

Regular Meeting

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

Absent: None

PLEDGE OF ALLEGIANCE

- Ms. Ann Deweese, retiree from the U.S. Army Air Corp, led City Council in the Pledge of Allegiance.

INVOCATION

Councilwoman Jones gave the invocation.

I. PROCLAMATIONS:

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 24, 2004

B. RESOLUTION NO. 04-54 - RESOLUTION AMENDING THE 2004 SCHEDULED CITY COUNCIL MEETINGS TO CANCEL THE MARCH 30, 2004, CITY COUNCIL WORKSESSION

RESOLUTION BOOK NO. 28 – PAGE 152

C. RESOLUTION NO. 04-55 - RESOLUTION ACCEPTING MYRA PLACE AS A CITY MAINTAINED STREET

Summary: The consideration of a resolution to accept Myra Place in Maple Grove Subdivision off East Starnes Cove Road in west Asheville as a City maintained street.

Section 7-15-1(f)-4.a requires that streets dedicated for public uses be accepted by resolution of City Council.

Myra Place is a developer-constructed street with an average paved width of 20 feet. The street is approximately 0.09 miles in length and ends with a cul-de-sac. Engineering Department staff inspected this street finds it to be constructed in accordance with the approved standards.

Following City Council's approval of this resolution, Myra Place will be added to the official Powell Bill list. A two-year warranty, from the date of City Council's acceptance, will be required by the developer to cover major failures in the roadway.

- Staff requests City Council adopt the resolution accepting Myra Place as a City maintained street.

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D. RESOLUTION NO. 04-56 - RESOLUTION SETTING A PUBLIC HEARING ON APRIL 13, 2004, TO CONSIDER ADOPTION OF AN ORDINANCE DIRECTING THE DWELLING LOCATED AT 86 CRAYTON ROAD BE DEMOLISHED

Summary: The consideration of a resolution setting a public hearing on April 13, 2004, to consider adoption of an ordinance ordering demolition of 86 Crayton Road.

The dwelling at 86 Crayton Road is a small wooden dwelling containing approximately 450 square feet with missing windows, doors and a porch that is caving in upon itself. The property owner, D.P.S. Properties, a North Carolina General Partnership, has failed and refused to demolish the dwelling in compliance with the Order entered by the Code Enforcement Officer (CEO).

A Complaint and Notice of Hearing was issued on the 17th day of December 2002. A hearing was held on January 8, 2003. Following the hearing, a Findings of Fact and Order was entered and served on the owner. The owner agreed to demolish the dwelling by July 1, 2003, but failed to do so. To date, no corrective action has been taken by the owner and the dwelling continues to remain a safety hazard, at times open and accessible to the public and unfit for human habitation.

The Housing Code requires adoption of an Ordinance ordering a dwelling demolished before the CEO may proceed with demolition. The fair market value of the dwelling according to the Buncombe County Tax Records is \$13,600; the estimated cost to make the dwelling compliant with the Code is from \$15,000-\$20,000. Affordable housing agencies were notified. Staff plans to utilize Community Development Block Grant funds for demolition.

Advantages of the demolition include:

- Improve the appearance of the neighborhood (remove blight)
- Prevent vagrants and vandals from occupying the dwelling
- Prevent neighborhood children from playing in the dwelling and reduce the risk of injury
- Remove the safety and fire hazard

Disadvantages of Demolition include:

- Demolition of a dwelling that has potential for rehabilitation
- Utilizes public funds to eliminate a private nuisance

City staff recommends adoption of the resolution setting a public hearing on April 13, 2004, to consider an ordinance ordering that the property located at 86 Crayton Road be demolished.

RESOLUTION BOOK NO. 28 – PAGE 154

E. RESOLUTION NO. 04-57 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH HOBSON CONSTRUCTION CO. INC. FOR THE PROJECT KNOWN AS 2002 ANNEXATION AREAS SEWER SYSTEM IMPROVEMENTS

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Hobson Construction Company, Inc., in the amount of \$110,700, for the 2002 Annexation Areas Sewer System Improvements Project.

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This project consists of the installation of approximately 870 linear feet of eight-inch diameter sanitary sewer line and related appurtenances.

The Engineering Department received and publicly opened three bids on Thursday, February 5, 2004, at 2:30 p.m. After a thorough review of the bid documents by the Engineering Department and the Office of Minority Affairs, Hobson Construction Company, Inc., was found to be the lowest responsible bidder with a total bid of \$110,700.

The project will be financed with monies from Capital Improvements Fund.

Hobson Construction Company, Inc., has performed several projects of this nature in the past in a satisfactory manner.

The construction time for this project is identified as 120 calendar days in the contract documents. The contractor will be required to pay the sum of \$250.00 as liquidated damages for each and every calendar day that he shall be in default after the time stipulated in the contract.

The advantages and disadvantages of adopting a resolution authorizing the City Manager to execute this contract are as follows:

- The execution of this contract will allow the City to proceed with meeting the requirements for sanitary sewer system improvements, as established in the 2002 Annexation Areas Plan of Services;
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- The bid amount of \$110,700 for the construction of the 2002 Annexation Areas Sewer System Improvements Project is

equitable, as compared to recent construction projects of the same nature;

- The only foreseeable disadvantage of adopting a resolution authorizing the City Manager to execute this contract is the temporary land disturbance along the proposed sanitary sewer construction corridor.

Staff recommends that City Council adopt a resolution authorizing the City Manager to execute a contract with Hobson Construction Company, Inc., in the amount of \$110,700, for the 2002 Annexation Areas Sewer System Improvements Project.

RESOLUTION BOOK NO. 28 – PAGE 156

F. RESOLUTION NO. 04-58 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH APAC-ATLANTIC, INC., FOR THE PROJECT KNOWN AS CONTRACTED PAVING 2003-04

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with APAC-Atlantic, Inc., Asheville Division, in the amount of \$300,025.25, for the project known as Contracted Paving 2003-2004.

The City annually allocates monies to rehabilitate city streets that are in need of repair as listed on the Institute for Transportation, Research and Education (ITRE) report. City Engineering and Public Works staff assessed several streets listed on the ITRE report and chose seventeen streets to be resurfaced based upon their condition and the staff members opinion of probable cost to resurface.

