

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

Councilwoman Jones gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING FEBRUARY, 2003, AS "BLACK HISTORY MONTH"

Vice-Mayor Bellamy read the proclamation proclaiming February, 2003, as "Black History Month " in the City of Asheville. She presented the proclamation to Mr. John Hayes, President of the NAACP, who briefed City Council on some activities taking place during the month.

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 28, 2003; THE CITY COUNCIL RETREAT HELD ON JANUARY 31-FEBRUARY 1, 2003; AND THE FEBRUARY 4, 2003, WORKSESSION

B. RESOLUTION NO. 03-22 - RESOLUTION DECLARING THE INTENT OF THE CITY OF ASHEVILLE TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION AND CONSTRUCTION OF A PARKING FACILITY IN THE VICINITY OF BATTERY PARK FROM THE PROCEEDS OF FINANCING

Summary: The consideration of a resolution declaring the intent of the City to reimburse itself for capital expenditures incurred in connection with the acquisition and construction of a parking facility in the vicinity of Battery Park from the proceeds of financing.

City Council has previously directed staff to initiate action to obtain options to acquire land, retain real property and financial advisors, and contract for the design of a parking deck in the vicinity of Battery Park. City Council has also previously passed budget amendments authorizing expenditures for the project, with the supporting revenues to be provided from the proceeds of a Certificates of Participation (COPs) issue. The current project schedule calls for the COPs to be issued in the spring of 2003. However, some project expenses have already been incurred. U.S. Treasury regulations require that, if the City intends to reimburse itself from the proceeds of a tax exempt financing for certain project expenses, which were paid prior to the closing date of the financing, it must adopt a resolution evidencing that intent. The resolution of intent may cover expenses paid by the City during the period beginning sixty days prior to adoption of the resolution of intent and ending on the day of issue of the financing. The resolution indicates the City's intent to reimburse itself accordingly.

City staff recommends Council adopt the resolution.

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

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. PUBLIC HEARING TO CONSIDER A PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT DESIGNATION AND MASTER PLAN REVIEW FOR WILD CHERRY GARDEN TOWNHOMES LOCATED ON WILD CHERRY ROAD AND BEAVERDAM ROAD

ORDINANCE NO. 2998 - ORDINANCE TO CONSIDER A PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT DESIGNATION FOR WILD CHERRY GARDEN TOWNHOMES LOCATED ON WILD CHERRY ROAD AND BEAVERDAM ROAD

Mayor Worley opened the public hearing at 5:10 p.m.

Urban Planner Carter Pettibone said that this is the consideration of a Planned Unit Development (PUD) Overlay District to allow the construction of 76 attached townhome units on 20 acres at the northwest corner of the intersection of Beaverdam Road and Wild Cherry Road and Master Plan review for Wild Cherry Garden Townhomes. This public hearing was advertised on January 31 and February 7, 2003.

He said that a valid protest petition has been filed, thus requiring a $\frac{3}{4}$ vote of City Council to approve the ordinance.

The applicants, Bill Fleming and Elana Kann of Neighborhood Design Build, are proposing a project that consists of 76 attached townhome residential units and a central clubhouse/lodge facility at the intersection of Beaverdam Road and Wild Cherry Road. The project area consists of 20 acres (PIN Nos. 9740.08-77-6828, 9740.12-76-9578, 9740.08-77-6655, 9740.12-77-7246, 9740.12-76-9977, portion of 9740.12-76-9578, and 9740.11-77-2178) and would be accessed from Wild Cherry Road by a road located toward the northern end of the site.

The project site is located within the City limits at the intersection of Beaverdam Road and Wild Cherry Road. While the site and the properties immediately adjacent are zoned RS-4, there are two other zoning districts in the immediate area. There is an RS-8 district to the south across Beaverdam Road and a large RM-6 district to the west on both sides of Beaverdam Road that contains a number of attached condominium units.

The site is partly wooded, with its vegetation and tree cover mainly located to the southern portion of the site along the creek near the intersection of Beaverdam and Wild Cherry and along the site's eastern frontage along Wild Cherry Road.

The PUD District is intended to promote innovative design in development by providing for flexibility in site design. The PUD review process is a two-part procedure, which involves the rezoning of the property to the PUD District and approval of a master plan. The Planning and Zoning Commission has approved the master plan and no appeal has been received so the only issue under consideration by the City Council is the adoption of the PUD Overlay District.

