

Thursday - March 27, 1997 - 5:00 p.m.

Continuation of Unified Development Ordinance Public Hearing on Text from March 26, 1997

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson

Absent: Councilman Thomas G. Sellers; City Manager James L. Westbrook Jr.

Mayor Martin reconvened the public hearing on the text of the UDO at 5:00 p.m. He said presentations by the public shall be limited to no more than 10 minutes for the main spokesperson for a group and no more than three minutes for other individuals. Additional information may be conveyed to the City Council in written form.

Ms. Glenda Burgin, 599 Old Toll Road, addressed the section dealing with the resort district - Sec. 7-8-12. The neighbors in the area are concerned about the zoning in the area being changed from residential to resort but will address that at the public hearing on the mapping. She said that in Sec. 7-8-12 F 13 in the "Transition Area", it reads in part "Within one hundred (100) feet of a residentially zoned area, restrictions shall be placed on the (it did say type), height and location of uses other than those permitted in the adjacent residential zone." She was concerned that the word "type" was deleted. She noted that in resort areas you can have bars, restaurants and all kinds of things that are not very appropriate to a residential area. There is already have a traffic problem in that area and if the zoning will be changed, they will have much more of a traffic problem. Those who have property adjoining the land of the Grove Park Inn realize that 100 feet is not very far. He felt that her property values will diminish drastically.

Mr. Dennis King, 616 Old Toll Road, shared Ms. Burgin's concern about the deletion of the word "type" in that transitional area in Sec. 7-8-12 F 13. He asked if in that transition area will the residents be offered any kind of protection for our property. He felt the word "type" should be reinserted.

Mr. Gerald Green, Senior Planner, explained that the Planning & Zoning Commission, during their review of the UDO, was made aware of the concerns of some of the residents around the Grove Park Inn with regard to the listing of uses in the resort district and also some of the mapping. The mapping has been adjusted from those map which were shown at the community meeting based on concerns expressed by some of the residents. The listing of uses within the resort district has also been amended to state that many of those uses, restaurants, bars, nightclubs, book stores, health and fitness centers, etc. must be an accessory use to the principle use. The reason the word "type" was deleted in the transition area is that we list the uses that are not permitted within the transition area. Those include restaurants, bars and nightclubs, stables, facilities for mechanical equipment, and maintenance facilities. That is a revised text and he would be happy to make available that revised text for anyone interested.

Upon inquiry of Ms. Burgin, Mr. Green said that the piece of property across Macon Avenue is owned by the Grove Park Inn and they requested that all their property be zoned resort.

Mr. Joe Adams, President of the Grove Park Sunset Homeowners Association, expressed concerns regarding the rezoning of what is now single-family to single-family with duplexes which, to our way is thinking, is not single-family at all. Speaking personally, he supported the editorial in today's paper with regard to setting up specific meetings to address individual issues of the UDO so that members of the public can understand what is being actually decided. He hoped that the City will be able to allow for multi-family housing as well as maintaining the single-family residential areas that now exist.

Mayor Martin said that there is only 7% of the property available in the City to build so Council has to be careful to zone each area to be sure that we do have affordable housing while trying to do the utmost to be fair.

Mr. Mike Lewis stated that conditional use is not defined in the glossary. In Sec. 7-8-2 E needed to be clarified instead of just saying "Level III projects (residential)." He suggested 7-11-2 D 9 Figure 11-13 be changed because if, under the UDO, the drawing is inappropriate, then why is it in the text.

