

Tuesday – November 27, 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; 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

Mayor Sitnick gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING NOVEMBER 27, 2001, AS "CITY PLANNING DAY"

Mayor Sitnick read the proclamation proclaiming November 27, 2001, as "City Planning Day" in the City of Asheville. She presented the proclamation to Mr. Jan Davis, Chairman of the Planning & Zoning Commission, who thanked City Council on their excellent staff and initiatives of smart growth.

B. PROCLAMATION PROCLAIMING DECEMBER 1, 2001, AS "WORLD AIDS DAY"

Mayor Sitnick read the proclamation proclaiming December 1, 2001, as "World AIDS Day" in the City of Asheville. She presented the proclamation to Ms. Amy Pruettt who briefed City Council on some activities taking place during that day.

C. RESOLUTION OF APPRECIATION TO INDIVIDUALS FOR THEIR WORK REGARDING THE REVITALIZATION OF DOWNTOWN ASHEVILLE

Mayor Sitnick said that as a result of the death of Mr. Julian Price, this resolution will be postponed.

II. CONSENT:

Councilwoman Bellamy asked that Consent Agenda Item "F" be removed from the Consent Agenda due to her conflict of interest.

Mayor Sitnick asked that Consent Agenda Item "K" be removed from the Consent Agenda for comments from Mr. Dan Wilhelm, President/Owner of the Asheville Smoke.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 13, 2001, AND THE WORKSESSION HELD ON NOVEMBER 20, 2001

B. RESOLUTION NO. 01-172 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH THE PRESERVATION SOCIETY OF ASHEVILLE AND BUNCOMBE COUNTY FOR THE USE OF THE ROCK HOUSE AT GROVE PARK

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Summary: The consideration of a resolution authorizing the City Manager to enter into a lease agreement with the Preservation Society of Asheville and Buncombe County for the use of the Rock House at Grove

Park.

For several months, the Parks and Recreation Department has been working with the Preservation Society for the renovation and use of the Rock House at Grove Park on Charlotte Street. The Rock House was the original office building for E. W. Grove. This facility has been vacant for at least 10 years and has continued to deteriorate from lack of upkeep. The Preservation Society wishes to move their offices to the Rock House. This agreement calls for the Preservation Society to make all necessary renovations and improvements to the facility in order to obtain a Certificate of Occupancy. The rent will be deferred for a period of time in an effort to recoup their costs for this renovation. This lease will allow for the building to be brought back into a state of repair and will allow for a tenant in the facility that will continue to maintain the facility. The City of Asheville will not have any costs associated with this renovation and will maintain ownership of the facility. This agreement will greatly benefit both the Preservation Society and the City of Asheville.

The Parks and Recreation Department recommends that City Council authorize the City Manager to enter into a lease agreement with the Preservation Society of Asheville and Buncombe County for the use of the Rock House at Grove Park.

RESOLUTION BOOK NO. 27 – PAGE 5

C. RESOLUTION NO. 01-173 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE WESTERN NORTH CAROLINA SOCCER FOUNDATION AND BEN AND BECKY LEWIS FOR \$350,000 FOR THE CONSTRUCTION OF THE JOHN B. LEWIS SOCCER COMPLEX AT AZALEA ROAD PARK

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement amongst the Western North Carolina Soccer Foundation, Ben and Becky Lewis, and the City of Asheville for funding for the John B. Lewis Soccer Complex at Azalea Road.

Ben and Becky Lewis have donated \$350,000 to the Western North Carolina Soccer Foundation for construction of a soccer complex at Azalea Road in memory of their son, John, and avid soccer player, who tragically lost his life in a car accident several years ago. The Western North Carolina Soccer Foundation, in turn, will make grant payments to the City of Asheville in the amount of \$35,000 per year over a ten-year period to support construction of the soccer complex.

In order to begin construction within the next year, the City will need funding in advance of the \$35,000 annual payments from the Soccer Foundation. To provide the necessary advance funding, staff plans to request from an appropriation of \$350,000 from Council in the upcoming budget process. This amount will be reimbursed over a ten-year period as the Western North Carolina Soccer Foundation makes the annual grant payments to the City.

The agreement will allow the City, through communication with the Soccer Foundation, the right to use the soccer complex for other uses. We anticipate this funding will assist in securing additional funds in the future from both grants and corporate sponsorships.

The Parks and Recreation Department requests City Council to authorize the City Manager to enter into an agreement with Western North Carolina Soccer Foundation and Ben and Becky Lewis for \$350,000 for the construction of the John B. Lewis Soccer Complex.

RESOLUTION BOOK NO. 27 – PAGE 6

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D. RESOLUTION NO. 01-174 - RESOLUTION AUTHORIZING THE AMENDMENT TO THE LEASE WITH

THE NORTH CAROLINA RSA #4 INC. (FORMERLY US CELLULAR) FOR TOWER AND GROUND SPACE AT WHITE FAWN RESERVOIR

Summary: The consideration of a resolution authorizing City Manager to execute Amendment #2 to the lease with North Carolina RSA #4, Inc. for tower and ground space at 36 Reservoir Road

The property at 36 Reservoir Road is the site of the former White Fawn Reservoir. In recent years the site was used as a beneficial fill site for the City of Asheville. Currently, three telecommunication towers are located on the property and the City leases antenna space on two of the towers and ground space for related equipment for a total of eight tenants. One tower is not in use. The property is the proposed future site of the "Sister Cities Park."

North Carolina RSA #4, Inc. (formerly U.S. Cellular "USC") has leased tower and ground space at the site since 1987. The site is the location of USC's primary mobile telephone switching office (MTSO) for Western North Carolina. Due to service demand, USC has requested an amendment to its lease in order to expand the MTSO facility and provide better all-weather access to the site. The proposed lease amendment will enable USC to expand the MTSO facility and separate the tower access from the proposed park access.

The lease currently is in a rent credit stage amortizing an original construction cost of \$76,500. Over \$20,000 construction cost remains to be credited at \$400 per month. Under the current lease terms, beginning in 2006 when the construction cost is fully credited, building rent in the amount of \$550 per month would begin making a total rent of \$950 per month payable until 2017. The present value of the current lease is approximately \$67,262. Under the proposed amendment both the rent credit and the building rent would be eliminated and a total monthly rent of \$1,500 would begin no later than January 1, 2002. The rent would be adjusted annually based on the Consumer Price Index. The term of the lease would remain unchanged. The present value of the proposed amendment is approximately \$228,507.

In addition to the above, USC will construct a separate access at a cost of approximately \$50,000 and remove the abandoned tower and equipment shed on the site. The appearance of the building will be upgraded along with the expansion and buffer planting will be added.

Planning Department staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 27 – PAGE 7

E. RESOLUTION NO. 01-175 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WEAVER COOKE CONSTRUCTION LLC TO CONSTRUCT SIDEWALKS AND BULB-OUTS ALONG BATTLE SQUARE, BATTERY PARK AVENUE, PAGE AVENUE, AND O.HENRY AVENUE ADJACENT TO THE GROVE ARCADE

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Weaver Cooke Construction, LLC, to construct sidewalks and bulb-outs located along Battle Square, Battery Park Avenue, Page Avenue, and O.Henry Avenue adjacent to the Grove Arcade in Asheville, N.C.

The City is in need of a contractor to provide sidewalk and bulb-out construction services for sidewalks and bulb-outs along Battle Square, Battery Park Avenue, Page Avenue, and O.Henry Avenue adjacent to the Grove Arcade. In accordance with N.C. Gen. Stat. sec. 143-

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131, informal bids for sidewalk and bulb-out construction services were solicited and five responses were received, with two qualified bids received. The bidders are listed below:

Company MB Part Drug Free Bond Bid

Weaver Cooke

Construction, LLC 0% Yes No \$ 71,000.00

Candler Concrete

Works Inc. 0% Yes No \$136,868.60

Funding for this project has been allocated in the Public Works Department's Capital Improvement budget.

The Public Works Department staff recommends City Council adopt a resolution authorizing the City Manager to enter into contract with Weaver Cooke Construction LLC to construct sidewalks and bulb-outs along Battle Square, Battery Park Avenue, Page Avenue, and O.Henry Avenue adjacent to the Grove Arcade.

RESOLUTION BOOK NO. 27 – PAGE 8

F. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A COST-SHARING AGREEMENT WITH MOUNTAIN HOUSING OPPORTUNITIES FOR RESURFACING HILLIARD AVENUE

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

G. RESOLUTION NO. 01-176 - RESOLUTION FIXING DATE OF PUBLIC HEARING FOR DECEMBER 28, 2001, ON THE QUESTION OF VOLUNTARY ANNEXATION OF PROPERTY KNOWN AS OLMSTED, SECTION 2, OF BILTMORE PARK

RESOLUTION BOOK NO. 27 – PAGE 9

H. RESOLUTION NO. 01-177 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH COMPLUS DATA INNOVATIONS INC. FOR PARKING CITATIONS MANAGEMENT SERVICES

Summary: The consideration of a resolution authorizing the City Manager to execute an agreement with Complus Data Innovations, Inc. for parking citations management services.

