

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor Terry M. Bellamy; Councilman Joseph C. Dunn; 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: None

**INVOCATION**

Councilman Peterson gave the invocation.

**I. PROCLAMATIONS:**

**II. CONSENT:**

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 13, 2002, AND THE WORKSESSION HELD ON MARCH 19, 2002**
- B. RESOLUTION NO. 02-47 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID FROM MICHAEL A. PRESSLEY TO PURCHASE PROPERTY ON GALAX AVENUE**

Summary: The consideration of a resolution authorizing a lease of space at 45 Wall Street to the Asheville Performing Arts Alliance.

City Council authorized publication of a notice of intent to lease the space at 45 Wall Street to the Asheville Performing Arts Alliance on March 12, 2002. A notice of intent was duly published in the Asheville Citizen-Times on March 15 and 22, 2002. The term of the lease will be for nine years and 11 months.

The leased premise comprises of approximately 2,520 square feet. The rent reflects an annual rent of \$5.00 per square foot. The rental amount is believed to be appropriate considering the location, condition of the space and the lease terms.

The Lessee is responsible for renovating the space. The Lessee is also responsible for paying utilities and maintenance of the interior of the premises including cleaning, glass breakage, electrical, heating, plumbing and air conditioning equipment. The Lessor is responsible for maintenance of the exterior.

Approval of the resolution will authorize the Mayor to execute the lease with the Asheville Performing Arts Alliance for the space at 45 Wall Street.

Community Development staff recommends adoption of the resolution.

**RESOLUTION BOOK NO. 27 – PAGE 91**

- C. RESOLUTION NO. 02-48 - RESOLUTION AUTHORIZING THE CITY TO LEASE SPACE AT 45 WALL STREET TO THE ASHEVILLE PERFORMING ARTS ALLIANCE**

-2-

Summary: The consideration of a resolution authorizing a lease of space at 45 Wall Street to the Asheville Performing Arts Alliance.

City Council authorized publication of a notice of intent to lease the space at 45 Wall Street to the Asheville Performing Arts Alliance on March 12, 2002. A notice of intent was duly published in the Asheville Citizen-Times on March 15 and 22, 2002. The term of the lease will be for nine years and 11 months.

The leased premise comprises of approximately 2,520 square feet. The rent reflects an annual rent of \$5.00 per square foot. The rental amount is believed to be appropriate considering the location, condition of the space and the lease terms.

The Lessee is responsible for renovating the space. The Lessee is also responsible for paying utilities and maintenance of the interior of the premises including cleaning, glass breakage, electrical, heating, plumbing and air conditioning equipment. The Lessor is responsible for maintenance of the exterior.

Approval of the resolution will authorize the Mayor to execute the lease with the Asheville Performing Arts Alliance for the space at 45 Wall Street.

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Community Development staff recommends adoption of the resolution.

**RESOLUTION BOOK NO. 27 – PAGE 92**

**D. RESOLUTION NO. 02-49 - RESOLUTION AUTHORIZING THE CITY TO LEASE THE ROCK HOUSE AT 324 CHARLOTTE STREET TO THE PRESERVATION SOCIETY OF ASHEVILLE AND BUNCOMBE COUNTY**

Summary: The consideration of a resolution authorizing a lease of the "Rock House" at 324 Charlotte Street to the Preservation Society of Asheville and Buncombe County.

City Council previously approved leasing the subject property. A notice of intent was duly published in the Asheville Citizen-Times on March 15 and 22, 2002.

The leased premises comprise of a 1,158 square foot rock building known as the Rock House along with the yard around the building. The rent reflects an annual rent of \$5.70 per square foot. The rental amount is believed to be appropriate considering the location, condition of the space and the lease terms. This lease would be for nine years and eleven months.

The Lessee is responsible for renovating the space. A rent credit will be given for renovations costs. The Lessee is also responsible for paying utilities and all maintenance of the premises including cleaning, glass breakage, electrical, heating, plumbing and air conditioning equipment, interior and exterior repairs. The Lessor is not responsible for any maintenance.

