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Tuesday - November 1, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice Mayor Kenneth M.

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

Absent: Councilman Walter Boland

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF THE MINUTES

Mayor Bissette announced the approval of the minutes of the October 25, 1988.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to Downtown Design Review.

Ordinance No. 1727 - Ordinance Creating Article 6A of the Code of Ordinance Providing Standards for Design Review Affecting Property in and near Downtown Asheville

Mayor Bissette said Downtown Asheville is recognized as a

special place to be protected as a community resource because it represents an important part of Asheville's heritage and because its unusual character creates an identity for Asheville. Downtown Asheville is also the major center of business and cultural activity. This ordinance will establish boundaries of the Downtown Design Review Area and will authorize the Planning and Zoning Commission to establish guidelines for new

construction and rehabilitation in the Downtown Design Review Area. All construction work requiring a building permit, sign permit, or zoning review or a variance must be submitted to the Planning and Zoning Commission for review prior to the issuance of the permit. Routine maintenance will not be subject to review, but procedures

for cleaning and painting buildings must be reviewed.

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 of the public hearing and the affidavit of publication.

City Attorney Bill Slawter said the ordinance drafts the downtown review guidelines and authorizes the Planning and Zoning Commission to divide the downtown into three (3) sections - Core Area, Gateway Corridors, and Periphery - and to establish different guidelines for each of these areas. He said the ordinance will also permit the Planning and Zoning Commission to establish development review standards and guidelines for each area within the Downtown

Design Review Area as they may find appropriate for building permits.

Mr. Slawter said every application for a building permit and other improvements will require a review by the Planning and Zoning Commission regarding those improvements prior to the issuance of any building permit. However, he said, if a building permit is not required, the proposed improvement must still be reviewed.

Mr. Slawter said on those projects subject to group development review, design review would be performed as the project goes through the Group Development process, and the Planning and Zoning Commission would make recommendations with regard to design review at that time. However, on those projects not subject to group development review, he said the Planning and Zoning Commission would review the application at its first regularly scheduled meeting immediately following the filing of the application, so the applicant wouldn't have to wait for a public hearing to be scheduled.

Mr. Slawter said all construction work requiring a building permit, sign permit, zoning review or a variance must be submitted to the Planning and Zoning Commission for review prior to the issuance of any permit. He said routine maintenance would not be subject to the review, but that procedures for cleaning buildings such as sandblasting and painting buildings must be reviewed.

Mr. Slawter said the final recommendations with regard to design review are not mandatory at this time, but that all projects must go through the process.

In response to a question from Vice Mayor Michalove, Mike

Moser, Chairman of the Planning and Zoning Commission, said the Commission felt it might be best if a project met all the guidelines to let it proceed through the system without having to go before the Planning and Zoning Commission. He said if the project did not meet all the

guidelines, it would have to go through the Planning and Zoning Commission hearing. However, he said the Legal staff had indicated a problem with this process, and that all projects would have to go through the process.

City Attorney Bill Slawter said the problem with this approach would be when staff and the applicant disagree.

Bob Carr, Chairman of the Downtown Commission, spoke in favor of the design review process and said the Commission had worked on the guidelines for 2 years. He said the guidelines have the potential for enhancing downtown Asheville.

Mike Moser, Chairman of the Planning and Zoning Commission, said the Commission is very enthusiastic about the guidelines and they are consistent with the 2010 Plan. He said the Commission does want voluntary compliance from the downtown businesses. However, he said the Commission would be monitoring the guideline process on a quarterly basis for the next year in order to determine whether or not to recommend to Council that the guidelines become mandatory. He said some of the things the Commission would be looking at during their quarterly review would be ratio for compliance, costs and problems with specific areas of the guidelines. He said at the end of a year if the Commission sees non-voluntary compliance, then the Commission may make a recommendation to City Council that the guidelines become mandatory. He said it was the intent of the Commission to make the guidelines easy and simple so that people could understand them, so the staff could assist them, and so people wouldn't have to hire an architect.

