

Tuesday - October 5, 1999 - 3:00 p.m.

Worksession

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor Edward C. Hay Jr.; Councilman Earl Cobb; Councilwoman Barbara Field (arrived at 3:05 p.m.); Councilman Thomas G. Sellers; and Councilman O.T. Tomes (arrived at 3:35 p.m.); City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman M. Charles Cloninger

CONSENT:

Fire Safety House Donation

Summary: The consideration of a resolution accepting a trailer-mounted "fire Safety House" donated by the Asheville Firefighters Association.

The Asheville Firefighters Association, a voluntary association that represents Asheville firefighters, conducts periodic fundraising activities, the funds from which are used to help promote community safety from fire. Over the past ten years, the Association has purchased literally hundreds of smoke detectors for free distribution to people who couldn't otherwise afford them.

The Association has acquired a "Fire Safety House"--a reduced-size mock-up of a house mounted on a trailer--that is used to help train children in fire safety techniques, like "Get Low in Smoke," "Stop, Drop and Roll" and "Learn Not to Burn." The Association would like to donate this Fire Safety House to the City of Asheville for use by the Asheville Fire Department in expanding its public fire safety education outreach activities.

Because the Fire Safety House was designed and built for this purpose, maintenance costs are expected to be nominal. No new vehicles would be required--the Fire Department has a vehicle with sufficient towing capacity to convey the Fire Safety House from school to school.

If the City were to pursue acquiring a Fire Safety House on its own, acquisition cost would be approximately \$25,000.

The Fire Chief recommends that the City Council adopt a resolution authorizing the City Manager to accept the donation of a Fire Safety House to the City of Asheville by the Asheville Firefighters Association.

Set Public Hearing for Closing Portion of Spruce Street from Eagle Street to South Market Street for November 9, 1999

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

UDO AMENDMENT REVIEW

City Attorney Oast said that these Unified Development Ordinance amendments are being brought before City Council in order that staff may respond to questions Council may have prior to the public hearings, which are scheduled on Tuesday, October 12, 1999. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

Change the area required for public notification for Certificates of Appropriateness for projects

Senior Planner Gerald Green said that this is the consideration of an ordinance to amend the Unified Development Ordinance to change the area required for public notification for Certificates of Appropriateness for projects.

The Planning and Zoning Commission, at their September 1, 1999, meeting, reviewed and recommended approval of an amendment to the Unified Development Ordinance which would revise the notification requirements for public hearings held to receive input on requests for Major Work Certificates of Appropriateness. The public hearings are held by the Historic Resources Commission prior to making a decision regarding the issuance of the Certificate of Appropriateness. The current ordinance requires notification of all owners of property located within 400 feet of the property for which the Certificate of Appropriateness is requested. The proposed amendment would require the following notification:

- For public hearings to consider requests for Certificates of Appropriateness (CA) for new construction, owners of property located within 400 feet of the property for which the CA is requested shall be notified. (No change)
- For public hearings to consider requests for all other major work Certificates of Appropriateness, owners of property located within 150 feet of the property for which the CA is requested shall be notified. (Change from current requirement of 400 feet)
- For the Biltmore Village and Albemarle Park Local Historic Districts, notification of public hearings to consider requests for CA's for major work (excluding new construction) shall be provided to all property owners in the local historic districts. (Currently no requirement for notification of all property owners in these historic districts).

No changes are proposed in the notification requirements for CA requests for new construction. The proposed changes would affect notification of public hearings for CA's for projects such as additions, major landscape projects, addition of windows and/or doors, construction of small outbuildings, etc. The proposed change in notification requirements was requested by the Historic Resources Commission.

The Asheville Planning and Zoning Commission voted 5 to 0 to recommend approval of the wording amendment. The Historic Resources Commission voted unanimously to recommend approval of the amendment. The Planning and Development staff recommends approval of the amendment.

