

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; Interim City Manager James L. Westbrook Jr.; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

The Clyde A. Erwin High School Army Junior ROTC led City Council in the Pledge of Allegiance.

INVOCATION

Councilwoman Bellamy gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL, 2005, AS "CHILD ABUSE PREVENTION MONTH"

Councilwoman Bellamy read the proclamation proclaiming April 2005 as "Child Abuse Prevention Month" in the City of Asheville. She presented the proclamation to Mr. Bill McGuire, Director of Child Abuse Prevention Services Inc., who briefed City Council on some activities taking place during the month.

B. PROCLAMATION PROCLAIMING APRIL 12, 2005, AS "MISSION HOSPITALS DAY"

Mayor Worley read the proclamation proclaiming April 12, 2005, as "Mission Hospitals Day" in the City of Asheville. He presented the proclamation to Mr. Joseph F. Damore, President and CEO; Mr. Ernest Ferguson, Chairman of the Board of Directors of Mission and Senior Vice-President of Wachovia Bank; Dr. George Bilbrey, Chief of the Mission Medical Staff; and Mr. Robert F. Burgin, recently retired President and CEO of Mission Hospitals, who briefed City Council on some activities taking place during the day.

C. PROCLAMATION PROCLAIMING APRIL 10-16, 2005, AS "NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK"

Councilman Dunn read the proclamation proclaiming April 10-16, 2005, as "National Public Safety Telecommunications Week" in the City of Asheville. He presented the proclamation to telecommunicators with the Asheville Police Department, who thanked City Council for their support.

D. PROCLAMATION PROCLAIMING APRIL 17-23, 2005, AS "NATIONAL VOLUNTEERS WEEK"

Councilman Newman read the proclamation proclaiming April 17-23, 2005, as "National Volunteers Week" in the City of Asheville. He presented the proclamation to Ms. Cathy Stout, Member of Directors of Volunteers in Agencies, who briefed City Council on some activities taking place during the week.

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E. RECOGNITION OF RIVERLINK VOLUNTEERS

Councilman Davis commended the RiverLink volunteers who worked diligently to clean-up the Swannanoa River in mid-March, 2005. He presented the recognition certificate to Ms. Karen Cragolin, Executive Director of RiverLink.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE WORKSESSION HELD ON MARCH 15, 2005, AND THE FORMAL MEETING HELD ON MARCH 22, 2005

B. RESOLUTION NO. 05-80 - RESOLUTION AUTHORIZING THE CITY TO EXECUTE AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE TRAFFIC SIGNAL SYSTEM

Summary: The consideration of a resolution authorizing the Mayor to enter into an agreement with the N.C. Dept. of Transportation (NC DOT) in order for the NC DOT to use City of Asheville earmarked money to proceed with design and construction of new computerized traffic signal systems for College Street and Patton Avenue downtown, and Hendersonville Road from Meadow Road to Long Shoals Road.

The City was awarded an earmark of approximately \$2 million for implementation of the City's portion of the citywide computerized traffic signal system. This earmark was intended to be used to match NC DOT's portion, of about \$9 million. Instead of waiting for the additional \$9 million to be allocated by the State for construction of the citywide traffic signal system, it is proposed to use the available funding to address the most critical needs. In effect, the City would be allowing some of its funding earmarked for City-maintained signals to be used toward State-maintained traffic signals, with the agreement that the State would use its funding to upgrade the remaining City-maintained signals once its funding is allocated. The State's portion of the funding is an unfunded Transportation Improvement Plan (TIP) project and has consistently been one of the City's top TIP priorities. Due to its unfunded status, no definite timetable exists for its implementation.

The project would involve the installation of new traffic signal controllers and cabinets, new communications equipment, new central computers for the City and State, replacement of some traffic signal heads, and some pedestrian signals. It does not include mast arms in any locations; existing poles and mast arms will continue to be used on College Street and Patton Avenue downtown, and span wire will be used on Hendersonville Road, as well as several signals on the periphery of downtown.

The project was initiated with the collaboration of NC DOT signal systems staff and City staff.

Pros

- Installation of much-needed traffic signal system along Hendersonville Road to manage congestion
- Replacement and upgrading of some aging traffic signal equipment downtown
- Use of a federal earmark to leverage future State funding
- No direct cost to City taxpayers (all funding is State-allocated)

Cons

- Lending of City-procured funding to State (not necessarily a negative)

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This project meets the following City Council Strategic Operating Plan: (1) Planning Goal #2, Objective A, Task 2: Leverage outside funding to achieve multiple transportation goals where possible; and (2) Planning Goal #2, Objective B, Task 1: Determine opportunities for managing traffic demand through changes to commuting patterns and transportation modes, land use patterns, signalization improvements, etc.

City staff recommends City Council authorize the Mayor to enter into an agreement with the NC DOT in order to allow the NC DOT to begin design of the traffic signal systems.

City Engineer Cathy Ball responded to questions from City Council regarding the traffic signal system.

RESOLUTION BOOK NO. 29 – PAGE 84

C. RESOLUTION NO. 05-81 - RESOLUTION AUTHORIZING THE CITY CLERK TO PUBLISH A NOTICE OF INTENT REGARDING A PROPOSED LICENSE AGREEMENT WITH THE HOUSING AUTHORITY FOR AN ANTENNA AT 36 RESERVOIR ROAD

Summary: The consideration of a resolution directing the City Clerk to publish a notice of intent regarding a proposed License Agreement with the Housing Authority of the City of Asheville for an antenna at 36 Reservoir Road.

The property at 36 Reservoir Road (White Fawn) is the site of telecommunication towers owned by the City of Asheville. The City leases antenna space on the towers and ground space for related equipment.

The Housing Authority has proposed to install an antenna and related equipment at White Fawn. There are two towers at 36 Reservoir Road and the Housing Authority antenna would be located on the tower known as the "BellSouth Tower" which is immediately west of the proposed Sister Cities Park. The proposed License Agreement will enable the Housing Authority to relocate its antenna from Spivey Mountain to White Fawn and thereby improve its in-house wireless communications.

The Housing Authority will pay an initial annual License Fee of \$2,400 for the White Fawn site, which represents about 50% of fair market rent. The reduction in the license fee is in consideration of the official nature of the Housing Authority as an agency of the City of Asheville and its charge to carry out the public housing franchise for the City. The agreement includes a provision, which allows either the Licensor or the Licensee to terminate the agreement upon 180 days notice. The term of the License Agreement will be 3 years with 2 renewal periods of 3 years.

Approval of the resolution will authorize the City Clerk to publish a notice of intent to enter into the License Agreement.

Planning Department staff recommends adoption of the resolution directing the City Clerk to publish a notice of intent regarding a proposed License Agreement with the Housing Authority of the City of Asheville for an antenna at 36 Reservoir Road.

RESOLUTION BOOK NO. 29 – PAGE 85

D. RESOLUTION NO. 05-82 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY PROPERTY LOCATED ON COURTLAND AVENUE (LOT #11) TO SET SAIL DEVELOPMENT INC.

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Summary: The consideration of a resolution authorizing the Mayor to convey land on Courtland Avenue (Lot 11) to Set Sail Development Inc. for \$25,500.

On August 24, 2004, the City Council directed the City Clerk to advertise an offer to purchase land on Courtland Avenue from Ross B. Parkinson in the amount of \$6,000 for upset bids. The advertisement ran in the Asheville Citizen-Times on August 27, 2004, as provided in N. C. Gen. Stat. sec. 160A-269. An upset bid was received and the sale was re-advertised. Subsequently the sale was advertised a total of 15 times in response to upset bids received. No further bids were received after the 15th advertisement. Therefore, the offer to purchase from Set Sail Development, Inc. in the amount of \$25,500 was not upset and the sale to Set Sail Development, Inc. should be approved.

Planning Department staff recommends adoption of the resolution authorizing the Mayor to convey land on Courtland Avenue (Lot 11) to Set Sail Development, Inc., in the amount of \$25,500.