Mark Rosenstein, Chairman of the Asheville Downtown Association, said after the Association had distributed the proposed guidelines to its 150 members, they polled the membership and the response they received was that they were in favor of and supported the guidelines. He said only three members of the Association did not respond.

Carroll Hughes, Chairman of the Downtown Design Review Committee, said the Council had charged the Committee with the responsibility of bringing back a consensus-backed project, which he said he felt the Committee had done. He said the response from the downtown businesses had generally been that they had no real problem with the document itself, but did have some concern with the

implementation of the guidelines. He said he hoped Council would approve the guidelines in order to get the process going for the betterment of Downtown Asheville.

Verne Rhoades, Trustee at Wachovia Bank and owner of property in Downtown Asheville, said he thought the guidelines will enhance property in Downtown Asheville. He said he felt the guidelines should be mandatory.

Don Martell said he had come to Asheville about a year ago and had purchased the Penney's building. He said he had been working with his architect and wants to abide by the downtown design review process. He encouraged Council to adopt the guidelines.

Doug Campbell, Architect, said his office had been located in Downtown Asheville for the past 4-1/2 years. He said he very strongly supports the review process and also supports making the guidelines mandatory. He said mandatory guidelines would be in the best interest of Asheville and would help to make a more viable downtown. He said the downtown area of any city is something people can relate to and is something they always want to show off when they have out-of-town guests. He said the City needs design review in order to protect and preserve downtown. He said it would be in the City's best interest not to let people build anything until they could afford to conform with the guidelines.

Pat McGuire, Chairman of the Streetscape Committee, said she wholeheartedly supported the design review guidelines and would like to see them become mandatory.

Roger McGuire, Co-Owner of 60 Haywood Street, spoke in favor of the design review process. He said the guidelines would make our downtown area more livable and beautiful.

All members of Council voiced their support for the guidelines and also their support in hiring the necessary staff to implement and enforce the guidelines.

Mayor Bissette closed the public hearing at 4:47 P.M.

Mayor Bissette and Council Members commended Carroll Hughes and the Design Review Committee on presenting City Council with a producing a document that was approved and supported by a consensus of the downtown property owners.

Mayor Bissette said this ordinance was previously

distributed to Members of Council and would not be read in its entirety.

Councilman Bratton moved for the adoption Ordinance No. 1727. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1727 passed on first reading.

Vice Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1727. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1727 passed on

second reading.

B. Public Hearing - Ordinance No. 1728, an ordinance amending

Zoning Ordinance No. 322, Section 30-5-6, R-5 Residential

District, Subparagraph (A) to permit Home Occupations.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 21, 1988 reviewed and recommended approval of the proposed wording amendment which would permit home occupations in the R-5

Residential District.

Mayor Bissette opened the public hearing at 4:50 P.M.

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

Patty Tallerday, Acting Director of Planning, said the home occupation use is permitted in the R-2, R-3, and R-4 Districts and that this use was inadvertently left out of the R-5 District when the Zoning Ordinance was revised in 1977.

Mayor Bissette closed the public hearing at 4:53 P.M.

Mayor Bissette said this ordinance was previously distributed to Members of Council and would not be read in its entirety.

Councilman Martin moved for the adoption of Ordinance No. 1728. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1728 passed on first reading.

Vice Mayor Michalove moved to suspend the rules and proceed with the second reading of Ordinance No. 1728. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1728 passed on second reading.

Vice Mayor Michalove again moved to suspend the rules and proceed with the third reading of Ordinance No. 1728. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1728 passed on third reading and final reading.

