

- [Councilman Ellis moved to adopt Ordinance No. 2892 granting the conditional use permit for Stone Ridge Condos located on Piney Mountain Drive with the following conditions: \(1\)](#)

Tuesday – January 22, 2002 - 5:00 p.m.

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor Terry M. Bellamy; Councilman James E. Ellis; Councilwoman Diana Hollis Jones; Councilman R. Carl Mumpower; and Councilman Brian L. Peterson; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Joseph C. Dunn

INVOCATION

Councilman Ellis gave the invocation.

I. PROCLAMATIONS:

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 8, 2002, AND THE WORKSESSION HELD ON JANUARY 15, 2002

B. RESOLUTION NO. 02-6 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ASPHALT UNLIMITED TO MILL VARIOUS STREETS FOR RESURFACING

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Asphalt Unlimited to prepare for pavement resurfacing of various streets in Asheville, North Carolina.

The City is in need of a contractor to provide milling services to city streets in the Asheville city limits. In accordance with N.C. Gen. Stat. sec. 143-131, informal bids for milling services were solicited and one qualified response was received. The bidders are as follows: Asphalt Unlimited at \$85,085.09 and no response from Slurry Pavers.

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

The Public Works Department staff recommends City Council adopt a resolution to authorize the City Manager to enter into a contract with Asphalt Unlimited to mill streets in the Asheville area.

RESOLUTION BOOK NO. 27 – PAGE 43

C. RESOLUTION NO. 02-7 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SENTRY ALERT SECURITY SERVICE INC. FOR ADEQUATE SECURITY AND PROTECTION FOR THE MILLS RIVER WATER TREATMENT PLANT, THE WATER MAINTENANCE FACILITY AND THE NORTH FORK WATER TREATMENT PLANT AND WATERSHED

Summary: The consideration of a resolution authorizing execution of a contract with Sentry Alert Security Service Inc. for adequate security and protection for the Mills River Water Treatment Plant, the Water Maintenance Facility and the North Fork Water Treatment Plant and watershed.

Increased security measures are needed to provide adequate security and protection of the water system. Specifications and security needs were identified for each Water Resources Facility, with the exception of the Bee Tree Water Treatment Plant which is off-line due to spillway modifications. This area will be looked at approximately 60 days prior to completion of the spillway project in August 2003 for security requirements.

Requests for bids were sent to local security firms with only two firms responding. The bids received were \$137,642.00 (low bid) from Sentry Alert Security Services, Inc. and \$436,600.00 from Haynes Technologies. Bids were not received from Carolina System and Services, Inc. and Hayes and Lunsford Technologies.

Facility entry will be by card control (same system now used at City Hall). Controlled entry at all Water Resources Facilities will be tracked at the various facilities using the same security software that is currently in use in City Hall. Controlled gate entrance/exit will enable staff to limit access to possible vulnerable areas of the water plants and maintenance facility. All gates and other key points will have closed-circuit television monitoring. All entry/exit doors will have limited card control access. All Water Resources Facilities have been on heightened security since the September 11, 2001, terrorist attacks. Installation of the requested security equipment will provide the added security measures required to protect our water sources, facilities and employees. The Regional Water Authority of Asheville, Buncombe and Henderson approved increased security measures at its October 2001 meeting. Funds have been allocated from the Water Maintenance operational budget to fund these security enhancements.

Staff recommends the Council approve the contracts to Sentry Alert Security Service, Inc. in the amounts of \$39,840.00 for the Mills River Water Treatment Plant, \$10,652.00 for the Water Maintenance Facility, and \$87,150.00 for the North Fork Water Treatment Plant.

RESOLUTION BOOK NO. 27 – PAGE 44

D. RESOLUTION NO. 02-8 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR A GRANT TO ASSIST WITH THE DEVELOPMENT OF AZALEA ROAD PARK PHASE I

Summary: The consideration of a resolution to apply for and enter into an agreement with the N. C. Dept. of Environment and Natural Resources, Division of Parks and Recreation for funds through the North Carolina Parks and Recreation Trust Fund, to assist with the development of parks and greenways.

Azalea Road Park represents the City of Asheville's first phase of a major greenway and park system being developed along the Swannanoa River on Azalea Road in east Asheville. This first phase will include the development of two fields of the four field soccer complex, restrooms, concession, kayak launch, two picnic shelters, a large playground, disc golf, fitness and greenway trails, river observation decks, restoration of the Thomas Wolfe cabin, and parking areas.

The Parks and Recreation Department, Western North Carolina Soccer Foundation and RiverLink are in partnership to implement an ambitious fundraising plan to raise \$3 million to build the first phase of the park.

If the grant funds are received, they will be used to assist with the construction of the first phase of Azalea Road Park.

The Parks and Recreation Department is requesting \$250,000 in grant funds from the N. C. Parks and Recreation Trust Fund, which requires a 50% cash or in-kind match. The cash

match is available through the Western North Carolina Soccer Foundation via the John B. Lewis Family Foundation.

The Parks and Recreation Department recommends the City of Asheville to apply for and enter into an agreement for grant funds with the North Carolina Parks and Recreation Trust Fund to assist with the construction of Azalea Road Park Phase I.

RESOLUTION BOOK NO. 27 – PAGE 48

E. RESOLUTION NO. 02-9 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS FOR PROPERTY ON CHOCTAW STREET IN THE EAST RIVERSIDE REDEVELOPMENT PROJECT

Summary: The consideration of a resolution directing the City Clerk to advertise an offer to purchase property on Choctaw Street (Tract 2) in the East Riverside Redevelopment Project.

Choctaw Street Tract 2 is a residential zoned lot near the corner of Choctaw Street and Congress Street comprising 0.224 acre. A bid has been received from Tilman and Sabrina Jackson in the amount of \$11,800.00 to purchase said property, which bid is not less than the appraisal of \$11,800.00. The bid from the Jackson's includes the proposal to construct a single family residence on the property.

The sale of the property has been through Interdepartmental Review and all respondents concurred with no exceptions.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

RESOLUTION BOOK NO. 27 – PAGE 40

F. RESOLUTION NO. 02-10 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY LAND ON BREVARD ROAD TO THE N.C. DEPT. OF TRANSPORTATION FOR RIGHT-OF-WAY AND EASEMENTS

Summary: The consideration of a resolution to convey land on Brevard Road to the N. C. Dept. of Transportation.

The N. C. Dept. of Transportation (NC DOT) has offered to purchase a portion of land owned by the City on Brevard Road. The land is located approximately 300 feet north of the Blue Ridge Parkway entrance and lies between the existing east right-of-way line of Brevard Road and the west bank of the French Broad River.

