

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; 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: Vice-Mayor Terry M. Bellamy (maternity leave)

PLEDGE OF ALLEGIANCE

Retired Air Force veteran Ira Taylor led City Council in the pledge of allegiance.

INVOCATION

Councilman Ellis gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING KIM FROHMAN AS THE RECIPIENT OF THE BILL FULP AWARD AND PARKS AND RECREATION VOLUNTEER OF THE YEAR 2003

Mayor Worley read the proclamation proclaiming Kim Frohman as the recipient of the Bill Fulp Award and Parks & Recreation Volunteer of the Year 2003. He presented the proclamation to Mr. Frank Fishburne, Chair of the Recreation Committee, on behalf of Ms. Frohman.

B. PROCLAMATION PROCLAIMING MAY 2003 AS "MOTORCYCLE AWARENESS MONTH" IN THE CITY OF ASHEVILLE

Councilman Mumpower read the proclamation proclaiming May 2003, as "Motorcycle Awareness Month" in the City of Asheville. He presented the proclamation to Mr. Eldon Moore who briefed City Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 27-MAY 3, 2003, AS "MUNICIPAL CLERKS WEEK"

Mayor Worley read the proclamation proclaiming April 27-May 3, 2003, as "Municipal Clerks Week " in the City of Asheville. He presented the proclamation to City Clerk Maggie Burleson who thanked City Council for their support.

II. CONSENT:

Councilman Mumpower asked that Consent Agenda Item "G" be removed from the Consent Agenda for separate discussion.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 8, 2003, AND THE WORKSESSION HELD ON APRIL 15, 2003

B. RESOLUTION NO. 03-75 - RESOLUTION AUTHORIZING THE SALE OF PROPERTY ON KILDARE PLACE TO MELVIN JAMES NORRIS

-2-

Summary: The consideration of a resolution authorizing the Mayor to convey property on Kildare Place in the Mt. Carmel community to Melvin James Norris in the amount of \$26,500.

On April 8, 2003, the City Council directed the City Clerk to advertise for upset bids on Kildare Place. The advertisement ran in the Asheville Citizen-Times on April 11, 2003, as provided in N. C. Gen. Stat. sec. 160A-269. No response was received. Therefore, the offer to purchase from Melvin James Norris in the

amount of \$26,500 was not upset and the sale to Melvin James Norris should be approved.

Approval of the resolution will authorize the sale of the property to Melvin James Norris for the amount of \$26,500.

-
City staff recommends adoption of the resolution authorizing the Mayor to convey property on Kildare Place to Melvin James Norris in the amount of \$26,500.

RESOLUTION BOOK NO. 27 – PAGE 400

C. RESOLUTION NO. 03-76 - RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A LEASE WITH SUPER SOD FOR APPROXIMATELY 47 ACRES OF CITY-OWNED PROPERTY LOCATED ACROSS FROM THE MILLS RIVER WATER TREATMENT FACILITY

Summary: The consideration of a resolution approving a lease with Super Sod, a division of Patten Seed Company, for approximately 47 acres of land on Mills River.

On April 8, 2003, the City Council authorized publication of a notice of intent to lease 47 acres of land on Mills River to Super Sod. A notice of intent was duly published in the Asheville Citizen-Times on April 11, 2003.

Super Sod has offered to enter into a three-year lease with option to renew for two additional three-year terms at a rent of \$6,000 per year. Staff recommends that a CPI annual adjustment be included in the lease. The proposed lease would require a 50' buffer along Mills River. Super Sod would utilize the tillable land, about 42-43 acres for growing sod, and mow the non-wooded portions of the buffer area to maintain weed control. The proposed lease may be terminated by either party upon six months written notice. In the case of default, the Lessor may terminate the lease if the default is not cured after ten days notice.

Approval of the resolution will authorize the Mayor to execute the lease with Super Sod for the approximately 47 acres of land at Mills River.

Planning Department staff and the Water Resources Department staff recommend adoption of the resolution authorizing a lease with Super Sod for approximately 47 acres of land on the Mills River.

RESOLUTION BOOK NO. 27 – PAGE 401

D. RESOLUTION NO. 03-77 - RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2003-04 TO THE U.S. DEPT OF HOUSING AND URBAN DEVELOPMENT

-3-

Summary: This is the consideration of a resolution authorizing submission of the City's Consolidated Annual Action Plan for 2003/04 to the US Dept. of Housing and Urban Development.

The City expects to have available \$1,764,368 in CDBG funds and \$1,505,345 in HOME funds to allocate for housing and community development activities in the fiscal year beginning July 1, 2003. The City's Housing and Community Development Committee and the Asheville Regional Housing Consortium have made recommendations for allocating these funds to 21 CDBG-assisted and 15-HOME assisted projects.

If approved, the funding will assist in adding or preserving 244 affordable housing units in the City and 114 units in the rest of the Consortium area. CDBG funds will also help provide 250 Asheville residents with employment or business training and as many as 3,000 residents with other needed services. CDBG will also continue to support revitalization of the WECAN and South Pack Square neighborhoods.

Notice of the public hearing and a summary of the draft plan were published on March 24, 2003. A 30-day public comment period is required by federal regulations. A public hearing was held on April 8, 2003, and no comments were made. The final plan must be submitted to Dept. of Housing and Urban Development by May 15, 2003.

RESOLUTION BOOK NO. 27 – PAGE 402

E. ORDINANCE NO. 3011 - BUDGET AMENDMENT FOR THE SENIOR OPPORTUNITY CENTER

Summary: The consideration of a budget amendment, in the amount of \$10,174, from the Land-of-Sky Regional Council, Area Agency on Aging, to make improvements to the Senior Opportunity Center entrance.

The State of North Carolina provides senior center general-purpose funds through the Land-of-Sky Regional Council, Area Agency on Aging. This year, the City has received \$10,174, which will be used to improve the entrance of the Senior Opportunity Center. This project will include the construction of a drop-off driveway, landscaping and a small outdoor picnic/sitting area. The City is responsible for a matching amount of \$1,130, which will be covered through in-kind project management and labor.

City staff recommends City Council approve the budget amendment to make improvements to the Senior Opportunity Center.

ORDINANCE BOOK NO. 20 - PAGE

F. RESOLUTION NO. 03-78 - RESOLUTION NAMEING EXISTING GREENWAYS WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of a resolution naming existing greenways within the Asheville area.

Over the past several years, the Parks and Recreation Department and the Asheville Greenway Commission have been working on the construction of a number of greenways based upon the Greenway Master Plan. The Commission is recommending naming greenways after bodies of water located near the trail sites. The reason for this is to link one of the benefits of greenways to water quality issues. Greenways provide excellent buffers for purification of water

-4-

systems. The Parks and Recreation Department and the Asheville Greenway Commission recommend City Council approval of the following names for existing greenways:

- Glenn's Creek Greenway (Weaver Boulevard)
- Reed Creek Greenway (Broadway)
- French Broad River Greenway (French Broad River Park)
- John P. Gregg Greenway (French Broad River Park IV)

City staff recommends City Council name the existing greenways in the Asheville area as recommended by the Parks and Recreation Department and the Asheville Greenway Commission.

RESOLUTION BOOK NO. 27 – PAGE 403

G. MOTION AUTHORIZING CITY STAFF TO PROCEED WITH THE ACQUISITION OF TWO PROPERTIES FOR THE BATTERY PARK PARKING FACILITY – This item was removed from the Consent Agenda for separate discussion.

H. RESOLUTION NO. 03-79 – RESOLUTION AUTHORIZING AN INSTALLMENT PURCHASE CONTRACT BETWEEN RBC CENTURA BANK AND THE CITY OF ASHEVILLE TO FINANCE THE PURCHASE OF TWO REFUSE TRUCKS AND 9,200 ROLL CARTS

Summary: The consideration of a resolution authorizing the installment financing of the purchase of two refuse trucks and 9,200 associated roll carts.

The City of Asheville Capital Improvement Plan 2002/03 to 2007/09 includes authorization in Fiscal Year 2002/03 for the installment purchase of two automated side-loader refuse trucks and associated roll carts

The Finance Department sought proposals from eleven firms to finance the purchase of the above listed equipment. Proposals were received from eight firms, the best of which was submitted by RBC Centura Bank, - - 2.07% for four years.

The proposed resolution authorizes an installment purchase contract between the City of Asheville and RBC Centura Bank for the purchase the two refuse trucks and 9,200 roll carts and authorizes the City Manager, City Attorney, Finance Director and City Clerk to execute and deliver any and all necessary documents.

City staff recommends City Council adopt the resolution authorizing the installment financing.

RESOLUTION BOOK NO. 27 – PAGE 404

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

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

ITEM REMOVED FROM THE CONSENT AGENDA

-5-

MOTION AUTHORIZING CITY STAFF TO PROCEED WITH THE ACQUISITION OF TWO PROPERTIES FOR THE BATTERY PARK PARKING FACILITY

Summary: The consideration of approval to proceed with acquisition of two properties for Battery Park Parking Facility

Since 2000, the City has been working to assemble the real estate necessary to proceed with the construction of the public parking facility in the Battery Park area. Council has approved the project and conceptual plans for the project, and there has been significant public review and consideration of them. The budget for the project has been approved.

The options for two of the properties expire this month. These properties have been under contract since 2000, but we have delayed closing on them for reasons related to financing, and because of the status of negotiations for other properties needed for the project. As originally proposed, the City anticipated getting all of the required properties under contract and closing on them at about the same time, and coordinating the closings with the public introduction of the project. As things have developed, however, the project has been public for some time, and the closings are occurring over time. We believe that negotiations for the land are such that we can recommend closing on the two properties under contract at this time.

