

Worksession

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

Absent: None

**CONSENT:**

**New Street Name Approval – Trellis Circle**

Summary: The consideration of a resolution accepting the new proposed street name “Trellis Circle.”

The City of Asheville’s Community Development Division, owner of lots in Brotherton Commons off of Virginia Avenue, has petitioned the City of Asheville to accept the street name “Trellis Circle.” The new street will begin at Virginia Avenue and end at Brotherton Avenue.

City staff recommends adoption of the resolution accepting the new street name of “Trellis Circle.”

**New Street Name Approvals – Strawbridge Court and Lovely Lane**

Summary: The consideration of a resolution accepting the new proposed street names of “Strawbridge Court” and “Lovely Lane.”

The Givens Estates United Methodist Retirement Community, owner of lots in Givens Estates off of Sweeten Creek Road and Wesley Branch Drive, have petitioned the City of Asheville to accept the street names of “Strawbridge Court” and “Lovely Lane.”

The new street Strawbridge Court will begin at Wesley Branch Drive and end at Lovely Lane.

The new street Lovely Lane will begin a Wesley Branch Drive and end at the cul-de-sac on Lovely Lane.

City staff recommends adoption of the resolution accepting the new proposed street names of “Strawbridge Court” and “Lovely Lane.”

**New Street Name Approval – Prarie Path**

Summary: The consideration of a resolution accepting the new proposed street name of “Prarie Path.”

Mayfair Partners LLC, owners of lots off of Dillingham Road, have petitioned the City of Asheville to accept the street name “Prarie Path.” The new street will begin at Dillingham Road and end on Prarie Path.

City staff recommends adoption of the resolution accepting the new proposed street name of “Prarie Path.”

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**New Street Name Approval – Restaurant Court**

Summary: The consideration of a resolution accepting the new proposed street name “Restaurant Court.”

Pinnacle Properties, LLC, owners of lots off of Tunnel Road, have petitioned the City of Asheville to accept the street name “Restaurant Court.” The new street will begin at Tunnel Road and end on Restaurant Court.

City staff recommends adoption of the resolution accepting the new proposed street name of “Restaurant Court.”

**New Street Name Approval –Catalina Court**

Summary: The consideration of a resolution accepting the new proposed street name "Catalina Court."

Mr. Charles Burnett, owner of lots in Bradford Park off of Sand Hill Road, has petitioned the City of Asheville to accept the street name "Catalina Court." The new street will begin at Sand Hill Road and end at Catalina Court.

City staff recommends adoption of the resolution accepting the new proposed street name "Catalina Court."

### **Agreement with the Asheville Humane Society**

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement with the Asheville Humane Society for animal shelter services within the corporate limits of the City.

On July 1, 2002, Buncombe County required the City to pay for animal shelter services with the Asheville Humane Society who has contracted to run the shelter. On July 1, 2003, the City approved the budget for Fiscal Year 2003-2004, and in that budget approved \$121,000 to pay for shelter services. The City and Humane Society need to enter into an agreement for shelter services for the term of July 1, 2003, through June 30, 2004.

City staff recommends adoption of the resolution for animal shelter services for the term of July 1, 2003, through June 30, 2004.

### **Minority Business Commission Appointment**

Summary: The consideration of a resolution confirming the appointment of a member of the Minority Business Commission.

On May 26, 1998, City Council adopted Resolution No. 98-63 adopting a City-County Minority Business Plan.

The Minority Business Commission consists of 11 members, 9 of whom are nominated by various groups and two (2) of whom are minority business owners nominated by the Minority Business Commission. All nominees are considered and appointed by both the City Council and County Board of Commissioners.

Mr. Thomas Kling has been named by Eagle Market Streets Development Corporation (EMSDC) to represent them on the Minority Business Commission. Mr. Kling has been

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nominated to fill the position left vacant by Mr. Iba Taye who resigned effective January 21, 2003. Mr. Kling's term will run through August 2004 to complete the current term of Mr. Taye.

City staff recommends City Council adopt the resolution confirming the appointment of a member of the Minority Business Commission.

### **Grant for Crash Investigation Equipment and Software**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the North Carolina Governor's Highway Safety Program for crash investigation equipment and software and travel/training money for the Asheville Police Department's Regional County Coordinator, and accompanying budget amendment in the amount of \$8,000.

The Governor's Highway Safety Program has \$10,000 available through their Small Highway Safety Project Contract for highway safety equipment and travel/training for regional county coordinators. The Police Department has identified \$5,000 in crash investigation equipment and software needs and \$3,000 in travel/training needs for the regional coordinator. There is no match requirement for these funds.

The crash investigation equipment and software will enhance the capabilities of the Police Department to investigate vehicular accidents and provide greater safety to the officers at the scene of an accident. The travel/training funds will allow the Regional Coordinator to participate in highway safety meetings throughout the southeast offered by the Federal government as well as those in North Carolina offered by the State government to fulfill their duties as the Regional Coordinator.

City staff recommends the adoption of a resolution and budget amendment, in the amount of \$8,000, to accept a grant from the N.C. Governor's Highway Safety Program for crash investigation equipment and software and travel/training funds for the Regional Coordinator.

## Speed Limit Changes and Establishments of Through Truck Prohibitions

Summary: The consideration of an ordinance to enact or change speed limits and enact through truck prohibitions on specific city streets.

The streets listed below have been identified for speed concerns or truck concerns by residents, City boards and commissions, City Council, the Asheville Police Department, Transportation Services Division staff, or other City staff. Transportation Services Division staff has conducted field reviews of street geometry and conditions and/or speed studies. Streets with requests for truck prohibitions have been reviewed for appropriateness. The Police Department supports these recommendations.