Approval of the resolution will authorize the Mayor to execute the lease with the Preservation Society of Asheville and Buncombe County for the house at 324 Charlotte Street.

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Community Development staff recommends adoption of the resolution.

**RESOLUTION BOOK NO. 27 – PAGE 93**

-3-

**E. RESOLUTION NO. 02-50 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE THE AIR RIGHTS TO THE PARKING LOT ON SOUTH LEXINGTON AVENUE AT THE REAR OF 9-13 BILTMORE AVENUE**

Summary: The consideration of a resolution establishing minimum price and authorizing the City Clerk to advertise an offer to purchase the air rights to the parking lot on South Lexington Avenue at the rear of 9 -13 Biltmore Avenue.

The land area comprises 7,940 square feet located on the east side of South Lexington Avenue, about 150 feet south of the intersection with Patton Avenue. It is at the rear of 9 - 13 Biltmore Avenue and is improved with marked parking spaces on an asphalt surface. The lot is rectangular in shape and slopes up from street level access. It is part of a proposed sale to the Asheville Area Arts Council, which includes the building at 9 - 13 Biltmore Avenue but minus the air rights over the rear parking lot. The appraisal of the property reflects a land value for the parking lot of \$135,000. The value of the air rights over the property is calculated at 50% of the land value or \$67,500.

Robert Camille, Jr., Peter Y. Alberice and Robert M. Todd have submitted a proposal to purchase the air rights in the amount of \$67,500. The bid from Camille, Alberice and Todd includes the proposal to construct a new mixed use building containing parking, retail, offices and residential units which would connect to the building proposed to be constructed on the adjoining lot to the north. The new building would contain approximately 8 stories and the estimated cost of the proposed improvement is about \$2.4 million.

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

Community Development staff recommends adoption of the resolution.

**RESOLUTION BOOK NO. 27 - PAGE 94**

**F. ORDINANCE NO. 2906 - ORDINANCE REDUCING THE FILM COMMISSION MEMBERSHIP FROM 15 TO 13 MEMBERS**

Summary: The consideration of an ordinance reducing total membership of Asheville Film Commission from 15 to 13.

This amendment, which is self-explanatory, has been suggested by staff and the Film Commission members as a way to help ensure regular attendance and quorums at meetings.

City staff recommends City Council adopt the ordinance reducing the membership of the Film Commission.

**ORDINANCE BOOK NO. 19 – PAGE 446**

**G. MOTION SETTING A PUBLIC HEARING ON APRIL 9, 2002, TO CONSIDER THE CONSOLIDATE COMMUNITY DEVELOPMENT BLOCK GRANT/HOME ACTION PLAN**

-4-

**H. RESOLUTION NO. 02-51 - RESOLUTION REAPPOINTING MEMBERS TO THE PUBLIC ACCESS CHANNEL COMMISSION**

Summary: The consideration of appointing members to the Public Access Channel Commission.

Mark Rosenstein and Raphael Peter have resigned from the Public Access Channel Commission. The terms of Andrew Reed and Marianna Bailey expired on March 1, 2002.

On March 19, 2002, City Council instructed the City Clerk to bring back the two resignation vacancies in three months.

Also, on March 19, 2002, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Andrew Reed and Marianna Bailey to each serve an additional three year term respectively, terms to expire March 1, 2005, or until their successors have been appointed.

Staff recommends City Council reappoint Andrew Reed and Marianna Bailey to the Public Access Channel Commission.

**RESOLUTION BOOK NO. 27 – PAGE 95**

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.