RESOLUTION BOOK NO. 29 – PAGE 86

E. RESOLUTION NO. 05-83 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY PROPERTY LOCATED ON COURTLAND AVENUE (LOT #12) TO SET SAIL DEVELOPMENT INC.

Summary: The consideration of a resolution authorizing the Mayor to convey land on Courtland Avenue (Lot 12) to Set Sail Development Inc. for \$28,500.

On August 24, 2004, the City Council directed the City Clerk to advertise an offer to purchase land on Courtland Avenue from Samuel Koerber in the amount of \$6,000 for upset bids. The advertisement ran in the Asheville Citizen-Times on August 27, 2004, as provided in N. C. Gen. Stat. sec. 160A-269. An upset bid was received and the sale was re-advertised. Subsequently the sale was advertised a total of 15 times in response to upset bids received. The only bid received after the 15th advertisement did not meet the statutory minimum requirement for an upset bid. Therefore, the offer to purchase from Set Sail Development, Inc. in the amount of \$28,500 was not upset and the sale to Set Sail Development, Inc. should be approved.

Planning Department staff recommends adoption of the resolution authorizing the Mayor to convey land on Courtland Avenue (Lot 12) to Set Sail Development Inc., in the amount of \$28,500.

RESOLUTION BOOK NO. 29 – PAGE 87

F. ORDINANCE NO. 3224 - BUDGET AMENDMENT TO REFLECT CURRENT FUNDING LEVELS FOR THE ASHEVILLE TRANSIT SYSTEM

Summary: The consideration of a budget amendment, in the amount of \$332,907, reflecting current funding levels for the Asheville Transit System, including the provision of transit services to the Town of Black Mountain.

The Asheville Transit System has been approved to receive funds from the State of North Carolina in the amount of \$65,273 to pass through to Mountain Mobility for the provision of services within Black Mountain; an additional \$166,745 in federal operational funding due to late maneuvering in congress which once again resulted in an exemption for the ATS from the new requirements of the Urbanized Area of over 200,000 population classification; the projected increase in budgeted passenger fares and Bulk income of \$40,624.

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This revenue is offset by the pass through of \$65,273 from the State of North Carolina to Mountain Mobility for its fixed route Black Mountain Operations, an increase in Para-transit funding of \$12,000, and an increase in the operational budget of \$195,369.

The benefit to the City of Asheville is the increased mobility for the citizens of Asheville both within and outside the city.

City staff recommends City Council approve the budget amendment to reflect current funding levels for the Asheville Transit System, including the provision of transit services to the Town of Black Mountain.

Transit Services Director Bruce Black responded to questions from Councilman Newman regarding the transit services budget.

ORDINANCE BOOK NO. 22 – PAGE

G. RESOLUTION NO. 05-84 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A FUNDING AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE PROVISION OF TRANSIT SERVICES TO THE TOWN OF

BLACK MOUNTAIN

Summary: The consideration of a resolution authorizing the Mayor to enter into a funding agreement with the N.C. Dept. of Transportation (NC DOT) for the provision of transit services to the Town of Black Mountain.

The Asheville Transit System has received funding for the operation of a route to Black Mountain through a contract signed by the Mayor last year. The unexpended funds have allowed some operation into this year. The City will receive these funds again this year enabling it to continue these routes through June 30, 2005, as well as to pass through funding to Mountain Mobility for the operation of their route in Black Mountain through the same date. There are no City funds in any of these operations, and the City is specifically exempted from funding any of these operations in the contract from the NC DOT for these routes.

The benefit to the City of Asheville is the increased mobility for the citizens of Asheville both within and outside the city at no additional cost to the City of Asheville

There are no disadvantages to the City of Asheville.

City staff recommends City Council to authorize a resolution authorizing the Mayor to enter into a funding agreement with the N.C. Dept. of Transportation for the provision of transit services to the Town of Black Mountain.

Transit Services Director Bruce Black responded to questions from Vice-Mayor Mumpower regarding the Black Mountain bus route.

RESOLUTION BOOK NO. 29 – PAGE 88

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.

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

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III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE CONDITIONAL USE ZONING AT 96 LOUISIANA AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/ CONDITIONAL USE; AND THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE ADDITION OF A PROPOSED DUPLEX, RESULTING IN A TOTAL OF FOUR RESIDENTIAL UNITS

ORDINANCE NO. 3225 - ORDINANCE REZONING PROPERTY AT 96 LOUISIANA AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/ CONDITIONAL USE

ORDINANCE NO. 3226 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 96 LOUISIANA AVENUE FOR THE ADDITION OF A PROPOSED DUPLEX, RESULTING IN A TOTAL OF FOUR RESIDENTIAL UNITS

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

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

City Attorney Oast said that a valid protest petition has been filed, thus requiring a three-fourths vote of City Council to approve the rezoning of the property. If the rezoning passes by the three-fourths vote, then the conditional use permit is subject to a simple majority vote.

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 5:48 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 a request to rezone property located at 96 Louisiana Avenue from RM-8 Residential Multi-Family Medium Density District and RS-8 Residential Single-Family High Density District to RM-8 Residential Multi-Family Medium Density

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District/Conditional Use, and a request to issue a conditional use permit for the addition of a proposed duplex, resulting in a total of four residential units.

The applicant (Brian and Joy Fuchs) are requesting a conditional use rezoning of a split-zoned lot from RS-8/RM-8 to RM-8 (Conditional Use). The .51 acre lot is located in West Asheville in a predominantly single family neighborhood where the unusually shaped lot straddles the zoning line between single family and multi-family zoning (Attachments to City Exhibit 3 – Location Map and Aerial Map). The rear portion of the lot lies in the RS-8 zoning district while the front portion of the lot, already supporting a single family home and accessory apartment, lie in the RM-8 zoning district. The applicant is proposing the addition of a 2688 s.f. duplex at the rear of the lot which would result in a total of 4 units. Because the 4 units are spread over three structures, a multi-family zoning designation is required without subdivision. All three structures would share a common driveway but parking is provided separately for all three structures (Attachment to City Exhibit 3 – Site Plan).

Duplexes are permitted in an RS-8 zoning district as either a “Use by Right, Subject to Special Requirements” or as a “Conditional Use”. However, due to the inability to subdivide under current standards without a subdivision modification, and due to restrictions associated with the existing zoning, the applicant preferred to keep the larger lot intact and pursue a rezoning that would allow multiple structures on a single lot. The front portion of the lot is surrounded by single family uses zoned RM-8, the rear portion of the lot is surrounded by single family uses zoned RS-8. The proposed density would be 7.8 units an acre, under the maximum allowed. The current site plan shows the location of the existing structures, proposed location of the duplex, required parking for all the units, and landscape requirements for parking and buffering.

The Technical Review Committee (TRC) reviewed this project at their January 19, 2005, meeting where it was unanimously agreed that the project be forwarded to the Planning and Zoning Commission with a recommendation of approval with conditions. The majority of the TRC conditions were minor revisions of clarification and standard comments noting the need for separate applications at a later date. Three points of conditional approval were reiterated after public comment and those points include: (1) Verify project will meet sight visibility requirements; (2) Verify minimum width of driveway required for safe maneuvering; and (3) Applicant to provide more detailed alternative compliance for required buffer.

Both the traffic engineer and fire marshal reviewed the driveway width and sight visibility issues and determined that, given the existing site constraints, a variance to the driveway width would have to be granted (from 16' minimum, to 12'). It was recommended that once past the obstacle of the large mature tree at the corner of the property that the driveway be widened to 16', however, this would result in a further encroachment into the required buffer that was already reduced through alternative compliance. Understanding the conflict, both the traffic engineer and fire marshal have approved the 12' wide driveway for the entire length of the entrance.

At their February 2, 2005, meeting the Planning & Zoning Commission reviewed this application and, after public comment and deliberation, recommended denial by a 5-2 vote. Concerns cited by the Commission included compatibility with the adjacent homes, negative impacts on adjacent property values, failure to meet minimum technical standards, and potential problems with storm water run-off.