### Through Truck Prohibitions

The following streets are residential streets on which it is recommended that through trucks be prohibited.

1. Catawba Street, in its entirety
2. Olney Road, in its entirety
3. Swannanoa Avenue, in its entirety
4. Vance Crescent, in its entirety
5. Vance Crescent Extension, in its entirety

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### 15 Miles Per Hour

The following streets are narrow residential streets with extreme street geometry problems, including severe and frequent crests and curves, and heavily used on-street parking. These streets warrant a significantly lower speed limit than the typical 25 mph. The recommended safe operating speed on these streets is 15 mph:

1. Circle Street, in its entirety
2. Huntington Street, in its entirety
3. Knob Street, in its entirety
4. Pine Street, in its entirety
5. Tuskegee Street, in its entirety

### 20 Miles Per Hour

Most of the following streets are narrow residential streets with street geometry problems, including frequent crests and curves, and heavily used on-street parking. These streets warrant a lower speed limit than the typical 25 mph. Brook Street and Oak Street are business district streets with a combination of operating characteristics and street geometry features that warrants a speed limit slower than the current 35 mph speed limits. Pedestrian crossings and on-street parking maneuvers are frequent, and the roadway width is constrained. As stated in Section 19-111 of the Asheville Code of Ordinances, business district streets are to be 20 mph. The recommended safe operating speed on these streets is 20 mph:

1. Brook Street (US 25A), between Biltmore Plaza and Fairview Road (NCDOT)
2. Clemmons Street, in its entirety
3. Dundee Street, in its entirety
4. Grail Street, in its entirety
5. Hilderbrand Street, in its entirety
6. Jordan Street, in its entirety
7. Lincoln Avenue, in its entirety
8. McTindle Circle, in its entirety
9. Mountain Street, between Martin Luther King, Jr. Boulevard and Hilderbrand Street
10. Oak Street (Central Business District), in its entirety
11. Peeler Drive, in its entirety
12. Ridge Street, in its entirety
13. South Beaumont Street, between Martin Luther King, Jr. Boulevard and Hazzard Street
14. South Jordan Street, in its entirety

## 25 Miles Per Hour

Most of the following streets are typical local residential streets without street geometry problems. The appropriate speed limit for typical local residential speeds is 25 mph. Eliada Home Road and Chestnut Street are residential collector streets which have a combination of street geometry features which warrant speed limits slower than the typical speed limit for residential collector streets of 30 mph. The recommended safe operating speed on these streets is 25 mph:

1. Eliada Home Road (SR 1318), between New Leicester Hwy and east corporate Limits (NCDOT)
2. Bevlyn Drive, in its entirety
3. Birch Court, in its entirety
4. Birch Lane, in its entirety
5. Broadview Drive, between Fairview Road and Oteora Boulevard
6. Carroll Avenue, in its entirety
7. Charlotte Street, between Edwin Place and Evelyn Place

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8. Cherry Street (S. Asheville), between Royal Pines Drive and Birch Court
9. Chestnut Street, between Charlotte Street and Montford Avenue
10. Cumberland Avenue, in its entirety
11. Dover Street, in its entirety
12. Elkmont Drive, in its entirety
13. Farrwood Avenue, in its entirety
14. Hazzard Street, between Charlotte Street and Knob Street
15. Hazzard Street, between Pine Street and College Street
16. Highland Street, in its entirety
17. Linden Street, in its entirety
18. Max Street, in its entirety
19. Mimosa Drive, in its entirety
20. Mountain Street, between Martin Luther King, Jr. Boulevard and College Street
21. Mulberry Street, in its entirety
22. North Oak Forest Drive, in its entirety
23. Oak Forest Boulevard, in its entirety
24. Pheasant Drive, in its entirety
25. South Oak Forest Drive, in its entirety
26. Swannanoa Avenue, in its entirety

## 30 Miles Per Hour

The following streets are streets with features that warrant operating speeds less than the typical collector street speed limit of 35 mph. Charlotte Street is a transitional overlay district intended to promote street-oriented businesses and pedestrian use, and has significant pedestrian and bicyclist usage adjacent to the travel lanes. Fairview Road is a narrow winding collector street with limited sight distance in a number of locations and residential frontage in many areas. Both streets have frequent roadside hazards (i.e. utility poles) within the desired "clear zone", the space between the curb and hazards necessary for 35 mph. Moody Avenue is a primarily residential street that exhibits characteristics of a collector street and has adequate sight distance. Woodfin Street is located in the Central Business District but does not exhibit the characteristics that warrant the typical 20 mph business district speed limit. The recommended safe operating speed on these streets is 30 mph:

1. Charlotte Street, between Orchard Street and Edwin Place
2. Fairview Road, between Sweeten Creek Road and Fairview Street
3. Moody Avenue, between Monte Vista Road and Brookside Circle
4. Woodfin Street, between North Market Street and Oak Street

The Engineering Department requests that City Council approve the ordinance amending these speed limit and through truck prohibition changes.

Mr. Anthony Butzek, Traffic Engineer, answered various questions from Council, some being but are not limited to, the cost

of signage and how speed limit changes are investigated.

When Councilman Mumpower suggested the City contact some of the people who would be affected by these speed limit changes, City Engineer Cathy Ball explained how these changes are based upon technical factors of the street.

Councilman Mumpower was concerned about the enforcement of our existing speed limits. City Engineer Ball explained that speed limits and signs are not traffic calming measures, but safety issues.

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### **Setting Public Hearing to Close a Portion of the Right-of-Way known as Greenbriar Road West from Bent Street to Parkwood Road**

Summary: The consideration of a resolution of intent to close a portion of the right-of-way known as Greenbriar Road West from Bent Street to Parkwood Road and setting a public hearing on September 23, 2003.

