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Tuesday - August 30, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bisette, Presiding; Councilmen Mary

Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott,

Jr.

Absent: Vice-Mayor Kenneth M. Michalove

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES - AUGUST 23, 1988 MEETING

Approval of the minutes of the August 23, 1988 meeting were postponed until the next meeting.

I. PROCLAMATIONS:

A. Proclamation - "French Broad River Week" - September 10-18, 1988.

Mayor Bisette said the French Broad River Week is sponsored by the Land of Sky Regional Council.

Mayor Bisette read the proclamation and presented a copy to LaRue Bolick who outlined the activities taking place during French Broad River Week.

B. Recognition of Beautification Contest Winners

Mayor Bisette said on July 26, 1988, communities in

the Asheville area were judged in a beautification contest. This contest was held to foster litter control and beautification throughout Asheville. The Montford Community was the first place winner of \$125.00, and the Liberty-Chestnut area was the

second place winner of \$75.00.

Mayor Bisette presented a check in the amount of

\$125.00 to Evelyn Wyatt who spearheaded the Montford Community clean up. He presented a check in the amount of \$75.00 to Jeannie Warner from the Liberty-Chestnut Street area.

C. Proclamation - Saturday, September 10, 1988 -

"Biltmore Village Festival Day"

Mayor Bissette said the proclamation was requested by

the American Association of University Women (AAUW) and the Biltmore Village Merchants Association.

Mayor Bissette read the proclamation and presented a

copy to Roberta Sherer.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Action relative to site plan of proposed addition to Appalachian Stove and Fabricators, Inc.

Mayor Bissette said the Asheville Planning and Zoning Commission on August 3, 1988, reviewed and recommended approval subject to the following:

- 1) A building line setback variance of 10' being granted to front on Emma Road;
 - 2) A parking lot paving variance being granted to apply to both existing and newly constructed parking lots;
 - 3) An access easement being granted from the Eaven-Brice Partnership property to the west;
 - 4) Approval of fire flows, water pressure and hydrant location by the Fire Department;
 - 5) Approval of an erosion control plan by the City Engineering Department with special attention to Porshia property line and stabilization of slope;
 - 6) Approval of a drainage control plan for the site by the City Engineering Department;
 - 7) The driveway being paved from Emma Road into the north parking lot;
 - 8) That buffer plantings and parking lot trees comply with Sec. 30-3-14. of Zoning Ordinance; and
 - 9) Compliance with N. C. State Building Code requirements relative to automatic fire protection
- for buildings of this size.

Mayor Bissette said action on the site plan was continued from the August 23, 1988 meeting until members of Council had an opportunity to visit the site.

Patty Tallerday, Acting Planning Director, again reviewed the contingencies

outlined by the Planning and Zoning Commission. She said members of Council visited the site today and one concern expressed was the degree of slope on the bank. She said the Erosion Control Ordinance does not require a certain degree of slope; however, measures must be taken to stabilize the slope.

Ms. Tallerday said the owners of Appalachian Stove and Fabricators, Inc. met with the property owners and agreed to put railroad ties at the bottom of the property line; to install a 4' woven fence to eliminate debris; buffering of two (2) rows of white pines at the base of the bank; and a retaining wall at the top of the hill.

Councilman Price requested that Appalachian Stove submit a landscaping plan to the Planning Department for review and approval.

Gary Eavenson, partner with the Appalachian Stove and Fabricators, Inc., said in his opinion, according to the requirements in the Zoning Ordinance, a setback variance would not be needed since the ordinance requires a 35' setback from the front of the building or property; 10' side setback from an adjoining property owner if the properties are zoned the same; and 20' side setback if the property adjoins residential property. He said they are maintaining that they are at least 24' from the adjoining property owner and 375' from the front of the road. He said if the variance is not granted and Council determines that a setback variance is required 20 percent (20%) of the proposed addition would have to be eliminated which would not benefit the adjoining property owner or his company.

Mr. Eavenson said his company will make every effort to stabilize the bank and to plant or replant as much buffer as is needed.

Upon inquiry of Mayor Bisette, Mr. Eavenson said his company has agreed to put in railroad ties at the base of the property line; to install a 4' woven wire fence along the length of the property line; and to provide buffering of spruce trees according to city specifications.

Faron Porshia, adjoining property owner, thanked members of Council for visiting the site. He said his only comment would be that if the addition is allowed it will take a long time for the trees to grow in order to buffer his house from the construction.