The applicant did appeal this recommendation and has submitted revised conceptual building elevations better addressing concerns over architectural compatibility and scale. The revised concept plans reflect a more contemporary suburban style not unusual to west Asheville and is generally felt to be much more architecturally compatible than the original plan showing a stripped down modular style. In addition, a new building model has been chosen by the applicant that is not as tall and smaller in overall square footage and building footprint. The original plan

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showed a two story, 30' tall building totaling 2688 s.f. with a 48'x28' footprint. The new plan shows a two story building that is between 25'-28' tall (slab vs. crawl space) that is a little over 2100 s.f. with a footprint of 44'x24' (Attachments to City Exhibit 3 – Elevations and Revised Building Elevation Drawings – Front and Rear Areas). This change results in an approximate 10% reduction in height, a 20% reduction in total square footage and a 4' reduction on both footprint dimensions. The new building model will aid in mitigating the scale and bulk of the proposed building while still enabling the applicant to accomplish his development goals (Attachment to City Exhibit 3 – New Proposed Site Plan Model).

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

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

The 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.

2. That the proposed use or development of the land is reasonably compatible with significant natural or 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 proposed duplex will be located in an open and clear area at the rear of the property. A minimal amount of fine grading will be necessary to smooth out grade transitions and no vegetation will be removed as a result of the site work. In addition, a separate grading, drainage, and erosion control plan will be required before site work can begin.

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

There is significant evidence that supports the position that the addition of well maintained multi-family, rental properties, or affordable housing does not substantially injure the value of adjoining or abutting property. The applicant has made significant improvements to the single family home and property and intends to continue with renovations. In addition, the conditional use permit can provide a mechanism by which assurances can be made that the property will continue to be well maintained through current or future property owners.

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.

Evaluating the proposed development for harmony and compatibility with the surrounding neighborhood is challenging. The lot is larger than the average lot with the rear half of the property looking and feeling like its own lot, separate from the front half of the property. Evaluating the duplex alone, on what feels like a separate lot, the duplex is not significantly out of density or coverage with most of the properties in the neighborhood. In addition, at 2112 square feet, the proposed duplex is of a single-family residential

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scale. However, the duplex would be taller and larger than most of the existing residences in the surrounding block. This is mitigated somewhat by landscape buffers and placement, tucked back behind the homes on Louisiana Avenue that sit higher than the proposed duplex. The duplex will, however, sit above the adjacent homes on the lower Dunwell Avenue where it is more difficult to assess the impact of scale and bulk or any possible mitigation from landscape buffers. As with standard #3, the conditional use permit may be utilized to mitigate compatibility concerns.

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 (ACDP 2025) describes the Smart Growth policies adopted by City Council in 2000 and how these policies encourage and support a more efficient use of land and other resources to accommodate the needs of the region's population. The plan goes on to describe that areas within the existing urban fabric that are vacant or underdeveloped should be targeted for compatible infill development that takes advantage of the existing infrastructure. One way to accomplish this goal is to apply existing zoning tools to encourage higher density residential infill development. A Conditional Use Rezoning is one such tool that would allow this property to be developed at a higher density than the current zoning would allow. However, the same sections of the comprehensive plan that discuss the need for residential infill development also state that the "protection, preservation, and enhancement of existing neighborhoods must be as much a part of our development pattern as promoting new construction." There is some concern that the proposed project could result in a higher impact that would be less compatible with the properties that are in close proximity to the subject property.

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 subject property is well positioned in respect to transportation facilities with easy access to major thoroughfares and multiple bus lines operating on both Patton and Haywood. The project has also been reviewed by the TRC, which did not indicate any problems with providing service to the property.

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

The Master Plan proposes using the same drive entrance but will relocate the existing parking area away from the adjacent property line, providing some buffer between the drive and adjacent home. In addition, the site will be graded to provide better turn-a-round maneuvering eliminating the need for backing movements into traffic on Louisiana Avenue. Lastly, the City's Engineering Department has reviewed the access and drive and has determined that, given the site constraints and comparatively

low volume of traffic, a variance to the minimum driveway width is warranted

Pros

- Provides for infill development
- Provides a variety of housing types
- Improves existing off-street parking conditions
- Eliminates the existing split-zoning

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Cons

- Results in a higher impact to adjacent properties
- Project is generally residential in scale and character, but less compatible with surrounding homes
- Project has some challenges meeting minimum requirements (landscape buffers & driveway width)

Staff feels that the proposed development has many positive aspects and does meet the minimum standards required of a conditional use rezoning, particularly in light of the recent changes submitted by the applicant.

Concerns over neighborhood compatibility may be best addressed by those most affected by the proposed use. Staff recommends that the City Council utilize public input concerning this and other issues and carefully consider whether the conditional use permit should be conditioned to mitigate these concerns.

Mr. Brian Fuchs, property owner, said that they currently reside on the property and would like to have the opportunity to build some needed housing on the big weeded field on their back lot. He said that he met with every neighbor that abuts the back lot and explained to them what he would like to do. Unfortunately, the neighbors did not support the structure being built. He said they have done everything they can to meet the neighbors' concerns and the Planning & Zoning Commission's concerns. He had a revised site plan drawn which shows a reduction in height and a smaller footprint. He said that they would like to work on the renovation of the outside of their home at the same time the duplex in the back is being built. He showed several photographs of surrounding properties that show his proposed duplex is not out of scale of what is normal in the area nor is it uncommon to have multi-residences on one property (Applicant Exhibits 1 and 2). He explained how the property values have risen in the area. He explained that his duplex will be built in his back lot which backs up to the backyards of the adjoining property owners. Regarding stormwater run-off, they will build a water basin dispersal pit, which has been approved by the City. He presented Council with a petition containing 134 signatures of people that support the addition of his duplex as well as a letter and e-mail from Adam Fritch and Martha Are (Applicant Exhibits 3 and 4). He stressed that they currently reside of the property and will manage it themselves. He urged Council to support his effort to enhance the area and provide housing by allowing him to build this duplex.

Upon inquiry of Councilman Newman, Mr. Fuchs said that the exterior rendering (Attachment to City Exhibit 3) is what they are working from to move forward.

The following individuals spoke in opposition to the conditional use zoning/permit for several reasons, some being, but are not limited to: renovation of the area is occurring and allowing this duplex will slow down the momentum; all multi-family residents in the area are located on the street, not in the backyards; neighborhood should remain single-family; this will set a precedence of allowing others who have large backyards to build multi-family residences; the base of the proposed duplex will be above the top of the structures on Dunwell Avenue; the neighborhood wants the protection of existing zoning laws; the duplex will injure property values in the area; the duplex will bring more traffic and noise to the area; residents who live on Louisiana Avenue have to deal with existing traffic and noise and their backyards should remain private; this lot is shaped similarly to a flag lot which prohibits duplexes; there is no room to widen the driveway and the large oak tree should remain; there is no room for an appropriate buffer at the front of the property and to put up a fence will be out of character with the neighborhood; lights from the duplex will encroach upon adjoining residences; additional cars backing out onto Louisiana Avenue will be a traffic hazard; there will be a blind spot in the driveway because the driveway will have to loop around the existing garage apartment to get to the duplex; additional

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traffic on Louisiana Avenue will result in more accidents; applicant has no firm plans in place for the duplex; and the duplex will have an adverse affect on the privacy of the adjoining backyards:

Mr. Nathan Bryant, resident at 97 Louisiana Avenue
Mr. Joel Mayne, resident at 103 Dunwell Avenue (Neighborhood Exhibits 1-4)
Ms. Julie Allen, resident at 94 Louisiana Avenue (Neighborhood Exhibit 5)
Ms. Carol Ali, resident at 95 Louisiana Avenue (Neighborhood Exhibits 6-7)
Ms. Megan Palmer, resident on Dunwell Avenue (Neighborhood Exhibit 8)
Mr. Keith Buff, resident at 101 Dunwell Avenue (Neighborhood Exhibit 9)

The following individuals spoke in support to the conditional use zoning/permit for several reasons, some being, but are not limited to: property should be used for something other than a field; the proposed fence will create uniformity in the

backyard; project is seeking uniformed zoning of a split-zoned lot; duplex will promote infill development; duplex will add needed housing; duplex is close to transit and is well within walking distance of grocery stores and entertainment; parking will be on the property; site plan will enhance the parking of others who reside on the property; and the project will control stormwater runoff:

Mr. Adam Fritch, resident in the garage apartment on the property of
96 Louisiana Avenue
Mr. Colin Robertson, consultant (Applicant Exhibit 5)
Mr. Neal Peak
Mr. Walter Plaue
Ms. Joy Fuchs, applicant who resides at 96 Louisiana Avenue

Upon inquiry of Councilman Newman, Ms. Tuch said that if the project is approved, the duplex couldn't be subdivided.

