

Tuesday - January 13, 1987 - 4:00 p.m.

## Regular Meeting

Present: Mayor W. Louis Bisette, 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 Mayor Louis Bisette.

## APPROVAL OF THE MINUTES - JANUARY 6, 1987 MEETING

1. Consideration was given to the approval of the minutes of the January 6, 1987, meeting.

Mayor Bisette announced the approval of the minutes as submitted.

## PUBLIC HEARING - SITE PLAN OF BILTMORE PARKWAY CENTRE TO BE LOCATED ON HENDERSONVILLE ROAD

2. A public hearing was held relative to a site plan of the Biltmore Parkway Centre to be located on Hendersonville Road.

Mayor Bisette said the Asheville Planning and Zoning Commission at a meeting held December 10, 1986, reviewed a site plan of Biltmore Parkway Centre to be located on Hendersonville Road. The site plan was prepared by Danie Johnson, Architect, for Biltmore Centre Limited Partnership, Developer, 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) provision of a 20' buffer on the north boundary line; 2) approval of signage package; 3) compliance with Tree Ordinance; 4) approval of curb cut by N.C. Department of Transportation; and 5) reapply for grading permit and compliance with Erosion Control Ordinance.

Mayor Bisette opened the public hearing at 4:10 p.m.

The City Manager 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 Asheville Planning and Zoning Commission did review and recommend that the site plan of the Biltmore Parkway Centre be approved subject to several provisions. He said the site plan shows the provision for a 20' buffer on the north boundary line as recommended by the Planning and Zoning Commission. He said there would be one free-standing sign plus signage on the facades. He said curb cuts have been applied for through the North Carolina Department of Transportation. He said the developer has requested that the North Carolina

Department of Transportation conduct a traffic study to determine if a traffic signal is needed in that area. He said the proposed development shows a setback of the buildings further than the right-of-way needed by the North Carolina Department of Transportation to widen Hendersonville Road. He said the project would consist of approximately 56,200 sq. ft. of lease- retail space. He said the project is in compliance with all City codes and ordinances; however, final approval should be contingent on approval of the curb cut by the North Carolina Department of Transportation.

Danie Johnson, Architect for the project, said the project would include a Harris Teeter Food Store and would be a high quality center beyond the typical architecture in our area. He said the proposed project has been tied in with

existing and proposed roadway improvements by the North Carolina Department of Transportation. He said the Biltmore Forest Company has dedicated right-of-way to the North Carolina Department of Transportation for the widening of Hendersonville Road.

Mayor Bisette closed the public hearing at 4:16 p.m.

Vice-Mayor Frank moved for the approval of the site plan of the Biltmore Parkway Centre to be located on Hendersonville Road subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

**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 OF MR. R. S. CRAIG, PROPERTY LOCATED ON U.S. 70-E AT CAMPGROUND ROAD**

3. Consideration was given to the third 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 of Mr. R. S. Craig, property located on U.S. 70-E 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 no correspondence had been received from the petitioner relative to this rezoning.

Councilman Tisdale said he still felt the rezoning of this property to an R-4 Residential designation would make the property more marketable.

On a roll call vote of 6-1, Ordinance No. 1621 passed on third and final reading, with Councilman Michalove voting "no" to rezoning the property to R-4 Residential District.

Complete text of Ordinance No. 1621 will be found in Ordinance Book No. **11** at page **107**.

**RESOLUTION NO. 87-5 - RESOLUTION PROHIBITING SMOKING IN THE ASHEVILLE CITY COUNCIL CHAMBERS DURING MEETINGS OF THE CITY COUNCIL**

4. Consideration was given to a resolution prohibiting smoking in the City Council Chambers during meetings of the City Council.

Mayor Bisette said the Surgeon General of the United States has determined that smoking causes lung cancer, heart disease, emphysema, and may complicate pregnancy and that quitting smoking greatly reduces risks to health. Recent studies indicate that smoking also creates health hazards for non-smokers who are exposed to the smoke. The Asheville City Council desires to eliminate smoking in the Council Chambers during City Council meetings in an effort to reduce exposure to health hazards for persons attending Council meetings.

