

Tuesday – September 25, 2001 - 5:00 p.m.

Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; Councilwoman Terry Bellamy; Councilwoman Barbara Field; Councilman Edward C. Hay Jr.; Councilman Brian L. Peterson; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; Assistant City Manager Jeffrey B. Richardson; and City Clerk Magdalen Burleson

Absent: City Manager James L. Westbrook Jr.

INVOCATION

Councilman Hay gave the invocation.

RECOGNITIONS

Mayor Sitnick recognized the Ms. Betsy Yarborough and her 6th Grade Class from Carolina Day School.

Mayor Sitnick thanked Ms. Robin Nix, the City's Public Information Coordinator, and Ms. Debbie Welch, Buncombe County's Public Information Officer, for arranging the vigil at the City-County Plaza on September 17, 2001, which honored the people who were missing or dead after the terrorist attacks in New York and Washington on September 11, 2001.

ADDITION TO THE AGENDA

Mayor Sitnick asked that a resolution be placed on Council's agenda after the proclamations..

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER, 2001, AS "ASHEVILLE SYMPHONY MONTH"

Vice-Mayor Cloninger read the proclamation proclaiming September, 2001, as "Asheville Symphony Month" in the City of Asheville. He presented the proclamation to Dr. Robert Hart Baker who briefed City Council on some activities that took place during the month.

B. PROCLAMATION PROCLAIMING SEPTEMBER 24-28, 2001, AS "KIDS VOTING WEEK"

Mayor Sitnick read the proclamation proclaiming September 24-28, 2001, as "Kids Voting Week" in the City of Asheville. She presented the proclamation to Ms. Susan Fisher, Director of Kids Voting – Buncombe County, who briefed City Council on some activities that will take place during the week.

C. PROCLAMATION PROCLAIMING OCTOBER, 2001, AS "ASHEVILLE-BUNCOMBE VISION'S HOW CAN OUR COMMUNITY CREATE AND SUPPORT GOOD JOBS WITH GOOD WAGES MONTH"

Councilwoman Bellamy read the proclamation proclaiming October, 2001, as "Asheville-Buncombe VISION'S How Can our Community Create and Support Good Jobs with Good Wages Month" in the City of Asheville. She presented the proclamation to Ms. Leslie Burnside who briefed City Council on some activities that will take place during the month.

RESOLUTION NO. 01-144 - RESOLUTION CONDEMNING TERRORIST ATTACK AND SUPPORTING PRESIDENT OF THE UNITED STATES (also rescinded Resolution No. 01-143)

Mayor Sitnick said that since she was not at the September 18, 2001, meeting when the resolution regarding condemnation of the terrorist attack and support for the President of the United States was adopted, she wished to rescind her signature on that resolution. Therefore, she moved to adopt the original resolution with the words "cowardly" and "cowards" reinserted as in the original version of the resolution, along with the other amendments approved by City Council on September, 18, 2001. Said resolution rescinds Resolution No. 01-143 which was adopted on September 18, 2001. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

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II. CONSENT:

Councilwoman Bellamy asked that Item D be removed from the Consent Agenda due to a conflict of interest.

Councilman Peterson asked that Items H and I be removed from the Consent Agenda for discussion.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 28, 2001; THE WORKSESSION HELD ON SEPTEMBER 4, 2001; AND THE WORKSESSION HELD ON SEPTEMBER 18, 2001

B. ORDINANCE NO. 2846 - BUDGET AMENDMENT TO THE WATER 35 FUND

Summary: The consideration of a budget amendment to the 35 Fund (Water Major Capital Improvements Fund) to reflect funding for a \$3 million State Grant for Critical Needs Phase III Water System Improvements.

The Authority has been awarded a \$3 million grant from the State of North Carolina for critically needed water system improvements including areas with undersized lines, low pressure problems, and frequent water interruptions. This is the third year in a row that the Authority has received a grant from the State. They were one of the few water systems fortunate enough to receive a \$3 million grant in 1999, a \$2 million grant in 2000, and a \$3 million grant this year. The combined \$8 million will go a long way to help fund the replacement of our aging water system and improve service to locations most in need.