The basic terms are as follows:

Property A (Harris estate, owner) Acquisition Price - \$650,000
(reduced by \$175,000 in option payments credited against purchase price)

Property B (Revell estate, owner) Acquisition Price - \$867,000
(option payments of \$30,000 credited against purchase price)

The City will acquire a fee simple interest in both properties. The City has already acquired the leasehold interest in the building on Property A, formerly occupied by the Flying Frog restaurant. The parking lot operated onto these properties will continue in operation until construction starts, anticipated to be in September.

Since budgetary authority for these property acquisitions already exists, no separate resolution is necessary. If Council approves moving ahead with the purchase in accordance with these terms, a motion to that effect is requested.

Councilman Mumpower moved to authorize City staff to proceed with the acquisition of two properties for the Battery Park Parking Facility. This motion was seconded by Councilwoman Jones and carried unanimously.

III. PUBLIC HEARINGS:

- A. PUBLIC HEARING TO CONSIDER CONDITIONAL USE ZONING FOR PROPERTY LOCATED AT 8 ELKMONT DRIVE FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS I DISTRICT/CONDITIONAL USE, AND ISSUANCE OF A CONDITIONAL USE PERMIT TO UTILIZE THE EXISTING BUILDING AND TO LIMIT THE PERMITTED USES OF THE PROPERTY**

ORDINANCE NO. 3012 - ORDINANCE REZONING PROPERTY LOCATED AT 8 ELKMONT DRIVE FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS I DISTRICT/CONDITIONAL USE

ORDINANCE NO. 3013 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT TO UTILIZE THE EXISTING BUILDING AND TO LIMIT THE PERMITTED USES OF THE PROPERTY

Oaths were administered to anyone who anticipated speaking on this matter.

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

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 5:17 p.m.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

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

Mr. Carter Pettibone, 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. Pettibone said that this is the consideration of a request to rezone property located at 8 Elkmont Drive from RS-4 Residential Single-Family Medium Density District to Community Business I District/Conditional Use and a request to issue a conditional use permit to utilize the existing building and to limit the permitted uses of the property.

On January 1, 2003, the applicant, Marshall James, submitted an application to rezone the property located at 8 Elkmont Drive (PIN No. 9730.12-86-0069), in which he proposed rezoning the entire property to CB I. The Planning and Zoning Commission, at its March 5, 2003, meeting, voted to continue the public hearing on the matter in order for the applicant to amend his application to a conditional use rezoning that specified the possible proposed uses for the property. At its following meeting, the Commission voted to recommend approval of the conditional use rezoning request.

The property, which totals 0.22 acre, is located in the City limits in close proximity to Merrimon Avenue (City Exhibit 3 – Location Maps). The existing land uses and zoning in the area include single-family residences to the north zoned RS-4 and commercial uses to the east, south, and west zoned CB I. The site is located behind a lot that has frontage on Merrimon Avenue, which is a major thoroughfare with sufficient capacity to handle uses allowed in the CB I District.

The property is split-zoned with the majority of it zoned CB I and the remainder zoned RS-4 (City Exhibit 3 – Site Plan). The location of the split in zoning on the property also results in the building on the property being split zoned as well. At the time of the city-wide zoning change in 1997, the dividing line between CB I and RS-4 was drawn essentially as a straight line corresponding to one or two properties deep along Merrimon Avenue. The odd shape of the lot

and the fact that the dividing line went through the existing structure did not seem to be taken into account at that time. This division line also existed with the zoning categories in existence prior to 1997 where the majority of the lot was zoned Commercial Highway (CH) and the remainder residential (R-1).

Originally, the applicant had applied for a standard rezoning for the RS 4 portion of the property. Due to concerns raised by a neighbor and the Planning and Zoning Commission, the applicant has amended his application to that of a conditional use rezoning for the entire property.

The following conditions are proposed by the applicant:

- The existing building on the property would remain and use of it would be limited to certain uses permitted in the CB I District as listed below.

- Commercial driveway access will be provided at the southern end of the site nearest to Merrimon Avenue in the location of the current driveway.
- Buffers will be provided as required by the Unified Development Ordinance (UDO) depending on actual use of the property.
- Ground-mounted signage will be limited to the standards of the most restrictive type for commercial uses (NB standards - 8' in height) and shall not be internally lit.

The permitted uses would be limited to the following:

- Residential uses
- Adult day care home
- Child day care home
- Family care home
- Barber and beauty shops
- Clinics
- Florists
- Home occupations
- Instructional services
- Offices
- Studios, gallery, and workshop for artists, craftspeople, designers, photographers

In addition to the development standards for the zoning district in which they are located, conditional uses must meet certain general conditions in order to ensure that the use is appropriate at a particular location and to ensure protection of the public health, safety, and welfare. The general conditions, which apply to all conditional uses, can be found in Section 7-16-2(c) of the UDO. City Council must make seven (7) findings based on the evidence and testimony received at the public hearing or otherwise appearing in the record of the case. The findings are listed below. Following each finding is technical information from staff to assist Council in making these findings. The Asheville City Council shall not approve the conditional use application and site plan unless and until it makes the following findings, based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case:

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

Any redevelopment of the property would need to receive technical approval from the Water Resources Department, the Fire Department, Metropolitan Sewerage District, Engineering, and other City Departments as part of a Level I site plan review. The project must meet the technical

-8-

standards set forth in the UDO, the Standards and Specifications Manual, the North Carolina Building Code and other applicable laws and standards that protect the public health and safety.

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:

Any redevelopment project must comply with all City standards in regards to maximum clearing and grading, erosion control, and maximum slope. Very little clearing or grading is expected since the existing building would be retained and minimal off-street parking would be required due to the building's square footage.

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

Most of the site is currently zoned CB I and with the proposed conditions the existing building would remain as giving the appearance and scale of a residential structure. The property would also need to be buffered from adjoining residential properties. The driveway access to the property behind it that is partially located on the site would also remain. As the appearance and intensity of the property will not change significantly, little to no harm is anticipated to the value of the adjoining 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:

The applicant has proposed that the existing residential structure on the property be converted to a commercial use. As a result,

the building would continue to fit into the neighborhood as it currently does now. Parking would be located away from the residential neighborhood on the southern portion of the site nearest to Merrimon Avenue and be screened as required by the UDO.

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;

Any proposed development would be required to comply with all applicable UDO and Standards and Specifications requirements, as well as any of the City's other plans and policies.

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

Any redevelopment of the property would need to receive technical approval from applicable City Departments, which include representatives of the Water Resources Department, MSD, Engineering, the Fire Department, and Public Works. Due to its relatively small scale, redevelopment of the property is not expected to generate additional requirements in these areas.

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

It is anticipated most of the traffic to the site would be from Merrimon Avenue, which is a major thoroughfare with sufficient capacity to handle uses allowed in the CB I District. The site's access will be from the southern portion of the site closest to Merrimon Avenue to minimize the traffic impacts to the surrounding residential neighborhood. A vast majority of the traffic flow to the site will not enter into the neighborhood, as customers would be turning into the property first.

-9-

In addition, the driveway to the commercial property across Elkmont Drive at the corner of Elkmont and Merrimon Avenue is almost directly across the street from this site's driveway.

Rezoning the entire lot to Community Business I District/Conditional Use would allow the property owner the opportunity to adaptively reuse the existing building for limited small-scale commercial uses as proposed by the conditional use permit. This would be opposed to removing the existing building to construct a new building that may not be in scale with the neighboring residential properties to the north and that could be used for any use permitted in the CB I District. Any development of the property would also be required to adhere to the proposed conditions and meet all applicable standards of the UDO.

In consideration of the above, the adjoining zoning and land uses in the area to the south and west of the site, and the site's proximity to the Merrimon Avenue thoroughfare, the proposed request appears to be consistent with the intent and purpose of the UDO. The Planning Staff recommends approval of the conditional rezoning request as proposed for 8 Elkmont Drive. The Planning and Zoning Commission, by a vote of 6-0, also recommends approval.

Mr. Gerald Green, representing the applicant, spoke in support of this conditional use zoning and permit explaining why he felt it was good for the neighborhood and the City as a whole.

There being no request from the applicant for rebuttal, Mayor Worley closed the public hearing at 5:32 p.m.

Councilman Peterson felt that this would not conflict with Council's policy of minimizing commercial intrusion into residential areas. He felt that the property to the west and east is residential so the impact of this conditional use rezoning is fairly minimal.

Councilman Mumpower moved to adopt Ordinance No. 3012 to rezone property located at 8 Elkmont Drive from RS-4 Residential Single-Family Medium Density District to Community Business I District/Conditional Use. This motion was seconded by Councilman Peterson and carried unanimously.

ORDINANCE BOOK NO. 20 - PAGE

Councilman Ellis moved to adopt Ordinance No. 3013, to issue a conditional use permit to utilize the existing building and to limit the permitted uses of the property, subject to the following conditions: (1) The existing building on the property would remain and use of it would be limited to certain uses permitted in the CB I District as listed above by Mr. Pettibone; (2) Commercial driveway access will be provided at the southern end of the site nearest to Merrimon Avenue in the location of the current driveway; (3) Buffers will be provided as required by the UDO depending on actual use of the property; and (4) Ground-mounted signage will be limited to the standards of the most restrictive type for commercial uses (NB standards - 8' in height) and shall not be internally lit. This motion was seconded by Councilman Mumpower and carried unanimously.

