

- [Planning & Development Staff recommend approval of the conditional use rezoning with the following conditions:](#)

Tuesday – October 23, 2001 - 5:00 p.m.

Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; Councilwoman Terry Bellamy; Councilwoman Barbara Field; Councilman Edward C. Hay Jr.; Councilman Brian L. Peterson (arrived at meeting at 5:15 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.

MISCELLANEOUS ITEMS

Councilwoman Field thanked everyone for their kind thoughts, letters and cards regarding the recent passing of her father Mr. Stanton Field.

Mayor Sitnick thanked the City volunteers who worked on the NC League of Municipalities meeting held in Asheville on October 13-16, 2001.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING OCTOBER 28 – NOVEMBER 4, 2001, AS "PORNOGRAPHY AWARENESS WEEK"

Mayor Sitnick read the proclamation proclaiming October 28-November 4, 2001, as "Pornography Awareness Week" in the City of Asheville. She presented the proclamation to Ms. Gail Harding, who briefed City Council on what can be done to combat pornography.

II. CONSENT:

Due to a conflict of interest, Vice-Mayor Cloninger asked that Consent Agenda Item B be removed from the Consent Agenda.

Due to conflict of interest, Councilwoman Bellamy asked that Consent Agenda Item C be removed from the Consent Agenda.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 10, 2001

B. RESOLUTION ACCEPTING THE STREET MAINTENANCE OF COLE RIDGE ROAD

This item was removed from the Consent Agenda due to a conflict of interest.

C. MOTION SETTING A PUBLIC HEARING FOR NOVEMBER 13, 2001, TO AMEND THE COMMUNITY DEVELOPMENT BLOCK GRANT/HOME CONSOLIDATED ACTION PLAN

This item was removed from the Consent Agenda due to a conflict of interest.

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

ITEMS REMOVED FROM THE CONSENT AGENDA DUE TO A CONFLICT OF INTEREST

RESOLUTION NO. 01-157 - RESOLUTION ACCEPTING THE STREET

MAINTENANCE OF COLE RIDGE ROAD

Councilman Worley moved to excuse Vice-Mayor Cloninger from participating in this matter due to a conflict of interest. This motion was seconded by Councilwoman Bellamy and carried unanimously.

Summary: The consideration of a resolution to accept Cole Ridge Road as a public right-of-way and City maintained street.

Section 7-15-1(f)-4.a requires that streets dedicated for public use be accepted by resolution of City Council.

Cole Ridge Road is a newly constructed street servicing residential structures. The street has been constructed and inspected in accordance with the City of Asheville Standard Specifications and Details Manual. The street is a dead end street that is approximately 1276 feet long and has an average width of 18 feet.

The developer is required to provide a two year warranty for major repairs to the street from the date of City Council's acceptance of the street.

Following City Council's approval of this resolution, Cole Ridge Road will be added to the official Powell Bill list.

Staff request City Council accept Cole Ridge Road as a public right-of-way and City maintained street.

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

Councilman Worley moved for the adoption of Resolution No. 01-157. This motion was seconded by Councilwoman Bellamy and carried unanimously.

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MOTION SETTING A PUBLIC HEARING FOR NOVEMBER 13, 2001, TO AMEND THE COMMUNITY DEVELOPMENT BLOCK GRANT/HOME CONSOLIDATED ACTION PLAN

Vice-Mayor Cloninger moved to excuse Councilwoman Bellamy from participating in this item. This motion was seconded by Councilman Worley and carried unanimously.

Councilman Worley moved to set a public hearing on November 13, 2001, to amend the Community Development Block Grant/HOME Consolidated Action Plan. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING ON THE CONSIDERATION OF THE VOLUNTARY ANNEXATION OF A CONTIGUOUS AREA KNOWN AS BRAESIDE, SECTION 6 OF BILTMORE PARK

ORDINANCE NO. 2862 - ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE AREA KNOWN AS BRAESIDE, SECTION 6 OF BILTMORE PARK

Mayor Sitnick opened the public hearing at 5:17 p.m.

Urban Planner Paul Benson said that this is the consideration of an ordinance to extend the corporate limits of the City of Asheville on property located west of Overlook Road and identified as Braeside, Section 6, Biltmore Park. This public hearing was advertised on October 12 and 19, 2001.

