

Tuesday - November 28, 2000 - 5:00 p.m.

Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; Councilwoman Barbara Field (excused from the meeting at 9:26 p.m.); Councilman Edward C. Hay Jr.; Councilman Brian L. Peterson; Councilwoman Terry Bellamy (excused from meeting at 7:25 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

Councilwoman Bellamy gave the invocation.

Mayor Sitnick introduced Buncombe County Commissioner Nathan Ramsey.

I. PROCLAMATIONS:

A. PRESENTATION OF KEY TO THE CITY TO RICHARD BOWMAN

Mayor Sitnick presented the Key to the City to Richard Bowman, recipient of the Distinguished Alumnus Award from the United Negro College Fund.

B. 2000 COMMUNITY POLICING AWARD PRESENTED BY INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE AND ITT INDUSTRIES

Representatives from ITT Industries, Co-Sponsor with the International Association of Chiefs of Police, presented Police Chief Will Annarino with the 2000 Community Policing Award.

C. RECOGNITION OF NORTH CAROLINA HOUSING FINANCE AGENCY AWARD RECIPIENTS

Community Development Director Charlotte Caplan said that in a time when it seems that affordable housing is hard to find and those individuals or families that need housing the most are lost in the system, the Asheville area can take pride in two local agencies that recently won awards for affordable housing. The Clearview Terrace Apartments Project, owned by WNC Housing, Inc. and AHOPE, a project of Hospitality House of Asheville, both won awards from the North Carolina Housing Finance Agency in the category of Special Needs Housing.

The Clearview Terrace Apartments project is a renovation of a building housing substandard apartments. The newly remodeled apartments are targeted for the severely and persistently mentally ill to foster independence and provide additional housing choices. Residents originate from adult care homes, group homes, living with supporting family, boarding homes and substandard housing. The Clearview Terrace Apartments house eight units: seven one-bedroom apartments and one efficiency apartment.

AHOPE, a project of Hospitality House of Asheville, provides a much-needed service for the homeless in Asheville. AHOPE consists of the day center, an outreach program and a Safe Haven for the homeless, mainly single persons with nowhere else to go. Up to ninety people are served each day. At night, AHOPE provides 6 beds for the most vulnerable. The center is staffed 24 hours a day. The City of Asheville provided \$15,000 for this project, specifically for furnishings for the center.

Mayor Sitnick recognized board members from Clearview Terrace Apartments and also representatives from the Hospitality House and from the NC Housing Finance Agency.

D. PROCLAMATION PROCLAIMING OCTOBER 2000 AS "DOMESTIC VIOLENCE AWARENESS MONTH"

Mayor Sitnick read the proclamation proclaiming October 2000, as "Domestic Violence Awareness Month" in the City of Asheville. She presented the proclamation to Ms. Valerie Collins who briefed City Council on some activities that took place during the month.

E. RESOLUTION NO. 00-213 – RESOLUTION OF APPRECIATION TO S. DOUGLAS SPELL

Mayor Sitnick read the resolution of appreciation to S. Douglas Spell, Assistant City Manager, who will be leaving Asheville to accept the position of City Manager in Monroe, North Carolina, on December 4, 2000.

On behalf of the entire City Council, Mayor Sitnick wished to express its great appreciation to S. Douglas Spell for the meritorious service, loyalty and dedication he has rendered to this community.

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F. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING AWARD

Mayor Sitnick presented Finance Director Bill Schaefer with the Certificate of Achievement for Excellence in Financial Reporting Award. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. The City of Asheville is proud to have received this award for the 20th year.

He also mentioned that Joseph D. Elkins, Account Senior, received the Award of Financial Reporting Achievement. Mr. Elkins was designated the individual primarily responsible for preparing the award-winning comprehensive annual financial report.

Ms. Patricia Leckey, Ms. Wynelle Hornsby, Ms. Leah Singleton, Ms. Lynn Ducker, Ms. Barbara Smith and Mr. Kevin Hymel were also recognized for their work in achieving the awards.

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 14, 2000, AND THE WORKSESSION HELD ON NOVEMBER 21, 2000

B. RESOLUTION NO. 00-214 - RESOLUTION FOR A FEE REDUCTION/WAIVER FOR THE BUNCOMBE COUNTY BOARD OF ELECTIONS "NO EXCUSE – ONE STOP VOTING PROGRAM"

Summary: The consideration of a resolution for a fee reduction/waiver for the use of metered parking spaces by Buncombe County Board of Elections.

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At the request of the Board of Elections, City staff set aside 11 metered spaces adjacent to the Board of Elections office on College Street for use by voters in connection with the No Excuse – One Stop Voting Program authorized by recently enacted law. The City's Fees & Charges Manual indicates a normal cost of using a parking meter space for an entire day is \$10.00 per space. However, the Fees & Charges Manual

also provides City Council the option to establish, by resolution, a cost for using a parking meter space for an entire day in association with a "Limited Event for Motor Vehicles."