Ms. Alison Berkey, representative of the Beaverdam Community Council and the people of Beaverdam Valley in North Asheville, said that the Beaverdam Community Council, which was formed in 1979, to assure the continued residential nature of Beaverdam Valley has met to discuss the zoning changes as they affect Beaverdam. They have heard from both City and County residents in their area and their opinion seems to be of one voice still, which is to keep Beaverdam Valley residential. This was also the unanimous vote our of Council meeting on March 20, 1997, and from the feedback they've been getting from the community, there is no perceived need among the current Beaverdam Valley residents for opening the door to commercial development of any kind. We have easy quick access to grocery and other shopping just a couple of miles down the road and any commercial development on Beaverdam Road would only serve to add congestion to the area. It would also change the long history of quiet, residential and rural activity in our part of town. They urged the City planners to delete any change to Beaverdam zoning which would allow commercial development in Beaverdam. She presented Council with a copy of a letter dated March 25, 1997, to the Honorable Russ Martin.

Councilman Cloninger said that this will be an issue Council will be taking up during the mapping stage. He encouraged Ms. Berkey to come to the mapping public hearings on April 23 and 24, 1997, beginning at 5:00 p.m. in the Civic Center Banquet Room.

Mr. Ed Stoll, City employee who handles single-family plan review in the Building Safety Department, voiced concern that some of the definitions in the UDO conflict with definitions in the State Building Code.

Mr. Green said that some of the comments addressed by Mr. Stoll were received from the Chief Building Inspector and the Fire Chief and are revisions are being made. He did ask Mr. Stoll to furnish his comments in writing just to be sure that all his concerns are addressed and changes are made prior to final adoption. Mr. Green stated that since the UDO draft was completed in 1995 and has been available for comments since then from City departments. The Building Safety Department and the Fire Department have submitted comments and those revisions have been made.

Ms. Anne Campbell, Crowfields Drive resident, said it has been difficult for her to get through the UDO. She didn't see speculative -3-

grading being address in general in the UDO. She was concerned with staff approval of smaller site plans because you can have just as many problems impinging on the neighbors coming from a smaller development as you can from a

big one. She could find nothing in the UDO (except for light specifications) regarding light impinging on established neighborhoods.

Ms. Bea Polak, Kimberly Avenue resident, encouraged Council to delay adoption on the UDO text. She was surprised to hear that all areas designated residential will allow family care homes. Also in the RS-4 neighborhoods, child day care, adult day care and bed and breakfasts will be allowed. Most of the people she has spoken with who live in the RS-4 areas have not been aware of this change. They understood that their status would not change at all under the new UDO specifications. The residents need more time to understand the document from their personal points of interest.

Mr. Green said that bed and breakfasts are not permitted in RS-4, however, they are allowed in multi-family districts. Family care homes are permitted basically because federal regulations state that we can't restrict them, and that is the same as under our existing zoning ordinance. Day care is the only change.

Ms. Beth Maczka, Director of the Affordable Housing Coalition, said that the Coalition formally recommends that Council eliminate the distinction between single versus multi-family housing. There should not be a distinction and further segregation of people by class or income by designating single versus multi-family. We do appreciate the provisions to have accessory apartments, duplexes and quadraplexes. She addressed the myth of single-family neighborhoods. If you look at the maps, it is the rare exception that neighborhoods are purely single-family. Most of the neighborhoods developed in the 1920's were developed as mixed-use neighborhoods. She also addressed the myth that single-family means home ownership and multi-family means rental. In fact a lot of single-family homes can be rental and multi-family homes can be condos. Not everybody can afford a single-family house and she felt we needed to think creatively about using multi-family dwellings for home ownership and have strategies to promote that. She felt that Asheville could have the highest rate of home ownership in the state if they incorporate multi-family (duplexes, triplexes, quadraplexes and accessory apartments) into all residential areas.

Upon inquiry of Ms. Maczka, Vice-Mayor Field said that an analysis of vacant land is in the 2010 Plan which was printed in 1987, which showed that 7% of the land in Asheville was buildable.