When Councilman Newman asked about the hazards of backing out onto Louisiana Avenue, Ms. Tuch said that if this project is approved, people will have room to turn-around on the property and drive onto Louisiana Avenue.

Councilman Newman asked to what degree can the City hold the developer to the rendering shown in City Exhibit 3 of the outside of the duplex. Ms. Tuch said that staff monitors the proposed architecture to ensure that it is compatible with what ultimately gets built. Personally she consults with the City's Historic Resources Commission Director for architectural references.

Upon inquiry of Councilwoman Bellamy, Ms. Tuch said that a fire truck and ambulance would be able to access the duplex in case of an emergency. She showed a map of the property lines of the adjoining property owners (City Exhibit 4).

Upon inquiry of Councilman Davis, Ms. Tuch explained what some alternative buffering could be used on the front property of the property and stated that it is up to the applicant to determine what they want to use to comply. City staff will, however, work with the applicant and the adjacent property owner.

In response to Vice-Mayor Mumpower, Ms. Tuch explained why staff does not feel this is a flag lot.

After hearing no rebuttal, Mayor Worley closed the public hearing at 7:29 p.m.

Councilman Newman moved to approve the conditional use rezoning for property located at 96 Louisiana Avenue from RM-8 Residential Multi-Family Medium Density District and RS-8

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Residential Single-Family High Density District to RM-8 Residential Multi-Family Medium Density District/Conditional Use. This motion was seconded by Vice-Mayor Mumpower.

Councilman Newman supported the motion in that he felt this is a good design and language will be crafted to assure the structure that will be built will fit in and enhance the neighborhood. He felt there is a great need for this type of development in our community. He felt comfortable that the property cannot be subdivided and since the applicant lives on the property, there is an incentive to improve his property value as well.

Vice-Mayor Mumpower felt this is a subjective decision, however, with the housing needs we have in Asheville, we need to reach for opportunities.

Councilman Dunn felt this was an issue of basic property rights and the property owner should be able to use his property as he feels fit. He felt the property values in the area wouldn't be affected by this duplex.

Councilman Davis said that he would reluctantly support the conditional use zoning but was concerned about what zoning protects. He felt the applicant would design a good structure because they live on the property as well.

Councilwoman Bellamy would support the conditional use zoning, but stated her concerns regarding the driveway.

The motion made by Councilman Newman and seconded by Vice-Mayor Mumpower carried unanimously.

ORDINANCE BOOK NO. 22 - PAGE

After a short discussion and upon a suggestion by the City Attorney, Councilman Davis moved to continue the conditional use permit matter to allow staff to work with the applicant to develop a more detailed site plan and elevation drawings and to address some of the issues raised, like the buffer and the driveway access. This motion was seconded by Councilwoman Bellamy.

At the request of Council, Ms. Tuch suggested the following condition: "Before the issuance of a final zoning permit, the applicant shall permit final plans detailing and qualifying the character of the proposed building elevations including details such as the amount and location of window and door fenestration, the number and direction of the multiple roof pitches with moderate to deep overhangs, the location and layout of the proposed foot paths and ornamental plantings, building materials and architectural details including asphalt roof shingle, hardiplank siding, cedar shake shingles, window shutters and exposed end rafters."

Vice-Mayor Mumpower asked that a sentence be included about compatibility with the surrounding properties.

Councilman Davis was comfortable with the condition suggested by Ms. Tuch, with an additional sentence about compatibility, and withdrew his motion. Councilwoman Bellamy withdrew her second to the motion.

Mayor Worley also suggested that the suggested condition by Ms. Tuch include that the structure be substantially similar with the rendering presented in City Exhibit 3.

At the request of Council, Ms. Tuch suggested the following condition: "Before the issuance of a final zoning permit, the applicant shall submit final plans detailing the alternative

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compliance in lieu of the required "B" buffer. An alternative that is historically appropriate to the single-family character of the West Asheville neighborhood, in which the property is located. This plan may include such elements as an evergreen hedgerow, 3-5 feet tall, interspersed with other ornamental species including, but not limited to, small ornamental trees and shade-loving perennials in the areas on the side of the house. In addition, other ornamental plantings shall be added to the front of the existing single-family structure to improve the overall appearance of the existing single-family neighborhood. In addition, this plan shall include the removal of the existing chain link fence."

At the request of Councilwoman Bellamy, Ms. Tuch provided further information regarding the driveway from the Engineering Department and the Fire Department.

Councilman Davis moved to adopt Ordinance No. 3226 to issue a conditional use permit for property located at 96 Louisiana Avenue for the addition of a proposed duplex, resulting in a total of four residential units, subject to the following conditions: (1) Addressing all outstanding TRC conditions; (2) Applicant is to submit a revised site plan displaying new building footprint and elimination of additional parking spaces, as necessary; (3) Proposed duplex is to match the character and materials reflected in the conceptual building elevations; (4) Before the issuance of a final zoning permit, the applicant shall permit final plans detailing and qualifying the character of the proposed building elevations including details such as the amount and location of window and door fenestration, the number and direction of the multiple roof pitches with moderate to deep overhangs, the location and layout of the proposed foot paths and ornamental plantings, building materials and architectural details including asphalt roof shingle, hardiplank siding, cedar shake shingles, window shutters and exposed end rafters. (with language about the structure being compatible with other structures in the area and that the structure be substantially similar with the rendering presented in City Exhibit 3); (5) Before the issuance of a final zoning permit, the applicant shall submit final plans detailing the alternative compliance in lieu of the required "B" buffer. An alternative that is historically appropriate to the single-family character of the West Asheville neighborhood, in which the property is located. This plan may include such elements as an evergreen hedgerow, 3-5 feet tall, interspersed with other ornamental species including, but not limited to, small ornamental trees and shade-loving perennials in the areas on the side of the house. In addition, other ornamental plantings shall be added to the front of the existing single-family structure to improve the overall appearance of the existing single-family neighborhood. In addition, this plan shall include the removal of the existing chain link fence; and (6) The two-story structure shall not be more than 2200 s.f. and shall not be more than 28 feet tall. This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

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At 7:54 p.m., Mayor Worley announced a short recess.

B. PUBLIC HEARING TO CONSIDER THE CONDITIONAL USE ZONING PROPERTY LOCATED ON DEPOT AND RALPH STREETS, KNOWN AS THE GLENROCK PROJECT, FROM CI COMMERCIAL INDUSTRIAL DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL USE; AND THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR A MIXED-USE DEVELOPMENT PLANNED ON DEPOT AND RALPH STREETS

ORDINANCE NO. 3227- ORDINANCE REZONING PROPERTY LOCATED ON DEPOT AND RALPH STREETS, KNOWN AS THE GLENROCK PROJECT, FROM CI COMMERCIAL INDUSTRIAL DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL USE

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ORDINANCE NO. 3228 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED ON DEPOT AND RALPH STREETS FOR A MIXED-USE DEVELOPMENT PLANNED ON DEPOT AND RALPH STREETS

Councilwoman Bellamy asked to be excused from participating in this matter due to a conflict of interest. Therefore, Vice-Mayor Mumpower moved to excuse Councilwoman Bellamy from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Davis and carried unanimously.