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The maximum density permitted in a PUD is 110% of the maximum residential density permitted in the underlying district and additional density may be permitted by the incorporating elements such as affordable units or preservation of open space into the plan. Seventy-six units are proposed for this project, which results in a density below what is permitted in the RS-4 District.

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The site's access is from Wild Cherry Road and is located towards the north part of the site. Parking is provided for the dwelling units in off-street parking lots located toward the northern end of the site.

The UDO requires 500 square feet of open space for every residential unit proposed. This would result in a minimum of 0.87 acre for reservation as open space for the new residential units. The applicants are proposing 5.38 acres to be preserved as open space and are considering placing this open space in a conservation easement.

Buffering from adjacent properties is not required since the overall density of the project results in low density residential bordering other low-density residential development. The applicants, though, have proposed to buffer the site with a 15-foot "A" type buffer on property boundaries that have no vegetation and augment boundaries that have existing vegetation. A condition of the Planning and Zoning Commission's approval is the establishment of a type "D" buffer around the portion of the project where it borders properties to the north that have single-family homes on them. Landscaping is provided in and around the off-street parking areas.

The UDO requires that new developments provide one large maturing tree (over 35 feet in height at maturity) for every 40 linear feet of property abutting a street. The applicants are proposing using existing large trees or planting new ones on the

development sides of Beaverdam and Wild Cherry Roads and along the entrance road from Wild Cherry Road.

The UDO requires sidewalk installation along the frontage of all streets. The applicant must provide these sidewalks or an alternative pedestrian walkway as approved by the Engineering Department.

The PUD District is intended to promote innovative design in development by providing for flexibility in site design that permits a mixture of housing types and the combination of housing with other uses such as neighborhood shopping centers and offices. This flexibility is intended to accomplish a number of purposes, which include:

1. Encourage better design and management of open space by creating more functional active and passive open space areas within a new development.
2. Retain natural features such as floodplains or steep slopes, and encourage developments that will be compatible with environmentally sensitive areas.
3. Facilitate more affordable housing by providing possibilities for savings in infrastructure, installation costs, and energy costs through clustering of dwellings.
4. Provide an effective use of the transit system within and adjacent to the development by effective organization of uses and the orientation of pedestrian and vehicular facilities.
5. Encourage pedestrian circulation within and adjacent to the PUD.

The project proposes that all the dwelling units are attached townhomes in groupings of four units. While a variety of housing types within the development are not proposed, the use of attached units results in a mixture of housing types within the neighboring area. In terms of a mix of uses within the development, the applicants have proposed using the lodge or a portion of it for certain limited commercial functions to serve the residents of the development. These uses would be food service, grocery shopping, transportation assistance, and/or home office support.

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If the applicants wish to use the lodge facility for any higher intensity commercial uses, a revision to the Master Plan would be required.

The layout of the proposed PUD concentrates the dwelling units towards the northern part of the site and reserves the portions along Wild Cherry and to the south surrounding the creek as open space. This results in a clustering of the units, which can provide infrastructure and cost savings, and the preservation of large amounts of open space in areas that retain the significant natural features of the site, including the stream and floodplain to the south and the mature stand of trees and vegetation along Wild Cherry. The concentration of large preservation areas also results in more functional passive open space for the development. Active open spaces for the development are provided along the western boundary of the site in the form of tennis courts and a shelter.

Pedestrian circulation can be provided by the use of sidewalks and walking trails within the development. The applicants have discussed incorporating these into the development and have provided details for two of the main walkways, but would need to provide additional detail as to how all the pedestrian walkways will be laid out.

The Technical Review Committee reviewed the proposed PUD at its December 2, 2002, meeting and recommended approval with conditions. The PUD was then reviewed by the Planning and Zoning Commission, who voted 5-2 to recommend approval of the PUD designation and 5-1 to approve the Master Plan with conditions. Planning & Development staff recommend the approval of a PUD Overlay designation for the project.

The applicants have revised the master plan to satisfy the conditions of approval, including incorporating a portion of a planned City greenway into the project, adding a dedicated walkway between the development and a proposed bus shelter located along Beaverdam Road and providing additional information as to the commercial nature of the lodge facility and for possible conservation measures for the proposed open space.

