

Tuesday - April 25, 2000 - 5:00 p.m.

Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; Councilwoman Barbara Field; Councilman Edward C. Hay Jr.; Councilman Brian L. Peterson; Councilwoman Terry M. Whitmire (excused from meeting at 7:20 p.m.); 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 Worley gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL 30-MAY 7, 2000, AS "DAYS OF REMEMBRANCE"

Mayor Sitnick read the proclamation proclaiming April 30-May 7, 2000, as "Days of Remembrance " in the City of Asheville. She presented the proclamation to Rabbi Ratner who briefed City Council on some activities taking place during this period.

A. PROCLAMATION PROCLAIMING SATURDAY, MAY 6, 2000, AS "RUNNIN FOR FUN 'N' FITNESS DAY"

Councilman Hay read the proclamation proclaiming Saturday, May 6, 2000, as "Runnin for Fun "N" Fitness Day" in the City of Asheville. He presented the proclamation to Mr. Bruce Handley who briefed City Council on some activities taking place during the day.

B. PROCLAMATION PROCLAIMING MAY 2000 AS "MOTORCYCLE AWARENESS MONTH"

Vice-Mayor Cloninger read the proclamation proclaiming May 2000 as "Motorcycle Awareness Month" in the City of Asheville. He presented the proclamation to Mr. Richard Ware who briefed City Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING MAY 4, AS "ASHEVILLE PARKS AND RECREATION DEPARTMENT VOLUNTEER RECOGNITION AND APPRECIATION DAY"

Councilman Whitmire read the proclamation proclaiming May 4, 2000, as "Asheville Parks and Recreation Department Volunteer Recognition and Appreciation Day" in the City of Asheville. She presented the proclamation to Ms. Susan Smith and Mr. Tom Knoebber, recipients of the Bill Fulp Community Service Award.

D. PROCLAMATION PROCLAIMING APRIL 30-MAY 6, 2000, AS "MUNICIPAL CLERKS WEEK"

Mayor Sitnick read the proclamation proclaiming April 30-May 6, 2000, as "Municipal Clerks Week" in City of Asheville. She presented the proclamation to City Clerk Maggie Burleson who thanked the Council for their support.

II. CONSENT:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 11, 2000; AND THE SPECIAL MEETING, WORKSESSION AND PUBLIC HEARING HELD ON APRIL 28, 2000**
- B. RESOLUTION NO. 00-68 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CRISP HUGHES EVANS LLP, CERTIFIED PUBLIC ACCOUNTANTS, FOR AUDITING SERVICES FOR FISCAL YEAR 1999-2000**

Summary: The consideration of a resolution authorizing the Mayor to execute a contract with Crisp Hughes Evans LLP, Certified Public Accountants, for auditing services for Fiscal Year 1999-2000.

N.C. General Statutes 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

In 1998 the City solicited proposals from 36 accounting firms to perform the City's annual audit for the Fiscal Years 1997-98, 1998-99 and 1999-2000. City Council selected Crisp Hughes Evans LLP to conduct the Fiscal Year 1997-98 audit with the option to be re-engaged annually for two more years. They completed both the Fiscal Year 1997-98 and Fiscal Year 1998-99 audit and have now submitted an engagement letter for the Fiscal Year 1999-2000 audit. The fee has been estimated at \$54,700. Funds are appropriated in the budget of the Accounting Division of the Finance Department.

City staff recommends City Council adopt the resolution.

RESOLUTION BOOK NO. 26 – PAGE 6

- C. ORDINANCE NO. 2686 – BUDGET AMENDMENT TO ACCEPT A PRIVATE DONATION TO FUND THE DEVELOPMENT OF THE FRENCH BROAD RIVER PARK PHASE IV**

Summary: The consideration of a budget amendment, in the amount of \$500, to accept a private donation to fund the development of French Broad River Park, Phase IV.

French Broad River Park, Phase IV represents the City of Asheville's next phase of a major greenway and park system being developed along the French Broad River on Amboy Road. The park will include greenways, bicycle facilities, lawn bowling, soccer and softball fields, restrooms, skateboarding and rollerblading facilities, open space, picnic shelter, parking, and perhaps a welcome center. Phase IV will also connect to a planned NC DOT funded greenway from Hominy Creek on the west, and eventually to the Amboy Road greenway to the east.

The Parks and Recreation Department and RiverLink are in partnership to implement an ambitious fundraising plan to raise approximately \$2 million to build the park. Private donations are one of the means to raise funds for the park.

The Parks and Recreation Department recommends the City of Asheville accept the donation on behalf of the Parks and Recreation Department for development of French Broad River Park, Phase IV.

ORDINANCE BOOK NO. 18 – PAGE 200

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D. ORDINANCE NO. 2687 – BUDGET AMENDMENT FOR THE CITY’S PORTION OF FUNDING A WATER CONSERVATIONIST POSITION

Summary: Match of the contribution by Buncombe County in the amount of \$13,000 to help fund the Soil Conservationist position.

ORDINANCE BOOK NO. 18 - PAGE 202

E. RESOLUTION NO. 00-69 – RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE REGIONAL WATER AUTHORITY OF ASHEVILLE, BUNCOMBE AND HENDERSON TO FUND A WATER CONSERVATIONIST POSITION

Summary: See Consent Agenda Item "D" above.

RESOLUTION BOOK NO. 26 – PAGE 10

F. RESOLUTION NO. 00-70 – RESOLUTION AUTHORIZING A GRANT APPLICATION TO THE LAND, WATER AND CONSERVATION FUND TO ASSIST WITH THE CONSTRUCTION OF THE FRENCH BROAD RIVER PARK PHASE IV

Summary: The consideration of a resolution to apply for and enter into an agreement with the N. C. Department of Environment and Natural Resources, Division of Parks and Recreation in the Land, Water and Conservation Fund to assist with the construction of the French Broad River Park, Phase IV.

French Broad River Park, Phase IV, represents the City of Asheville’s next phase of a major greenway and park system being developed along the French Broad River on Amboy Road. The final master plan is complete, and approved by the Parks and Recreation Advisory Board and the Greenway Commission. The park will include greenways, bicycle facilities, lawn bowling, volleyball and soccer complex, softball field, playground, restrooms, roller hockey, open space, picnic shelter, parking, and a welcome center. Phase IV will also connect to a planned NC DOT funded greenway from Hominy Creek on the west, and eventually to the Amboy Road greenway to the east.

The Parks and Recreation Department and RiverLink are in partnership to implement an ambitious fundraising plan to raise approximately \$2 million to build the park. To date, \$50,500 has been raised, and \$520,000 in grant proposals are pending.

The Parks and Recreation Department is requesting \$250,000 to \$300,000 in grant funds from the Land, Water and Conservation Fund which requires a 50% cash or in-kind match. The in-kind match is available in land value, labor, equipment, and project management through Parks and Recreation.

The Parks and Recreation Department recommends the City of Asheville apply for and enter into an agreement for grant funds with the N. C. Department of Environment and Natural Resources, Division of Parks and Recreation, through the Land, Water and Conservation Fund to assist with the construction of the French Broad River Park, Phase IV.

RESOLUTION BOOK NO. 26 – PAGE 11

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G. RESOLUTION NO. 00-71 – RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A GRANT APPLICATION TO THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY, GOVERNOR’S CRIME COMMISSION, IN SUPPORT OF A COMMUNITY POLICING GIS PROJECT

Summary: The consideration of two resolutions authorizing the City Manager to submit full applications and accept two grant awards from the N. C. Department of Crime Control and Public Safety, Division of the Governor’s Crime Commission, in support of a community policing GIS project; and a second grant in support of a social work and police partnership project.

The Governor’s Crime Commission has invited the City of Asheville to submit a grant application in the amount of \$63,465 in support of a one year Community Policing Geographic Information System Project outlined in the pre-application reviewed by the Commission. A local match of \$21,155 is required. The local match will be budgeted in the Fiscal Year 2000-01 Annual Operating Budget. The purpose of this project is to enable consolidation most of the City’s geographic information systems data and coordinate its application in support of Community Oriented Governing.

The Governor’s Crime Commission has also invited an application in the amount of \$85,950, covering two years, in support of a Social Work and Police Partnership project (SWAPP), as outlined in the pre-application reviewed by the Commission. A local match of \$28,650 is required for each of two (2) consecutive years over the 2 year life of the project. The local match will be budgeted in the Fiscal Year 2000-01 and 2001-02 Annual Operating Budget. The purpose of this project is to reduce family violence issues contributing to chronic juvenile run-away behavior.

City staff recommends City Council adopt two resolutions authorizing the City Manager to submit grant applications and if awarded, acceptance of grants, to the N. C. Department of Crime Control and Public Safety, Governor’s Crime Commission, (1) in support of a community policing GIS Project; and (2) in support of a social work and police partnership project.

RESOLUTION BOOK NO. 26 – PAGE 12

H. RESOLUTION NO. 00-72 – RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A GRANT APPLICATION TO THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY, GOVERNOR’S CRIME COMMISSION, IN SUPPORT OF A SOCIAL WORK AND POLICE PARTNERSHIP PROJECT

Summary: See Consent Agenda Item "G" above.

RESOLUTION BOOK NO. 26 – PAGE 13

I. RESOLUTION NO. 00-73 – RESOLUTION ACCEPTING THE NEW STREET NAME OF "BARRETT LANE" OFF OF WESLEY DRIVE

Summary: The consideration of a resolution accepting the new proposed street name "Barrett Lane."

Givens Estates, Inc., owner of lots in Givens Estates United Methodist

Retirement Community, has petitioned the City of Asheville to accept the street

name of "Barrett Lane." This new street is to begin at Wesley Drive and end at the dead-end.

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Staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 14

J. RESOLUTION NO. 00-74 – RESOLUTION ACCEPTING THE NEW STREET NAME OF "WESTWIND LANE" OFF OF MAPLE AVENUE

Summary: The consideration of a resolution accepting the new proposed street name "Westwind Lane."