Ordinance Book No. 11, Pages 385 and 386

C. Public Hearing - Ordinance No. 1729, an ordinance amending

Ordinance No. 322, an ordinance providing for the zoning of the City of Asheville (Rezoning Property at 92 Congress

Street - Petitioner - Dr. John Holt, et al)

Mayor Bissette said the Asheville Planning and Zoning Commission on October 5, 1988, reviewed and recommended approval of rezoning Ward 4, Sheet 11, Lots 34, 34-1/4, and 278, from R-3 Residential District to OI Office Institutional District. (Property is located at 92 Congress Street, Livingston Street and Pine Grove Avenue).

Carol Alberice of the Planning Department said this is a request to rezone 3 lots from R-3 Residential District to OI Office Institutional District. She said the lots proposed for rezoning are bordered on the North by R-3 low density, on the South by R-3 medium density, on the West by R-3 medium density, and on the East by OI Office Institutional. She said the Buffering Ordinance would require a 12' buffer strip of trees facing Congress Street. She said there is also a public alley, which is overgrown and runs between Lots 34 and 278.

Ms. Alberice said 18 property owners were notified of the proposed rezoning and public hearing. She said a protest petition had been received, but was disqualified because only two (2) of the people who signed the petition actually lived within a 100-foot radius of the proposed rezoning.

By use of a video, Ms. Alberice showed the property to be rezoned.

Dr. Holt said the purpose for requesting the rezoning is that he plans to establish an office facility. He said

the community would benefit from a value standpoint, as well as a beautification point of view. He said he would also benefit personally since the move would take him out of a high rent area and put him in a facility in which he would have some equity.

Councilman Bratton said Dr. Holt and his wife have demonstrated their interest in the southside area of town by maintaining their home and business in the area. She said it was their choice to stay on Erskine Street and raise their family. She said Dr. Holt and his wife had made a personal contribution to the area, and she would be happy to support the rezoning request.

Mr. Richard Cooper, Owner of 90 Congress Street, said his renter could not be at the meeting today, but had asked him to come and request that the hearing be postponed so Council could hear his case.

Mayor Bissette explained that the ordinance would have to be read on two more occasions and this would provide time for Mr. Cooper's renter to voice their opposition.

Matthew Bacoate, Chairman of the Victoria Health Care Center, said he was very familiar with Dr. Holt and his practice. He said most of Dr. Holt's patients live in and around his proposed new office. He said most of Dr. Holt's patients travel by cab so this would not have an adverse impact on traffic in the area. Mr. Bacoate requested that Council act favorably on Dr. Holt's request.

Upon inquiry of Councilman Price, Ms. Tallerday said Dr. Holt is aware of the parking requirements for the new facility.

Mayor Bissette closed the public hearing at 5:14 P.M.

Vice Mayor Michalove requested that he be excused from voting on this matter due to the company he works for (Mountain Health Services) owning property in the area.

Councilman Price moved to excuse Vice Mayor Michalove from voting on the rezoning issue. This motion was seconded by Councilman Bratton and carried unanimously.

Mayor Bissette said copies of this ordinance were previously distributed to Members of Council and the ordinance would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance

No. 1729. This motion was seconded by Councilman Price.

On a roll call vote of 5-0, Ordinance No. 1729 passed on first reading.

Mayor Bissette said this ordinance would be scheduled for second reading next and Mr. Cooper or anyone else would be welcome to be heard.

D. Public Hearing - Ordinance No. 1729, an ordinance amending

Ordinance No. 322, an ordinance providing for the zoning of the City of Asheville (Rezoning Property on North Louisiana Avenue - Petitioner - Ms. Jeanne Y. Palyok)

Mayor Bissette said the Asheville Planning and Zoning Commission on October 5, 1988, reviewed and recommended approval of rezoning Ward 12, Sheet 7, Lot 92, from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette opened the public hearing at 5:15 P.M.

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

publication.

Carol Alberice of the Planning Department said the proposed rezoning is for a single lot which is currently zoned R-3 Residential District. She said the lot is owned by Jeanne Palyok of Columbia, South Carolina. She said the lot is located on N. Louisiana Avenue south of the railroad tracks. She said there is a vacant, abandoned structure on the lot. She said the lot is bordered on the North by Commercial zoning, the West by Light Industrial, the East by Commercial Highway, and the South by R-3 Residential District.

