6:24 p.m.

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

Councilman Worley moved for the adoption of Ordinance No. 2403. This motion was seconded by Councilman Cloninger.

On a roll call vote of 6-0, Ordinance No. 2403 passed on its first and final reading.

-11-

ORDINANCE BOOK NO. 16 - PAGE 285

E. PUBLIC HEARING RELATIVE TO BROOKS-HOWELL VILLAGE GROUP DEVELOPMENT

Mayor Martin opened the public hearing at 6:25 p.m.

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

Mr. Mike Matteson, Urban Planners, said that the proposed project consists of 11 new residential units (four duplexes and a triplex) and an activities center located on a 1.8 acre portion of the Brooks-Howell property.

Plans for this project were submitted within the 30 day window after the adoption of the UDO. Therefore, the project is being reviewed as a Group Development under the previous zoning ordinance (pre-UDO zoning was R-3).

Because the development will provide housing for the elderly, Brooks-Howell is asking that Council allow a reduction in the parking requirements from 24

spaces to 14 spaces.

Council will also be asked to approve an alternative to the buffering requirements along the west property line. The ordinance allowed the buffer to consist of a 5-foot strip with a 6-foot fence. Brooks-Howell is working with the adjacent property owner to design a buffer, using primarily vegetation, which meets the intent of the ordinance and is more sensitive the adjoining property.

At their August 6, 1997, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of this group development. Additionally, the Commission recommended that City Council allow the reduction in parking and approve the alternate buffering plan being developed.

This recommended approval was with three conditions: (1) Receipt of letters of approval for water, sewer and adequate water pressure for fire protection; (2) That the variance for alternate compliance with the City's buffering requirements either be granted by Council or a revised landscape plan must be submitted to staff; and (3) That the required handicap parking space be labeled more clearly on the plans.

Carleton Collins, architect for the project, said that the drawings submitted adhered to the ordinance in terms of what the composition of the buffer should be. He said that the adjacent property owner asked if there was any leeway regarding the buffering and after consultation with the Planning staff it was indicated that there may be some flexibility to allow that buffer to be somewhat less. He said that they will be meeting with the adjacent property owner over the next couple of weeks to determine exactly what the buffer will be and saw no problem with bringing the plan back to City Council on September 23, 1997.

Ms. Betty Lawrence, the adjacent property owner at 142 Hillside Street, felt that an alternate buffering plan could be worked out. She asked if Council could do anything about the requirement to increase the width of their driveway on Hillside Street from approximately 9 feet to 20 feet (to allow two fire trucks to pass each other). She was told it was a Fire Code requirement and was concerned that a rock wall would have to be torn down. -12-

Mr. Collins said that their original drawings indicated the existing driveway width at the entrance to Hillside remain what it is currently. The Fire Department has requested it be widened, primarily because of fire access issues. It was their intention, if they eliminated a portion of the wall, to rebuild a similar corner - just further away to accommodate that request.

Vice-Mayor Field questioned why a 20-foot driveway was required.

City Attorney Oast said that it as his understanding that this is a Fire or Building Code requirement and Council doesn't have the authority to amend those provisions at this time. He said that would have to be an amendment to the appropriate ordinances.

Vice-Mayor Field was under the impression that our technical requirements were not carved in stone and that there was some flexibility. She said City Council needs to have the opportunity and ability to have some narrower driveways.

It was the consensus of Council to direct staff to look into the possibility of more flexibility in our technical requirements, especially relating to driveway widths.

Mayor Martin closed the public hearing at 6:35 p.m.

Councilman Skalski moved to continue the approval of an alternate buffering plan until September 23, 1997. This motion was seconded by Councilman Cloninger and carried unanimously.

Vice-Mayor Field moved to approve the reduction in parking at the Brooks-Howell Village from 24 to 14 spaces. This motion was seconded by Councilman Worley and carried unanimously.

Councilman Worley moved to approve the Brooks-Howell Village group development, subject to final approval of the buffering plan. This motion was seconded by Councilman Sellers and carried unanimously.

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. REQUEST FROM HEALTHSOUTH SPORTS MEDICINE & REHABILITATION FOR ENDORSEMENT OF AN "OFFICIAL CITY ORNAMENT" TO BE PRODUCED AND SOLD AS A FUND RAISING PROGRAM FOR UNITED CEREBRAL PALSY

Mayor Martin said that he received a letter dated August 21, 1997, from Lacy Dylewski, PT, Administrator of HealthSouth Sports Medicine & Rehabilitation, stating that they would like to withdraw their request for endorsement of the Holiday Ornament Program from the City of Asheville.

B. RESOLUTION NO. 97-146 - RESOLUTION AUTHORIZING THE CITY CLERK TO PUBLISH A NOTICE ANNOUNCING CITY COUNCIL'S INTENT TO AUTHORIZE EXCHANGE OF CITY-OWNED REAL PROPERTY ON KENTUCKY DRIVE FOR HOUSING AUTHORITY-OWNED REAL PROPERTY ON BARTLETT STREET

Mr. Ed Vess, Field Services Coordinator, said that this is consideration of an exchange of property which has been -13-

negotiated with the Housing Authority of the City of Asheville in order to facilitate several beneficial projects.