In April 1992 the City entered into an agreement with Complus Data Innovation, Inc. for parking citation management services. The agreement was for a period of three years with two additional automatic one year extensions. In June 1997 the original agreement was extended for two years with an option for two additional one-year extensions – through 2001. Complus provides the City with data automation equipment (handheld ticket writing devices, bar code reader, desktop computer with parking citation management software and modem), communications links with Complus' nationwide citation management system, nationwide research of vehicle owners and addresses and mailing of delinquent citation notices. In exchange for these services, the City reimburses Complus a percentage of the revenue received from citations issued through the Complus system (14.5% for tickets issued to North Carolina registered vehicles and 20% for out of state vehicles). Complus' equipment and delinquent

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citation follow-up services have been instrumental in improving the City's parking citation collection rates and increasing associated revenues.

The proposed new agreement is for a period of three years with an automatic option for one additional three year period unless either party gives sixty days notice of their intent not to enter into the option. Reimbursements to Complus in Fiscal Year '01-'02 are included in the Finance Department Collections Division Contracted Services budget.

City Council approve the proposed resolution which authorizes the City Manager to execute the agreement.

RESOLUTION BOOK NO. 27 – PAGE 12

I. RESOLUTION NO. 01-178 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE SALT LAKE ORGANIZING COMMITTEE TO PROVIDE SERVICES FOR THE OLYMPIC TORCH RELAY IN ASHEVILLE ON DECEMBER 5, 2001

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the Salt Lake Organizing Committee (SLOC) to provide services for the Olympic Torch Relay in Asheville on December 5, 2001.

The SLOC for the Olympic Winter Games of 2002 approached the Mayor and City Manager and requested the City of Asheville's participation in the Olympic Torch Relay.

The Olympic Torch Relay is scheduled to come through Asheville on Wednesday, December 5, 2001, arriving at approximately 10:30 a.m. and departing at approximately 12:30 p.m. The Relay will begin in South Asheville on Hendersonville Road and depart from I-240. At approximately 12:15 p.m., the Relay will take an official break in downtown Asheville in City-County Plaza. Consultation with the Police Department for security and traffic procedures has been performed.

A Task Force was formed through the Parks and Recreation Department to coordinate this effort. Representatives from the City, the United Way of Asheville and Buncombe County, the Volunteer Center, Buncombe County Recreation Services, the Community Foundation of WNC, Henderson County, the Asheville Track Club, Asheville High School, and the Mayor's Committee on the Disabled serve on this Task Force.

The Parks and Recreation Department recommends the City of Asheville to enter into an agreement with the Salt Lake Organizing Committee for the Olympic Torch Relay for the Olympic Winter Games of 2002.

RESOLUTION BOOK NO. 27 – PAGE 13

J. ORDINANCE NO. 2870 - BUDGET AMENDMENT TO PROVIDE LEGAL AND PROFESSIONAL FEES

Summary: The consideration of an amendment to the Fiscal Year 2001-2002 Budget Ordinance to provide for legal and professional services.

The budget for fiscal year 2001-2002 provided \$30,000 for legal services and \$1,000 for other professional services in the City Attorney's Office. Due primarily to costs associated with the defense of the challenges to the annexation ordinances adopted by the City in 2000, these line items are nearly depleted.

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Two more legal challenges to the 2000 annexations will be tried during the current fiscal year. Additionally, there will be other matters arising during the remainder of the fiscal year for which outside counsel and professional services are required or are typically used.

We estimate that an additional \$40,000 will be needed for outside counsel to assist in our defense of

annexation challenges and other matters and \$10,000 will be needed for the other professional services. A proposed ordinance making a \$50,000 appropriation from fund balance to cover these additional legal expenses has been prepared.

Adoption of the ordinance is recommended.

ORDINANCE BOOK NO. 19 – PAGE

K. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AMENDMENT WITH ASHEVILLE SMOKE PROFESSIONAL HOCKEY, LLC

This item was removed from the Consent Agenda to allow comments from Mr. Dan Wilhelm, President/Owner of the Asheville Smoke.

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.

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

ITEMS REMOVED FROM THE CONSENT AGENDA

RESOLUTION NO. 01-179- RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A COST-SHARING AGREEMENT WITH MOUNTAIN HOUSING OPPORTUNITIES FOR RESURFACING HILLIARD AVENUE

Councilman Hay moved to excuse Councilwoman Bellamy from participating in this matter due to a conflict of interest. This motion was seconded by Councilwoman Field and carried unanimously.

Summary: The consideration of a resolution authorizing a cost sharing agreement between the City of Asheville and Mountain Housing Opportunities (MHO) to resurface and construct sidewalks located along Hilliard Avenue in Asheville, North Carolina.

In conjunction with the West End-Clingman Avenue Neighborhood (WE-CAN project, Mountain Housing Opportunities will resurface and install sidewalks along a portion of Hilliard Avenue. The City had previously identified Hilliard Avenue as a potential resurfacing project. The City and MHO wish to enter into an agreement for MHO to extend the limits of its project to resurface and install sidewalks along the entire length of West Hilliard Avenue. MHO will comply with all bidding laws as required of the City, specifically with N.C. Gen. Stat. sec. 143-129.

Funding for this project has been allocated in the Public Works Department's Capital Improvement budget.

The Public Works Department staff recommends City Council adopt a resolution authorizing the City Manager to enter into agreement with Mountain Housing Opportunities to resurface and construct sidewalks along West Hilliard Avenue.

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Mayor Sitnick said that City Council has previously received a copy of the resolution and it will not be read.

Councilman Worley moved for the adoption of Resolution No. 01-179. This motion was seconded by Councilman Hay and carried unanimously.

RESOLUTION NO. 01-180 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AMENDMENT WITH ASHEVILLE SMOKE PROFESSIONAL HOCKEY, LLC

Summary: The consideration of a resolution authorizing the City Manager to enter into an amended lease agreement with Asheville Professional Hockey, Ltd., for the use of the Civic Center.

For several months, the Civic Center Department has been working with the Asheville Smoke Hockey to amend the lease for use of the Civic Center for their games. The purpose of these discussions was to simplify the lease for both parties. At the same time, the Civic Center wanted to ensure a greater rent payment through all levels of attendance. As negotiated, the primary changes in the agreement are essentially the terms that would automatically go into effect in the option years (years 6 and 7) of the contract with the following exceptions: (a) The rent per game is \$250.00 higher than in the option years. Depending on attendance, this could be as much as \$1,000 higher than is currently charged per game; (b) the City agrees to assume the payments on the ice rink cover for the remaining three years; (c) no further rink reimbursement would be required of the team.

The changes are as follows:

- A flat rent per game of \$1,750.00. This replaces a floating rent that can vary between \$750.00 per game up to \$1,500.00 per game based on attendance.
- The City will assume the remaining payments on the ice rink cover.
- The City will cease collecting any ice rink reimbursement fees.
- The City will share concession revenues with the team after the first \$200,000.00 in sales. After deducting taxes and food costs the team would receive 10% of the resulting net.

The Civic Center Department recommends that City Council authorize the City Manager to enter into an amended lease agreement with the Asheville Professional Hockey.

Mr. Dan Wilhelm, President/Owner of the Asheville Smoke, spoke in favor of the amended lease agreement.

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

Councilman Hay moved for the adoption of Resolution No. 01-180. This motion was seconded by Councilwoman Bellamy and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE PROCESS FOR REVIEW OF ANCILLARY USE REQUESTS IN RESIDENTIAL DISTRICTS

ORDINANCE NO. 2871 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE PROCESS FOR REVIEW OF ANCILLARY USE REQUESTS IN RESIDENTIAL DISTRICTS

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

Chief Planner Gerald Green said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to revise the process for the review of requests for ancillary uses in residential districts. This public hearing was advertised on November 16 and 23, 2001.

The Planning and Zoning Commission is recommending adoption of an amendment to the UDO revising the process for reviewing requests for ancillary uses in residential districts and changing the name of this provision. The change in the review process is proposed in response to concerns regarding the current process voiced by citizens and Council members. This issue was discussed at a Planning and Zoning Commission meeting, with the changes proposed in the ordinance amendment identified by the Commission. The following revisions are proposed by the proposed wording amendment:

- The name of the use will be changed from "Ancillary Non-Residential Uses" to "Ancillary Commercial Uses in Residential Districts"; and
- The Technical Review Committee will have the authority to send, at its discretion, requests that are controversial to the Planning and Zoning Commission for review and recommendation, following a public hearing. The recommendation of the Commission will be forwarded with the request to City Council for final action. Currently all requests are sent directly to the City Council following TRC review.