Ms. Alberice said a 20-foot buffer would be required between the Commercial Highway property line and the R-3 property line. She said six (6) property owners were notified of the hearing and the proposed rezoning, but that no comments have been received.

Mayor Bissette closed the public hearing at 5:24 P.M.

Mayor Bissette said copies of this ordinance were previously distributed to Members of Council and the ordinance would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1730. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1730 passed on first reading.

III. OLD BUSINESS:

A. Resolution No. 88-155 - Resolution repealing free parking

with City stickers in the Civic Center Garage.

Mayor Bissette said this resolution will repeal Resolution No. 78-16 which was adopted on January 26, 1978, and permitted free parking with City stickers in the Civic Center Garage. The repeal would be effective January 1, 1989.

City Manager Doug Bean said Council adopted an ordinance several weeks ago whereby the vehicle tax is paid with the annual tax bills since it is classified by the State as a tax.

Mayor Bissette said copies of this resolution were previously distributed to Members of Council, and the resolution would not be read in its entirety.

Upon motion of Councilman Martin, seconded by Councilman Price, Resolution No. 88-155 was unanimously adopted.

Resolution Book No. 17, Page 248

B. MOTION - AUTHORIZING CITY MANAGER TO DISTRIBUTE \$5.00

WORTH OF COUPONS FOR FREE PARKING IN ANY CITY-

OWNED/OPERATED GARAGE

City Manager Doug Bean said in doing away with the sticker, he felt the city should do something different to promote use of the parking garages. He said staff has come up with the idea of mailing \$5.00 coupons to city residents that could be used in any of the parking decks and not just the Civic Center. He said this would be a pilot program for one year at which time, the program would be evaluated and a recommendation presented to the Council. He said it was felt that if we give free parking and the people get used to using the garages, they will keep using them after the program is stopped. He said we would lose a little bit of revenue in the beginning, but hopefully would pick it back up again. He said the coupons could be used any time, and this would simplify the system and make it easier to

administer.

Councilman Frank moved to authorize the City Manager to distribute \$5.00 worth of coupons for free parking, which could be used in any city-owned/operated garage at any time. This motion was seconded by Vice Mayor Michalove and carried

unanimously.

IV. NEW BUSINESS:

A. Ordinance No. 1731 - An ordinance amending Section 19A-1

and 19A-11 of the Code of Ordinances of the City of

Asheville (Grievance Procedure)

Mayor Bisette said this ordinance will amend Sections 19A-1 and Section 19A-11 of the Code of Ordinances of the City of Asheville relative to the Grievance Procedure.

City Manager Doug Bean said Section 19A-1 is being amended to clarify procedures for hearing group grievances because meeting with large groups can make it almost impossible to meet time deadlines of the present ordinance. This amendment would allow a department head and him the flexibility to meet with a group of employees if he/she so desires; however, it would clarify that it is not a requirement of the grievance procedure. Section 19A-11 will clarify who the department head must confer with prior to rendering a decision on a grievance as opposed to who must actually attend the grievance conference. Section 19A-11 also eliminates the time allotted for the City Manager to render his decision provided the conference is held within 10 days after the appeal is received by the City Clerk.

Mayor Bisette said copies of this ordinance were previously distributed to Members of Council, and the ordinance would not be read in its entirety.

Vice Mayor Michalove moved for the adoption of Ordinance No. 1731. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1731 passed on first reading.

Vice Mayor Michalove moved to suspend the rules and proceed with the second reading of the ordinance. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1731 passed on second reading.

B. Sign permit for freestanding identification sign to be

located on Merrimon Avenue for Texaco, Inc.