The Buncombe County Board of Elections requested that the City waive the fees in connection with its use of the parking spaces for the program. The program, and therefore the use of the metered spaces, ended on November 8, 2000. The No Excuse – One Stop Voting Program qualifies as a Limited Event for Motor Vehicles for which special fees could be set by resolution. The Board of Elections has requested that the fees be waived entirely, but a waiver is not clearly permitted in the Fees and Charges Manual. However, there is no minimum fee prescribed and City Council may set the fee at \$0.00 for the Limited Event.

If it is Council's desire to set a special fee of \$0.00 for this Limited Event, City staff recommends adoption of the resolution.

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C. MOTION SETTING A PUBLIC HEARING ON DECEMBER 19, 2000, TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE PERMITTED HEIGHT FOR FENCES

D. MOTION SETTING A PUBLIC HEARING ON DECEMBER 19, 2000, TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE STANDARDS FOR ON-PREMISE SIGNS

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

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

CHANGE IN AGENDA

Vice-Mayor Cloninger moved to amend the agenda to hear at this time the presentation regarding the Asheville Honors Program. This motion was seconded by Councilwoman Bellamy and carried unanimously.

ASHEVILLE HONORS PROGRAM

Former Mayor Eugene Ochsenreiter explained a program that would recognize individuals and institutions in the City who over the years have played a prominent role in the City's growth and development.

There have been many individuals and institutions over the years who have assisted in the development and growth of Asheville. Individuals and institutions who have provided leadership in development, the arts, culture, the business world and in other ways have helped establish Asheville as a unique city in which to live, work and recreate. The purpose of the awards would be on an annual basis to select an individual(s) or institution(s) to be honored by the City for their contributions and to hold an appropriate awards ceremony to confer the awards.

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City staff has met with Mayor Sitnick, City Manager Westbrook, Ms. Sara Bissette and Ms. Harriette Winner to discuss how such a program might work at the conceptual level. The group recommended that the awards be selected by an independent committee and presented on behalf of the City of Asheville by the Mayor and City Council at the appropriate time.

City staff feels this is a worthwhile endeavor and would provide an additional avenue to recognize individuals and organizations who are so important to the community. On November 14, 2000, City Council stated that

they would like to pursue an Asheville Honors type of program, and authorized the following steps: (1) Approved a mission statement for the committee; (2) Approved operating principles to guide the committee; and (3) Approved a modest budget (\$4,000) for the committee to begin their work and initially promote the program. City Council will appoint a chair and ask the chair to appoint members to the committee subject to Council approval.

On behalf of City Council, Mayor Sitnick thanked Mayor Ochsenreiter, Ms. Bissette, Ms. Winner, and City staff for working on this program.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE ADOPTION OF AN ORDINANCE DIRECTING THAT THE DWELLING LOCATED AT 135 MERRIMON AVENUE BE VACATED AND CLOSED

ORDINANCE NO. 2770 - ORDINANCE DIRECTING THAT THE DWELLING LOCATED AT 135 MERRIMON AVENUE BE VACATED AND CLOSED

Mayor Sitnick opened the public hearing at 5:50 p.m.

Mr. Jeff Baker, Housing Code Coordinator, said that 135 Merrimon Avenue is an older house across the street from DEAL Pontiac/Buick. There is a smaller cottage at the rear of the property. For the last 8 years 135 Merrimon has been a boarding house for low-income residents, offering shelter for folks that might otherwise be homeless and people trying to re-establish themselves from alcohol or drug abuse. The owner (Robert Janney and wife, Sara B. Krueger) provided a meal service and kept the rents low. This was an individual effort in that the owner had no alliances with non-profits providing similar services. The main house has 30 units and the rear house has 5 units. There are presently 33 tenants in the structure.

The following is an overview of some general information regarding this property: (1) Fair market value of dwelling is \$456,900; and (2) Estimated cost to repair and bring into Code compliance is \$179,000.

The facility is in disrepair. In January 2000 our inspectors found serious, life threatening violations of State and local ordinances. The owner responded to the life threatening violations by installing emergency lighting, door hardware, fire alarms, repairing the electrical system to the standards of the Housing Code and removing tenants from the third floor.

Other serious violations involved structural repair in the basement, egress requirements for the first floor, second floor and stairwell as well as numerous maintenance items having to do with windows, doors, gutters and failing paint. In March the Housing Office requested, but did not receive, an engineer's assessment and plans for bringing the building into conformance. The Housing Office then held a hearing and ordered that the building be repaired. Due to the significant amount of work involved, it was specified that at least 50% of those repairs be finished by August 1, 2000, 60 days from the date of the Order. Additionally the Order specified

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that should the owner fail to meet the terms of the Order that he must "vacate and remove all tenants from the dwelling structure without unnecessary delay, leaving the dwelling structure completely vacant and void of any and all occupants." As of August 1, 2000, and as of this date, no repairs to the critical areas of egress have been made, no engineer's report has been submitted and the owner had made no attempts to vacate the building. However, un-permitted work has been done to the structure of the building, which is of poor quality. Maintenance issues such as paint, rotten soffits, gutter repair work and window repair work have not been done.