The name change will clarify the types of uses permitted through this permitting process. By providing provide an opportunity for additional public input on controversial requests, the revised review process will provide time to resolve issues before requests are heard by City Council.

Staff has received no comments in opposition to the proposed revisions.

At their October 3, 2001, meeting, the Planning and Zoning Commission voted 7 to 0 to recommend approval of the proposed ordinance amendment. The Planning and Development staff also recommends approval of the amendment.

As a result of the November 7, 2001, worksession, the name of the use was changed to "Ancillary Non-Residential Uses in Residential Districts."

Councilman Peterson asked City Attorney Oast if he could make a motion to delete the entire ordinance that allows ancillary non-residential uses in residential districts. City Attorney Oast said that the ordinance before Council is limited in effect by only changing the name and tweaking the procedure. It was his opinion that to delete the entire ordinance is a substantial enough change which would require sending it back through the zoning amendment process. The Planning & Zoning Commission would review and make a recommendation and then it would be sent again to City Council for advertisement and a public hearing. He felt that the appropriate

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step would be to direct City staff to begin the process to revise the UDO to delete the entire ordinance that allows ancillary non-residential uses in residential districts.

Councilman Peterson then asked if a motion could be made to just delete parking as an ancillary non-residential use allowed in a residential district. City Attorney Oast explained that this would also require sending it back through the zoning amendment process because he felt it is going beyond the scope of what was advertised.

Upon inquiry of Mayor Sitnick, Mr. Green said that if the ancillary use provision is deleted from the ordinance, in order for a commercial entity to have a parking lot in a residential district they would need to have that

property rezoned, which is a more intrusive type of procedure.

In response to Councilwoman Field, Mr. Green explained that ancillary non-residential uses in residential districts were introduced to improve the development review process and provide some flexibility in the use of property, especially transition properties between commercial and residential properties, to provide a way to make more effective use of that property without changing the zoning.

Mr. Walter Plaue questioned at what stages would public comments be taken. Mr. Green responded that public comment would be taken at the TRC meeting, Planning & Zoning Commission meeting and City Council meeting, however at the TRC meeting, comment would be limited to the technical requirements.

Mr. Roger James felt this entire issue needs to be revisited in that once a parking lot is built, even though the property is zoned residential, chances are that property will not be used as residential again.

Ms. Jane Mathews felt that once you allow ancillary non-residential uses in residential districts, it's basically zoning without some of the tools, such as protest petitions. The community is very limited in counteracting that impact. She also felt it was bad policy in terms of Council's smart growth agenda to allow parking to encroach into residential areas.

Mr. Scott Riviere felt since a parking lot is a commercial use, they should ask that the property be rezoned to a commercial use.

Mr. Mike Lewis felt that parking as an ancillary non-residential use should not be allowed in a residential district. He felt this ordinance sanctions commercial intrusion into neighborhoods.

Mr. and Mrs. Harry Kirby both spoke about the need to delete parking as an ancillary non-residential use in a residential district.

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

Councilman Hay said the intent of this ordinance was for it to be a neighborhood friendly tool, but Council's experience has been different.

Councilwoman Field did not support the deletion of the entire ordinance in that landscaping and stormwater detention are also included as ancillary non-residential uses in residential districts. She did not feel those were being intrusive at all in neighborhoods. Since the concerns seem to be about parking, then the parking piece alone should be revisited.

Councilman Worley felt that trying to do away with this tool is short-sighted. He felt the problems will not go away, but you can make the problems worse if you make this tool go away.

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He felt it is a valuable tool that Council should retain, but Council may want to look at some of the terms and conditions about how it is applied.

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

Councilman Hay moved to adopt Ordinance No. 2871 to (1) change the name of the use to "Ancillary Non-Residential Uses in Residential Districts;" (2) provide an opportunity for additional public input on controversial requests; and (3) delete parking as an ancillary non-residential use allowed in a residential district. This motion was seconded by Vice-Mayor Cloninger and carried on a 5-2 vote, with Councilwoman

Field and Councilman Worley voting "no".

Councilman Hay felt this was an opportunity for a proposal to be brought back into the ordinance that does adopt parking in a way that people think is more appropriate.

ORDINANCE BOOK NO. 19 - PAGE

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE CERTAIN DEVELOPMENT STANDARDS IN THE CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 2872 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE CERTAIN DEVELOPMENT STANDARDS IN THE CENTRAL BUSINESS DISTRICT

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

Chief Planner Gerald Green said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to revise certain development standards in the Central Business District. This public hearing was advertised on November 16 and 23, 2001.

The Planning and Zoning Commission is recommending adoption of an amendment to the UDO revising certain development standards in the Central Business District (CBD). The proposed revisions address issues that were identified during the process of extending the CBD zoning to areas adjacent to the current CBD. With these revisions, the creation of non-conforming uses will be avoided and continuation of the historic urban development pattern in the CBD will be encouraged. The proposed revisions would make the following changes in the development standards in the CBD:

- Identify automobile sales as a conditional use in the CBD and establish standards for this use. The proposed standards include:
- Minimum lot size of one acre;
- In order to maintain an urban streetscape the number of automobiles that can be stored outside an enclosed building shall be limited to not more than 25% of the total offered for sale, or, alternately, the outdoor storage of automobiles for sale shall be screened by buildings occupying at least 75% of the street frontage of the property;
- Prohibit outdoor storage of autos needing repair or, alternately, require autos needing repair to be screened from all public rights-of-way; and
- New structures proposed within the Downtown Design Review Area must substantially comply with the Downtown Design Review Guidelines.

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- Identify government buildings and uses as conditional uses and establish conditions for these buildings and uses. The proposed conditions include:
- The proposed location of the building or use will not restrict the availability of key land for private development;
- No alternative location for the building exists within areas previously developed for government buildings and/or uses; and
- New structures proposed within the Downtown Design Review Area must substantially comply with the Downtown Design Review Guidelines.
- Clarifies the standard for a zero front setback and provides the Downtown Commission or the Planning and Development Director with the authority to allow greater setbacks if certain conditions are met.

The proposed revisions are designed to strengthen the development pattern in the CBD while providing for

some flexibility in the standards for development. The need for the revisions was identified by staff and the Planning and Zoning Commission while listening to comments from the property owners during the discussion of the extension of the CBD boundaries.

Staff has received no comments in opposition to the proposed revisions.

At their October 3, 2001, meeting, the Planning and Zoning Commission voted 7 to 0 to recommend approval of the proposed ordinance amendment. The Planning and Development staff also recommends approval of the amendment.

Upon inquiry of Councilman Peterson, Mr. Green said the definition of a government building is a building where the principle use or occupancy of the building is for governmental purposes.

Mr. Keith Thomson spoke in support of this UDO amendment.

Public hearing closed at 6:11 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. 2872. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 19 - PAGE

C. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR A TELECOMMUNICATIONS TOWER TO BE LOCATED AT 740 TUNNEL ROAD, ASHEVILLE, N.C.

ORDINANCE NO. 2873 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR A TELECOMMUNICATIONS TOWER TO BE LOCATED AT 740 TUNNEL ROAD, ASHEVILLE, N.C.

City Attorney Oast reviewed with Council the conditional use permit process. This process is the consideration of granting a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

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

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After hearing no questions about the procedure, Mayor Sitnick opened the public hearing at 6:14 p.m.

There was no disclosure by City Council members that they had any special knowledge of this issue that may affect their decision.

Mr. Gerald Green, Chief 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 11/27/01 with application packets), and City Exhibit 4 (Consultant's Technical Review Analysis dated October 1, 2001).

Mr. Green said that this is the consideration of a motion to issue a conditional use permit for a telecommunications tower in a Highway Business District to be located at 740 Tunnel Road, Asheville, N.C. (Charlie Aiken Used Car sales lot). This public hearing was advertised on November 16 and 23, 2001.

American Tower Corporation has submitted an application to the City of Asheville for a Conditional Use

Permit to allow the construction of a telecommunications facility to be located at 740 Tunnel Road (City Exhibit 5). The property to be leased for the tower location contains 2500 square feet. The facility is proposed to be located at the rear of the Charlie Aiken Used Car sales lot (City Exhibit 6). The original submittal proposed the construction of a 100' tall monopole with the capacity to accommodate three carriers. A solid wood fence will surround this building, with trees buffering the sides facing adjacent properties (City Exhibit 7). A tower of that height would not be required to have lights on it. Due to concerns expressed by neighboring property owners and the City of Asheville regarding the aesthetic impact of the monopole, the applicant has revised their plan. They are now proposing the construction of a 100' tall flagpole. The telecommunications antennae will be concealed within the flagpole to minimize aesthetic impacts. A United States flag was going to be flown at all times, but because the United States flag has to be lighted at night there was fear that the light would disturb the neighborhood. Therefore, they decided to fly the North Carolina flag at all times. In addition to the telecommunications facility, an equipment building will also be located on the property (City Exhibit 8).