N. C. Gen. Stat. sec. 160-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, Steven Goldstein, on behalf of PT Business Park, LLC, has requested the City of Asheville close the right-of-way known as Greenbriar Road West from Bent Street to Parkwood Road.

Public Works Department staff have researched and determined that Greenbriar Road West from Bent Street to Parkwood Road is a City maintained right-of-way. The only lot abutting the affected portion of Greenbriar Road West is identified by the PIN No. 9628.12-86-6464.

PT Business Park, LLC intends to upgrade Bent Street from Greenbriar Road West to Patton Avenue to a paved width of twenty feet. Additionally, PT Business Park will grant the City a vehicle access easement and a pedestrian access easement across their property connecting Parkwood Road and the portion of Greenbriar Road that will remain open.

City staff recommends that City Council adopt the resolution setting a public hearing for September 23, 2003, to close Greenbriar Road West from Bent Street to Parkwood Road.

### **Clerk to Advertise for Upset Bids for Disposal Parcels 162 and 163 on Baxter Street**

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer of purchase for upset bids for Disposal Parcels 162 and 163 located on Baxter Street.

The subject parcels, zoned RS-8 Residential Single-Family High Density District and comprising 0.03 acres each are located on the south side of Baxter Street (PIN Nos. 9649.19-60-6613 and 6681). The current tax values for the parcels are \$900 each for a total value of \$1,800. The proposed land use for the subject property in the East End/Valley Street Community Improvement Program is for assemblage with adjoining residential property.

David Freck, who owns the improved property adjoining and in between the subject parcels, has submitted a bid to purchase both parcels for the sum of \$1,800. Mr. Freck desires to assemble the parcels with the property he owns to provide yard space and off-street parking for his tenants.

Approval of the resolution will establish minimum prices of \$900 each and initiates the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Community Development staff recommends adoption of the resolution authorizing advertisement for upset bids for Disposal Parcels 162 and 163 on Baxter Street.

### **Agreement for Temporary Services with Forsyth Initiative for Residential Self-Help Treatment Inc.**

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Summary: The consideration of a resolution to approve a Temporary Services Agreement with Forsyth Initiative For Residential Self-Help Treatment, Inc. (F.I.R.S.T.) for temporary workers.

The City of Asheville requires temporary workers throughout the budget year for seasonal workloads in the Public Works

Department (Sanitation Division), and the Civic Center. This agreement is a collective contract for all City Departments.

F.I.R.S.T. is a non-profit organization that provides counseling to individuals and provides these individuals with opportunities to learn new skills through job placements with various organizations. The City of Asheville has utilized F.I.R.S.T staff for the past two years with excellent results.

City staff recommends City Council approve the Temporary Services Agreement with Forsyth Initiative For Residential Self-Help Treatment, Inc. for temporary workers.

### **Setting Public Hearing to Close Bellview Road from Belvedere Road to London Road**

Summary: The consideration of a resolution of intent to close the right-of-way known as Bellview Road from Belvedere Road to London Road and setting a public hearing on September 23, 2003.

N. C. Gen. Stat. sec. 160A -299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, Scott Buchanan, on behalf of Thoms Community Care Foundation, has requested the City of Asheville close the right-of-way known as Bellview Road from Belvedere Road to London Road.

Public Works Department staff have researched and determined that Bellview Road from Belvedere Road to London Road is a City maintained right-of-way. The only lot abutting the affected portion of Bellview Road is identified by PIN No. 9647.08-98-5093.

Thoms Community Care Foundation intends to construct and dedicate a new public right-of-way to the City to be known as "New Bellview Road," prior to closing Bellview Road.

City staff recommends that City Council adopt the resolution setting a public hearing for September 23, 2003 to close Bellview Road from Belvedere Road to London Road.

### **State Law Requirements for SkatePark**

Director of Parks & Recreation Irby Brinson said that this is the consideration of an ordinance requiring participants at the Food Lion SkatePark to wear helmets, elbow pads and kneepads, and to ensure appropriate signage is posted.

In the last General Session of the N.C. General Assembly, Senate Bill 774 was approved for the establishment of certain guidelines for operating skate parks within local governments. This Bill requires operators of skateboard parks to post appropriate signage and require participants who use the park to wear helmets, elbow pads and kneepads. The results of this Bill have been posted at the Food Lion SkatePark for the last few months in order to inform participants of this change from the N.C. General Assembly.

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The Parks and Recreation Department and the Risk Management Department have not received any claims for the operation of the Food Lion SkatePark since it was opened two years ago. However, both departments feel that this requirement will further ensure the safety of the participants and reduce any potential claims with the City of Asheville.

The Parks and Recreation Department requests City Council approval of the ordinance requiring participants to wear helmets, elbow pads and knee pads and to post appropriate signage.

### **Provisions for Alcohol at Two Festivals**

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the following events: Lexington Avenue Arts & Fun Festival, and La Fiesta Grande de La Musica.

The below listed groups have requested through the Asheville Parks and Recreation Department that City Council permit them to serve beer and/or unfortified wine at their events and allow for consumption at these events.

- Lexington Avenue Arts & Fun Festival, scheduled for August 31, 2003, is a festival committed to helping raise money for Arts 2 People and the Asheville Mural Project as well as promoting Lexington Avenue businesses.
- La Fiesta Grande de La Musica, scheduled for September 20, 2003, at Memorial Stadium and is a concert

proposed as an entertainment event for the local Hispanic population in WNC.

The Asheville Parks and Recreation Department recommends approval of the resolutions to authorize the possession of malt beverages and/or unfortified wine for the above-mentioned events at specific locations and times noted in the resolutions.