When Ms. Elana Kann, applicant, asked if graphics could be used, City Attorney Oast said that there are certain development restrictions that apply within any planned unit development and the graphics would be an illustration of how those restrictions could be met on this site.

Ms. Kann said that their integrated approach to the Wild Cherry solar village development includes land and habitat preservation; a high level of energy and resource conservation; design that deliberately encourages a sense of community while protecting privacy; a pedestrian park and gardens around clustered dwellings; cars at the edge; an internal transportation system for the campus; extensive on-site services and shared facilities, primarily through the central lodge; central solar radiant heat and

hot water with natural gas back-up; support for residents health and comfort; and professional property management. She said that this development complies with all goals and guidelines established for a PUD. The underlying zoning will not change and we have asked for no density bonuses. She said the plan includes 6-8 acres of open space of the 20 total acres, which is 30-40% of the property. It includes conservation areas; an existing creek and existing woods; an easement for a City greenway; a public biking and walking path along the creek; active recreation areas, extensive gardens throughout the project; and trails and paths linking open spaces. We plan no development near the creek, in the woods along Wild Cherry Road or on steep slopes. She said with the clustering, we can achieve lower short term and long term costs. With a tighter infrastructure from clustering, we can install very high quality heat, water and communication systems for mid-range prices and for long-term savings in energy and maintenance. We will add a transit shelter on Beaverdam Road at an existing bus stop with bike rack and a trail and a sidewalk from the development to the transit shelter. We will offer small scale transit services as well for residents, e.g. a solar electric van for group trips into town,

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grocery shopping service, making car-pooling easy, and we will have a rental car available on site. The plan includes Internal paths and trails with cars at the edge; Manual and electric carts for easy movement including carrying things; public biking and walking greenway along the creek, which would be in coordination with the Parks & Recreation Department. The PUD fits this site's location and unique characteristics. There is already a variety of development in the area. There are some pockets of higher density development, condo developments, and a townhouse development. The creek, the floodplain, the steep slopes and wooded areas on the site can best be preserved through the PUD flexibility. The City's infrastructure and other amenities are available to serve the development. This property is one mile from Ingles, from the Fresh Market, hardware stores, drug stores, etc. She explained how this development complies with goals of Asheville's smart growth definition and policies and the 2025 Comprehensive Plan. They have met with neighbors and have addressed many of their concerns. They realize it is painful for neighbors to see nearby open land developed. We have tried to listen well and see things from the neighbors' perspective. We held two community meetings in October with about 100 attendees, and we sent two follow-up letters to 150 households with update information and a postcard informing them of web-based survey. In addition, we met one-on-one with the closest neighbors to attempt to sort out property boundary issues. The neighbors had concerns about impact on the immediate neighbors. We voluntarily gave up any use of Old Road or Dickerson Road as an entry for residents or even for emergency vehicles, in order to protect those close neighbors privacy. We offered land transfers to the close neighbors for greater private space. We plan to install the "D" type buffer, the maximum, at our boundaries with the Talley and Niwinski properties. There have been concerns about traffic road safety and bike access. We moved our entry up the hill in response to neighborhood concerns about the Gibson Road intersection. We kept the entry about 100 feet from the Talley's house, plus we're providing quite a bit of buffering there. We have studied the issue of traffic generation. According to the National Traffic Study experts, 76 conventional attached dwellings would generate no more trips than 41 detached dwellings would on the site at peak hours. We think that the Wild Cherry development traffic will be significantly lower due to our traffic reduction features, like home offices; community transit services; grocery shopping service; on-site social and recreation facilities; pedestrian and bike trails and connections; and transit passes, if they are available at that time. The existing intersections and streets will be improved as required by the City Engineer to increase safety. We will improve the existing transit stop and provide pedestrian connection to it. We will offer a public greenway, which hopefully can extend further east and west within a few years. Multi-family housing was a concern to the neighbors. We will be building attached single-family houses. Density has also been a concern. The existing zoning for this property is RS-4 allowing site density of four dwellings per acre. The site density of this development is 3.8 dwellings per acre. The clustering of the dwellings does not increase the site density of the development. What the clustering does do is permit preservation of steep slopes, significant vegetation protection of the creek, and a large amount of usable open space. She said they are presenting a model for smart growth, which will have a relatively low impact on the City's roads and utilities, which will help to protect air quality, preserve significant open space and which offers a jump-start on the public greenway.