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

**III. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT FOR WESTMONT COMMONS (FORMERLY KNOWN AS WESTRIDGE COMMONS) LOCATED ON LEICESTER HIGHWAY AND ELIADA HOME ROAD**

**ORDINANCE NO. 2907 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR WESTRIDGE COMMONS LOCATED ON LEICESTER HIGHWAY AND ELIADA HOME ROAD**

City Attorney Oast reviewed with Council the conditional use permit process by stating that City Council will first hear from staff that will describe the proposal and provide some background information. Then the applicant may make a presentation and then comments from the public will be taken. He said that there would be an opportunity for questions and rebuttal comments, as necessary. Following the hearing, Council will then debate the proposal and will take action on the request.

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 5:05 p.m.

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

City Attorney Oast said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

-5-

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

Mr. Tacy said that this is the consideration of a conditional use permit for a proposed 180-unit apartment development known as Westmont Commons (formerly known as Westridge Commons) located on Leicester Highway, just north of Eliada Home Road.

The project applicant is Bostic Brothers Development with Timmons Consulting Engineers acting as the agent. The project site is located within the corporate city limits on the northeastern side of Leicester Highway approximately 530 feet north of its intersection with Eliada Home Road (Location Map – Attached to City Exhibit 3). The project site is located in an area of mixed commercial, single-family detached, manufactured housing, multi-family residential, and institutional type land uses. There are six different zoning districts found in the immediate area, including: Institutional, Highway Business, Commercial Business II, RM-6 (Residential Multi-family), RM-16 (Residential Multi-family), and RS-8 (Residential Single-family).

The project site contains 17.5 acres (portion of PIN No. 9629.14-43-2879) and is currently zoned HB (Highway Business) and Institutional. The HB district allows for multi-family developments with a maximum density of 32 units per acre and the Institutional district allows for a maximum density of 16 units per acre. The project proposes a total of 180 units for a density of 10.3 units per acre. Based on the plans submitted, the project will contain seven (7) three-story apartment buildings consisting of a total of 72 one-bedroom units, 90 two-bedroom units, and 18 three-bedroom units. The plan also depicts a 2,700 square foot club house/office building, outdoor pool, playground area, and communal dumpster. The project is required to provide a minimum of 202 parking spaces and a maximum of 389 spaces. The plan depicts a total of 293 spaces including 11 handicap spaces. A private driveway extending from a cul-de-sac entrance road will access the development.

The project site has some existing vegetation including mature trees, shrubs, and wild growth. The landscape plan depicts type A & B buffers surrounding the property, street trees along the access road and parking lot landscaping throughout the parking areas. The plan also depicts sidewalks throughout the project site and along the access road.

This project was reviewed at the February 18 Technical Review Committee (TRC) meeting and was recommended for approval at that time. There were some technical issues identified at the meeting and the applicant has agreed to work with the necessary authorities to meet the various requirements. The project was also reviewed at the March 6 Planning & Zoning Commission public hearing and was recommended for approval.

City Council must take formal action as set forth in section 7-5-5 (e) of the Unified Development Ordinance (UDO), and must make the following findings 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)]:

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

The project will meet all of the code requirements and incorporate any necessary measures to ensure the protection of public health, safety and welfare.

- 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;

-6-

The project will provide reasonably priced housing in a rapidly developing area of the City where there is a great need.

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

It is recommended that the proposed development be designed and constructed with materials that will be long lasting and in a manner that will contribute to and enhance the surrounding community. If developed in this manner, it is not anticipated that the development would injure the value of adjoining property. Due to the intensity of the uses in the immediate area, the proposed development will be compatible.

- 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.

There are a variety of commercial, institutional and multi-family residential developments in the area that would be consistent with the scale, bulk, coverage, density, and character of the proposed development.

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

It appears that the Asheville City 2010 Plan indicates multi-family residential use for this area.

- 6) That the proposed use or development of the land will generally conform with the comprehensive plan, smart growth policies, sustainable economic development strategic plan, and other official plans adopted by the city.

The proposed development is located in a developing area. The project received conditional approval from City's Technical Review Committee, including the Water Resources Department, the Fire Department, Metropolitan Sewerage District, Engineering Department and Public Works Department. The TRC recommended certain conditions, which have been met.