Establish as minor works those projects related to locally designated historic landmarks for the purpose of downtown design review

Urban Planner Mike Matteson said that this is the consideration of an amendment to the Unified Development Ordinance which establishes all work related to Local Historic Landmark buildings and properties as minor works for the purposes of downtown design review.

This wording amendment is designed to streamline the review process for work related to Local Historic Landmark properties which are also located within the Downtown Design Review boundaries.

The Historic Resources Commission (HRC) reviews all changes to Local Historic Landmark properties throughout the county for compliance with the Secretary of the Interior's -3-

Standards for Rehabilitation. HRC's design review process, and compliance with the standards, is mandatory. There are a number of Local Historic Landmark properties which are located downtown, and

therefore are subject to review under the City's Downtown Design Review process as well as HRC review.

Downtown Design Review Major Works Projects are reviewed by the Downtown Commission while Downtown Design Review Minor Works Projects are reviewed by staff. Both major works projects and minor works projects are reviewed for compliance with the Downtown Design Review Guidelines.

This ordinance amendment establishes all work related to landmark buildings and properties as minor works projects for the purposes of Downtown Design Review, thus eliminating the need for review by two separate commissions.

At their September 1, 1999, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of this proposed wording amendment.

Head of Montford Transition Overlay District and application of that district to 9 lots on Montford Avenue, Hill Street and Gudger Street

Urban Planner Mike Matteson said that this is the consideration of an amendment to the Unified Development Ordinance to consider the adoption of the Head of Montford Transition Overlay District as well as the application of this overlay district to nine lots at the "Head of Montford".

In late July, the Planning and Development Department received a rezoning application from the Asheville Area Chamber of Commerce for a 4.3 acre site (including 9 individual tax lots) at the Head of Montford.

The initial request was to rezone the property, which is currently zoned a combination of Community Business I, Office and RM-8 to Community Business II.

After examining the rezoning request, staff felt that certain uses would be very appropriate for the site, but that some of the uses permitted in the Community Business II zoning district could be detrimental to the surrounding community. Therefore, staff suggested that the Chamber of Commerce amend its request to ask that a Transition Overlay District be developed and applied to the site. The benefit of such an overlay district is that it can address the unique characteristics of a given area and define more clearly the type of development which will occur. The Chamber agreed to amend their rezoning request as suggested.

In developing the Transition Overlay District, staff first prepared a study of the area which documents its characteristics and describes how a Transition Overlay District can best address the issues.

The preparation of the overlay district involved significant input from both the Chamber of Commerce and the Montford community. A community meeting was held on September 15, 1999, at the Montford Center at which the overlay district was presented and additional input from the community was received.

The Head of Montford Transition Overlay District is designed to guide future development in a way that is beneficial to the immediate area, the Montford community and the City as a whole. The overlay district permits a relatively narrow range of uses and establishes development standards designed to promote compatibility with the historic context of the area and to minimize negative impacts of future development. -4-

City Council is asked to first consider the ordinance amendment to create the Head of Montford Transition Overlay District and then to consider the application of the overlay district to the properties in question.

At their September 22, 1999, meeting, the Planning and Zoning Commission voted unanimously to recommended approval of both the ordinance amendment creating the Head of Montford Transition Overlay District and the application of the overlay district to the properties in question.

The Planning and Development Department staff is also recommending approval of both the ordinance

amendment and the application of the overlay district.

Mr. Matteson answered various questions from Council regarding these amendments.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to proceed with the public hearings on October 12, 1999.

REQUIREMENT FOR RECEPTACLES FOR DISPOSAL OF CIGARETTE BUTTS

City Attorney Bob Oast said that Mayor Sitnick had requested that he draft an ordinance requiring businesses to provide receptacles for the disposal of smoking material

The indiscriminate disposal of cigar and cigarette butts in the public areas of the City harms the appearance of the City, is contrary to the public welfare, and is not always adequately addressed by litter laws. The proposed ordinance would require businesses that have one or more outside entrances, whether for the public or for employees only, directly abutting or within ten feet of a public street, sidewalk, right-of-way, or public or private common area, to provide at each such entrance a receptacle for the disposal of smoking materials.