AGR Real Property Investors, LLC., owner of lots in the Westwind Subdivision, has petitioned the City of Asheville to accept the street name of "Westwind Lane." This new street will begin at Maple Avenue and end at the dead-end.

Staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 15

- K. MOTION SETTING A PUBLIC HEARING ON MAY 9, 2000, TO APPLY THE MANUFACTURED HOUSING OVERLAY DISTRICT TO FOUR LOTS ON GORMAN BRIDGE ROAD CURRENTLY ZONED RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT**
- L. MOTION SETTING A PUBLIC HEARING ON MAY 9, 2000, TO CONSIDER THE REZONING OF PROPERTIES LOCATED OFF HILLSIDE STREET AND WOODROW AVENUE FROM RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT, AND ISSUANCE OF A CONDITIONAL USE PERMIT (CONDITIONAL USE ZONING)**
- M. RESOLUTION NO. 00-75 – RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH BUCKEYE CONSTRUCTION COMPANY INC. FOR "BREVARD ROAD ANNEXATION AREA – PHASE II – CONTRACT B SEWER SYSTEM IMPROVEMENTS"**

Summary: The consideration of a resolution awarding the contract for Brevard Road Annexation Area Phase II Contract "B" to Buckeye Construction Company, Inc., in the amount of \$270,258.42.

This project is part of the Brevard Road Annexation Area Sanitary Sewer System Improvements and consists of the installation of approximately 1,703 linear feet of twelve inch (12") diameter sanitary sewer line and 1,471 linear feet of eight inch (8") diameter sanitary sewer line and related appurtenances.

The Engineering Department received and publicly opened five (5) bids on Tuesday, April 4, 2000, at 2:00 p.m. After a thorough review of the bid documents by the Engineering Department and the Office of Minority Affairs, Buckeye Construction Company, Inc., was found to be the

lowest responsible bidder with a total bid of \$270,258.42. The Engineer's estimate for this project was \$ 379,630.00.

Buckeye Construction Company, Inc., has performed several projects of this nature in the past without any major problems.

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The construction time for this project is identified as 120 calendar days in the contract documents. The contractor will be required to pay the sum of \$250.00 as liquidated damages for each and every calendar day that he shall be in default after the time stipulated in the contract.

Staff recommends that City Council accept a resolution awarding the bid for Brevard Road Annexation Area - Phase II - Contract "B" Sewer System Improvements to Buckeye Construction Company, Inc., the responsible low bidder and authorize the City Manager to execute all necessary agreements and contracts.

RESOLUTION BOOK NO. 26 – PAGE 16

Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolutions and ordinances and the Consent Agenda and they would not be read.

Councilman Worley moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Whitmire and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE REZONING OF 655 BREVARD ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO OFFICE I, AND ISSUANCE OF A CONDITIONAL USE PERMIT (CONDITIONAL USE ZONING)

ORDINANCE NO. 2688 - ORDINANCE TO REZONE 655 BREVARD ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO OFFICE I CONDITIONAL USE ZONING

ORDINANCE NO. 2689 – ORDER GRANTING A CONDITIONAL USE PERMIT FOR 655 BREVARD ROAD (CONDITIONAL USE ZONING)

City Attorney Oast reviewed with Council the conditional use district zoning process by stating that this is a two part process. It requires rezoning, which is a legislative act, and the issuance of a conditional use permit, which is a quasi-judicial site specific act. Even though the public hearing on those two items will be combined, all the testimony needs to be sworn and two votes will need to be taken. The first vote will be to grant the rezoning to the conditional use district category and the second vote will be to issue the conditional use permit. If Council runs into a situation that it votes to rezone, Council doesn't have to vote to issue the conditional use permit on the same night.

After hearing no questions about the procedure, Mayor Sitnick opened the public hearing at 5:20 p.m.

The following Council members disclosed that they visited the site: Vice-Mayor Cloninger, Councilwoman Field, Councilman Hay, Councilman Peterson and Councilman Worley.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

Mr. Dan Baechtold, Urban Planner, submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners), and City Exhibit 3 (Staff Report).

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Mr. Baechtold then said that this is the consideration to rezone one lot at 655 Brevard Road from RS-8 Residential Single Family High Density District to Office I, and issuance of a conditional use permit (conditional use zoning).

The property is identified as parcel number 9627.16-92-7864. Dr. Phil Davis, DDS, recently purchased this property (1.65 acres) at 655 Brevard Road and wishes to locate his dental practice on the property. Dr. Davis and his wife, Jana Gower, are also considering using the property as a residence. The subject property is currently occupied by one single-family dwelling and is located along a two-lane portion of Brevard Road, which lies generally between the WNC Farmer's Market and Biltmore Square Mall. The property is part of a small RS-8 District, which is surrounded by property zoned Highway Business and Commercial Industrial. There are six homes in this RS-8 zone facing Brevard Road. This small residential pocket is in transition from residential to commercial use. This transition pattern is further reinforced by the fact that the N. C. Dept. of Transportation plans to widen Brevard Road to four or five lanes in this location.

Planning staff determined that this type of small-scale medical office is a good low-impact use in an area that is transitioning from residential use to commercial use. A conditional use zoning of the property allows an opportunity for the City to ensure that the proposed office use will not be out of scale with the other remaining residences, and will not produce adverse impacts on the neighbors. The site plan submitted as part of this conditional use zoning application shows re-use of the existing residential structure, limits land disturbance and tree removal on the site, and ensures compatibility with surrounding residential uses by providing adequate buffering from adjoining properties. Under the conditional use zoning, the site must be developed according to the proposed site plan. The uses on the property will be limited to one medical office and one single-family residence.

This property is not currently connected to public sewer. Sewer is available in the rear of the property along Hominy Creek. In order to occupy the building as a commercial use, the applicant must either connect to the public sewer system or receive approval for a septic system for this use from Buncombe County Environmental Health. The applicant is aware of this requirement. The property is connected to public water. The waterline along Brevard Road is scheduled for an upgrade within the next two years. At this time, however, adequate pressure for fire flow is not available in the line. The applicant is aware that sprinklers or a supplemental water tank may be necessary to satisfy the requirements of the Fire Code.

The Planning and Zoning Commission reviewed this request at their meeting of April 5, 2000, and voted unanimously (6-0) to approve the rezoning. No members of the public commented at the hearing. The Planning and Development Department received one letter of support for the rezoning from a neighbor. There has been no other public comment.

Planning and Development staff recommends approval of a motion to rezone property located at 655 Brevard Road from RS-8 to Office-CU with the following conditions: (1) uses

will be limited to one medical office and one single-family residence; and (2) site alterations will be limited to the proposed site development plans approved as part of the conditional use zoning application.

Dr. Phil Davis, petitioner, spoke in support of the proposed rezoning and issuance of the conditional use permit using a map (Applicant Exhibit 1) to show the location of the property in question.

There being no request from the applicant for rebuttal, Mayor Sitnick closed the public hearing at 5:32 p.m.

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Vice-Mayor Cloninger moved to adopt Ordinance No. 2688 to rezone one lot at 655 Brevard Road from RS-8 Residential Single Family High Density District to Office I – conditional use zoning. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 18 – PAGE 204

Councilman Worley moved to adopt Ordinance No. 2689 granting the conditional use permit for 655 Brevard Road (conditional use zoning), with the following conditions: (1) uses will be limited to one medical office and one single-family residence; and (2) site alterations will be limited to the proposed site development plans approved as part of the conditional use zoning application; and to instruct the City Attorney to prepare the Order for the Mayor's signature. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

ORDINANCE BOOK NO. 18 – PAGE 206

A. PUBLIC HEARING RELATIVE TO AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH A NEW CHARLOTTE STREET TRANSITION OVERLAY DISTRICT AND APPLICATION OF THAT DISTRICT TO 43 PROPERTIES LOCATED IN THAT AREA

ORDINANCE NO. 2690 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO ESTABLISH THE CHARLOTTE STREET TRANSITION OVERLAY DISTRICT

ORDINANCE NO. 2691 - ORDINANCE APPLYING THE CHARLOTTE STREET TRANSITION OVERLAY DISTRICT TO 43 LOTS IN THE CHARLOTTE STREET AREA

Mayor Sitnick opened the public hearing at 5:35 p.m.

Mayor Sitnick gave City Clerk Burleson several letters regarding this issue for inclusion in the file.

Upon inquiry of Mayor Sitnick if she had a conflict of interest due to her living ¼ block off Charlotte Street, City Attorney Oast said he saw no conflict.

Director of City Development Mike Matteson said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to establish a Charlotte Street Transition Overlay District and application of this overlay district to 43 lots in the Charlotte Street area. This public hearing was legally advertised on April 14

and April 21, 2000.

The Charlotte Street Transition Overlay District is an incentive based overlay zoning district designed to aid in the implementation of the Charlotte Street Corridor Plan. The Corridor Plan, adopted by City Council in January, 1999, recommends, among other things, compatible in-fill development which is more urban in nature and which relates to the street and sidewalk and serves the surrounding community. The overlay district provides property owners and developers with incentives, in the form of square footage bonuses, to develop property in a manner consistent with the recommendations of the plan. Structures may be larger than permitted in the underlying zoning district provided that certain design features or other elements are incorporated into a proposed development.

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The Planning and Development Department is proposing to apply this overlay district to 43 properties in the Charlotte Street area. The underlying zoning district is CBI Community Business I.

City Council is asked to first consider the ordinance amendment to create the Charlotte Street Transition Overlay District and then to consider the application of the overlay district to the properties in question.

At their January 5, 2000, meeting, the Planning & Zoning Commission voted unanimously to recommended approval of both the ordinance amendment creating the Charlotte Street Transition Overlay District and the application of the overlay district to the properties in question. The Planning & Zoning Commission asked staff to make some minor changes to the proposed overlay district and those changes will be incorporated into the proposed district.