Upon inquiry of Vice-Mayor Bellamy, Ms. Kann said that they moved their original entrance, which was near Gibson Road, up the hill in response to some concerns that came up at neighborhood meetings.

When Vice-Mayor Bellamy asked about sidewalks, Ms. Kann said that they are adding a sidewalk to Wild Cherry Road crossing the bridge and all the way to the transit stop and then there will be a pathway for our residents to use to get to the road.

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City Attorney Oast reminded Council that this PUD Overlay District, if it is approved by Council, will follow the property and the development may not necessarily be by these particular developers but whoever the developer is will be bound by whatever plan Council adopts.

The following individuals spoke in support of the proposed PUD Overlay District for various reasons, some being, but are not limited to: these applicants have demonstrated their concern for the environment, energy conservation and neighbors as seen by their sensitive development of the Westwood Co-Housing Community; this development is an example of increasing urban density, preserving the environment, green building, and better use of public transportation; air quality will be addressed; development meets many priorities established by the City; the PUD Overlay District is to encourage developers not to develop on steep slopes and to avoid sensitive areas and all PUD objectives are met with this development; didn't realize neighbors wanted sidewalks until this meeting; entrance into development was moved due to neighborhood concerns; the 17-foot wide Wild Cherry road is a good with for any kind of travel way in Asheville; preserves open space; less traffic than a traditional development; and encourages multi-modal transportation:

Ms. Paula Robbins, resident of Westwood Co-Housing Community
Ms. Laurie Huttunen, resident at Haw Creek Mews
Ms. Norma Ivy, Woodfin resident
Mr. Jake Gilmer, Asheville resident
Mr. Craig Justus, attorney representing 3 property owners who wish to sell their property to the developer
Mr. Boone Guyton, residential builder in Asheville
Mr. Chris Eller, Engineer for the project
Mr. Brownie Newman

The following individuals spoke in opposition to the proposed PUD Overlay District for various reasons, some being, but are not limited to: 76 units on 20 acres is too dense; not only will there be more traffic on Wild Cherry as a result of the 76 additional homes, but rumor has it that there is an additional development to connect on the back of this land, causing additional traffic on Wild Cherry; plan is poorly conceived and does not fit in with the neighborhood; needs of the neighborhoods haven't been responded to; cramming 76 units on a flat piece of land isn't saving open space; development is an insult to the single-family neighborhood; building elevations are too high for the area; traffic will triple on Wild Cherry Road; no sidewalks for the neighborhood; the entrance into the development was moved at the request of the TRC and not at the request of the neighborhood; since the development doesn't have a second entrance, it is not appropriate for the neighborhood; parking lot is directly in front of property owner; lights from development will overflow into the neighborhood; noise during construction and after construction will be overbearing; property values of adjoining homes will be decreased; all negative impacts from development will be borne by the neighborhood, not the development residents; the sidewalks in the development will not keep children safe who walk down on Wild Cherry Road to catch the school bus; and neighborhood wants single-family homes built on the property:

Mr. Ken Schmitz, area resident
Resident who lives at the end of Wild Cherry
Mr. Mark Sinsky, adjacent property owner
Ms. Julie Niwinski, adjacent property owner
Mr. Fred English, Haw Creek resident
Mr. Randy Talley, Wild Cherry Road resident
Ms. Francine Talley, Wild Cherry resident
Mr. Eric Niwinski, adjacent property owner
Mr. Jim McClure, Wild Cherry Road resident

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Councilman Ellis suggested that instead of the children walking down Wild Cherry Road, perhaps for their safety they may wish to walk through the developer's property. Mr. Eller said that there are no sidewalks proposed on Wild Cherry Road due to the environmental impacts and topographic constraints what would force the buffer to sacrificed and more detrimental to the overall community.

Upon inquiry of Vice-Mayor Bellamy, Mr. Eller responded to questions related to buffering, number of parking spaces proposed on the development, and what the grade is from Wild Cherry Road to the proposed parking lot.

Mr. Eller explained, after Councilman Dunn asked, why they could not move the entrance about half-way up Wild Cherry Road. In addition, Mr. Eller explained the buffering on the property and the building elevations.

When Councilman Mumpower asked about lighting, it was noted that the lighting would be at low levels because there are houses that will be close to the parking lot in the development as well and they wouldn't want them disturbed by the light. In addition, Mr. Pettibone said that the City has a separate lighting ordinance to control that.