If Council wishes to require receptacles for disposal of cigarette butts, cigar butts, or other smoking material, adoption of the ordinance is recommended.

Upon inquiry of Councilwoman Field relative to the North Carolina handicapped accessibility requirement, City Attorney Oast said that the ordinance is drafted in such a way that the receptacle could be provided at or near the entrance. He said that if the business placed the receptacle inside the establishment, he felt that would satisfy the purposes of the ordinance. He said that that he could a provision in the ordinance that suggests that alternative means may be provided where necessary to comply with building code requirements or handicapped accessibility requirements.

Vice-Mayor Hay was concerned about whether the City should regulate the litter on private property. City Attorney Oast said that the City does regulate a lot of activity that does occur on private property, such as building codes, but it will create an enforcement burden for staff.

Mayor Sitnick said that she didn't feel that the public necessarily discerns the difference between public and private property when it comes to litter.

Councilman Cobb wondered if the City should provide the standardized receptacles if they would not be cost prohibitive. Councilwoman Field responded that most businesses would not want the City to tell them what kind of receptacles they should have.

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Mayor Sitnick noted that a number of years ago Quality Forward (who is very much in favor of this ordinance) bought a number of concrete square planters with sand in them and distributed them. However, since that time, owners have changed and businesses have opened and closed and the planters are no longer around.

After discussion about the penalty for violation of the ordinance, it was the consensus of City Council to have the violation be a \$10 civil penalty.

Vice-Mayor Hay felt that we should draw the line, in terms of what we require, where our responsibilities are, which is to keep the streets clean. He felt it would be great if we could encourage, rather than require, businesses to have receptacles on their private property. City Attorney Oast responded that since we have an active anti-litter campaign, that would be the appropriate place to add language to that effect.

Upon direction of Council, City Attorney Oast reviewed the changes to the ordinance which include: (1) the removal of private common areas language; (2) making sure this requirement does not conflict with the NC State Building Code or the Handicapped Access Code; and (3) changing violation of the ordinance to a \$10 civil penalty.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

CITY COUNCIL/STAFF RETREAT

It was the consensus of City Council to hold its annual retreat to identify the key service and budget issues for Fiscal Year 2000-2001 on January 28-30, 2000, at Highland Lake Inn and Conference Center in Flat Rock, North Carolina. Discussion also centered around the possibility of only having the retreat for two days, depending on the agenda.

Mayor Sitnick said that she would appoint three members of Council to work with the City Manager on the agenda.

UPCOMING CITY COUNCIL MEETING DATES

It was the consensus of City Council to amend it's meeting schedule as follows: November 2, 1999 worksession be rescheduled to November 3, 1999; November 9, 1999 - formal; November 16, 1999 - worksession; November 23, 1999 - formal; November 30, 1999 - community meeting at the West Asheville Community Center; December 7, 1999 - formal; December 14, 1999 - worksession; December 21, 1999 - formal; December 28, 1999 - cancel; January 4, 2000 - cancel; January 11, 2000 - formal; January 18, 2000 - worksession; and January 25, 2000 - formal. The meeting dates thereafter will continue to be a worksession on the first and third Tuesdays of each month, formal meetings on the second and fourth Tuesdays of each month, and a community meeting on the fifth Tuesday of any month.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

REPORTS ON BOARDS/COMMISSIONS

Vice-Mayor Hay reported that the Boards and Commissions Committee met and reviewed the next quarterly appointment process. He also said that the City Clerk would be developing a reappointment application in which current members would not have to reapply if -6-

they are interested in reappointment, however, they can update their initial application if they so choose.

It was the consensus of City Council to have City staff research a request from the Chamber of Commerce and the Economic Development Commission Chair about designating a portion of funding from the City's current contribution to the Chamber of Commerce being designated to the Economic Development Commission.

ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 4:15 p.m.

CITY CLERK MAYOR