The Engineering Department developed construction plans, documents and specifications for resurfacing Country Club Lane, Herron Avenue, North View Street, Quarry

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Road, Vineyard Place, Lucky Lane, Fernbrook Place, Pine Meadows Road, Pine Meadows Drive, Hillcrest Road, Oak Hill Road, Eastview Avenue, Peace Street, Digges Road, Redfern Street, Balsam Avenue, and Clayton Street.

The project was advertised on January 4, 2004. The Engineering Department received bids on Thursday, February 5, 2004. Only one bid was received at this bid opening. The project was re-advertised on February 15, 2004. The Engineering Department held a second bid opening on Tuesday, February 24, 2004. One bid was received and opened. The single bid received was from APAC-Atlantic, Inc., Asheville Division in the amount of \$300,025.25.

Money for this resurfacing (paving) contract is currently budgeted in the Public Works Department's operating budget.

The construction time for this project is identified as 120 calendar days in the contract documents. The contractor will be required to pay the sum of \$250.00 as liquidated damages for each and every calendar day that he shall be in default after the time stipulated in the contract.

The advantages and disadvantages of adopting this resolution are as follows:

- The execution of this contract will allow the City to proceed with rehabilitation of paving surfaces on several City streets that have been identified as needing repair, thus providing a new riding surface for the convenience of all riders;
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- Based upon the engineer's estimate for this project of \$305,582.00, staff believes the bid submitted by APAC is reasonable. Furthermore, the bid was deemed responsive pursuant the analyses performed by the Office of Minority Affairs.
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- The only foreseeable disadvantage of adopting a resolution authorizing the City Manager to execute this contract is the temporary inconvenience to City residents that reside within or in the adjacent areas where construction is to take place.

City staff recommends that City Council adopt a resolution authorizing the City Manager to execute a contract with APAC-Atlantic, Inc., Asheville Division in the amount of \$ 300,025.25 for the project known as Contracted Paving 2003-2004.

RESOLUTION BOOK NO. 28 – PAGE 157

G. ORDINANCE NO. 3091 – SECOND READING OF AN ORDINANCE GRANTING A FRANCHISE TO DUKENET COMMUNICATIONS, LLC, PURSUANT TO THE CITY'S TELECOMMUNICATIONS ORDINANCE

Summary: The first reading of this ordinance was on February 24, 2004. Because this is a franchise, it requires two separate readings.

ORDINANCE BOOK NO. 21 – PAGE 66

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.

Councilwoman Bellamy moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Jones and carried unanimously.

III. PUBLIC HEARINGS:

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A. PUBLIC HEARING RELATIVE TO A CONDITIONAL USE PERMIT REQUEST FOR PROPERTY LOCATED ON COURTLAND AVENUE (FLYNN HOMES) FOR A GROUP HOME DEVELOPMENT OF RESIDENTIAL BUILDINGS AND LIMITED OFFICE

ORDINANCE NO. 3095 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED ON COURTLAND AVENUE (FLYNN HOMES)

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

City Attorney Oast reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 5:07 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.

Urban Planner Shannon Tuch 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 the issuance of a conditional use permit for property located on Courtland Avenue and Houston Street (Flynn Homes) for a group home development of residential buildings and limited office.

The applicant, Flynn Christian Home, is requesting a Conditional Use Permit for a 3.82 acre parcel to allow for the operation of a group home in a RS-8 Residential Single Family High Density District (Attachment to City Exhibit 3 – Block Aerial). The group home will consist of three separate buildings, along with nine required off-street parking spaces, bicycle racks, sidewalks, and landscaping as required by the Unified Development Ordinance (UDO). As a result of discussions with the neighborhood and City staff, the following are changes to the site plan (City Exhibit 4 – Alternate Site Plan). The site plan addresses in part one of the issues that had to do with driveways. Originally the site plan had one large 24-foot wide drive that led to a single large parking area. The revision shows two separate driveways. We are, however, looking at providing three separate driveways at the request of the neighborhood to help the residences appear to be more single-family in style. Also, the parking areas will be separated. There will be individual parking areas behind the buildings with their own individual drive, pursuant to the City's Traffic Engineer. Another site plan revision, still being worked out, deals with the landscape buffer requirements. There is concern from some of the residents about the unnatural appearance of the buffer but still need screening. The neighborhood wants something that blends with the existing wooded lot and with the existing neighborhood. Staff is willing to contemplate an alternative compliance that will help create the screen necessary but group and mass the plants in a more natural configuration.

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The group home itself will consist of three separate buildings. The first building is described as an administrative building

with limited office space and three residential units for full-time, live-in staff (Building A in City Exhibit 4). The other two buildings are reserved for residents of the group home with the first of the two additional buildings housing up to 8 residents while retaining the lower level as a common area/kitchen space. The second residential building will house up to 16 residents with a common living room on the first floor. The two resident buildings will share the kitchen and larger gathering area in Building A, operating together as a single unit. This single unit, when combined with the individual residences of the full time staff, will total 4 dwelling units. All three buildings will be modular two story construction on block foundations and will be single family in style and operation.

In addition to the 3 residential structures, the preliminary concept plan (Attachment to City Exhibit 3 – Preliminary Concept Plan) showed 14 off-street parking spaces to be provided behind the buildings and screened from view with existing vegetation. This vegetation will be supplemented as required by the landscape ordinance to meet the 15' type 'A' landscape buffer standards. The project also requires sidewalk along all road frontage, bicycle parking, parking lot landscaping, street trees, and architectural standards to ensure the compatibility with adjacent homes in the area. This permit will also restrict the number of beds for the two resident buildings not to exceed 24 in total.

The project site is located within the City limits and is surrounded on three sides by single family homes all zoned RS-8 while the western property line borders unzoned right-of-way for Highways 19/23/70. The subject property is a through lot with frontage on both Courtland Avenue and Houston Street with access for the home to be located off of Courtland Avenue. The three proposed structures and parking area are concentrated on the most topographically accommodating portion of the site with the areas of more extreme topography to be undisturbed.