The following improvement projects have been identified as critical needs and will be funded with this grant: North Bear Creek Road, Deavermont Circle, Starnes Cove Road, Old Oak Hill Road, Town Mountain Road/Peach Knob Reservoir, Reed Road, US 70 East (Grovemont), Bull Mountain Road, Burgins Chapel Road, Old Buckeye Cove Road, Flint and Ocala Streets, Short Shiloh Road, June Sayles Road, Vista Street, Allen Avenue, Galax and Holly Streets, Dale and Courtney Streets, Branning Street, Millbrook Road, Worley Place, and Sunrise Drive. Most of these are very old two-inch water lines that need to be upgraded to six inch or larger lines. Construction is tentatively scheduled to start in Spring 2002.

Staff recommends approval of the budget amendment to the 35 Fund.

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C. RESOLUTION NO. 01-145 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE CHERRY STREET FROM MARIGOLD STREET TO SHILOH ROAD AND CALLING FOR A PUBLIC HEARING ON OCTOBER 23, 2001

D. ORDINANCE TO APPROPRIATE FISCAL YEAR 2001 FAIR HOUSING ASSISTANCE PROGRAM GRANT

This item was removed from the Consent Agenda due to a conflict of interest for Councilwoman Bellamy.

E. ORDINANCE NO. 2847 - BUDGET AMENDMENT FROM THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR COMPUTER EQUIPMENT AND TRAINING

Summary: The consideration of a budget amendment, in the amount of \$25,000, to receive grant money from the N. C. Dept. of Environment & Natural Resources (NCDENR) for computer equipment and training.

The City of Asheville Engineering Department requested \$25,000 from NCDENR for training and computer equipment. Staff was successful in obtaining those funds. We received money to purchase five laptop computers and provide training for staff and contractors.

The computers and training will improve the City of Asheville Erosion and Sediment Control Program.

City staff recommends City Council approve the budget amendment to receive grant money from the NCDENR.

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F. RESOLUTION NO. 01-146 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PRECISION CONTRACTING INC. FOR THE GREENWAY AND ROADWAY IMPROVEMENTS ON W.T. WEAVER BOULEVARD

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Precision Contracting, Inc. in the amount of \$635,465 for the greenway and roadway improvements on W.T. Weaver Boulevard.

City of Asheville requested bids for the construction of a new greenway and roadway improvements to W.T. Weaver Boulevard. Three bids were received on August 30, 2001. The bids were as follows:

- Precision Contracting.....\$635,465.00
- Carolina Mountain Construction\$868,227.00
- Taylor and Murphy Construction....\$1,155,476.75

After reviewing the bids, staff recommends that the project be awarded to Precision Contracting in the amount of \$635,465. The Engineer's estimate for this project was \$600,000.

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The City will receive a grant from the N. C. Dept. of Transportation, in the amount of \$195,465, for the cost of the greenway. The roadway portion of the project (\$440,000) is currently budgeted in the City budget.

Precision Contracting is a Certified Minority contractor and met the minority bidding requirements.

City staff recommends City Council authorize the City Manager to execute a contract with Precision Contracting, Inc.

G. RESOLUTION NO. 01-147 - RESOLUTION AUTHORIZING AN ENCROACHMENT AT 401 WEST HAYWOOD STREET

Summary: The consideration of a resolution authorizing an encroachment agreement at 401 West Haywood Street.

The owners of property at 401 West Haywood Street in the Chicken Hill neighborhood recently learned, through a survey, that the house on the property encroaches slightly on the City's right-of-way along West Haywood Street. This encroachment has existed since the house was built, many years ago. The encroachment is minimal, and does not extend into the paved portion of the right-of-way, but stops about 6-8 feet short of the pavement. The encroachment does not interfere with the use of the right-of-way.

The owners are trying to clear up this title issue in order to obtain financing for renovation of the house.

If Council agrees that the encroachment should be permitted, adoption of the resolution is recommended.

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H. RESOLUTION ADOPTING THE AZALEA ROAD PARK MASTER PLAN

This item was removed from the Consent Agenda for further discussion.

I. ORDINANCE AMENDING FISCAL YEAR 2001-02 BUDGET TO PROVIDE FOR CIVIC CENTER FACILITY FEE

This item was removed from the Consent Agenda for further discussion.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolutions and ordinances and the Consent Agenda and they would not be read.