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

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

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 8:30 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 Julia Cogburn 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. Cogburn said that this is the consideration of a request to rezone property located on Depot and Ralph Streets, known as the Glenrock Project, from CI Commercial Industrial District to Urban Place District/Conditional Use, and a request to issue a conditional use permit for a mixed-use development planned on Depot and Ralph Streets.

The applicant, Mountain Housing Opportunities, is requesting a conditional use rezoning of 2.11 acres along Depot, Bartlett and Ralph Streets from CI (Commercial Industrial) District to UP-CUZ (Urban Place Conditional Use) District in order to allow for the development of these parcels for a mixed-use development (Attachment to City Exhibit 3 – Location Map). The project site is located within the City Limits between Ralph and Depot Streets at their intersection with Bartlett Street. The project site currently contains 6 lots that will be combined upon project approval and acquisition of all parcels. The property contains five buildings (the Corner Market building at 262 Depot Street; the old Glen Rock Hotel building at 403 Depot; two block buildings at 376 and 382 Depot Street; and a frame building on Ralph Street (City Exhibit 4).

The development proposal calls for the new construction of a 46,800 square foot (footprint) building with a mix of retail/gallery, office/studio, community and residential development throughout. Parking for the development is provided internally to the new building (first three levels) with entrances for the parking on Depot and Ralph Streets. Retail, community

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and office space is also provided on the first three levels of this new building with the proposed residential development of 85 units on levels 4-7. At its highest, the building is 74'8" tall. (Attachments to City Exhibit 3 – Concept Site Plan and Photos of Glen Rock Model).

The development also calls for the later phase rehabilitation of the Glen Rock Hotel and the Corner Market buildings. It is proposed that the Corner Market building will be utilized for retail, office, or light industrial development in the future and that the Glen Rock Hotel will contain a large first floor community space with a maximum of 25 residential units created on the upper two levels. Total residential development for the project is a maximum of 110 units for a density of 52.13 units per acre. The development proposal calls for the demolition of the 2 block buildings and the frame building on the site. The project proposal calls for the provision of 174 parking spaces.

Included in the concept plan design are provisions for improving the Town Branch Creek area by incorporating pedestrian amenities and landscaping along the banks of the creek. Pedestrian amenities are also proposed for an existing unopened alleyway that will lead along a sidewalk to the City's Livingston Street Park. The developer has requested alternative compliance for landscaping requirements to provide street trees along both sides of Ralph Street, street trees along Bartlett Street, and trees along both sides of the proposed Else Alley sidewalk in lieu of required buffer. This request has been approved by the Planning Department based on the limitations of existing conditions on the property and the nature of the development and the surrounding area. The applicant has also requested a reduction in required parking as permitted in the Urban Place District where multi-modal transportation amenities are included. The developer is proposing a number of pedestrian amenities, bicycle parking and a covered transit shelter. Although at the present time, transit service is not currently serving the immediate area (due to little development in the area), there is an interest in trying to serve the development with existing Route 18 once the development is completed.

On February 18, 2005, the Technical Review Committee (TRC) reviewed the conceptual plans and voted unanimously to recommend approval of the project subject to the conditions outlined in the staff report and the following additional conditions:

- That the sidewalks along Bartlett (7.5 feet) and Depot (9.5 feet) would be acceptable but the sidewalk along Ralph Street would

need to be constructed to 10 feet in width.

- That the developer work with the City Traffic Engineer on provisions for on-street parking.

The developer has already submitted a revised site plan that addresses most of the conditions shown in the TRC report. Remaining conditions to be addressed include: working out the details on the use of Else Alley with Parks and Recreation; designing the sidewalks and street tree plantings in accordance with Engineering and Public Works Department requirements; and, making sure the final design of the building complies with all the design requirements stipulated in the Unified Development Ordinance (UDO) for the Urban Place District.

On Thursday, February 24, 2005, Mountain Housing Opportunities hosted a neighborhood/developer meeting to share information about the proposed development and hear the concerns of those in the neighborhood. This meeting was held in lieu of Planning and Zoning Commission consideration of the project and associated zoning change. The minutes from this meeting, prepared by the facilitator, Paul Godfrey, illustrate general community support for the project. The principal concerns noted by the neighborhood were traffic and parking. Since this meeting the developer is proposing reducing the density of residential development by removing 15 dwelling units and is working to additionally address parking concerns with the City's Traffic Engineer (providing on-street parking). The traffic concerns raised should be mitigated by the development. Those voicing traffic concerns were not concerned so much for the future traffic to be generated by the development, but for the speed of the traffic currently traveling on Depot

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Street. It is felt that the development and on-street parking provisions should assist in slowing down traffic along Depot.

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)).

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 once the conditions enumerated by the TRC are met. The project must meet the technical standards set forth in the UDO, the City Standards and Specifications Manual, the North Carolina Building Code and other applicable laws and standards that protect the public health and safety.

2. That the proposed use or development of the land is reasonably compatible with significant natural or 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 applicant is incorporating the gradual slope of the property in the design of the proposed new mixed-use building. The developer is incorporating the channeled Town Branch Creek into the project and is proposing a clean up of the area surrounding the creek and the creation of a public amenity along the creek.

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

The Glen Rock development is proposed in a once vibrant area of Asheville that has experienced neglect in recent years. The design of the project is meant to bring vitality back to the area by bringing in a mix of uses at a significant density and by including a number of amenities to enhance the livability of the entire area. Significant street trees and other vegetation are proposed to further enhance the beautification of the property that will be brought about as a result of this project.

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.

While it is noted that portions of the proposed Glen Rock development (the new mixed-use building) are of a greater scale and density than other existing development in the area in which the project is located, the development that is proposed is no larger than would be allowed under current zoning (CI). Furthermore, the Glen Rock is felt not to compromise the area because of the location of the project, the largely residential nature of the project, and because of what has been developed in the area in the past and what is envisioned for the future. Any potential conflict in the relationship of this development with the existing single-family neighborhood located to the east is reduced by the topographic change between the areas and the proposed sidewalk and street tree improvements which will link the two areas in the overall design. The Glen Rock will serve as a primarily residential buffer between the industrial/rail development to the west and the neighborhood to the east. The Glen Rock hotel building will basically be used in its current configuration on the property as will the Corner Market. The Urban Place District is envisioned for further application in this area and other

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locations along the urban riverfront to encourage redevelopment of the same scale and density as is seen in the Glen Rock and the Wilma Dykeman Plan envisions precisely this scale of development.

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 calls for the promotion of adaptive reuse of vacant and underutilized structures and encourages the construction of affordable housing throughout the community. The City's smart growth initiative, contained in the comprehensive plan, encourages mixed use developments and compatible, higher density commercial and residential development. This development proposal also complements the River Arts District concepts found in the Wilma Dykeman Riverway Master Plan.

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

Development on the site will require final technical approval from all applicable departments including representatives of the Water Resources, MSD, Engineering, Fire and Building Safety Departments. The conceptual plans for the development have been reviewed by the City's TRC, which found that adequate services and facilities are available for the proposed development. While transit does not currently service the location, the transit services staff is interested in providing service once the development is completed.

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

The City's Traffic Engineer has reviewed the proposal and has determined that there are no traffic issues created by this project nor is a traffic impact analysis warranted.

Pros

- The Glen Rock development is proposed in an area that has been neglected over recent years. It is believed that this development will bring renewed interest in development to this area and vitality that will help to further enhance the livability of the area.
- The density proposed for the development can be supported by the existing infrastructure and is in close proximity to potential employment centers, shopping venues and educational institutions which makes the increased density attractive and appropriate at this location.
- The project as initially conceived will make a contribution to meeting the needs for affordable rental housing in the City of Asheville.
- The project supports numerous goals and strategies outlined in the City's 2025 plan as it relates to affordable housing, infill development, and smart growth.
- Several amenities (e.g., creek enhancement, pedestrian facilities) are incorporated in the design of this project.