The City has entered into a contract for the sale of 3 acres of land on Bartlett Street to the Douglas Company for the construction of 48 units of elderly housing subject to obtaining access to the public right-of-way. The Housing Authority owns the 7.4 acres of land surrounding the City's property on Bartlett Street. The City owns 4.9 acres of land on Kentucky Drive which is not currently being utilized.

The Housing Authority has agreed to exchange its land on Bartlett Street for the City's land on Kentucky Drive. Prior to transfer of the Kentucky Drive property to the Housing Authority the City would develop infrastructure for a subdivision on the site to provide homeownership opportunities to public housing residents. The estimated costs of extending the necessary infrastructure to this site is approximately \$125,000. The City's Community Development Division desires to collaborate with the Authority in the development of the site in order to expand affordable housing opportunities. They hope to be able to build affordable houses. The City's Parks and Recreation Department desires to utilize the Authority's land on Bartlett Street to develop a passive park for special populations in the Asheville community, along with additional greenway and provision of access to the City's Bartlett Street property.

The City's property on Kentucky Drive is valued by the Buncombe County Tax Office at \$49,700.00 and the Authority's property on Bartlett Street is valued at \$124,800.

Approval of the resolution will initiate the exchange of the properties through the process provided in N. C. G. S. 160A-271.

Mr. Vess stated that the average cost of houses in the neighborhood, based on the County's tax records, is \$36,492. He explained there are 13 homes around the Rankin School site and their values range from \$17,900 to \$67,800. Six homes are valued at less than \$30,000; four homes are valued at between \$30-40,000; and three homes are valued at between \$55-70,000. He said that the homes they are proposing to build on the Rankin School site should range in the \$75-85,000 range. He felt that if there was an impact on the value of other properties, it would be a positive impact.

Upon inquiry of Vice-Mayor Field, Mr. Vess said that even though there will be more traffic on the street, it is a two lane road and should accommodate the additional traffic.

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

Councilman Cloninger moved for the adoption of Resolution No. 97-146. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 177

VI. OTHER BUSINESS:

-14-

A. ORDINANCE NO. 2404 - BUDGET AMENDMENT TO ESTABLISH AN APPROPRIATION FOR THE BICENTENNIAL CELEBRATION

At the request of Councilman Worley after discussion at the City Council mid-year retreat, Mr. Irby Brinson, Director of Parks & Recreation said that this is consideration of a budget amendment to establish an appropriation for the Bicentennial Celebration totaling \$111,575 and a supplemental appropriation from the City of \$12,500.

The City Council has approved appropriations of \$6,540 for Fiscal 1996/97 and \$6,900 for Fiscal 1997/98 in support of the Bicentennial Celebration. This Budget action sets up budgets for the Celebration functions totaling \$111,575. Because sponsorship revenues are not meeting expectations, it will be necessary for the City to commit \$12,500 of City funds to match a \$12,500 grant from Carolina Power & Light. This should ensure that the activities are adequately funded. If revenues from sponsorships and/or sales of souvenirs and other revenues are adequate, the City's contribution may not be required.

The staff recommends that funding for the Bicentennial be approved totaling \$111,575 and that the General Fund Operating Budget be amended to appropriate \$12,500 from Fund Balance for the Bicentennial Celebration.

Upon inquiry of Mayor Martin, Mr. Brinson said that souvenirs can be purchased from the Parks & Recreation Department.

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

Councilman Worley moved for the adoption of Ordinance No. 2404. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 6-0, Ordinance No. 2404 was adopted on its first

reading.

ORDINANCE BOOK NO. 16 - PAGE 287

B. COMMENTS BY MR. RALPH BISHOP

Mr. Ralph Bishop, resident of the City of Asheville, asked the Mayor to instruct the Police Department personnel to quit "threatening" him regarding disruption of City Council meetings. He emphasized to City Council that he does not come to the meetings seeking redress with the intent to disrupt any meeting.

Mayor Martin said that Mr. Bishop is always welcome to address City Council, but the only objection they have is when he disrupts the Council's proceedings. Mayor Martin said that personnel is only asking him not to disrupt the meetings and the comments are not meant to be threatening.

C. CLAIMS

The following claims were received by the City of Asheville during the week of August 8-21, 1997: BellSouth (Water), Roxanne Wilson (Streets), Robert C. Morgan (Traffic Engineering), Doris Lynch (Parks & Recreation), Margaret B. Mauldin (Inspections), Mae Plemmons (Water), David Freck (Sanitation) and Nellie Parham (Streets).

These claims have been referred to Asheville Claims Corporation for investigation. -15-

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:06 p.m.

CITY CLERK MAYOR