Mayor Bisette said Signs Unlimited of Charlotte, N. C. has requested approval of a sign permit for a 35' on-premises advertising sign and three (3) canopy signs to be located at I-240 and Merrimon Avenue. This permit requires approval of Council since the sign will be situated closer than 600' from a limited access highway.

Patty Tallerday, Acting Director of Planning, said the 35' freestanding sign will replace the current "TOPS" sign at the service station across from the exit ramp off I-240 at Merrimon Avenue. In addition to the freestanding sign, she said there will also be three (3) canopy signs. She said the Board of Adjustment had granted the variance needed for the third canopy sign since the ordinance only permitted two canopy signs.

Mr. Dennis Taylor of Signs Unlimited said the free-standing sign would be 160 square feet with 30" lettering and 32" logo. Mr. Taylor said the new Texaco Station needed the 35-foot free-standing sign in order to be competitive with other stations in the immediate vicinity.

Councilman Price moved to approve a sign permit for a 35-foot freestanding identification sign and three (3) canopy signs as requested by Signs Unlimited. This motion was seconded by Vice Mayor Michalove and carried unanimously.

C. Sign permit for freestanding identification sign to be located on Patton Avenue for a Mini Storage Company.

Mayor Bissette said the Crawford Sign Company has requested approval of a sign permit for a 38' advertising sign to be located at 600 Patton Avenue near the I-240 and Westwood Place intersection. This permit requires approval of Council since the sign will be situated closer than 600' from a limited access highway.

Patty Tallerday, Acting Director of Planning, said this is a request for an on-premise sign to be

located at 600 Patton Avenue, which is a vacant lot proposed for development by George Morosani. She said because this was a request for an electronic intermittent sign, the request had to go before the Board of

Adjustment. She said the Board of Adjustment denied the request at its first hearing, but heard the request again when additional evidence was presented. She said the Board of Adjustment approved the request at the last hearing.

Ms. Tallerday said the exact location of the sign on the lot could not be given at this time, since there was a possibility that Mr. Morosani could acquire some additional property belonging to the N. C. Department of Transportation. She said Mr. Morosani would prefer to locate the sign on this property if it could be acquired from the Department of Transportation.

Mr. David Matney, Attorney for Mr. Morosani, said Mr. Morosani is trying to acquire the property from the Department of Transportation. He said it was his hope that the Council would only consider the issue before them, which is a request for a sign permit because the sign will be situated within 600 feet of a limited access highway. He said his client meets the requirements of the existing ordinance in every other way. He said the sign will flash a one-line message.

Mr. Matney said a question had been raised by staff concerning safety. He said he had been able to locate three (3) articles addressing the issue of safety as it relates to intermittent signs. Basically, he said, he could find no correlation in the increase of traffic accidents and these type signs. He said he had also checked with the Department of Transportation on a 5-mile stretch of highway for a 4-year period. He said the lowest number of accidents was in the mile that had an intermittent sign.

There was a discussion among the Council concerning the proposed development for mini-storage units by Mr. Morosani, the proposed grading and proposed height of the development, and the possibility of considering the request at the same time the group development comes before the Council.

Mr. Morosani said the reason for requesting the sign prior to development is to tell people what is going to be there and to help build up the new business. He said with the sign it would take 3-5 years to

build up the business instead of 5-7 years.

Vice Mayor Michalove moved to table the request for the sign permit for two (2) weeks to give Council Members an opportunity to make an on-site visit. This motion was seconded by Councilman Bratton and carried unanimously.

Mr. Matney said if Council Members would give him a call, he would make arrangements for individual tours.

D. Resolution authorizing the City Manager to execute an

**agreement with the Land of Sky Regional Council for
transportation services.**

Mayor Bisette said the Land-of-Sky Regional Council operates to provide planning and technical services to local governments in Region B. This resolution will authorize the City Manager to execute a contract with the Land-of-Sky Regional Council for transportation planning assistance for the period October 15, 1988, and ending June 30, 1990.