As part of the special requirements applied to group homes as a conditional use in the RS-8 zoning districts per Ordinance No. 3052, the project must meet several conditions for group homes. Staff's review of this project finds that the proposed use does meet all the group development standards as well as the seven conditional use standards. The following are the standards for group homes:

- a. Separation requirement: Group homes containing more than eight residents shall be separated from other group homes in RS-8 by a distance of 600 feet as measured from the closest property line of each property containing a group home. **There is well over 600 feet of separation between the proposed site and the next nearest group home (City Exhibit 5 – Digital Survey of the Properties within the 600 foot radius)**
- b. Parking shall be located in the rear and shall be screened with vegetation from adjacent single family uses. The vegetative screening shall consist of the planting required for a Type A buffer or its equivalent as determined through the alternative landscape compliance process. **Parking is located in the rear and will be screened from view through preservation of existing vegetation (City Exhibit 4), additional landscaping as required for a Type A buffer, and existing topography.**
- c. It is the intent of these standards to ensure that group home structures resemble other residential structures in the neighborhoods where they are to be located. Pursuant to this intent, a group home structure shall be architecturally compatible with residential structures in the area in which it is to be constructed. Architectural compatibility shall be determined based upon compliance with the following standards:

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The structure shall be oriented on the lot in a manner similar to the residential structures on both sides of the street on the block on which it is to be constructed.

The proposed structures are oriented to the street in a manner very similar to those residences on Courtland Ave. Homes located on the north side of Courtland are oriented towards Courtland Place.

In the RS-8 district, the structure shall have a single front entrance and any other entrances as required under various codes shall be located on the side(s) or rear of the structure.

All three proposed modular structures will be altered to have a single front entrance with other entrances located to the sides or rear.

The height of the structure shall be no more than four feet taller than the height of the tallest residential structure located on the side of the street on the block on which the proposed use is to be constructed.

The proposed structures are two-story and will not be more than four feet taller than the height of the tallest residential structure located on the same side of the street.

The roof design, pitch and materials proposed for the structure shall be similar to the roof design, pitch and materials of the residential structures on both sides of the street on the block on which it is to be constructed.

The roof design, pitch and materials proposed will be similar to those of the existing residential structures on the

block.

A front porch shall be provided on the proposed structure if a majority of the residential structures on both sides of the street on the block on which the new structure is proposed have front porches.

Front porches are proposed for all three structures to reflect those of the majority of the homes on the block and in the neighborhood.

The front yard depth for the proposed structure shall be not less than the average front yard depth for the residential structures on the same side of the street on the block on which the new construction is proposed.

The front yard depth is not greater than the average front yard depth for the residential structures on the same side of the block.

In RS-8 districts, the floor area of the group home structure shall not be more than 150% larger than the average floor area of single family residential structures in the same block.

The proposed structures have an approximate floor area of 1,500 s.f. which does not appear to be more than 150% larger than the average on the block.

- d. It is the intent of this section that group home uses will be located in areas where employment, goods, and services can readily be reached by a variety of means of transportation. Transit, a sidewalk network, and/or close proximity to employment, goods, and services shall be required for approval of a conditional use permit for a group home unless the intended residents of the group home do not require this service.

Although this stretch of Courtland Avenue is not presently served by sidewalks, the proposed location is in a neighborhood that has an extensive sidewalk network and is in close proximity to employment centers, goods, and services. In addition to being able to utilize the sidewalk network, public transit is available nearby with a bus stop located near the intersection of Courtland and Montford Avenue with short bus rides to other major employment areas in the City.

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- e. The group home structure(s) and the site on which it is located shall be maintained in accordance with standards established by applicable local and state regulations, including, but not limited to, the City of Asheville Minimum Housing Code. The City Council may require the submittal and implementation of a specific maintenance plan in order to ensure proper maintenance of the property in accordance with this provision.

The proposed structures will meet the City of Asheville minimum housing code regulations and will be within standards of development practice set forth by the City of Asheville and other governmental units.

At their February 16, 2004, meeting, the City of Asheville Technical Review Committee (TRC) reviewed the conditional use permit and made a positive recommendation that the project be forwarded to City Council stipulating the condition that a revised site plan addressing minor site plan changes be submitted prior to final approval. If approved by City Council, this project must return to TRC for a more detailed review. Review by the Planning and Zoning Commission is not required for this application.

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 (UDO 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 proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical 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. In addition, the proposed development meets the definition of a group home as defined in Ordinance No. 3052(g): "Group home means a residential home provided by an agency, organization or individual for persons who need sheltered living conditions for rehabilitation, but not including mentally ill persons who are dangerous to others as defined in N.C. Gen. Stat. sec.122C-3(11)b (or its successor)." Residents of the home have gone through treatment, are not charged with any crime, and are not considered a threat to the public.
- 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 three proposed structures and their parking areas have been sited in the most buildable portion of the site

where existing grades don't exceed 3% in order to minimize grading and other land disturbing. The remainder of the 3.82 acre site's topography forms a ravine with side slopes ranging from approximately 15-75% grades. The side slopes are stable with existing natural vegetation to be preserved along with the vegetation around the periphery of the property to help buffer neighboring properties.

- 3) That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property. **Historically, the Flynn Christian Home has operated without incident in the Montford neighborhood for over 40 years. The property has been well maintained and has not had an adverse impact on property values in their current location**

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where property values have increased dramatically in the last decade. The proposed residential structures are to be single family style structures intended to blend in with the surrounding properties and are not expected to injure property values of adjoining or abutting 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 surrounding properties are made up of single family homes and duplexes of various sizes and architectural styles. The proposed homes are to be single family in style, varying somewhat in architectural form from one another, helping them to blend into the character of the existing eclectic neighborhood (City Exhibits 6, 7 and 8). The applicant is exploring options with City Staff, the City's Historic Resources Commission Director, and the neighborhood on additional facade and material alterations to further enhance the structures along with minor site changes to reduce the coverage of the parking area. In addition, the proposed group home meets the architectural standards necessary for group homes in an RS-8 zoning district.**
- 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 Asheville City Development Plan 2025 describes the need to accommodate and encourage infill housing for a larger proportion of the region's population in areas where existing infrastructure can support new development. This is further supported by City Council's adoption of 'Smart Growth Definition and Policies' in 2000. In addition, this proposal is supported by the City of Asheville's Consolidated Housing and Community Development Plan 2000-2005 which calls for the need to develop affordable housing for low income people with special needs, including those individuals who are recovering from substance abuse.**
- 6) That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities. **The proposed development is located near transportation facilities and other utilities appear adequate. The project area is located within walking distance of downtown, near major road facilities, interstate connections and very near the route 11 bus line that serves Montford. Preliminary review by other utility providers has not revealed any problems for serving the development.**
- 7) That the proposed use will not cause undue traffic congestion or create a traffic hazard. **The proposed development will not substantially increase the number of cars operating on Courtland Avenue or Houston Street. Most residents of the Flynn Christian Home will be using alternative modes of transportation and off-street parking will be limited to 9 parking spaces for all four residential units. Courtland Avenue and Houston Street are both somewhat narrow and winding; however, the City of Asheville's Traffic Engineer has examined the roads and does not expect the vehicular traffic from the proposed development to significantly impact traffic on either street.**

Approval of this project will allow for the continued operation and expansion of a highly successful, non-profit group home that has provided an extremely valuable service to the larger Asheville community. In addition to supporting this service, the proposed development will meet City of Asheville Smart Growth and other land use goals by encouraging infill development while

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providing for an alternative housing option for a protected class of citizens in a supportive and well connected neighborhood.