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

The project applicant has been working with the City Engineering staff to devise a plan that will adequately address any traffic impact issues resulting from the project site.

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The Planning & Development Department has reviewed the proposed development and is satisfied, with the understanding that the project must meet the conditions set forth at the TRC meeting. Based on information available to the Planning & Development Department in advance of the public hearing, staff recommends approval of the conditional use rezoning.

Upon inquiry of Councilman Peterson, Mr. Tacy said that in Phase II they might address a second access off of Eliada Home Road for traffic distributions and safety issues.

Mr. Mike Hartnett, representing Bostic Brothers Development, asked Council to support this request in that it is a good working plan.

Upon inquiry of Vice-Mayor Bellamy, Mr. Hartnett said that the price range of the apartments would be approximately \$50 below market rents. He felt they would be moderately priced to fit the market.

-7-

When Councilman Mumpower asked about a Phase II, Mr. Hartnett said that he contemplates Phase II being 60-70 units at a later date.

Mr. Doug Annsen, resident at 61 Webb Cove Road, said that as a North Carolina licensed building contractor, he is in favor of this development.

Vice-Mayor Bellamy said that this is a good example where 10% of the project could have been set aside for affordable housing. We need the support of our legislature to have that provision enacted. Planning & Development Director Scott Shuford responded that the incentive that we currently have is not sufficient to draw market interest and Planning staff is looking at other ways to address this issue.

Vice-Mayor Bellamy said that this project is a good example of smart growth development and will bring needed economic development to our community.

There being no request from the applicant for rebuttal, Mayor Worley closed the public hearing at 5:22 p.m.

Vice-Mayor Bellamy moved to grant a conditional use permit to construct a 180-unit apartment development known as

Westmont Commons (formerly known as Westridge Commons) located on Leicester Highway, just north of Eliada Home Road subject to the conditions set forth at the TRC meeting. This motion was seconded by Councilman Peterson and carried unanimously.

**ORDINANCE BOOK NO. 19 – PAGE 447**

**B. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE ZONING OF FIVE LOTS LOCATED ON CARROLL AVENUE (TRIED STONE MISSIONARY BAPTIST CHURCH) FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL/CONDITIONAL USE AND ISSUANCE OF A CONDITIONAL USE PERMIT**

**ORDINANCE NO. 2908 – ORDINANCE TO REZONE FIVE LOTS LOCATED ON CARROLL AVENUE (TRIED STONE MISSIONARY BAPTIST CHURCH) FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL/CONDITIONAL USE**

**ORDINANCE NO. 2909 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR FIVE LOTS LOCATED ON CARROLL AVENUE (TRIED STONE MISSIONARY BAPTIST CHURCH)**

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

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 5:26 p.m.

-8-

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

City Attorney Oast said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

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

Mr. Tacy said that this is the consideration of a request to rezone property located on the north and south sides of Carroll Avenue from RM-8 Residential Multi-Family Medium Density District and RS-8 Residential Single-Family High Density District to Institutional and of a motion to issue a Conditional Use Permit for the proposed use of a place of worship with accessory parking and a six-unit multi-family development.

The project site is located in a predominantly residential area including single-family and multi-family residential developments (Location Map – Attached to City Exhibit 3). The portion of the project site located on the northern side of Carroll Avenue is approximately 2.11 acres and the portion on the southern side is .76 acres (PIN Nos. 9648.07-58-4342, 6372, 4195, 5192, & 6190). Based on the site plan and information submitted by the applicant, the applicant is proposing a two phase project with Phase I to reconstruct a place of worship with approximately 350 seats and parking lots containing a total of 100 spaces and Phase II a six unit multi-family residential development. The RM-8 and RS-8 districts allow churches as a use by right, subject to special requirements. When applied, the special requirements create a hardship and eliminate the possibility of reconstructing a church comparable to the one that previously existed on the site. In an effort to reconstruct a church facility that meets the needs of the church, it was determined that Institutional zoning would be most appropriate. In addition, the Planning and Development Director has determined that Phase I of the project qualifies for a vested rights provision. Due to this determination, the applicants have been given building permits to begin construction on the project. However, in order to bring the project site into compliance with the Unified Development Ordinance (UDO) requirements, it is still necessary that the project be rezoned to the Institutional district. The conditional use process will provide city authorities with a mechanism to ensure compliance with the UDO and compatibility with adjacent and surrounding properties. In addition, the conditional use permit will prevent to the possibility of incompatible developments in the future.