B. PUBLIC HEARING TO CONSIDER CONDITIONAL USE ZONING FOR PROPERTY LOCATED AT THE CORNER OF NEW LEICESTER HIGHWAY AND ELIADA HOME ROAD (GOOCHES ROAD) FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT AND HIGHWAY BUSINESS DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL USE,

-10-

AND ISSUANCE OF A CONDITIONAL USE PERMIT FOR A PROPOSED CVS PHARMACY AND DRIVE-THROUGH

ORDINANCE NO. 3014 - ORDINANCE REZONING PROPERTY LOCATED AT THE CORNER OF NEW LEICESTER HIGHWAY AND ELIADA HOME ROAD (GOOCHES ROAD) FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT AND HIGHWAY BUSINESS DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL USE

ORDINANCE NO. 3015 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR A PROPOSED CVS PHARMACY AND DRIVE-THROUGH

Oaths were administered to anyone who anticipated speaking on this matter.

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

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 5:36 p.m.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

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

Planning and Development Director Scott Shuford 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. Shuford said that this is the consideration of a request to rezone property located at the corner of New Leicester Highway and Eliada Home Road (Gooches Road) from RS-6 Residential Single-Family Low Density District and Highway Business District to Community Business II District/Conditional Use and a request to issue a conditional use permit for a proposed CVS pharmacy and drive-through.

On March 3, 2003, the representatives of CVS submitted a request to conditionally use rezone 5 lots totaling 1.55 acres to construct a 10,880 square foot drugstore with a drive-through (City Exhibit 3 – Location Map). The requested zoning change includes: one parcel that is split zoned Highway Business and RM-6 fronting Leicester Highway, two parcels zoned RM-6 fronting Eliada Home Road and a portion of two parcels fronting Old County Home Road (City Exhibit 3 –Landscape Plan). The applicant is requesting a rezoning of these parcels to a Community Business II zoning designation that would allow the proposed use.

-11-

The project site is currently located within the City's extraterritorial jurisdiction area and is scheduled to be annexed by the City of Asheville in June of 2003.

The Community Business II zoning allows medium- to high-density business and service uses serving several residential neighborhoods. A wide range of neighborhood services is allowed in this district. Community Business II districts should be sensitive to a significant pedestrian population while providing safe and adequate vehicular access. In this district, buildings may

be up to 45,000 square feet and may be one or several stories tall. Drive-through facilities are allowed in this district. Parking is to be placed at the side or rear of the structure.

Parcels to the south and east of the site are Commercial and zoned Highway Business and Community Business II. The parcel to the north of the site is also commercial, but is not located within the City's jurisdiction. Parcels to the west of the site consist of single-family homes and are zoned RM-6.

The requested zoning to Community Business II is compatible with the goals of the 2010 Plan, which indicates this area as a developing commercial node surrounded by medium-density residential development. The 2025 Plan coincides with the uses of the 2010 Plan with an emphasis on pedestrian related amenities. The proposed zoning is also consistent with the established zoning south of the site towards Patton Avenue, also zoned Community Business II.

The conditional use master plan calls for a 10,880 square foot building, a double-drive through and 53 parking spaces. Access to the site will be from New Leicester Highway and Eliada Home Road (Gooches Road). A 12-foot travel lane is shown parallel to New Leicester Highway looping around to the front of the building. A 25-foot type "C" landscape buffer is required along the south and west sides of the proposed development adjacent to residential uses. A reduced buffer, to consist of a privacy fence and evergreen plantings, will be installed along the entire western and southern property boundaries.

City Council must take formal action as set forth in section 7-9-9(c)(4) of the Unified Development Ordinance (UDO), and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case (sec. 7-16-2 (c)). Staff's preliminary review indicates that all seven standards are met as proposed in the site plan.

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

The City of Asheville Technical Review Committee reviewed the proposed use and found no health or safety concerns, other than the loop drive. The project is required to meet the technical standards set forth in the UDO, the Asheville Standards and Specifications Manual and the NC Building Code.

- 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.

-12-

Most properties along New Leicester Highway in this vicinity are commercial uses. The properties located on Old County Home Road will not be rezoned in order to protect the single-family fabric of the area. The development will be buffered from the adjacent residential developments. In addition to the buffer the developer is required to provide, existing topography and landscaping will provide a natural screening to the neighborhood.

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

Most properties along New Leicester Highway are commercial uses. The properties located on Old County Home Road will not be rezoned in order to protect the single-family fabric of the area. The development will be buffered from the adjacent residential developments. In addition to the buffer the developer is required to provide, existing topography and landscaping will provide a natural screening to the neighborhood.

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.

The proposed use is immediately adjacent to commercial uses of similar scale and it will be buffered from residential uses by landscaping, fencing and topography.

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 requested zoning to Community Business II is compatible with the goals of the 2010 Plan, which indicates this area as a developing commercial node surrounded by medium-density residential development. The 2025 Plan coincides with the uses of the 2010 Plan with an emphasis on pedestrian related amenities. The proposed zoning is also consistent with the established zoning south of the site towards Patton Avenue, also zoned Commercial Business II. The proposed project

also incorporates Smart Growth goals by providing needed services in the vicinity of area residents. This proposal also uses new zoning tools in order to promote compatible lands uses through the conditional use process.

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 site is located along a major thoroughfare, which has adequate infrastructure services. In addition, the project received technical approval from the Technical Review Committee, which includes representatives of the Water Resources Department, Metropolitan Sewerage District, Engineering, the Fire Department, and Public Works.

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

The site is served by a traffic signal at the intersection of New Leicester Highway and Eliada Home Road. Comments received from Engineering staff at the Technical Review Committee meeting did not foresee any undue traffic congestion or hazards being created from this development. A Traffic Impact Analysis was prepared and reviewed by the City Engineering Department following the Technical Review Committee. No additional traffic concerns were identified.

-13-

On March 17, 2003, the proposed project was reviewed by the Technical Review Committee who recommended the project move forward to the Planning and Zoning Commission with conditions. Prior to the Planning and Zoning Commission meeting the developers addressed the conditions with staff and resubmitted revised plans.

Using elevation drawings (City Exhibit 4), Mr. Shuford explained that the building has been designed to replicate the design for the Merrimon Avenue CVS Pharmacy.

The Planning and Zoning Commission met on April 2, 2003, to review the proposed project. The Commission expressed concern about stormwater management issues and requested that staff work with the applicant to identify an alternative method for addressing this issue in order to minimize the potential for future retrofit expenses on the part of the property owner and to provide reasonable stormwater management at the time of project completion.

On April 2, 2003, the Planning and Zoning Commission voted 5-2 (members voting against desired the applicant to meet all current City stormwater management requirements) and recommended approval of the conditional use proposal and site plan with the following conditions. Staff also recommends approval with conditions, along with the stormwater issue resolution currently under discussion between the applicant and staff. Mr. Shuford said that staff has contacted the developer to discuss stormwater issues raised at the Planning and Zoning Commission meeting. Based on these discussions, the developer has agreed to make every effort to meet the City's stormwater regulations.

1. All Technical Review Committee conditions be met.
2. The entire loop drive shall be built with real brick pavers or stamped colored asphalt with an 22' aesthetically enhanced speed table at the proposed pedestrian crossing near the corner of the building and a sidewalk connection to the public sidewalk using this crossing. Associated signage for the crossing is to be approved by the Engineering Department.
3. The applicant shall meet City of Asheville stormwater management standards or provide equivalent protection as determined by the City Engineer.

With regard to Condition No. 3 above regarding stormwater, Mr. Shuford explained that the real concern of the City Engineer is the velocity of the stormwater leaving the site and City of Asheville standards require that stormwater must meet a pre-development velocity rate. He said that he has just met with the applicant and they have agreed on the following amended Condition No. 3: "The applicant shall design and install stormwater management systems to not exceed pre-development velocity conditions for run-off leaving the project site."

Councilman Peterson asked if there are any other stormwater management standards or requirements that the developer will not be meeting when the annexation takes effect on July 1, 2003. Mr. Shuford said that our City Engineer was concerned about one issue and that was the velocity of the stormwater leaving the site. It was his understand that with the revised Condition No. 3, the concern of the City Engineer has been addressed.

Mr. Shuford responded to Councilwoman Jones when she asked if the City was relaxing some of our stormwater regulations for this project. He said that the applicant wanted a more specific condition other than "equivalent protection as determined by the City Engineer." There was an indication last week that there was not a lot of difference between what the applicant was going to put into the site (to meet the County standards since the project is located in the extraterritorial jurisdiction

area) and our stormwater standards or its equivalent, as determined by the City Engineer. Again, he said it was his understanding that this revised Condition No. 3 will meet the City Engineer's concern.

-14-

Mr. Shuford responded to Councilman Peterson's question regarding a retention pond vs. underground storage.

Councilman Dunn asked what makes the loop drive dangerous. Mr. Shuford said that part of the project involves the installation of sidewalks along New Leicester Highway to make the property more pedestrian accessible. Placing the loop drive right up against the building with potential cross-points for pedestrians creates an automatic pedestrian/vehicle conflict point. To resolve that, what was decided upon was to put a paver-type of treatment to serve as an indication to any motorist using that loop drive to slow down – that they are in an area that is different.

Councilman Dunn asked why a Traffic Impact Analysis (TIA) was required for one building on a road the size of New Leicester Highway. Mr. Shuford explained that a TIA is required on any development that generates a certain number of trips in the peak hour and this project generated that volume.

Upon inquiry of Councilwoman Jones, Mr. Shuford said that it might be worthwhile to specify a condition limiting the second loop drive to drop-off box only.