Mayor Worley asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

### **UDO AMENDMENT REVIEW**

- City Attorney Oast said that this Unified Development Ordinance amendment is being brought before City Council in order that staff may respond to questions Council may have prior to the public hearing, which has been scheduled on August 26, 2003. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

#### **Group Homes in Certain Residential Zoning Districts**

- Planning & Development Director Scott Shuford said that this is the consideration of an amendment to the Unified Development Ordinance to provide for group homes in certain residential zoning districts.

- This code amendment provides for group homes in the RS-8 Residential Single-Family High Density District, RM-6 Residential Multi-Family Low Density District and RM-8 Residential Multi-Family Medium Density District residential zoning districts as a conditional use. Additionally, the amendment adds group homes to the Urban Residential District as a use by right subject to special requirements (i.e., treating it the same as RM-16 Residential Multi-Family High Density District). This amendment was prepared pursuant to City Council direction to expand the

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zoning districts that group homes may be allowed in. The amendment includes design and operational standards for group homes in these zoning districts.

The amendment has been routed to Coalition of Asheville Neighborhoods, the Affordable Housing Task Force of Asheville and Buncombe County, CREIA, and Council of Independent Business Owners for review and comment.

On August 6, 2003, the Planning and Zoning Commission recommended approval of the proposed code amendment by a vote of 6-0, including two amendments. City staff recommends approval of the proposed code amendment as amended.

After discussion by Council, it was the consensus to place this public hearing on the August 26, 2003, formal City Council agenda.

### **BOARDS AND COMMISSIONS**

- It was the consensus of City Council to appoint Ms. Bonnie Love and Ms. Carol Ann Pothier to the ADA Compliance Committee.

It was the consensus of City Council to determine who to interview for vacancies on the Planning & Zoning Commission at the August 26, 2003, formal meeting, with interviews being held prior to the September 2, 2003, worksession. It was also the intent of Council to make appointments to the Commission at the September 2, 2003, worksession.

It was the consensus of City Council to reappoint Mr. Herman Turk to the Buncombe County Tourism Development Authority.

At 3:40 p.m., Mayor Worley announced the remainder of the August 12, 2003, meeting would take place in the Council Chamber on the Second Floor of the City Hall Building.

### **CONTINUATION OF AUGUST 12, 2003, CITY COUNCIL MEETING**

#### **PUBLIC HEARINGS:**

- A. PUBLIC HEARING TO CONSIDER ENTERING INTO AN OPTION TO CONVEY CERTAIN CITY-OWNED PROPERTY IN THE CENTRAL BUSINESS DISTRICT TO THE GROVE PARK INN FOR A MIXED USE DEVELOPMENT PROJECT**

Mayor Worley opened the public hearing at 3:55 p.m. Mayor Worley announced that it is the intent of City Council to not take formal action at this meeting, but to receive the input and apply it to the proposal.

City Attorney Oast said that this is the consideration of entering into an option to convey certain City-owned property in the Central Business District to the Grove Park Inn (GPI) for a mixed use development project. This public hearing was advertised on August 1 and 8, 2003.

In May, following a discussion at a Council meeting, the City entered into a Downtown Development Agreement with the GPI that involved the potential development of two properties overlooking City-County Plaza. One of the sites (Site #1) is located just east of the Biltmore Building, at the intersection of Market Street and College Street, and is partially traversed by Patton Avenue; it is six-tenths of an acre in size. The other site (Site #2) is located to the south of the City building, is approximately 3 acres in size, and is currently used as a parking lot for City employees. Part of Site #2 is currently owned by Buncombe County but the City and County have agreed for the City to acquire it, which should occur soon.

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Ordinarily, when the City sells property, it uses an upset bid or other competitive-type process, and there is no requirement for a public hearing. The downtown development agreement law, N.C.G.S. 160A-458.3, provides that cities may in essence "place" City-owned property with a selected developer in connection with a downtown development project. There is no upset bid or other competitive process requirement, provided that there is a public hearing, and provided that the consideration received is not less than the appraised value of the property.

Since entering into the Downtown Development Agreement, the GPI's attorneys and the City have obtained a survey and appraisal, and performed some title research, and worked with the Pack Square Conservancy (Conservancy) on some design issues. All of this work was done in connection with Site #1, and we have drafted an option agreement setting out the proposed terms of the conveyance.

City Attorney Oast used a map to describe what used to be on Site #1. This was part of a redevelopment area that was established by the City Council in the late 1950's and early 1960's. The process actually began around 1958 and a redevelopment plan was adopted in 1962. The properties that were there (which were primarily in private hands) were acquired by the Redevelopment Commission. That Commission was a separate political entity from the City. Some properties were sold by private sale or by condemnation to redevelopers and the City for purposes consistent with the plan. The property we acquired was developed basically as a park and for street purposes as it was intended to be under that plan. Those restrictions were recorded in the Buncombe County Register of Deeds Office and they expired on December 31, 1987. It is his opinion that those conditions are no longer binding.

In summary, the terms of the draft option agreement are:

- Sale price                    \$656,000 plus some non-monetary considerations in the nature of public amenity improvements. Appraised Fair Market Value (November 2002)
- Description:                A copy of a part of a survey of the property is attached to the draft option agreement. Further title work may cause the boundaries to change slightly, reducing the size of the property conveyed, but these changes should not be significant. The building footprint will be substantially smaller than the property sold, but GPI's plans are to put much of the parking for the building underground, for which some subterranean horizontal area is required. The area over the parking will be restored as a park in accordance with plans for the area.
- Design:                        The building will comply with the Pack Square Design Guidelines, which are currently being developed by the Conservancy, and will be subject to approval by the City.
- Other matters:                Any area disturbed by GPI during construction will be restored in accordance with the approved plans for City-County Plaza.

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Use: The option does not specify what uses are to be made of the building, but the Downtown Development Agreement specifies mixed use, and this is the use intended by GPI. The option period (at least six months) will provide an opportunity to develop more information as to the range of uses.