As required by the City of Asheville's Telecommunications Facility Ordinance, a balloon test was conducted at the site on June 18, 2001 from 7:00 a.m. until wind forced the balloon down. The purpose of the balloon test was to provide an indication of the visual and aesthetic impact of the proposed facility.

The City of Asheville's Telecommunications Facility Ordinance encourages co-location and the use of existing facilities rather than building new structures. A telecommunications tower is currently located at the NC Highway Patrol division headquarters approximately 1/4 mile from the project site. The applicant considered using this existing tower, but a structural analysis of the tower showed that it could not accommodate additional users. A review of the structural analysis by the City's consultant confirmed this finding. The applicant also investigated the feasibility of constructing a facility at the East Asheville Community Center/Library/ Fire Station. However there is insufficient ground space at that location for a tower and related equipment.

A consultant retained by the City reviewed the application submitted to the City for this telecommunications facility. The consultant found that this area does have insufficient service at this time, that the proposed facility would improve service in the area, and that the proposed location appears to be the best location for the facility. The City's Technical Review Committee at their May 21, 2001, meeting reviewed the application for compliance with the City's technical standards. The applicant has met all TRC conditions. No Traffic Impact Analysis is required for the project, as the only traffic generated by the use will be a monthly maintenance check.

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The Conditional Use Permit findings and staff analysis for each finding is:

1. The proposed use of the land will not materially endanger the public health or safety. The radio frequency emissions are regulated by the Federal Communications Commission to protect the health and safety of the general public. The tower is designed to withstand forces of nature much more severe than those common in this area. In addition, a fall zone must be maintained around the tower to reduce the chance of damage to adjacent residential uses.
2. 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 region. The facility will enhance the level of telecommunication service to customers in the area.
3. The proposed use of the land will not substantially injure the value of adjoining or abutting property. Tunnel Road is a commercial corridor with a variety of land uses, none of which will be adversely impacted by the proposed use. The equipment building and other portions of the facility visible to adjacent residential properties will be screened with an 8' tall fence supplemented by vegetation,

including hemlocks, white pine, and leyland cypress.

4. The proposed use of the land will be in harmony with the bulk, scale, coverage, density, and character of the area in which it is located. The proposed facility will be in harmony with the commercial character of the area. There is another tower 200' in height approximately ½ mile from the subject site.
5. The use of the land will generally conform with the comprehensive plan and other official plans adopted by the City. Telecommunications facilities are not addressed in any of the City's plans. The zoning district in which the site is located permits telecommunications facilities as a conditional use.
6. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities. The plans for the proposed facility were reviewed by the Technical Review Committee, which found that all services and facilities were available to meet the needs of the proposed use.
7. The proposed use will not cause undue traffic congestion or create a traffic hazard. The only traffic to the use will be a service technician who will visit the site approximately once a month.

The request is for a conditional use permit to allow construction of a 100' tall telecommunications tower or flagpole on property located at 740 Tunnel Road. The applicant, American Tower, has complied with all the requirements established by the City of Asheville's Telecommunications Facilities Ordinance. A consultant retained by the City has confirmed that this is an area of poor service, that the proposed facility will result in improved service in the area, and that there are no other existing facilities in the area on which additional equipment could be co-located. The applicant has evaluated alternative sites, including the existing tower at the Highway Patrol station, and found them to be inadequate to meet their needs. The property on which the facility is proposed, the Charlie Aiken Used Car Sales lot, has been the subject on some concern from the neighboring residential property owners. These concerns are related to the use of an outdoor PA system, glare from outdoor lighting, and placement of automobiles near a street intersection making it difficult to see on-coming traffic. Staff is proposing conditions to address these concerns that may be attached to the issuance of a conditional use permit for the telecommunications facility. These recommended conditions are:

- The outdoor PA system be dismantled and not used in the future;
- All outdoor lights be replaced with light fixtures that are full cut-off and shielded so as not to cast light or glare onto residential uses; and
- The area at the intersection of Tunnel Road and Mountain View Road be maintained so as not to create a line of sight problem for traffic exiting Mountain View onto Tunnel Road.

The Asheville Planning and Zoning Commission did not review this request.

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Based on information available to the Planning and Development Department in advance of this public hearing, staff recommends approval with the conditions identified above.

Mr. Green said that City Attorney Oast has advised him that the three conditions recommended by City staff cannot be attached to the conditional use permit. These three concerns are not related to the application before City Council but that they relate to another use on the site. Therefore, Mr. Green said that the only condition recommended to be attached to the conditional use permit is that all antennas must be located (hidden) within the flagpole.

Mr. Don Nielsen, attorney representing American Tower Corporation, spoke in support of the telecommunications tower and showed some pictures of what they are proposing (Applicant Exhibits 1 and 2).

Mr. Dan Zorn, resident on Arco Road, appreciated the work the applicant has put into the design of the flagpole. He did note that the neighbors have a history with the owner of the lot and requested Council's

assistance in getting Mr. Aiken to angle his lights in the back down.

Ms. Martha Lane, resident on Mountain View, spoke in support of this flagpole and thanked the developer for working on this compromise.

Mr. Mike Lewis felt that this is a stellar example of how businesses and neighborhoods should get along.

There being no request from the applicant for rebuttal, Mayor Sitnick closed the public hearing at 6:54 p.m.

Mayor Sitnick thanked Vice-Mayor Cloninger for taking the lead on the telecommunication tower ordinance.

Councilman Peterson questioned if Council could include a condition that the outdoor lights fixtures at the back of the lot immediately adjacent to the telecommunication tower facility be shielded or have full cut-off features. City Attorney Oast felt that condition would be subject to a legal challenge if Council tried to address that concern through the conditional use permit process.

When Councilman Worley asked if Council could include in the motion a request that the property owner take these neighborhood concerns into consideration, City Attorney Oast did not see that as a problem. City Attorney Oast explained that as long as it's clear that failure to address the concerns adequately over matters that can't be controlled by the applicant would not result in revocation of the permit.

At the request of Mayor Sitnick, City Manager Westbrook said that City staff will act on the safety concern regarding the sight distance problem for traffic exiting from Mountain View onto Tunnel Road.

Vice-Mayor Cloninger moved to adopt Ordinance No. 2873 to approve the conditional use permit for a telecommunications tower to be located at 740 Tunnel Road with the condition that all antennas must be located (hidden) within the flagpole. Said motion is to include a request that the property owner take the three neighborhood concerns into consideration. In addition, said motion instructed the City Attorney to prepare the Order for the Mayor's signature. This motion was seconded by Councilman Worley and carried unanimously.

Vice-Mayor Cloninger said this is an example of our new telecommunications tower ordinance working. The ordinance is stringent so as to protect the beauty of our area. He stated

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that with today's technology, there is no excuse for another conventional telecommunications tower to be erected inside the City limits again. He implored the Planning staff that when these requests come to them in the future that they go the extra mile and put in the extra time to make the companies use stealth technology and alternatives to protect the beauty of our area.

ORDINANCE BOOK NO. 19 – PAGE

D. PUBLIC HEARING TO CONSIDER THE REZONING OF PROPERTIES LOCATED AT THE SOUTHERN SLOPE AREA, AND THE EAST AND WEST OF THE EXISTING CENTRAL BUSINESS DISTRICT FROM REGIONAL BUSINESS DISTRICT, HIGHWAY BUSINESS DISTRICT AND COMMUNITY BUSINESS II DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 2874 - ORDINANCE TO REZONE PROPERTIES LOCATED AT THE SOUTHERN SLOPE AREA, AND THE EAST AND WEST OF THE EXISTING CENTRAL BUSINESS DISTRICT FROM REGIONAL BUSINESS DISTRICT, HIGHWAY BUSINESS DISTRICT AND COMMUNITY BUSINESS II DISTRICT TO CENTRAL BUSINESS DISTRICT

Mayor Sitnick opened the public hearing at 6:56 p.m.

Upon inquiry of Councilman Hay and Councilman Peterson about whether there is a conflict of interest for them in this matter due to their law firms owning property in this area, City Attorney Oast felt that they did not need to be excused due to a conflict of interest.

Chief Planner Gerald Green said that this is the consideration of an ordinance to rezone property located south, east, and west of the current Central Business District from Regional Business District, Highway Business District and Community Business II District to Central Business District. This public hearing was advertised on November 16 and 23, 2001.

The City staff is requesting the extension of the Central Business District to approximately 175 properties located south, west, and east of the current CBD. Most of these properties are currently zoned Regional Business, with some properties zoned Highway Business and Community Business II. The development in these areas has historically followed more of a traditional urban pattern, with minimal setbacks and little off-street parking. When the properties were zoned as part of the UDO, a number of the existing uses would have been non-conforming in the CBD zone. Recent land use changes have almost entirely eliminated the concern that CBD zoning would create non-conforming uses. These land use changes and redevelopment activities have highlighted the need for zoning of these properties that will reinforce and preserve the historic urban development pattern of the areas. The current zoning of the properties, particularly the Regional Business zoning with its requirement for large lot size, setbacks, and significant off-street parking, makes many of the properties non-conforming and complicates redevelopment efforts. The proposed extension of the CBD zone to these properties will not only reinforce the historic development pattern of the areas, it will inspire redevelopment by lessening many of the development standards and by increasing the range of permitted uses.