Mr. Craig Justus, attorney representing the developer CVS Pharmacy, explained how they have been working with the City since the inception of this project in January of 2003. They asked at the beginning what the stormwater requirements would be and the City said none, since the project is located outside the City limits. Then shortly before the Planning & Zoning Commission meeting, concerns were raised about future potential Environmental Protection Agency rules, so they addressed the stormwater issue. He noted that the City's stormwater manual is for proposed developments within the City limit and not for developments in the extraterritorial jurisdiction properties. He said that it would cost approximately \$80,000 to put in a stormwater system that complies with the City's stormwater requirements. After discussions with City staff, the revised language in Condition No. 3 is now agreeable to the developer. Another concern was raised by staff at the Planning & Zoning Commission meeting with regard to the loop drive safety issue. After discussion, they agreed to Condition No. 2 adding the brick pavers or stamped color asphalt (Applicant Exhibit 1) at the proposed pedestrian crossing. This will be an additional cost of \$10,000 but they didn't mind that addition because it will add value to the project. He then explained how they wish to be good neighbors and how he felt this is a good project at this location.

Councilman Dunn questioned CVS's engineer and architect on how much extra money they had to spend to satisfy the City's requests in order to approve of the project, in particular the building façade and the stamped colored asphalt. He felt that sometimes it's more of a "if you don't do this, we won't allow that" and he didn't like that confrontation feeling.

Councilman Peterson explained that the reality is that in two and one-half months this property will not only be in the City, but the properties around it will be in the City as well. He felt City Council has a responsibility to provide protection to the soon-to-be City residents and now allow something to be built that is going to suddenly damage the surrounding property owners. In response, the applicant's architect showed (Applicant Exhibit 2) where the storm pipes would be located and how they will comply with Condition No. 3 as amended.

Councilman Ellis wondered if the developer has considered a pervious parking lot. Mr. Justus responded that they looked at doing some pervious paving near the dumpster area, but their history with pervious paving is that it is very distinctively different than impervious and in terms of aesthetics, they are not pleased with it. But, he said he would look at the pervious parking lot in south Asheville Councilman Ellis mentioned and re-consider it.

-15-

Councilman Mumpower asked if the applicant felt that there were one set of rules in the beginning and then the rules changed. Mr. Justus said that in the ebb in flow of negotiation of a conditional use permit, there are things that may come into play that you hadn't taken into account. In this instance there was that ebb in flow and a constant changing environment, which they are trying to react to. He said if they weren't satisfied with the conditions, the project would not move forward. But, he said that at this point in time they are satisfied.

Upon inquiry of Councilman Peterson, City Attorney Oast said that this area was part of the involuntary annexation process, which began back in 2002 and will be effective June 30, 2003.

Upon inquiry of Councilman Mumpower, Mr. Jeremy Schumacher, project architect, explained why the exterior windows would have little or no impact on the internal floor space.

When Mr. Schumacher said that this building design could be a template that CVS Pharmacy could use in other communities, Councilwoman Jones pointed out that the investment that CVS is putting into Asheville now could also benefit CVS in the future in terms of having that template to show another customers.

When Councilman Dunn asked about the timeline for the project, Mr. Justus replied that they started with their preliminary application meeting in January and felt the timeline was reasonable, again noting they were satisfied.

Mr. Fred English, Haw Creek resident, felt that CVS is trying to be a good neighbor and the City should not require them to adhere to the City's stormwater regulations since they are not in the City yet.

Mr. Alan Ditmore, Leicester resident, felt that birth control providers should be exempt from all zoning regulations.

Mr. Paul Van Haden felt the City should be enforcing more of the aesthetics of the building.

Ms. Evon Peterson, former resident on Old County Home Road, thanked City Council for looking ahead to the future of stormwater in this area.

There being no request from the applicant for rebuttal, Mayor Worley closed the public hearing at 6:44 p.m.

Councilwoman Jones asked that a condition be added that the second lane will always be for drop-off purposes.

Councilman Mumpower moved to adopt Ordinance No. 3014 to rezone property located at the corner of New Leicester Highway and Eliada Home Road (Gooches Road) from RS-6 Residential Single-Family Low Density District and Highway Business District to Community Business II District/Conditional Use. This motion was seconded by Councilman Peterson and carried unanimously.

ORDINANCE BOOK NO. 20 - PAGE

Councilman Mumpower moved to adopt Ordinance No. 3015, to issue a conditional use permit for a proposed CVS pharmacy and drive-through, subject to the following conditions: (1) All Technical Review Committee conditions be met; (2) The entire loop drive shall be built with real brick pavers or stamped colored asphalt with an 22' aesthetically enhanced speed table at

-16-

the proposed pedestrian crossing near the corner of the building and a sidewalk connection to the public sidewalk using this crossing. Associated signage for the crossing is to be approved by the Engineering Department; (3) The applicant shall design and install stormwater management systems to not exceed pre-development velocity conditions for run-off leaving the project site; and (4) The outside drive-through lane shall be for drop-off purposes only. This motion was seconded by Councilman Peterson and carried unanimously.

ORDINANCE BOOK NO. 20 - PAGE

At 6:50 p.m., Mayor Worley announced a short recess.

C. PUBLIC HEARING TO CONSIDER CONDITIONAL USE ZONING FOR CITY-OWNED PROPERTY LOCATED AT RICHMOND HILL FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL USE, AND ISSUANCE OF A CONDITIONAL USE PERMIT FOR A PROPOSED ARMORY AND A PARKS AND RECREATION APPROVED RECREATIONAL FACILITY

ORDINANCE NO. 3016 - ORDINANCE REZONING PROPERTY LOCATED AT RICHMOND HILL FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL USE

ORDINANCE NO. 3017 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR A PROPOSED ARMORY AND A PARKS AND RECREATION APPROVED RECREATIONAL FACILITY

Oaths were administered to anyone who anticipated speaking on this matter.

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

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 7:12 p.m.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

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

Ms. Shannon Tuch, 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).

Ms. Tuch said that this is the consideration of a request to rezone property located at Richmond Hill from RS-2 Residential Single-Family Low Density District to Institutional

-17-

District/Conditional Use and a request to issue a conditional use permit for an associated Master Plan.

On February 28, 2003, the City of Asheville Parks and Recreation Department submitted a request to conditionally rezone the Richmond Hill Park property, in the Richmond Hill neighborhood in north Asheville, from its current RS-2 classification to Institutional/Conditional Use.

The conditional use rezoning request is for a large undeveloped parcel located between Richmond Hill Road and Riverview Church Road (PIN No. 9637.06-28-5877) totaling 183.07 acres (City Exhibit 3 – Location Map). The conditional use component of this application will be a site Master Plan showing the construction of 1 Armory multi-purpose building, 1 Armory maintenance and storage building, and 1 public gymnasium along with 5 parks and recreation designed ball fields with associated drives, parking areas, and pedestrian connections (City Exhibit 3 – Site Plan).

The project site is located within the City Limits and is surrounded primarily by vacant lots, agricultural land, and low density single family homes zoned RS-2, RM-6, and RM-8 all of which are located in the City's extraterritorial jurisdiction (ETJ). The primary access into the park is proposed through an extension off of Richmond Hill Drive with 2 secondary access points being proposed off of Riverview Church Road and at the current existing entrance off of Richmond Hill Road. It is the intent of the Master Plan to route the majority of the park traffic through the primary entrance to alleviate some of the traffic related issues around the existing entrance.

The majority of the site is a mixed evergreen/deciduous forest with active hiking/biking trails and an 18-hole disc golf course. The proposed site plan attempts to preserve as much of the existing healthy vegetation as is possible by locating the Armory and ball fields in areas where ground disturbance can be kept to a practicable minimum while relocating the existing disc golf course to another area of the park that can support this activity. In addition, future greenway connections, BMX facility, playground and other park amenities are delineated along with a wildlife preservation area to remain unaffected by the park development.

The project will provide a total of 300 parking spaces, bicycle parking, and a 30'wide Type "D" Landscape Buffer as required by the Unified Development Ordinance (UDO).

The RS-2 Residential Single-Family Low Density District is established to permit low density single-family dwellings and other compatible uses in recognition of environmental constraints and the need to preserve important resources while promoting a suitable environment for single-family living.

The Institutional District is established to reserve land for the development of major educational facilities, major medical facilities and other complementary uses such as, but not limited to, public services. Development standards for uses in this district are established to minimize conflict with adjacent land uses.

The Institutional classification is being sought after to allow for the construction and operation of a U.S. National Guard Armory division in need of relocation from their current diminishing site on Shelburne Road. The proposed plan will accommodate the division's 175 reservists who will be using the facility 1 weekend a month for (classroom) training and organizing. The approximate 12 acres (and buildings) dedicated to the Armory site will revert back to the City in the event that the Armory vacates the site. Due to the forced relocation, funding for the complete cooperative Armory/Park project will be 100% federally funded.

-18-

As part of the special requirements applied to Uses by Right Subject to Special Requirements, the project must meet a single condition for Government Buildings as found in section 7-16-1(c)(31) of the UDO:

b. Shall not contain protective function, jails/detention facilities, or related facilities.

There will be no protective function, jails/detention facilities, or related facilities in this development.

The Technical Review Committee (TRC) met on March 17, 2003, at which time the TRC made a positive recommendation that the project be forwarded to the Planning and Zoning Commission.