When Councilman Mumpower asked if there are any parking lot configuration possibilities, Mr. Eller said that with the way the terrain falls they were able to overcome that grade with tiering and stepping of the buildings. It would be difficult to move the parking lot because it would require a lot more visually obtrusive retaining walls to be built that would be looked upon by neighboring properties.

Mayor Worley closed the public hearing at 6:55 p.m.

Councilman Peterson asked to be excused from participation in this matter after just realizing his wife (who is an attorney) is involved in a case that would have a significant financial impact on the sale of this property. City Attorney Oast asked for a brief recess to discuss the possible conflict of interest with Councilman Peterson.

At 7:00 p.m., Mayor Worley announced a short break.

City Attorney Oast said that after talking with Councilman Peterson, it was his opinion that he does have a conflict of interest and a motion to excuse him from participating in this matter would be appropriate. Therefore, Vice-Mayor Bellamy moved to excuse Councilman Peterson from participating in this matter due to a conflict of interest. This motion was seconded by Councilwoman Jones and carried unanimously.

As a result of Councilman Peterson's absence, thus requiring a unanimous vote due to a valid protest petition, Ms. Kann said they would be willing to continue the matter for two weeks to review any unresolved issues with City staff. It was the consensus, however, for Council to proceed with the matter at this time.

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

Councilman Mumpower understood the intrusive nature of the development for the neighbors and they raised legitimate concerns. Unfortunately the system we have says the people that step-out and offer their voice to our policies are the people who chart the course of Asheville. And, the people who, before tonight, charted the course of Asheville by establishing policies that we, as elected representatives, are compelled to uphold. If we vote otherwise, we are acting on the basis of personal preferences, politics and pressures and that is not the way we

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are called to govern. Therefore, he was compelled, in spite of some of the legitimate arguments, to speak in support of the development.

Vice-Mayor Bellamy felt that the PUD process is a good tool, if done correctly, that City Council can use in their development process. She didn't think that this development is unusual for the area, and in fact she felt this development is better than the Timbers. The developers have previously built a nice development in West Asheville and they have a good team of architects and engineers. She wished there was more consensus by the neighbors to support this in that when you care about your neighbors, crime rates decrease.

Mayor Worley spoke about how people tend to resist change, yet after that change occurs, most find that the change is good. This project meets the City's goals as we move toward smart growth. He felt this plan provides for a good, smart use of the terrain in the most unobtrusive way as possible.

Councilwoman Jones explained that in the next 20 years, Asheville will need 10,000 more homes and most want keep our families here and have a full community. This project will also begin to help with our air quality. She felt smart growth needed to be included in all neighborhoods.

Councilman Dunn was not convinced that the same number of single-family homes could be built on this property and he agreed that the neighbors did bring up some valid concerns. However, he did support the PUD on this property as it does provide for open space and additional housing. He didn't, however, like some of the designs in the plan, but that is not what City Council is voting on.

After speaking in favor of the project, Councilman Ellis moved to adopt Ordinance No. 2998 for a Planned Unit Development Overlay District for Wild Cherry Garden Townhomes located on Wild Cherry Road and Beaverdam Road. This motion was seconded by Councilman Mumpower and carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE REZONING OF A PORTION OF PROPERTY LOCATED ON SHILOH ROAD ACROSS FROM KENT STREET FROM NEIGHBORHOOD BUSINESS DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 2999 - ORDINANCE TO REZONE A PORTION OF PROPERTY LOCATED ON SHILOH ROAD ACROSS FROM KENT STREET FROM NEIGHBORHOOD BUSINESS DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

Mayor Worley opened the public hearing at 7:48 p.m.

Urban Planner Carter Pettibone said that this is the consideration of an ordinance to rezone a portion of property located on Shiloh Road across from Kent Street from Neighborhood Business District to RS-8 Residential Single-Family High Density District. This public hearing was advertised on January 31 and February 7, 2003.

The applicants, Charlie and Claudia Tucker, are requesting a rezoning from Neighborhood Business to RS-8 for a 0.61-acre portion of a lot located on Shiloh Road (PIN No. 9657.13-13-1430) in order to develop the entire property for residential uses. The purpose of the

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RS-8 district is to establish a high density per acre for single-family dwellings in areas where public infrastructure is sufficient to support such development.