Pros:

1. Allows for the relocation and expansion of a valuable group home in the same neighborhood in which it has operated for

over 40 years.

2. Provides valuable housing option for a protected class of citizens.
3. Allows for the development of an appropriate infill project where existing infrastructure can be utilized.
4. Home will be located in excellent proximity to employment, services, goods, and transportation options.
5. Additional sidewalk will be provided in neighborhood.
6. Master Plan will ensure the preservation of open space and much of the existing vegetation.

Cons:

1. The current design of the homes may not match the historic character of the surrounding community.
2. Lose potential for single family home subdivision similar to existing development in the area.

City staff recommends approval of the project with the condition that the applicant meet all the outstanding TRC conditions.

Mr. Harry Giezentanner, Chairman of the Board of Flynn Christian Homes, said that including himself there are two general contractors on the Board. The Board has created a building committee that includes both contractors to develop and build this project. The committee will oversee the development and be responsible for all payables with regard to the project. We will obtain competitive bids for each part of the development. No board member will personally gain any financial consideration for the entire project. He explained that the Flynn Home has been located in the Montford community for 42 years and has always been a good neighbor. The buildings they propose to construct will be assets to the community and the City. They mailed out 63 invitations for their neighborhood meeting and only six members of the community attended. After discussing the plan, there were concerns as to how their project would fit into the neighborhood. They propose to make the buildings totally different in appearance and will build separate driveways from the streets to the parking in the rear. In addition, they had added a buffer along the rear portion of the lot to shield the view of Houston Street. The property is not in the historical district, but they intend to follow some of the guidelines of the Historic Resources Commission (HRC). All handrails and porch details will follow their guidelines. They will ask for assistance from the HRC Director to implement as many of the guidelines as affordable for their project. A concern of a neighbor is the curb-service drug dealing activity on the lower end of Courtland and Houston. He assured Council that with the help and cooperation of the Asheville Police Department they will eliminate this activity at this location. He said this is an excellent location for our home and it is located on a bus route. Being a builder and developer of affordable homes in Asheville, he assured Council that this site is not suitable for single-family homes. With the demand for buildable lots in the City to develop, if this was the case, this land would have long been gone. (Applicant Exhibits 1 and 2 – Photos of Adjoining Homes)

Upon inquiry of Councilman Newman, Mr. Giezentanner said the site is not appropriate for single-family homes because less than ¼ of the 3.8 acres is buildable due to the topography.

The following individuals spoke in favor of a conditional use permit for several reasons, some being, but are not limited to: they have been in existence for 42 years and they haven't

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received any negative press; they have funds to build a nice facility; construction will go quickly because they will be using modular construction; they will blend into the neighborhood; people will be in that area whether the homes are there or not; personal testimonies of how the Flynn Home helps people; existing property is always clean; no disruptions from residents at Flynn Home; the Flynn Home residents are good neighbors and are part of the solutions, not the problems; and problems in the neighborhood were worse before Flynn Homes was built:

Mr. John Gustafson, General Contractor and Board member of Flynn Christian Homes
Mr. Alan Ditmore, Leicester resident
Mr. David Nesbitt, former Flynn Home resident
Mr. Bobby Miller, former Flynn Home resident
Mr. Keith Levy, 28 Woodlawn Avenue
Mr. Shawn Miller, former Flynn Home resident
Mr. Fred English, Haw Creek resident
Mr. Grant Millin, Oteen resident
Mr. Michael Robbins, Manager of Flynn Christian Homes
Mr. Gerald Green, 150 Cumberland Avenue

The following individuals spoke against issuance of a conditional use permit for several reasons, some being, but are not limited to: the area is already infested with drug sellers and drug users and if the Flynn Home is trying to help people, they shouldn't put them so close to the illegal activity; drug activity is coming from Hillcrest and Klondyke right though that area;

Courtland Avenue is a narrow road; back in March of 2003, a Mountain Xpress article quoted Executive Director Laurie Tollman saying that "we do not admit sex or violent offenders", however, a search of the N.C. Sex Offender & Public Protection Registry revealed that a sexual offender's address was "182 Cumberlin Ave., Asheville, N.C. (the existing Flynn Home address); safety of area residents is a major concern if the Flynn Home allows registered sex offenders to live there; the project does not fit into the residential character of the neighborhood; petition containing 79 names circulated which reads ""We do not agree with this rehabilitation facility, group home, building larger-scale modular homes in our community that we are working everyday to rise from its existing challenges;" homes and vehicles are being broken into; William Randolph Disciplinary School, a detox and recovery home on Pearson Drive, Klondyke Apartments and Hillcrest Apartments are already located in area; fear for safety of 39 single people living on Courtland Avenue, Houston Street and Courtland Place; density is too high in that area already; safety for people in the neighborhood from those people who are kicked out of the Flynn Home for alcohol, drug abuse or mental illness; concern there is no staff living in the resident buildings which will be like a frat house; odd that they are building a \$700,000 project to increase their bed size by only 8; residents of area would prefer a 4-bedroom home built; this is more of a facility than a group home; moving people from a home into a treatment-like facility is not an enhancement; crime in area will increase; safety of children in the two elementary schools in the area; existing lack of timely response when calls are made to the Police Department; the project will increase traffic on the lower end of Courtland Avenue; need for a red light at intersection of Montford Avenue and Courtland Avenue; need for sidewalks starting on Houston, Courtland and Pearson Drive; loud boom-boxes are heard in cars already; marketability of homes will decrease; need for traffic control on Courtland Avenue; prostitution in area; the Flynn Home's property was purchased at a much lower price than other property in the area; there is no such thing as an unbuildable lot; this is a business moving into a residential neighborhood; what are qualifications of the staff to deal with the residents that have substance abuse problems; screening concerns; and one of the structures doesn't have a kitchen so it's not a home:

Mr. Clarence Benton, 184 Courtland Place
Mr. Brendan Merithew, 103 Houston Street (Neighborhood Exhibits 1 and 2)
Mr. Rod Phillips, 125 Courtland Avenue
Ms. Marita Bennett, 196 Courtland Place (Neighborhood Exhibit 3)

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Recent resident in Montford
Mr. Bryan Kenrich, resident on Houston Street (Neighborhood Exhibit 4)
Resident on Houston Street
Ms. Heather Smith, 10 Houston Street
Mr. Barry Trahan, resident on Courtland Place
Resident at 68 Courtland Avenue
Ms. Nora Valentine, 131 Courtland Avenue
Ms. Lauri Nichols, 146 Courtland Avenue
Ms. Marsha Shutz, 51 Houston Street
Mr. Barry Nichols, 146 Courtland Avenue
Ms. Kathryn Temple, area resident

Ms. Laurie Tollman, Executive Director of Flynn Christian Fellowship Homes, said the definition of a group home defined in the N. C. Gen. Statutes is "Group home means a residential home provided by an agency, organization or individual for persons who need sheltered living conditions for rehabilitation, but not including mentally ill persons who are dangerous to others." They do not admit persons who would be considered dangerous to others. Regarding the convicted sex offender who is registered living at their current address, she explained how that was an extenuating circumstance. She reviewed the details with Council on how the registered sex offender was allowed to live at their facility. That person is no longer at their facility. She then explained how she reviews each applicant on a case-by-case basis. Since that issue has come up, their Admission Policy (Applicant Exhibit 3) has been amended to deny admission to anyone who has a sexual offense conviction on their criminal record. If that case comes up in the future, they will not be allowed to live in their facility.

Upon inquiry of Councilman Dunn, Ms. Tollman explained the application and interview process of how people are referred to the Flynn Home. She said that they would not admit anyone who would be potentially dangerous, like a violent sex offender. If someone said they had been convicted or had charges pending, she personally would not feel comfortable in admitting them. However, she looks at each individual person on a case-by-case basis as far as the type of criminal activity.

There was a brief discussion on what type of offenses a person would be kicked out or denied admission.

Upon inquiry of Councilwoman Jones, Ms. Tollman said that they have a zero drug and alcohol tolerance policy. They conduct random drug and alcohol tests on a monthly basis. If anyone tests positive, they are immediately discharged. If someone comes into the home with alcohol on their breath, they are tested.

Councilwoman Bellamy asked what are some of the other instances where someone would be evicted. Ms. Tollman said if someone is not working and doesn't pay their rent, if they engage in disruptive behavior (which is often disrespect to staff), non-compliant with the rules, if they come in late for curfew, constantly arguing with staff about the rules, and other instances set out in the Admissions Policy (Applicant Exhibit 3).

Upon inquiry of Councilman Davis, Ms. Tollman said that there will be a staff person living in one of the two buildings assigned for resident quarters. However, there will be staff on the premises 24 hours a day.

Councilman Davis felt the admission of the sex offender to the Flynn Home seemed like it was an arbitrary decision on the part of the Executive Director. Ms. Tollman replied that she would not do that again, even if there are extenuating circumstances. She would abide strictly by the Admission Policy.

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Discussion, initiated by Councilman Dunn, centered around the admission of people that have mental illnesses. Ms. Tollman said that if their primary diagnosis is substance abuse they can be admitted. If mental illness is their primary diagnosis, they will not be admitted because their facility is not equipped to handle that.

Upon inquiry of Councilman Newman, Ms. Tollman said the average length of stay in the Flynn Home is 3-4 months, but they can stay up to two years.

When Councilman Davis inquired who approves admission, Ms. Tollman said that she and her manager review the applications and conduct the interviews.

Upon inquiry of Vice-Mayor Mumpower, Ms. Tuch said that she talked to Lieutenant Benson, patrolling officer for this neighborhood, and asked for a call history over the past year. She said that there were no disruptive instances reported from the Home within that last year. She then called the crime analysis division that can research further back. There were a variety of calls – a couple disruptive calls, one of which was a resident of Flynn Home was being harassed on someone on the street. There also were calls about intoxicated individuals on the premises, reported by the Home itself. Also, some EMS calls. In the course of 6 years, there were only 3 calls for intoxicated people and 3 calls for disruptive.

Upon inquiry of Vice-Mayor Mumpower, Ms. Tollman said that approximately 20 people have been kicked out for rule violations. She said that they currently house about 9 or 10 residents. She also said that she would feel comfortable staying there herself.

Mayor Worley closed the public hearing at 6:56 p.m.

Upon inquiry of Councilman Newman about the building designs, Ms. Tuch said that the HRC Director has already been consulted and the applicant has agreed to build, where appropriate, to HRC standards even though they are not required to do so.

Upon inquiry of Vice-Mayor Mumpower, Ms. Tuch explained how the block was determined to come up with the average square feet of the homes (City Exhibit 9).

When Vice-Mayor Mumpower asked about sidewalk construction plans, Ms. Tuch said that this particular site will be required sidewalks from the edge of the third building forward, along their frontage on Courtland Avenue. The City's Traffic Engineer has granted them "a fee in lieu of" for the remainder of the area since it is not part of where the buildings are fronting. She was not familiar with any other sidewalk improvements for the remainder of Courtland Avenue.

Upon inquiry of Vice-Mayor Mumpower, Field Services Coordinator Ed Vess said that this property has been discussed if anyone approaches him looking for that size of City-owned land. This property was a landfill area. There have been some test borings done and there is organic material in there. The Flynn Home is aware of those problems. The property can be built on, but it will be a little more expensive.

When Vice-Mayor Mumpower asked if they could expand on this site, Ms. Tuch said they could not expand under this permit. She said they could come back in the future and try to amend the permit but they would have go through the entire conditional use permit process again.

Upon inquiry of Vice-Mayor Mumpower, Ms. Tuch said that our existing guidelines do not limit the number of buildings that can be considered a group home. She said that one of the reasons the Flynn Home is taking the approach they are about having

separate buildings is to try to prevent the construction of a large institutional-like looking building.