Per the Planning and Development Department's request, Phase II of the project includes a six (6) unit multi-family

development located on .76 acres on the south side of Carroll Avenue. Phase II will also include thirteen (13) off-street parking spaces and an interior network of sidewalks. All buffer yards and landscaping incorporated into Phase I will remain throughout Phase II.

City Council must take formal action as set forth in section 7-5-5(e) of the Unified Development Ordinance, 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.

-9-

All public health and safety concerns have been addressed through the site plan development process and it appears that the proposed use and development will not materially endanger the public health or safety.

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

The project site has been designed with every consideration for the natural and topographic features on the site and in the immediate vicinity. The development was designed to provide for the minimum changes and alterations to the existing conditions on the site.

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

Places of worship are considered low impact uses as well as residential type uses in the area. City authorities will ensure the use of compatible building materials, buffering, and landscaping.

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.

There are a variety of building types and developments in the area, most of which appear to be comparable in scale, bulk, coverage, density, and character.

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

The 2010 plan appears to designate this area for low to medium density type developments.

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 development is located in a developing area. The project received conditional approval from City's Technical Review Committee, including the Water Resources Department, the Fire Department, Metropolitan Sewerage District, Engineering Department and Public Works Department. The Technical Review Committee recommended certain conditions, which have been met.

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

The project applicant has been working with the city engineering staff to devise a plan that will adequately address any traffic impact issues resulting from the project site.

The Technical Review Committee reviewed the proposed project at their February 18, 2002, public meeting and recommended approval. A Transportation Impact Analysis was not required for this project.

The Planning and Zoning Commission reviewed the requested conditional use rezoning and the site plan for the proposed use at their March 6, 2002, public hearing and recommended approval subject to the conditions recommended by staff.

-10-

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. Based on a field investigation of the surrounding area, the proposed project is consistent with other developments in the area.

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. Allow Phase II development at a maximum density of 12-units instead of the proposed 6-unit density.
2. The project applicant shall coordinate with the City to design a drainage plan for the property located on the south side of Carroll Avenue.
3. The project applicant shall work with the Planning and Development Department to determine the best placement of buffering and landscaping materials throughout the development process.
4. The project applicant shall meet all other requirements as deemed necessary by local officials and authorities throughout the development of the project.
5. The applicant shall comply with all applicable codes, ordinances, and filing procedures that are in place at the time of Phase II development.

Mr. Tacy noted that during the Planning & Zoning Commission meeting there was some discussion about the security and lighting at the site. The applicants have been asked to work with the Planning and Police Departments to design security for a safe site where lighting will not be intrusive on adjoining properties.

Pastor Alfred Blount, Tried Stone Missionary Baptist Church, said that in 1994 their church was destroyed due to a fire and since that time they have been working diligently to raise money to not only restore their worship facility but to also develop a place that would be a greater asset to the East End community. They would like to continue their legacy through the rebuilding of their church, as well as providing an attractive and safe affordable housing to residents.

Mr. Cornell Proctor, Chairman of the Building Committee, also spoke in support of this project.

Mr. Jerry Young, Project Coordinator, spoke in support of the project and presented City Council with a site plan (Applicant Exhibit 1).

There was some discussion about the adequacy of parking.