Councilman Price said she was still not comfortable with granting a variance of 10' to the front on Emma Road.

Councilman Frank said she would like to see evergreen trees planted at the base of the retaining wall.

After discussion, Councilman Price moved to approve the site plan for the addition to the Appalachian Stove and Fabricators, Inc. with the contingencies outlined by the Planning and Zoning Commission with the exception of (1) being that a building line setback variance of 10' being granted to front on Emma Road; that railroad ties be installed at the bottom of the property line sufficient to address the Erosion Control Plan; that a 4' woven wire fence be installed; and that a landscaping plan be submitted, reviewed, and approved by the Planning Staff. This motion was seconded by Councilman Bratton.

Mr. Eavenson appealed to Council to grant the variance if Council determined that it was necessary. He said this action would not be helping anyone and would not help erosion control. He said this would only require him to make the building smaller.

The City Attorney read the definition of the front building line as being the

front of the lot rather than the front of the building.

Mayor Bissette said he would vote against the motion because reducing the building size would not help the adjoining property owner. He said he felt expanded buffering would be best.

After discussion, Mayor Bissette called for a vote on Councilman Price's motion, which motion failed on a voice vote of 6-1, with Councilman Price voting "aye".

Councilman Frank moved to approve the site plan of the proposed addition to Appalachian Stove and Fabricators, Inc. subject to the contingencies outlined by the Planning and Zoning Commission; that an additional row of trees be installed at the building line; that a 3' retaining wall of railroad ties be installed at the bottom of the property line; and that a 4' woven wire fence be installed along the entire length of the property line. This motion was seconded

by Councilman Martin and carried unanimously.

B. Ordinance No. 1706 - Second reading of Ordinance revising the Motor Vehicle Registration Tax - City Stickers.

Mayor Bissette said the Buncombe County Tax

Department has agreed to bill and collect the motor vehicle registration tax for the City. The current

ordinance needs to be revised in order to more accurately state the process; references to vehicle weight, prorated fees, and decals should be deleted. He said this ordinance passed on first reading on August 23, 1988 and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1706 passed on second reading.

C. Ordinance No. 1707 - Second reading of an ordinance

amending Section 28-81.5 and Section 28-81.6 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville (portion of Riceville Road to be 35 m.p.h. as requested by N.C.

Department of Transportation).

Mayor Bissette said this action will revise the

current ordinance to declare a 35 mph speed limit on that portion of Riceville Road (SR 2002) within the corporate limits of the City of Asheville. The

N. C. Department of Transportation has requested that the City Council approve this speed limit change. He said this ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1707 passed on second reading.

D. Report relative to Asheville Mall Expansion Project.

The City Manager said the City staff investigated

complaints received relative to construction of the Asheville Mall Expansion Project. He said all the minutes leading up to the approval of the project was reviewed as well as all contingencies placed upon the approval. He said the staff would be presenting a video of the project in question to show reference points; reporting on existing conditions as they relate to contingencies placed upon the approval; and reviewing a letter sent to the developer of the project outlining concerns about the project.

Al Kopf, with the Parks and Recreation Department,

formerly with the Planning Department, presented the video of the construction site which was taken today outlining the status of various concerns expressed by the residents and the conditions placed upon the

approval of the project.

Mr. Kopf presented and discussed the following staff

report:

STAFF REPORT - ASHEVILLE MALL EXPANSION

CONDITION 1. ESTABLISH AND MAINTAIN BUFFERING TO EXTEND SOUTHERLY ALONG THE CONTOUR LINE, SHEET R3A2, ON SHEET DATED 6-10-85, AND THAT BE EXTENDED TO THE NORTHEAST CORNER OF LOT 65

UNTIL IT INTERSECTS WITH THE NEW BUFFERING.

EXISTING CONDITION:

Some of the proposed R3A2 buffer has been installed between

Lots 43 and 51. An eight foot high chain link fence has been installed with tennis screening and there are two rows of staggered evergreen trees. Additional shrub plantings are not apparent on the site. The R3A3 buffer does not extend to the northeast corner of Lot 65.

REQUIREMENTS:

Additional shrub plantings along R3A3 buffer from Lot 43 to

Lot 51.

Continuation of R3A3 buffer to northeast corner of Lot 65.

CONDITION 2. APPROVE THE GROSS PARKING (FULL DECK AS SHOWN) AREA PLAN, BUT IN THE EVENT THE DEED RESTRICTIONS WILL NOT PERMIT THIS PLAN THAT PARKING PLAN TWO, WITH THE TRIANGLE CUT OFF OF THE

DECK, BE APPROVED.