The Planning and Zoning Commission reviewed this project at their April 2, 2003, meeting where the Commission unanimously (7-0) recommended approval of the project with the following conditions:

1. Address all TRC conditions.
2. Disturbance of on-site vegetation shall be limited to areas shown on the site plan to the maximum extent practicable.
3. Site lighting, especially the ball field lights, shall be installed pursuant to a lighting plan that minimizes light trespass onto adjoining properties and utilizes the best available lighting practices and technology.
4. Games at the ball fields will not be scheduled during weekends of Armory use.
5. Continue to explore options to mitigate potential traffic hazards.

City Council must take formal action as set forth in section 7-9-9(c)(4) of the UDO and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case (Section 7-16-2(c)). Staff's review indicates that all seven standards are met as proposed in the site plan.

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

The development is within standards of development practice set forth by the City of Asheville and other governmental units. In addition, the proposed building plans will be approved by N. C. Dept. of Insurance as City of Asheville property. Additional studies related to traffic and environmental issues are also being investigated.

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 183 acre site's topography ranges in slope and vegetation. The development of largest impact is being sited to control land disturbing activity in an effort to preserve as much of the existing vegetation and slope as is practicable, including the areas around the periphery of the park which will serve to buffer the neighboring properties. Lower impact uses are being relocated to the more environmentally sensitive areas of the park with a large portion being preserved as a wildlife preservation area. In addition, Best Management Practices are being applied to control stormwater runoff and promote biofiltration in an effort to minimize impact on the existing tributaries on site and in the surrounding areas.

-19-

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

There are a great number of studies demonstrating that close proximity to parks increase property values. In addition, a significant vegetative buffer is being preserved to help buffer the higher use areas from adjacent residential 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.

The proposed plan shows the construction of 3 buildings over 183 acres, well below the density requirements for the current zoning designation. In addition, the buildings will be buffered substantially by vegetation, distance, and topography to have a minimal influence on adjacent properties. Lastly, an active recreation area and passive park are highly complementary to the character of the neighborhood.

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 proposed plan supports the Asheville City Plan 2025 through the cooperative efforts between the City of Asheville and a not-for-profit partner to develop facilities and deliver services to the community. In addition, the Best Management Practices (BMP) outlined by the application of pervious parking materials and bioretention/bioswale as proposed on the site Master Plan also address the goals outlined in the Comprehensive 2025 plan. Similarly, the plan also supports the Asheville City Plan 2010 by improving the City's recreational system through the construction or acquisition of new facilities at appropriate locations, including North Asheville. Lastly, the proposed site plan satisfies the smart growth goals of the City through identifying and preserving open space and natural areas through the application of the conditional use rezoning tool.

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

This project is located in an established neighborhood with sufficient infrastructure to support the uses. In addition, a greenway system is being investigated in order to create an alternative transportation link to the park. Preliminary review has not revealed any significant problems in respect to utilities and the City's traffic engineer is examining options to improve emergency vehicle access.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard. The proposed Master Plan shows the creation of a new primary access point into the park routing traffic away from the existing problematic entrance at the end of Richmond Hill Road. The City's Parks and Recreation and Engineering Departments are studying the situation in an attempt to alleviate any current and/or future traffic issues along Richmond Hill Drive and are exploring options that may include:

- 1) Providing a sidewalk along the primary vehicular access route as it passes through any residential areas (this includes Richmond Hill Drive from Pearson Bridge Road to the park).
- 2) Providing traffic calming on the same segment. This would include some sort of intersection improvement at Richmond Hill Drive and Pearson Bridge Road, such as a neighborhood traffic circle or other calming element for both streets. It would also

-20-

include traffic calming elements spaced every 300-500 feet up Richmond Hill Drive, such as speed humps and islands.

The Planning and Zoning Commission and City staff recommend approval of the zoning change from RS-2 Residential Single-Family Low Density District to Institutional District/ Conditional Use and approval of the associated conditional use permit as proposed by the applicant, subject to the following conditions:

1. Address all TRC conditions
2. Disturbance of on-site vegetation shall be limited to areas shown on the site plan to the maximum extent practicable.
3. Site lighting, especially the ball field lights, shall be installed pursuant to a lighting plan that minimizes light trespass onto adjoining properties and utilizes the best available lighting practices and technology.
4. Games at the ball fields will not be scheduled during weekends of Armory use.
5. Continue to explore options to mitigate potential traffic hazards.

Upon inquiry of Councilman Dunn, Superintendent of Parks Jim Orr said that approximately 30-40 acres will be set aside for two good quality disc courses. The current disc course is very well used and is praised as being a better course throughout the country. He explained that the 20 acres consists mostly of the area in between fairways to keep the natural setting. Approximately 600-700 people use the course in a two-month period of time if the weather is good. They do not pay a fee to play, but they have a membership with their own organization. The use was identified back in August of 2000 as a viable sporting activity and the disc golf group did the sweat equity and the City provided them with space and helped them with certain parts of some events. The disc golf group basically designed and built the golf course themselves and since the City will be disturbing the course and because it is so popular, that if it's relocated, the Parks & Recreation Dept. felt the disc golf group should design the

relocated course and the City build it. The additional disc golf course requested by the disc golf group was proposed mainly due to the popularity and because the topography in this particular location in Western North Carolina lends itself to be a type and style of a golf course that normally you would not see elsewhere. The request was made and the City is looking into it.

Mr. Anthony Butzek, the City's Traffic Engineer, responded to various questions from Councilman Peterson regarding sidewalks and traffic calming on Richmond Hill Drive. He said that since these improvements are not for the park itself it was not possible at this time have those improvements paid by federal funds. Therefore, the recommendations in No. 7 will be a high priority for the City should the residents support those.

Upon inquiry of Councilman Ellis, Mr. Orr said that this is just like any other park that they have been given direction on to complete. They will go to as many outside funding sources to get parts of other structures completed. In addition, they are also looking at a community-built playground that will be in the park.

Councilman Mumpower felt comfortable in replacing the existing disc golf course but was concerned with the building of another one since that sport has a narrow utility in terms of our collectively community. Mr. Orr responded that development costs are very minimal. The costs incurred would be to purchase the basket locations and that particular apparatus for approximately \$300-400. In the past on the existing course, the disc golf group has gotten donations for the individual holes to offset that expense. He did not have any cost breakdown of the City maintenance on the course, but it would be very minimal and only anticipates a crew going in and perhaps cutting down dead trees and doing some debris removal. This is not

-21-

exclusive utilization for disc golfers, but can also be used by bird-watchers, hikers, bikers or joggers. The existing course brings tourists to Asheville.

Upon inquiry of Councilman Peterson, Mr. Orr said that there has been a need for additional ball fields in north Asheville for over 20 years and the fields will be regulation little league fields.

Mr. Alan Ditmore, Leicester resident, opposed the building of the new Armory. He felt that dense residential use is the best use for this property.

Ms. Hazel Fobes hoped that this new park would include exercise areas.

Ms. Virginia Jordan was concerned that with all the recreation uses proposed, the children participating will be exposed to an Army complex.

There being no request from the applicant for rebuttal, Mayor Worley closed the public hearing at 7:52 p.m.

Councilman Mumpower asked if, after the disc golf courses are built, this would be a permanent dedication of use of that acreage. Mr. Orr said we do have flexibility if the interest goes away. We have an arrangement with the WNC Disc Golf Association as a co-sponsored activity and until we see any type of evidence that that activity diminishes greatly, we would continue the agreement.

For Council's information, City Attorney Oast said that it's his understanding that if this is approved, the current Armory on Shelburne Road will be closed.

Col. Bill Johnson, Facilities Manager for the North Carolina Army National Guard, gave a brief background on why the Amory is requesting this conditional use rezoning and permit. In summary, a re-organization study of the units in the National Guard was performed. As a result of that study, a new unit would be coming to Asheville and they needed additional parking spaces and needed to expand on about 12-15 acres. The existing site had 12 acres, however, the N.C. Dept. of Transportation took approximately 3 acres for the interstate, leaving them with 9 acres. Looking at the state geographically, they determined Asheville was a good site to bring the new unit because they assist in different emergency situations, such as flooding (that our Military Police Units help out) and blizzards (where our vehicles are used). The facility that we currently have will revert back to the City and there will only be one readiness facility in Asheville. He said that this is a Military Police unit and basically they assist combat forces to help circulate refugees, etc. Their normal training is conducted at Fort Jackson, S.C., with the exception of paper-work training. The only training that will be conducted at this Asheville facility on a drill weekend will be a paper-work type of an exercise.

Councilman Mumpower said that the existing Amory has probably had different units stationed in it and questioned that even though the Military Police Unit is there now, what is the possibility that it may change in the future. Col. Johnson said that

the planning cycle is now out to 2009 with no proposed changes. The next extension will be to 2014. He didn't foresee any changes in that particular unit in the future. He did point out that there was a Military Police unit located here years ago. That reverted to a Quarter Master Battalion Headquarters and now has reverted back to Military Police.

When Councilman Mumpower asked if he was correct in stating that the facility could not be used to incarcerate people, Col. Johnson said he didn't perceive that. Ms. Tuch pointed out that a condition in the Uses by Right Subject to Special Conditions states that the development

-22-

“shall not contain protective function, jails/detention facilities, or related facilities.” Col. Johnson said that he was not aware of any potential for any jail-type facility.

Upon inquiry of Councilman Peterson about the types of vehicles driving to and from the facility, Col. Johnson said Monday-Friday seven or eight staff will be driving their personal vehicles. On a drill weekend, the largest vehicle will be a 5-ton truck or humvees.

