

Tuesday - January 6, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Wilhelmina Bratton.

APPROVAL OF THE MINUTES - DECEMBER 23, 1986 MEETING

1. Consideration was given to the approval of the minutes of the December 23, 1986 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

RESOLUTION NO. 87-1 - RESOLUTION IN MEMORIAM OF JAMES B. WILSON

2. Consideration was given to a resolution in memoriam of James B. Wilson.

Mayor Bissette read the resolution stating that the City Council of the City of Asheville wishes to express its sorrow over the recent passing of James B. Wilson, Executive Editor of the Asheville Citizen-Times. He said by adoption of this resolution, the City of Asheville gratefully recognizes Jim Wilson's many contributions to the welfare of this community and his state, and extends to his family sincere sympathy upon his passing.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-1 was unanimously adopted.

Complete text of Resolution No. 87-1 will be found in Resolution Book No. **16** at page **250**.

RESOLUTION NO. 87-2 - RESOLUTION OF APPRECIATION TO MRS. HELEN B. ZAGEIR

3. Consideration was given to a resolution of appreciation to Mrs. Helen B. Zageir.

Mayor Bissette read the resolution stating that Mrs. Zageir had donated to the City a parcel of land on Patton Avenue at Lexington Avenue, the site of the former Asheville Landmark, The Man Store, and Mrs. Zageir had previously donated to the City an adjoining strip of land which allowed the City to widen Lexington Avenue and thus, add to the convenience of its citizens and the beauty of the downtown area. This resolution expresses the City of Asheville's sincere appreciation to Helen B. Zageir and her family for their caring generosity to their community and its people.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 87-2 was unanimously adopted.

Complete text of Resolution No. 87-2 will be found in Resolution Book No. **16** at Page **251**.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 218 EAST CHESTNUT STREET (MR. CHRIS PETERSON, PETITIONER)

4. A public hearing was held relative to a request to rezone property located at 218 East Chestnut Street, Ward 2, Sheet 16, Lot 138 (Mr. Chris Peterson, Petitioner).

Mayor Bissette said on November 12, 1986, the Asheville Planning and Zoning Commission considered the petition of

Mr. Chris Peterson that Ward 2, Sheet 16, Lot 138 (218 East Chestnut Street) be rezoned from R-4 Residential District to CG Commercial General District. After review and discussion, the Commission voted to recommend that the petition be denied and that the property remain as it is now zoned. On December 10, 1986, the City Clerk received written notice of appeal from the petitioner for this matter to be heard by the City Council. This public hearing was scheduled at the December 16, 1986 meeting of City Council.

Mayor Bissette opened the public hearing at 4:14 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 Planning and Zoning Commission had reviewed the petition of Mr. Chris Peterson to rezone the property from R-4 Residential District to CG Commercial General District. He said after discussion, the Commission voted to recommend that the petition be denied mainly to limit commercial encroachment into the residential neighborhood. He said the property accesses Chestnut Street and Broad Street. He said Mr. Peterson owns the property and proposes to restore an existing dwelling to a restaurant. He said a restaurant would not be allowed in the R-4 Residential District except for a Bed and Breakfast function which would only allow guests of the Bed and Breakfast to be served.

At the request of members of Council, Mr. Emrick outlined the uses allowed in the R-4 Residential District.

Gene Ellison, Attorney representing Chris Peterson spoke in support of the rezoning, stating that he did not feel the rezoning would infringe or impede on the residential district since the area is adjacent to Fuddrucker's Restaurant. He said the property on which Fuddrucker's is located was rezoned by Council to allow for their development. He said the existing structure on the property is dilapidated and the developer is willing to put in at least \$150,000 to enhance the building and the area. He said 80% of the buildings in the area are of a commercial use.

Chris Peterson, owner of the property, spoke in support of the rezoning stating that he owns 4 or 5 historical buildings at the present time. He said he feels the area is historical and he would not tear the building down but would like to restore the existing structure into a "Victorian style restaurant".

Ralph Bishop spoke in support of the rezoning.

W. A. McElduff, spoke in opposition of the rezoning, stating that he lives next door to the property proposed to be rezoned. He said he was also opposed to the area being designated a historical area from the beginning.

Tim Warner of 87 North Liberty Street spoke in opposition to the rezoning because of the other commercial establishments allowable in CG Commercial General zone that could be located on the property.

Councilman Michalove questioned whether or not the property could be considered in the "historical overlay" zone.

Verl Emrick explained that in order to use the "historical overlay" zone, the property would have to be individually designated as a historical building. He said the Historic Resources Commission would have to determine the qualifications of the building. He said, in his opinion, the only option for the use of the building as a restaurant would be the "historical overlay" zone without rezoning the property. He indicated that under State law, Council could not contract rezoning with the property owner or enter into any type of agreement for the rezoning.