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

Councilman Tisdale said since he is the only Councilmember who does smoke and owns an tobacco allotment, he felt it was necessary that he comment on this particular resolution. He said he thought the resolution banning smoking in the formal meeting room is totally unnecessary since anti-smoking laws should remain with the officials in Washington and in Congress. He said tobacco is legal and the tobacco industry has done a fine job working with the federal government, and the tobacco industry is very important to the State. He said as a matter of courtesy to non-smoking colleagues, he has never smoked in a Council Chamber meeting and has agreed not to smoke in the pre-

Council meetings.

Vice-Mayor Frank said she had received numerous calls relative to the adoption of this resolution commending the Council for taking such action. She said they also requested that Council adopt an ordinance prohibiting smoking in all public places. She said the Buncombe County Commissioners passed a resolution in 1984 prohibiting smoking in their Commissioners' Chambers.

Councilman Price said she felt members of Council who were supporting the measure are also aware of the economic and employment importance of tobacco and that the smoking ban should be seen as a courtesy to non-smokers and those with respiratory problems who cannot attend public meetings if smoke is in the room.

Bob Shultz, a Buncombe County resident, spoke in favor of the resolution.

Weldon Denny, with the Tobacco Section of the North Carolina Department of Agriculture, spoke in opposition to the resolution quoting statistics on the economic and employment impact of tobacco in the State, and in Buncombe County, and asked the Council to decide on a resolution as a management decision rather than through the adoption of a resolution.

Mac McGough, with the Western North Carolina Development Association, spoke in opposition to the resolution.

Upon motion of Vice-Mayor Frank, seconded by Councilman Bratton, Resolution No. 87-5 passed on a voice vote of 6-1, with Councilman Tisdale voting "no."

Complete text of Resolution No. 87-5 will be found in Resolution Book No. 16 at page 254.

#### **APPROVAL OF AMENDING RESTRICTIONS RELATIVE TO SIGNAGE ON FACADES AT PROPOSED K-MART SHOPS OF ASHEVILLE - SOUTH TUNNEL ROAD**

5. Consideration was given to a motion amending restrictions relative to signage on facades at the proposed K-Mart Shops of Asheville located on South Tunnel Road.

Mayor Bisette said on December 16, 1986, Council approved the site plan of the proposed K-Mart Shops of Asheville to be located on South Tunnel Road subject to compliance with the Erosion Control Ordinance and signage on the facades to be limited to 25 square feet. A request has been received from Greene Associates to amend the restrictions on signage of the facades.

Mayor Bisette requested that he be excused from participation and vote on this particular issue since his firm represents the developer.

Councilman Price moved to excuse Mayor Bisette from participation and vote on the proposed K-Mart Shops of Asheville located on South Tunnel Road. This motion was seconded by Councilman Michalove and carried unanimously.

Verl Emrick, read the following letter from Mr. Edward I. Greene requesting the amended restrictions on signage.

December 31, 1986

Mayor Louis Bisette

Asheville City Hall

Asheville, NC 28801

Re: Four (4) Interior Facade Signs

K-Mart Plaza, 4 South Tunnel Road

Asheville, NC

Dear Mayor Bissette:

In discussions with the Planning Board, when we submitted our plans to the Group Development for the 5,000 square foot building at the above-captioned Shopping Center, my architect, Danie Johnson, committed in good faith to signage restrictions of 25 square feet per tenant. Mr. Johnson was unaware that when I made lease arrangements a year ago with existing tenants to move their former occupied stores to the new store building as an accommodation to me, they planned to use the same signs that were affixed to their former store fronts; specifically, the Barber sign is 3' x 10', the Read

Uniform 4' x 10'.