The NC DOT has agreed to pay \$14,550.00 for .12 acre of right-of-way, .14 acre temporary construction easement and .05 acre utility easement over the portion of the property which abuts Brevard Road. Brevard Road will be widened to four lanes with a center median in front of the property. The temporary construction easement would expire upon completion of construction. The utility easement would render the portion of land encumbered by the easement useless for any other purpose. The NC DOT's offer to purchase is subject to its authority to exercise eminent domain.

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The entire parcel has an area of 1.784 acre. Compensation for the right-of-way and easements was determined by an appraisal of the portion of the property being taken in the amount of \$14,550.00

Approval of the resolution will authorize conveyance of the right-of-way and easements to the NC DOT for the amount of \$14,550.00.

Planning Department staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 27 – PAGE 50

G. ORDINANCE NO. 2887 - BUDGET AMENDMENT TO ACCEPT DONATION FROM HAW CREEK NEIGHBORHOOD ASSOCIATION FOR HAW CREEK PARK INTERPRETIVE SIGNS

Summary: The consideration of a budget amendment to appropriate an additional \$8,712.00 to the Haw Creek Park Project from the Haw Creek Neighborhood Association for interpretive signs.

The City of Asheville is continuing its development of a passive park in the Haw Creek community which includes a restroom/picnic shelter, gazebo, playground area, paved woodland trails, landscaping, and a parking lot. The last feature, interpretive signage, will be implemented through the City of Asheville Capital Improvement Budget, Parks & Recreation's Trust Fund, Adopt-A-Trail, and the Haw Creek Neighborhood Association. A budget amendment is necessary to appropriate an additional \$8,712.00 to this project from the

Haw Creek Neighborhood Association. The Association's commitment of these funds will enable the project to be completed.

The Parks and Recreation Department recommend approval of the budget amendment in the amount of \$8,712.00 for the Haw Creek Park Interpretive Sign Project.

ORDINANCE BOOK NO. 19 – PAGE

H. ORDINANCE NO. 2888 - ORDINANCE DELETING CHAPTER 6 OF THE CODE OF ORDINANCES AND REPLACING IT WITH A NEW CHAPTER 6 TO ALIGN THE ASHEVILLE FIRE CODE WITH THE NEW N.C. STATE FIRE CODE

Summary: The consideration of an ordinance deleting Chapter 6 of the Code of Ordinances and replacing it with an ordinance to align the Asheville Fire Code with the new North Carolina State Fire Code.

The North Carolina State Building Code Council has adopted the International Fire Code with North Carolina amendments as the Fire Code for the State of North Carolina. The new Fire Code for North Carolina went into effect January 1, 2002. Chapter 6 of the Code of Ordinances is the Fire Code for the City of Asheville. N. C. Gen. Stat. secs. 160A-174 and 160A-76 (b) authorizes the cities to adopt such codes under their general ordinance making power.

The deletion and replacement of Chapter 6 allows the Asheville Fire and Rescue Division to enforce the State Fire Code, adopts sections of the Code that are optional to locations in the State and meets the requirements of the North Carolina General Statutes.

Fire protection water supply requirements for the City of Asheville were addressed by Council in the fall of 2001. These requirements are now found as Section 10 of the Asheville Standard Specifications and Details Manual.

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City staff recommends City Council adopt the ordinance deleting Chapter 6 of the Code of Ordinances in its entirety and replacing it with an ordinance to align the Fire Code with the new North Carolina State Building Code.

ORDINANCE BOOK NO. 19 – PAGE

I. RESOLUTION NO. 02-11 - RESOLUTION AMENDING THE FEES & CHARGES MANUAL ESTABLISHING FIRE CODE PERMIT FEES TO BE CONSISTENT WITH THE NEW STATE FIRE CODE

Summary: The consideration of a resolution amending the Fees and Charges Manual establishing Fire Code Permit Fees to be consistent with the new State Fire Code.

The North Carolina State Building Code Council has adopted the International Fire Code with North Carolina amendments as the Fire Code for the State of North Carolina effective January 1, 2002. The Fees and Charges Manual establishes Fire Code Permit Fees that coordinate with Chapter 6 of the Code of Ordinances, the Fire Code for the City of Asheville.

City staff recommends City Council adopt the resolution amending the Fees and Charges Manual for Fire Code Permit Fees.

RESOLUTION BOOK NO. 27 – PAGE 51

J. ORDINANCE NO. 2889 - ORDINANCE AMENDING SECTION C OF THE CODE OF ORDINANCES (SCHEDULE OF CIVIL PENALTIES) ESTABLISH FIRE CODE VIOLATIONS IN ORDER TO BE CONSISTENT WITH THE NEW STATE FIRE CODE

Summary: The consideration of an ordinance revising Section C of the Code of Ordinances (Schedule of Civil Penalties) establishing Fire Code violations in order to be consistent with the new State Fire Code.

The North Carolina State Building Code Council has adopted the International Fire Code with North Carolina amendments as the Fire Code for the State of North Carolina effective January 1, 2002. Section C of the Schedule of Civil Penalties establishes Fire Code violations that coordinate with Chapter 6 of the Code of Ordinances, the Fire Code for the City of Asheville.

City staff recommends City Council adopt the ordinance amending Section C of the Schedule of Civil Penalties.

ORDINANCE BOOK NO. 19 – PAGE

K. RESOLUTION NO. 02-12 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR BRIDGE #52 – EAST OAKVIEW ROAD OVER HOMINY CREEK

Summary: The consideration of a resolution authorizing the City Manager to sign a municipal agreement with the N. C. Dept. of Transportation (NC DOT) for the replacement of a permanent bridge at East Oakview Road over Hominy Creek.

East Oakview Road is a City maintained street located off Brevard Road near the Farmers Market. Bridge #52 is located on East Oakview Road over Hominy Creek. This bridge recently collapsed due to the weight of an oversized truck. This agreement will require the NC

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DOT to pay 80% of the replacement of a permanent bridge. The City will be required to pay 20% of the cost of the permanent replacement bridge.

The cost of the permanent bridge was not been determined. It will most likely range from \$300,000 to

\$500,000. The City's portion of the cost will range from \$60,000 to \$100,000.

This agreement costs 80% of the cost to replace a permanent bridge with two lanes of travel and a pedestrian crossing. It will not cover cost associated with a temporary bridge. Staff is currently working with the NC DOT to borrow and install a temporary bridge across Hominy Creek until the permanent structure is operational.

Staff recommends the consideration of a resolution authorizing the City Manager to sign a municipal agreement with NC DOT for the replacement of a permanent bridge at East Oakview Road over Hominy Creek.