EXISTING CONDITION:

Parking lot is being constructed in a "rectangular" shape

presently (this includes the triangular portion of the deck which may or may not be permitted according to deed restrictions). The perimeter drive within the deck has not changed according to Mr. Coleman.

REQUIREMENTS:

Verify parking deck layout during construction process.

CONDITION 3. THAT THE PLANS BE UPDATED TO SHOW THE CONTOURS AS IT RELATES TO MR. REX MOSELEY'S PROPERTY.

EXISTING CONDITION:

Presently, the parking lot area has been graded. It appears

that the elevation of the parking lot approximates the elevation approved by Marvin Vierra on June 24, 1988 (site inspection 8-24-88 Emrick/Kopf). The graded slope west of the parking area appears closer to the Moseley property line than presented in R3A3 or RA/A10. At one point (assuming it is the intersection of S 05 - 17W and N 26 - 56W) the top of the slope is presently about 8 feet away whereas the drawings indicate a distance of approximately 15 feet. From this same point, the toe of the slope is presently about 22 feet away whereas the plans indicate the toe of the slope should be about 30 feet away from this point. The R3A3 buffer to be placed on the top of the slope has not been installed/planted along this western border.

REQUIREMENTS:

Eventually install R3A3 buffer west of this parking area.

Compliance with site plan approvals for grading and existing natural buffer.

CONDITION 4. THAT THE DETAILED R3A3, TYPICALLY NEW BUFFERING, BE TIED DOWN WITH THE DIMENSION OF 2-1/2 FEET FROM THE RIGHT-OF-WAY OF THE PROPERTY LINE TO THE FIRST PLANTING BE ADDED. (CLARIFIED FROM LIP OF BANK TO FENCE LINE) (MARKED ON PLANS).

EXISTING CONDITION:

Detail R3A3 of proposed buffer was tied down with a revised

drawing presented to and approved by City Council on December 22, 1987. This buffer detail has been applied to a couple of the installed buffer areas.

REQUIREMENTS:

Installation of all buffer area in accordance to this detail.

CONDITION 5. THAT IT BE IN COMPLIANCE WITH PRESENT EROSION CONTROL.

(SEE TOM TARRANT'S REPORT)

CONDITION 6. THAT EXISTING CONTOURS ON PORTIONS OF THE JOHNSON PROPERTY ZONED RESIDENTIAL ARE NOT TO BE DISTURBED.

EXISTING CONDITION:

Field measurements verified the 50 foot residential zone was left intact north of the parking lot and it appeared that no grading occurred within the "triangle" northwest of the lot.

REQUIREMENTS:

Maintain undisturbed areas within R-3 Residential District zone.

Eventual installment of R3A3 buffer north of this parking area.

CONDITION 7. THE LOCATION AS WELL AS THE ELEVATIONS OF THE BUFFERING AS SHOWN ON THIS PLAN IS A FUNDAMENTAL CONDITION OF APPROVAL OF THIS GROUP DEVELOPMENT PROPOSAL.

EXISTING CONDITION:

The buffer areas installed south of the theaters and along White Pine Street correspond to their locations on site plans R3A2 and R3A3. The other buffer areas have not been installed yet.

REQUIREMENTS:

Install buffer areas at proper locations and elevations as shown on the site plans.

CONDITION 8. REQUIRE A SCHEMATIC DRAWING OF THE EXISTING DRAINAGE SYSTEM AND THE PROPOSED DRAINAGE SYSTEM TO BE SUBMITTED TO STAFF PRIOR TO ITS GOING TO CITY COUNCIL.

EXISTING CONDITION:

A schematic drainage plan was submitted to staff and City Council requested a storm drainage report regarding Mrs. Willard's property from the city staff.

REQUIREMENTS:

Report by city staff already presented to City Council.

CONDITION 9. REQUIRE A SCHEMATIC LIGHTING PLAN TO BE SUBMITTED PRIOR TO ITS GOING TO CITY COUNCIL.

EXISTING CONDITION:

Planning staff received a lighting plan on March 24, 1988, which indicated light pole location and light distribution.

REQUIREMENT:

Verification of lighting plan installment.

* * * * *

CONDITION: SUBMITTAL OF LANDSCAPE PLAN TO STAFF FOR APPROVAL.