The Planning and Development Department staff is also recommending approval of both the ordinance amendment and the application of the overlay district.

Mr. Matteson also said that on April 19, he met with a group of residents from the Albemarle Park neighborhood regarding the Charlotte Street Transition Overlay District. This was the second meeting with this group, the first taking place during the initial development of the overlay district. Generally, the proposed district was received favorably by the group. However, a relatively small number of concerns were raised. As a result of that meeting, this morning via fax, he received a list of changes from that neighborhood which they are requesting.

After thoughtful consideration of the neighborhood group's list, staff is proposing several additional changes to the district. Please find below a summary of the changes requested by the group and staff's recommendation regarding the requests.

1) The group requested that the language in the district be strengthened by replacing words such as "should", "encourage" and "discourage" with "shall". - Staff recommends that the language be strengthened as requested.

2) The group requested that a higher percentage (40%) of the total building square footage be devoted to residential uses if a project is to accumulate points for providing residential uses. Additionally, it was suggested that the language be clearer with

respect to the affordable housing provision. - Staff is comfortable recommending this increase from 25% to 40%.

3) The group requested that the landscaping provision, which allowed 20 points for increased landscaping and/or hardscaping, be deferred until a streetscape plan is developed. The group feels that the hardscaping alternative, in particular, is not quantifiable and won't be coordinated with other developments. - Staff does not recommend removing this provision. Increased landscaping and improved appearance were important issues identified by many groups and individuals. The point system has been carefully created to allow certain groupings of elements to achieve a larger building while contributing to the attractiveness and vitality of the street. However, staff is proposing the following change in the language to address this concern (change is underlined).

"The landscaping for the proposed development exceeds the requirements of Sections 7-11-2(F) and 7-11-2(G) of the Code of Ordinances of the City of Asheville by at least fifty percent (50%). Hardscape, which incorporates features determined by the Planning and Development Director to be pedestrian-oriented may be used in combination with or instead of landscaping along the street frontage of the lot. Examples of these features

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include benches, outdoor dining, planting boxes, etc. Street trees and hardscape features shall be consistent with any approved streetscape plan for the area.

Staff would further suggest that the community get together to develop a mutually agreed upon streetscape plan with technical assistance from City staff.

4) The group requested that the provision addressing building entrance design be removed from the point structure and added to the design criteria. - Staff does not recommend this change. Although the design criteria are relatively stringent, the intent was to identify the basic criteria that would help to ensure building compatibility. These items included height, scale and massing, fenestration, materials, etc. It was felt that more detailed criteria, such as the design of building entrances, should be encouraged through the point structure.

5) The group requested that the incentive to preserve historic buildings be increased by allowing 20 points for their preservation (up from 15 points). The group also requested that a disincentive be created by subtracting 20 points if an historic building is removed. - Although staff can support increasing the points received for preserving historic buildings, we feel that incorporating the proposed language to subtract points for demolition of an historic building is too significant a change to propose at this time, given the numerous meetings taken place to date.

He stressed that the proposed district is a result of many meetings with various groups and individuals. Staff has worked very hard to ensure that this proposed district addresses the interests and concerns of these groups and individuals in a balanced and equitable manner.

He then reviewed the revised list of staff recommended changes to the ordinance:

Section 7-9-10(F.)(1)(c.)(1) – strengthen language as follows:

General Principles and Intent of the design criteria:

The intent of the following design criteria is to maintain and strengthen the unique historic character of Charlotte Street by helping to ensure that new buildings are architecturally compatible with the historic character of the street and that design characteristics are employed which are consistent with the historic architectural vocabulary of the area. These characteristics include historic building forms and silhouettes, proportions, treatments, exterior materials, massing and/or architectural style. Additionally, it is intended that the front elevations and overall massing of new buildings be pedestrian scaled and related to the street.

It is not the intent that new buildings mimic historic designs, but rather that they combine elements from the historic design palette in new ways to achieve a design which is compatible with and complementary to the historic character of the street.

In general, the predominant historic style of architecture within the boundaries of the overlay district is of a residential form with pitched roofs, porches and paned windows and is less urban than the structures south of E. Chestnut Street. To a lesser degree, brick historic commercial structures exist in the corridor and these have pitched roofs and sometimes use a combination of brick and stucco.

When developing designs for new buildings, it is advisable to reference existing historic buildings or other documentation to identify elements that are to be used in the project.

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▪ **Section 7-9-10(F.)(1)(c.)(2.)(b.) – Change to read as follows:**

Roof forms shall be similar to those used historically within the boundaries of the overlay district. The dominant roof shapes shall be gabled or hipped. The minimum roof pitch shall be 5:12. Gable ends shall typically face the street. The addition of dormers is permitted. Areas of flat roofs are discouraged and shall not exceed 25% of the primary facade and shall be located behind a sloped roof or parapet.

▪ **Section 7-9-10(F.)(1)(c.)(2.)(f.) – Change to read as follows:**

A minimum of 40% of the first floor and 20% of the upper floor(s) on the front facade shall have window/door fenestration. Windows shall be set to the inside of the building face wall. Tinted or mirrored glass is not permitted.

▪ **Section 7-9-10(F.)(1)(c.)(2.)(g.) – Change to read as follows:**

Skylights shall not be used on the front facades.

▪ **Section 7-9-10 (F.)(1)(d.) – Revise second paragraph to read as follows: (note: new language is underlined).**

Developments accumulating between 50 and 79 points shall be allowed to exceed the permitted structure size indicated in item (a.) up to 50 percent (50%) above the maximum structure size. Developments accumulating 80 or more points shall be

allowed to exceed the permitted structure size indicated in item (a) up to 75 percent (75) above the maximum structure size.

▪ **Section 7-9-10(F.)(1)(d.) – Change to read as follows:**

1. The proposed structure is a "mixed use" building, housing two or more distinct use types

(i.e. retail, office, residential, etc.). No single use type exceeds 75 percent (75%) of the total gross square footage of the building.

30 points.

40 points if residential uses are provided which occupy at least forty percent (40%) of the

total gross square footage of the building.

45 points if residential uses are provided which occupy at least forty percent (40%) of the total gross square footage of the building and at least 25 percent (25%) of those units are designed to have a total net square footage of 600 square feet or less.

2. The proposed structure contains one or more of the following uses with an operable storefront entrance facing the street:

Bakeries

Barber shops and salons

Bicycle shops

Bookstores

Candy, pastry, ice cream and snack shops

Delicatessens

Florists

Fruit and vegetable markets

Gift shops

Grocery stores

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Hardware/garden supply stores

Pharmacies

Restaurants

Tailors/dressmaker shops

Video rental stores

Other similar uses which serve the surrounding community and which may generate significant pedestrian activity

20 points

3) The landscaping for the proposed development exceeds the requirements of Sections 7-11-2(F) and 7-11-2(G) of the Code of Ordinances of the City of Asheville by at least fifty percent (50%). Hardscape which incorporates features determined by the Planning and Development Director to be pedestrian oriented may be used in combination with or instead of landscaping along the street frontage of the lot. Examples of these features include benches, outdoor dining, planting boxes, etc. Street trees and hardscape features shall be consistent with any approved streetscape plan for the area.

20 points

4) A connection is made between the parking area of the developing property and the parking area of one or both adjoining properties which allows for internal circulation between properties and results in there being only one drive entrance on Charlotte Street to access the developing property.

5 points

5) Entrances to the proposed structure are defined either by front porches, if designed with a residential character, or are recessed from the primary facade and defined with awnings or canopies.

15 points

6) The proposed development is designed to sensitively preserve the principle historic structure(s) on the site. For the purposes of this Section, historic buildings shall be defined as contributing structures within the boundaries of a National Register Historic District or those that are eligible for listing in the National Register of Historic Places.

1. points

7) A minimum of 25 percent of the total number of residential dwelling units provided in a proposed single-use residential development are designed to have a total **net** square footage of 600 square feet or less.

20 points

Mr. Matteson responded to several questions and comments from Council, some being but are not limited to, what was the rationale behind the higher percentage of the total building square footage being devoted to residential uses; how will staff determine what is sufficient with regard to the landscaping provision; there is no opportunity for innovative architecture; and concerns about existing traffic and what are the future plans for this corridor as it is developed to reduce the traffic gridlock and traffic dangers.

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Upon inquiry of Mayor Sitnick, City Traffic Engineer Michael Moule said that he will be starting the process in the very near future to look at essentially all of the entire Charlotte Street corridor and all the traffic issues. He will get specific numbers for the traffic issues and recommendations for changing the corridor to improve pedestrian safety, maintain the capacity we need to carry the existing traffic, etc. He said their process is to involve residents and business owners in the community and not to have any preconceived notions as to what is a good design for the street.

Mr. Joe Adams, originally on the Charlotte Street Small Area Plan (Small Area Plan) as a representative of the Grove Park Sunset Neighborhood, gave Council a brief history of this project. The Small Area Plan and the neighborhood representatives recommended that the speed limit on Charlotte be reduced to 25 mph, however the Planning staff recommended the speed limit be reduced to 30 mph. To date, that has not been implemented. With regard to the traffic study, it was clear that at the Chestnut intersection there was gridlock. Another study was done but he felt that one was not done with the same detail as the original study – no counters between Chestnut Street almost all the way to Hillside, and the study was done well outside of the tourist season. He urged Council to implement another study prior to adopting any action that could increase traffic on Charlotte Street. He felt we needed to eliminate the unsafe conditions that exist today on Charlotte Street first.