Termination: If GPI decides to terminate the option, the City will be entitled to GPI's earnest money (\$10,000). If the City decides to terminate the option or for some reason does not convey the property, GPI will receive a refund of its earnest money, together with up to \$5000 in costs.

At Council's direction, the vote on whether to authorize the City to enter into this option will occur at a later meeting. This is to enable staff to address any issues that come up during or as a result of the public hearing.

The Downtown Development Agreement will need to be amended to revise the schedule as to Site #2, and a resolution to that effect will be submitted under a separate Staff Report.

City Attorney Oast and Planning & Development Director Scott Shuford responded to various questions/comments from Council, some being, but are not limited to: since the footprint of the building is contemplated to be smaller than the property proposed to be sold, what protects the City from selling that to the GPI and the Conservancy allows the footprint to be the entire parcel; how can City be assured of design standards if the Conservancy can grant variances to the guidelines; if the City is asking for significant restrictions regarding height and the footprint, those should be in the agreement between the City and the buyer and not left to the Conservancy who is not appointed by Council; the height guidelines are set out in the Downtown Development Agreement which is incorporated into the Option; what exactly are the height restrictions and can they be set out in the option; clarification of subterranean parking; can Council design the box that the building goes in and then make restrictions; why did the City not use a competitive bidding process to see what other developers might have proposed for that area; is there anything in the downtown development agreement law that requires the City to sell the property for the appraised value; has the City been approached by others who want to build something different on that property; what are the non-monetary considerations to the sales price and what is the value of those considerations; can the GPI's underground parking extend further than the property line; is there space for pedestrian-friendly sidewalks around the proposed building; can concerns about pedestrian access, view lines and height restrictions be incorporated into the option; since the appraisal was done in November of 2002, is there a need for a newer one; if the building is over a certain size, will it require a public hearing for a Level III conditional use permit; and will there be a net gain of open space or a loss of green space.

Mr. James Craig Madison, President and Chief Executive Officer of the Grove Park Inn Resort and Spa, said that they are committed to work together with the Conservancy, Eagle-Market Streets Development Corporation, City staff and City Council on these projects. Twenty years ago the GPI employed 50 full-time people and decisions were made to grow and expand. Today the GPI is the 16<sup>th</sup> largest resort in America in terms of sales per available room and he employs 1,000 people. The decisions of the past affect the economy of today. We have just received the design guidelines and have spent a great deal of money to where we are today. To move forward we need to make sure that the option for Site #1 is secure. The GPI has a vested interest in the quality growth of downtown. We are in the final stages of choosing an architect to work with the Conservancy to work within the guidelines to build a quality product that is right for the City, but has the quality that matches our name. We look at Site #1 as the beginning of moving toward to Site #2. The combined increase in property tax is \$1.5 Million. If we are successful in completing the retail component on Site #2 we are talking about another \$1.6 Million in sales tax. The most conservative figure of the two projects combined will create over 500 new

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jobs. Our parent company is Sammons Enterprises with assets of \$20 Billion. He said the combined investment is \$225 Million. He stressed that capital follows capital. If they can move forward on this investment, they will expose this region to new levels of investment. There needs to be strong leadership in both the public and private sector because the decisions we make today have a tremendous impact on the economic vitality of the future.

Upon inquiry of Councilwoman Jones, Mr. Madison explained the kind of jobs he envisioned.

In response to Vice-Mayor Bellamy, Mr. Madison said that they haven't begun extensive programming, particularly on Site #2, however, he sees is a connection point from the park to the Eagle Street area. There is tremendous opportunity to border the Spruce Street and Eagle Street area with retail, both in terms of shops and restaurants. Based on early modeling, we will have to build 350,000 square feet of parking on Site #2, but no matter where you put a business, people want to park close. Again, he believes they are the connection point from the park to Eagle-Street Market Development Corporation.

The following individuals spoke in support of the option to convey Site #1 to the GPI for several reasons, some being, but

are not limited to: need for City to disseminate information concerning project to the public; the GPI has a rich tradition of corporate citizenship; development of both parcels could result in the addition of 350 new jobs and a \$225 Million investment in our region; this would be one of the largest single economic development projects in the history of Western North Carolina; such mega-projects create significant milestones in the history of a local economy, with benefits multiplied across a region; architectural style will fit in with the historical nature of our community; need to make sure the view corridor is protected; proposal is good for business, good for Asheville and will benefit the tax-payer; there are safeguards in place to address the majority of concerns; Asheville needs to welcome business; and job creation only happens when business is created:

Mr. Don Yelton, resident of Jupiter  
Mr. Dale Carroll, President & Chief Executive Officer of AdvantageWest-N.C.  
Mr. Nathan Ramsey, resident of Fairview  
Mr. John Lantzius, resident of Fletcher  
Mr. Dennis Justice, resident of Fletcher  
Ms. Katina Zoumbos, downtown property owner  
Ms. Margaret Koutris, downtown property owner  
Mr. Scott Osborn, resident of Arden  
Mr. Jay Winer read a letter from Eugene W. Ellison  
Ms. Janice Nash, Buncombe County resident

The following individuals spoke in opposition of the City selling City-owned property to the GPI for several reasons, some being, but are not limited to: minimum wage jobs or more service level jobs will not help the City with raising the income level; will parking be available to the public; will the upscale condominiums be a wall, instead of a bridge, to the Eagle-Market Streets area; there should have been a competitive bidding process; although it can be argued that deed restrictions on the properties with constitute Site #1 have expired, the sale and use of the properties for other than park and street purposes are clearly contrary to principles adopted as part of the urban renewal plan in the 1960's; the view corridor, which is sought to be protected in the Pack Square design guidelines, would be greatly intruded upon by the proposed building on Site #1; question of legal authority to sell the properties and the procedure used to sell the properties; the sale and private use of the properties contravenes the purposes of the condemnation of the properties, contradicts the planned uses of the properties as shown on the urban renewal plan, conflicts with the draft Pack Square Design Guidelines, and may not be legally or otherwise proper; the construction of a building on Site #1 and the draft guidelines do