The owner has maintained that he has no funds to make the necessary corrections in the buildings, he applied for and was denied a loan from the Housing Rehabilitation Office. As of today, the property at 135 Merrimon has been foreclosed upon. The new owners as of November 8, 2000, TM Equity Inc., (mortgage company) indicate that they have no interest in continuing the operation. To that end they indicated that they will issue eviction notices to the residents.

Whether the present owners or the City takes the action of eviction, the pressure is enormous for the area non-profits to find housing for these displaced people. The Housing Authority has over 100 vacant apartments; housing case managers from the Affordable Housing Coalition have offered individualized relocation assistance to the tenants, and at least 2 workshops at 135 Merrimon have been held. It should be noted that this situation has refocused community attention on the plight of individuals who wish a more stable dwelling than a homeless shelter yet cannot afford an apartment. We can appreciate that the residents at 135 Merrimon enjoy their independence and their accommodations even though they are substandard. It is very difficult for them to find other housing. This is an important issue and one that needs more attention by the Asheville community, indeed it is an integral part of the task at hand; however, it is not the question before us tonight.

The aim of Asheville's Housing Code is to ensure that all housing, including affordable housing, meets the City's minimum standards. The fact that 135 Merrimon is non-compliant and needs to be vacated lies squarely on the shoulders of the previous owner Robert Janney and wife, Sara B. Krueger. It is that owner that has collected rental moneys through the years and now finds his property both substandard and in default. He has opted not to do the required maintenance over the years. He neglected to make the required effort to work with the Housing Office more intensively for the last 10 months. It is that owner who bears the ultimate responsibility for displacing these residents and vacating a building that can best be described as a firetrap. The talk of the town may be critical of this action on the part of the City of Asheville, however, if this building were to burn down with a significant loss of life, those same voices would be asking why the City had not taken action. It is the position of this department that until such time that 135 Merrimon is brought into compliance, the buildings should be vacated. We respectfully request the City Council to pass the Ordinance before it. The Ordinance asks that authority be granted to the Director to order the buildings vacated and closed until the necessary repairs are made and the buildings are compliant with the Housing Code. Should the current occupants fail to comply with the Order to vacate then by this Ordinance the Director may then file a Small Claims Action for Summary Ejectment.

As noted, the ownership of the buildings has been transferred and the present owners have indicated their intent to vacate the buildings. In other words it may not be necessary to exercise the authority granted tonight. Events could unfold, however, whereby it becomes necessary for the City to take this enforcement action. If this should happen we would use the authority only after alternative housing has been offered to the tenants. Section 2 of the Ordinance reads "The Director of Building Safety Department is hereby ordered and directed to vacate and close the dwelling; however, the Director is hereby given authority to withhold implementing the provisions of this Ordinance until suitable housing can be made available to

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accommodate all tenants now residing at 135 Merrimon Avenue, Provided, however, nothing herein shall prevent the Director from proceeding to implement the requirements of this Ordinance."

Finally, the Housing Office has proactively tried to avoid this type of enforcement action and requests this authority only as a last resort. He asked that City Council hear the perspective of the Affordable Housing Coalition and the Housing Authority with regard to 135 Merrimon as we have collaborated with them on this case.

Upon inquiry of Councilwoman Bellamy, Mr. Baker said that they talked to the owner about the possibility of

lead-based paint and recommended he have the building tested for that.

When Councilman Worley asked for the specific violations that would be life threatening in nature, Mr. Baker said that the largest violations at this point is the fact that there are a total of four exits that do not comply with the State egress codes, including the central stairwell, which is basically a shaft. Those are the major problems, along with the structural problems in the basement – there is an 8x8 girder in the basement that is severely deteriorated that needs to be repaired.

Mayor Sitnick made it clear that the City's intent is not to put people out in the cold and the Housing Office has been working for quite some time with the Housing Authority and the Affordable Housing agencies to make sure that the people living there have a place to go. The responsibility here falls squarely on the owners who don't seem to think it's important to make a building safe.

Upon inquiry of Councilman Hay, Mr. Baker said that there is no representative from TM Equities Inc. at the meeting, nor are the prior property owners here.

Councilman Hay said that TM Equities Inc. is the mortgage company that foreclosed on the property. It is also his understanding that TM Equities Inc. is not going to make any repairs.

Mr. Baker said that TM Equities Inc. is trying to decide what to do with the property. It is clear to them that they do not want to run the operation as it is. Therefore, they have indicated to the City that they are interested in vacating the building. In the case that the building is not vacated, the City still needs to proceed along.

Mr. Baker said that they have been working with the Housing Authority and the Affordable Housing Coalition and they brainstormed any possible collaboration they could have, setting up some sort of non-profit to see if they could remedy the situation. However, the cost involved in making this particular building conform to the standards it has to, in order to hold that many people, are just prohibitive.