Cons

- The proposed new building is of a larger scale than buildings currently found in the immediate area.
- The reduction in parking provisions allowed in the Urban Place District may present some parking issues in the area.

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City staff strongly supports this project due to its potential to jumpstart the implementation of the Wilma Dykeman Plan, adaptively reuse an older structure having significant architectural and historic character, and to establish a strong residential presence in this underdeveloped area of our City.

Ms. Cindy Weeks, representing Mountain Housing Opportunities, spoke in support of the project showing various photographs of the property. She also reviewed a comparison of the Commercial Industrial District vs. the Urban Place District. She said that preliminary figures of the Glen Rock new building would contain 85 apartments and 3000 sq. feet of community space. They anticipate 40 1-bedroom units - \$300-500/month; 35 2-bedroom units - \$350-575/month; and 10 3-bedroom units - \$400-675/month. In the later phase when the Glen Rock Hotel is renovated, they anticipate 20-25 condominiums with preliminary pricing to range from \$130-150 per square foot.

Mr. Rick Reinhardt, architect, reviewed with Council the site plan and elevations (Applicant Exhibit 2).

The following individuals were very supportive of the conditional use zoning/permit:

Ms. Susan Kendall, owner of 357 Depot Street
Ms. Gail McCarthy, property owner in the area
Mr. Kevin Green, representing Greene's Mini-Mart at 414 Depot Street
Mr. Steven Kuhl, owner of 375 Depot Street

Upon inquiry of Councilman Dunn, Ms. Weeks said that there will be 174 parking spaces internally and 66 spaces outside. They will build a bus shelter and the City's transit will try to reroute the bus to that area.

In response to Vice-Mayor Mumpower, Ms. Weeks explained that they will be building this project using three sources of tax credits.

Upon inquiry of Vice-Mayor Mumpower about possible flooding, Ms. Weeks said that they monitored the area very closely after the last heavy flooding in September of 2004 and the water did not go over the banks.

After hearing no rebuttal, Mayor Worley closed the public hearing at 9:13 p.m.

Vice-Mayor Mumpower moved to approve the conditional use rezoning for property located on Depot and Ralph Streets, known as the Glenrock Project, from CI Commercial Industrial District to Urban Place District/Conditional Use. This motion was seconded by Councilwoman Jones and carried unanimously.

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Vice-Mayor Mumpower moved to adopt Ordinance No. 3228 to issue a conditional use permit for property on Depot and Ralph Streets, known as the Glenrock Project, for a mixed-use development planned on Depot and Ralph Streets, subject to conditions of the TRC. This motion was seconded by Councilwoman Jones and carried unanimously.

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C. PUBLIC HEARING ON THE CONSOLIDATED STRATEGIC HOUSING & COMMUNITY DEVELOPMENT PLAN FOR 2005-2010

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Mayor Worley opened the public hearing at 9:18 p.m.

Ms. Charlotte Caplan, Community Development Director, said that is a public hearing on the Consolidated Strategic Housing & Community Development Plan for 2005-2010. This public hearing was advertised on April 1 and 8, 2005.

She said that every five years, the City is required to prepare a Consolidated Strategic Housing and Community Development Plan to set out broad priorities, strategies, and targets for the use of Community Development Block Grant (CDBG) and HOME funds. This Strategic Plan covers not just the City of Asheville, but also the four-county Asheville Regional Housing Consortium (Buncombe, Henderson, Madison, and Transylvania counties) within which HOME funds are used.

Under the direction of the Consortium Board, staff commissioned a detailed Housing Needs Assessment for the entire Consortium, and prepared a more limited assessment of non-housing community development needs for Asheville. Fifteen public meetings were held to gather community input on priorities and strategies. These are set out in the plan, together with realistic, measurable targets for each priority area.

She explained that resale prices are up by 39% in five years; that the median sales price is \$170,000; and the minority homeownership rate has decreased from 58% in 1990 to 45% in 2000.

She reviewed the affordable housing priorities as follows: (1) Provide housing for people near minimum wage; (2) Help those with special needs – homeless, elderly, disabled; (3) Make efficient use of land and infrastructure; (4) Preserve existing housing stock through rehabilitation; (5) Coordinate housing with transportation, jobs, and services; (6) Increase affordable housing stock through new construction; (7) Emphasize energy efficient, neighborhood-compatible designs; (8) Help people succeed through housing support services; (9) Build and preserve affordable multifamily rental housing; (10) Use local resources - local contractors and locally-made supplies; (11) Promote homeownership; and (12) Preserve long-term affordability.

She then reviewed the performance targets for housing as follows:

<u>Production Type</u>	<u>5-Year Target</u>
New construction for homeownership	200
New construction for rental	300
Homeowner rehab or repair	200
Rental rehab	75
Downpayment assistance	50
Rent assistance	<u>175</u>
Total	1,000

Ms. Caplan explained that homeless priorities being (1) to maintain existing Continuum of Care; and (2) implementation of the 10-Year Plan to End Homelessness. She reviewed the performance targets for homelessness.

She outlined the non-housing community development priorities being (1) develop living wage employment and job training; (2) provide services that support affordable housing, public transportation, youth and employment; (3) provide infrastructure to facilitate affordable housing, multi-modal transportation, and economic development; (4) help people improve credit and avoid predatory lending; (5) support start-up and growth of small businesses; and (6) support plan to eradicate homelessness. She then reviewed the performance targets for non-housing activities.

The draft Plan was published on March 29, 2005, to allow for a 30-day public comment period. A final public hearing is required during this comment period. Staff will then seek Council’s approval of the Plan (with necessary final corrections and amendments) on April 26, 2005.

Mayor Worley closed the public hearing at 9:30 p.m.

Councilwoman Jones said that this plan involved intensive community work with entities and is real model of how things can work well regionally.

Vice-Mayor Mumpower said that this is a reaffirmation of the 10-Year Plan to End Homelessness and he has many personal concerns about that Plan being unrealistic, unaffordable and personally a disturbing distraction from a real problem that needs more tangible and immediate solutions. He has concerns that this Plan reflects a model of governance that can be better described as socialism than the model of government that best represents the best that is in us. He is not comfortable with that model as reflected by some of the content.

Councilwoman Jones said that the U.S. Dept. of Housing and Urban Development requires this Plan and the City prepares this document every five years.

In response to Councilwoman Jones, Ms. Caplan reviewed with Council the City’s progress in meeting the targets in the last 5 years.

Mayor Worley said that the resolution on this matter will be considered at Council’s next formal meeting.

D. PUBLIC HEARING ON THE HOME AND COMMUNITY DEVELOPMENT BLOCK GRANT ACTION PLAN FOR 2005

Mayor Worley opened the public hearing at 9:39 p.m.

Ms. Charlotte Caplan, Community Development Director, said that this public hearing is on the draft Annual Action Plan, allocating Community Development Block Grant (CDBG) and HOME funds for Fiscal Year 2005-06. This public hearing was advertised on April 1 and 8, 2005.

The City expects to have available \$1,725,170 in CDBG funds and \$1,723,349 in HOME funds to allocate for housing and community development activities in the fiscal year beginning July 1, 2005. The City’s Housing and Community Development Committee and the Asheville Regional Housing Consortium have made recommendations for allocating these funds to 41 projects.