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not address vehicular and pedestrian traffic patterns adequately, infrastructure requirements, underground and above-ground easements, festival use and access, U.S. Dept. of Interior guidelines nor the impact on the Urban Trail artwork; the re-routing of vehicular traffic from Patton Avenue will be greatly affected and may impact the safe routing of fire trucks from the Municipal Building; major concern on Site #2 is the need for input from the Eagle-Market Street community because there is already a considerable amount of development occurring in that area; what affect will this have on the Grove Arcade's ability to lease it's space; can our downtown sustain these major undertakings; loss of green space; destruction of surrounding area when construction begins; not enough information given on projects; downtown Asheville will be walled in; don't close off the Eagle-Market Street area; Asheville-Buncombe Historic Resources Commission should be involved in the interpretation of the Pack Square design guidelines as well as the Conservancy; concern over the size of the buildings; increase in density should not be forced on Pack Square or the City-County Plaza; not enough input from community; Asheville needs affordable housing not luxury high rises; how was the height restriction of the Jackson Building determined; Pack Square design guidelines are vague; need for a current appraisal on property; City should emphasize renovation of existing buildings rather than build new buildings; City should find out what they want and then put the design out for bid; building will not provide recreation or living space for our poor; no design competition for prime piece of real estate; public space is priceless and should not be sold for monetary gain; other cities are planting more trees and adding more green space; and GPI should buy a block on Coxe Avenue and fix it up:

Mr. Walter Plaue, Buncombe County resident  
Ms. Patsy Brison Meldrum, attorney representing The Biltmore Company Inc. (referred to a letter to Council dated August 11, 2003)  
Mr. James Geter, representing Eagle-Market Streets Development Corporation  
Ms. Sue Watts, Asheville resident  
Mr. Fred English, Asheville resident  
Mr. Mike McCreary, Asheville resident  
Ms. Mary Linda, Asheville resident  
Ms. Hazel Fobes, Asheville resident  
Mr. Bill Wescott, member of the Asheville-Buncombe Historic Resources Commission and President of the Preservation Society

Mr. William Robertson, Asheville Resident  
Ms. Julie Brandt, Asheville resident  
Mr. Alan Ditmore, Leicester resident  
Ms. Amina Spengler, Asheville resident  
Ms. Ruth Clark, Asheville resident  
Ms. Rebecca Campbell, Asheville resident  
Mr. Ukiah Morrison  
Ms. Nelda Holder  
Ms. Karen Daily  
Mr. Adam McBroom, Asheville resident  
Mr. Bill Spencer, Asheville resident

After discussion and input from Mr. W. Louis Bissette Jr., attorney representing the GPI, at 7:03 p.m., Mayor Worley announced that he would not close the public hearing, but continue it until a date to be determined prior to the close of this item on the agenda.

Mr. Shuford then responded to many questions raised by the public, some being, but are not limited to: how input was solicited for public involvement from the Conservancy; soil testing by the GPI; emergency vehicle access; festival access; impact on other downtown businesses; dumpster outside building; two types of design guidelines; and the competitive bidding process.

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Mr. Shuford then responded to various questions/comments from Council, some being, but are not limited to: will there be infrastructure costs and what will be the City's responsibility in those costs; do we need to get a more current appraisal of the property; is there a construction timetable; will the downtown development agreement need to be amended to adjust the date for the Site #2 public hearing; the Site #1 building was identified on the site in the plan approved by City Council; are the plans available to the public and can we put as much information as possible on the City's website; and is the City going against the intent of the urban renewal plan.

Councilman Ellis felt this would be a smart development in that we will be putting the property back on the tax base and after both sites are developed we will have more green space.

Councilman Peterson said that the Pack Square design guidelines were unclear about the height restriction. He asked that the restriction be clarified and inserted in our option with the GPI that the height limitation shall not including the penthouse, red roof or the bell tower. In addition, he asked for clarity on what is the footprint and in the area that we are going to be selling, are there any limits on what will be done in that space. Another issue is sidewalks. If the design standards talk about having a pedestrian oriented design, and on 2 or 3 sides of the building there is no sidewalks, it won't be pedestrian oriented. He would like to make sure that the building will fit in as surrounding property to a park. He requested information on how normal traffic and emergency traffic will be re-routed. Finally, he asked for clarify on the non-monetary considerations in the sale price.

Mr. Shuford stated that any street closing will have to be a separate public hearing by City Council.

Vice-Mayor Bellamy asked if staff could provide Council with the level of services at the major intersections in that particular area.

Upon inquiry of Councilman Peterson, City Attorney Oast explained the termination clause in the option and the timeline of the option.

Upon inquiry of Councilman Jones, City Attorney Oast explained why the City used the downtown development agreement law and not the competitive bidding process on these projects. He said the City was presented with an opportunity to not only get Site #1 developed with a building that we thought would add to the downtown, but also Site #2. It also gave Council a good opportunity to control that development. This is with a corporate entity that has had a long presence in Asheville and an interest in seeing that things are done in a sound manner. If you use an upset bid process, you lose a little bit of control over who gets the property and ultimately you don't have to see the property, but if you do sell it, you have to sell it to the highest bidder.

Councilwoman Jones was concerned about the public perception and their being included in the process and informed of the process. She suggested that a link of frequently asked questions about this proposal should be put on the web.