Biltmore Farms, Inc. and four other property owners have submitted an annexation petition for Braeside, Section 6, Biltmore Park. This area is north of and adjacent to Braeside, Section 5, which has been previously annexed and is within the corporate limits. Biltmore Park is generally located west of Overlook Road and north of Long Shoals Road. This annexation is pursuant to an agreement between Biltmore Farms Inc. and the City of Asheville.

The area proposed for annexation consists of 17.4 acres and is platted for 10 single-family residential lots. The area will be accessed by Braeside Circle, Braeside Lane and South Braeside Court.

Utilities and streets are being developed by Biltmore Farms Inc. City services will begin on the effective date of annexation. Biltmore Farms, Inc. has requested that the effective date of annexation be six months from the adoption of the ordinance.

City staff recommends City Council adopt an ordinance extending it's corporate limits to the area known as Braeside, Section 6, Biltmore Park.

Upon inquiry of Councilwoman Bellamy, City Manager Westbrook said that he would provide Council with how much tax base has been added to the City as a result of the 22 Biltmore Park voluntary annexations.

Mayor Sitnick closed the public hearing at 5:21 p.m.

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

Councilwoman Bellamy moved for the adoption of Ordinance No. 2862. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

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B. PUBLIC HEARING TO REZONE 9 WEDGEFIELD DRIVE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT

ORDINANCE NO. 2863 - ORDINANCE TO REZONE 9 WEDGEFIELD DRIVE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT

Mayor Sitnick opened the public hearing at 5:22 p.m.

Urban Planner Paul Benson said that this is the consideration of an ordinance to rezone the Super 8 Motel at 9 Wedgefield Drive from RM-16 Residential Multi-Family High Density District. to Community Business II District. This public hearing was advertised on October 12 and 19, 2001.

The City staff has initiated this rezoning to implement the original intent of the staff to zone all of the hotels in the Wedgefield Drive/Rocky Ridge Road area of the recent extraterritorial jurisdiction (ETJ) extension Community Business II. During the zoning process for the 1,163 properties in the "west" ETJ area, the Super 8 property was unintentionally zoned RM-16. The Planning and Zoning Commission, at their October 3, 2001, meeting, reviewed, and by unanimous vote, recommended this rezoning.

Staff has received no comments of concern or opposition to the proposed rezoning.

The Planning and Development staff and the Planning and Zoning Commission recommend that City Council adopt an ordinance rezoning the property at 9 Wedgefield Drive from RM-16 Residential Multi-Family High Density District to Community Business II District.

Mayor Sitnick closed the public hearing at 5:25 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. 2863. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

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C. PUBLIC HEARING TO PERMANENTLY CLOSE CHERRY STREET FROM MARIGOLD STREET TO SHILOH ROAD

RESOLUTION NO. 01-158 - RESOLUTION TO PERMANENTLY CLOSE CHERRY STREET FROM MARIGOLD STREET TO SHILOH ROAD

Mayor Sitnick opened the public hearing at 5:25 p.m.

Mr. David Foster, Project Coordinator for the Public Works Department, said that this is the consideration of a resolution to close the unopened right-of-way known as Cherry Street. This public hearing was advertised on September 28, October 5, 12, and 19, 2001.

According to N. C. Gen. Stat. sec. 160-299, a City has the authority to permanently close a street or alley without regard to whether it has actually been opened.

To proceed with this process, Matney and Associates Law Firm, on behalf of M Realty Limited Partnership, has requested to close Cherry Street.

Public Works Department staff has determined that the right-of-way known as Cherry Street, beginning at Shiloh Road, and ending at the Marigold Street, as shown on Plat Book 6 at Page 137, is not part of an adopted street plan and is not a City maintained right-of-way.

City staff recommends City Council adopt the resolution to close the unopened right-of-way known as Cherry Street.

Ms. Norma Baynes, representing the Shiloh Community Association, stated their concerns are what the property owner will do if this portion of road is closed. At one time the owner wanted to build a parking lot and City Council denied that request, so they just want to make sure this will not permit him to do that.

Planning & Development Director Scott Shuford said that the unopened right-of-way will revert back to the property owners on either side of the right-of-way. This closing does not change the underlying zoning which is single-family residential. It is his understanding that Mr. Morosani (property owner) is pursuing some form of residential development of that property that fronts on Shiloh.