Councilwoman Field noted that if it were a different use, like a single-family residence it was designed as, or fewer than five tenants, the cost to bring the house up to Code would not be that significant.

Councilwoman Bellamy said that the housing non-profits are looking at what it would cost them to relocate each tenant and that cost is at least \$3,500 up to about \$8,000. Non-profits are looking at where would they get the money to just relocate the tenants, not including the cost it would take to bring the building up to Code.

Mayor Sitnick noted there are two separate issues here. One is to make a safe home for people to live in. The other is making sure that 33 people have a warm, safe place to live in the interim if the house is brought up to Code, or if not, permanently somewhere else.

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Ms. Karen Keenan, Executive Director of the Affordable Housing Coalition, said that the Affordable Housing Coalition would like to reaffirm our support of the City of Asheville and staff in your on-going efforts to ensure that all Asheville citizens can access safe and healthy housing. With the support of the City's Community Development Block Grant Program, HOME Program, Rehabilitation Program and the new Housing Trust Fund, non-profit organizations and private developers are diligently striving to meet our community's affordable housing needs. Two of these non-profit organizations, WNC Housing and Hospitality House are being honored here this evening for their commitment to developing quality, safe, healthy and affordable housing.

It is ironic that on the day that we celebrate our successes, we are facing the immediate challenge of

relocating 30-plus displaced residents. The greater frustration is that this situation was avoidable, if the property had received regular maintenance, if the Minimum Housing Code had been met or if corrective action had been taken by the property owner when the property was originally cited over 10 months ago, these 30-plus residents would not be looking for housing during the cold winter season. As City records reveal the Merrimon house property owner has been aware of the safety and minimum Code violations since January 2000. These violations are a page-and-a-half long and include: inadequate emergency egress, restrictive stairwells and hallways, and a structural system that is failing from a lack of maintenance. These residents are in danger everyday, and any one of these violations poses a real and serious threat to the health and safety of the residents.

These are mostly single adults, some with special needs, who are trying to retain their independence and dignity, and yes, most are working and living on a very limited income. As single adults, who are not elderly and don't have children, these residents generally go unnoticed in our community. Their housing requirements are minimal – a safe, dry room with heat, meals and a clean bathroom. This is not a lot to ask.

For many years, the residents of the Merrimon house have continued to pay rent and in return their only expectation was that the owner would uphold his end of the contractual agreement, by providing safe health shelter and a meal. As we are pointedly aware, this expectation has not been met, and as a result, we are all working to assist these persons in finding new residences. Even with the support of the Housing Authority, Hospitality House, Asheville Housing Coalition, and others, the influx of this many citizens to an already stressed market is proving to be more than the current market can bear. And as you are also aware, in Asheville this challenge is compounded by several factors: Asheville has an overall rental vacancy of less than 3%; single room residences are even more limited in availability; our community's supportive housing programs do not always match the resident's needs; and as stated earlier, the majority of these residents are on fixed income with little or no savings for the standard relocation expenses, such as moving vans, rental deposits or damage deposits.

In closing Ms. Keenan said that the Affordable Housing Coalition is in total support of the City's staff in performing the difficult and often times thankless job of enforcing the City's minimum health and safety codes; that we will continue to challenge, encourage and collaborate with the City to pursue the critical funding necessary to address our affordable housing crisis; and that we will strive to ensure that safe affordable housing continues to be available to all Asheville residents.

Ms. Keenan noted that the previous owner did receive funds from his tenants and did not maintain the structure for years. And, as a result, the Asheville community is now striving to find resolution to this for the victims, the residents of the house.

Upon inquiry of Councilwoman Field on what has been done to try to find residences, Ms. Keenan explained that Mr. Baker has coordinated a real task force team - not only of her staff, but with the Blue Ridge Center, with Hospitality House, Housing Authority, etc. They have

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had phone calls from the general public saying they have rooms available. They are taking all of that information and counseling staff is meeting one-on-one with the tenants to try to find individual residences for these people to relocate - some temporary and some permanent. They now have five counseling staff working on this one project. There has been one that has been successfully relocated. Some of the residents have found alternative housing themselves, but it is a process of matching up the need to the resource and then the extra challenge is the relocation costs. Again, they are working with private individuals in the community that have vacancies on their own properties. This has been an on-going effort. Some of what are generally considered potential options do not meet the requirements of these resident's needs.

Councilwoman Field noted that the Housing and Community Development Committee needs to work on some single room occupancy projects.

Upon inquiry of Councilman Hay, Mr. Baker said that he didn't think that TM Equities Inc. was collecting rent from the tenants. Councilman Hay stated that he was trying to generate some money to help with the relocation costs. He felt the present owner should take some responsibility for the relocation costs.

Councilman Hay asked Mr. Baker is he had any feel on how long it would be before suitable housing could be made to accommodate the tenants. Mr. Baker said that he believed there was enough emphasis on the Affordable Housing Coalition that they will offer places fairly quickly. He noted, however, that their challenge is more immediate than his challenge, as Housing Code Coordinator, because TM Equity Inc. will be vacating the building.