Vice-Mayor Bellamy asked if we could require some mixed income housing. Mr. Shuford felt that the opportunity for affordable housing was more pronounced in Site #2 because the scale of it is much larger. The GPI has had some concerns they have been able to overcome with regard to the scale of the footprint of the Site #1 building based upon the design guidelines. He

thinks they have a limited tolerance of additional restrictions on what they might be able to realize in terms of their financial investment on that site. Site #2 is much larger and has much more opportunity for us to look at that type of requirement.

Councilman Mumpower said that this is extraordinary development and this is how extraordinary development happens. This is a \$225 Million on a 6/10 acre.

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Mayor Worley spoke about the need of an option and the City's need to get some assurances on what the building will look like.

City Attorney Oast said that any restrictions can be clarified in the option and he felt that two weeks would be sufficient in order for him to draft the option for Council consideration.

At 8:20 p.m., Councilman Dunn moved to (1) revise the September 2, 2003, worksession time from 3:00 p.m. to 4:00 p.m. and move it from the 1<sup>st</sup> Floor North Conference Room to the Council Chamber, Second Floor of the City Hall Building; (2) continue this public hearing until Tuesday, September 2, 2003, at 4:00 p.m. in the Council Chamber, Second Floor of the City Hall Building; and (3) to take action on entering into an option to convey certain City-owned property in the Central Business District to the Grove Park Inn for a mixed use development project at Council's worksession on September 16, 2003. This motion was seconded by Councilman Ellis and carried unanimously.

#### **B. PUBLIC HEARING RELATIVE TO AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE DEVELOPMENT STANDARD BONUSES IN RESIDENTIAL DISTRICTS**

Mayor Worley said that this public hearing was continued from the July 22, 2003, meeting. Mayor Worley then opened the public hearing at 8:32 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an amendment to the Unified Development Ordinance to provide for more flexible application of development standards, including density requirements, in all residential zoning districts. This public hearing was advertised on July 11 and 18, 2003.

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This code amendment provides for more flexible application of development requirements in all residential zoning districts. Affected districts include: RS-2, RS-4, RS-8, RM-6, RM-8 and RM-16. Under certain circumstances, a conditional use permit process can be used to modify development standards, including increasing density above the maximum permitted in each of these zoning districts, if the applicant successfully demonstrates that the project would exhibit exceptional site and/or structure design that is appropriate to the architectural and/or environmental context of the surrounding neighborhood, and would also achieve one or more of the following goals:

- Promote the City of Asheville's affordable housing programs by providing housing that is affordable for purchase by people with household income below the area median or for rental by people with household income less than 80% of the area median, and particularly housing that meets the needs of people who have special needs or household income less than 60% of median income.
- Implement an officially adopted development plan for the area.
- Exhibit exceptional site design that preserves critical environmental features on the site.
- Assist the City of Asheville in meeting critical infrastructure needs, including but not limited to the preservation of open space, the creation of regional stormwater retention facilities, and achieving greater interconnectivity of the street network.
- Effectively incorporate public transit as a primary mode of transportation to and from the development.

On June 19, 2003, the Planning and Zoning Commission unanimously recommended approval of the proposed code amendment by a vote of 4-0. City staff recommends approval of the proposed code amendment as well.

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Councilman Peterson initiated discussion surrounding his concern that the proposed amendment would not provide for the use of protest petitions by residents opposed to developments.

Discussion surrounded organizations that have received copies of the proposed ordinance and their comments, the conditional use permit process, and the neighborhood/developer meetings.

At the suggestion of Councilman Mumpower, Mr. Shuford amended two places in the proposed ordinance by deleting the

word "city" when referring to goals.

At the suggestion of Vice-Mayor Bellamy, Mr. Shuford said that he would report back to Council in the future on whether this amendment is achieving goals identified.

Mr. Mike Lewis, Asheville resident, voiced opposition to the proposed amendment.

Mayor Worley closed the public hearing at 9:05 p.m.

Discussion occurred amongst Council regarding restrictive covenants and whether they control or City ordinances control.

Vice-Mayor Bellamy and Councilwoman Jones indicated their prior support for the amendment was wavering due to their concerns that the developments approved using the development standards bonus conditional use permit process would not be properly maintained if the Minimum Housing Code was modified.

Councilwoman Jones felt it was important for City Council members to know when developments are brought before them for review if they have restrictive covenants.

Councilman Mumpower moved to adopt the proposed ordinance with the two amendments outlined by Mr. Shuford. This motion was seconded by Councilman Dunn.

Vice-Mayor Bellamy and Councilwoman Jones asked that this matter be postponed until after the September 23, 2003, meeting regarding the Minimum Housing Code.

Vice-Mayor Bellamy didn't feel that we have the foundation to help ensure the residential neighborhoods will be protected.

Councilman Mumpower felt we have to make a responsible effort to address affordable housing and if we find this amendment doesn't work, it can be amended.

Vice-Mayor Bellamy moved to continue this matter until October 14, 2003. This motion was seconded by Councilman Dunn and carried on a 5-2 vote, with Councilman Ellis and Councilman Mumpower voting "no."

**NEW BUSINESS:**

**A. RESOLUTION NO. 03-137 - RESOLUTION APPROVING THE PACK SQUARE DESIGN GUIDELINES**

Planning & Development Director Scott Shuford said that this is the consideration of a resolution adopting the design guidelines for the Pack Square Renaissance Project. The

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development of design guidelines for the Pack Square Renaissance project area is a contractual obligation of the Pack Square Conservancy, Inc. in its agreement with the City.