When Councilman Peterson asked if the public might use any space in the facility, Col. Johnson (City Exhibit 4 – Conceptual Diagram) said that if an agreement is worked out as a joint use of this facility, the public will be able to use the gymnasium, classrooms, restrooms and parking spaces at no cost. The only time the facility is used heavily is on the drill weekend, which is normally one weekend a month.

Upon inquiry of Councilman Mumpower, City Manager Westbrook said that this property is not suitable for residential development due to the topography and problems with water and sewer.

Mayor Worley spoke in support of this excellent partnership between the National Guard and the City.

Councilman Peterson moved to adopt Ordinance No. 3016 to rezone property located at Richmond Hill from RS-2 Residential Single-Family Low Density District to Institutional District/Conditional Use. This motion was seconded by Councilman Mumpower and carried unanimously.

ORDINANCE BOOK NO. 20 - PAGE

Councilman Peterson hoped the City will look as soon as practical at traffic calming and sidewalks on Richmond Hill Drive as recommended by the City's Traffic Engineer in Condition No. 7.

Councilman Ellis moved to adopt Ordinance No. 3017, to issue a conditional use permit for a proposed Armory and a Parks and Recreation approved recreational facility, subject to the following conditions: (1) All Technical Review Committee conditions be met; (2) Disturbance of on-site vegetation shall be limited to areas shown on the site plan to the maximum extent practicable; (3) Site lighting, especially the ball field lights, shall be installed pursuant to a lighting plan that minimizes light trespass onto adjoining properties and utilizes the best available lighting practices and technology; (4) Games at the ball fields will not be scheduled during weekends of Armory use; and (5) Continue to explore options to mitigate potential traffic hazards.

This motion was seconded by Councilman Dunn and carried unanimously.

ORDINANCE BOOK NO. 20 - PAGE

D. PUBLIC HEARING TO CONSIDER ADOPTION OF THE ASHEVILLE CITY PLAN 2025

Mayor Worley said that, as discussed at the April 15, 2003, worksession, City Council will not consider adoption of the plan at this meeting. The public hearing will be held to listen to public comments. After the public hearing, Council will need time to study the plan carefully, taking into consideration the comments. Then, at a future date undetermined, City Council will consider adoption of the plan.

Mayor Worley opened the public hearing at 8:13 p.m.

-23-

Planning & Development Director Scott Shuford said that this is consideration of a resolution adopting the Asheville City Plan 2025 as the official comprehensive plan for the City of Asheville. This public hearing was advertised on April 11 and April 18,

2003.

This culminates a two year planning and public participation process that has been overseen in great detail by a 60 member committee (the City Plan Advisory Committee – CPAC) and has involved nine public forums, one major community meeting, and innumerable CPAC meetings, focus group meetings and public presentations. The effort to involve the public in developing this plan has been unprecedented in the City's history and has included surveys, television presentations and announcements, outreach to specific groups (particularly groups that might typically be underrepresented at standard public forums, including minority groups and business organizations), media coverage, newspaper editorials, and other inventive methods of capturing public input. The reward for this effort has been over 1,000 specific comments from the public that have been carefully evaluated by CPAC and included in the plan.

The Asheville City Plan 2025 will serve as guide for development approvals, rezonings, code amendments, infrastructure improvements, legislative action requests, and other City efforts. However, the plan is not an end into itself – it is a guide for specific actions, with the individual consideration and implementation of these actions being the method by which the plan will be put into effect.

The Asheville City Plan 2025 replaces the Asheville City Plan 2010, adopted in 1987.

The Planning and Zoning Commission recommended approval of Asheville City Plan 2025 as the official comprehensive plan for the City on March 27, 2003, by a unanimous vote (5-0), subject to the amendments. City staff also recommends approval of the plan as proposed for amendment.

After reviewing the background, Mr. Shuford explained the demographic changes.

Land use and transportation issues include (1) Asheville has tripled in land area over the past 50 years; (2) Asheville's density (persons per square mile) has decreased by 50% over the past 50 years; and (3) we have moved from an urban development pattern to a suburban development pattern. The costs associated with a suburban development pattern are that it's expensive to serve, has environmental problems and encounters convenience costs. A house that costs \$150,000 in Asheville can be purchased for \$116,000 in Greensboro according to a Coldwell Banker study.

He explained how mass transit requires 8-16 units per acre for efficient service, how Asheville's development pattern forces reliance on the automobile, that NC DOT projects that 80% of the traffic on the new I-26 Connector will be local traffic, and that there is a huge pressure on arterials and interstates. Current development patterns are not sustainable and we need to seek opportunities to recover an urban development pattern.

Land use ideas include (1) incorporate "green building" concepts; (2) preserve open space, historic resources; (3) promote affordable housing; (4) more urban villages; (5) higher density/greater zoning flexibility; and (6) coordinate land planning with Buncombe County.

Transportation ideas include: (1) missed use development pattern; (2) transit; (3) synchronize traffic signals; (4) walkable and bikeable infrastructure; and (5) construct I-26 Connector consistent with community recommendations.

He then reviewed the economic trends in Asheville. Economic development ideas include (1) high tech workforce; (2) reserve industrial land; (3) better use of our educational

-24-

institutions; (4) develop and improve standards for new economy: arts and crafts; low impact; (5) use quality of life to attract/retain business; (6) regional industrial development; (7) more innovation in "branding" – creating an image for Asheville; (8) create a "wired" community and affordable (high speed internet access) bandwidth focusing on grass-roots e-business; and (9) support local businesses.

Air quality ideas include (1) high density, mixed use, walkable communities; (2) regional cooperation to reduce air pollution; (3) lobby for solutions to air quality problems; (4) develop, improve and enforce industry standards for air pollution; (5) promote mass transit; (6) City fleet use alternative fuels; and (7) green building techniques.

Water quality ideas include: (1) City to continue to work with RiverLink to develop/implement master plan; (2) regional cooperation to reduce water pollution; (3) develop, improve and enforce industry standards for water pollution; (4) improved stormwater management regulations; and (5) green building techniques.

Mr. Shuford then explained smart growth. Long range planning includes transformation of commercial corridors; transit-supported density; walkable and bikeable; tax equity; strong neighborhoods; parks, open space and conservation areas; compatible, high quality infill development; strong Center City; flexible development regulations; improved intergovernmental coordination; effective City services; regional economy; development in character with community; compact urban form; clean air and water; skill-based entrepreneurial economy; green building tools and incentives; effective public participation; affordable housing; preservation of historic and natural resources; and connected, efficient and attractive streets.

Mr. Paul Godfrey, facilitator to the 2025 process, explained that City Council appointed 61 people and gave them a charge that they took seriously. The charge was to gather public input and use that public input in the development of a plan for the future of Asheville. They took the task to heart. The entire process was truly citizen-driven.

Mr. Alan Ditmore said the plan's goals are economic growth and quality of life. He disagrees with those goals noting that his goals are equality and sustainability.

Mr. Paul Van Haden suggested making sure there is adequate open space in the 2025 plan and suggested bringing back the trolley system.

Mr. Pat Whalen, member of CPAC, spoke about the 2-year process. He reiterated that they held nine public forums, one major community meeting, and innumerable CPAC meetings, focus group meetings and public presentations. They tried very hard to give each resident in our community numerous opportunities for comment on the plan. The plan is not perfect, but it does represent thousands and thousands of hours of citizens' efforts and is a fair representation of the voices of the citizens of Asheville. The increased density the plan offers our City is our best chance to build and maintain a fiscally sound local government and to control our taxes.

Mr. Keith Thomson, member of CPAC, spoke in support of the 2025 Plan and reiterated the real effort that was made to include all comments. He pointed out that this plan is an on-going process.

Ms. Hazel Fobes, member of CPAC, said the Committee members accepted Council's challenge and everyone learned to listen to each other. She said they focused on the goals and pointed out how all four goals are interrelated. Even though the plan is not perfect, she said they are proud of what they accomplished and could present to Council.

-25-

Mr. Mike Lewis, member of CPAC, commented on some of the concerns he has heard surrounding the 2025 Plan. He stressed that the Committee put as great an effort forth as they could to solicit public participation and felt that the Plan is community represented. Even though the plan is long, a lot of citizen input was incorporated and planning is complicated and is a tedious process. While he was sure that a lot of improvements could be made to the Plan, he hoped City Council would look at each improvement very carefully. Even though we need to look ahead to the future, realistically little will survive until 2025. But, that is the nature of plans that are applied to dynamic situations. If we as citizens accept Asheville's current economic as a standard by which to measure our community success, then we are in bad shape. That opinion reflects a lack of faith in the community and if we express that sort of hopefulness no one will bring a new business to this community and Asheville will become an economic wasteland. The 2025 Plan reflects a certain level of optimism that we can resolve our problems and that together we can generate a vibrant economy in Asheville. He urged Council to adopt the Plan fundamentally unchanged.

Ms. Barber Melton, member of CPAC, briefed Council on the hard work and many hours that the Committee devoted to bringing this Plan before Council. She supported the Plan and hoped Council would do the same.

Councilman Mumpower said that there are some members of Council that do have concerns. We are called on to vote on this document for a reason. We're part of the system of checks and balances and we have a responsibility to do that in a careful manner. It's not easy to speak against the good efforts of 61 to 600 people, but in fairness, some of us do have some concerns and we will try hard to address those concerns and try to craft a document that carefully addresses our future. It is a serious document, not only a guideline. Whatever plan we craft is going to be utilized as a guide and resource for a long time in the future, and he wants to make sure it can be used as a serious resource. Hopefully we can address concerns in a constructive fashion.