Mayor Sitnick was concerned that if Council closes the right-of-way now and in the future the owner comes back and asks that this property be rezoned for commercial development or a parking lot, then this would take away one of the impediments. Mr. Shuford responded that if Council were interested in a rezoning that would allow something to occur there and they were willing to take that action, they would probably also be willing to take the street closing action that is being proposed now.

Councilman Peterson wondered if by leaving the right-of-way open, would it be easier for someone to build another residence in the back part of the lot. Mr. Shuford said that there would be the possibility of getting additional lots in the interior but it would be an expensive proposition because they would have to build a public street to serve what would amount to probably no more than four additional lots.

Councilman Hay felt that the concern here is that this may be a different way to get a parking lot built in this area when City Council denied the commercial proposal several months ago. He didn't feel this closing would allow that to occur.

Councilwoman Bellamy confirmed that if Mr. Morosani wants to do something on that property other than residential he will have to come back to City Council.

Mayor Sitnick closed the public hearing at 5:45 p.m.

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

Vice-Mayor Cloninger moved for the adoption of Resolution No. 01-158. This motion was seconded by Councilman Hay and carried unanimously.

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D. PUBLIC HEARING TO CONSIDER THE CONDITIONAL USE REZONING FOR PROPERTY ON CHARLOTTE STREET AT GROVE PARK FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT AND RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS DISTRICT/CONDITIONAL USE

ORDINANCE NO. 2864 - ORDINANCE TO REZONE PROPERTY ON CHARLOTTE STREET AT GROVE PARK FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT AND RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS DISTRICT/CONDITIONAL USE

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ORDINANCE NO. 2865 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY ON CHARLOTTE STREET AT GROVE PARK

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

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 issue the conditional use permit on the same night.

After hearing no questions about the procedure, Mayor Sitnick opened the public hearing at 5:47 p.m.

Ms. Stacy Merten, Urban Planner, submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners), City Exhibit 3 (Staff Report dated 10-23-01). This public hearing was advertised on October 12 and 19, 2001.

Ms. Merten said that this is the consideration of an ordinance to conditionally rezone property located on Charlotte Street at Grove Park from RS-4 Residential Single-Family Medium Density District and RM-6 Residential Multi-Family Low Density District to Neighborhood Business/Conditional Use.

On August 22, 2001, the City of Asheville submitted an application for conditional use rezoning of the E. W. Grove Park and Office Building as Neighborhood Business/Conditional Use (PIN No. 9649.11-66-1122). The parcel is currently split zoned RS-4 and RM-6 (Location Map attached to City Exhibit 3). The 3.16 acre site is located between Charlotte Street and Gertrude Place, north of Celia Place. The office building is located at the southeast corner of the property near the intersection of Charlotte Street and Celia Place. The park is in the middle of a residential neighborhood and surrounded by RS-4 and RM-6 zoning.

The conditional use zoning would allow the Preservation Society of Asheville & Buncombe County to occupy the building for their headquarters office (Proposed Site Drawing attached to City Exhibit 3). The building has been vacant for over 10 years and is suffering from deterioration and neglect. The Preservation Society has proposed to undertake the restoration at a cost of approximately \$80,000, in exchange for a long-term lease of the building from the City. The building will not be altered except to allow handicap access, replacement of all mechanical system and general maintenance and repair to both the interior and exterior. The Preservation Society would also like to make a small conference room in the building available, as a meeting place, for other groups such as neighborhood and community associations.

As proposed under this conditional use zoning request, the use of the building would be limited to use by the Preservation Society of Asheville & Buncombe County for office and community space (City Exhibit 4). In addition, the park area would remain in its current configuration and undeveloped state.

The Planning & Zoning Commission reviewed this project at their October 3, 2001, meeting and voted 6-1 to recommend approval of the project with conditions.

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City Council must take formal action as set forth in section 7-5-5(e) of the Unified Development Ordinance (UDO), and must find that all seven standards (this application was received prior to the recent changes adopted to the conditional use standards) for approval for conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case [UDO 7-16-2 (c)]. Staff's preliminary review, absent the benefit of public input, is that all seven standards appear to be met.