EXISTING CONDITION:

A landscape plan has been submitted to city staff for the parking lot areas and meets the requirements for the parking lot plantings described on Sheet R3A1- "General Landscape Notes."

REQUIREMENT:

Verification of landscape plan installment.

CONDITION: MALL TO CONSTRUCT A "T" INTERSECTION FROM BRACKETOWN ROAD AND WHITE PINE DRIVE ACCORDING TO CITY STANDARDS AND

APPROVED BY CITY STAFF, AND THAT WHITE PINE DRIVE BE WIDENED FROM BRACKETOWN ROAD TO THE INTERNATIONAL HOUSE OF PANCAKES, INC.

EXISTING CONDITION:

Bracketown Road has been widened to an approximate width of 38 feet whereas Marvin Vierra approved of a 30' width on June 24, 1988. The "T" intersection has not been implemented nor has White Pine Drive been widened east of Bracketown Road.

REQUIREMENTS:

Bracketown Road constructed to approved 30' width.

Construction of "T" intersection.

Widening of White Pine Drive east of Bracketown Road.

CONDITION: CITY REQUEST NCDOT FOR A LEADING LEFT-TURN SIGNAL FROM TUNNEL ROAD ONTO WHITE PINE DRIVE AND STUDY SYNCHRONIZATION OF THE TRAFFIC LIGHTING IN THE AREA.

EXISTING CONDITION:

No changes in system presently.

REQUIREMENTS:

(See Memo from Bob McDonald, Traffic Engineer)

* * * * *

SITE VISIT OBSERVATIONS (VERL EMRICK - AL KOPF - 8-24-88)

1. The drive southwest of J. C. Penny's loading dock is shown

on the site plans as 30' in width. Presently there is a gravel area approximately 35 feet wide and a stake which might indicate the drive width as 38'. This drive width appears to be a conflict with the approved site plan which may have resulted in the removal of an existing evergreen tree buffer and additional grading.

2. An existing buffer has been removed and an area graded which

was not indicated on the approved site plans. The approved site plans do not propose the removal or addition of buffering or indicate grading within the area which begins about 125 feet northeast of the theaters and continues northeast for approximately 275 feet. Danie Johnson, Project Architect, told Al Kopf on a site visit the day before the City Council hearing (12-7-88) that this existing buffer was to remain.

The banks have been graded similar in slope to the steep

banks which exist southeast of this area.

A landscape plan has been requested for this area.

3. Some of the evergreen trees have died within the buffer

which is located southwest of the theater. Staff has requested a landscape program/plan to replace these trees.

4. A row of parking within the parking area south of White Pine

Drive has not been constructed yet. Eventual compliance

with site plan/parking ratio requirements.

Mr. Kopf also reviewed the following reports from Bob McDonald, Traffic Engineer, and Tom Tarrant, from the Erosion Control

Office as it relates to the above conditions:

REPORT OF FINDINGS RELATIVE TO ASHEVILLE MALL EXPANSION

Submitted by: Bob McDonald, Traffic Engineer

From an on-site inspection conducted on August 25, 1988, for work completed to date on the Asheville Mall expansion, the following was found regarding traffic improvements on Brackettown Road, White Pine Drive, and signalization improvements at Tunnel Road.

Brackettown Road has been widened to an approximate width of thirty-seven and one-half feet (37.5') to thirty-eight feet (38'). On June 20, 1988, Al Kopf and I met with Mr. Coleman and Mr. Danie Johnson to discuss, among other things, the widening and lowering of the grade on this street. It was agreed that lowering the grade would be in the best interest of traffic safety, as a vertical curve would be eliminated which caused sight distance problems. Also, it was agreed that widening Brackettown Road to thirty feet (30') would be desirable.

Approval for these modifications was made at staff level by the Department of Planning, as they were considered minor revisions to the original approved plan. At this time, there was no discussion about bringing Brackettown Road to a T-intersection with White Pine Drive, as it was assumed that this would be implemented by the developer pursuant to the recommendation of City Council on

December 22, 1987. As of August 25, 1988, no efforts have been made to realign Brackettstown Road to a T-intersection with White Pine Drive.

In addition to improvements to Brackettstown Road, the City Council recommended that White Pine Drive be widened to accommodate an additional lane, from Brackettstown Road to the International House of Pancakes. If the developer was required to do this work a construction plan for the widening should have been submitted to the Department of Public Works for review and compliance with our street construction standards and specifications. To date, the Department of Public Works has not received any plans for the widening of White Pine Drive, nor have we received plans for the T-connection of Brackettstown Road to White Pine Drive which must also be approved by this office.