Councilman Bratton said she could relate to the character of the neighborhood, but believed in economic development for the City of Asheville. She said it would be difficult for her to oppose a small business man.

Chris Peterson indicated that the Council could also modify the definition of Bed and Breakfast to allow guests other than those patronizing the Bed and Breakfast facility to use the restaurant facilities.

June Grant, Realtor, said she did not feel Council should go about rezoning property just for individuals. She said it was difficult to sell property under one zone with the possibility that members of Council would change the zoning at

any time.

Vice-Mayor Frank said she would be opposed to the rezoning of the property for the Commercial General zone but would be in favor of the Historic Resources Commission investigating the possibility of a "historical overlay" zone.

After discussion, Councilman Michalove moved to continue the public hearing for two weeks without further advertisement, and to request that the Planning Staff look into the possibility of placing the property in a "historical overlay" zone that would allow conditional use without a zoning change, and to look for other alternatives for the use of the property, and to report this information back to the Council at the January 20 meeting. This motion was seconded by Councilman Bratton and carried on a voice vote of 4-1 with Councilman Price, Vice-Mayor Frank, and Councilman Boland voting "no".

ORDINANCE NO. 1621 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE", AS AMENDED - PETITION FOR MR. R. S. CRAIG, PROPERTY LOCATED ON US 70-EAST AT CAMPGROUND ROAD

5. Consideration was given to the second reading of Ordinance No. 1621, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville", as amended - petition for Mr. R. S. Craig, property located on US 70-East at Campground Road.

Mayor Bisette said at the request of City Council on August 19, 1986, the Asheville Planning and Zoning Commission at a meeting held October 8, 1986, considered rezoning Ward 8, Sheet 31, Lot 16, from R-2 Residential District to CH Commercial Highway District. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 31, Lot 16, be rezoned from R-2 Residential District to R-4 Residential District with applicable buffering. This ordinance passed first reading at the December 23, 1986 meeting.

Mayor Bisette said the ordinance was previously read on its first reading and would not be reread in its entirety. He said any individual requesting a copy of the ordinance will be furnished one at no cost.

On a roll call vote of 6-1, Ordinance No. 1621 passed on second reading with Councilman Michalove voting "no".

Mayor Bisette indicated that no correspondence has been received from the Craig's relative to the rezoning.

RESOLUTION NO. 87-3 - RESOLUTION OF CONCURRENCE WITH A BUSINESS RELOCATION POLICY ADDENDUM

6. Consideration was given to a Resolution of Concurrence with a business relocation policy addendum.

Mayor Bisette said this Resolution of Concurrence will provide for the least costly method of relocation for businesses without causing undue hardship when the Housing Authority and the displacee agree on the method of substitution.

Mayor Bisette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution will be furnished one at no cost.

Ralph Bishop asked if the City of Asheville helped to relocate the gambling place at 7½ Biltmore Avenue for the Downtown Project.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-3 was unanimously adopted.

Complete text of Resolution No. 87-3 will be found in Resolution Book No. 16 at Page 252.

RESOLUTION NO. 87-4 - RESOLUTION AUTHORIZING THE SIGNING OF A MEMORANDUM OF UNDERSTANDING WITH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO FURTHER FAIR HOUSING WITHIN THE CITY OF ASHEVILLE

7. Consideration was given to a resolution authorizing the signing of a Memorandum of Understanding with the U.S.

Department of Housing and Urban Development to further fair housing within the City of Asheville.

Mayor Bisette said on October 15, 1985, the City Council passed Ordinance No. 1539 which created the Asheville Fair Housing Commission. The Commission has the jurisdiction to enforce the State Fair Housing Act, Chapter 41A of the North Carolina General Statutes, within the City of Asheville, as authorized in Chapter 776 of the 1985 North Carolina Session Laws. The U. S.

Department of Housing and Urban Development (HUD) has requested that the City execute a Memorandum of Understanding prior to officially being recognized as Substantially Equivalent to the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968. The intent of the MOU is to eliminate duplicative enforcement activity and to maximize fair housing efforts through sustained interagency communication. The HUD grant will increase revenue by approximately \$23,000 per year for first two years of project implementation.

Mayor Bisette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-4 was unanimously adopted.

Complete text of Resolution No. 87-4 will be found in Resolution Book No. **16** at Page **253**.

SCHEDULING PUBLIC HEARING - SITE PLAN OF WEST TERRACE CENTER - PATTON AVENUE FOR JANUARY 27, 1987

8. Consideration was given to a motion to schedule a public hearing relative to a site plan of West Terrace Center located on Patton Avenue for January 27, 1987.

Mayor Bisette said the Asheville Planning and Zoning Commission at a meeting held December 10, 1986, reviewed a site plan of West Terrace Center located on Patton Avenue. The site plan was prepared by Danie Johnson, Architect, for R. L. Coleman and Company, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to: 1) signage to be 25 square feet per retail space (3); 2) 15' clearance to sanitary and storm sewer; 3) 1 to 1-1/2 slope for sanitary compliance with Erosion Control Ordinance.