Ms. Maczka felt that Asheville needs to have an analysis of what the vacant land is being mapped. She mentioned an analysis which shows that there has been a dramatic decrease of density of near downtown neighborhoods since 1970. She felt we could do a lot of creative in-fill housing and we have the land to use that. She presented Council with an analysis prepared by the Affordable Housing Coalition of rental increases in 24 area apartment complexes during 1995-1997 which showed that the average apartments gross percentage change was an average of 13.9% over two years. She mentioned that Edgewood Knoll went up between 19.5-27.4% in the last two years. This is a critical crush on our rentals and when you have that kind of vacancy rates, rents skyrocket. She challenged anyone to prove that property values have declined with the presence of multi-family housing or public housing. She questioned why is it necessary to dictate between Sec. 7-9-4 which is owner occupant manufactured housing and Sec. 7-9-5 which is rental community -4-

manufactured housing. Her understanding is that zoning should not dictate between the type of ownership.

City Attorney Oast said that he would be glad to look at Ms. Maczka's concern about the legality of dictating the zoning between rental and home ownership and report back to City Council.

Ms. Maczka suggested that staff prepare a one page key point list of items Council would like comments on.

Ms. Connie Duncan, President of Redwood Forest Homeowners Association, felt that the problem between rental vs. home ownership could possibly be enforcement of the building codes. She has a problem unit in their housing development and asked who she should contact in the City to make sure basic improvements are made. It's not just in the trailer parks that something can fall through the system. She felt the problem was enforcement and perhaps the City needs more inspectors. With regard to the single-family districts, she was in favor of the different classifications as listed. She asked if duplexes, triplexes and quadraplexes as permitted uses will be added in a neighborhood, whether they simply reflect what is already built, or do they represent a push to change the neighborhood. She guessed that these structures already exist. If that is the case, then we have another district type - mixed use. She felt that we should be honest in labeling so that the person who moves to Asheville knows exactly where they should look for the type housing they're interested in.

Councilman Worley said that Ms. Duncan should contact the Building Safety Department for an inspection of the unit she spoke about.

Ms. Karen Cragolin, Director of RiverLink and recovering UDO addict, said that she was surprised when people saying that they haven't had a chance to comment on the UDO because it has been going on for over eight years. What RiverLink visions on the river is a bright future. We see that as the next frontier for sustainable economic development and some wonderful things are happening there as a result of partnerships. We do see the riverfront as being mixed use and that is what is being proposed in the UDO. She briefed Council on the wonderful things happening on the riverfront. She felt it was time to begin to think of planning in our community as something that is ongoing. People should think of the UDO as a living document and as a platform to continue discussing critical issues in the community. She felt this ordinance needed to be adopted and then continue the community dialog.

Mr. Benson Slosman said that he has worked on the UDO since it was first formed. He felt that mixed use is really mixed use. Mixed use the way it is interpreted now is really restrictive use. In order for the river to ever become a reality, it has to be a partnership between the land owners, the environmentalists and the public in general and that was why it was created as mixed use. It specified the things that are prohibited and everything else was allowed. When the asphalt plant came along, the philosophy changed. He has no problem with the river UDO except for that one change. As long as that one change is in there, the property owners will not support the UDO. You will not be able to create a harmonized riverfront without the cooperation of everyone. He urged Council to bring it back to the way the UDO was originally formed.

Mr. Jim Barrett said that he is a resident in Montford, member of the Fair Housing Commission, community member of the Affordable Housing Coalition and an attorney with 10 years or more experience in housing law. He believed that the UDO is needed to combine City ordinances pertaining to development and streamline the process. These comments -5-

are not personal but are made with whatever expertise he has in order to improve the document and subsequent rezoning for the benefit of all of Asheville's citizens and ensure that it complies with state and federal laws. To the extent that changes have not been made to the UDO to increase affordable housing, he believed they have not been adopted because of our social conditioning, rather than sound policy. Of course there is time for Council to improve it - that's why we hold these hearings.

Mr. Barrett said the Fair Housing Plan was adopted by City Council in May of 1996. The purpose of the Fair Housing Plan is to help the City and County to further fair housing opportunities. That is to increase housing opportunities for classes of citizens which are protected by law and policy. Federal law prohibits not only intentional housing discrimination against people due to their race, sex, familial status, etc., but also against actions that have a "disproportionate impact" on protected classes. The federal law also prohibits actions that tend to perpetuate patterns of housing segregation.