RESOLUTION BOOK NO. 27 – PAGE 53

L. RESOLUTION NO. 02-13 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Vice-Mayor Bellamy said that this is the consideration of appointing a member to the Firemen's Relief Fund to serve a two year term.

The term of Bill Schaefer, as a member of the Firemen's Relief Fund, expired on January 1, 2002.

This resolution will reappoint Bill Schaefer to serve an additional two year term, term to expire January 1, 2004, or until his successor has been appointed.

RESOLUTION BOOK NO. 27 – PAGE 54

M. RESOLUTION NO. 02-14 - RESOLUTION APPOINTING MEMBERS TO THE GREENWAY COMMISSION

Vice-Mayor Bellamy said that this is the consideration of appointing two members to the Greenway Commission.

The terms of Paula Robbins and Pauline Kaltsunis, as members on the Greenway Commission, expired on December 31, 2001.

This resolution will reappoint Paula Robbins and Pauline Kaltsunis to each serve a three year term respectively, terms to expire December 31, 2004, or until their successors have been appointed.

RESOLUTION BOOK NO. 27 – PAGE 55

N. RESOLUTION NO. 02-15 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD OF DIRECTORS

Vice-Mayor Bellamy said that this is the consideration of appointing a member to the Metropolitan Sewerage District Board to serve a three year term.

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The term of Brady Blackburn, as a member on the Metropolitan Sewerage District Board, expires on January 19, 2002.

This resolution will reappoint Brady Blackburn to serve an additional three year term, term to expire January 19, 2005, or until his successor has been appointed.

RESOLUTION BOOK NO. 27 – PAGE 56

O. RESOLUTION NO. 02-16 - RESOLUTION APPOINTING MEMBERS TO THE PUBLIC ART BOARD

Vice-Mayor Bellamy said that this is the consideration of appointing three members to the Public Art Board.

The terms of Betty Clark, Pamela Myers and Kenn Kotara, as members on the Public Art Board, expired on December 31, 2001.

This resolution will reappoint Betty Clark, Pamela Myers and Kenn Kotara to each serve a four year term respectively, terms to expire December 31, 2005, or until their successors have been appointed.

RESOLUTION BOOK NO. 27 – PAGE 57

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

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

III. PUBLIC HEARINGS:

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

Mayor Worley said that this public hearing was opened on October 23, 2001, and continued until December 18, 2001, in order to give staff time to work with the property owner and his realtor to refine the uses and at the same time to work with the neighborhood to coordinate the uses through them.

On December 18, 2001, the petitioner requested a continuance of this public hearing until January 22, 2002.

On January 16, 2002, a letter was received from Ms. Diane Smoak from Coldwell Banker, requesting that this public hearing be continued until February 26, 2002. "We met with citizens of the Shiloh community January 14th to discuss the seller's request that the rear portion of this property be rezoned to Commercial Industrial so the total property will have the same zoning. Mrs. Norma Baynes has been working together with us to coordinate informing the surrounding community why we are requesting this particular zoning and trying to work out with them what they find offensive. We hope we can achieve something that will be agreeable for all concerned to create a win-win situation for everyone. At the January 14th meeting in Shiloh (the January 7th meeting was rescheduled due to icy weather) Mrs. Baynes and others in attendance requested that we have another meeting on February 4th as some that had planned to attend on the 7th was

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not able to come on the 14th. I realize that this is an inconvenience for the council but we feel that it is better to work with the community to see if we can find a mutually agreeable plan for the owner of the property and the surrounding community. Just to keep you informed we are going to mail another package to the fifteen members that regularly attend the Shiloh community meeting as well as the names on the list that Stacy Martin faxed to us. The community in attendance this past Monday night voiced concerns about the potential for drugs (in RS-8 zoning) that have been a problem and homeowners hope that whatever future development of the property will bring pride to their neighborhood. We hope to be able to get more of the community to see if we can agree on zoning that will be agreeable. We would appreciate you rescheduling us

in February so we may try to work out a satisfactory solution."

Councilman Peterson wanted to make sure that both parties were agreeable to this continuance in order to avoid unnecessary trips to the Council meeting for those who were prepared to speak on this issue.

Councilman Mumpower moved to continue this public hearing until February 26, 2002. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE REZONING OF 123 ACTON CIRCLE FROM NEIGHBORHOOD BUSINESS DISTRICT TO OFFICE II DISTRICT

ORDINANCE NO. 2890 - ORDINANCE REZONING 123 ACTON CIRCLE FROM NEIGHBORHOOD BUSINESS DISTRICT TO OFFICE II DISTRICT

Mayor Worley opened the public hearing at 5:11 p.m.

Mr. Jeff Tacy, Urban Planner, said that this is the consideration of an ordinance to rezone 123 Acton Circle from Neighborhood Business District to Office II District. This public hearing was advertised on January 11 and 18, 2002.

The City has received a rezoning petition requesting the rezoning of property located at 123 Acton Circle (PIN No. 9617-11-67-5257) from Neighborhood Business District to Office II District. The site is located on the southwest corner of Acton Circle and Sand Hill School Road. It is bounded on the east by RM-6 Residential Multi-Family Low Density District zoning, Neighborhood Business District to the south and Highway Business District to the west and north. A Home Depot building supply store is located north of the site and there are other relatively intense commercial uses in the immediate area. These developments have resulted in a change in the character of the area. The requested Office II zoning would provide a good transition from the Highway Business zoning to the residential zoning to the west of the site. Development standards for the Office II zoning district would assure that any development of the site would be compatible with the surrounding area. The Office II development standards permit structures of 16,000 square feet of floor area or less and allows for a variety of office, commercial, and retail uses. The site currently has a two-story 6,000 square foot structure with offices, retail and apartments.

The Planning and Zoning Commission voted unanimously to recommend approval of the rezoning of the property located at 123 Acton Circle from Neighborhood Business District to Office II District. The Planning and Development staff recommends approval of the requested rezoning.

Councilman Peterson asked if this would be considered spot zoning. City Attorney Oast said that that if it were surrounded along all sides by residential zoning, it would be different, than it being surrounded on all sides by non-residential zoning. He felt the Office II classification is not significantly different from Neighborhood Business and the way the lot is situated, it may actually

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be a good transition from Neighborhood Business from the south to Highway Business to the north. That kind of step by step increase in intensity seems to work well in the area that it is.

Upon inquiry of Councilman Mumpower, Mr. Tacy said that they built this building in 1999 and they are only requesting the rezoning in order to change the use on the second floor from apartments to office space, due to their inability to finding tenants.