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Councilman Newman asked if there are other group homes in Asheville similar to this. Ms. Tuch said that she is not aware of any but sometimes it's difficult to discern group homes from other structures. She said the Planning Department does not keep records of where group homes are located.

Upon inquiry of Councilwoman Bellamy, Mr. Giezentanner said that the existing structure will be put on the market for sale. He said the Board assures that the Admissions Policy will be followed.

When Councilman Davis asked if there were any plans to add staff, Mr. Giezentanner said that he was not aware of any additional staff to be hired.

Upon inquiry of Councilwoman Jones, Ms. Tollman said they would be open to explore a staff person to reside in each of the residential buildings.

Ms. Tollman responded to Councilman Dunn on why the Flynn Home was not interested in building a large 3-4 bedroom home to house the additional people.

Regarding a question from Councilwoman Jones about traffic calming on Courtland Avenue, Ms. Tuch said that the City's Traffic Engineer is not concerned about the increase of traffic. However, regarding traffic calming, the City would have to weigh that street against the other streets in the City.

Councilwoman Bellamy asked if it would be possible to limit right turns out of the development. Ms. Tuch said that this project will have to return to TRC for final approval and if these are Council's concerns, we can incorporate that into the conditions to be examined by the Traffic Engineer.

Upon inquiry of Councilman Dunn regarding other facilities in the area, Ms. Tuch said that there is the Asheville-Buncombe Community Christian Ministry on Cumberland (not a group home); a counseling treatment facility on or near Pearson; and a battered women and children shelter on the far end of Hillside Street.

Responding to Councilwoman Bellamy, Ms. Tollman explained that after City Council denied their request for a conditional use permit at another location a lady called and said there was some property in Montford that they might be interested in investigating. She said they have not bought the property yet.

Councilman Newman said that he lives off Courtland Avenue and would never do anything that he thought would be a genuine safety problem. He believed the testimony that the Flynn Home has an effective history of taking responsibility of doing business in our community. He used to live closer to the Flynn Home on Montford Avenue and didn't even know the house was a group home showing that they have operated very harmoniously in our community. People have made a convincing case that we have problems with drug activity in this neighborhood, but the Flynn Home doesn't have anything to do with that or that it would make that situation worse. He walks in this area very frequently and feels that having development on this site will be a positive thing in terms of addressing drug dealing or other kinds of criminal activity in that area. The area is now isolated and having development will contribute to the safety of the street and larger neighborhood. He thinks that the project does fit in pretty well with the neighborhood. As the City looks at addressing homelessness in our community, organizations like the Flynn Home fill a very important part of work we will have to do to address the problem of homelessness and related conditions. As a neighborhood resident and as a City Council member who thinks the Flynn Home has followed the standards for a good project, he moved to approve the conditional use permit subject to (1) the applicant meeting all outstanding TRC conditions; and (2) that the

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Flynn Home be prohibited from having on their property the presence of any clients who has a conviction of some sort of sexual offense on their record. This motion was seconded by Councilwoman Jones.

City Attorney Oast reminded Council that this is not a referendum on the Flynn Home or the work they do, although the work they do is relevant to Council's consideration. If it is important to Council that the Flynn Home be the entity that operates this group home, the fact that the City owns the property gives us an opportunity to deed restrict it and make the conditions even more binding than the conditional use permit.

Councilwoman Jones asked if Councilman Newman would be consider amending his motion to include the following

additional conditions: (1) that for each building that has living quarters that there be staff presence in the buildings; and (2) that our Engineering staff work with the developer to look at some speed bumps in those problematic areas.

Councilman Newman agreed with the two additional conditions suggested by Councilwoman Jones.

Councilwoman Bellamy asked for a condition that the Traffic Engineer look at the site plan to see if it is feasible to limit right turns from the development.

City Attorney Oast suggested that since issues have been raised about traffic and traffic calming measures, perhaps the condition should be that the Traffic Engineer consider additional traffic calming measures during the technical review process, to include limiting right turns out of the development and speed bumps.

Councilman Dunn said that the first condition of the conditional use permit is that the development will not endanger public health or safety. If the conditional use permit passes and we start having problems with health and safety, does the City have any recourse? City Attorney Oast suggested that Council direct him to make the conditional use permit part of the deed to the Flynn Home (or whoever is the entity that owns it) and that gives the City more enforceability. However, even if the language is not incorporated in the deed, it is in the conditional use permit and we can invoke proceedings to revoke the permit if a condition is violated. Councilman Dunn suggested that the conditional use permit be incorporated as part of the deed.

Councilman Davis is familiar with the Flynn Home and it's good work for the community. He was concerned that the neighborhood has voiced a lot of concern over illegal activity in the area, but the Flynn Home has nothing to do with that. He would be supporting the conditional use permit.

Councilwoman Bellamy said that Council needs to address the issues that are occurring in the neighborhood outside of the Flynn Home, e.g., traffic congestion, street maintenance, etc.

Councilwoman Newman felt the City should institute some process of when a group home is created in our community that they have to fill out some type of permit so we know where the group homes are. They can fit in great, but we don't want one or two neighborhoods to disproportionately have to bear the weight of these types of facilities. Councilwoman Bellamy said her only concern about that was the listing of addresses for domestic violence shelters.

Upon inquiry of Vice-Mayor Mumpower, Ms. Tollman said that a staff member in both buildings would not have a lot of impact to their organization.

Councilman Dunn asked if the neighborhood finds that the Flynn Home is out of compliance with the standards of the conditional use permit, can they bring suit against the City.

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City Attorney Oast said that normally the City gets complaints and then they investigate them. If appropriate, the City then takes Code enforcement action. It would be possible for nearby property owners to take action on their own to get the City to take action or could sue the operator of the property directly.

Vice-Mayor Mumpower said that this project does appear to meet UDO requirements. The most compelling argument was the issue of a group home(s) vs. a group facility. The developer has made a good effort to make it the three homes work in the neighborhood but that is a large footprint. He felt this neighborhood does not have adequate police protection. In addition, Asheville does not adequately fight our drug problems in the City. But, he doesn't hear that Flynn Home has a high probability to make things worse. There is even the possibility that having more "eyeballs" on the community makes the community safer.