Councilwoman Jones was very encouraged to hear the speakers say how important the community building aspect of the development of the plan was.

Councilman Peterson said that Council has heard the comments at this hearing and noted that most of Council will be reviewing the entire document. If people have further concerns or views or support, he encouraged them to contact Council members. The public input isn't closed yet because City Council will be having a lot of discussion.

Councilman Dunn congratulated the CPAC for the hard work, but he has serious questions about the Plan. For an example, there is nothing in this plan about government and taxes. He suggested we name the 2025 Plan the City Vision 2025. Sometimes plans change and he doesn't want to see future leaders saddled with a document they wish they didn't have.

At 9:12 p.m., Mayor Worley closed the public hearing.

E. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO REQUIRE A CONDITIONAL USE PERMIT FOR DRIVE-THROUGH FACILITIES IN THE CENTRAL BUSINESS DISTRICT

Mayor Worley opened the public hearing at 9:12 p.m.

Urban Designer Alan Glines said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to require a conditional use permit for drive-through facilities in the Central Business District. This public hearing was advertised on April 11 and 18, 2003.

-26-

This code amendment would establish a requirement for the issuance of a conditional use permit for drive-through facilities in the Central Business District. Wachovia Bank recently received approval for a drive-through facility on Coxe Avenue from the Asheville Downtown Commission. In approving this facility, the Commission noted that drive-through uses contribute to the "suburbanization" of downtown and, while necessary on occasion, needed heightened review and public input. The Commission asked staff to promptly prepare a code amendment to make drive-through facilities a conditional use in the Central Business District.

On March 14, 2003, the Asheville Downtown Commission recommended approval of the proposed amendment by a vote of 8-1. At the Planning & Zoning Commission meeting held on April 2, 2003, the Commission recommended approval of the proposed code amendment by a vote of 7-0. City staff recommends approval of the proposed code amendment as well.

Based on Council's comments from the April 15, 2003, worksession, Mr. Glines proposed the following two revisions under the design standards and operational standards:

a. Design standards. Drive-through facilities should typically be accessory to a principal use of the property on which they are located. In general, it is anticipated that drive-through facilities will be located in, under, or behind a principal structure that conforms to any applicable setback, height or design requirements. Drive-through facilities should be separated by a minimum linear distance of 500 feet along any street.

b. Operational standards: No more than one driveway per street frontage should generally be provided for drive-through facilities; driveways should be no wider than two travel lanes (24 feet) and should be limited to secondary streets wherever possible. Special care shall be taken to address vehicle-pedestrian conflict points in the location and design of the facility; pursuant to this, driveways for drive-through facilities shall not be located closer than 100 feet from any street intersection.

Mr. Glines responded to various questions raised at the April 15, 2003, worksession, some being, but are not limited to: within the past three years, how many buildings have built drive-throughs in the Central Business District; what are the pros and cons associated with drive-throughs in the Central Business District; and is air quality an issue with drive-throughs.

Mr. Glines responded to various questions/comments from Councilman Peterson, some being, but are not limited to: how would someone get approval to put in a drive-through; what is the definition of "accessory" and "principal use"; clarification of where a drive-through facility can be located on a principal structure; do all new buildings downtown have to be built with zero setbacks; how would this affect someone who has a large building and parking lot who wants to put an ATM at the edge of the parking lot; is an ATM a drive-through facility; and for buildings that have a drive-through facility and an ATM, like the First Union Bank downtown, will they be prohibited by the 500 feet restriction.

Councilman Peterson disagreed with the no more than one driveway per street frontage requirement because having a place where people come in on one side and go out the other has greater safety for pedestrians. He felt that allowing two driveways is safer than only allowing one.

Mayor Worley closed the public hearing at 9:40 p.m.

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

Councilman Mumpower explained why he felt this amendment would only be setting up another layer of control that doesn't serve a solid purpose.

-27-

Councilman Ellis, liaison to the Downtown Commission, spoke in support of the amendment and said that the Downtown Commission is trying to make the downtown pedestrian friendly. The more drive-throughs you have will attract people from a larger area into the urban area, where we don't need more cars. He feels this ordinance amendment addresses the problem very well. Since this will be a conditional use permit, future Council can have the option of making that determination and placing conditions if they warrant them. He said that City Council appointed the Downtown Commission and we should listen to them since they have studied this matter in great detail.

Councilman Dunn felt businesses should be able to use their property anyway they want. He doesn't think this amendment will make it safer for pedestrians. He felt this amendment does not serve the City as a whole.

Councilman Peterson felt this matter should be sent back to staff for improvements brought out at this public hearing.

Councilman Ellis moved to table this amendment and remand it back to City staff for further study. This motion was seconded by Councilwoman Jones and carried unanimously.

F. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO PERMIT BED AND BREAKFAST INNS TO UTILIZE ACCESSORY STRUCTURES FOR A LIMITED NUMBER OF GUEST ROOMS

ORDINANCE NO. 3018 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCE TO PERMIT BED AND BREAKFAST INNS TO UTILIZE ACCESSORY STRUCTURES FOR A LIMITED NUMBER OF GUEST ROOMS

Mayor Worley opened the public hearing at 9:52 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to permit Bed & Breakfast Inns to utilize accessory structures for a limited number of guest rooms. This public hearing was advertised on April 11 and 18, 2003.

This code amendment would permit bed and breakfast inns to utilize accessory structures for a limited number of guest rooms. The current code requirements do not permit carriage houses or other outbuildings to be used for guest accommodations for bed and breakfast inns. Since heritage tourism is an increasing and very positive component of our tourism industry, this amendment has both practical and economic development implications.

On April 2, 2003, the Planning and Zoning Commission recommended approval of the proposed code amendment by a vote of 7-0. City staff recommends approval of the proposed code amendment as well.

Mayor Worley closed the public hearing at 9:54 p.m.

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

-28-

Councilman Mumpower moved for the adoption of Ordinance No. 3018. This motion was seconded by Councilwoman Jones and carried unanimously.

ORDINANCE BOOK NO. 20 – PAGE

At 9:55 p.m., Mayor Worley announced a short break.

G. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO

ESTABLISH A NEW URBAN RESIDENTIAL DISTRICT

Mayor Worley opened the public hearing at 10:05 p.m.

Urban Planner Shannon Tuch said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to establish a new high density, infill zoning classification called Urban Residential District. This public hearing was advertised on April 11 and 18, 2003.

Frequently in community meetings and planning forums and most recently, the forums for the City Plan 2025 comprehensive plan process, citizens have identified the need for:

- access to appropriately scaled mixed use neighborhood services located close to home
- improved pedestrian facilities, projects that relate to the street and attractive streetscapes
- more affordable housing throughout the community and a greater variety of housing choices
- broader transportation options

One of the most pressing problems facing the City of Asheville is the need for affordable housing. The Urban Residential District (URD) has been developed to increase opportunities for the development of affordable housing and a mix of other housing types by allowing for an increase in density, scale, and use in areas of the city where infrastructure can accommodate higher density, infill development. It is intended that the URD be located on significant transit corridors and/or in areas planned for high growth.

Providing residential units is the primary goal of the URD, however, it is recognized that there is significant need for basic commercial retail, office use, and other activities that support residential uses in proximity to high density residential areas. The URD recognizes this and incorporates other non-residential uses on a limited basis. The proposed URD is an opportunity to incorporate the City Council adopted Smart Growth and sustainable development goals that have been identified by the community during the last decade.

The URD will encourage pedestrian activity by creating safe and inviting streetscapes with comfortable walking amenities. Traffic flow will be improved by limiting curb-cuts and requiring cross access between parcels. The URD will also make public transit a viable option by increasing density (i.e., the number of potential riders) in neighborhoods that are or can be served by the bus system.

Some of the long term benefits from developing any corridor in this pattern will be to build a livable community, strengthen the area's tax base, reduce driving trips on roadways, support mass transit, improve air quality and reduce sprawl.

-29-

The URD is not being developed with a particular corridor or area of the City in which it is to be applied. However, staff has been in preliminary contact with Mountain Housing Opportunities and the West End Clingman Avenue Neighborhood regarding the possible application of this new zoning designation in certain areas of this neighborhood.

At the Planning and Zoning Commission meeting on April 2, 2003, the Commission approved the creation of the Urban Residential District by a vote of 7-0. Staff also supports the adoption of this district.

Based on comments from City Council at their April 15, 2003, worksession, the following revision was recommended under the Permitted Uses by adding: "Noise producing uses such as, but not limited to, restaurants, pubs, bakeries, and laundry establishments are restricted to 50% of the ground floor level but can be buffered by non-residential office uses on the remaining 50% of the ground level and on that portion of the second story that is directly above the noise producing use. Residential units must be provided on the remainder of the second story and subsequent stories." However, after further consideration, staff became concerned that we may be acquiring a variety of noise producing uses in this district in order to gain this extra additional office space and that is not the intent of the URD. The City Attorney was also concerned about the description of noise producing uses and that the vagueness could affect the validity of the ordinance since it's essentially up to the Planning staff on what is or is not a noise producing use. The City Attorney was more comfortable with the original wording leaving the market to drive what ultimately is built in the limited commercial area and letting the developer make the decision of whether or not it's appropriate use for that area, given that there are residential units above and around it. The other alternative to reverting back to the original language would be to try to develop some sort of more objective determinable criteria for distinguishing between what is compatible with the residential use and what isn't, like limiting operating hours to normal work hours.

Upon inquiry of Councilman Dunn, Ms. Tuch said that we have the same design alternative opportunity in the URD that is

in the Neighborhood Corridor District.