Ms. Lynn Johnson was concerned about taking the mixed use aspect (residential apartments) out of this building.

Vice-Mayor Bellamy felt that the City needs to look at the bigger issue of whether people want to live on major corridors or in residential neighborhoods. Council needs to keep that issue in mind when they think of housing in general and when they ask people to develop housing.

City Attorney Oast noted that among the uses that are permitted in the Office II District are residential uses, so there is nothing that would prohibit that use, other than economics.

Dr. Il Sung Lee, applicant, explained that due to the commercialized development in the area he has a problem in finding tenants for the upstairs residential level and thus requested the rezoning.

Mayor Worley closed the public hearing at 5:26 p.m.

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

Vice-Mayor Bellamy moved for the adoption of Ordinance No. 2890. This motion was seconded by Councilman Ellis and carried unanimously.

ORDINANCE BOOK NO. 19 - PAGE

C. PUBLIC HEARING TO CONSIDER REZONING STONE RIDGE CONDOS LOCATED ON PINEY MOUNTAIN DRIVE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL USE, AND ISSUANCE OF A CONDITIONAL USE PERMIT

ORDINANCE NO. 2891 - ORDINANCE REZONING STONE RIDGE CONDOS LOCATED ON PINEY MOUNTAIN DRIVE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL USE

ORDINANCE NO. 2892 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR STONE RIDGE CONDOS LOCATED ON PINEY MOUNTAIN DRIVE

On January 17, 2002, a letter was received from the President of Pinecliff Condominiums Association Inc. Jennette O'Conner and the President of Pinecliff Villas Association Larry Traber requesting this public hearing be continued to a date after February 16, 2002. Said letter read: "Pinecliff Condominium Association and Pinecliff Villas Association is a residential community of 67 homeowners located on just over eleven acres of land (approx. 6 units per acre) next to the proposed Stone Ridge Condominium Project south of Chunns Cove Road. We do not object to the proposed Stone Ridge project and welcome a new neighbor with the following requests: (1) The Stone Ridge project will require wholesale destruction of existing trees and vegetation to

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accomplish placement of eighty homes and detached garages. The developers pretty pictures depict vegetation only as it will look twenty years after construction. We strongly recommend approval of less density necessitated by the steepness of the site; (2) The developer has purchased acreage on the opposite side of the ridge contiguous with the property but not scheduled for development; this purchase of property was approved by Planning and Zoning to meet UDO requirements. We question the legality of this additional land if it is not to be developed as part the of 'development'.; (3) Rezoning the property from RM6 to RM8 would not be in the best interest of the neighborhood from the standpoint of the topography, visual destruction of the site from Tunnel Rd, increase in vehicular traffic and accommodation of sewage discharge, etc. We strongly urge City Council to deny any increase to RM8 zoning. Due to key members of our

association being unavailable for three weeks and due to the fact that notification of this agenda was not received until 01.16.02, we respectfully request that this agenda be postponed to a date after February 16, 02 to allow us to prepare and voice our opinions."

On January 17, 2001, a letter was received from Stephen D. Saieed, Executive Vice President of Saieed Construction Systems, to Mr. Gerald Green which read: "Based on our conversation today, I understand that a neighbor is requesting that the City Council meeting be delayed for an additional 30 days. Based on our 22-month involvement with the City of Asheville working closely with your staff and our construction schedule to begin construction in April, a 30-day set back would be detrimental at this time. We plan to start our road construction in April so the building foundation can start in June and have units available in the fall before bad weather sets in again. Also, our construction loan with Wachovia Bank is supposed to close next week to begin this project. Please consider our request and call with any questions."

Ms. Patricia Harvey, Treasurer of Pinecliff Condominium Association, reiterated the letter received from Jennette O'Conner and Larry Traber requesting the continuance.

Mr. Clay Mooney, landscape architect and land planner for Stone Ridge Condos, said that this project has been going on for 1-1/2 years and as a result of the numerous meetings and correspondence with Pinecliff Condominium Association, the project has now evolved into a condominium project instead of a townhouse villa concept as first was proposed. He said that since the hillside ordinance limits the amount of area that can be disturbed on a project, additional acreage was purchased. It did not change any density and that additional property will not be developed.

Mr. Terry Peterson, with Beverly Hanks and Associates, said that he has been working with the developer on this project for over two years. He said that the existing residents in Pinecliff community have had the knowledge that this was an 80 unit project for over a year. He said that Mr. Saieed initiated a meeting in April of 2000, when they met with Ms. O'Conner and presented the first set of plans. Another meeting, initiated by Mr. Saieed, was held on June 8. He said that the fourth meeting was March 30, 2001, at which time a site plan was presented to Pinecliff Condo Association. A revised site plan dated November 29, 2001, noted the only difference between the revised plan and the original plan was that the parking in front of the clubhouse changed from 12 parking spaces to 9 parking spaces. Nothing else changed on the plan. They have had this plan. He contacted Ms. O'Conner in Florida and advised her of the Technical Review Committee (TRC) meeting on December 17, 2001, and she said that Pinecliff would be represented at that meeting and Mr. Traber would probably also be there. Mr. Traber was not. At the January 2, 2002, Planning & Zoning hearing there were two people from Pinecliff but Mr. Traber did not attend that meeting either. He stressed that this project has remained the same over a year that it was going to be an 80 unit condominium development.

Ms. Sally Cheney, resident of Pinecliff, said that Larry Traber is not part of Pinecliff and his objection is separate from Pinecliff Condominium Association. She wanted to know if they are going to build on the additional property they purchased.

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Upon inquiry of Councilman Peterson, Urban Planner Jeff Tacy said that the additional 15 acres was added on November 2, 2001. The site plan went through the TRC meeting and the Planning & Zoning Commission meeting with the additional acreage.

When Mayor Worley asked if there was a motion to continue the public hearing, no motion was made. After hearing no questions about the procedure, Mayor Worley opened the public hearing at 5:42 p.m.

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

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

Mr. Tacy 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 1/22/02). This public hearing was advertised on January 11 and 18, 2002.

Mr. Tacy said that this is the consideration of an ordinance to conditionally rezone Stone Ridge Condos located on Piney Mountain Drive from RM-6 Residential Multi-Family Low Density District to RM-8 Residential Multi-Family Medium Density District/Conditional Use, and issuance of a conditional use permit for the proposed use of the property as an 80 unit condominium development.