Finally, with regard to traffic signalization on Tunnel Road at White Pine Drive, the N. C. Department of Transportation has approved a protected left-turn phase from Tunnel Road onto White Pine. In a telephone conversation this morning with Mr. K. J. Putnam, Division Traffic Engineer with N.C.D.O.T., Mr. Putnam indicated that modifications to the signal equipment, to include the protected left-turn phase, would be completed within the next thirty (30) days. To initiate this work, the Department of Transportation has already marked the location of detector loops on Tunnel Road, for the new left-turn phase.

MEMORANDUM TO: Bill Slawter, City Attorney

FROM: Tom Tarrant

City Engineering Coordinator

DATE: August 26, 1988

SUBJECT: Asheville Mall Site - Erosion Control History

Provisional Permit No. 412, Grading Permit No.

637

On December 18, 1986, the grading plan indicating the erosion control measures was approved and the Provisional Permit was issued. By January 9, 1987, the erosion control measures had been installed, inspected and the grading permit issued.

From that date until July 19, 1988 only minor problems occurred and were addressed upon receipt of inspection reports. On July 19, 1988, it became necessary to issue a Notice of Violation concerning site maintenance and they took corrective action within the time frame granted. On July 25, 1988, another Notice of Violation was issued for grading an area not covered by the approved plan and therefore the permit. (The Buffer Area Between the Theaters and The New Parking Deck) This Notice of Violation required a revised plan and additional erosion control measures to protect the property owners along White Pine Drive. They provided both within the time frame allotted. This does not constitute a site plan revision approval; but corrects a grading error. On August 29, 1988, another Notice of Violation was issued concerning site maintenance and should be received soon with corrections to take place within five (5) days of receipt.

For several months, we have tried to get a non-permitted waste site under permit, that has been used by the Mall's contractor. Certified mail to the property owner in Atlanta was returned, so last week the contractor for the

Mall was directed cease waste activities and did so.

On August 25, 1988, the Mall was sent another Notice of Violation about the waste site with respect to Section 9 of the Ordinance. Their contractor and consultant, were also contacted by phone concerning the non-permitted site and at 4:00 p.m. of August 25, 1988, the consultant delivered a grading plan with the measures

to be installed.

WTT,IV/bgd

Patty Tallerday, Acting Director of Planning, reviewed the following letter to R. L. Coleman, developer of the Asheville Mall based on the above reports:

August 30, 1988

Mr. R. L. Coleman Jr.

R. L. Coleman and Company

394 Merrimon Avenue

Asheville, North Carolina 28804

Dear Mr. Coleman:

Recent inspections of the construction of the Asheville Mall expansion have raised the following concerns:

1. A condition of the site plan approval by the City

Council on December 22, 1987, was that "the Mall construct a 'T' intersection from Brackettown Road onto White Pine Drive according to City standards and approved by City staff." From the current configuration of the improvements being made, it appears that no provision is being made for that "T" intersection.

2. The site plan approval also provides that "White Pine

Drive be widened from Brackettown Road to the International House of Pancakes Inc. (IHOP)." If this widening is scheduled for future construction, prior to issuance of the Certificate of Occupancy, this point would become moot.

3. Brackettown Road has been widened beyond the width

provided for in the site plan. Planning staff did previously approve a widening from 24 feet to 30 feet, but the current width measures approximately 38 feet. The main concern, of course, relates to the width at the intersection of White Pine Drive, and the number of lanes of traffic at that point. The site plan which was approved provides for only one lane of traffic in each direction on Brackettown Road. The City Traffic Engineer has further determined that White Pine Drive cannot safely accommodate two lanes of travel exiting from Brackettown Road.

4. There has been grading which infringes in two separate

areas of the buffer zone as shown on the approved site plan. One of these areas is located behind the new Penney's building, and the other is in the area of the Moseley property.

5. The area of grading behind the new Penney's building

resulted in the destruction of numerous existing trees. The site plan which was approved did not provide for the removal of any trees in that area. Replacement of these trees will be necessary in order to restore compliance with the site plan.

6. The site plan approval includes as a contingency the

approval by staff of your lighting plans. Our records indicate that a plan was submitted; however, we do not have any record of approval of that plan.