City Manager Doug Bean said at the present time, there is a vacancy in the Transportation Planner position and transportation planning was one item that could be contracted out. He said this would allow other staff members to concentrate on the more integrated issues that need to be kept in-house. He said the \$140,000 is for a 2-year contract, but the City would only pay for the actual amount of time spent on services provided under the contract. He said some of the costs will be reimbursed by the State of North Carolina.

There was a discussion among the Council relative to term of the contract, the termination clause, the specific tasks to be performed, and the language of the contract relative to cost.

The City Manager said he would renegotiate the contract addressing the concerns voiced by the Council and would reschedule the matter for Council's

consideration.

V. CONSENT

Mayor Bisette summarized the items on the Consent Agenda. He

said copies of each item had previously been distributed to Members of Council and that the resolutions would not be read in their entirety.

A. Resolution No. 88-156 - Resolution authorizing the Mayor

and City Clerk of the City of Asheville to execute a utility agreement with the North Carolina Department of Transportation for improvements to Highway N.C. 63, from

U.S. 19-23 to the City Limits.

SUMMARY: The N. C. Department of Transportation and

the City of Asheville propose to enter into an agreement whereby said Department will include in its construction contract provisions to relocate and adjust certain water and sewer lines along the project. The City of Asheville agrees to reimburse the Department of Transportation for the cost of the work, with reimbursement to be made in a lump sum amount upon completion

of Project No. 9.8130211.

Resolution Book No. 17, Page 249

B. Resolution No. 88-157 - Resolution authorizing the Mayor

and City Clerk of the City of Asheville to execute a utility agreement with the North Carolina Department of Transportation for improvements to SR 1781, Broadway

Avenue from I-240 to US 19-23 in Asheville.

SUMMARY: This is a Municipal Utility Agreement

between the North Carolina Department Transportation and the City of Asheville to include in the North Carolina Department of Transportation construction contract provisions to relocate and adjust certain water and sewer lines along the above named

highway improvement project.

Resolution Book No. 17, Page 250

C. Scheduling of public hearing relative to an ordinance

amending Zoning Ordinance No. 322, Article II, Amendments,

Section 30-11-5 for November 15, 1988.

SUMMARY: The Asheville Planning and Zoning

Commission on September 21, 1988, discussed the need to amend the Asheville Zoning Ordinance to bring it into compliance with State Statutes regarding vested rights of individuals holding building permits when amendments are made to the Zoning Ordinance. An ordinance is attached for

your consideration.

D. Resolution No. 88-158 - Resolution adopting a Streetscape

Plan for the City of Asheville.

SUMMARY: The Streetscape Task Force has researched

and considered the streetscape and pedestrian environment of downtown and a working paper of the plan was presented to Council as feasible and appropriate. Several studies of the downtown have indicated that improving the appearance of the downtown is desperately needed and will help to stimulate economic development in the downtown. The City Council reviewed the plan on October 11, 1988, and approved the plan in concept. This resolution will formalize that action.

Resolution Book N. 17, Page 251

Upon motion of Vice Mayor Michalove, seconded by

Councilman Bratton, the Consent Agenda was unanimously adopted.

VI. OTHER BUSINESS:

CLAIMS - JUDY BLANKENSHIP (WATER), JEFF BLAYLOCK (SANITATION), PATSY YOUNG (TRANSIT AUTHORITY), RUDY URBANEC (SEWER), JOHN GUILLEBEAUX (SANITATION), AND CARTER MITCHELL (PARKING SERVICES)

The City Manager presented claims received from Judy Blankenship, Jeff Blaylock, Patsy Young, Rudy Urbanec, John Guillebeaux, and Carter Mitchell.

Mayor Bissette referred the claims to the City Attorney

for investigation and recommendation.

ADJOURNMENT:

Upon motion of Councilman Frank, seconded by Councilman Bratton, the meeting adjourned at 6:45 P.M.

MAYOR CITY CLERK