A public meeting, to which owners of all properties in the affected areas were invited, was held in late August. The proposed rezoning was discussed at this meeting, with the pros and cons of the zoning change identified. No objections or concerns were voiced by the approximately 25 property owners who attended this meeting. The Downtown Commission unanimously endorsed the CBD extension at their September meeting.

Staff has received no comments in opposition to the requested rezoning. There have been requests for zoning to CBD of properties located in the areas for which the zoning change is

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proposed. City Council recently approved a rezoning to CBD for four properties located in one of the areas for which the change is proposed.

At their October 3, 2001, meeting, the Planning and Zoning Commission voted 7 to 0 to recommend approval of the rezoning of the areas located south, east, and west of the current CBD from Regional Business District, Highway Business District and Community Business II District to Central Business District. The Planning and Development staff recommends approval of the requested rezoning.

Upon inquiry of Councilwoman Bellamy, Mr. Green said that this does not include any of the residential uses in the West End/Clingman Avenue neighborhood.

Upon inquiry of Mr. Jesse Ray, Mr. Green pointed out some negative impacts of extending this district, noting that the positives far outweigh the negatives.

Mayor Sitnick closed the public hearing at 7:05 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. 2874. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE

E. PUBLIC HEARING TO CONSIDER THE PROPOSED SALE OF PROPERTY ON BROTHERTON AVENUE TO MORSE PROPERTIES INC. FOR AFFORDABLE HOUSING DEVELOPMENT AND THE AMENDMENT OF THE 2001 ACTION PLAN TO INCREASE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR THE PROJECT

RESOLUTION NO. 01-181 - RESOLUTION APPROVING SALE OF PROPERTY AND AN AMENDMENT TO THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM IN THE 2001 CONSOLIDATED ACTION PLAN

ORDINANCE NO. 2875 - BUDGET AMENDMENT REGARDING THE INCREASE IN THE CDBG BUDGET TO RECOGNIZE RECEIPT OF PROGRAM INCOME FROM SALE OF LAND AND ALLOCATION OF SALE PROCEEDS TO BROTHERTON AVENUE DEVELOPMENT PROJECT

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

Planning & Development Director Scott Shuford said that this is a public hearing to consider the sale of property on Brotherton Avenue to a private developer for an affordable housing development site. Additionally, Council will be asked to consider an amendment to the 2001 Action Plan to provide Community Development Block Grant (CDBG) funding for the project. This public hearing was advertised on November 16 and 23, 2001.

When the City began this process, he was skeptical of our ability to attract a quality cohousing developer. However, he was pleased to say that we have attracted an award-winning cohousing developer, Mr. Jack Morse. Mr. Morse and his design team have built an outstanding, nationally and internationally recognized cohousing development in the Atlanta area called East

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Lake Commons. He and Community Development Director Charlotte Caplan have visited this development and they were very impressed with both its quality and function.

The preliminary development proposal for the site incorporates a number of smart growth development features, such as clustering of development on the most buildable part of the property, promoting internal and external pedestrian access, providing for mix of incomes within the project, developing an infill site at a density and scale that is compatible with the surrounding neighborhood, and preserving a significant part of the property as open space. he submitted to Council that this is precisely the type of development that this city needs. As an added bonus, this project enables us to meet many of our affordable housing goals through a private sector initiative.

Should Council choose to follow the staff recommendation to allow this land sale to proceed, the developer will be required to submit a detailed site plan that will address such issues as water and sewer availability, fire flow, landscaping and buffering, site lighting, and similar technical issues, some of which are a particular concern to the surrounding neighborhood. This site plan will be brought back before City Council as part of a Planned Unit Development zoning overlay and Council will have an opportunity to consider the final development of this site at another public hearing.

Community Development Director Charlotte Caplan said that the City has allocated a total of \$370,000 in Community Development Block Grant (CDBG) funds for the purchase and improvement of a 7.3 acre site at the intersection of Virginia and Brotherton Avenues, with the intention of developing it for affordable homeownership on the "cohousing" model. A cohousing development is characterized by:

- Resident involvement in the design process;
- Physical design that deliberately encourages a sense of community;
- Extensive common facilities, including a common house;
- Complete resident management when the development is complete.

An excellent example is the Westwood cohousing community on Vermont Place, about a mile to the west..

In September 2000, the City purchased the site from the Housing Authority for \$120,000. In March 2001 the City issued a Request for Proposals (RFP) for a developer. Two proposals were received, but only one was fully responsive to the terms of the RFP. This proposal from Morse Properties, Inc. is for a mixed-income development of 38 homes, 26 of which would be subsidized to be affordable to families with incomes less than 80% of area median. The Housing and Community Development Committee has reviewed the proposal and recommends acceptance.

Ms. Caplan said that there will be a clustering of homes and the community building on the upper flat part provides a housing density of 5.5 units per acre while leaving the steeper half of the site as a natural wooded area with walking trails. It will be economical on infrastructure because of no new streets. This is an excellent example of smart growth on an in-fill site.

She said that the developer wants to make sure that the design fits in with the neighborhood. He will be meeting with the neighborhood residents to get their input. The City will upgrade the sewer line below the site. Area residents will be able to enjoy the woodland trails and very likely community activities in the common house.

The Housing & Community Development Committee recommends sale of land and award of \$397,000 CDBG subsidy to Jack Morse Properties Inc. That's a subsidy of about

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\$15,000 per unit which compares well with other developments we have supported, like Habitat communities.

To comply with CDBG regulations, the \$250,000 in CDBG funds already allocated for site improvements must be expended while the property is in public ownership. Additionally, to comply with State law, the property must be sold to the developer at not less than the current appraised value of \$147,000. Staff therefore recommend the following steps for approval by Council at this time:

1. Entering into a contract for sale of the site to Morse Properties, subject to City approval of the final design for the development (including all necessary planning and technical approvals) and satisfactory completion of site improvements;
2. Amendment of the 2001-02 Action Plan to recognize the anticipated receipt of the sales proceeds and allocation of the same amount to site development.
3. Entering into a CDBG funding agreement with Morse Properties for a total of \$397,000 CDBG subsidy for site improvements, to be passed on as subsidy to the 26 income-eligible homebuyers.

Steps 1 and 2 require a public hearing. As soon as these steps are implemented, the developer will develop a final site design which we expect will be submitted for approval as a Planned Unit Development early next year. Consultation with neighborhood residents will be an important part of this process.

Staff and the Housing and Community Development Committee recommend approval of the resolution for the sale of the property, the funding agreement, and the amendment of the Action Plan.

Ms. Caplan responded to several questions from City Council, some being, but are not limited to: will most of the units be duplexes, what comes with ownership of co-housing, how does co-housing differ from owning a condominium, what percentage of the entire project will be the common areas, what is the cost of construction of the common house, and how do these net unit prices compare with some of the other projects that CDBG funds have been used for.

Mr. Richard Nantelle, President of the West Asheville Community League, wanted to make sure that the potential owner has been accurately informed of the following: the present water supply available remains inadequate to support development of this nature and that upgrading of this aged and deteriorating system is not in the City's foreseeable future; the only access to this site is a highly congested traffic hazard producing facilities and personal injuries and these conditions have been ignored by the City for at least 30 years; the close proximity of this site to illegal 24 hour a day drug trafficking; over 200 neighbors surrounding this site joined together and had their property rezoned for the sole purpose of protecting the physical character of their neighborhood so that they could eliminate the possibility of any contradictory development at this location as this proposal, by its cloistering, depicts; the same 200 neighbors surrounding this site and along it's path have vehemently and rigidly opposed this site development on each of the past rising occasions for these very same reasons and they are prepared to continue doing so even to the point of seeking relief through further legal action in the courts if necessary to stop it; the proposal fails to meet at least three out of the seven requirements for a conditional use permit; and this proposal is completely out of financial character in this neighborhood and that the result will either be false inflation of tax values of surrounding properties causing them to become unaffordable or it will deflate the value of this proposed investment, making it unappreciable if not both. He said that these existing conditions, along with others not mentioned, are most definitely detrimental to the safe and successful development of this site.

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Mr. Dick Rice, speaking on behalf of the West Asheville Business Association, briefed Council on the background of this site. He stressed that there is insufficient fire flow in the hydrants to effectively protect lives and property. Neighboring property owners want traditional single-family homes built on that property. He briefed Council on some specific losses in the area due to inadequate water.

Mr. Fred English, resident in Haw Creek, said that he has low water pressure too and his sewer line needs to be repaired.

Mr. Carlos Montgomery felt that family housing development is good, but in this area it is not safe due to the insufficient fire flow in the hydrants.