Vice-Mayor Cloninger moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA TO BE DISCUSSED

ORDINANCE NO. 2848 - ORDINANCE TO APPROPRIATE FISCAL YEAR 2001 FAIR HOUSING ASSISTANCE PROGRAM GRANT

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Vice-Mayor Cloninger moved to excuse Councilwoman Bellamy from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously.

Summary: The consideration of a budget amendment, in the amount of \$50,800, for the Fair Housing Assistance Program (FHAP) for Fiscal Year 2001-02.

The City has been carrying out its Fair Housing Program under contract with the Asheville-Buncombe Community Relations Council (ABCRC) and Fair Housing Commission since January 1988, using HUD FHAP funds. The City's Community Development Division serves as Lead Entity and monitors the program.

In August 2001 we received notification of the grant awarded to the City for the current federal fiscal year of 10/1/00-9/30/01. This notification required the City to draw down the funds no later than September 15, 2001. Staff has submitted the necessary paperwork to HUD. It is characteristic of this grant program that we

receive notification of the grant amount near the end of the program year.

A budget ordinance is required in order to receive these funds and subgrant them to ABCRC.

Community Development staff recommends adoption of the ordinance.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2848. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

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RESOLUTION NO. 01-148 - RESOLUTION ADOPTING THE AZALEA ROAD PARK MASTER PLAN

Director of Parks and Recreation Irby Brinson said that this is the consideration of a resolution approving the master plan for Azalea Road Park.

In January, 2001, City Council approved the purchase of 155 acres of property on Azalea Road for the development of a park. The City continued its agreement with Woolpert LLP to enter into the next phase of the contract which included the development of a master plan for the park. A Steering Committee was formed as part of this master plan process which included members of adjacent neighborhoods, potential user groups, and other agencies such as Buncombe County Recreation Services and Blue Ridge Parkway. The process for developing the master plan included two public input sessions and three Steering Committee meetings with Woolpert. A consensus-building process was used to develop the master plan that included ideas generated by the public, Steering Committee, and staff for elements to be included in the park.

This plan represents approximately a \$16 million investment. The consultant and staff are quick to share that this plan will be developed in five phases over at least a 10 to 15 year period. Funding will be from a number of sources including a commitment from the Western North Carolina Soccer Foundation to develop and maintain the soccer facilities.

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The Parks and Recreation Advisory Board and staff recommend City Council approve the master plan for Azalea Road Park.

At the request of Steering Committee member Bette Jackson, Mr. Brinson said that the final Master Plan section would be amended to include specific language that the Steering Committee recommends that Azalea Road be gated.

Mr. Robert Born, member of the Steering Committee and speaking on behalf of the Viewpoint Homeowners Association Board of Directors, agreed that Azalea Road should be closed at Highway 81. In addition, his Association is strongly opposed to any truck traffic that goes through the Azalea Road park area.

Upon inquiry of Councilman Peterson, Mr. Brinson explained that since the WNC Soccer Foundation will be paying for the development and maintenance of the soccer fields, they would have the first right to use the soccer fields for games. The agreement being negotiated with the Soccer Foundation dealing with the financial side of this would be that they would have primary use of the soccer fields, however, the City would reserve the right to use those fields for other reasons. Mr. Brinson pointed out that there are a large number of areas adjacent to the soccer fields that will be seeded and open play areas.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 01-148 adopting the Azalea Road Master Plan. This motion was seconded by Councilwoman Field.

Councilman Peterson moved to amend the motion to add on page 5-2 before the fourth bullet under Final Master Plan that "The Steering Committee recommends Azalea Road be gated." This motion was seconded by Councilwoman Bellamy and carried unanimously.

The original motion, as amended, carried unanimously.

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ORDINANCE NO. 2849 – ORDINANCE AMENDING FISCAL YEAR 2001-02 BUDGET TO PROVIDE FOR CIVIC CENTER FACILITY FEE

Budget Director Ben Durant said that this is the consideration of an ordinance to allow the charging a \$1.00 facility fee for all ticketed entertainment events and a \$0.50 facility fee for all trade show events at the Asheville Civic Center.