Mr. Mike Ward, representing the Albemarle Park Manor Grounds Association, said they are generally supporting the overlay district and believe it improves the potential for development along Charlotte Street. He said the Small Area Plan called for two documents to be completed – a unified streetscape plan and a traffic study. As of today, we have neither document in place. Therefore, without the necessary guidance, we feel that staff would be hard-pressed to make consistent and fair decisions about landscape when there is no landscape plan. We ask the bonus for landscaping be deferred or set the highest priorities for these plans to be developed in a timely manner. Secondly, since the entrance to any building is the most important part of its overall design and defines the character of the street, they feel that provision should be moved from the incentives portion and incorporated into the primary design criteria. Additionally, they want the integrity of Charlotte Street's character to remain and to guide its future and once an historic structure is demolished, its historic character cannot be recreated. Therefore, they support increasing the incentive to preserve historic buildings from 15 to 20 points and that a disincentive be created by subtracting 20 points if a historic building is demolished.

Mr. George Ebraheem, resident on Kimberly Avenue, questioned the reasoning behind the incentive making residential dwelling units a total net square foot of 600 square feet or less. Mr. Matteson said the 600 net square feet was identified as the size structure that wouldn't guarantee affordability of these units but would at least make it more likely that the units are affordable.

Mr. Matteson said the Small Area Plan did recommend that the community get together, with technical assistance from staff, and develop a unified streetscape plan for the community. typically those address streetscape elements in the

public right-of-way that the City provides as enhancements, although it could address landscaping and other features on private property. Since the Small Area Plan was adopted, staff has been working on this Charlotte Street Transition Overlay District. He did note that he didn't think that the streetscape plan needs to be in place before the overlay district is established.

Councilwoman Field said that the City has an excellent landscape ordinance in our Unified Development Ordinance and staff can rely on that.

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Mr. Jim Bannon, representing Smart Growth Partners of WNC, spoke in support of the Charlotte Street Transition Overlay District. He said the ordinance will provide a legal document that offers a vision of what a neighborhood's central district might be – an appealing place where residents can walk from home to a variety of shops and back again, a place with the abundant street life that is the hallmark of any thriving community, a place where people come and linger, and a place where some of the control that we've given over to the automobile is won back. One feature, however, threatens to undermine the whole intent of creating a compact, pedestrian-oriented corner and that is the parking lot requirement. The parking lot minimums from CB-1 will remain and the result will be that as much as 50% of the developed land will be given over to surface parking lots. Even though the lots will be to the side or behind the buildings, it is simply not credible to think that you can create either compact or pedestrian-friendly patterns of development amidst a string of large surface parking lots. He felt the best solution probably is to increase on-street parking. He suggested reducing Charlotte Street to 3 lanes with parking on one side of the street. That would not only alleviate the need for numerous large surface parking lots, but would also provide a buffer between pedestrians and a traffic stream that often exceeds 40 mph.

Ms. Janet Hart felt that compatibility is the most important issue in this matter. She felt it was important that we consider the more we increase the size of buildings and increasing traffic along that corridor we will create a situation where it is less pedestrian friendly. She suggested re-marking Charlotte Street for a period of time to see if three lanes might work. She too agreed with prior speakers of the traffic issues along Charlotte Street.

Mr. Roger James presented City Council with a form letter signed by 52 people (including business owners) in the Charlotte Street area. He reiterated Mr. Ward's prior suggestions and noted that out of the four suggestions, one has been considered further by City staff and they recommend the change as well.

Mr. Doug Michaels, member of the Grove Park Association, suggested Council table action on this and look hard at the traffic issues. He, too, felt a unified streetscape plan and a traffic study should be place prior to approval of this overlay district.

Ms. Jane Mathews, spoke in support of the Small Area Plan and the three remaining recommendations outlined by Mr. Ward.

Mr. Matteson said that in talking with Historic Resources Director Maggie

O'Connor, she felt very confident that any building within this area that is historic would meet the definition as being a contributing structure or one that is eligible for listing in the National Register of Historic Places.

Mayor Sitnick closed the public hearing at 6:42 p.m.

Because of discussion on various recommendations, it was the consensus of City Council to divide the issue and take an informal vote on each one.

It was the consensus of City Council to accept the recommendations of staff as outlined above with regard to Section 7-9-10 (F) (1) (c) (1), Section 7-9-10 (F), (1) (c) (2) (b), Section 7-9-10 (F) (1) (c) (2) (f), Section 7-9-10 (F) (1) (c), (2) (g), Section 7-9-10 (F) (1) (d) – second paragraph, Section 7-9-10 (F) (1) (d) (2), Section 7-9-10 (F) (1) (d) (4), and Section 7-9-10-(F) (1) (d) (7).

Discussion and an informal vote was taken on Section 7-9-10 (F) (1) (d) (1) to reduce the total building square footage to be devoted to residential uses if a project is to accumulate points for providing residential uses from 40% to 30%. Mayor Sitnick, Vice-Mayor Cloninger,

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Councilman Hay and Councilman Peterson voted to keep it at 40% (as recommended by staff) and Councilwoman Field, Councilwoman Whitmire and Councilman Worley voted to reduce it to 30%.

Discussion and an informal vote was taken on Section 7-9-10 (F) (1) (d) (3) and all Council, except for Councilman Peterson, voted to accept the staff recommendation.

Discussion and an informal vote was taken on Section 7-9-10 (F) (1) (d) (5) and all Council, except for Mayor Sitnick and Councilman Peterson, voted to accept the staff recommendation to not change the provision addressing building entrance design being moved from the point structure and added to the design criteria.

Discussion and an informal vote was taken on Section 7-9-10 (F) (1) (d) (6) and accept the recommendation of staff to support increasing the points (from 15 to 20) received for preserving historic buildings. In addition, discussion and an informal vote was taken on Section 7-9-10 (F) (1) (d) (6) to add a disincentive of subtracting 20 points if an historic building is removed. Mayor Sitnick, Councilman Hay, Councilwoman Whitmire and Councilman Peterson voted to add the disincentive of subtracting 20 points, and Vice-Mayor Cloninger, Councilwoman Field and Councilman Worley voted not to assign the disincentive of subtracting points.

Mayor Sitnick requested that the speed limit reduction and the traffic analysis be performed on Charlotte Street as soon as possible.

Mayor Sitnick said that members of Council have previously received a copy of the ordinances and they would not be read.

Vice-Mayor Cloninger moved to adopt Ordinance No. 2690 to adopt the

Charlotte Street Transition Overlay District with the changes recommended by staff as outlined above, and with changes to Section 7-9-10 (F) (1) (d) (6) to increase the points from 15 to 20 received for preserving historic buildings and to add a disincentive by subtracting 20 points if an historic building is removed. This motion was seconded by Councilman Hay and carried unanimously.

ORDINANCE BOOK NO. 18 - PAGE

Councilwoman Field moved for the adoption of Ordinance No. 2691, to apply the Charlotte Street Transition Overlay District to 43 properties in that area. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

ORDINANCE BOOK NO. 18 - PAGE

At 7:35 p.m., Mayor Sitnick announced a five minute break.

C. PUBLIC HEARING TO CONSIDER ADOPTION OF THE DRAFT CONSOLIDATED HOUSING AND COMMUNITY DEVELOPMENT PLAN

Mayor Sitnick closed the public hearing at 7:40 p.m.

Ms. Charlotte Caplan, Community Development Director, said that the Consolidated Plan is the City's plan for using federal Community Development Block Grant (CDBG) and Home Partnerships Act (HOME) program funds. It is in two parts. One document is the Strategic Plan which is prepared once every five years, which explores needs, priorities, strategies and objectives for the programs for 2000-2005. The other document is the Action Plan, prepared annually, which details the proposed use of funds for specific projects in 2000-2001.

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Notices of the availability of the draft plans for public comment, with the date of the public hearing, were published on April 7, 2000. A formal notice of the public hearing date was published on April 14 and 21, 2000. The formal public comment period remains open until May 7, 2000. On May 9, 2000, City Council will be asked to give final approval to both plans, amended as necessary. The deadline for submitting the Plans to HUD is May 12, 2000.

Ms. Caplan explained that the Strategic Plan is a framework to broadly direct the use of CDBG and HOME funds over the next five years. It also proposes consideration of other actions that support the affordable housing, economic development and other activities that CDBG and HOME funds can be used for to benefit our low income residents. The most far-reaching of these proposed actions is the proposal for one cent worth of property tax to support a local housing trust fund.

She said that the Action Plan is done every year and it's a detailed allocation of CDBG and HOME funds to specific projects for the coming fiscal year. We have tried hard to make this consistent with the five year Strategic Plan.

Both Plans were published on April 7 and since then we have received a number of comments. Staff would like to recommend three changes to the draft Strategic

Plan as a result of those comments. (1) With regard to lead-based paint, the original draft proposed that the City consider making lead-based paint hazards a Minimum Housing Code issue. However, it turns out there are technical difficulties with this approach. After meeting last week with several interested parties, a revised proposal is to instead use housing inspectors and permit department staff to distribute information about lead-based paint hazards every time an older home is inspected or a renovation permit is issued. She passed out the full revised lead-based paint recommendation; (2) The Health Department asked if we could increase the annual target for screening children from lead based paint poisoning from 25% each year to 35%; and (3) With regard to public housing in Madison County, the draft originally indicated support for the proposal to consolidate the four separate public housing authorities that exist in Madison County. Since then, three out of the four have written expressing their opposition to such a step. Therefore, staff now suggests merely that the question of consolidation should be considered to see if there are advantages.

Ms. Pam Jowels spoke in support of the one cent property tax being dedicated for the Housing Trust Fund.

Mr. Jody Kuhne suggested that affordable housing organizations seek out affordable homes.

Mr. Neal Peek, President of the Carolina Real Estate Investors Group, supported staff's recommendation relative to lead-based paint education. With regard to the Housing Trust Fund, they do support it, however, they don't support many of the methods for funding it as outlined in the Plan. He did note though, that most of the members do support the one cent property tax being dedicated to the Fund. He said that if Asheville and Buncombe County is to solve the affordable housing problem, then the private sector, for-profit investors must be a part of that.