7. The site plan approval also requires staff approval of

the landscape plan. Our records indicate that the landscape plan was not submitted for staff approval. It appears that the primary problem with both the landscaping plan now being reviewed and the lighting plan is that they would have been based upon the existence of trees which have now been removed from the area behind Penneys. A new landscaping plan should be submitted addressing the replacement of the trees and the concerns raised in Julia Cogburn's letter of August 12, 1988.

8. A large quantity of silt has been allowed entry into

the drainage system at the Mall site due to the lack of protection provided at inlets. As you are aware, there have been problems in the past with the storm drainage,

and this can only make the problem worse.

We consider each of the foregoing items to be an essential component of the site plan as approved by City Council. Since a Certificate of Occupancy for the project cannot be issued until the site plan has been completed in accordance with the site plan

as approved, it would seem to be in everyone's best interest that these points be addressed right away. We look forward to hearing from you.

Very truly yours,

Patricia Tallerday

Acting Director of Planning

PT:msb

CC: Douglas O. Bean, City Manager

William F. Slawter, City Attorney

Upon inquiry of Councilman Frank, Ms. Tallerday said when the Planning Staff reviews the lighting plan, the staff would review the feasibility of asking the developer to put shades on the lighting in the parking areas where it shines on residences.

Upon inquiry of Councilman Boland, the City Attorney said in connection with the questions raised concerning construction noise at the Asheville Mall, Section 18-12 of the Code of Ordinances restricts construction activities before 7:00 a.m. and after 6:00 p.m. Monday through Saturday and all day on Sunday, but the restriction is only applicable "in a residential district."

This section could, and perhaps should, be amended to

read that the restriction is applicable within close proximity of a residential district. The distance would have to be defined in the ordinance.

Ms. Tallerday and Al Kopf, at the request of Councilman Boland, said they would review the landscaping plan in detail as far as buffering and drainage is concerned.

Councilman Price requested that the landscaping and lighting plan and staff's recommendations be shown to members of Council.

Ms. Tallerday said the staff would be continuously monitoring the progress of the construction to assure compliance with all contingencies and ordinances.

Rendell A. Davis, 285 White Pine Drive, President of the Kenilworth Forest Community Association, said in his opinion the city staff reviewed the project from the developer's standpoint rather than the residents. He said the old buffer ordinance which, in his opinion, has not been repealed, contains provisions for noise control during construction projects. He said in his opinion the developer disturbed the natural vegetation in the area which is in violation unless he can hide the development from the residences. He said with the history of problems at the Asheville Mall, if the city staff deals with problems after the fact many times it is too late to do anything about them. He requested a copy of the staff reports presented to members of Council.

Steve Blair, 251 White Pine Drive, said the buffering in its present state does not protect the integrity of the neighborhood. He said the Arbor Association can provide a formula for replacing the large trees that were removed. He said he would also like for the city staff to specifically define to Mr. Coleman, the developer of the Mall, as to exactly what he can and can not do at the site.

Harold Payne of 299 White Pine Drive said in his opinion the city staff has circumvented the original site plan by allowing variances to the plan. Specifically Mr. Payne referred to the widening of Bracketown Road to 38' when it was suppose to be 30' and that the original grading plan said there was to be no grading in the area behind the theatre. He said it seems that these changes would have required approved variances.

Rendell Davis, said the residents would like to go on record to state that they oppose Bracketown Road being a major entrance/exit to the Asheville Mall.

Harold Payne said in past discussions the lighting in front of the theatre was to be directional lighting.

Helen Payne, 299 White Pine Drive, asked what could be done if Mr. Coleman is found in violation of the approved site plan or

any other ordinances.

The City Attorney, responding to Mrs. Payne, said it would depend upon the nature of the violation. He said one ultimate action would be the denial of the certificate of occupancy or a court injunction or restraining order by the courts.

Helen Payne spoke to members of Council relative to the lighting plan not being approved prior to the installation of lights and grading prior to a landscaping plan being approved.

A discussion was held relative to the authority of the Planning Staff to allow the modification of the width of Bracketown Road from 24' to 30.

Mayor Bissette said the City Attorney would like into this authority of the Planning staff.

Councilman Frank and Councilman Martin left the meeting at 6:20 p.m. to go to Charlotte to review their 911 emergency system.

Helen Payne said she felt that if the developer could he would make Bracketown Road the main entrance to the Mall. She said the residents do not want the road to appear to be a commercial area.

Mrs. Dewey Ramsey of 258 White Pine Drive said the residents in the area need some relief from the traffic on White Pine Drive.