Ms. Sharon Martin, resident on Virginia Avenue, felt that this is the right idea, but at the wrong place. She expressed concern about the speeding traffic on Virginia Avenue and bringing in multi-family housing will not help.

Ms. Rebecca Campbell, Southeast Network for Intentional Communities - West Asheville, felt there is a considerable infrastructure problem. She felt the proposal is excellent but perhaps at a different location. Creative ideas need to happen about how Asheville's infrastructure needs can be repaired so that any sustainable development can happen without major conflict.

Ms. Karen Keenan, Executive Director of the Affordable Housing Coalition, voiced her concern that there is the potential of compromising the opportunity to increase our tremendously needed affordable housing units due to a challenge around infrastructure.

Ms. Tonya Davis acknowledged that we do have a significant infrastructure problem in this City and the City needs to address both affordable housing and the infrastructure simultaneously.

Mr. Keith Thomson felt that this is a good project with good values, but at the wrong site. He too acknowledged that the City has serious infrastructure and affordable housing problems.

Mr. Walter Plaue agreed that this is an interesting proposal. He felt, however, that we need to give people safe housing and due to the inadequate fire flow in the hydrants, we would be placing peoples lives in jeopardy.

Ms. Kate O'Hara felt that if infrastructure is the only major concern with this proposal, then this matter should be continued until further research can be done. She stressed we need housing that people can afford.

Mr. Shuford explained that basically this is a first step of multi-step process and that is to recognize and commit funds to a project with the understanding that technical requirements have to be addressed - the same technical requirements that would be done for a project where the units would cost \$500,000 a piece. Also a separate zoning action has to be taken. He urged Council to move forward to see if this project can be built on this site. The property is zoned RS-8 which allows 56 units on this 7 acre site but the proposal is for 38 units. The water supply is probably sufficient for domestic use, but for fire protection we know that we have a problem and there are multiple ways to solve that problem. One way would be to provide for a sprinkler system that would be on-site. Another possibility would be to fix the system for the entire neighborhood. Those are things that will have to be explored. He urged City Council to commit the funding with the understanding that other things have to be done before this can occur. The developer is committed to meeting with the neighborhood and to address their concerns. Mr. Shuford felt that the traffic issue may be solved with a traffic calming solution.

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Mr. Jack Morse, developer, stated that he does live in co-housing in Atlanta and is looking forward to working with staff and the neighborhood.

When Councilwoman Field asked Mr. Morse if anything he heard at this meeting has deterred him from moving forward, Mr. Morse replied no and that there are many ways to solve issues.

Fire Chief Greg Grayson said that they performed eight different flows. They are trying to do flowing at night and in the day so there can be an average to represent a more realistic flow. When they cumulated two hydrants with four flows each, they came up with an average of 423 gallons per minute. In the Asheville Standard Specifications Manual the minimum flows begin at 500, so this is below the minimum flows. However, in that Manual it does allow for any property with the flow that is available to have an approved automatic sprinkler system. The system has to be engineered to work with what is available. Whether than can be done or not would require an engineer study. He noted that they apply those development standards to new construction, not existing.

Fire Chief Grayson responded to questions from Councilwoman Field on what the response would be if there was a fire in that area even if this development was not built.

Upon inquiry of Councilman Worley, Mr. Rice said that there is a five-inch line at Brotherton and Virginia Avenues.

Mayor Sitnick closed the public hearing at 8:26 p.m.

Councilwoman Field felt that this property is one site in which affordable housing can be built. We at least

have a developer who is willing to proceed with a plan to see if the proposal of cohousing can work on that site.

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

Councilwoman Field moved to adopt Resolution No. 01-181. This motion was seconded by Councilman Hay.

Councilman Hay said that this will initiate what may result in development on that property. All the infrastructure problems have to be addressed or the project will not go forward.

Councilwoman Bellamy agreed with Councilwoman Field and Councilman Hay. She said that existing organizations, non-profit entities and for-profit entities provide affordable and regular housing and they do upgrade the infrastructure. The infrastructure improvements they provide just doesn't benefit their developments, but also benefits surrounding properties. Affordable housing sites are limited in our City and we do have to work with what we have. We have to deal with the infrastructure problems and see what we can do through some collaborations with MSD, the Water Authority and the developer. She believed that the infrastructure improvements can be made.

Councilman Worley supported the resolution but with reservations that center around the infrastructure problems, in particularly the fire flow. He pointed out that the resolution is not selling the property, it's a resolution that approves entering into a contract for sale, subject to City approval of the design for the development (and that means dealing with the infrastructure problems), satisfactory completion of site improvements, etc. City Council will have another opportunity to determine whether this contract for sale actually goes forward and that is when those design components come back to City Council for approval.

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Mayor Sitnick stated that she is in favor of co-housing. However, she wants to be absolutely clear that if we approve this resolution in order to move forward and explore it further, that this project will not be built if the safety of the citizens who exist there now and the safety of the citizens who will buy these homes cannot be guaranteed, specifically having to do with fire protection. Mr. Shuford responded that this project will have to meet all of the same development standards as any other project would need to meet.

Mayor Sitnick said that if the responsibility of repairing water lines to the whole area, which might be necessary, is the Water Authority's responsibility and the Water Authority does not have it on their priority needs list, does that mean this project will not go forward. Mr. Shuford said that it depends upon who ends up needing to make the improvements and how extensive they are, but if we can't make it work, it won't go forward.

The motion made by Councilwoman Field and seconded by Councilman Hay carried on a 6-1 vote, with Councilman Peterson voting "no".

RESOLUTION BOOK NO. 27 – PAGE 16

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2875. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Councilman Peterson voting "no".

ORDINANCE BOOK NO. 19 – PAGE

At 8:45 p.m., Mayor Sitnick announced a 15 minute break.

F. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF PROPERTY KNOWN AS

GARDEN HOMES AT BILTMORE PARK

ORDINANCE NO. 2876 - ORDINANCE TO EXTEND THE CORPORATE LIMITS TO INCLUDE GARDEN HOMES AT BILTMORE PARK

Mayor Sitnick opened the public hearing at 9:02 p.m.

Urban Planner Paul Benson said that this is the consideration of an ordinance extending the corporate limits of the City of Asheville to property located north of Long Shoals Road and identified as Garden Homes at Biltmore Park. This public hearing was advertised on November 16, 2001.

Biltmore Farms, Inc. and 14 other property owners have submitted annexation petitions for Garden Homes at Biltmore Park. This area is contiguous to the existing corporate limits, being bordered to the north, south and west by sections of Biltmore Park that have been previously annexed

The area proposed for annexation consists of 10.0 acres and is platted for 45 single-family residential lots. The area will be accessed by White Ash Drive East. This area is within the extraterritorial jurisdiction area and is currently zoned RS-8.

Biltmore Farms Inc. is developing utilities and streets. 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.

This would be the 23rd section of the Biltmore Park development to be annexed. Tax valuation of the area annexed to date is \$106, 608,100.

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City staff recommends City Council adopt an ordinance extending the corporate limits of the City of Asheville to property located north of Long Shoals Road and identified as Garden Homes at Biltmore Park.

Mayor Sitnick closed the public hearing at 9:03 p.m.

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

Councilman Hay moved for the adoption of Ordinance No. 2876. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 01-186 - RESOLUTION AUTHORIZING THE CITY MANAGER TO PROCEED WITH THE OPERATIONAL PLAN FOR THE AZALEA ROAD BENEFICIAL FILL SITE

Public Works Director Mark Combs said that in June City Council directed staff to investigate practicable sites for the long term disposal of beneficial fill materials.

The Public Works and Water Departments dispose of approximately 11,000 tons of old concrete, asphalt and dirt each year. In February the City's White Fawn Reservoir fill site reached maximum capacity, which

necessitated disposal at the Buncombe County landfill.

In October of 1997 staff instituted a site selection team for the purpose of finding a new disposal/fill site. In June of 1998 staff selected a site on Azalea Road and started negotiations with the property owner. After numerous public hearings, a citizen/staff task force developed a request for proposal (RFP) to conduct a feasibility study of this site. In January 2001, Woolpert LLC (Engineering Firm who conducted feasibility study) presented their report to City Council and advised further development and subsequent operations.

On May 15, 2001, staff requested and received a \$75,000 appropriation to pay for anticipated tip fees due to the closing of White Fawn. Through October, 19, 2001, the City has paid tip fees of \$234,329.28. In the same meeting Council directed staff to conduct a thorough investigation into all potential sites and report their findings when completed.

In the current fiscal year (4 months), Public Works spent \$52,341 for tip fees, which is \$22,341 more than the \$30,000 originally budgeted. Staff had anticipated the final site selection would be completed by the second quarter.

Mr. Combs then explained that a beneficial fill is defined as including only used asphalt and inert debris such as concrete, brick, concrete block, uncontaminated soil, rock and gravel.