The property, which totals 1.24 acres and is currently vacant, is split-zoned with Neighborhood Business zoning occupying the southern portion of the site and RS-8 zoning to the north. The property is also a through lot, with frontage on both West Chapel Road and Shiloh Road. The property owners plan to subdivide the entire property into three single-family lots, two of which would be accessed by West Chapel Road with the third via Shiloh Road.

This property is located within the City limits in a part of the Shiloh neighborhood that is predominantly zoned RS-8. Land use in the area is primarily single-family detached homes or mobile homes. Properties to the north and west are zoned RS-8 while properties to the east and south across Shiloh Road are zoned Neighborhood Business.

The property owners wish to develop the property for residential use by subdividing the property into three single-family lots. Since the property is split zoned and the Neighborhood Business District does not allow single-family residential as a permitted use, the property owners would like to rezone the Neighborhood portion of the property to RS-8 in order to have the whole parcel zoned one district and build the single-family homes.

The property was split-zoned as a result of the citywide zoning change in 1997. The goal of this zoning was to establish a neighborhood business center in the area. The City has not received definite interest in the past 5 years for developing this property or other nearby Neighborhood Business zoned property for uses permitted in the Neighborhood Business District. In addition, if this property were rezoned, 3 properties totaling 1.37 acres would remain in the Neighborhood Business District. Because of these factors, coupled with the fact that the property owners have a firm development proposal for the property, staff feels that the proposed rezoning is reasonable and recommends approval.

The Planning and Zoning Commission voted 5-0 to recommend approval of the rezoning of a portion of the property located on Shiloh Road at Kent Street from Neighborhood Business to RS-8. Planning & Development staff recommend the rezoning as well.

Mr. Charlie Tucker spoke in support of the rezoning to RS-8.

Mayor Worley closed the public hearing at 7:50 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. 2999. This motion was seconded by Councilman Peterson and carried unanimously.

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C. PUBLIC HEARING TO CONSIDER THE REZONING OF PROPERTY LOCATED AT 3796 SWEETEN CREEK ROAD FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT

ORDINANCE NO. 3000 - ORDINANCE TO REZONE PROPERTY LOCATED AT 3796 SWEETEN CREEK ROAD FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT

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Mayor Worley opened the public hearing at 7:51 p.m.

Urban Designer Alan Glines said that this is the consideration of an ordinance to rezone property located at 3796 Sweeten Creek Road from RS-4 Residential Single-Family Medium Density District to Commercial Business II District. This public hearing was advertised on January 31 and February 7, 2003.

The request is for the rezoning of a .59 acre tract (PIN No. 9654-10-35-4931) in the south area of the City from RS-4 to CB II. The parcel is in the Royal Pines neighborhood and is a part of the City's Jake Rusher Park. The applicant is the Trust for Public Land. The existing playground and parking lot area are on separate parcels and are not a part of this rezoning proposal.

The parcel has access from Sweeten Creek Road and side street access from Peach Tree Street. The parcel is currently vacant but at one time had a small house in dilapidated condition. The rezoning request is part of a land trade proposal that the Trust for Public Land is coordinating. This parcel trade will provide a usable parcel for park use adjacent to Jake Rusher Park. The Parks and Recreation Department and the original land donor, Jake Rusher, are supportive of the rezoning request. The area surrounding this rezoning request were recently annexed and are undergoing initial zoning at this time. The parcels fronting on Sweeten Creek Road are proposed to be zoned CB II. Other residential parcels are proposed to be zoned RS-8.

The RS-4 Residential Single Family Medium Density District is reserved for areas for medium density single family uses and limited ancillary uses that support but still protect residential uses.

The Community Business II District is established to provide areas for medium to high density business and service uses serving several residential neighborhoods. The community business center may serve as a workplace for many residents in the surrounding neighborhoods. Projects may serve a significant pedestrian population but also provide for adequate vehicular access. The district should be located on minor and major thoroughfares, which serve several residential neighborhoods.

The Planning & Zoning Commission voted 5-0 to recommend approval of the rezoning of the property located at 3796 Sweeten Creek Road from RS-4 to Community Business II District. City staff recommends approval of the rezoning request as well.

Mayor Worley closed the public hearing at 7:54 p.m.