Upon inquiry of Councilman Worley, Mr. Baker said that they will not ask the tenants to put their suitcases on the sidewalk. However, he encouraged the tenants to do whatever they can to find another place to live, and they will do whatever they can to help them find a place to live.

Councilwoman Bellamy suggested that one or two tenants be on the task force to represent the great majority of the tenants who will be displaced. She also pointed out that there is \$137,000 of unallocated Community Development Block Grant (CDBG) funds. She was not suggesting that the City put it all in relocation costs, but a representative from the Housing & Community Development Committee should attend the task force meeting and see what the City can do to help the situation.

Mr. Gene Bell, representing the Housing Authority of the City of Asheville, said they have obvious restrictions mandated by the Department of Housing & Urban Development as to who they can accept as residents in public housing. What they are entertaining now is potentially renting a group of units out to a non-profit and in that way, they would have the relationship with the non-profit and not with the individual (who may be excluded from applying due to a drug or some other criminal charge). They are currently working on that.

Councilwoman Field noted that another issue is that even if someone were to try to bring the building up to Code, it would require vacating the building in order to do it.

Mayor Sitnick asked if there was some legal avenue that could be pursued to attach the assets of the former owner in order to create the money necessary to quickly repair the building so that the residents could move back in. Assistant City Attorney Martha McGlohon said that there is nothing legally that the City can do against the previous owner. In fact, the former owner is in substantial debt and practically financially bankrupt.

A representative from Pisgah Legal Services said that the tenants have a legal avenue that they could seek rent abatement against the previous property owner for the time period they

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lived in the house. They can do that individually or as a class action. She said at this time they have only been approached by one resident who has taken an application with them and has been advised as to his legal rights in that matter. At least one other resident did take an application but did not meet their financial requirements.

Ms. Paula Simonton, current resident and representative of the tenants at 135 Merrimon Avenue, said that due to unforeseen circumstances the current residents of 135 Merrimon Avenue now know that they are in desperate life-threatening relocation straits. Because there is no affordable housing in Asheville for any of them at a monthly income of under \$550, this decision of forced closure should be addressed by not only them, but the community of concern in Asheville. The displacement of 38 adults, mostly single, disabled

either mentally or physically and those on fixed incomes, seems quite cruel. They realize there are agencies that are established to help place people like them, but at this date there are no available units. They have checked all avenues that they are aware of for a solution. According to the Affordable Housing Coalition, Blue Ridge Mental Health and the Department of Social Services, there are no units that they could move into in Asheville because there are none. They asked City Council if they had any other options or comments to help them.

Mr. Walter Gwinn, former general manager of the Merrimon House properties, said that he has a copy of the list of violations which indicate all the problem areas that have been completed that Mr. Baker failed to mention. If he did not do the work himself, he supervised the work being done. The majority of the violations have been completed, other than those we do need permits for, such as the alarm system – that has been corrected. We have a complete electronic fire alarm system. He has taken a fire safety training course and he has fire safety personnel who are trained to help evacuate the residents. He is also an Emergency Medical Technician and Ms. Simonton, who just spoke, is a Certified Nursing Assistant (CNA). We have two other CNA's that are also on staff. We have medical equipment there if someone gets injured. I have been affiliated with the Merrimon House properties for about 11 years and he knows what Mr. Janney has gone through these 11 years. He personally felt that Mr. Janney has one of the biggest hearts of anybody in the world. A lot of the financial problems he is in is because he didn't have the heart to evict people because they couldn't pay the rent. He presented City Council with a list of the violations, noting the ones that have been taken care of.

Mr. Walter Plowie, representative of the Carolina Real Estate Investors Association, said that having participated in the CDBG and HOME planning process for the last year and a half he has gained some insights. He suggested some CDBG or HOME funds be reallocated to this new need.

Mayor Sitnick closed the public hearing at 6:47 p.m.

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

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2770, with the following amended Section 2 being inserted in the Ordinance: "The Director of Building Safety Department is hereby ordered and directed to vacate and close the dwelling; however, the Director is hereby given authority to withhold implementing the provisions of this Ordinance until suitable housing can be made available to accommodate all tenants now residing at 135 Merrimon Avenue, Provided, however, nothing herein shall prevent the Director from proceeding to implement the requirements of this Ordinance." This motion was seconded by Councilman Worley.

Councilman Worley said this was a difficult situation, however, in reality when you look at the Housing Code, we really don't have a choice. We have to enforce our Housing Code in situations that are truly life-threatening. It is apparent that the Housing Office has done

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everything possible to try to get this situation corrected before bringing it before City Council. He has even included in the ordinance provisions that allow the tenants to continue to remain there in one further effort to find suitable housing for them before this building is vacated. It may actually be moot, in that there is now a new owner for the property who has also indicated an intent to vacate the property. We may not have to actually enforce the ordinance ourselves. But he feels we are left with very little choice, given the seriousness of the violations and the life-threatening situation that exists there.