No permit is required so long as (1) fill activity involves no excavation; and (2) the purpose is to improve land use potential.

A letter received on June 15, 2001, from Mr. Dan LaMontagne, Head of the State's Superfund, stated that "no hazardous substances can be associated with the Azalea Road landfill and no release of hazardous substances from the landfill have been documented ..."

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He explained that the following sites were investigated: Azalea Road, Bartlett Street (Murray Hill), Beaverdam Baptist Church, Buncombe County Landfill, Burney Mountain Road Fairview, Gaston Street, Hawthorne Drive (Beverly Hills), Houston Street and Courtland Avenue (Montford), Memorial Stadium property, Moore Street (Sycamore Hollow), and Richmond Hill Drive (Richmond Hill). Locations evaluated included: Azalea Road, Buncombe County Landfill, Burney Mountain Road (Fairview), Houston Street and Courtland Avenue (Montford), Memorial Stadium property, Moore Street (Sycamore Hollow) and Richmond Hill Drive (Richmond Hill).

Mr. Combs explained the estimated yearly tonnage from the Street Division and from the Water Resources Department. He then went into detail about the tangible costs which included: mileage costs, labor costs (transportation), operational costs, site costs, land costs and tip fees.

He then explained the site evaluation criteria used for the seven locations which included cost, capacity, homes in 500-foot buffer, and homes on route. He reviewed with Council on each of the seven locations evaluated their costs per ton, their estimated life capacity (in years), the number of homes on route and the number of homes in the 500 foot buffer.

Mr. Combs said that as a result of this detailed investigation, City staff recommends the Azalea Road site. It is City-owned property, has 20 + years life, has the least neighborhood impact, the feasibility study and operations plan have been completed, and it can be integrated with the Parks & Recreation Master Plan.

At the request of Councilman Worley at the November 20, 2001, worksession, Mr. Combs provided information from an architect, structural engineer, soils engineer and code enforcement officer regarding housing construction on a beneficial fill.

Mr. Mike Moody presented Council with a memo dated November 27, 2001, which reads that "we petition the Asheville City Council to postpone any decision related to the location of a specific beneficial landfill site for the following reasons: (1) All of the consultant's reports and NC DENR requirements, related to the Azalea Road site, have not been thoroughly reviewed by the Staff and made accessible to the public; (2) Public affirmation has not been presented, such that, the City has secured the indisputable right for access to the site and use of the existing bridge; (3) The total cost of all site preparations, together with sedimentation and erosion control plans has not been made public; and (4) We request further review of the proposal, presented by the Public Works Department, as it relates to revising weighting of criteria."

The report read "A review of the study, prepared by the Public Works Department and presented at a recent work session of the Asheville City Council, leaves several issues unresolved: (1) A January 2001 study of the Azalea Road site, prepared by Woolpert LLP, indicated that the '...existing fill area must be further defined by geotechnical testing to be sure that it will support additional material.' Of particular interest is the consultant's finding that '...measures must be installed to protect the side slopes' to prepare for additional fill material. If this involves excavation, it would be contrary to the statutory conditions for a beneficial fill. Additional required studies, indicated by Woolpert LLP, included a wetland review and BFE changes related to bridge construction; (2) Some months ago, the City Council approved a second study for the Azalea Road site termed 'An Operational Analysis'. However, the public, and perhaps the City Council, have not seen the study results or been given a chance to review the document(s). In fact, the study was sent to NC DENR for approval on Tuesday, November 20, 2001. This approval process could take as long as 30 days; and (3) At the City Council work session, November 21, 2001, the Public Works Department presented an evaluation of seven (7) sites for a proposed beneficial fill. The 'Evaluation Summary' seems to be weighted in such a way as to make the findings difficult to understand. The following table is the same data, without subjective weighing: (overall evaluation summary table shown). If the more tangible criteria are considered, namely cost and capacity, then the following chart is applicable: (cost and capacity

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evaluation table shown). In both evaluations, Azalea Road does not appear to be the location of choice. The most obvious detriment to Azalea Road is the cost. To date, we the taxpayers, have spent almost \$90,000 for a feasibility study at Azalea and another \$40,000 for an operational plan at Azalea. The Public Works Department now estimates that the annual operating cost for Azalea is \$140,000. This brings the total for this 'money pit,' or should it be called a 'money mound,' to \$3,112,000. The consultant indicates that most of this amount will need to be spent up front before the first load of debris is dumped. By the way, the taxpayers have bought an additional 131 acres around this site, for a park at a cost of \$1,400,000. The total investment, if nothing has been overlooked (such as requirements from NC DENR) is just under \$5,000,000. Can, or should, the taxpayers carry this burden when less costly options have been presented?

"Any alternative does not absolve the City of Asheville of its responsibility to recycle all materials as permitted. The residents of the City are mandated to recycle household refuse – the City staff should be equally obligated. It is apparent that the cost to recycle inert debris will decrease as the supply of natural resources diminishes. In fact, the data from Public Works indicates present savings of \$7.64 per ton if material is recycled while utilizing the Buncombe County landfill. In retrospect, the City of Asheville could have saved \$70,033 of taxpayer money, just since the closing of White Fawn in February of this year (or \$84,040 per year). This amount would pay for the estimated \$80,000 to purchase equipment that separates these materials in preparation for recycling.

"A final observation is that the proposed Azalea Road park/soccer complex and a landfill do not seem to be compatible uses for the site. A very real hazard exists when vans full of soccer players mix with City trucks on a narrow road. Unfortunately, safe access, for children and their families, to these facilities was not considered as criteria for any of the sites. To upgrade Azalea Road and associated intersections would be

another unbearable expense to taxpayers. Again, until we have all of the facts and know all of the cost, your vote today may be 'out of order.'"

Mr. Combs passed out his responses to Mr. Moody's report. Regarding Concern No. 1 Mr. Combs said that the operational plan will specify the working and final grade slope. The "measures" that must be installed involve competent heavy equipment operation, the moving and re-moving of new and/or existing material and landscaping. In addition he said "excavation" for the purpose of re-filling with beneficial fill is indeed contrary to statutory definitions; however, re-contouring a site to improvement and/or prepare an old existing site is appropriate.

With regard to Concern No. 2, Mr. Combs said that on May 22, 2001, City Council appropriated \$39,500 to Woolpert, LLC to prepare an operation plan which consists of drilling services, laboratory testing (of soils), professional services (labor) and miscellaneous/contingency. The soil analysis is to best determine how to implement operations and not to determine the feasibility of the site, which was reported by Woolpert (presented January 23, 2001) as feasible for beneficial fill use.

Mr. Combs said that regarding Concern No. 3, staff assigned a scale of 0 to 10 as a proportion to percentages in order to more fairly "weigh" the four areas of concern. Simple ranking is not accurate. For example, Mr. Moody assigned a rank of "2" ("homes on route") for two (2) homes on the route to Azalea, and a rank of "3" for five (5) homes on the route to Moore Street, which represents a 150% increase. Richmond Hill has 26 times more homes than Azalea but only received a "7" rank from Mr. Moody, which obviously is not in proportion to the difference of the data compiled. Regard cost, Azalea's cost (\$140,030) is 30% of Buncombe County's \$461,120. By assigning a 0-10 scale proportion, Azalea's score of "6" (compared to Buncombe County) is a conservative interpretation of the proportions.

Mr. Combs addressed another concern in the report. Going to Buncombe County to dispose of 11,000 tons costs \$461,120/year or \$41.92/ton. To Buncombe County with recycling

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costs \$377,080/year or \$34.28 ton. Going to Azalea Road to dispose of 11,000 tons costs \$140,030/year or \$12.73/ton. To Azalea Road with recycling costs \$16,380/year or \$14.58/ton. The potential savings per year utilizing Azalea Road compared to Buncombe County is \$321,090 without recycling and \$216,700/year with recycling.

Mr. Combs said that Mr. Moody's report mentioned the hazard of children and their families with City trucks on a narrow road. He said that there are narrow roads throughout the City and he hoped that could be solved at a later date.