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The proposed use is the leasing of an existing building by the Preservation Society of Asheville & Buncombe County for use as an office and community center. The building is currently vacant and in a deteriorating state. The Preservation Society proposes to rehabilitate the building in accordance with state building code. The proposed use will not materially endanger the public health or safety if developed in accordance with the approved site plans and applicable regulations.

2. That the proposed use is reasonably necessary for the public health or general welfare, such as by enhancing the successful operation of the surrounding area in its basic community functions or by providing an essential service to the community or region.

The proposed use will greatly enhance the successful operation of the area by allowing an adaptive reuse of a previously vacant historic structure. The proposed use will allow the park to remain in use for the surrounding community and also provide a convenient location for community groups to meet.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The proposed use will be very low impact with no substantive changes to the existing park or building. It is not anticipated that the use would have a negatively affect on the value of adjoining or abutting property.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

As stated above, the proposed use will be very low impact with no substantive changes to the existing park or building and therefore in keeping with the existing character, scale and density of the neighborhood.

5. That the proposed use or development of the land will generally conform to the Comprehensive Plan and other official plans adopted by the City.

The Comprehensive Plan indicates residential and institutional uses for this area.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

The proposed use is located in an existing building in a developed area. The project received approval from City's Technical Review Committee, including the Water Resources Department, the Fire Department, MSD, Engineering and Public Works. Due to the minor level of traffic activity under this request, no traffic impact analysis is required.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

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The existing building is less than 1,000 sq. ft. and will house one full time employee, who will secure a parking space at a nearby church. Traffic generation will be minimal.

Planning & Development Staff recommend approval of the conditional use rezoning with the following conditions:

- 1) Engineering & Planning staff should work with the Preservation Society to insure there is adequate on

street parking and to locate a spot for a handicap accessible parking space on the street.

2) The hours of operation should be limited from 7:30 a.m. to 10:00 p.m.

3) The existing undeveloped area of the park should remain undeveloped, per the site plan.

4) The building should be limited to use by the Preservation Society of Asheville & Buncombe County for office and community space.

Mr. Allen Fleishel, Executive Director of the Preservation Society, said that the Preservation Society thinks that the building and park is very significant to our local history and they will be good stewards of the property.

Ms. Harriette Winner, President of the Preservation Society, stated how excited they were to be able to restore this building. They have a letter from the Unitarian Church that allows them to use their parking space at anytime other than Sunday morning and whenever they have special events.

Mr. Bridgett Eckert, resident on Charlotte Street, felt the Preservation Society will be a good tenant for the building, however, asked that the hours of operation be more closely to reflect the actual hours of operation, e.g. 8:00 a.m. to 5:00 p.m. Monday through Friday.

Councilman Hay said that since the City actually owns the property, there will be a lease between the City and the Preservation Society in which things like hours of operation, etc., can be negotiated and made part of the lease.

Mr. Bill Wescott, Board Member of the Preservation Society, appreciated Council's support in helping them bring this building back to life. He said that meetings will be held in the building that lasts sometimes until 6:30 p.m. or 7:00 p.m.

There being no request for rebuttal, Mayor Sitnick closed the public hearing at 6:00 p.m.

City Attorney Oast said that the lease with the Preservation Society will be coming back to City Council for approval and specifics like hours of operation and parking can be dealt with at that time.

Vice-Mayor Cloninger moved to adopt Ordinance No. 2864 to rezone property on Charlotte Street at Grove Park from RS-4 Residential Single-Family Medium Density District and RM-6 Residential Multi-Family Low Density District to Neighborhood Business District/ Conditional Use. This motion was seconded by Councilman Worley and carried unanimously.

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Vice-Mayor Cloninger moved to adopt Ordinance No. 2865 granting the conditional use permit for E.W. Grove Park and Office Building with the following conditions: (1) Engineering & Planning staff should work with the Preservation Society to insure there is adequate on street parking and to locate a spot for a handicap accessible parking space on the street; (2) The hours of operation should be limited from 7:30 a.m. to 10:00 p.m.; (3) The existing undeveloped area of the park should remain undeveloped, per the site plan; and (4) The building should be limited to

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use by a tax exempt local historic preservation organization for office and community space; and to instruct the City Attorney to prepare the Order for the Mayor's signature. This motion was seconded by Councilman Worley and carried unanimously.