Councilman Newman and Councilwoman Jones each agreed to include in their original motion (and second) to approve the conditional use permit subject to the following conditions: (1) the applicant meeting all outstanding TRC conditions; (2) that the Flynn Home be prohibited from having on their property the presence of any clients who has a conviction of some sort of sexual offense on their record; (3) that for each building that has living quarters that there be staff presence in the buildings; and (4) the Traffic Engineer consider additional traffic calming measures during the technical review process, to include limiting right turns out of the development and speed bumps (noting this would be an evaluation by staff with the final decision being made according to technical criteria).

Councilman Dunn moved to amend the original motion to direct the City Attorney to incorporate the conditions of the conditional use permit into the deed to the Flynn Home (or whoever is the entity that owns it). This motion was seconded by Vice-Mayor Mumpower and carried on a 6-1 vote, with Mayor Worley voting "no."

The amended motion carried unanimously.

ORDINANCE BOOK NO. 21 – PAGE

At 7:47 p.m., Mayor Worley announced a short break.

IV. UNFINISHED BUSINESS:

A. ORDINANCE NO. 3094 –ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR A PROPOSED 55 LOT SUBDIVISION LOCATED ON SAND HILL ROAD (HABITAT FOR HUMANITY)

Mayor Worley said that the public hearing and adoption of this ordinance was held on February 24, 2004. At the City Attorney's request, this ordinance is being brought back for approval of the wording of the order only.

City Attorney Oast said that this is the consideration of the form of the Conditional Use Permit for subdivision on Sand Hill Road.

On February 24, 2004, City Council, on second reading, voted to issue a conditional use permit for a 55-lot subdivision off of Sand Hill Road as part of a conditional use rezoning of the property. Issuance of the permit has been approved, but because the number of lots was reduced and some conditions added, changes to the site plan were necessary and Council wanted to review it in connection with approving the final form of the order.

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If Council is satisfied with the language of the order, the appropriate motion would be to approve the form of the order.

Urban Planner Carter Pettibone said that following Council's first reading on the issue of the approval of the Conditional Use Permit for the Habitat for Humanity subdivision on Sand Hill Road, the applicant has revised the proposed site plan to comply with conditions as set by Council. Included in the revisions to the plan are:

- Reduction of total lots from 59 to 55 (City Exhibit 7)
- Reduction in the number and increase in the size of lots located closest to the Captain's Drive development
- Reduction in the number and increase in the size of lots located along the western edge of the subdivision's main street closest to Hominy Creek.
- The pedestrian access to the Buncombe County Park land has been widened to 20 feet wide.
- The addition of a pedestrian access to off-site open space between the development and Hominy Creek.

While the applicant has satisfied a number of Council's conditions, in order for the revised site plan to comply with the conditions set by Council in its approval the applicant will need to revise the final site plan:

- The buffer between the development and Captain's Drive is supplemented to a 'D' type buffer as described in the UDO (plan indicates 'C' type buffer).
- Final location and amount of off-site open space is to be determined prior to final administrative approval of the subject plat and the issuance of any construction permits.

Mr. Pettibone also said that in a letter dated March 4, 2005, Mr. Martin Lewis, for Fletcher Partners, Inc., said that they would "donate property adjacent to the subdivision to Habitat for Humanity which should be sufficient to meet the open space and recreational needs of the children and other residents of the subdivision. The property to be donated to Habitat is in the area located west of the proposed subdivision and adjacent to Hominy Creek. The property we will donate will be between one and five acres and should be sufficient to provide for the open space and recreational needs of the subdivision's residents." (City Exhibit 8)

Upon inquiry of Councilman Davis, Mr. Pettibone explained the differences of a 'C' type buffer vs. a 'D' type buffer.

When Councilman Davis asked who would take care of open space, Mr. Lew Kraus, Executive Director of Habitat from Humanity, said that it's Habitat's wish and intent to maintain ownership and maintenance of all common area in the subdivision.

In response to Councilman Dunn, Mr. Kraus said that it was his understanding that homeowners associations are required when the homeowners themselves have common property that they are attending to, however, at this point Habitat will undertake the cost of the maintaining all the common areas.

In response to Councilman Newman, Mr. Kraus said that the additional acreage that Fletcher Partners is donating an open field area and not wooded.

City Attorney Oast said that the site plan will be incorporated into the conditional use permit.

City Attorney Oast asked Council if they wanted included in the conditional use permit that Habitat would retain responsibility for maintenance of the common areas in the buffer. Mayor

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Worley's inclination was not to include that in the conditional use permit. He explained that it is good that Habitat will do that, but in the future the neighborhood may develop to the extent that Habitat deems it reasonable to create the homeowners association and deed that property over. He wouldn't want that to inhibit that kind of future action.

Vice-Mayor Mumpower said that there have been some real improvements from the beginning, however, he didn't feel that conditions 3 and 4 have been met. He has concerns about the potential for substantial injury to the property values of the adjoining property owners and he does not feel that the development is in harmony with the scale, bulk, coverage, density and character of the neighborhood.

Councilwoman Bellamy moved for the adoption of Ordinance No. 3094. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Vice-Mayor Mumpower and Councilman Dunn voting "no."

ORDINANCE BOOK NO. 21 – PAGE 77

V. NEW BUSINESS:

A. RESOLUTION NO. 04-59 - RESOLUTION OF CONSIDERATION IDENTIFYING AREAS WITH POTENTIAL FOR FUTURE ANNEXATION

Urban Planner Carter Pettibone said that this is the consideration of a Resolution of Consideration identifying areas with potential for future annexation.

State law provides that a Resolution of Consideration may be adopted by cities as a preliminary step in the annexation process. The Resolution of Consideration serves the purpose of providing citizens with advance notice that certain areas in proximity to the city may, within the reasonably near future, be subject to annexation. After being in effect for a least 1 year, the Resolution of Consideration also has the benefit of reducing the time period required between adoption of the annexation ordinance and the effective date of that ordinance from a minimum of 1 year to a minimum of 70 days. Each Resolution of Consideration is effective for 2 years, and since the City's first was adopted on April 9, 2002, it is now time to consider the next resolution.

The map staff has prepared in connection with this Resolution of Consideration includes areas previously identified by the last Resolution as well as areas within the proposed Joint Planning Area (JPA). These are areas with the potential for urbanization, such as the areas along major thoroughfares, areas within the City's extraterritorial jurisdiction, areas with existing infrastructure or areas where utility extensions are feasible and other areas with potential for urban development.