Mayor Bissette assured the residents that the city staff would continue to monitor the progress of the expansion project and would enforce all provisions of the approval of the project and all ordinances related to the Mall.

Councilman Bratton told the residents that the city staff would share information relative to the project with the residents.

The City Manager said the City will be establishing a committee to attempt to work out problems and disagreements surrounding the construction of the addition to Asheville Mall. He said the City currently has such a committee working with the neighborhood and Grove Park Inn which has worked very well. He said the committee would be comprised of representatives from the R. L. Coleman Company, Kenilworth Association, the construction company, and the city staff. He said the committee could be beneficial in

circumventing the problems that are now being discussed.

IV. NEW BUSINESS:

A. Sale of Disposal Parcel 7 in the East Riverside
Redevelopment Project.

Mayor Bissette said the Housing Authority has

tentatively accepted the following bid for a certain Disposal Parcel in the East Riverside Redevelopment

Project:

Parcel Reuse Price Bid Redeveloper

7 Residential \$1,000 \$1,000 Jack & William
Stewart

The redevelopers have a contract to purchase the property adjacent to Disposal Parcel 7 on South Grove Street. The adjacent property, 103 South Grove Street, has a residence on it which the redevelopers intend to rent. The proposed improvements on Disposal Parcel 7 consist of landscaping for assemblage with 103 S. Grove Street.

Councilman Boland moved to approve the sale of Disposal Parcel 7 as recommended

by the Housing Authority. This motion was seconded by Councilman Price and carried

unanimously.

V. CONSENT:

A. Bids for estimated annual requirement for 5/8" and 1" water meters.

SUMMARY: Award of bids for the estimated annual

requirement of 5,100 each 5/8 inch and 100 each 1 inch water meters is recommended to the low bidder, Neptune Water Meter Company, Tallassee, Alabama in the net amount of \$86,400.00 for "Trident 10" water

meters.

B. Resolution No. 88-137 - Resolution authorizing the City

Manager to enter into agreements necessary to conduct the French Broad Riverfest and authorizing the City Manager to temporarily close a portion of Riverside Drive for the French Broad Riverfest to be held on

Saturday, September 10, 1988, and Sunday, September 11,

1988.

SUMMARY: The City of Asheville and the French Broad

River Foundation, Inc., will be sponsoring the French Broad Riverfest to be held on Saturday, September 10, 1988, and Sunday, September 11, 1988. It is necessary to establish agreements between these sponsors and various landowners of property whereon the Riverfest will be held. It is also necessary to temporarily close a portion of Riverside Drive from its intersection with West Haywood Street south to its intersection with Clingman

Avenue.

Resolution Book No. 17 Page No. 229

C. Motion to cancel Regular City Council Meeting

scheduled for September 6, 1988.

D. Scheduling public hearing relative to the adoption of an

ordinance establishing the Thomas Wolfe Mem. as historic

property for September 20, 1988.

SUMMARY: Plans for a Thomas Wolfe visitors center

will be developed later this year and designation will give the City a review authority highly desirable considering the

recent history of the project.

E. Scheduling public hearing relative to the adoption of an

ordinance establishing the City Hall Bldg. as historic property for September 20, 1988.

SUMMARY: Plans for a major rehabilitation of the

City Building are now being drafted. The Historic Resources Commission Director is already been given ample opportunity to express preservation concerns and sees no major problems with the direction of the project; however, the more formalized review designation would be more desirable and appropriate - the City setting an example with this most significant

building.

F. Scheduling public hearing relative to an ordinance

zoning Oteen property annexed into the City Limits

August 31, 1988 for September 20, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on

August 17, 1988 reviewed and recommended zoning for the Oteen Property which was annexed into

the City Limits on August 31, 1988.

G. Resolution No. 88-138 - Resolution appointing member to

Planning and Zoning Commission.

SUMMARY: This resolution will appoint Pat Hutchison

as a member of the Planning and Zoning

Commission to replace Ed Dyson

Resolution Book No. 17 Page No. 230

Upon motion of Councilman Bratton, seconded by

Councilman Boland, the consent agenda was unanimously

approved.

OTHER BUSINESS:

RIGHT OF WAY AGREEMENTS - N. C. DEPARTMENT OF TRANSPORTATION - BROADWAY PROJECT

At the request of the City Manager, Councilman Bratton moved to authorize the Mayor to sign a right-of-way agreement and two easements for the improvement of Broadway from W. T. Weaver Blvd. to Catawba Street. This motion was seconded by Councilman Price and carried unanimously.