Ms. Caplan reviewed the following summary of the annual action Plan:

CDBG PROGRAM

Projected Revenue:

Entitlement Grant from U.S. Dept. of HUD	\$1,465,512
Projected 2005-06 Program Income	125,000
Prior Year Program Income Balance	125,813
Reallocation of prior year funds	<u>8,845</u>
Total	\$1,725,170

Proposed Use of Funds:

Affordable Housing Coalition – Homebase Housing Counseling	\$ 60,000
Affordable Housing Coalition – Homeownership Education	50,000
Asheville Area Habitat for Humanity – Housing Services	75,000
Asheville-Buncombe Community Relations Council – Fair Housing	15,000
Children First – Emma Resource Center	15,000
City of Asheville – Emergency Relocation	2,000
City of Asheville – CDBG Property Management	5,500
Consumer Credit Counseling Service – Financial Counseling	25,000
Hospitality House – Homeless Programs	95,000
Housing Authority of the City of Asheville – Youth Enrichment	35,000
Mountain Housing Opportunities – Single-Family New Construction	60,000
Mountain Housing Opportunities – Emergency Repair	95,000
Mountain Housing Opportunities – Housing Services	85,000
Mountain Microenterprise Fund – Micro-Business Development	90,000
Mountain Microenterprise Loan Fund – Small Business Loan Pool	75,000
Neighborhood Housing Services – Single Family Development	195,000

Neighborhood Housing Services – Bradley Street Infrastructure	220,000
Neighborhood Housing Services – Burton Street Area Planning	15,000
Neighborhood Housing Services – Housing Services	77,500
Pisgah Legal Services – Resource Development	40,000
Regional Water Authority – Water Line Improvement	87,500
Asheville Transit Authority – Route Signage & Bus Shelters	30,000
City of Asheville – Program Administration	247,229
Contingency	30,441
CDBG Total	<u>\$1,725,170</u>

HOME PROGRAM

Projected Revenue: Entitlement grant \$1,434,604	
ADDI Entitlement	49,954
Prior Year Funds Reallocated	185,453
Program Income (Asheville)	<u>53,338</u>
Total HOME Funds Available	\$1,723,349

Proposed Use of Funds:

Asheville	
Asheville Habitat for Humanity – S/F Housing Development, Enka	\$ 103,338
Affordable Housing Coalition – Tenant Based Rental Assistance	50,000
National Church Residences – Vanderbilt Apartments Rehabilitation	250,000
Neighborhood Housing Services – S/F Development	57,067
Mountain Housing Opportunities – Glen Rock Apartments	200,000
Mountain Housing Opportunities – Clingman Avenue Townhomes	50,000
Buncombe County	
Neighborhood Housing Services – S/F Development	80,000
Mountain Housing Opportunities – Owner-occupied Rehabilitation	47,800
Mountain Housing Opportunities – S/F Development,	80,000
Mountain Housing Opportunities – Self-Help Homeownership	80,000
Henderson County	
Housing Assistance Corporation – Mainstay Manor Apartments	90,000
Henderson Co. Habitat for Humanity – Shuey Knolls Subdivision	110,000

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Housing Assistance Corporation – Rehab for Home Ownership	60,000
Transylvania County	
Western Carolina Community Action – English Hills Apartments	200,000
Operating Costs	
CHDO (non-profit agencies) Operating Expenses	71,730
City of Asheville – Administration	125,472
Member Government Administration & Planning	17,988
American Dream Downpayment Initiative (ADDI)	
Neighborhood Housing Services of Asheville	49,954
HOME Total	<u>\$1,723,349</u>

If approved, the HOME and CDBG funding will assist 376 affordable housing units, Consortium-wide. CDBG funds will help more than 3000 low-income City residents obtain financial and housing counseling, homeless services, youth and family support services, and small business assistance. CDBG funds will also carry out street and waterline improvements in West Asheville, and enhance transit services in several in low-income areas.

Notice of the public hearing and a summary of the draft plan were published on March 29, 2005. A 30-day public comment period is required by federal regulations. The final plan must be submitted to Dept. of Housing and Urban Development by May 15, 2004.

The Consolidated Strategic Plan for 2005-10, which sets out the broad framework for allocating CDBG and HOME funds over the next five years, will be the subject of a separate public hearing also scheduled on April 12, 2005.

Mayor Worley closed the public hearing at 9:50 p.m.

At the request of Vice-Mayor Mumpower, Ms. Caplan said that she would provide him with a hard copy of the Annual Action Plan.

Mayor Worley said that the resolution on this matter will be considered at Council's next formal meeting.

E. PUBLIC HEARING TO CONSIDER THE SAWYER MOTOR COMPANY BUILDING AT 100 COXE AVENUE AS A LOCAL HISTORIC LANDMARK

At the request of the applicants, Councilwoman Bellamy moved to continue this public hearing until May 10, 2005. This motion was seconded by Councilman Dunn and carried unanimously.

IV. UNFINISHED BUSINESS:

A. ORDINANCE NO. 3222 – ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THREE LOTS ON BILTMORE AVENUE FOR A PROPOSED MIXED-USE DEVELOPMENT WITH EXISTING APARTMENTS TO BE COVERED TO CONDOMINIUMS AND SHORT-TERM RENTAL UNITS WITH A PROPOSED RETAIL OFFICE SPACE AND FOOD SERVICE FACILITY

City Attorney Oast said that at its March 22, 2005, meeting, Council unanimously approved the issuance of a Conditional Use Permit for the Biltmore Gardens project. This was done as part of a conditional use rezoning, and the approval was subject to final review by Council of the language of the conditions in the Conditional Use Permit (CUP).

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Staff has drafted a proposed CUP, with findings, conclusions, and conditions. The conditions were drawn from the staff report, the minutes of the March 22 meeting, and Council's discussion at that meeting. However, the revised site plan, which was to incorporate some of the conditions, has not been completed. As the modifications to the site plan, especially those involving landscaping and tree preservation, were of critical importance to Council and the neighborhood, and may affect the form of the CUP, it is our recommendation that that matter be continued until your April 26 meeting. The developer has indicated that the revised site plan will be available in plenty of time for that meeting, and we will get the proposed CUP to you as soon as possible. If you have any questions or need any further information, please contact us before the April 26 meeting so that we can try to address your concerns.

City staff recommends City Council continue this item until Council's April 26, 2005, meeting.

Councilwoman Bellamy moved to continue the conditional use permit wording until April 26, 2005. This motion was seconded by Councilman Davis and carried unanimously.

V. NEW BUSINESS:

A. ANNEXATIONS

Planning & Development Director Scott Shuford said that this is the consideration of resolutions stating the intent of the City to annex the Ridgefield Business Park area, the Ascot Point Village area, the Long Shoals Road area, the Airport Road area, Two Town Square East and Town Square East.

He said that the State of North Carolina enables cities to grow by annexation of areas that meet certain statutory requirements. This state legislation is based on the proposition that strong cities are the basis of a strong state economy and essential to the continued economic development of the state, and that cities are the best units of government to meet the needs of urban areas. The state's intent is often summed up as "what is urban should be municipal."

North Carolina state law recognizes that the cities need to expand their boundaries to include this growth so that we don't end up in a situation where an increasingly relatively smaller number of citizens are financing the urban infrastructure used by a much larger population.

The City of Asheville has initiated annexations for the past four years. These recent annexations, like the ones being presented are designed to include: areas that are clearly urban, areas surrounded by the City but not within the City of Asheville and can only be accessed through the City; areas that will create a more logical City boundary; and areas with at least some existing water and sewer service.

The City's policy is to include within its corporate boundaries areas that are urban in nature and meet State of North Carolina qualification requirements. Staff has identified six areas: Ridgefield Business Park, Ascot Point Village, Long Shoals Road, Airport Road, Two Town Square, and Town Square East with potential for being annexed. Under State law, the City must follow a specific process for annexation that begins with the adoption of resolutions that describe the boundaries of the areas under consideration, and fix dates for a public informational meeting and a public hearing on the question of annexation. State law does allow simultaneous annexation of multiple non-adjacent areas.

The following steps and dates meet the process required by State law:

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Council Adoption of Resolutions of Intent

April 12, 2005

Council Adoption of Plans of Services April 26, 2005
Staff-Sponsored Public Informational Meeting May 31, 2005
City Council Public Hearings June 14, 2005
Council Adoption of Annexation Ordinances June 28, 2005

Effective Date of Annexations:

September 30, 2005 – Ridgefield Business Park area, Two Town Square
& Town Square East
December 31, 2005 – Ascot Point Village, Long Shoals Road & Airport Road

City staff recommends that City Council adopt the resolutions of intent stating the City's intent to annex the Ridgefield Business Park area, Ascot Point Village area, Long Shoals Road area, Airport Road area, Two Town Square and Town Square East.