The map includes many areas that may not experience urban development in the near future, because the boundaries are drawn to be expansive enough so that any possible near term (1-5 years) annexation areas will be within the boundaries.

Advantages:

- Gives residents and property owners within the area advance notice of possible annexation.
- Allows time period between passage of annexation ordinance and effective annexation date to be shortened to a minimum of 70 days.
- Revised area includes the area identified as the proposed JPA.
- The City can still conduct smaller, incremental annexations within the area.

Disadvantage:

- The possibility of annexing some parts of the area may not be realized for a number of years.

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City staff recommends that the Resolution of Consideration be adopted.

Upon inquiry of Councilman Newman, Mr. Pettibone explained how the map was developed stating that it is an expansion of the 2002 map. He said that to correspond to the JPA, they looked at a mile and tried to include all the areas within a mile, trying to use streams, topography and streets.

Upon inquiry of Councilman Davis, City Manager Westbrook explained that the General Assembly developed this process in 1989 because people kept asking about future annexation plans. The process was based on the areas that are urbanized and areas the city might think that in a long period of time they might consider annexation. It was more to make the public aware of what future plans may be. He explained this is a broad look into the future.

Councilman Davis felt it was very striking to see the small number of people that the City has annexed over a long period of time compared to larger cities. This is an equity and educational tool for the residents living beside the City now.

Upon inquiry of Councilman Dunn, Mr. Shuford explained the area is large because we don't know what five years will bring. There are areas around Asheville that are growing rapidly. The areas outlined are the ones identified in the extraterritorial jurisdiction expansion, areas that will probably urbanize, and areas covered by the JPA.

Mr. Fred English, Haw Creek resident, said he was annexed in 1960 and his area still has no sidewalks.

Ms. Betty Williams, Asheville resident, was opposed to annexation because of the impact it would be on affordable housing.

Mr. Alan Ditmore, Leicester resident, felt the pros of annexation is the increase of tax base and the cons of annexation is the expansion of zoning.

Councilman Newman was concerned that people may misinterpret this map and pointed out that only a very small percentage of the land will probably be annexed.

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

Councilman Davis moved for the adoption of Resolution No. 04-59. This motion was seconded by Councilwoman Jones.

Councilman Dunn felt that a healthy county economy is good for the City. The more money the County has they will spend it in the City. He felt we need to look at other sources to improve our tax base, e.g., room tax, merging City services with Buncombe County, fixing the Water Agreement, etc.

Vice-Mayor Mumpower felt in terms of the procedural process this is a fair tool. However, annexation is forced participation without representation. He felt this is a particularly vulnerable time to adhere to the City's policy of annexing manufacturing industries. He personally felt we have room to grow and improve within our own borders.

Councilman Newman felt the whole issue of annexation is basically a fair way to pay for and finance the infrastructure that is critical to the City of Asheville and also critical to the economy of Buncombe County and western North Carolina. Right now, the residents and business that are located in the City of Asheville have a very unfair, disproportionate percentage

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of the taxes put on them to pay for the infrastructure that is used by people living all around the City and outside of Buncombe County as well.

Councilwoman Jones felt it would be irresponsible to not adopt such a plan if we have the ability to let people know and to not share this information with residents and developers is unconscionable.

The motion made by Councilman Davis and seconded by Councilwoman Jones carried on a 5-2 vote, with Vice-Mayor Mumpower and Councilman Dunn voting "no." .

RESOLUTION BOOK NO. 28 – PAGE 158

VI. OTHER BUSINESS:

Councilwoman Bellamy updated City Council on some meetings of the Eagle-Market Streets Development Corporation and invited City Council and the public to a community forum on Monday, March 22, 2004, at 6:00 p.m. at the YMI Cultural Center to share ideas for the Eagle-Market Street area.

Vice-Mayor Mumpower thanked City staff for the new City Council dais in the Council Chamber.

Vice-Mayor Mumpower recognized the principal at T.C. Roberson for making tentative directions toward drug screening in that school. He has shown a lot of courage and leadership in taking this step.

Vice-Mayor Mumpower announced a vacancy on the Asheville-Buncombe Historic Resources Commission. He encouraged people from all walks of life to apply for our boards and help City Council make Asheville a better place

The following claims were received by the City of Asheville during the period of February 14-26, 2004: Brian Tribble (Water), BellSouth (Water), Susan Gilliam (Police), James Cain (Water), Pam Holcombe (Water), Ann Weidie (Parking Services), Anna Axelsson (Sanitation) and Brunk Auctions (Water). These claims have been referred to Asheville Claims Corporation for investigation.

The following claims were received by the City during the period of February 27-March 4: Katherine Manouzi (Police), Jeremy Stafford (Water), Elizabeth Baldwin (Streets), Robin Roemisch (Streets), Allen O'Donnell (Sanitation), Victor Solesbee (Streets), Cherokee & Terrace Roads (Sanitation), Nadine Woods (Police), Mary Lynn Linder (Water), Cecil Mitchell (Sanitation) and Mark Dombay (Water). These claims have been referred to Asheville Claims Corporation for investigation.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Fred English commented on the Christians for the Sanctity of Marriage rally that has held at the City-County Plaza on March 6, 2004.

Mr. Howard McGlohon, President of the South Pack Square Association, presented and reviewed with City Council the minutes of their March 4, 2004, meeting. The next meeting of the Association will be held on March 18, 2004, to approve alternative design redevelopment plans for the Eagle-Market Streets area.

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Brother Christopher Schemata spoke about the need to encourage the homeless to unite to come up with ways to eliminate homelessness.

Mr. Alan Ditmore, Leicester resident, suggested Ms. Valerie Collins as Asheville's new police chief.

CLOSED SESSION:

At 9:05 p.m., Councilman Newman moved to go into closed session to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including lawsuits involving the following parties: Frances C. Briggs, et al., Carolina Power & Light Company and the City of Asheville. The statutory authorization is contained in G.S. 154-311 (11) (a) (3). This motion was seconded by Councilman Dunn and carried unanimously.

At 9:50 p.m., Councilwoman Bellamy moved to come out of closed session. This motion was seconded by Councilwoman Jones and carried unanimously.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 9:50 p.m.

CITY CLERK

MAYOR