The Pack Square Conservancy (PSC) has prepared design guidelines for City Council approval as required in their contract with the City of Asheville. These guidelines will provide design criteria and requirements for the publicly owned space within the boundary established by this contract (see Exhibit A.). Since the PSC is raising millions of dollars of private funds for improving this critical public space, it is important that it has a definite say in how development within this space occurs. The PSC has held meetings with City staff, stakeholder groups and the public in late July to get input regarding these guidelines. Changes have been made to the guidelines to reflect this input.

The PSC is proposing both general guidelines for the entire area, and specific guidelines for separate development sites. The general guidelines provide direction for composition, ground floors, upper floors and setbacks, building tops, entryways, materials and windows. These guidelines should result in new structures that complement and enhance the surrounding development and the future development of the park. Based on staff review of the draft of the guidelines, we recommend the guidelines be approved. This draft incorporates earlier staff comments that address applicability of the guidelines to particular sites and appropriate height limits for Site A.

City staff recommends City Council approve the guidelines.

After discussion initiated by Councilman Peterson, Mr. Shuford suggested if Council is concerned about design issues on

Site #1, those should be addressed in the option agreement and not through these design guidelines. He did note that Buncombe County will have to approve these guidelines as well.

Ms. Carol King, Chair of the Downtown Association and member on Pack Square Conservancy Inc., explained to Council that the design guidelines are meant to present an overview of the vision for Pack Square and City-County Plaza. The guidelines outline specific massing guidelines for each site, as developed by the Pack Square Conservancy, in order to provide consistency in façade articulation and special features. She reviewed the design principles for great urban spaces. She said that the Pack Square Conservancy retains authority, as part of these design guidelines, to grant minor variances to these guidelines on a project specific basis. All interpretations of these guidelines by Pack Square Conservancy shall be final. All projects subject to these guidelines, "Permanent Improvements," must be approved as conforming with these guidelines by the Pack Square Conservancy prior to being permitted or approved by the City of Asheville or other regulatory agencies, as applicable. Sufficient project information, as determined by the Pack Square Conservancy, must be submitted at least 21 days prior to the date requested for review. The Pack Square Conservancy will notify the applicant as to the actual date of the review after its receipt of all pertinent information. The Pack Square Conservancy will be available for preliminary review at design stages, including preliminary review at design stages, including preliminary building massing and site design, material and roof form design, or such other design stages, prior to consideration of the final design for approval. She then reviewed the general guidelines consisting of composition; ground floors; upper floor setbacks and terraces; building tops; entryways and portals; materials; and windows and bays.

Ms. King then briefly reviewed the design guidelines for Sites A and D and the suggested design guidelines for Sites B and C.

When Councilman Mumpower asked what the Public Art Board's involvement is in these guidelines, Ms. King replied that they are involved in the Park, but not involved in the design review guidelines.

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Councilman Mumpower explained his concern that the entrepreneurial spirit may be of risk in these guidelines

City Attorney Oast responded to various questions of Council, some being but are not limited to: can Council turn down a plan purely on aesthetics; what areas of the City does this guideline cover; can Council impose stricter standards than the guidelines call for; exactly what is the Conservancy's role and the City's in these guidelines;

When Councilman Mumpower asked for the reason for these guidelines, Mr. Shuford said that the Conservancy is raising millions of dollars and they want some assurance that the development that occurs within the area they are raising money for (1) is going to be compatible with the architecture of the area and the Park; and (2) they want to have long term control over that because, as you have seen from the pictures presented today, there is a tendency for inappropriate things to be put in at the Square and the City-County Plaza.

Mr. Scott pointed out that the Conservancy has not skimmed on design advice.

After Councilwoman Jones found a consistency in the guidelines, Ms. King asked that the last sentence in the design guidelines for Site A should read, "Ground floor uses shall be active and pedestrian oriented."

Councilwoman Jones' concern is the height of the building as well and wasn't sure if she wanted the standard to be the height of the Jackson building, until that height was clarified.

Ms. Julie Brandt voiced concern about the process for developing these guidelines. She suggested this matter be tabled for further citizen input.

Mr. Fred English felt it would be inappropriate for the Renaissance Hotel to sell its parking lot.

Mr. Alan Ditmore said that if Council commits to height limits, they would be unable to waive them to negotiate a deal for a percentage of affordable housing units.

Ms. Patsy Meldrum Brison, attorney representing the Biltmore Company, (1) explained how the Pack Square design guidelines conflict with the existing downtown design guidelines regarding height; (2) how the view corridor will be intruded upon by the proposed building on Site #1; (3) why the building mass that could be approved on Site #1 is simply too large; and (4) questioned the Council's legal authority to delegate to another body the design review guidelines, especially variances.

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

Councilman Dunn moved for the adoption of Resolution No. 03-137, with the amendment read by Ms. King.

Councilman Mumpower acknowledged some discomfort with the complexities of these guidelines.

Councilman Peterson felt these guidelines were a good start, however, explained some of his concerns relating to the height, and the delegation of authority to the Conservancy especially regarding variances.

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

**RESOLUTION BOOK NO. 27 – PAGE 470**

**OTHER BUSINESS:**

**Claims**

The following claims were received by the City of Asheville during the period of July 18-24, 2003: Heather Tate (Sanitation), Claudia Hudson (Water), Jessica Curcio (Water) and Self Help Ventures Fund (Water).

The following claims were received by the City during the period of July 25 – August 7, 2003: Karne Stanley (Parks & Recreation), Mary Bryan Roberts (Streets), Robert Wise (Transit Services), Days Inn (Water), Linda Frankl (Sanitation) and Daren Pinkerton (Sanitation).

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

**INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Mr. Fred English said that all government property should be sold to the highest bidder and if any portion of public property is sold, he will form a citizens group to stop it.

**ADJOURNMENT:**

Mayor Worley adjourned the meeting at 10:56 p.m.

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CITY CLERK

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MAYOR