Mr. Shuford stated that the resolutions of intent state that (1) it is the intent of the City Council of the City of Asheville to consider annexation of the territory described in the resolution pursuant to Part 3 of Article 4A of Chapter 160A of the North Carolina General Statutes; (2) a public informational meeting on the question of annexing the above-described territory will be held in the First Floor North Conference Room in the City Hall Building, 70 Court Plaza, Asheville, N.C., at 5:00 p.m., at which time a representative of the City of Asheville shall make an explanation of plans for extending services to said territory and all residents and property owners in said territory and all residents of the City of Asheville will be given the opportunity to ask questions and receive answers regarding the proposed annexation; (3) a public hearing on the question of annexing the above-described territory will be held in the Council Chamber located on the 2nd Floor of the City Hall Building, 70 Court Plaza, Asheville, N.C., at 5:00 p.m. on the 14th day of June, 2005, at which time a representative of the City of Asheville will make an explanation of plans for extending Services to said territory and all residents and property owners in said territory and all residents of the City of Asheville will be given an opportunity to be heard; (4) a report of plans for extending services to the above-described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting; (5) the statement of financial impact contained in the report shall be delivered to the Buncombe County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting; (6) a legible map of the area to be annexed and a list of identified persons holding freehold interests in property in the area to be annexed shall be posted in the office of the City Clerk, Asheville City Building, 70 Court Plaza, Asheville, North Carolina, at least thirty (30) days prior to the date of the public informational meeting; (7) the effective date of annexation shall be at least one year, but no more than 400 days, from the date of passage of the annexation ordinance; and (8) notice of the public informational meeting and public hearing shall be given as required by law.

Mr. Shuford then reviewed each of the proposed annexation areas.

Upon inquiry of Councilman Davis, City Attorney Oast reviewed with Council the earlier challenge of Ridgefield Business Park.

Vice-Mayor Mumpower said there are a lot of strong arguments supporting annexation, however, he feels the harm outweighs the benefits. For philosophical reasons, he will vote against the annexations.

Councilman Newman said that families and businesses in Asheville pay twice the property taxation than people who live just outside of the City limits, and when areas become urban in nature, they should pay to support the critical infrastructure needs in Asheville.

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Councilman Dunn said that he would not support any annexation unless the City puts the revenue back into basic City services.

Mayor Worley said that members of Council have been previously furnished with copies of the resolutions and they would not be read.

RESOLUTION NO. 05-85 - RESOLUTION OF INTENT TO ANNEX THE RIDGEFIELD BUSINESS PARK AREA, SETTING A PUBLIC INFORMATION MEETING ON MAY 31, 2005, IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF THE CITY HALL BUILDING, ASHEVILLE, N.C., AT 5:00 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 14, 2005, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING, ASHEVILLE N.C., AT 5:00 P.M.

Councilman Newman moved for the adoption of Resolution No. 05-85. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote, with Vice-Mayor Mumpower and Councilman Dunn voting "no."

RESOLUTION BOOK NO. 29 – PAGE 89

RESOLUTION NO. 05-86 - RESOLUTION OF INTENT TO ANNEX THE ASCOT POINT VILLAGE AREA, SETTING A PUBLIC INFORMATION MEETING ON MAY 31, 2005, IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF THE CITY HALL BUILDING, ASHEVILLE, N.C., AT 5:00 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 14, 2005, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING, ASHEVILLE N.C., AT 5:00 P.M.

Councilman Newman moved for the adoption of Resolution No. 05-86. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote, with Vice-Mayor Mumpower and Councilman Dunn voting "no."

RESOLUTION BOOK NO. 29 – PAGE 93

RESOLUTION NO. 05-87 - RESOLUTION OF INTENT TO ANNEX THE LONG SHOALS ROAD AREA, SETTING A PUBLIC INFORMATION MEETING ON MAY 31, 2005, IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF THE CITY HALL BUILDING, ASHEVILLE, N.C., AT 5:00 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 14, 2005, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING, ASHEVILLE N.C., AT 5:00 P.M.

Councilman Newman moved for the adoption of Resolution No. 05-87. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote, with Vice-Mayor Mumpower and Councilman Dunn voting “no.”

RESOLUTION BOOK NO. 29 – PAGE 97

RESOLUTION NO. 05-88 - RESOLUTION OF INTENT TO ANNEX THE AIRPORT ROAD AREA, SETTING A PUBLIC INFORMATION MEETING ON MAY 31, 2005, IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF THE CITY HALL BUILDING, ASHEVILLE, N.C., AT 5:00 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 14, 2005, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING, ASHEVILLE N.C., AT 5:00 P.M.

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Councilman Newman moved for the adoption of Resolution No. 05-88. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote, with Vice-Mayor Mumpower and Councilman Dunn voting “no.”

RESOLUTION BOOK NO. 29 – PAGE 101

RESOLUTION NO. 05-89 - RESOLUTION OF INTENT TO ANNEX TWO TOWN SQUARE AREA, SETTING A PUBLIC INFORMATION MEETING ON MAY 31, 2005, IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF THE CITY HALL BUILDING, ASHEVILLE, N.C., AT 5:00 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 14, 2005, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING, ASHEVILLE N.C., AT 5:00 P.M.

Councilman Newman moved for the adoption of Resolution No. 05-89. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote, with Vice-Mayor Mumpower and Councilman Dunn voting “no.”

RESOLUTION BOOK NO. 29 – PAGE 105

RESOLUTION NO. 05-90 - RESOLUTION OF INTENT TO ANNEX TOWN SQUARE EAST AREA, SETTING A PUBLIC INFORMATION MEETING ON MAY 31, 2005, IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF THE CITY HALL BUILDING, ASHEVILLE, N.C., AT 5:00 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 14, 2005, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING, ASHEVILLE N.C., AT 5:00 P.M.

Councilman Newman moved for the adoption of Resolution No. 05-90. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote, with Vice-Mayor Mumpower and Councilman Dunn voting “no.”

RESOLUTION BOOK NO. 29 – PAGE 109

VI. OTHER BUSINESS:

Vice-Mayor Mumpower announced the Film Commission vacancy.

Vice-Mayor Mumpower thanked those who participated in the For Our Kids program at Erskine public housing clean-up project, which Program he and Councilwoman Bellamy share responsibilities in.

At the request of Councilwoman Bellamy, City Attorney Oast said that he would provide City Council with a report on taxicab rates at the May 17, 2005, City Council worksession.

Councilwoman Jones urged the public to do what they can to prevent child abuse.

The following claims were received by the City of Asheville during the period of March 11-31, 2005: 32 Ocala Street (Streets), Shawn Wilson (Streets), Carolyn Hembree (Streets), Herman Parris (Sanitation), Virginia Ritter (Inspections), Judy St. Clare (Streets), Bryan McKeown (Sanitation), Gregory Meade (Water), Chin Pak (Water), Cornelia Streeter (Police), Corbin Hightower (Parking Services), Helen Van Rensselaer (Streets), Jim McKinnon (Streets), Kirby Connolly (Civic Center) and Roy Chapman (Police).

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

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Mike Fryar asked for time on an upcoming worksession to illustrate his feeling about how installing traffic calming devices will increase our fire ratings. City Engineer Cathy Ball stated that traffic calming devices do not impact the fire ratings.

CLOSED SESSION

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At 10:25 p.m., Councilman Newman moved to go into closed session for the following reasons: (1) 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 possible litigation. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (2) To consider the qualifications, competence, performance, character, fitness, conditions of appointment or initial employment of an individual prospective public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(3); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(2). This motion was seconded by Councilman Dunn and carried on a 6-1 vote, with Vice-Mayor Mumpower voting "no."

At 12:15 a.m., Councilwoman Bellamy moved to go out of closed session. This motion was seconded by Councilman Dunn and carried unanimously.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 12:15 a.m.

CITY CLERK

MAYOR