

Tuesday, October 9, 1984 - 4:00 p.m.

## Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bisette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Deputy City Clerk Carol Hensley

Absent: Councilman Mary Lloyd Frank, Associate City Manager/City

Clerk William F. Wolcott, Jr.

## INVOCATION

1. The invocation was given by Councilman Walter Boland.

## APPROVAL OF THE MINUTES

2. Approval of the minutes of the October 2, 1984 meeting.

Mayor McDevitt announced the approval of the minutes of the October 2, 1984, meeting with one typographical error noted.

## PROCLAMATION "HIGHER EDUCATION WEEK" - October 8 - 15, 1984

3. Mayor McDevitt read a proclamation proclaiming the week of October 8 - 15, 1984 as "Higher Education Week."

Mayor McDevitt requested that Councilman Boland present the proclamation to the appropriate officials.

## PROCLAMATION - "VOTE FOR HARMONY WEEK" - WEEK OF OCTOBER 15, 1984

Mayor McDevitt read a proclamation proclaiming the week of October 15, 1984, as "Vote for Harmony Week."

A quartet from the Land-of-Sky Chorus sang for members of Council.

Mayor McDevitt presented a proclamation to Mr. Glen Hollis, President of the Land-of-Sky Chorus group.

## PUBLIC HEARING - REZONING PROPERTY ON CRAYTON ROAD

### ORDINANCE NO. 1471 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (REZONING PROPERTY LOCATED ON CRAYTON ROAD)

3. A public hearing was held relative to rezoning property located on Crayton Road (owned by the Crayton estate).

Mayor McDevitt said the Asheville Planning and Zoning Commission at its meeting on September 5 considered the rezoning of Ward 7, Sheet 15, Lots 85, 85-¼, and 229 from R-3 Residential District to LI Light Industrial District. Staff pointed out that this property on Crayton Road has been underutilized for some time and there exists a potential at this time for use of the now vacant land. Also, the Asheville Chamber of Commerce lists this property as potential industrial property. After discussion, the Commission voted to recommend approval to City Council that Ward 7, Sheet 15, Lots 85, 229, and a portion of Lot 85-¼ be rezoned to LI Light Industrial District. The Commission also recommends that a 40' buffer be provided and that a "No Left Turn" sign be placed on Crayton Road at the exit from the property.

Mayor McDevitt opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of proclamation.

Verl Emrick, Director of Planning, said this rezoning was considered by Council and the Planning and Zoning Commission in 1982. However, the request was withdrawn because a proposed developer for the property was not available, and the impact of the rezoning could not be ascertained. He said, during the last several months, the Planning Staff has worked with a proposed developer, Ingle/Mayflower, for development of the property. He said Ingle/Mayflower proposes to move to this location, since their building has been sold to the County. He said the Planning and Zoning Board recommended that a 40' buffer be provided for the residents on Liberty Street and that a "No Left Turn" sign be placed on Crayton Road at the exit from the property to negate vehicular traffic on Liberty Street and Washington Road. He said this would force traffic onto Crayton Road and Sweeten Creek Road. He said since Planning and Zoning's amended recommendation, there is only one protest, being from Mr. Roland who owns Lot 207. He said no written protest has been received.

Bill Moore, Attorney representing Smith/Mayflower spoke in support of the rezoning. He presented plans and drawings of the proposed building. He said the building would consist of 24,000 square feet which would include warehousing, storage, and office space. He said the total value of these improvements would be \$500,000.00, increasing the tax base for the City. He said the property proposed to be rezoned abuts an LI zone, and ingress and egress from the property would be from a proposed interstate ramp on the western side of the property. He said approximately 14 vehicles per day would use the entrance and a "No Left Turn" sign could be put at Crayton Road which would be satisfactory to Smith/Mayflower. He said his clients could comply with the buffering recommended by the Planning and Zoning Commission. Upon inquiry of Council, Mr. Moore said construction of the building could begin in 60 days.

After discussion, Mayor McDevitt closed the public hearing at 4:31 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for adoption of Ordinance No. 1471 as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1471 passed on first reading.

At the request of Attorney Bill Moore, Councilman Boland moved to suspend the rules and proceed to the second reading of Ordinance 1471. This motion was seconded by Councilman Myers and carried on a voice vote of 5-1, with Councilman Price voting "no."

On a roll call vote of 6-0, Ordinance No. 1471 passed on second reading.

## **PUBLIC HEARING - REZONING PROPERTY LOCATED ON HAYWOOD ROAD**

### **ORDINANCE NO. 1472 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED, (REZONING PROPERTY LOCATED ON HAYWOOD ROAD)**

4. A public hearing was held relative to rezoning property located on Haywood Road, requested by R & R Associates.

Mayor McDevitt said the Asheville Planning and Zoning Commission at its meeting on September 5 considered the rezoning of Ward 6, Sheet 1, Lot 291 from R-3 Residential District to CS Commercial Service District. After discussion, the Commission voted to recommend approval of the rezoning to City Council.

Mayor McDevitt opened the public hearing at 4:35 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said, the property requested to be rezoned is located on Haywood and is contiguous to a Commercial Service District. He said no reports have been presented in opposition to the rezoning.

Jan Grimes, Attorney for the Petitioner, spoke in support of the rezoning. He said R & R Associates proposes to construct a model home on the property.