At their January 2, 2002, meeting the Planning and Zoning Commission recommended rezoning of property located on Piney Mountain Drive (PIN Nos. 9658-05-29-1232, 9658-05-28-1774, and 9658-06-28-895) from RM-6 Residential Multi-Family Low Density District to RM-8 Residential Multi-Family Medium Density District. Piney Mountain Adventures, LLC, is the owner and applicant. The 32.71-acre site is located on the east side of Piney Mountain Drive immediately adjacent to the north side of the Pinecliff Condominium site (City Exhibit 3 –Location Map). The entire project site lies within the zoning jurisdiction of the City. The site is surrounded by mixed multi-family residential, single-family residential, and vacant land. A single entrance from Piney Mountain Drive will access the project site. Surrounding zoning is RM-6 and RS-2. The development density allowed by the RM-8 zoning is consistent with the 2010 City Plan.

He said the initial application was for 15.27 acres and then it was discovered that due to the Hillside Development Standards they would have to acquire additional acreage to get the density they needed for 80 units. They did acquire an additional 17 acres in order to get the 80 units and still meet the hillside development standards.

The request is to conditionally zone the property as RM-8 Conditional Use to allow the owner to develop the project site with 80 residential condominium units, along with a clubhouse and network of pedestrian pathways. The underlying zoning district allows for a maximum density of 8 units per acre for total of 262 units. However, because of the slope of the site, the Hillside Development Standards are applied and the maximum allowed density is 2.8 units per acre. The project as proposed requests a density of 2.6 units per acre. Additionally, due to the slope of the project site, the area of disturbance and construction will be limited to the 7.92 acre portion of the property on the east side of the ridge, fronting on Piney Mountain Drive. The project will consist

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of 20 residential buildings, with varying combinations of two and three bedroom units. All of the buildings will be 2-stories with an average height of 33 feet. The project applicant has exceeded all of the open space, buffering and landscaping requirements of the Unified Development Ordinance (UDO). Also, the project applicant has voluntarily implemented many of the suggestions and recommendations of the local authorities not required by the UDO.

The Technical Review Committee has reviewed and approved this project. A Transportation Impact Analysis was not required for this project.

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

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

Through the cooperation of the project applicant and local authorities, all public health and safety issues have been adequately addressed and incorporated into the project design.

2. That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The project is designed to preserve a significant portion of the site, including the ridge top and areas with the steepest slope. The site design includes limits on the extent of grading, therefore preserving a large portion of the natural vegetation. The project applicant has designed a landscape plan that is consistent with other developments with similar topographical characteristics.

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

The project design is significantly consistent with the Pinecliff Condominium development, which is immediately adjacent to the project site. The site plan depicts considerable buffering and landscaping designed to screen the development from adjacent and nearby properties.

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

At present, the area surrounding the project site is mixed single-family residential, multi-family residential and vacant land. The Pinecliff Condominiums are immediately adjacent to the project site and the scale, bulk, coverage, density, and character of the two developments would be in harmony. The single-family residences in the area are screened and buffered by the natural topography of the area and the preservation of undisturbed areas.

5. That the proposed use or development of the land will generally conform to the Comprehensive Plan, smart growth policies, sustainable economic development strategic plan, and other official plans adopted by the City.

The property is currently zoned for multi-family residential and is also consistent with the land use designations of the 2010 Plan.

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

The Technical Review Committee representatives have reviewed the proposal and determined that there are adequate infrastructure facilities to accommodate the proposed project.

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

Due to the low impact generated from the proposed project, no traffic impact analysis was required. The traffic generated by the proposed use will not cause undue traffic congestion or create a traffic hazard.

Based on the information submitted by the applicant, the proposed project does meet all of the UDO standards required for approval. Based on a field investigation of the project site, the proposed project will function appropriately with the natural characteristics and topography. Also based on a field investigation of the surrounding area, the proposed project is consistent with other developments in the area.

The Planning and Zoning Commission reviewed the requested conditional use rezoning and the site plan for the proposed use at their January 2, 2002, meeting. The Commission unanimously voted to approve the request for RM-8 Conditional Use Zoning, subject to the conditions identified by the staff.

Based on information available to the Planning and Development Department in advance of this public hearing, staff recommends that the City Council approve the requested conditional use rezoning and issue the Conditional Use Permit with the following conditions:

1. The site design shall be in accordance with all applicable conditions of the Technical Review Committee.
2. The site design shall include a landscape installation and maintenance plan that will result in the growth of vegetation intended to make the Stone Ridge development as unobtrusive as the adjoining Pinecliff Condominiums when viewed from locations off the subject property. Such maintenance plan shall be incorporated into and recorded as part of the condominium documents for the project so that it will be observed by all future property owners of Stone Ridge.
3. There shall be no voluntary removal, topping, or other modification of any trees or natural vegetation within the undisturbed area or anywhere else on the site as shown on the grading, site plan, and/or landscaping plan without the approval of the Planning and Development Director.
4. The applicant shall install sidewalks along the portion of the property, abutting Piney Mountain Drive per Section 7-9-1(10)(b).
5. Vary the building designs and floor plan layouts to better satisfy the purpose and intent of the PUD overlay district.
6. Work with staff to provide for a means of providing an urban level of public safety for the entire site.

Vice-Mayor Bellamy asked what kind of continuity will this development have with the existing Pinecliff Condominiums. Mr. Tacy said that this development appears to be very similar to Pinecliff Condominiums, e.g., the layout of the units, the number of bedrooms per unit and the roadways.

Upon inquiry of Vice-Mayor Bellamy, Mr. Tacy explained the need to go from RM-6 to RM-8.

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When Vice-Mayor Bellamy questioned why Condition No. 5 was a recommendation, Mr. Tacy said that was in error and should be deleted.

Councilman Ellis questioned the condition that the developer must install sidewalks along the portion of the property when there are no other sidewalks in the area. Mr. Tacy explained that sidewalks are required to be constructed in accordance with the City's Standard Specifications and Details Manual. He said that even though there are not a lot of sidewalks out there, as more development occurs this will provide some connectivity with the other developments.

City Attorney Oast said that the City does have a mechanism in place where the developer can pay a fee in lieu of constructing sidewalks, however, that is generally used in subdivisions. Since this is a conditional use permit, he would have to defer to the Planning Department's recommendations. Planning & Development

Director Scott Shuford said that he intends to bring some revisions to our current sidewalk policy to Council in the near future and that may be an opportunity for us to address that issue. He said they could have the amount of money associated with a fee in lieu option escrowed until that issue is resolved. Then, whichever direction Council provides at that time, we would then apply that direction to this particular circumstance.

City Manager Westbrook said that unless we collect enough money to build the sidewalk now, in the future it will become the general taxpayer's burden to pay for it. He understands that it looks like a sidewalk going nowhere, but the development does provide urban amenities for urban densities. In most cities where they are developing on the outer rim you will see those sidewalks going into place and they do connect in the future, either by the City or by future developers who develop in the area.