Councilman Price said she would like to see the plans for the Broadway project.

SETTLEMENT OF CLAIM - CARL WILEY

Councilman Price moved to authorize the City Manager to sign a claim settlement

relative to Carl Wiley. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - CHAD WEBB (SEWER) - HORACE BUCKNER (WATER) - KENT LOMINAC (PARKS) - PHYLLIS PENDLETON (TRAFFIC ENGINEERING)

The City Manager presented claims received from Chad Webb, Horace Buckner, Kent Lominac, and Phyllis Pendleton.

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

COUNCILMAN BRATTON - COMPLAINT RELATIVE TO SASSAFRAS STREET

Councilman Bratton commended the City Attorney for his work on the complaint from a resident on Sassafras Street in a

timely manner.

PAT RITCHIE - FLETCHER COMMUNITY IMPROVEMENT COMMITTEE- REQUEST FOR RESOLUTION SUPPORTING THE INCORPORATION OF THE TOWN OF FLETCHER

Pat Ritchie, 49 Wildwood, Chairperson for the Fletcher Community Improvement Committee, in Henderson County, again spoke to members of Council requesting a resolution supporting the incorporation of the Town of Fletcher.

Upon inquiry of Ms. Ritchie, Mayor Bisette said the city staff would have a report on their request in two (2) weeks and she could expect a vote from Council on the proposed resolution.

Ms. Ritchie made the following presentation:

To: Mayor and Asheville City Council 8/30/88

Last week I came before this Council to ask for a resolution to allow Fletcher to incorporate. Today I am back with many residents and to speak for the many others who are unable to stand here and speak to you.

The following remarks are directed to Vice Mayor Michalove and Councilman Martin. Your comments last week upset many Henderson County residents, in fact, your remarks insulted a lot of people. You left people feeling that you promote big government as best. You also left the impression that we are not capable of governing ourselves.

In closing let me say that people in Henderson County think that this council has a very simple decision. YES, you will give Fletcher a resolution to incorporate, or NO, you will not give us a resolution because you intend to annex into Henderson County. Let me say again that a NO will be construed as plans to annex into Henderson County because there is no other reason to deny Fletcher to incorporate.

I once again respectfully request a resolution to allow Fletcher to incorporate.

Ms. Ritchie invited members of Council to a Town Meeting in Fletcher on Thursday, September 1, 1988 at 7:30 p.m. She said if any member would like to come early the residents would be happy to take them on a tour of Fletcher.

Mayor Bisette commented that the City of Asheville has no plans for Asheville

to annex into Henderson County. He said it was his hope that the residents of Fletcher have reasons for an incorporation other than the fact that they do not want to be a part of Asheville's corporate boundaries.

Robert Davie, Past President of the Wildwood Homeowners Association, spoke against Asheville annexing into Henderson County. He said there is no reason for anyone to annex the Fletcher community since the residents have all the services they need. He said cities should not abuse the annexation process. He requested that the City Council draw the line for annexation at the existing border.

Tom Akers of 48 Wildwood, said he just recently moved into the Fletcher community and moved there for the quality of the area. He said he would oppose any annexation of the Fletcher community.

Mayor Bisette commented that many good things are happening in Asheville and it was a good place to live. He said the City of Asheville uses the same method of annexation as other cities in

North Carolina. He said a reasonable annexation process is necessary. He said Asheville has not annexed as much as other cities in North Carolina. However, in order to remain one of the larger cities of North Carolina the City has to remain a certain size and many times that is done through annexation.

Jeff Allison of Jones Road in Fletcher, said he lives next to the County line. He said if Asheville does not intend to annex the Fletcher community why did a Buncombe County Planner say that Asheville was going to annex the Fletcher area. He said a Henderson County Deputy had reported that he seen maps in the Police Department showing where Asheville had plans to annex.

Mayor Bisette said he had heard this before and would like to talk to the Buncombe County Planner and Henderson County Deputy that made those statements.

Pat Ritchie presented Mayor Bisette with a letter from Frank M. Zuch, 11 Golden Oaks Lane, Fletcher, North Carolina, who could not attend the meeting. (The letter is on file in the Office of the City Clerk)

ADJOURNMENT:

Mayor Bisette adjourned the meeting at 7:00 p.m.

MAYOR CITY CLERK