City Attorney Oast explained why he felt there should be a sunset provision included in Section 2 of the

ordinance. He suggested some language be inserted in the ordinance such that if the property is not either vacated by the current owner or voluntarily by the tenants within a period of time, then the Building Safety Director is directed to vacate and close the structure, provided that he does not surrender his authority to vacate and close the structure within that time period.

Mr. Baker again encouraged the tenants to take much haste in moving out as they can and if City Council does include a sunset provision, he would suggest 90 days.

Upon inquiry of Councilman Hay, City Attorney Oast said that there are civil penalties associated with TM Equities Inc. presently allowing occupancy of a building that is in violation of the Housing Code.

City Attorney Oast then read a revised Section 2, as follows: "The Director of the Building Safety Department is hereby ordered and directed to vacate and close the dwelling, provided that the Building Safety Director may withhold from enforcement of this Ordinance for a period of 90 days to facilitate efforts to relocate current tenants and to enable the current owner to initiate appropriate legal action to vacate and close the structure for those tenants who do not relocate voluntarily. If, within that period, the structure is not vacated or appropriate legal proceedings have not been initiated to affect such vacating and closing the building, the Building Safety Director shall immediately initiate appropriate legal proceedings to vacate and close the structure. Provided however, that nothing herein shall prevent the Director from proceeding to implement the requirements of this Ordinance."

Councilman Hay did not want to relieve TM Equities Inc. of any legal responsibilities they have at this point in time. City Attorney Oast what we are essentially doing is creating a window to allow them to exercise their own legal remedies.

Councilman Worley was a little concerned about putting too much pressure on TM Equities Inc. in the sense that it might force them to vacate almost immediately without any window of opportunity for arrangements to be made to locate other alternative housing.

Vice-Mayor Cloninger moved to amend his motion to include the revised Section 2 as read by the City Attorney with the sunset provision language. Councilman Worley, who seconded the motion, agreed with the amendment.

Councilwoman Bellamy said that as a strong affordable housing advocate, this issue is very disheartening to her. When she visited the site she saw the amount of work to be done to bring the house at least up to livable standards. If the property had received regular maintenance, it would not be in the condition it is now. The Minimum Housing Code has been in effect for approximately five years and for the prior property owner to say he had only ten months to bring the house up to Code is not true. He should have been working on it for five years. He has given affordable housing a bad reputation and she stressed this is not typical affordable housing. She calculated that the prior property owner had collected over \$31,000 in rent from the tenants for the past ten months.

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Councilman Peterson agreed with Councilwoman Bellamy, noting that the building is a safety threat to the residents. He felt City Council has the duty to protect it's residents from this sort of danger. He feels like the previous property owner and potentially the current property owner are leaving it up to the City to do the dirty work because they are not willing to do something themselves about this. It's unfortunate.

Councilwoman Field noted that this is a private property owner and not a non-profit. This is the kind of project that gives a bad reputation to all the projects that are done well. The other thing we need to consider is the needs of this segment of our community for single room occupancy. She said that the Housing &

Community Development Committee will be looking at some reallocation of HOME funds, but those funds have significant strings attached and cannot be used for this particular purpose. But, it is possible we can look towards some other places to help out. She asked Mr. Baker to give the Housing & Community Development Committee a report in December so they know how this is moving along.

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

ORDINANCE BOOK NO. 19 – PAGE 10

B. PUBLIC HEARING TO CONSIDER AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE PROCEDURE FOR THE REVIEW OF LEVEL III SITE PLAN REVIEW PROJECTS

ORDINANCE NO. 2771 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE PROCEDURE FOR THE REVIEW OF LEVEL III SITE PLAN REVIEW PROJECTS

Mayor Sitnick opened the public hearing at 7:06 p.m.

Chief Planner Gerald Green said that this is the consideration of an amendment to the Unified Development Ordinance (UDO) to revise the procedure for the review of Level III site plan review projects. This public hearing was advertised on November 17 and November 24, 2000.

Several months ago, City Council directed staff to pursue several concepts for streamlining the public hearing process for cases coming before Council. This proposed ordinance amendment was developed pursuant to that direction. The proposed ordinance amendment would revise the process for the review of Level III site plan review projects. These projects are residential projects of more than 50 units, commercial, office, and institutional projects of more than 100,000 square feet gross floor area, and industrial projects with a site area of more than 15 acres. The UDO identifies Level III site plan review projects as conditional uses, requiring the issuance of a conditional use permit by City Council. The current review process has two steps, the review of the site plan for technical compliance with City standards by the Technical Review Committee (TRC) and a public hearing, with final decision, by City Council. With this process, the first opportunity for public discussion and review of the proposed Level III projects is at the City Council meeting. Issues are often identified at the public hearing that take some time to resolve, resulting in lengthy public hearings. The technical approval of detailed site plans by TRC prior to the City Council public hearing results in the impression that the plans have already achieved a significant level of approval.