E. PUBLIC HEARING TO REZONE A PORTION OF PROPERTY LOCATED AT 1153 SWEETEN CREEK ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT

Mayor Sitnick opened the public hearing at 6:02 p.m.

Ms. Stacy Merten, Urban Planner, said that this is the consideration of an ordinance to rezone a portion of 1153 Sweeten Creek Road from RS-8 Residential Single-Family High Density District to Commercial Industrial District. This public hearing was advertised on October 12 and 19, 2001.

On August 28, 2001, Chris Jarrett submitted an application for the rezoning of the eastern portion of the property located at 1153 Sweeten Creek Road (PIN No. 9657.18-30-1919). The property is located on the east side of Sweeten Creek Road, between W. Chapel and Busbee View Road. The parcel is currently split zoned, with the front portion, adjacent to Sweeten Creek, zoned Commercial Industrial and the back portion zoned RS-8. The rezoning request is for the back portion of the property only, which is approximately 2.5 acres. The entire parcel is approximately 4 acres and 745 feet deep, extending into a residential neighborhood. The only access to the parcel is via Sweeten Creek Road.

In recognition of the unique nature of the parcel in question, Planning & Development staff recommend that the property be rezoned to Community Business II, instead of Commercial Industrial. CBII is designed to provide areas for medium to high-density business and service uses along major or minor thoroughfares. Although many of the uses allowed in CBII overlap with those allowed in CI, the CB II is a less intensive zone than CI and would provide a more appropriate transition from the existing portion of the property to the residentially zoned property surrounding the parcel. The Planning & Zoning Commission reviewed this at their meeting on October 3, 2001, and recommend 6-1 to approve with conditions that the parcel be rezoned CBII.

Ms. Merten said that the applicant's primary concern was not necessarily that did not really want the CI designation, but he was after

Councilwoman Bellamy pointed out several uses that would be allowed in the CBII district, including barber shops, salons, bars, nightclubs, convenience stores, etc.

Upon inquiry of Mayor Sitnick, Ms. Merten said that the applicant mainly wanted his property all zoned commercially so that it would be marketed as such, but he was not adamant that it be zoned Commercial Industrial.

Mr. Chris Jarrett, property owner, said that his main reason for this rezoning request is to get the property zoned the same for marketability. Prior to adoption of the Unified Development Ordinance most of the lot was zoned Commercial Industrial. He said that his property does not touch Rock Hill Road and noted that there currently exists housing that faces Rock Hill Road, with their back to his property.

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Upon inquiry of Councilman Hay, Mr. Jarrett explained that the property is not marketable as residential in the back because the person would have to drive through the industrial part first at the front of the lot to get to the residential part in the back of the lot.

Mr. Samuel Mohamed Abdu-Allah, speaking on behalf of his brother who lives on the corner of West Chapel Road and Rock Hill Road, felt that surrounding property owners did not want to be around commercial

development.

Ms. Annie W. Harrison, resident on Rock Hill Road, voiced concern over what will be built on the property if rezoned to Commercial Industrial.

Ms. Norma Baynes, representing the Shiloh Community Association, felt that the property is almost totally surrounded by residential homes and noted that if the property is zoned something other than residential, there will be increased traffic on the area roads.

Mr. Ben Baker, realtor speaking on behalf of Mr. Jarrett, spoke in support of the rezoning request. He noted that it would really be hard to develop the rear part of the property as residential when you have to access it through a heavy commercial area. Allowing the property to remain residential, with the access problem, would create a hardship on Mr. Jarrett as far as the value of the property is concerned.

Upon inquiry of Councilman Hay, Mr. Baker said that even zoning the back portion multi-family residential would still have the same problem of having people access their homes through a commercial area.

Upon inquiry of Councilwoman Field, Ms. Merten said that buffering requirements between the two zones would range from 15 feet to 30 feet, depending on the use and the intensity of the use. If the property remains split zoned, a buffer will still be required between the uses if the back portion is developed.