There being no request from the applicant for rebuttal, Mayor Worley closed the public hearing at 5:46 p.m.

Councilman Mumpower moved to adopt Ordinance No. 2908 to rezone property located on the north and south sides of Carroll Avenue from RM-8 Residential Multi-Family Medium Density District and RS-8 Residential Single-Family High Density District to Institutional/Conditional Use. This motion was seconded by Councilwoman Jones and carried unanimously.

#### **ORDINANCE BOOK NO. 19 – PAGE**

Vice-Mayor Bellamy moved to adopt Ordinance No. 2909 to issue the conditional use permit for the proposed use of a place of worship with accessory parking and a six-unit multi-

-11-

family development, subject to the following conditions: (1) Allow Phase II development at a maximum density of 12-units instead of the proposed 6-unit density; (2) The project applicant shall coordinate with the City to design a drainage plan for the property located on the south side of Carroll Avenue; (3) The project applicant shall work with the Planning and Development Department to determine the best placement of buffering and landscaping materials throughout the development process; (4) The project applicant shall meet all other requirements as deemed necessary by local officials and authorities throughout the development of the project; and (5) The applicant shall comply with all applicable codes, ordinances, and filing procedures that are in place at the time of Phase II development. This motion was seconded by Councilman Dunn and carried unanimously.

#### **ORDINANCE BOOK NO. 19 - PAGE**

### **C. PUBLIC HEARING RELATIVE TO REZONING TWO LOTS LOCATED AT THE INTERSECTION OF MILLS**



**GAP ROAD AND HENDERSONVILLE ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO HIGHWAY BUSINESS DISTRICT**

**ORDINANCE NO. 2910 - ORDINANCE TO REZONE TWO LOTS LOCATED AT THE INTERSECTION OF MILLS GAP ROAD AND HENDERSONVILLE ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO HIGHWAY BUSINESS DISTRICT**

Mayor Worley opened the public hearing at 5:52 p.m.

Urban Planner Jeff Tacy said that this is an ordinance to consider the rezoning of property located at southeast corner of Hendersonville Road and Mills Gap Road from Commercial Industrial District to Highway Business District. This public hearing was advertised on March 15 and 22, 2002.

The Planning and Development Department has initiated this rezoning request (PIN Nos. 9655.09-25-1134 and 2170) in an effort to maintain the commercial character of the Hendersonville Road corridor. The Highway Business District is established to address the needs of commercial development along major thoroughfares. The district permits a wide range of residential, recreational, institutional, public/semi-public, office/business and other land uses. The majority of the properties in the vicinity that front on Hendersonville Road are zoned Highway Business. There are no industrial uses fronting on Hendersonville Road in the immediate area. Based on the purpose of the Highway Business District and the development patterns along Hendersonville Road, Highway Business zoning would be more appropriate than the current Commercial Industrial. Highway Business zoning would prevent the location of incompatible uses in the area and promote the location of uses similar to those in existence.

It should be noted that the property owner has submitted a letter of consent and desire for the rezoning request.

The Planning and Zoning Commission voted unanimously to recommend approval of the rezoning of the property located at the southeast corner of Hendersonville Road and Mills Gap Road from Commercial Industrial District to Highway Business District. The Planning and Development staff recommends approval of the requested rezoning.

Mayor Worley closed the public hearing at 5:57 p.m.

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

-12-

Councilman Mumpower moved for the adoption of Ordinance No. 2910. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

**ORDINANCE BOOK NO. 19 - PAGE**

**IV. UNFINISHED BUSINESS:**

**V. NEW BUSINESS:**

**VI. OTHER BUSINESS:**

**Council Miscellaneous Items**

Councilman Dunn and Councilman Mumpower asked about the status of the extraterritorial jurisdiction issue. Their interest is in seeing some movement, with the intent that we work with the County on a positive basis and within our limits of liability. City Manager Westbrook responded that a report will be given City Council in approximately two weeks.