In revising the Level III site plan review process, the Planning and Development staff sought to achieve the following goals:

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- Provide an additional opportunity for public input;
- Provide an opportunity for identification and resolution of issues and concerns prior to review of the site plans by City Council; and
- The revisions should result in no increased cost (time/money) for the applicants.

These goals were met by the revised the Level III site plan review process, which calls for:

- Review of the conceptual site plan by the TRC. The conceptual site plan will provide details on those issues of concern to decision-making bodies and the public but will not require detailed engineering or design, thus reducing the cost of plan preparation;

- Review of the conceptual site plan, with public hearing, by the Planning and Zoning Commission;
- Opportunity for resolution of issues/concerns identified at the public hearing before the Planning and Zoning Commission;
- Review of, and final decision on, the conceptual site by the City Council at a public hearing. If the conceptual site plan is approved, a conditional use permit would be issued by the City Council; and
- Review of detailed site plan by the TRC.

The revised Level III site plan review process identified in the ordinance amendment meets the goals established by the staff, resulting in an improved process that will better meet the needs of the community.

The Planning and Zoning Commission voted 7 to 0 to recommend approval of the wording amendment revising the review process for Level III site plan projects. The Planning and Development staff recommends approval of the wording amendment.

Councilman Hay asked if City Council could consider testimony, issues, comments and conversations from the Planning & Zoning Commission public hearing. City Attorney Oast replied "no" but the minutes of the hearing are public record and can be entered into the record at the City Council public hearing. He would not recommend City Council attending the Planning & Zoning Commission public hearing. He felt that City staff will do an adequate job of conveying the sense of the discussion of that meeting to City Council at their public hearing.

When Councilman Hay asked if some of the issues could be addressed at a worksession prior to the public hearing, as is done with UDO amendments, City Attorney Oast said that he would look into that process.

Councilman Hay asked where does the traffic impact study fit into the conceptual site plan process. Mr. Green said that the list of information required for the conceptual plan does not include the traffic impact analysis, however, it does include the catch-all of all other information determined by the Planning and Development Director as necessary to evaluate the request. That would provide City staff with the leeway to evaluate those projects on a case-by- case basis based on the projected traffic impact. He felt they would have enough information in the conceptual plan to determine early on if a traffic impact analysis would be required because he felt key factors in doing traffic impact analyses are the square footage of the proposed development and the type of development.

Mr. Max Haner, Chairman of the Planning & Zoning Commission, spoke in support of the proposed amendment.

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At 7:25 p.m., Vice-Mayor Cloninger moved to excuse Councilwoman Bellamy from the meeting. This motion was seconded by Councilman Worley and carried unanimously.

Mr. Ned Guttman, speaking for the Redwood Forest homeowners, said that he agreed with the concept, however, they would like to see interested citizens getting involved in the process prior to the project going to the TRC. He suggested it be mandatory that a structured meeting with developers, Planning staff and interested citizens be included in the ordinance so that concerns can be addressed from the start. He also felt the public should be involved in the detailed plans because he felt that the TRC may not have the expertise, experience and knowledge of certain issues to make an informed judgment.

Upon inquiry of Councilman Peterson, Mr. Green read the information that will be required on the conceptual site plan.

Ms. Wanda Adams, resident of the Grove Park residential area, spoke in support of this proposed amendment and felt it would increase public participation.

Ms. Sharon Martin, resident of Montford, was concerned that the public would not have access to the detailed site plans, noting that the public may have some expertise that the TRC does not have.

Upon inquiry of Mr. Adam Balus, Mr. Green said that any standard for which a variance would be required would be identified on the conceptual plans and City staff would require that the variance be granted prior to bringing those plans to the City Council for final review.

Ms. Rebecca Campbell, east Asheville resident, felt there should be a broader range and more notice to area property owners and citizens when a zoning change is requested. In addition, she requested detailed site plans be made available to the public prior to the City Council public hearing and strongly encouraged a meeting with interested citizens and developers be mandated.

Mr. Green noted that the ordinance strongly encourages developers to meet with the neighborhood and the Planning and Development Department is working on ways to increase public notification.

Mr. Gerry Hardesty spoke in support of the proposed ordinance and requested the Planning & Zoning Commission meeting agendas be widely advertised.

Mr. Mike Moody, east Asheville resident, felt developers should provide as much information as possible up front so the Planning staff and the public has an opportunity to review as much of the project as possible.

Mr. Green stated that the TRC is composed of representatives from the Water Resources Department, the Metropolitan Sewerage District, the Engineering Department, the Fire Department, the Public Works Department and the Tree Commission. He stressed the role of the TRC is to review the plans for their compliance with the technical requirements of the ordinances and the technical requirements of any conditions City Council places on the particular project.

Mayor Sitnick closed the public hearing at 8:02 p.m.

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

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Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2771. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE 12

C. PUBLIC HEARING TO CONSIDER AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE SETBACKS FOR MULTI-FAMILY STRUCTURES

ORDINANCE NO. 2772 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE SETBACKS FOR MULTI-FAMILY STRUCTURES

Mayor Sitnick opened the public hearing at 8:03 p.m.