Several months ago, I arranged two (2) additional new leases

with Credithrift and Financial Services. Having no idea that I would have to arrange any Asheville sign approvals on the four (4) small stores, approximately 1,250 square feet each, I did approve these two (2) tenants to fabricate expensive signs, Credithrift,

4' x 15', and Financial Services, 3' x 12'.

These interior stores have no road frontage exposure and I would be obliged to reimburse them for the expense I caused them if they were not allowed to hang these signs on their respective store facades.

Therefore, I respectfully request, if you could permit in this instance, the use of the hereinmentioned already fabricated signs.

Very truly yours,

GREENE ASSOCIATES

Edward I. Greene

EIG:gm

cc: Verl Emrick

Danie Johnson

Danie Johnson, Architect for the project, said the signs would not be visible from the interstate.

Upon inquiry of Council, Mr. Emrick said he felt the request is appropriate.

Councilman Michalove moved to amend the restrictions relative to signage on the proposed K-Mart Shops of Asheville located on South Tunnel Road as requested by Greene Associates. This motion was seconded by Councilman Boland and carried unanimously.

## **APPROVAL OF CONSENT AGENDA**

6. Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

**A. Consideration of a motion to schedule a public hearing relative**

**to final approval of the subdivision of Stratford Oaks for January 27, 1987.**

**HIGHLIGHTS:** The Asheville Planning and Zoning Commission at a

meeting held September 10, 1986, approved the preliminary plat of Stratford Oaks subject to the Board of Adjustment granting a variance on lot width on the cul-de-sac. The project consists of the subdivision of 10 lots off Mann Drive in Haw Creek. The plat was prepared by Jensen Engineering

for Bass and Hayes Builders, Inc., Developer.

**FISCAL IMPACT:** None

**B. Consideration of a motion to schedule a public hearing relative**

**to a site plan of M. B. Haynes Corporation located on Deaverview Road for January 27, 1987.**

**HIGHLIGHTS:** The Asheville Planning and Zoning Commission at a

meeting held December 10, 1986, reviewed a site plan of M. B. Haynes Corporation located on Deaverview Road showing the addition of an Alden Metal Building for lease. The site plan was prepared and submitted by M. B. Haynes, Developer. After review and discussion, the Commission voted to approve the project subject to: 1) provision of a 20' buffer on the east property line next to park; 2) compliance with Tree Ordinance; and 3)

compliance with Erosion Control Ordinance.

**FISCAL IMPACT:** None.

Upon motion of Councilman Price, seconded by Councilman Tisdale, the Consent Agenda was unanimously approved.

**REPORT FROM ASHEVILLE CABLEVISION**

7. Joe Haight, General Manager of Asheville Cablevision, reviewed the progress that Asheville Cablevision made during 1986. He thanked members for appointing the Asheville Cablevision Commission and said he felt the Commission was very effective. He said Asheville Cablevision spent \$1.3 million in growth in 1986 and added 21 miles of service. He said the system now passes through over 33,000 homes and they are now servicing 65% of all housing units that the system passes. He said this is approximately 15% above the nationwide average of cablevision systems passing homes. He said during 1986, Asheville Cablevision has changed programming and rates. He said they have also expanded their hours of operation, and service calls are down by 65%. He said they are now capable of answering a service call within 12 hours and installing a new service within 24 hours. He said on March 1,

1987, Asheville Cablevision would be rearranging their programming schedule to get "customer equipment friendly." He said subscribers with cable-ready TV's or cable-ready VCR's would now be capable of using their own equipment rather than cablevision equipment. He said the lowest basic rate of service will be \$13.00. He said during 1987 another \$1 million would be spent in growth by Asheville Cablevision adding an additional 22 miles of service; providing service to all housing projects and this should provide for the additional wiring of the entire City except for the newly annexed areas. He said Cablevision Company now servicing the newly annexed areas.

Councilman Tisdale said he had received many questions relative to Asheville Cablevision since this new announcement had been made. He said he would like to reiterate the fact that City Council can no longer dictate to Asheville Cablevision relative to rates and/or program structure. He said Mr. Haight's presentation was merely a courtesy to members of Council.