Ms. Carolina Wood read a letter from Natira Collington who supported the Housing Trust Fund.

Mr. Jim Barrett, representing the Affordable Housing Coalition, spoke in support of the recommendation that the City invest the equivalent of one cent on the property tax rate in affordable housing, using the Housing Trust Fund.

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Mr. Al Mojonier, board member of the Affordable Housing Coalition, spoke in favor of the one cent for the Housing Trust Fund.

Ms. Helen O'Connor, Affordable Housing Coalition, supported the one cent being dedicated for the Housing Trust Fund. She said that the Affordable Housing Coalition and the Consumer Credit Counseling Services would like to request City Council reallocate \$47,000 of the proposed \$100,000 down payment program to assist the continuation of core services for first time homebuyers, crisis intervention and crisis prevention. She said the Affordable Housing Coalition is committed to continuing to secure down payment assistance funds through local resources such as the Board of Realtors and the Mortgage

Bankers Association.

Ms. Sophie Dixon, Vice-President of the Local Chapter of the Asheville Branch of the NAACP, spoke in support of the Housing Trust Fund.

Ms. Manning, representing the Hospitality House of Asheville, read a letter from Board Chair Mimi Cecil thanking City Council for their continued support of their programs. She invited Council to visit the A-Hope program which is a house for the unsheltered homeless.

Mr. Jamie Blue, President of the Asheville Board of Realtors, spoke in support of the Consolidated Plan and encouraged the education of lead-based paint issues.

Ms. Beth Maczka, Director of the Affordable Housing Coalition, spoke in support of the one cent property tax being dedicated to the Housing Trust Fund. She also spoke in support of the reallocation of \$47,000 of the CDBG funds from down payment assistance to homebuyer education program and housing counseling.

Mr. Walter Plowie spoke in support of the Plan stressing that the lead-based paint hazards issue and the affordable housing issue must be dealt with as one.

Ms. Caplan read a letter from Mr. Marvin Vierra, Business Development/Procurement Specialist, which commended City staff on the format used to produce and distribute the plan to the public. He also spoke in support of the public participation in the planning process.

Upon inquiry of Councilman Hay, Ms. Caplan said that City staff would have no problem with the reallocation of the \$47,000 the Affordable Housing Coalition requested if Council wishes to make that change. However, it would be a substantial increase for the Affordable Housing Coalition's program in a year when basically no other applicants have received an increase in funding.

Upon inquiry of Councilwoman Field with regard to the reallocation of \$47,000, Ms. Caplan felt quite sure that if the Affordable Housing Coalition receives \$78,000 this year, they would probably come back next year and ask for that same amount. Councilwoman Field asked that this issue be discussed at the next Housing and Community Development Committee meeting.

Mayor Sitnick closed the public hearing closed at 8:25 p.m.

Mayor Sitnick said that City Council will be considering adoption of the Consolidated Housing and Community Development Plan at it's formal meeting on May 9, 2000.

D. PUBLIC HEARING TO CONSIDER A PLANNED UNIT DEVELOPMENT OVERLAY ZONING FOR CROWELL FARMS LOCATED ON WEST OAKVIEW ROAD NEAR EAGLE'S NEST LANE

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Mayor Sitnick said that Councilwoman Whitmire has left the meeting just after

being notified of a sudden death in her family. She did ask Mayor Sitnick to be excused from the meeting. Mayor Sitnick then asked City Attorney Oast what direction Council should take as far as entertaining a motion to excuse Councilwoman Whitmire. City Attorney Oast said that the law doesn't provide a lot of clear guidance and there is certainly room for disagreement with his opinion and it's a point upon which reasonable minds may differ. It was his opinion that Councilwoman Whitmire may be excused from the meeting upon a majority vote of the Council. If she is not so excused, then her vote counts as an affirmative vote on any matter that comes before Council from this point on.

City Attorney Oast said that it is his understanding that there is a valid protest petition in this matter, thus invoking the $\frac{3}{4}$ vote of the entire Council, which if Councilwoman Whitmire is excused from the meeting would still require a 6-0 vote.

Vice-Mayor Cloninger moved to excuse Councilwoman Whitmire. This motion was seconded by Councilman Peterson and carried unanimously.

Mr. Marty Kocot, with Land Design and engineer of record on the job representing Crowell Farms, LLC, said that "we feel like Ms. Whitmire was going to be an affirmative vote in our favor, just based on our opinion and what we know about Ms. Whitmire. One of the issues that is critical is funding for this project. If this project was tabled or voted down tonight, we will lose critical funding for the affordable housing multi-family portion of the project and it will, without a doubt, put the entire PUD development in jeopardy from happening. At that point the developer will have two options – one, to develop it under the current zoning, or two, to sell the property to another developer who could develop it. That is the issue before you. What I'd like you to do is to rescind your vote excusing Ms. Whitmire and allow her to be counted as an affirmative vote."

Vice-Mayor Cloninger said that as a matter of fairness to the Councilmember not present on a issue that needed a vote, he would not want a vote to be recorded on his behalf that may not necessarily reflect the way that he would actually vote. He felt it was just a matter of fairness that if anyone is not here, to excuse them.

Mr. Kocot said that he understood, however, he questioned if it was "also a matter of fairness if one of you is wavering on which way to vote, that it counts in our favor? What I'm saying is if 6 out of 7 were required to vote for the project, if somebody is undecided, can they not vote undecided and it not hurt us? "

Mayor Sitnick was perplexed on how Mr. Kocot could assume how Councilwoman Whitmire would vote. She said when you are on Council and especially when you are dealing with a vote on an issue like this that has created some controversy, the whole idea of behaving in an ethical manner is to not pre-makeup your mind – to come into Council with a totally open mind and to base the decision only on what you hear in this Chamber. She also knows Councilwoman Whitmire and she would have to say that she believes that she would have that open mind and listen to the entire process and then make a decision based on what she heard at the public hearing.

Mr. Kocot said that he was not trying to assume anything.

Mayor Sitnick said that before Councilwoman Whitmire left she asked her if she could be excused. Granted she had just been told that her uncle had passed away and she was emotionally distraught and crying, but she has to respect her need to leave.

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Mr. Kocot said that he respected the Mayor's opinion. He said that he felt Council should go forward with the public hearing because they do not have any option because the deadline for funding is April 28, 2000.

Because Mayor Sitnick wanted to be fair to the applicants, to the neighborhood and to Councilwoman Whitmire, she suggested the possibility of continuing the public hearing until either April 26 or April 27, even though Council could not be sure Councilwoman Whitmire would be able to attend even then. At this point, City Clerk Burleson left the meeting to attempt to reach Councilwoman Whitmire by phone, but was unable to reach her.

Mr. Jim Brinkley, principle in the firm of Brinkley Adams Developments, and said they are under contract for a portion of the multi-family land to develop an affordable housing community of 40 units for seniors. He said that this is an annual funding. One time a year there is an opportunity to present the application. The preliminary application from the N.C. Housing Finance Agency reads that "required zoning must be in place including any special use permits, conditional use permits, traffic studies and other land use requirements, as well as all public hearings required to develop the site, must be completed by April 28."

Upon inquiry of Mayor Sitnick, City Attorney Oast said that if Ms. Whitmire is able to attend the continued public hearing that he would ask Council to vote to admit her back to the meeting.

Vice-Mayor Cloninger moved to continue this public hearing until Wednesday, April 26, 2000, at 6:00 p.m. in the Council Chamber located on the second floor of the City Hall Building, Asheville, N.C. This motion was seconded by Councilman Worley and carried unanimously.

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. CONSIDERATION OF A RESOLUTION WAIVING THE REQUIREMENT FOR A SIDEWALK FOR MORSE ANTIQUES LOCATED AT 92 MCINTOSH ROAD

City Manager Westbrook asked that this item be pulled from the agenda for additional work.

A. RESOLUTION NO. 00-76 - RESOLUTION ADOPTING THE FRENCH BROAD RIVER PARK PHASE IV MASTER PLAN AND AUTHORIZING ITS IMPLEMENTATION AS FUNDS BECOME AVAILABLE

Mr. Alan Glines, Park Planner, said that this is the consideration of a resolution authorizing City Council to adopt the French Broad River Park Phase IV Master Plan and authority to implement the Plan as funds become available.

The Parks and Recreation Department began a public process in the fall of 1999 to develop a master plan for the new park. The department hired the services of W. K. Dickson Inc. to help develop the plans. A community advisory group was formed to guide the planning process which represents broad community interests. After several meetings with the advisory group and a public planning workshop held in November of 1999, the master plan was developed incorporating many of the diverse interests of the community.

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The master plan includes several first time events and features in the Asheville park system. These elements include lawn bowling, roller hockey, a volleyball complex area, adaptive re-use of the race track for bicycle riding and racing, in-line skating and walking. The

master plan will also include greenway trails, a children's playground, an open meadow, a wetlands boardwalk, fishing areas, a volleyball and soccer complex, a park office and support facilities. Several grants have been written to help fund the park master plan which include a Parks and Recreation Trust Fund Grant, a Janirve Grant, and a Pigeon River Fund Grant. Decisions on the grants have not been finalized at this time.

The project master plan was reviewed at a public forum in March of 2000 and was overwhelmingly approved by the community present. The plan has also been reviewed and approved by the Parks and Recreation Advisory Board and the Asheville Greenway Commission.

The Parks and Recreation Department staff is seeking City Council approval of the master plan and the approval to proceed with implementing the plan as funding is secured.

Mr. Glines showed some components of the master plan. He said they are looking to dispose of some property (bleachers) sometime next month and will start working on volleyball areas right away for play this summer. They will also be developing a historical component for racing community.