The National Basketball Developmental League (NBDL) contract with the City of Asheville makes provisions for the collection of a \$1.00 facility fee. City staff surveyed other civic center and entertainment facilities in the southeast of similar size to determine if they charged a similar fee and if there was a revenue sharing arrangement between the city and event promoters regarding facility fee proceeds.

Seven cities were included in the survey and they are as follows: Roanoke, Virginia; Huntsville, Alabama; Mobile, Alabama; Fayetteville, North Carolina; Spartanburg, South Carolina; and Johnson City, Tennessee. All cities in the survey either collected such a fee or anticipated charging one in the near future. In addition, unless otherwise expressed in a contract, all revenue generated from the facility fee was retained exclusively by the city.

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Based on the results of the survey, staff recommends charging a facility fee of \$1.00 on all entertainment tickets and \$0.50 on all trade show tickets. Staff further recommends that the City retain all revenues generated from this fee unless other contractual provisions have been made. Staff estimates that if implemented for a full year, this fee could provide an additional \$200,000 per year in revenues to the Center.

Staff further recommends this revenue be used in one or more of the following ways:

1. To fund capital maintenance projects;
2. To fund future expenses related to the on-going renovation efforts of the Civic Center Task Force;
3. To reduce the General Fund operating subsidy to the Center.

City staff recommends City Council adopt a \$1.00 facility fee on all entertainment tickets and a fee of \$0.50 on all trade show tickets to be effective immediately after Council adoption.

When Councilman Peterson questioned the immediate effective date, City Attorney Oast said that some issues have been raised about people who have advertised ticket prices in advance of knowing about this facility fee. He said he would research those issues and see what the contractual provisions say. But, rather than exempt them from the ordinance, he recommended Council adopt the ordinance so that the fee will be in place and then he can work with those organizations individually on a contractual and a fairness basis.

Councilman Peterson questioned how the funds will be accounted for in the budget. Mr. Durant explained that there is no firm estimate on what revenue will be produced from this fee at this time. Therefore, staff will monitor the revenues and then once they have a firm estimate, they will come back to Council with a specific plan and it will depend on Council's priorities as to how those expenditure will be made.

Councilman Hay felt the additional revenue, especially in the first year, should be dedicated to specific improvements at the Civic Center.

Councilman Peterson was concerned that the regular tenants had not been informed or involved in this new fee. Mr. Durant said that staff researched what other facilities were charging and then presented that information to the Civic Center Commission. The plan was to get the fee adopted and then inform the affected vendors as to how this might impact their events and make appropriate exceptions as needed.

Councilman Hay said that the Civic Center Commission did recommend that some of the primary tenants be contacted. Civic Center Director David Pisha said that he has contacted some of the Civic Center's major users and cleared up some misconceptions.

Upon inquiry of Councilwoman Bellamy, Mr. Durant said that the anticipated revenue can be used for reducing the subsidy to the Civic Center but that would be entirely up to Council on how they want that additional revenue spent.

At the request of Councilman Peterson, Mr. Durant explained the facility fee with regard to the National Basketball Development League (NBDL) and also why the staff is recommending a flat fee opposed to a percentage fee.

Mr. Fred English felt this was nothing more than a secret tax increase.

Mr. John Patterson, owner of Western Carolina Productions which produces events at the Civic Center, felt that there was not much input solicited from the tenants who use the Civic

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Center. He said attendance at his events are down over the past three years by 28%. If this fee is implemented, attendance in the Civic Center will further deteriorate. He felt there must be other ways to raise fund to renovate the Civic Center.

Dr. Carl Mumpower, Chair of the civic Center Commission, said that the Commission is in support of this fee. The Commission felt it is a good opportunity to target taking care of what we have and they encourage City Council to earmark this money for improving the facility.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Hay moved for the adoption of Ordinance No. 2849. This motion was seconded by Councilwoman Field.

Vice-Mayor Cloninger felt this is a good opportunity for the City to put revenue towards improvements to the Civic Center.

Even though Councilman Peterson felt we need to generate more revenue from the users to provide for improvements to the Civic Center, he would have to vote against the ordinance because he felt the luxury boxes should be paying more than the cheap seats.