Councilman Worley asked if there has been any discussion with the applicant about the desirability of waiting until there is a proposed use and then going forward with a conditional use permit (CUP). Ms. Merten said that it was discussed with the applicant, however, he preferred to request the straight rezoning of the property, because it's her understanding that they do intend to sell the property. Mr. Baker also responded that in not knowing what the zoning will be, it severely affects the marketability of the property.

Mr. James Harrison spoke against the requested rezoning and asked Council to keep the property zoned residential because of the number of uses which are allowed even under the Community Business II District.

Ms. Merten responded to Councilman Peterson's question about size limitations in the CBII District.

When Mr. Keith Thomson wondered if this would be good for the new Urban Village District, Mr. Shuford said that the Urban Village District is a 10-acre minimum and this entire parcel is only four acres. In addition, it does not meet some other criteria for the new district.

Mr. Shuford said that this property would best be handled through a conditional use rezoning where you had a particular use and you could address those concerns. He said that Planning staff recognized that right at the start but they also recognized too that the applicant was not interested in developing the property. The compromise, recognizing that it was a split-zoned lot, was to try to go to a commercial (Community Business II) classification that would signal to any prospective buyer that something more intense than an RS-8 zoning would be acceptable to

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the City. But, at the same time, be less intensive than the Commercial Industrial in order to encourage the ultimate owner to come back and do a conditional use rezoning. Another alternative might even be CB I, which would be much less intense and probably result in that same thing.

Upon inquiry of Councilman Worley, City Attorney Oast said that ordinarily you can't have something in a conditional use classification for which a use is not specified.

Along those lines, City Attorney Oast said that a solution might be to design a zone for this property and

specify a range of uses. He said that he would be willing to work on that with the property owner and Planning staff.

Councilwoman Bellamy did not favor zoning the property to either Community Business I or II. She felt that this residential area gets more commercial encroachment than other areas in Asheville and we need to hold the line on that. She felt that an RM-16 zoning could work, citing River Ridge being residential next to commercial uses, and the property owner could get more money for his land with that designation.

Vice-Mayor Cloninger moved to continue this public hearing until December 18, 2001, in order to give the staff time to work with the property owner and his realtor to refine the uses and at the same time to work with the neighborhood to coordinate the uses through them. This motion was seconded by Councilwoman Bellamy and carried unanimously.

F. PUBLIC HEARING TO CONSIDER THE DESIGNATION OF THE KENILWORTH INN AT 60 CALEDONIA ROAD AS A LOCAL HISTORIC LANDMARK

ORDINANCE NO. 2866 - ORDINANCE DESIGNATING THE KENILWORTH INN AT 60 CALEDONIA ROAD AS A LOCAL HISTORIC LANDMARK

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

Historic Resources Director Maggie O'Connor said that this is the consideration of an ordinance designating the Kenilworth Inn located at 60 Caledonia Road, Asheville, N.C., as a local historic landmark. This public hearing was advertised on October 12 and 19, 2001.

In 1918, James Madison Chiles built the Kenilworth Inn. Mr. Chiles was the driving force behind the establishment of the Town of Kenilworth. The Inn's impressive porte cochere, built entirely of granite is the focal point of the main façade and is accented by granite wrap-around porches and terraces. Much of the granite used in the construction of Kenilworth Inn was mined from a quarry located at the bottom of the hill behind 33 Chiles Avenue in Kenilworth. The Inn served as a military hospital during World War I and World War II and as a mental health facility known as Appalachian Hall from 1931 until 2000. The Kenilworth Inn is one of the few remaining wood framed luxury hotels constructed before 1920 in Asheville and Buncombe County.

Designation of this building as a local historic landmark makes the property owner eligible for a 50% reduction in property taxes. Currently the assessed value of the property is \$1,637,300 and the total taxes paid for this year were \$22,758.47. If the Kenilworth Inn is designated a local historic landmark the taxes would be reduced by half to \$11,379.24. However, the current owners plan to convert the building into 91 apartment units at a projected rehabilitation cost of \$4,300,000.

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When a property is designated historic, restrictions are placed on the property and on any exterior improvements or interior improvement where interiors are designated as significant. Any modification to the structures or land must receive a Certificate of Appropriateness from the Historic Resources Commission of Asheville and Buncombe County (HRC) and all improvements must follow the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings.

It is important that properties of local significance are preserved and protected for cultural, historic, and economic reasons for future generations.