The following individuals spoke with enthusiastic support for the French Broad River Park Phase IV Master Plan:

Ms. Marjorie Maxwell

Mr. David Donnell, operator of Southern Waterways on the French Broad River

Ms. Laura Webb, business owner

Ms. Marilyn Siler

Ms. June Lamb

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

Vice-Mayor Cloninger moved for the adoption of Resolution No. 00-76. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 21

VI. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of April 7-19, 2000: George Caldwell (Streets), Jo Erin White (Streets), Marshall Wiles (Police), Pat Gosnell (Streets) and Jeff Eller (Water).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

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VIII. ADJOURNMENT:

At 9:14 p.m., Mayor Sitnick adjourned the meeting until 6:00 p.m. on Wednesday, April 26, 2000.

CITY CLERK MAYOR

Wednesday - April 26, 2000 - 6:00 p.m.

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; Councilwoman Barbara Field; Councilman Edward C. Hay Jr.; Councilman Brian L. Peterson; Councilwoman Terry M. Whitmire; Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

**PUBLIC HEARING TO CONSIDER A PLANNED UNIT DEVELOPMENT
OVERLAY ZONING FOR CROWELL FARMS LOCATED ON WEST
OAKVIEW ROAD NEAR EAGLE'S NEST LANE**

**ORDINANCE NO. 2692 - ORDINANCE APPROVING THE PLANNED
UNIT DEVELOPMENT OVERLAY ZONING FOR CROWELL FARMS**

LOCATED ON WEST OAKVIEW ROAD NEAR EAGLE'S NEST LANE

Councilman Hay moved to allow Councilwoman Whitmire to resume her seat. This motion was seconded by Councilman Worley and carried unanimously.

Mayor Sitnick opened the public hearing at 6:00 p.m.

City Attorney Oast reviewed with Council some matters of procedure. He handed out to City Council an excerpt from the Unified Development Ordinance (UDO) with regard to Planned Unit Developments. He said that this is a two-part process. One part is a rezoning, which is a legislative act, and one part is a Master Plan approval, which is a quasi-judicial act. Under our Code, the Master Plan is approved by the Planning and Zoning Commission and it stops there unless it is appealed, in which case it comes to City Council. An appeal from the Planning & Zoning Commission's approval of the Master Plan has been filed and therefore, City Council will need to schedule a public hearing. The only question before Council now is the appropriateness of applying the Planned Unit Development Overlay zoning classification to this particular piece of property. You may hear some particular information about the Master Plan, but Council should regard that only as an indication of what could be built on the property, not what will be built on the property. The Master Plan has been appealed and it could change, even after

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Council has approved it, it could change. Again, tonight Council will only consider whether the Planned Unit Development Overlay zoning classification with the mixture of uses the developer has proposed is appropriate for this particular area.

City Attorney Oast said that it is his understanding that a valid protest petition has been filed with respect to the rezoning issue, which will require an affirmative vote of 6 out of 7 members of Council.

With regard to the disclosure of information, because this is a legislative matter, the importance of getting that information on the record is not as urgent in this hearing as it will be in considering the Master Plan. However, if Council has visited the site, Council should disclose that.

City Attorney Oast said that if the rezoning fails, there will be no need for Council to hear the appeal of the Master Plan. He said it was important to understand that whatever Council approves will not bind the developer to do that exact thing unless and until the Master Plan is finalized, by whatever means that occurs. If Council approves the rezoning tonight, he will ask Council to set a date for the public hearing on the appeal of the Master Plan.

Upon inquiry of Vice-Mayor Cloninger, City Attorney Oast said that staff will take of the enforcement details on the Master Plan. He explained that Council, in some cases, may not even see the Master Plan, or if they do, it

will be with the understanding that it is conceptual only.

All members of Council disclosed that they have visited the property. Councilwoman Field and Councilwoman Whitmire disclosed that they have received correspondence from residents from the community and have made an effort not to read them. Councilman Peterson disclosed that he has read a number of letters and faxes and has spoke to residents on the phone as well. Mayor Sitnick disclosed that she has received letters and faxes with regard to this issue and has copied them for the City Manager and Council.

Mr. Tom Bell, attorney for the residents who oppose the planned unit development, said that he wanted it known that they do not waive their right to have this conducted as a quasi-judicial hearing with the rights to cross-examine witnesses, have witnesses sworn, and have non-hearsay testimony, etc.

Mr. Baechtold said that this is the consideration of a Planned Unit Development (PUD) overlay designation for 71.17 acres in the Extraterritorial Jurisdiction (ETJ).

On February 7, 2000, Crowell Farms, LLC presented a master plan and an application for a PUD overlay designation for a development of 288 dwelling units on 71.17 acres in the ETJ. In the ETJ the City exercises zoning controls and Buncombe County is responsible for erosion control, grading permits, and building permits.

The property is located on West Oakview Road near Eagle's Nest Lane. The property is split-zoned. The front portion (16 acres) is zoned RS-4. The back portion (55 acres) is zoned RM-6. This zoning has been in place since the Unified Development Ordinance (UDO) was adopted in 1997. Prior to that time the front portion was zoned R-1, which is essentially the same as RS-4. The back portion was zoned light industrial under the old zoning. Under the current zoning, the maximum density on the property is 395 units. The property is bordered by single-family residential development to the north, to the northeast and to the northwest. The Biltmore Commons Phase I condominium development is on adjacent property to the southwest, and there is vacant property to the south and southeast.

Mr. Baechtold explained the purpose of a PUD as outlined in the UDO.

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The proposed PUD designation and master plan proposes 40 single-family lots, 98 townhouses, 70 condominium units for co-housing, and 80 apartment units to be used for affordable housing for seniors for a total of 288 dwelling units. The PUD designation and master plan will establish the number of units on the property, the amount of parking and dedicated open space, and the location of major infrastructure. The approval of the master plan is a conceptual approval only. The exact arrangement of the buildings is subject to change. As the property is developed, the developer will be

required to submit detailed site plans showing the building location, landscaping and buffering, and other site details.

The master plan proposes a spine street to serve as collector road to be called Crowell Farms Drive. The plan proposes a sidewalk along one side of Crowell Farms Drive and approximately 10,000 feet of walking trails that will connect various parts of the development. The plan designates 15.3 acres of common open space to be deeded to a property owner's association. The conceptual layout shows a building arrangement that provides additional undisturbed area and recreation area as part of each multi-family development. Staff reviewed the master plan and determined that the amount of open space provided well exceeds the minimum amount of dedicated open space required in the UDO. In addition, staff determined that the open space meets the intent and follows the guidelines of the open space provisions in the UDO.

This project involves the extension of public water and public sewer. The project received a wastewater allocation from MSD. The project received a conditional letter of water allocation from the Water Resources Department. Staff received comments from area residents about frequent breakage of the water line on West Oakview Road. Mike Brookshire, of the Water Resources Department, investigated the repair history for the water line and concluded that there is no concern about the adequacy of the water line.

The developer prepared and submitted a Traffic Impact Analysis (TIA) as required by the City. The TIA analyzed traffic impacts of this development on four surrounding intersections. The report considers the impact of the traffic generated by the proposed development, combined with existing traffic and projected increases in area traffic, including the impact of the Home Depot Development. The analysis shows that there will be a decrease in the level of service at some of the intersections. The notable traffic impact is at the five-way intersection of West Oakview Road, Sand Hill Road, Sand Hill School Road, and Grandview Drive. The report concludes, however, that the impact is not enough to warrant improvements to the intersections.

The TIA has been reviewed by the City Traffic Engineer and the Division Traffic Engineer for the N. C. Dept. of Transportation (NC DOT). The City Traffic Engineer concurs with the trip generation and trip distribution shown in the TIA. According to the Traffic Engineer, the analysis shows that most of the intersections will continue to operate at a Level of Service "D" or better, which is generally considered an acceptable level. The original analysis projects that two of the approaches to the 5-way intersection of Sand Hill Road, Sand Hill School Road, Oakview Road, and Grandview Road will operate at a level of Service of "E" or "F". However, during the peak hour, it is not uncommon for the minor approaches of two-way stop-controlled intersections to operate at this level.

In addition to the original TIA, the consultant has completed an additional analysis of the 5-way intersection of Sand Hill Road, Sand Hill School Road, Oakview Road, and Grandview Road. The new analysis was

completed because limitations in the modeling software make it difficult to analyze a 5-way intersection. The second analysis provided a "best case scenario" where they first looked at a "worst case scenario."

The City Traffic Engineer is in the process of working with the consultant to look at one more possible scenario for this intersection. This new analysis will include traffic generated by

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the Buncombe County soccer complex near Sand Hill School. This final analysis is important so that no questions remain about whether all the appropriate factors were considered in the analyses.

Once this final analysis is complete, a final recommendation will be made regarding any additional improvements that are needed. According to the City Traffic Engineer, however, it is unlikely that the new analysis will show significant changes from the previous two analyses. The NC DOT Division Traffic Engineer has stated that it is unlikely that the NC DOT will recommend any improvements for this intersection. The City will defer to the NC DOT on any recommendations for improvements.

Staff has received considerable public comment in opposition to this project. Neighboring property owners are concerned about the compatibility of this development with existing development on West Oakview Road; the rural character of the area; the impact of this development on surrounding property values; tree preservation; traffic impacts; stormwater runoff; and the adequacy of infrastructure in the area. Comments were received at two Technical Review Committee meetings and the Planning and Zoning Commission, as well as by letter.

At the review of this matter before the Planning and Zoning Commission on April 5, 2000, the Commission voted 5-1 in favor of recommending approval of the PUD designation. The dissenting member expressed a concern about whether or not the project meets the intent of the PUD district. Other members, supportive of the recommendation, stated that the current proposal minimizes grading on the site, preserves open space, and is a preferable alternative to seeing the property developed at maximum density. The Commission also voted 5-1 in favor of approving the master plan with the conditions. Detailed site development plans for each . Several commissioners expressed a desire to see more functional open space and usable walking trails, and conditions for approval were drafted that advance these interests. The dissenting Commission member felt more time was needed to adequately review the master plan.