Mr. Barrett said that you are probably aware that African Americans are disproportionately poor in our City. Lower income people are much more likely to rent their homes. We know that a disproportionately high number of African Americans rent their homes. People who are disabled and low income families with children may be disproportionately poor and have to rent also. City policies which limit or restrict affordable housing opportunities for the poor are likely to disproportionately affect those protected class members. Such policies can violate fair housing laws and policy. More importantly, such policies inhibit lower income people's efforts to become self-sufficient and to provide for their families. Such policies could tend to confine African Americans to existing neighborhoods where they live now, thus perpetuating historic patterns of housing segregation in violation of the law.

He said that he knows this Council is attempting to do what is best for all of Asheville citizens, not just to the most vocal among us. However, Council members and Planning staff seem to have experienced extreme political pressure from certain segments of the community. Past and present Council members have bowed to similar political pressure to such a degree that it has become extremely difficult to develop multi-family or any affordable housing in the City.

This trend which has continued for several years has serious social and legal implications. Catering to the public's fears has set

up a cycle of protectionism and prejudice against tenants. First, one section of town seeks "protection" by zoning, and then another. No wonder the UDO seeks to de-politicize some multi-family development issues. It is too bad that this must be done. It would be better if everyone could have all the comments about how the development could occur. He urged City Council to set the threshold as high as possible to keep the politics out of as many of these decisions as possible.

The effects of your decisions are far-reaching. The effects of disproportionate impact discrimination, even though it's not intentional, can be more harmful to protected classes than isolated instances of intentional discrimination. Even the denial of development of new multi-family housing for middle-class people and upper-middle class people tightens the rental market for lower income people. For example, students at UNC-A take rental housing that was once available to African Americans in Montford. Rents for many renters are increasing much faster than inflation because of the tight rental market. These

-6-

are dollars that are going a lot of times to out of town landlords and their dollars that our people cannot spend in the community.

The UDO residential zoning classifications seem to perpetuate and exacerbate class and race prejudices. Homeowners in areas with proposed multi-family classification are envious of homeowners in proposed single family classification areas. The current classifications also fall short of the 2010 Plan goals and objectives for promoting more dense housing to allow for more green space. Certainly the UDO falls short of the 2010 Plan goals and

objectives regarding promoting affordable housing for all of Asheville's citizens. And it falls short of the objectives Council adopted in the Fair Housing Plan.

Unfortunately the true impact of the UDO on affordable housing and discriminatory impact on protected classes in Asheville is not very evident until the mapping is analyzed. You have to see the use of the property on the ground and the vacant land that is adjacent to it. The failure to zone and set aside vacant property for multi-family housing in most areas of the City was striking when I examined the maps. Failure to plan for present and future needs for affordable housing is really astounding in this market. The City has received a recent report showing that hundreds of affordable units are needed to be added to the housing stock for the next several years in order to meet the need. Without new construction of rental housing, middle-class tenants are crowding out lower income tenants in the City.

Mr. Barrett said that it is his professional opinion that many of the proposed UDO provisions and mapping decisions will have an adverse discriminatory impact on African Americans and other protected class members. Certainly they will have an adverse impact on the poor and other citizens as housing costs escalate. The law of supply and demand is at work in the housing market too. For example, wouldn't it be reasonable to add a realistic inclusionary zoning mechanism to the UDO. When will we have a better opportunity to involve private developers in the development of affordable housing?

He said that Council may not be aware of fair housing laws prohibiting discriminatory impact and perpetuating segregation. He just wanted to raise these red flags for Council before the ordinance is passed. He said that he would submit his proposals for specific language changes next week.

Mr. Bruce Moss, property owner on Leicester Highway, said that his property is currently zoned Commercial Service. Under the UDO, the zoning will revert back to residential. He has borrowed money against the property being appraised for its commercial worth and if it's rezoned residential, his property will probably devalue in a 30-35% range.