Upon inquiry of Councilman Mumpower, Mr. Mooney said that the slope on Piney Mountain Drive varies but it's about an 8-10% grade. He said the entire frontage of the site requiring sidewalks is approximately 600 feet, but he didn't have a cost estimate. Mr. Mooney said that sidewalks are shown on their plans and they are willing to meet that requirement. However, if City Council deems it more appropriate that they pay a fee in lieu of to build sidewalks in a more appropriate area, they would have not problem with that either.

Upon inquiry of Mayor Worley, Mr. Tacy said that the existing Pinecliff Condominiums would have less than 1/3 of their units if they were to build today under our current standards.

Mr. Mooney recapped that there are 24 unit buildings and each are two story buildings (Applicant Exhibit 1). The Planning Department requested was a reduction in the parking. Originally they had 207 parking spaces and through discussions it was agreed to reduce those to 174 parking spaces. He then showed and explained the elevations of the proposed units (Applicant Exhibits 2, 3 and 4). He then showed a digital photo of what the property looks like now and a rendering of what the property will look like after the condominiums are built (Applicant Exhibits 5 and 6). He said they exceed all of the landscaping requirements set for in the UDO. It is their effort to save as much vegetation as possible. All water and sewer approvals have been obtained. He urged City Council to issue a conditional use permit for this well-designed project.

Upon inquiry of Councilman Peterson, Mr. Mooney said that the clubhouse will be approximately 3-4,000 square feet and it will be one story.

In response to Councilman Peterson, Mr. Mooney said that the additional acreage is on the back side of the slope which is more visible from the Haw Creek area and the Parkway. Again he said that property will not be developed.

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At the request of Councilman Mumpower, City Attorney Oast explained the hillside development ordinance. Mayor Worley also said that there is a State ridge top law that applies to only development above certain elevations.

Upon inquiry of Vice-Mayor Bellamy, Mr. Shuford said that they have not discussed with the developers inclusionary housing or setting aside some affordable units in their development. He said that state law would preclude them from that, but it is something they can work on to get that legislation in the future. He noted that this will be discussed at Council's upcoming retreat.

Ms. Cheney was concerned that the entire 80 units will be crowded onto the original 15 acres.

Ms. Sharon Martin expressed concern that even though they had to buy the additional 17 acres to meet the hillside development standards, they will still disturb the same original 15 acres.

Ms. Lynn Johnson questioned if there were any greenways planned for pedestrians and bikeways and felt this development may not be sustainable economic development.

There being no request for rebuttal, Mayor Worley closed the public hearing at 6:34 p.m.

Councilman Ellis suggested Condition No. 4 be amended to read that "The applicant shall install sidewalks along the portion of the property abutting Piney Mountain Drive, or pay a fee in lieu of. That decision is to be determined by an agreement between the developer and the Planning and Development Department as the new rules are developed."

City Manager Westbrook stressed that the payment in lieu of is normally for times where it's topographically unwise to building sidewalks.

Mayor Worley suggested Condition No. 4 be amended to read that "The applicant shall comply with the sidewalk requirements set forth in City ordinances."

Upon inquiry of Councilman Mumpower about who determines the cost for sidewalks, Mayor Worley said that if the developer constructs the sidewalks, they have to be constructed to the City's standards and specifications and it's whatever that cost is for the developer to construct them. If the fee in lieu of sidewalks is paid, there is a set cost per foot that is determined by the Engineering Department.

Councilwoman Jones felt that the additional acreage purchased is trying to hold the natural resources piece in balance with the residential development.

Councilman Peterson asked if the back 17 acres are so steep that they are not buildable or could someone have built on that property. Mr. Tacy said that the additional 17 acres would have been buildable with the right engineering.

Mayor Worley said that since this is a conditional use process, whatever Council approves is it. Nothing else can be built on that land, including the undeveloped land on the back side of the ridge without going through the whole zoning process again and coming back before City Council. With respect to the back 17 acres on the back side of the ridge, by adding it to the total land mass and bringing the land mass up sufficient to allow the calculations to get 80 units built on the front side of the ridge, we have effectively protected it from future development. It also appears to him that this project is very compatible in scope, nature and size with the Pinecliff Condominiums development.

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Councilman Peterson said that as we develop along some of our ridges we continually need to be sensitive to protecting the visual aspect.

Councilman Mumpower moved to adopt Ordinance No. 2891 to rezone Stone Ridge Condos located on Piney Mountain Drive from RM-6 Residential Multi-Family Low Density District to RM-8 Residential Multi-Family Medium Density District/Conditional Use. This motion was seconded by Councilman Ellis and carried unanimously.

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Councilman Ellis moved to adopt Ordinance No. 2892 granting the conditional use permit for Stone Ridge Condos located on Piney Mountain Drive with the following conditions:

(1)

The site design shall be in accordance with all applicable conditions of the Technical Review Committee; (2) The site design shall include a landscape installation and maintenance plan that will result in the growth of vegetation intended to make the Stone Ridge development as unobtrusive as the adjoining Pine Mountain Condominiums when viewed from locations off the subject property. Such maintenance plan shall be incorporated into and recorded as part of the condominium documents for the project so that it will be observed by all future property owners of Stone Ridge; (3) There shall be no voluntary removal, topping, or other modification of any trees or natural vegetation within the undisturbed area or anywhere else on the site as shown on the grading, site plan, and/or landscaping plan without the approval of the Planning and Development Director; (4) The applicant shall comply Section 7-11-7 of the City Code with regard to the installation of sidewalks; and (5) Work with staff to provide for a means of providing an urban level of public safety for the entire site; and to instruct the City Attorney to prepare the Order for the Mayor's signature. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

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At 6:48 p.m., Mayor Worley announced a short break.

D. PUBLIC HEARING TO CONSIDER REZONING PROPERTY LOCATED ON LONG STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS /CONDITIONAL USE, AND ISSUANCE OF A CONDITIONAL USE PERMIT

ORDINANCE NO. 2893 - ORDINANCE REZONING PROPERTY ON LONG STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS /CONDITIONAL USE

ORDINANCE NO. 2984 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED ON LONG STREET

City Attorney said that Ms. Lula Moon, who lives in one of the houses next to this site, contacted him to pass along to City Council her request for a continuance since she is out of the country at this time.

Planning & Development Director Scott Shuford said that Ms. Moon has been the primary person opposed to this request, although she was not the only person in opposition at the Planning & Zoning Commission meeting.