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

Councilman Peterson moved for the adoption of Ordinance No. 3000. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

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D. PUBLIC HEARING ON AMENDMENT TO CONTRACT FOR PURCHASE OF ROYAL PINES PROPERTY

RESOLUTION NO. 03-23 - RESOLUTION AMENDING CONTRACT FOR PURCHASE OF ROYAL PINES PROPERTY

Mayor Worley opened the public hearing at 7:55 p.m.

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City Attorney Oast said that this is the consideration of a resolution approving an exchange of real property for the Royal Pines Park and amendment to the installment purchase contract for Royal Pines to effectuate the exchange. This public hearing

was advertised on January 31, 2003.

Back in 1999, the City received an opportunity to acquire the Royal Pines Pool and Park properties from Jake Rusher, the man who had owned and operated the facility for many years. Mr. Rusher wished for the property to be used as a park, and agreed to provide some financial incentives if the City would purchase the Royal Pines property subject to this restriction.

For legal reasons, it was necessary to involve a third party in this transaction, and the Trust for Public Land (herein "TPL"), a park land acquisition and conservation organization that the City had worked with extensively on other acquisitions, became that third party. Essentially, Mr. Rusher has conveyed the property to TPL, and TPL holds title to the property for the benefit of the City. The City is paying for the property pursuant to an installment contract, and the purchase will be complete in 2004, at which time the City will acquire title to the property. The total purchase price was \$925,000. The City is responsible for maintenance, upkeep and taxes on the property while this contract is in operation.

Recently, the City has been presented with an opportunity, working through TPL, to acquire some property adjacent to the Royal Pines property that will provide for a better configuration of the park lands. In exchange for that acquisition, the City proposes to convey some of the Royal Pines property not needed for the park to the owner of an adjacent shopping center which needs the property for parking.

The appraised value of the Somerville Parcel is \$93,500; the appraised value of the Park Outparcel is \$127,000. The difference of \$33,500 is proposed to be credited against the City's remaining obligation in its contract to purchase the Royal Pines Property, less one half the cost (estimated at \$12,500) of repairing a collapsed storm drain on the Park Outparcel.

In summary, this transaction would give the City a better configuration for its park, enable the adjacent shopping center to expand its parking, and reduce the overall cost to the City.

Even though TPL holds title to the property, the City will be the ultimate owner, so we are treating this transaction as if the City were already the owner. Because this is an exchange of real property and an amendment to the installment purchase contract, a public hearing is required before the transaction can be approved. This was the process followed when we entered into the contract in 1999.

Provided Council approves this transaction, we will amend our contract, and TPL will proceed with the closing, which must occur on or before February 28.

If Council wishes to exchange the property and amend the contract as proposed herein, adoption of the resolution is recommended.

Mayor Worley closed the public hearing at 7:58 p.m.

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

Councilman Mumpower moved for the adoption of Resolution No. 03-23. This motion was seconded by Councilman Ellis and carried unanimously.

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IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. DISCUSSION OF CANDIDATES FOR ASHEVILLE SCHOOL BOARD

It was the consensus of City Council for the City Clerk to arrange interviews of the following candidates for vacancies on the Asheville School Board: Marsha Bate, Tom Knoebber, Ann L. Von Brock, Marianne Reinert, Thomas Hunnicutt and Dolly Jenkins-Mullen.

VI. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of January 24-30, 2003: Patricia Simmons (Civic Center), Courtney Davis (Fire), Charlie Tucker Jr. (Water), CP&L (Water) and Steven A. Daly II (Police).

The following claims were received by the City during the period of January 31 – February 6, 2003: The Timbers (Sanitation), Glenda Artie Thompson (Transit Services), Jerry Sherrill (Streets), Sophie Poore (Water), Pat Horrocks (Inspections) and Sagebrush Restaurant (Water).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Fred English suggested Council request our lobbyist to find funds to renovate the Civic Center and urged Council to participate in the March 1, 2003, Support our Soldiers activities.

Mr. Dennis Justice presented Council with some information on advertising display technology, soccer systems, shield systems and custom rail systems. He then explained his concerns on whether it is logistically possible to bring a hockey team to Asheville next season.

Upon inquiry of Councilman Dunn, Mayor Worley said that he would follow-up with Mr. Frank Worley at the Alcoholic Beverage Control Board about his letter to him regarding missing funds.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 8:10 p.m.

CITY CLERK

MAYOR