On Monday, April 17, 2000, the applicant submitted revised plans showing additional area for passive recreation, and a re-configuration of the walking trails and open space.

The Planning and Development staff recommends approval of the Planned Unit Development overlay designation for Crowell Farms, with the conditions recommended by the Planning and Zoning Commission.

Mr. Michael Moule, the City's Traffic Engineer, said that an additional analysis was done of the 5-way intersection. The new analysis included the traffic from the soccer complex which is planned to be built. The two approaches at the 5-way intersection of Sand Hill School Road and West Oakview Road operate in the p.m. peak hour at Level of Service either "E" or "F" which is normally what we consider an unacceptable level. However, it is not uncommon for minor approaches to 2-way stop control intersections to operate at this level. Based on that new analysis, he talked with the NC DOT traffic engineer for this area and he does not recommend any improvements at that intersection. Given the fact that all of the streets coming into that intersection, except maybe Grandview Road, are NC DOT maintained roads, he would defer to them on that decision.

Mr. Marty Kocot, with Land Design and engineer of record on the project and lead planner, apologized to Council. He said that last night he came across as being presumptuous and that he felt Councilwoman Whitmire's vote on the project would be a positive one. That was not his intent. What he was trying to convey was that Land Design and Crowell Farms, LLL, have spent over a year planning and re-planning the Crowell Farms community being presented.

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They feel very strongly that the plan they are presenting is the best one for the development of the property and they would hate to have Councilwoman Whitmire's unfortunate absence last night as a vote counting against the project.

Mr. Kocot reviewed the site plan of Crowell Farms. The plan creates a community of four neighborhood with different housing types, protects the environment, and preserves the feel of property as a rural farm community. The property is going to be developed, whether by Crowell Farms, LLC, or another developer. However, in creating the land plan for this project, the developer has listened to the different planning concepts Land Design has provided them and carefully evaluated the alternatives. They have even sacrificed making the greatest return on their investment by providing a responsible development plan for this 71 acre parcel. He said they are requesting this PUD overlay in order to (1) create a community with open space and walking trails to connect the four different neighborhoods and the West Oakview community; (2) reduce the amount of disturbed land and retain the natural features of the property; and (3) provide increased buffering greater than what is required to the adjacent neighborhoods by providing common open space. The plan would provide play areas, gardens, pastures, walking trails, and sidewalks along the main roadway and out in front of West Oakview Road. They have created 40 single-family lots, 98 single-family townhouses, 80 multi-family apartments (which is affordable elderly housing for seniors) and 70 single-family co-housing units. He then explained co-housing. He said there will be approximately 15.3 acres of common open space deeded to Crowell Farms homeowners association for use as they see fit. In addition, each neighborhood parcel provides additional common open space for the development and use of

their residents. The total area of common open space provided under this current plan is 21.5 acres – 30% of their total site area. The common open space provided by this plan provides a 650% increase on the amount required under the PUD zoning. Of the 71 acre tract, 16 acres are zoned RS-4 in the front and 56 acres in the rear are zoned RM-6. They could propose 395 units without a change in zoning, but they are proposing 288 units. Additionally under the PUD they could ask for a 25% density increase because they are providing affordable housing and they could also ask for an additional 10% because they are providing more than double the common open space required. They are not asking for any density increase. They can actually build a similar plan, same density and same style of housing, without providing common open space, walking trails and without having to come before City Council for the PUD overlay request. The developers have chosen to request the PUD overlay to provide a neighborhood community bound by pedestrian walkways and common open spaces.

Upon inquiry of Councilman Worley, Mr. Kocot explained how this project is consistent with the concept of smart growth.

Amy Massey, Traffic Engineer with Kimley-Horn & Associates of Charlotte, reviewed with Council the amount of trips projected for the site. She did a traffic comparison of what could be developed under existing zoning and what is planned on this property now, nothing that under the current plan there will be 20% less daily traffic, 25% less traffic during the am peak hour and 15% less traffic during the pm peak hour. She said the results of the study indicate that the intersections operate acceptably overall and reiterated that the NC DOT recommends no improvements.

Mr. Jim Brinkley, principle with Brinkley Adams Development which deals with affordable housing, stated that this is a program through the N.C. Housing Finance Agency and not an entitlement community. The only restriction that they have as owners of the property is that people cannot earn above a certain amount of money. With regard to traffic concerns, the affordable housing portion they are proposing is for seniors and they will generate a loss less traffic than a family project with 2-3 bedrooms.

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Mr. Dean Pistor, representative of Brinkley Adams, said their initial application for the Crowell Farms site provided to the N.C. Housing Finance Agency found that the site was very suitable for an elderly multi-family project. Based on a market study and other factors, Crowell Farms ranked fourth in western North Carolina and number one in the Asheville market for funding of this project. He felt if Council does not approve the PUD, they will lose the chance to provide affordable housing to the aging citizens of Asheville and Buncombe County.

Upon inquiry of Mayor Sitnick, Mr. Brinkley said the rent of the one bedroom unit will be approximately \$400/month and a two bedroom will be slightly under \$500/month.

Mr. Tom Bell, attorney representing the West Oakview residents, said that this is a legislative hearing and was to hear only the zoning, not the Master Plan, but Council has heard nothing except information about the Master Plan itself. He said it was not proper for Council to hear that. He then read to Council Section 7-7-5 which is what this public hearing was noticed under. It says "when considering a proposed amendment, the Asheville City Council will not evaluate the petition based on any specific proposal for the development of the property. The petitioners shall not use any graphic materials or descriptions of the proposed development except for those which would apply for all uses permitted by the requested classification." He noted that the conduct of this hearing is against the advise of your City Attorney, against your ordinances and is inappropriate for Council to consider. He stressed that just because something else worse than this plan can be built on this property is not an appropriate reason to change the zoning. With regard to the number of units that could be built under the current zoning, their consultants have told them that with the topography of this land, you couldn't possibly build more than 320 units, so their figure of giving away 100 units in order to make this a good development, they don't think is the truth. He also pointed out that the issue before Council is whether there should be a PUD overlay and Council could not consider their planned PUD, but how much could be built under any PUD development. Their traffic study was for 288 units, not for any PUD development – it was for this PUD development. In addition, their traffic analysis shows that the 5-way intersection at certain periods of time will reach a Level of Service "F" – which is defined as "unacceptable" by the Highway Capacity Manual. It is appropriate when you consider zoning, the change in the neighborhood, the values in the neighborhood, and the character of the neighborhood. This is a rural community and putting this development out there is totally and completely changing the neighborhood. He also noted that there is no mass transit which the PUD requires. He noted that for Council to amend the Comprehensive Plan, it has to be shown there has been a change in the projections or assumptions upon which the Comprehensive Plan is based, issues or needs have been identified which are not adequately addressed in the Comprehensive Plan, and that the amendment will promote the health, safety and welfare of the City of Asheville - Council has had no information presented to indicate that any of those issues are true. Mr. Bell then presented Council with a petition containing 105 names who "are absolutely and in every respect opposed to the Crowell Farms PUD as proposed by Crowell Property, LLC."

The following residents spoke in opposition of the Crowell Farms PUD for several reasons, some being, but are not limited to: the West Oakview Road area is a quasi-rural community of single-family homes and the proposed PUD units are not compatible with the surrounding homes in the area; as stated in the traffic impact analysis submitted by the developer, the traffic on West Oakview Road will almost triple upon completion of the proposed PUD; West Oakview Road is only 16 feet wide in many places and school buses often have their wheels on the double yellow line when going around curves; single-family homes in the West Oakview community will decrease in value if the PUD is constructed; the 288 units in the

proposed PUD will result in the overcrowding of land and undue concentration of population, both in violation of N. C. Gen. Stat. sec. 160A-383; the planned Buncombe County soccer fields traffic is not included in the TIA; two of the 20 acres of greenspace cannot be counted because you cannot use the recorded easements for aerial rights-of-way and there is a 70 foot wide

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230,000 volt electric line that crosses this property; schools are already overcrowded; and, if Council is in favor of the PUD, then they should approve the Master Plan first so no more than 288 units can be built on the property:

Mr. Bill Kixmiller, speaking on behalf of the community and resident of 5 Eagle's Nest Lane

Mr. Frank Pomeroy, resident on West Oakview Road

Ms. Jenny Stamey, resident in the West Oakview Road area

Mr. Herb Singerman, resident at 6 Eagle's Nest Lane

Mr. McIntosh, property owner in area

Ms. Phyllis Robertson, resident at 110 West Oakview Road

Ms. Linda Riddle, resident of Osborne Street

Mr. David Pinelli, resident on West Oakview Road

Ms. Cathy Tyler, resident at 20 Eagle's Nest Lane

Upon inquiry of Councilman Hay, City Attorney Oast said that the availability of adequate transportation is something Council should consider, but the availability of public transit is not a requirement. Mr. Baechtold said that this is a goal that could be achieved by allowing the flexibility of a PUD. There is no transit service in the area, however, after talking with the Transit Services Director, he has indicated that this is the type of development that could be easily serviced by transit. In addition, Senior Planner Gerald Green said that transit was reviewed at the writing of this provision in a broader sense – not just public transit. The overall goal was to provide for the clustering of development and the arrangement of the uses within the development so that transit services of any type could easily be made available.

City Attorney said that the representation shown on the Master Plan and the information received should be viewed as an indication of what could go there, not what will go there. Council should be mindful that there is a theoretical legal possibility that the overall density could be increased, but the City does have some control over that through the Master Plan. However, as long as the UDO standards are satisfied, then Council's discretion in whether to approve the Master Plan may be limited to that

extent.

Mayor Sitnick closed the public hearing at 8:20 p.m.