Mr. Mike Rangel, one of the owners of Asheville Pizza and Brewing Company, said that the person Ms. Moon rents from is 100% behind the rezoning and supports all the changes requested. He felt like since Ms. Moon has been the only person to contact his business to

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complain, he felt hers is the only voice against the issue and urged Council to continue with the public hearing.

Ms. Hazel Fobes asked City Council to continue with the public hearing.

A man affiliated with the Tailgate Market urged City Council to not continue the public hearing because the people who are involved in the market have to make plans to grow and produce the items for sale in the market. If this hearing is prolonged, they will not have time to readjust their agenda.

Mr. Pete Dixon, vendor at the Tailgate Market, urged City Council to not continue the public hearing because the process of relocation is very lengthy and the continuance is not good for the farmers who work at the market.

When Mayor Worley asked if there was a motion to continue the public hearing, no motion was made. After hearing no questions about the procedure, Mayor Worley opened the public hearing at 6:56 p.m.

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

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

Mr. Shuford 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 1-22-02). This public hearing was advertised on January 11 and 18, 2002.

Mr. Shuford said that this is the consideration of an ordinance to conditionally rezone property on Long Street from RM-8 Residential Multi-Family Medium Density District to Community Business I/Conditional Use, and issuance of a conditional use permit for overflow parking for the adjacent commercial use, a recycling collection center, and a farmer's market.

At their January 2, 2002, meeting the Planning and Zoning Commission recommended rezoning of property located on Long Street from RM-8 Residential Multi-Family Medium Density District to Community Business I/Conditional Use. Lowell and Marvin Pearlman are the owners and applicants. On September 27, 2001, the owners submitted an application for rezoning from RM-8 to Community Business I for an existing parking lot located on Long Street (City Exhibit 3 –Site Plan). This request was subsequently modified to request Community Business I-Conditional Use zoning for the property. The 0.72-acre site is located on Long Street between Edgewood Road and Larchmont Street (City Exhibit 3 – Location Map). The commercial development along Merrimon Avenue is located to the west of the site; and residential zoning and uses are located to the east, north, and south of the site. The existing parking lot has been located on the site and used as an overflow parking area for the adjacent commercial development (Asheville Pizza and Brewing Company) for at least 15 years. For approximately 5 years, a recycling collection center has been located on the parking lot and, in the past year, the lot has been used as the site for the North Asheville Farmer's Market.

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The proposal is to conditionally zone the property as Community Business I – Conditional Use to permit the continued use of the lot for overflow parking for the adjacent commercial development (primarily the Asheville Pizza and Brewing Company), the continued operation of the North Asheville Farmer's Market, and the recycling collection center. Some improvements are proposed as a part of this application. The recycling collection center will be screened from the street and from adjacent residential uses by a 6-foot wooden fence supplemented by landscaping that would include shrubs and deciduous and evergreen trees. The Planning and Development staff will work with the manager of Farmer's Market prior to the beginning of the 2002 market season to ensure that adequate parking is provided for customers. All other operations and site characteristics would remain unchanged.

Adequate services and facilities are available to meet the needs generated by the proposed uses of the site. Due to the low volume of traffic that would be generated by the uses proposed for the site, no Traffic Impact Analysis was required. A memo regarding the proposed uses on the lot, provided by the City's Traffic

Engineer, states (1) None of these uses generate significant amounts of traffic on Long Street itself (except the farmer's market but this is for a short duration once a week); (2) There aren't any issues with traffic congestion on this street; (3) There is a sight distance problem that is not easily fixable at the intersection of Long Street and Edgewood Road. Any increase in traffic exiting Long Street to Edgewood Road will have an incremental affect on this potential safety problem; and (4) The biggest potential problem is the affect of the additional traffic (especially truck traffic associated with the recycling center) on the few residents of the street. The Planning and Zoning Commission and the City Council should be made aware of this potential impact to the residents.

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

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

The proposed uses are using the parking lot for overflow parking for the Asheville Pizza and Brewing Company, location of the North Asheville Farmer's Market, and location of a recycling collection center. All of these uses are currently located on the site. The proposed uses will not materially endanger the public health or safety provided site improvements are made in accordance with an approved site plan. The site is conveniently located for area residents who take advantage of the recycling collection center and of the Farmer's Market. Long Street is approximately 19 feet wide, but the City's Traffic Engineer has confirmed that the proposed uses do not generate significant amounts of traffic and that there are no issues with traffic congestion on the street.

2. That the proposed use is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The site is currently developed as a paved parking lot. No additional development is proposed. Some landscaping is planned to improve the appearance of the lot and to screen the recycling collection center from adjacent properties. The proposed landscaping will increase the site's compatibility with adjacent properties.

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

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The proposed use will be low impact with no substantive changes to the existing parking lot with the exception of the construction of a 6' wooden fence and the planting of some trees and shrubs to screen the recycling collection center. It is not anticipated that the uses would injure the value of adjoining or abutting property in a substantial way. The uses proposed for the site have been located on the site for a varying numbers of years (overflow parking –approximately 15 years, recycling collection center – approximately 5 years, Farmer's Market – 1 year).

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

As stated above, the proposed use will be low impact with no substantive changes to the existing

parking lot other than the buffering and landscaping. The character of the area should not be impacted by the proposed uses.

5. That the proposed use or development of the land will generally conform to the Comprehensive Plan, smart growth policies, sustainable economic development strategic plan, and other official plans adopted by the City.

The Comprehensive Plan indicates commercial and residential uses in this area. The lot is contiguous to an existing Community Business II zoning district. The uses are not addressed in any of the other plans of the City.

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

The proposed use is located in an existing developed area. The project has received approval from Engineering and Public Works Departments, who are most impacted by the use of the property.

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

A traffic impact analysis is not required for the proposed uses due to the low volume of traffic that is generated by them. The City's Traffic Engineer has reviewed the request and had the following comments:

- None of these uses generate significant amounts of traffic on Long Street itself (except the farmers market but this is for a short duration once a week).
- There aren't any issues with traffic congestion on this street.
- There is a sight distance problem that is not easily fixable at the intersection of Long Street and Edgewood Road. Any increase in traffic exiting Long Street to Edgewood Road will have an incremental affect on this potential safety problem.
- The biggest potential problem is the affect of the additional traffic (especially truck traffic associated with the recycling center) on the few residents of the street. The Planning and Zoning Commission and the City Council should be made aware of this potential impact to the residents.