Upon inquiry of Councilwoman Jones, Councilman Peterson said that the Council subcommittee on campaign finance reform will hopefully be meeting before the next worksession and they will report back to Council as soon as possible.

Councilman Dunn and Councilman Mumpower each suggested a closed session regarding the lawsuit with the police officers.

Councilman Peterson asked the City Manager to provide city Council with information on the financial aspects of annexation so that members of Council can be better informed about all aspects of annexation.

Councilman Peterson suggested that perhaps at a worksession every other month Council members can bring up items they would like to see reviewed or if there is an issue they would like to discuss.

### **Claims**

The following claims were received by the City of Asheville during the period of March 8-21, 2002: John Smith (Water), Gretchen Clasby (Civic Center), Teresa Johnson (Sanitation), BellSouth (Water), BellSouth (Water), and Stephen Aldrich (Civic Center).

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

### **Lawsuits**

The City filed the following Complaint on March 13, 2002: City of Asheville vs. Kenneth Bowman, et al. This is a complaint to vacate for lack of subject matter jurisdiction or to remand this matter involving a pay increase back to the Civil Service Board for a fair hearing before an impartial board. This matter will be handled in-house.

The City filed the following Petition on March 13, 2002: City vs. Civil Service Board. This is a petition to rescind the Board's March 3, 2002, order and to remand the matter back before the Board for a new hearing due to a conflict of interest. This matter will be handled in-house.

-13-

The City was served with the following Petition on March 18, 2002: Nocalula M. Moon v. City. This is a petition for an order setting aside the adoption of Ordinance No. 2894 – Ordinance granting conditional use permit (Long Street recycling center and farmers market). This matter will be handled in-house.

## **VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

### **Comments by Fred English**

Mr. Fred English, Haw Creek resident, hoped City Council does not put any more money into the aging Civic Center.

### **Comments by Andy Reed**

Mr. Andy Reed, City resident, representing Citizens for Campaign Finance Reform, said that this organization now includes the Asheville-Buncombe County League of Women Voters, Common Cause 11<sup>th</sup> District, Taxpayers for Accountable Government, Coalition of Asheville Neighborhoods, Council of Independent Peacemakers and the West Asheville Business Association. Their vision is that if the citizens study committee is appointed that they will study the issue of campaign finance and make recommendations to Council for an ordinance that will reduce the cost of campaigning. They hoped the committee would investigate a full range of possible changes, up to and including, public financing of local campaigns and maybe even free public access channel television appearances. They understand the Council subcommittee is to set parameters for such a citizens study committee. They urged Council not to set restrictions on a public citizens committee that would tie a committee's hands, but you set parameters that (1) ensure that a broad cross-section of the public is appointed to serve on the committee; (2) charge the committee to investigate all possible improvements in ways we finance campaigns for local office; and (3) set a target date for the committee to make a report back to City Council with its recommendations. He presented City Council with a petition containing 58 names, asking Council "to appoint a Citizens Committee to study alternate methods of municipal campaign finance, and to recommend adoption of a specific ordinance for comprehensive campaign finance reform to the City Council by July, 2002." He urged Council to proceed without delay.

### **Comments by Peter Dawes**

Mr. Peter Dawes urged City Council to move quickly on getting the public access channel up and running.

### **Comments by Walter Plaue**

Mr. Walter Plaue, Buncombe County resident, requested City Council include in their staff reports regarding land, that two items be addressed: (1) the implications for City property tax (whether it will be added or deleted from the tax rolls); and (2) that whenever land is set aside for another project, that we look at the implications of whether or not we are taking land that may be

used for affordable housing away from that market.

Mr. Plaue also suggested that City Council hold a public Memorial Day ceremony on the City-County Plaza. He felt sure that a lot of veterans groups would like to participate in that event.

-14-

**VIII. ADJOURNMENT:**

Mayor Worley adjourned the meeting at 6:19 p.m.

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CITY CLERK

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MAYOR