Mr. John Richardson, President of the Land-of-Sky Chapter of Trout Unlimited, said they are concerned about the siting of a beneficial landfill on Azalea Road. They have looked forward to working with the City on the in-stream rehabilitation of Swannanoa River as it flows through the park. Having examined the Public Works Department site investigation report, they have many reservations about the methods and their final recommendation to Council. First of all, using a strict cost benefit analysis, homes in the 500-foot buffer and homes on the route are not valid site criteria. Moreover, even if they are included, they should not be given the same equal weight as cost and capacity. To give them equal weight is to manage by conflict avoidance. If one had used the strict cost benefit analysis, then the Memorial Stadium site would have been the clear winner. It has the lowest cost and it has a capacity greater than all but Burney Mountain Road (Fairview) site and the Buncombe County landfill. Secondly, he felt that staff was not consistent in it's evaluation ratings. For example, the Burney Mountain Road/Fairview site was given a weight of 7 for it's capacity. By contract, the Azalea Road site was given a weight of 9. However, the Burney Mountain Road site has an estimated life, according to Mr. Combs, of 30 + years without recycling. Whereas, Azalea Road has only 21.3 year life

without recycling. Similarly, the way City staff applied the rankings to homes in the buffer and homes on the route showed a lack of consistency. Thirdly, the analysis of landfill capacity is flawed. City staff came up with a fairly precise capacity of 21.3 years for the Azalea Road site. They then compared this fairly precise estimate with all the other sites. Some of the other sites were given the life span of 10-30 years or 10-20 years. Comparing the favorite site, whose life span was determined fairly precisely with other sites whose life spans were determined by a sophisticated guess does not serve public policy. Fourth, there are other criteria that should have been included. Primary among those would be the environmental impact. This landfill is within the viewshed of the Blue Ridge Parkway, which is not an enhancement for the Parkway. Nor should putting a landfill next to a park and greenspace be considered an enhancement. Along with the environmental impact is the safety issue. Kids play in parks and they are not watching where they are going. Having large dump trucks accessing the landfill by going through part of the Park is a greater safety hazard than the number of homes along the route of the trucks. He urged Council to postpone any decision on the Azalea Road site and send it back to City staff for further review. The current recommendation is based upon a flawed analysis, incomplete data, inconsistent evaluation weightings, and narrow criteria that were primarily designed to favor this site and this site alone.

Ms. Laura Rotegard, representing the Blue Ridge Parkway, said that the Blue Ridge Parkway has been working with the City fairly continuously since this came up six years ago as a flea market proposal. We have been working with you to resolve the issues that we think this land use will pose to being adjacent to a national park. We feel that we have been successful in defining the extent of the impact to the visual resource but not sure an agreement has been reached on how to mitigate that impact. She was confident, however, that we will find a solution. However, they are very concerned they have reached an impasse on the issue about the access. In January of 1999 after the flea market issue, we did research and discovered that the history on that road segment had been abandoned. We then sent a letter to the Mayor explaining what we had found suggesting that that road segment and the bridge does not have a public use on it and stating that in that case, when you were preparing for a bond referendum that we suggested that public use not be encouraged on that road – since there was no legal right to the use on that road. The only reserved right was for the Cove Ministries, which was deeded at the time of the

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abandonment. The City responded in a letter suggesting that our research was inaccurate and a meeting was agreed upon. Prior to that meeting, we had a meeting with Parks and Recreation and they asked us about what sort of instruments could be used for a special permitting process and we showed willingness to explore that with the City. In March of this year, the staff and the City staff attorney and our staff and our solicitor from Atlanta met to discuss why we have a difference of opinion about this. We left that meeting not changed in our positions but requested that the solicitor and your attorney continue to talk about the different approaches to the research that the Parkway pursued. To date we haven't had any continuing conversation and that concerns us. We thought we had asked that fairly clearly of the City to continue that conversation with our solicitor. In the meantime a number of other small things happened that are important to share. We found that our locks had been changed on the road access to the gate. We found out how and where those were changed and they were City locks. We had a meeting with City staff and come to a courtesy agreement as to how to use that road system temporarily and in an intermittent process to further the designs and studies requirements to pursue the information on this site. Through the summer we have experienced some management problems with that gate being a shared process. We've had a violent crime committed on lands that would normally be locked behind that gate. We've had park lands accidentally bush-hogged when someone was in bush-hogging City property. And we've had other uses that we didn't necessarily verbally agree to in the luncheon meeting. To date we are perplexed and puzzled and in a very awkward situation. She said there are still two key points that their position rests on and we are open to continue conversations on this. One is that our solicitor's position is that the road and the roadway was appropriately abandoned in the 1970's and by state law that ownership reverts back to the National Park Service. We own the bridge and

we own the road. There is no public use on that road allowed. Park Service policies and public laws that establish the National Park prohibit us from giving uses to individual or specialized entities, the City being one of those. We have the authority to grant a special use permit in this case for a temporary, short-term use that cannot exceed five years. But in doing that we have to abide by all the laws that govern us regarding the National Environmental Policy Act. We have to take that permitting process through an environmental assessment or an environmental impact statement. That process will take anywhere from six months to eighteen months depending on whether it's elevated to an EIS. To date we have received four comments requesting that it go to an EIS, asking us to hold this study to the highest test of compliance that we can. We may have the authority to permit this use, but we are not, at this point in time, able to commit to giving that use. We have to go through that environmental assessment process before we can legally do anything. And that is going to take some time. We realize that in previous conversations we have indicated our willingness to explore all these possibilities and we are concerned that we will do this only through the need for process. While we share your concern that we all find very expeditious and economical disposal for this inert waste, we just want to be noted that this process, for doing this through National Park lands, is not easy, convenient, nor at this point legally clean.

Mr. Combs said that the City is more than willing to work with the Park Service and they hope we can come to some agreement. Mr. Combs also explained the instance with the locks.

City Attorney Oast said that it's the City's contention that the road has not been abandoned the way it should have been and that access would be available. Resolving that situation will take some time and we are working cooperatively with the Parkway to use some short-term access. This is the first he has heard of a special use permit being available and that is something that we will want to explore. He is continuing to gather information on the status of the bridge.

Councilman Peterson asked what will the City do if the Parkway closes the bridge and it takes up to a year to get access to the bridge. Mr. Combs replied that we do have some alternatives in mind for some other sites until we can develop this one. Building a low water

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bridge is also something that can be constructed in 5-10 days after a permit is obtained from the Corp of Engineers, which is not a very lengthy process because it is a short-term permit.

The following individuals spoke against the beneficial fill in the Azalea Road area for various reasons, some being, but are not limited to: a beneficial fill cannot be placed in the middle of a river channel; land should be preserved for its highest and best use; use of bridge and road is being contested; environmental concerns; viewshed from the Parkway is a concern; floodplain insurance issue and safety concerns:

Mr. Robert Born, Registered Civil Engineer and Vice-Chairman of the View Pointe

Homeowners Association

Mr. Michael Miller, representing RiverLink

Mr. Frank Hankey, resident in View Pointe

Ms. Rebecca Campbell

Mr. Combs responded to questions from Councilman Peterson with regard to using other smaller sites.

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

Vice-Mayor Cloninger moved for the adoption of Resolution No. 01-186. This motion was seconded by Councilwoman Field.

Vice-Mayor Cloninger stated that Azalea Road is the most cost effective site for the City and will save taxpayers money. He's confident City staff will maintain the site to meet environmental requirements and that City staff will work with the Blue Ridge Parkway regarding the viewshed issue. He would rather have this located on land that the City owns and controls so that we can better ensure and control what goes on there.

Councilman Worley agreed with Vice-Mayor Cloninger and understood the concerns of the Beverly Hills and View Pointe residents, however, he didn't see how this will impact those communities. He supported this site on the condition that truck traffic using the site will be from Tunnel Road and not from Swannanoa River Road.

Councilman Peterson didn't believe Azalea Road is the best site. He felt there will be extra expenses and those expenses will not make the site as cost effective. He was concerned about mixing City truck traffic with the Park traffic. He felt a better approach would be to have smaller scattered sites, thereby reducing transportation costs.

Mayor Sitnick personally felt she did not have enough answers to the questions raised and was not comfortable in voting in favor of this site.

The motion made by Vice-Mayor Cloninger and seconded by Councilwoman Field carried on a 5-2 vote with Mayor Sitnick and Councilman Peterson voting "no".

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VI. OTHER BUSINESS:

A. COMMENTS BY COUNCILWOMAN BELLAMY

Councilwoman Bellamy said that she will be travelling to Charlotte, N. C., tomorrow to hear a presentation regarding the introduction of the Rehab Code concept, focusing on its impact

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on adaptive reuse and the preservation of housing stock. She felt this will be very good for our community.

B. LAWSUIT

The City was served with the following Complaint on December 16, 2001: Michael James Gosnell v. City of Asheville. The nature of the proceeding is a Complaint for compensation for conspiracy to murder. This matter will be handled in-house.

C. PRIMARY ELECTION RESULTS - CITY OF ASHEVILLE - OCTOBER 9, 2001

GENERAL ELECTION RESULTS - CITY OF ASHEVILLE, NOVEMBER 6, 2001

Attached hereto as Exhibit "A" is the abstract containing the number of legal votes cast in the Primary Election, City of Asheville, held on October 9, 2001. Also attached as Exhibit "B" is the abstract containing the number of legal votes cast in the General Election, City of Asheville, held on November 6, 2001.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

A. COMMENTS BY FRED ENGLISH

Mr. Fred English commented about downtown Asheville being a dangerous place.

B. COMMENTS BY REBECCA CAMPBELL

Ms. Rebecca Campbell spoke farewell words to the outgoing City Council members.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 10:28 p.m.

CITY CLERK MAYOR