Mr. Haight indicated that even though members of Council cannot legally dictate to Asheville Cablevision federal

deregulations, Asheville Cablevision is willing to listen and to continue the working relationship with Asheville City Council and its subscribers.

Mayor Bisette commended Asheville Cablevision for an excellent job during 1986 of improving the service of cablevision.

Upon inquiry of Vice-Mayor Frank, Mr. Haight said Asheville Cablevision had removed Channel 9 from its programming, mainly because the channel is 85% duplicated on PBS out of Tennessee, and because of continued technical problems.

Mr. Haight answered general questions from Mr. Morris Fox, of 5 Valle Vista Road, relative to the use of a VCR and cablevision service.

Ralph Bishop spoke in opposition to the Asheville Cablevision Company stating that he felt they had a monopoly in the City of Asheville.

**RESOLUTION 87-6 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER FOR THE PURCHASE OF CITY-OWNED PROPERTY LOCATED ON FANNING BRIDGE ROAD AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR THE SALE OF THE PROPERTY**

8. Consideration was given to a resolution directing the City Clerk to advertise an offer for the purchase of City-owned property located on Fanning Bridge Road and authorizing the Mayor to execute an agreement for the sale of the property.

Mayor Bisette read the resolution stating that the City has received an offer for the purchase of a tract of land containing 27 acres located east of the intersection of Fanning Bridge Road and Asheville Airport Road. He said the offer is in the amount of \$325,000 and a 5% bid deposit has been received by the City Clerk. He said that Council has determined that it does not need this property for City purposes and desires to sell the property for the purpose of construction of approximately 290,000 sq. ft. distribution facility.

Upon motion of Councilman Bratton, seconded by Councilman Michalove, Resolution No. 87-6 was unanimously adopted.

Complete text of Resolution No. 87-6 will be found in Resolution Book No. 16 at page 255 and 256.

**CLAIMS - ROBERT HYATT (WATER)**

The City Manager presented a claim received from Robert Hyatt.

Mayor Bisette referred the claim to the Corporation Counsel.

**LAWSUITS - GROVER C. MATTHEWS, TROY E. MCHONE, AND ROBERT E. SIMMONS VS. BOARD OF TRUSTEES OF THE ASHEVILLE POLICEMEN'S PENSION AND DISABILITY FUND - ASHEVILLE CITY BOARD OF EDUCATION (CONDEMNATION OF PROPERTY) - ASHEVILLE CITY BOARD OF EDUCATION (CONDEMNATION OF PROPERTY) - LEANNE HIPPS (PERSONAL INJURY)**

The City Manager said the City Manager was served with the following lawsuits in which the City of Asheville is a defendant; Grover C. Matthews, Troy E. McHone, and Robert E. Simmons vs. Board of Trustees of the Asheville Policemen's Pension and Disability Fund relative to a temporary restraining order preventing transfer of assets of Police Pension Plan into LGERS; Asheville City Board of Education relative to property owned by Anthony L. Bennette, et. al. relative to enlargement and improvement of William Randolph Elementary School site; Asheville City Board of Education relative to condemnation of property owned by Arthur D. Young, et. al., relative to the enlargement and improvement of William Randolph Elementary School site; Asheville City Board of Education relative to the condemnation of property owned by the trustees of Church of God in Christ, et. al., relative to enlarging and improving William Randolph Elementary School site; Leanne Hipps by and through her guardian ad litem, Judy

Lovelace, individually, relative to a personal injury when retaining wall allegedly fell on the child.

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

**RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE**

Ralph Bishop again spoke to members of Council relative to the responsibility of the City Manager to enforce lottery sales in the City.

**ADJOURNMENT**

Upon motion of Councilman Boland, seconded by Councilman Price, the meeting adjourned at 5:10 p.m.

Mayor City Clerk

---