Councilman Worley suggested Mr. Moss attend the mapping public hearings which will be held on April 23 and 24, 1997, beginning at 5:00 p.m. in the Banquet Room of the Civic Center.

Mr. David Gould said that he read the UDO and what he didn't see in it was a procedure for rezoning or for where a neighborhood could request a rezoning for whatever reason, including lack of infrastructure. His neighborhood has a petition which contains several hundred names to seek to have the R-3 zoning changed, but during this transitional period, he's not sure how to proceed with this petition.

Councilman Worley said the procedure for rezoning is the same under the UDO as it is under our existing ordinances. Any property -7-

owner can initiate a rezoning on his or her own property. The Planning Director, the Planning & Zoning Commission or City Council can initiate a rezoning. The term "initiate" means that you have an absolute right to go to a hearing before Planning & Zoning and have a vote before the Planning & Zoning Commission and then take that to City Council for final action. In addition to that, a group of property owners within an area can file a petition to request City Council to initiate a zoning study of that area. It takes 51% of the property owners owning 51% of the property and the issue of whether or not the zoning study would be undertaken is still discretionary on the part of City Council. As a practical matter with City Council in the transition period, the

best thing is to approach the mapping process of the UDO with your request.

Mr. Brian Peterson, West Asheville homeowners, spoke on behalf of affordable housing. The homeowners and residents have legitimate concerns that need to be considered, such as property values, traffic, and aesthetics. He does feel that those concerns can be balanced with the need to provide affordable housing. He did not support dividing up the residential districts by single-family and multi-family. He feels that it's fine to have some mix. If Council can find ways to address the above mentioned concerns, then he felt the neighborhoods would be supportive of allowing more multi-family. He had a general disagreement with the view that the 2010 Plan is taken - the areas closer to the City should be multi-family and areas further out should be single-family. He felt that staff has done a good job in the efforts with the planned unit developments to provide the density bonus incentives to developers that offer some affordable housing. However, he did not think that the 10% density bonus is not enough incentive. He felt that the requirements that the duplexes, quadraplexes and triplexes have to be located a minimum of 500 feet from other multi-family uses and that they have to have that double, triple and quadruple lot size is not reasonable. It appears to say in one part of the text that duplexes and quadraplexes will be allowed and then in other parts of the text it makes it impossible to build those units. If Council is being genuine about allowing duplexes and quadraplexes in residential areas, then those requirements need to be changed.

Upon inquiry of Ms. Duncan, Mr. Green said the limitations on the number of persons in an adult day care and the child day care homes were based on the state standard regulations of day care homes and day care centers. Regarding family care homes, the limitations were based on definitions from other ordinances across the state and federal regulations on existing ordinances here in the City. Those standards are set for those type facilities - we do not use a sliding scale regardless of the size of the facility.

When Ms. Duncan asked about ease in finding particular topics in the UDO once adopted, Councilman Worley stated that once the UDO is adopted, it will become a part of the Code of Ordinances which will have a good index system.

Ms. Burgin said that she was very much in favor of more multi-family. She said that in the Grove Park area, they have apartments, duplexes and single-family and they get along fine. She reiterated that her point was resort coming into that kind of neighborhood, encroaching and bringing more things that are not good neighborhoods - no matter whether you're multi-family or single-family.

Mayor Martin said since Councilman Sellers will not be at the April 3, 1997, meeting which was scheduled for final adoption of the UDO text. Therefore, it was the consensus of Council to proceed with the public hearing on April 3, but postpone adoption of the UDO text until -8-

Thursday, April 10, 1997. A place for the meeting of April 10 will be discussed at the April 3 meeting.

At 6:50 p.m., Mayor Martin recessed the meeting until April 3, 1996, at 5:00 p.m. in the Banquet Room of the Civic Center Commission.

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CITY CLERK MAYOR

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