Councilwoman Field noted that Council could vote against this overlay district and tomorrow the developer could go out and build the same thing tomorrow. Mr. Green agreed somewhat in that looking at the site plan, the zoning boundaries are such that the developer could do exactly what is shown on the Master Plan that was approved by the Planning and Zoning Commission.

Discussion surrounded why the developer has requested a PUD overlay district. Mr. Green said that in the original meeting with the developers over a year ago, City staff recommended a PUD to provide some flexibility because staff was familiar with the site and realized some of the sensitive nature of the site, with the steep terrain and the ravines. Staff recommended that a PUD overlay district may be a way to provide developers with an option to obtain the density required to make a development feasible but also provide for some flexibility which would allow the protection of those sensitive areas. It was the staff's opinion that this process provides for an enhanced product and a product that meets the goals of the City. He felt that by the developer going through this PUD process, the community as a whole is getting a better product because of the increased flexibility in design, the time that staff has spent with the developer's design professionals in working out the design of the property, and the conditions required by the staff and the Planning & Zoning Commission.

Mayor Sitnick re-opened the public hearing at 8:28 p.m.

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Mr. Ben Slosman, petitioner, said that after they first bought this property, they looked at putting 394 single unit homes on the property by grading it, stacking one almost on top of another, and it would have conformed with the existing ordinance. They even had suggestions of placing mobile homes on the property which he rapidly turned down. He asked the design professionals to come up with a concept of developing the property in PUD and then went to the City and asked if this PUD could possibly be developed. They felt it could be a model PUD of what PUD's could look like in the City in the future. They sacrificed over 100 units by not over-grading the property and leaving greenspace. The land values of the houses that will be built will be equivalent to anything that is in this area. If this PUD doesn't go through tonight, they will take and develop the property without the PUD. They will build more houses than they said they would build, there will be no greenspace, and they will go back to what the original zoning requires. That would be a shame, but that's where we're at.

Mr. Baechtold said that in the Master Plan that went before the Planning & Zoning Commission, the developer had asked for some reduced lot sizes. In addition, the other advantage that they are taking of the PUD is that the review process is done all at one time. He did note that to say that they

can come in tomorrow and do exactly the same thing may not be entirely accurate. For instance, if they came in with a multi-family development of more than 50 units, that would trigger our conditional use permit process. Mr. Green also noted that in addition to the smaller lot sizes, the PUD allows some flexibility in the siting of the units, and probably the major advantage is in a RM-6 zoning district, the largest structure size is 4 units and the PUD overlay allows them to do structures containing more units (the affordable housing for seniors).

Upon inquiry of Vice-Mayor Cloninger about why staff did not let City Council know this was a suggestion by City staff rather than a request of the applicant, City Manager Westbrook said that City staff always makes suggestions to applicants of various ways to accomplish things.

Mr. Carl Ricker, partner with Mr. Slosman, noted that City staff did not make them do a PUD. It was his objective to work with the community and hoped that the PUD would increase the value of homes in the area. They asked City staff basically what they could do to make the process as easy to go through for them and still have a good project for the community.

Mr. Bell said there was a meeting that occurred shortly before the Planning and Zoning Commission meeting with the developers after a repeatedly request. The meeting did not result in anyone reaching anything. He later believed it was just an effort to comply with the suggestion of the City that the developers meet with the community early in the process. It is their opinion that this allows the developers to make maximum money out of this property. The bottom line is they think that the developers cannot, under the existing zoning, build this project on that land. This PUD allows them to put more units and make more profit.

Mayor Sitnick closed the public hearing at 8:40 p.m.

Upon inquiry of Councilman Peterson, Mr. Green said that there are 225 units in the adjoining Biltmore Commons.

Councilman Peterson asked if Council approves the PUD, how binding is the Master Plan. Mr. Green said that the Master Plan is binding with a small amount of flexibility. He believes they cannot increase the density more than 10% without coming back through the entire Master Plan process. They can rearrange the units on the site somewhat, but any substantial change to the road pattern or the building location would require them to go back through the entire review process.

Vice-Mayor Cloninger moved to approved the PUD overlay district for Crowell Farms. This motion was seconded by Councilman Hay.

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Vice-Mayor Cloninger felt it was important to point out that if Council does not approve the PUD that does not mean that there won't be development on this site. In all likelihood there will be, and in all likelihood, it could be in a way that is less in harmony with the surrounding area. He does think the

PUD would accomplish several things that we would not be able to assure otherwise. This will minimize the grading on the site, it will preserve the steepest slopes, it will preserve open space, and it will create usable walking trails. It will also provide for some affordable housing and housing to the elderly which we very much need. Furthermore, the housing provided for the elderly is likely to mean that there will be less impact on the road than there would be if this portion of housing were provided to people who drive cars on a regular basis. With regard to traffic concerns, he would have to defer to staff on that as to what conclusions they have drawn. Their belief is that this will increase traffic at an acceptable level so he is willing to take their word on it. He also felt it was very important that Council point out that when we passed the PUD concept, we encouraged developers to use that method so that they could engage in responsible development in the community. He felt in a situation like this, this PUD would accomplish so many of the goals that we hoped to achieve when we came up with this concept that we should grant this request.

Councilman Hay agreed with Vice-Mayor Cloninger's comments. He felt that with application of the PUD, Council has something to say about what is built out there. The traffic concerns are very real but are best controlled by what is before Council now. He does favor the use of the PUD here and in the future, but in particular in this case, because there will be retaining of the natural features, and the use of the PUD to cluster things so that what is best about the lay of the land is preserved not only to benefit the people who live there, but also for those people who live around the area.

Councilman Worley said that he has been familiar with this area for quite a long period of time and it has substantially changed from what it was 25-30 years ago, and it will be even more substantially changed 25-30 from now, even well beyond the changes that will be brought about by this development or whatever development occurs on that site. With regard to traffic, he will have to defer to our traffic engineer. He doesn't see that values will be affected by this development because his law practice deals primarily in real estate work and he sees the values day in and day out. Most importantly, the term smart growth is very much in the news and it means we need to look at the way we grow. Part of smart growth encourages mixed usage, various types of development in an area, it increases density, and lessens sprawl. He felt this PUD is consistent with smart growth principles.

Councilwoman Whitmire said that based on the information presented tonight, and only tonight, she was satisfied that the request for rezoning has met its requirements.

Councilman Peterson felt that it's not smart growth that we are allowing this sprawl, however, the issue before Council is whether the PUD with the mixed use that they propose is appropriate for this property as it's zoned. It is zoned for multi-family and if a PUD overlay district is not approved, multi-family could be built that is very undesirable. Given the standard that we are asked to consider what it's zoned now and what the PUD would allow, taking into account the Master Plan submitted, he felt it would probably

meet the requirements to rezone.

Councilwoman Field said she was very much an affordable housing advocate and the idea of losing 80 affordable houses anywhere is not acceptable. She also believes that different kinds of living units that are available create community.

Mayor Sitnick hoped that great care be taken not to eliminate any trees that are within the walking trails. This Council is very much in favor of sidewalks but the pedestrian amenities that occur within the PUD should be echoed by the community's commitment to sidewalk development. A requirement should be created in the PUD that there be adjacent pedestrian amenities as well as amenities within the PUD. It would be her hope that as we find little pockets of money to do sidewalks, that we look to this neighborhood which will be significantly impacted. She remains concerned about the traffic issues and she would like to continue evaluating the area and not just rely on the current analysis, but look at what happens in that area several times a year as it applies to the PUD, as it applies to additional single-family private development, soccer fields, and the Home Depot. The PUD is a better regulated, more sensitive development than anything that could take place with the current zoning. She will vote for this PUD overlay district with her concerns being followed through with regard to preserving as much as the natural environment and making sure we look at the traffic issues repeatedly.

The motion made by Vice-Mayor Cloninger and seconded by Councilman Hay carried unanimously.

Mayor Sitnick said she appreciated Mr. Kocot's apology at the beginning of this meeting. After she felt the meeting yesterday, she found herself growing more and more angry at his comments for a number of reasons. Primarily because Councilwoman Whitmire was not here to address his comments. Councilwoman Whitmire has been meticulous, as all of Council has, in not making any decisions having to do with public hearings, rezonings, controversial issues, quasi-judicial hearings, conditional use permits, or any other things that come before this Council until we have evaluated all of the facts. We received a memo from the City Attorney telling us that we could not base this decision on a Master Plan and we could not base this decision on anything we heard from our neighbors and anything we heard from the applicants. Mr. Bell, Mr. Slosman and neighbors were very respectful of that and did not attempt to influence us at any time. What Mr. Kocot said last night, on television, in her opinion, besmirched the reputation of Councilwoman Whitmire and called all of Council's reputations into question by his comments. She then read Mr. Kocot's comments from the City Council meeting on April 25, 2000. Nobody knew her vote until tonight.

Councilwoman Whitmire thanked the community for allowing City Council to continue this process and appreciated their willingness to come back tonight. "Sitting here tonight was even more difficult to make this decision, not because of the passing of my uncle, but Mr. Singerman used to be my teacher and so I feel kind of bad voting against something a former teacher

has something to do with. I was handed the minutes of last night at 5:55 p.m. today and was very disappointed. Angry, no – but disappointed. Integrity is the most important thing to me. That's all I have. You can take my job, you can take my house, I live with my mother, but whatever. The only thing I have is my word – that's it. And for you, Mr. Kocot, to put my integrity on the line in front of people who supported me – my goodness, I don't even know you, never seen you, never met you. But what you did was wrong. And I just wanted to publicly say that. It was wrong and I don't appreciate it. Do I hate you? No, actually I forgive you, because I'm bigger than that. And what you said is not true, is unfounded and not valid. And I don't appreciate it."

Councilman Worley moved to set the public hearing for the Master Plan on May 23, 2000. This motion was seconded by Councilwoman Whitmire and carried unanimously.

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Mayor Sitnick adjourned the meeting at 9:14 p.m.

CITY CLERK MAYOR