Upon inquiry of Councilman Mumpower, Ms. Tuch said that the Neighborhood Corridor District actually had an incentives table that allowed for increased stories and increased density. In this ordinance, we have built in some of that incentive to begin with.

Councilman Mumpower asked how much input was received from the developers and the community. Ms. Tuch explained that this has been a work in progress for some time. It differs from the Neighborhood Corridor District in that we had an idea of where the district would be applied (Broadway Corridor) and the Broadway Corridor people had a lot of input into that new district wording. In this case, we do not have an area in mind in which to go to and ask for their input.

Councilman Peterson didn't think City staff circulated the proposed ordinance around enough to obtain public comment. The good thing about this URD is that a lot of this new district is based upon the Neighborhood Corridor District and that was a result of a lot of public input. He felt that if the different areas have input into crafting the new district, they will be more accepting of application of it in their neighborhood.

Planning & Development Director Scott Shuford said that this was a request of City Council to bring this forward and we had a good model of the Neighborhood Corridor District.

Planning staff feels comfortable with the opportunity to create an URD with twice the density potential of any of our existing residential districts. With any of our ordinances we do share them early with the Coalition of Asheville Neighborhood representative.

-30-

Upon inquiry of Councilman Mumpower, Mr. Shuford said that the size of the area to which this new district would be applied will depend upon the circumstances. They anticipate the district being applied to corridors or clusters – not a single lot.

After a short discussion initiated by Councilman Peterson about shared and remote parking, it was staff's recommendation to amend the shared and remote parking sub-section by adding "Residentially zoned areas may not be used to provide shared or remote parking for this district except that non-residential uses in residential districts may be used" as the second to the last sentence in that sub-section.

Councilman Peterson suggested limiting non-residential uses to some percentage of the building.

After a short discussion, City Attorney Oast suggested amending (b) Permitted Uses (1) to read: "All non-residential non-office uses are restricted to the first story or ground level floor and shall not occupy more than 50% of the ground floor gross square footage. Note: The balance of ground floor gross square footage can be used for common areas supporting the principal residential use."

In addition, City Attorney Oast suggested amending (b) Permitted Uses (2) to read: "Non-residential non-office uses are restricted to 50% of the ground floor level but can be buffered by office uses on the remaining 50% of the ground level on that portion of the second story that is directly above the non-residential non-office use. Residential units must be provided on the remainder of the second story and subsequent stories. Provided that non-residential uses are limited to no more than 30% of the building."

Mr. Pat Whalen spoke in support of the new district, but noted that the biggest problem in mixed-use projects is the noise from bars letting out late at night.

City Attorney Oast said that the City has no ability to control the hours of operation of pubs. He did say he thought there is legislation pending that may give the City more authority over the operation of ABC permitted establishments. The noise ordinance would apply, however, it's not as easy to enforce as the hours of operation.

After a short discussion, it was the recommendation of Mr. Shuford and City Attorney Oast to delete pubs as a conditional use.

Mayor Worley closed the public hearing at 10:41 p.m.

Due to some language inconsistencies and the lateness of the hour, Councilman Mumpower moved to continue this matter until May 27, 2003. This motion was seconded by Councilman Ellis and carried unanimously.

-

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 03-80 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONTINUE WITH NEGOTIATIONS WITH THE NATIONAL GUARD ARMORY FOR THE DEVELOPMENT OF A NEW ARMORY AT RICHMOND HILL PARK

-31-

Superintendent of Parks Jim Orr said that the Parks and Recreation Department is requesting City Council approval to proceed with an agreement between the City of Asheville and the North Carolina National Guard for the development of a new Armory at Richmond Hill Park.

The Parks and Recreation Department, along with other City departments, has been working for several months with the North Carolina National Guard for the development of a new Readiness Center to be located on approximately 12 acres at Richmond Hill. The current location of the Armory on Shelburne Road is not meeting the needs of the National Guard Armory and will be closed. In an effort to try to address the Armory's needs and to enhance Parks and Recreation's services at Richmond Hill, the following issues have been tentatively agreed upon as part of the overall agreement between both parties.

1. The National Guard Armory will appropriate approximately \$7 million to the overall project. This appropriation will not require any local match by the City of Asheville.
2. The National Guard Armory will develop the entrance road to both the Armory facility and the proposed ball field complex to meet City standards.
3. The National Guard Armory will rough grade four baseball/softball fields and one multi-purpose soccer/football field.
4. As part of the overall construction of the new Armory facility, a gymnasium will be available for public use operated by the Parks and Recreation Department.
5. Landscaping around the Armory facility will meet the City's requirements.
6. The entire Armory facility will be fenced.
7. A shared parking area will be constructed at the Armory site for the Armory's use and as overflow parking for the park area.
8. The final design of the Armory facility will be approved by the City of Asheville.
9. All conditions outlined through the conditional use zoning/conditional use permit process will be implemented.
10. Construction of all facilities will meet Federal, State and Local permitting requirements.
11. The property will revert back to the City of Asheville when the Armory decides to vacate the property.
12. The master plan will be developed over time to provide enhanced recreation opportunities.

This is an excellent opportunity to provide much-needed recreation facilities in the Richmond Hill area as well as a state-of-the-art Readiness Center for Asheville. In August 2000, a community meeting was held in the Richmond Hill area. The information gathered from this meeting was used to develop the master plan for this 187-acre property. Another community meeting was held on March 19, 2003, with over 75 people attending to share their issues and concerns. The issue was discussed at the Planning and Zoning Commission meeting on April 2, 2003. There was no opposition voiced at that meeting and they unanimously approved the conditional use zoning.

The Parks and Recreation Department is seeking City Council's approval to authorize the City Manager to continue with negotiations for this agreement. The final contract will be brought back to City Council for approval at a later date.

Upon inquiry of Councilman Peterson, Mr. Orr explained the mutual use of the facility similar to the existing one on Shelburne Road.

Councilman Peterson asked if there was an appraisal for the 12 acres. City Manager Westbrook replied not to his knowledge. He said the National Guard asked if there was any City-property they could use for a new Armory. He said that this property was available and we would be willing to enter into a partnership to get the park jump-started. He explained that due to the

-32-

funding situation, it would be awhile before we could actually start on the park. The National Guard has been involved in this community in the past and, after negotiating, they agreed to help clear the ball fields and provide some associated parking. In addition, since there will be a larger unit stationed here, there will be an economic development aspect to it.

Regarding value, Mr. Orr also stated that without doing a full-blown appraisal, the City would be getting a lot more than what the actual value of the property would be. In fact, 4-5 years ago, the cost of the clearing and initial infrastructure of the park totaled over \$400,000.

Upon inquiry of Councilman Peterson, City Manager Westbrook said there are no plans yet for the existing Armory on Shelburne Road, which will revert back to the City once the new Armory is built.

Mr. Orr said that after the Armory and ball fields are constructed, the City has agreed with the Armory that there would be no programming of the ball field complex on the weekend that the Armory staff would have their full fledged unit. This will alleviate congestion and traffic.

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

Councilman Ellis moved for the adoption of Resolution No. 03-80. This motion was seconded by Councilwoman and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 405

B. RESOLUTION NO. 03-81 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Councilman Mumpower said that the terms of Darryl Hart (Regular), David Young (Regular), Chris Goodwin (Alternate) and Scott Fowler (Alternate) on the Board of Adjustment expired on January 21, 2003; however, City Council extended their terms until April 21, 2003.

On April 22, 2003, City Council interviewed Bradley Taylor, Richard Fort, Jane Mathews Jonathan Glover and Jerry Bailey. Raymond McClinton was unable to be interviewed on this date.

For the two Regular Members: Bradley Taylor received no votes, Richard Fort received 5 votes, Jane Mathews received 2 votes, Jonathan Glover received 1 vote and Jerry Bailey received 4 votes. Therefore, Richard Fort was appointed as a Regular Member to serve a three year term, term to expire January 21, 2006, and Jerry Bailey was appointed as a Regular Member to serve a three year term, term to expire January 21, 2006.

For the two Alternate Members: Bradley Taylor received 3 votes, Jane Mathews received 3 votes, and Jonathan Glover received 6 votes. Another vote was taken: Bradley Taylor received 3 votes and Jane Mathews received 3 votes. Therefore Jonathan Glover was appointed as an Alternate Member to serve a three year term, term to expire January 21, 2006, and the second vacancy for an Alternate member will be brought back to City Council when Vice-Mayor Bellamy returns from maternity leave. All appointments are until their successors have been appointed.

RESOLUTION BOOK NO. 27 – PAGE 406

VI. OTHER BUSINESS:

-33-

Claims

The following claims were received by the City of Asheville during the period of March 28-April 10, 2003: BellSouth (Water), Rhonda Anders (Streets), Clifton Wilkins (Streets), Cynthia Carnes (Fire), Francine Judon (Streets), Carolyn Allen (Civic Center), Francis R. Bowen (Streets) and Sherwin Pevaroff (Water).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Councilwoman Jones announced an event at Hill Street Baptist Church on Sunday, April 27, 2003, at 6:00 p.m.

Mr. Kevin Nuttall, representative of the Lighthouse Group, spoke to Council about the closing of Vance Monument and the City's park policy, which he feels violates the Free Speech Clause of the First and Fourteenth Amendments.

Mr. Alan Ditmore, Leicester resident, felt that the local presence of the National Guard is a threat to the security of the local population.

Mr. Paul Van Haden spoke about the need for City Council to enforce the citizens' rights to free speech.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 11:14 p.m.

CITY CLERK

MAYOR