Councilman Tisdale moved to schedule a public hearing relative to the site plan of the West Terrace Center located on Patton Avenue for January 27, 1987. This motion was seconded by Vice-Mayor Frank and carried unanimously.

PRESENTATION OF PETITION - PROPERTY OWNERS IN THE OAKLEY AREA REQUESTING COUNCIL TO INITIATE A ZONING STUDY PURSUANT TO THE PROVISION OF SECTION

30-11-1 (C)

9. Presentation of a petition received from property owners in the Oakley area requesting Council to initiate a zoning study pursuant to the provision of Section 30-11-1 (c).

Verl Emrick, Planning Director, said a petition has been received from property owners in the Oakley area requesting Council to consider rezoning property in that area from R-2 and R-3 to R-1.

He said the petition is being presented pursuant to the provision of Section 30-11-1 (c) of the Zoning Ordinance.

He said, at the direction of Mayor Bisette, he met with representatives of the Oakley neighborhood regarding the study to consider rezoning property in the area from R-2 and R-3 Residential District to R-1 Residential District. He said the petition meets all the requirements of Section 30-11-1 (c) in that 51% of the property owners had signed the petition. He said the zoning study would be conducted to see if the character of the neighborhood has changed to allow for a R-1 Residential District zone.

By the use of a map, Mr. Emrick reviewed the location of the property requested to be studied.

Leonard Jones, property owner in the Oakley area, said he represented most of the property owners in Oakley, and had generated the petition. He also requested that during the time the City of Asheville is conducting the zoning study, that a moratorium on multi-family construction be instituted for that area.

John Stroup, of Bee Ridge Road, said he owns 14 acres in this particular area and is opposed to any rezoning. He said the property is not compatible for a R-1 Residential District designation.

Sandra Hyldburg, Attorney representing Burl Lance, a Real Estate Developer, said Mr. Lance owns property in the area and has been holding the property for investment purposes. She said she felt the best use of the property is for apartments, and her client would object to any further restrictions on this property.

Bob Pugh, Carolyn Benfield, and Willard Hill, property owners in the Oakley area, spoke in support of the rezoning to the R-1 Residential District.

Gary Pearson, with the Fairways Realty Company of Etowah presented a statement to members of Council opposing any rezoning in the Oakley area. He said he is presently working with a client and the Planning and Zoning Commission to develop 48 units of condominiums in the area, and all governmental entities have indicated approval for the project. He said he would object to any petition to rezone the area.

In response to Mr. Stroup's request to place the property under a moratorium, Mayor Bisette said a moratorium could not be placed on the property unless a threat to public health and safety is involved.

Councilman Price said, in her opinion, this area needs to be studied along with the proposed overall comprehensive zoning plan.

Barbara Tauber, of the Property Shop, spoke in opposition to the petition.

After discussion, Councilman Boland moved to refer the petition to the Planning and Zoning Commission for study and recommendation with the suggestion that the study be concurrent with the proposed overall comprehensive zoning plan. This motion was seconded by Vice-Mayor Frank and carried unanimously.

COUNCILMEMBER REQUESTS

10. Upon inquiry of Councilman Tisdale, the City Manager indicated that the Staff is currently looking into the storm drain problem at Kimberly and Edgewood Road.

Upon inquiry of Vice-Mayor Frank, Verl Emrick, Director of Planning, said that a draft of the overall comprehensive zoning plan will be ready in late January.

Councilman Bratton requested that the City Manager look into problems on Lexington Avenue.

Mayor Bisette requested that the City Manager investigate the problems with prostitution on Coxe Avenue behind the new US Post Office.

Councilman Tisdale also requested that the City Manager look into the parking meter situation on Market Street and Lexington Avenue.

SCHEDULING PUBLIC HEARING - SITE PLAN OF BEAUCATCHER CINEMAS LOCATED ON US70 AND HAW CREEK LANE SHOWING THE ADDITION OF A HARDEE'S RESTAURANT

11. Vice-Mayor Frank moved to schedule a public hearing relative to the site plan of Beaucatcher Cinemas located on US 70 and Haw Creek Lane showing the addition of a Hardee's Restaurant for January 20, 1987. This motion was seconded by Councilman Tisdale and carried unanimously.

CLAIMS - LARRY BRENDLE (WATER) - ROBYN HORNE (DOWNTOWN DEVELOPMENT) - CLAY CLINE (SEWER) - BEVERLY PAHEL (POLICE)

12. The City Manager presented claims received from Larry Bendle, Robyn Horne, Clay Cline, and Beverly Pahl.

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

RALPH BISHOP - COMMENTS RELATIVE TO LOTTERY SALES IN THE CITY OF ASHEVILLE

13. Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Price, the meeting adjourned at 6:05 p.m.

MAYOR CITY CLERK