The HRC, by unanimous vote, recommends to City Council that the Kenilworth Inn be designated a local historic landmark. Staff concurs with the recommendation of the HRC to designate the Kenilworth Inn a local

historic landmark.

City staff recommends City Council consider an ordinance designating the Kenilworth Inn as a local historic landmark.

Mr. Frank Thomson, Ms. Leah Karpen and Mr. John Chiles all spoke in support of this designation and were pleased that the owners will be renovating this beautiful cornerstone of the community.

Mayor Sitnick closed the public hearing at 6:54 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. 2866. This motion was seconded by Councilwoman Bellamy and carried unanimously.

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IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

VI. OTHER BUSINESS:

A. ASHEVILLE FILM BOARD

Vice-Mayor Cloninger, member of the Asheville Film Board, said that after lengthy discussion and consideration, they request City Council change their name from the Asheville Film Board to the Asheville Film Commission. They believe the title "Asheville Film Board" handicaps their effectiveness within the entertainment industry, evoking images of censorship and control, rather than growth and development. He said that the name change would not affect the powers of the board.

It was the consensus of City Council to instruct the City Attorney to prepare the proper ordinance to change the name of the Asheville Film Board to the Asheville Film Commission and to bring it back to Council as a consent agenda item.

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B. SCHOOL BOARD SUPERINTENDENT; CHAIRMAN OF CIVIL SERVICE BOARD

Councilwoman Bellamy, liaison to the Asheville School Board, noted that the School Board has hired a new Superintendent, Mr. Robert Logan. She hoped that after Mr. Logan takes office in December that City Council will invite him to a worksession to talk about what his plans are and how the City Council can support him in his endeavors.

Councilwoman Bellamy also noted that Mr. Gene Bell, Chair of the Civil Service Board, is in the hospital and on behalf of City Council wishes him well and a speedy recovery.

C. CLAIMS

The following claims were received by the City of Asheville during the period of September 28-October 11, 2001: Jewel Jones (Water), Evelyn Boone (Water), Janet Miller (Parks & Recreation), Osмосе (Water) and Dian Robinson (Water).

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

D. LAWSUITS

The City received the following Complaint on October 17, 2001, by Frank J. Covine: Complaint for money owed for property damage to an automobile. This matter will be handled in-house.

The City filed the following Complaint on October 19, 2001, against Luis Trejo Hernandez and Francesca Jimenez: Complaint for money owed for property damage to an automobile. This matter will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

A. COMMENTS BY PETER DAWES

Mr. Peter Dawes asked City Council to reconsider having a place marked off on the floor for the media to video from. He felt that as long as the media is does not disturb the meetings, they should be able to film from any place in the Chamber.

B. COMMENTS BY LULA MOON

Ms. Lula Moon asked City Council to direct the City to enforce the zoning violation complaint filed August 28, 2001, regarding the noisy 24-hour recycling center that is operating illegally next door to her home at 41 Long Street, which is a narrow residential street. Using pictures, she showed trash and debris around the area and the traffic problems associated with the center. She briefed Council on the violations of the Asheville Standard Specifications and Details Manual with regard to street width, the Noise Ordinance, development parking requirements, and the State of N.C. Standard Fire Prevention Code. She noted that the property is now being requested to be rezoned, however, felt the rezoning request should be denied due to unfeasibility of meeting applicable codes. She urged the City to find a new location for the recycling center.

City Manager Westbrook said that he is pursuing all avenues with regard to Ms. Moon's complaint and will continue to work with her to address her concerns.

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C. CLOSED SESSION

At 7:24 p.m., Councilwoman Bellamy moved to go into closed session in order to (1) consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including lawsuits involving the following parties: James E. Martin, Jeffrey A. Martin, Susanne A. Zuerner, Donald E. Williams, Paul E. Fruits, B. Joy MacFadyen Bulluck, Buncombe County, and City of Asheville - G.S. 143-318.11(a)(3); and (2) To consider the qualifications, competence, performance, character, or fitness of an individual public officer or employee - G.S. 143-318.11(a)(3); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act - G.S. 143-318.11(a)(2). This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

At 8:05 p.m., Councilman Hay moved to go out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 8:05 p.m.

CITY CLERK MAYOR