Chief Planner Gerald Green said that this is the consideration of an amend to the Unified Development Ordinance (UDO) to revise the setbacks for multi-family structures. This public hearing was advertised on November 17 and 24, 2000.

The proposed ordinance amendment would revise the setback requirement for multi-family structures.

Currently, all multi-family structures must comply with increased setback requirements regardless of the adjacent land use. The setback is based upon the number of units in the multi-family structure or development. While this requirement for additional setback has buffered single family uses from large-scale multi-family developments, it also has resulted in the inefficient use of land, the physical separation of multi-family neighborhoods from each other, and the undesirable scattering of open spaces across development sites. The draft ordinance amendment eliminates the requirement for additional setbacks for multi-family structures when they are located adjacent to other multi-family structures or non-residential uses. When multi-family structures are located adjacent to single-family uses, additional side and rear setbacks of 2 feet for each unit more than one in the structure is required. Duplexes, triplexes, and quadraplexes are exempted from the requirement for additional setback when located adjacent to single family uses. This exemption is due to the small scale and minimal impact of these small multi-family structures. In addition, these small scale multi-family structures are conditional uses in single family districts, permitting a case-by-case review of design standards. The proposed ordinance amendment should result in the more efficient use of land, the more even distribution of open spaces, and elimination of physical barriers between multi-family neighborhoods.

The Planning and Zoning Commission voted 7 to 0 to recommend approval of the wording amendment revising the setback requirements for multi-family structures. The Planning and Development staff recommends approval of the wording amendment.

Mayor Sitnick closed the public hearing at 8:05 p.m.

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

Councilman Worley moved for the adoption of Ordinance No. 2772. This motion was seconded by Councilwoman Field and carried unanimously.

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D. PUBLIC HEARING TO AMEND FISCAL YEAR 2000 AND PRIOR YEARS COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME ALLOCATIONS

RESOLUTION NO. 00-215 - RESOLUTION APPROVING AMENDMENTS TO THE CONSOLIDATED ACTION PLANS FOR THE HOME AND COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS

Mayor Sitnick closed the public hearing at 8:06 p.m.

Community Development Director Charlotte Caplan said that this is the consideration of amendments to the allocation of CDBG and HOME funds in the City's Consolidated Action Plan for FY 2000 and prior years. This public hearing was advertised on November 17, 2000.

The City's Consolidated Action Plan, approved in May each year, allocates our annual entitlement of Community Development Block Grant (CDBG) and HOME funds to specific projects. The Plan covers a four-county area where the City administers HOME funds for the Asheville Regional Housing Consortium. From time to time, amendments are needed to deal with cancelled projects, cost over-runs, new urgent projects, or differences between actual and estimated program income.

At this time, staff recommends the following amendments:

- 1. Cancellation of Thoms Life House Apartments project (FY 2000).** Thoms Hospital has withdrawn its

application for \$300,000 in HOME funding for a 20-unit transitional housing facility for people with spinal cord injuries because other funds necessary to the project were not committed in time. We expect that this project will be resubmitted for funding in 2001.

2. **Increase funding for Buncombe County Rural Rehabilitation program (FY 2000).** \$100,000 in HOME funds is added to this program, operated by Mountain Housing Opportunity, to substantially rehabilitate approximately five owner-occupied houses in rural Buncombe County (locations to be determined). Buncombe County Commission has requested this re-allocation of funds originally committed to Thoms Life House.
3. **New HOME grant to WNC Housing, Inc (FY 2000).** A grant of \$40,000 in HOME funds is recommended to fill a gap in development financing for a group home for 5-6 very low income people with hearing and/or vision loss, now under construction on Clearview Terrace in Asheville
4. **New HOME grant to Mountain Housing Opportunity for predevelopment expenses (FY 2000).** A loan of \$23,000 to pay for the expenses of developing and submitting two projects for Low Income Housing Tax Credit financing in 2001. Costs include market studies, appraisals, and site option fees. Sites to be determined.
5. **Cancellation of Contractor Development Program (FY 1997).** In 1998 Neighborhood Housing Services started a program with \$12,500 in CDBG funds to help construction workers become independent contractors. Two people were assisted with training, at a total cost of \$2,007 dollars, but have decided not to proceed further. The remaining \$10,493 is to be re-allocated.

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6. **Increase funding for NHS Apartment Development (FY 1997).** \$10,493 in CDBG funds is added to this program to meet cost over-runs on the development of 16 apartments currently

under construction on three separate sites on Broad Street and Montford Avenue in Asheville.

7. **Change of sub-recipient for World Changers Program (FY 1999).** Cancel the Neighborhood Housing Services World Changers Repair Program (\$14,655 in CDBG funds) and re-allocate those funds to the Neighborhood Housing Services Apartment Development Program.

Financial Summary of Proposed Amendments

Year	Project	