In summary, the proposed use of the 0.72 acre parking lot is for overflow parking for the adjacent commercial use, location of a recycling collection center, and operation of the North Asheville Farmer's Market. All of these uses are currently located on the site. Use of the property for these purposes in accordance with the site plan and adherence to the conditions

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recommended for the approval of the Conditional Use Permit for this project would ensure that the impacts on surrounding property owners are mitigated.

The Planning and Zoning Commission reviewed the requested conditional use rezoning and the site plan for the proposed use at their January 2, 2002, meeting. Two persons spoke in opposition to and several persons spoke in support of the requested rezoning or the proposed use during the public hearing held by the Planning and Zoning Commission.

After reviewing the request and the site plans, the Planning and Zoning Commission voted unanimously (6 – 0) to recommend approval of the conditional use rezoning, subject to the conditions identified below.

Based on information available to the Planning and Development Department in advance of this public hearing, staff recommends that the City Council approve the requested conditional use rezoning and issue the Conditional Use Permit with the following conditions:

1. The recycling collection center must be screened from adjacent properties and the street as required by the City of Asheville's standards for this use. A site plan meeting City requirements must be submitted and approved for the collection center.
2. A zoning permit must be requested by and approved for the North Asheville Farmer's Market. The permit approval must address parking for the market's customers.
1. The recycling center operation should be located to the back of the lot if feasible.
2. Hours of pickup for recycled materials shall be restricted to the hours of 8:00 a.m. to 7:00 p.m.
3. Recycling trucks servicing the center shall access the site through the Asheville Pizza and Brewery property rather than from Long Street.
4. Signage shall be provided to encourage parking at Asheville Pizza and Brewery.
5. The property owner and/or recycling contractor shall work with the Asheville Sanitation Division to improve cleanliness of the recycling center.

Mr. Shuford asked that Condition No. 5 be amended to read: "Recycling trucks servicing the center shall access the site through the Asheville Pizza and Brewery property rather than from Long Street, if deemed feasible given risk management consideration as determined by the City."

Ms. Hazel Fobes strongly voice support for this rezoning and issuance of a conditional use permit.

There being no request for rebuttal, Mayor Worley closed the public hearing at 7:10 p.m.

Vice-Mayor Bellamy moved to adopt Ordinance No. 2893 to rezone property on Long Street from RM-8 Residential Multi-Family Medium Density District to Community Business I/Conditional Use. This motion was seconded by Councilwoman Jones and carried unanimously.

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Councilman Mumpower felt that Condition No. 3 sounds vague. In addition, Councilman Mumpower questioned whether the amended Condition No. 5 needs to be a condition at all.

Mr. Shuford explained that the Planning & Zoning Commission placed Condition No. 5 in there in order to minimize the amount of traffic on Long Street from the recycling trucks. However, after the staff report was written and given to Council, staff realized that there may be concerns about routing the trucks through the private property in that there might have a risk

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management issue. If Council chooses to delete Condition No. 5, it will probably have the same effect as if Council left it in. With regard to Condition No. 3, the intent was that if the recycling center was located to the southeast corner of the property, it would have less of an effect on surrounding residential property than it would in its current location. That was a suggestion, but it would only be done if it was feasible, given buffering constraints and access constraints by the vehicles.

Upon inquiry of Councilman Ellis, Mr. Shuford said that the Farmer's Market will probably provide the signage.

Councilman Ellis asked if there was any discussion about prohibiting parking on Long Street. Mr. Shuford said that was discussed quite a bit by the Planning & Zoning Commission who saw photographs from Ms.

Moon. If the City were to limit or stop parking the street would have to be posted and that could have a negative effect on some residential property that needs to use the street for its parking.

Councilman Ellis moved to adopt Ordinance No. 2894 granting the conditional use permit for property on Long Street with the following conditions: (1) The recycling collection center must be screened from adjacent properties and the street as required by the City of Asheville's standards for this use. A site plan meeting City requirements must be submitted and approved for the collection center; (2) A zoning permit must be requested by and approved for the North Asheville Farmer's Market. The permit approval must address parking for the market's customers; (3) The recycling center operation should be located to the back of the lot if feasible; (4) Hours of pickup for recycled materials shall be restricted to the hours of 8:00 a.m. to 7:00 p.m.; (5) Signage shall be provided to encourage parking at Asheville Pizza and Brewery; and (6) The property owner and/or recycling contractor shall work with the Asheville Sanitation Division to improve cleanliness of the recycling center; and to instruct the City Attorney to prepare the Order for the Mayor's signature. This motion was seconded by Councilwoman Jones and carried unanimously.

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IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 02-17 - RESOLUTION APPOINTING MEMBERS TO THE TREE COMMISSION

Vice-Mayor Bellamy said that this is the consideration of appointing two members to the Tree Commission.

The terms of Margaret Tinkler and Ginger Mahler, as members on the Tree Commission, expired on December 31, 2001. They are both interested in reappointment.

City Council interviewed Mr. Mickey Mahaffee on January 22, 2002. Mr. Mahaffee said that he was not interested in serving on the Tree Commission at this time.

Councilman Peterson moved to reappoint Margaret Tinkler and Ginger Mahler to each serve a three year term respectively, terms to expire December 31, 2004, or until their successors have been appointed. This motion was seconded by Councilman Mumpower and carried unanimously.

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VI. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of January 4-10, 2002: Dorothy A. Wood (Water), Donnella Boyd (Sanitation), Sue Arakas (Streets), Janice Payne (Streets), Neil Culbertson Jr. (Sanitation), James Barrett (Water), Joann Myers (Sanitation), Matthew Martin (Streets), Roger Young (Sanitation) and Judy Gossett (Streets).

The following claims were received by the City during the period of January 11-17, 2002: Cornelia Reeves (Water), Rick Buckner (Water), Howard Rholetter (Water), Eric Malone (Water), Josh Adams (Water) and William K. Rice (Water).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

A. COMMENTS BY SHARON MARTIN

Ms. Sharon Martin said that views are important, however it's more important that we don't destroy the habitat of our animals. She also urged the Planning staff to encourage developers to set aside affordable housing.

B. COMMENTS BY MICKEY MAHAFFEE

Mr. Mickey Mahaffee, representing Peacemakers, said that panhandling is a serious problem in the City, but that it's not only a policing issue, but a social service issue as well. He encouraged City Council to make sure that they protect the right for people to ask other people for money as long as it's not aggressive and no one is intimidated by the process. In addition he asked Council to look at what is available for most indigent people and what alternatives Asheville has for them. He hoped Council would lean towards tolerance than a heavy hand police presence.

C. COMMENTS BY HAZEL FOBES

Ms. Hazel Fobes felt that City Council can protect our mountain ridges and still have economic development.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 7:42 p.m.

CITY CLERK MAYOR