After discussion, Mayor McDevitt closed the public hearing at 4:38 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1472. This motion was seconded by Councilman Bissette.

On a roll call vote of 6-0, Ordinance No. 1472 passed on first reading.

At the request of Attorney Jan Grimes, Councilman Boland moved to suspend the rules and proceed to the second reading of Ordinance No. 1472. This motion was seconded by Councilman Myers and carried on a voice vote of 5-1, with Councilman Price voting "no."

On a roll call vote of 6-0, Ordinance No. 1472 passed on second reading.

#### **CONTINUATION OF PUBLIC HEARING - FINAL PLAT OF "HAZELWOOD SUBDIVISION" - NORTH LOUISIANA AVENUE**

5. A public hearing relative to the final plat of the proposed "Hazelwood Subdivision" to be located on North Louisiana Avenue continued.

Mayor McDevitt said at a meeting held on April 4, 1984, the Planning and Zoning Commission approved the preliminary plat of the "Hazelwood Subdivision" (then named Ashley Subdivision) to be located on North Louisiana Avenue. The plat was prepared by S. V. Griffith, R.L.S., for Frank McGahren and Walter Weiss, Developers, and submitted in accordance with Ordinance No. 424. The final plat meets all requirements of the subdivision ordinance, and the Planning and Zoning Commission recommends approval of the plat to the Asheville City Council. This public hearing was continued from the October 2, 1984, meeting.

Verl Emrick, Director of Planning, said the primary reason for the request to continue the public hearing at last week's meeting was that he had been apprised of a situation, involving the proposed subdivision, that could have led to technical problems in violation of state laws relative to the transfer of property. However, in reviewing the situation, it was determined that the properties had not been transferred, but options had been placed on lots in the proposed subdivision. He said, in addition, six mobile homes had been moved into the subdivision, prior to Council's approval. He said in the extra territorial zoning district, zoning permits are issued. He said it was also determined that the individuals that had moved the mobile homes on the lots were living in them, with only generator hook-ups and kerosene heaters. He said he took it upon himself to issue zoning permits to these homes prior to Council approval for safety precautions for the individuals. He said he talked with the developer, Mr. Weiss, and advised him that no other permits would be issued, and the Buncombe County Public Safety Department and Health Department were made aware of the situation. He said the final plat meets all requirements of the subdivision ordinance. He said the Planning and Zoning Commission only approved Phase I of the development. However, the developer has already started cutting roads in Phase II of the project, which is also in violation of the subdivision ordinance.

Mayor McDevitt noted that the action taken by the Planning Director in issuing the zoning permits, prior to approval, is not typical -- although done with humane concern -- and is a practice the City should not engage in.

Councilman Boland said he felt the action of the Planning Director sets a dangerous precedent for all parties concerned.

Mr. Walter Weiss said his actions as a developer were taken out of ignorance of the subdivision regulations and not intentional. He apologized for the Planning Director's embarrassment. He said, however, he has not violated any health or safety requirements. Upon inquiring of Council, Mr. Weiss said he presented the entire development to Planning and Zoning, and it was his opinion that Phase II had also been approved. He said since notified that this is not the case, he is moving forward to present Phase II for approval, and stated that no further development of Phase II would take place until approved by Council.

After discussion, Mayor McDevitt closed the public hearing at 4:58 p.m.

Councilman Price moved for the approval of the final plat of the "Hazelwood Subdivision" to be located on North Louisiana Avenue. This motion was seconded by Councilman Bisette and carried unanimously.

**ORDINANCE NO. 1470 - AN ORDINANCE AMENDING SECTION 28-81.2(b), SECTION 28-81.4, AND SECTION 28-82 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (OTTARI ROAD)**

6. Consideration was given to the second reading of Ordinance 1470, an ordinance amending section 28-81.2(b), Section 28-81.4, and Section 28-82 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville (Ottari Road).

Mayor McDevitt said this ordinance was previously read on first and second reading and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1470 passed on second reading.

**SCHEDULING PUBLIC HEARING**

Councilman Price moved to schedule a public hearing relative to rezoning property located on Greenhill Avenue for October 23, 1984. This motion was seconded by Councilman Myers and carried unanimously.

**CLAIMS - JERRY SHIPLEY (METER SERVICES) - WAYNE WILSON (METER SERVICES) - DAVID STANBY (POLICE)**

The City Manager presented claims received from Jerry Shipley, Wayne Wilson, and David Stanby.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

**ANNOUNCEMENT - RECEIPT OF UDAG GRANT AGREEMENT FOR SOUTH PACK SQUARE REDEVELOPMENT PROJECT**

Mayor McDevitt announced that the City has received the grant agreement for UDAG funding for the South Pack Square Redevelopment Project. He said the staff and Council are in the process of reviewing the agreements and action would be taken on the execution of the agreement at the October 16, 1984, meeting.

**RALPH BISHOP - LOTTERY SALES**

Mr. Ralph Bishop again spoke to members of Council requesting that the new City Manager take action to prohibit the sale of lottery tickets in the City of Asheville.

**ADJOURN TO EXECUTIVE SESSION**

Councilman Myers moved to adjourn to Executive Session to discuss a personnel and real estate matter. This motion was seconded by Councilman Bisette and carried unanimously.

It was noted that Council would meet on Thursday, October 11, 1984, at 5:30 p.m. for a work session.

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MAYOR CITY CLERK

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