Councilwoman Bellamy felt that we are putting steps in place to show our state legislature as well as the community that we are thinking pro-actively about how we are going to fund improvements at the Civic Center.

The motion made by Councilman Hay and seconded by Councilwoman Field carried on a 6-1 vote, with Councilman Peterson voting "no".

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III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING CONDITIONAL USE PERMIT STANDARDS FOR APPROVAL

ORDINANCE NO. 2850 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING CONDITIONAL USE PERMIT STANDARDS FOR APPROVAL

Mayor Sitnick opened the public hearing at 6:22 p.m.

Chief Planner Gerald Green said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to revise the findings for conditional uses. This public hearing was advertised on September 14 and 21, 2001.

The proposed ordinance amendment would revise two of the seven findings that must be made in order for City Council to grant a Conditional Use Permit. The findings currently in the ordinance are based upon wording found in enabling legislation and in ordinances across the state. While these findings are generally adequate to assess the impacts of proposed uses identified as conditional uses, some refinement is needed to assure that the findings address Asheville's unique conditions and meet the goals of the City.

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One issue that has been identified during the review of Conditional Use Permit requests is how the proposed project would impact the natural and topographic features of the site. A proposed revision to finding # 2 would delete the need to find that the proposed use is reasonably necessary for the public health or general welfare. This finding would be revised to require the use or development to be reasonably compatible with significant natural and topographic features on and in the vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant. The proposed revision would reinforce the concern for protecting and maintaining the natural and topographic features that help define the character of the City of Asheville.

The findings currently address the need for the proposed use or development to conform with the City's comprehensive plan. However, there is no requirement that the use or development conform with the City's smart growth policies or sustainable economic development strategic plan. A proposed revision to finding # 5 identifies these policies and plans, noting that the use or development should comply with them.

The proposed revisions provide clear guidance for applicants in preparing applications for Conditional Use Permits and for the City Council in reviewing the requests. With the proposed revisions, the importance of preserving the City's natural and topographic features is made clear. In addition, the role of the City's smart growth policies and sustainable economic development strategic plan in guiding development is reinforced.

At their July 11, 2001, meeting, the Planning and Zoning Commission voted 7 to 0 to recommend approval of the wording amendment revising the findings for conditional uses. The Planning and Development staff recommends approval of the wording amendment.

Upon inquiry of Councilman Peterson, Mr. Green gave examples of mitigation techniques.

Ms. Sharon Martin felt these two amendments go a long way to protect our environment.

Ms. Margaret Shook, 709 Crowfields, urged City Council to strengthen the requirements of the 1997 stormwater ordinance and not wait until March 2003 when the federal government mandates it.

Ms. Elaine Anderson, 711 Crowfield Condominiums, agreed with Ms. Shook in that something need to be done about the water runoff and the ordinance needs to be strengthened.

Mr. Jim Bannon, President of Smart Growth Partners, supported the ordinance changes.

Councilwoman Field suggested the Stormwater Task Force be reconstituted to look at revising the ordinance.

Mayor Sitnick agreed with Councilwoman Field and felt that Ms. Shook would be an excellent member of that Task Force.

Mayor Sitnick closed the public hearing at 6:40 p.m.

Mayor Sitnick said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2850. This motion was seconded by Councilman Worley and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH A NEW URBAN VILLAGE ZONING DISTRICT

ORDINANCE NO. 2851 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH A NEW URBAN VILLAGE ZONING DISTRICT

Mayor Sitnick opened the public hearing at 6:41 p.m.

Planning & Development Director Scott Shuford said that this is consideration of an ordinance to amend the Unified Development Ordinance (UDO) by adding the Urban Village Zoning District. This public hearing was advertised on September 14 and 21, 2001.

As part of City Council's Smart Growth initiative, staff has developed a new zoning district of Urban Village. Staff is expediting its review because there are two property owners who wish to have it applied to their property. The two projects where this new zoning district may be initially applied are the Biltmore Park Town Center, currently under construction, and the former Gerber site.

In preparing this ordinance, staff enlisted a focus group of local design professionals, Smart Growth advocates, and a Planning and Zoning Commissioner to review the original draft ordinance and provide comments.

The Urban Village District is generally intended to be used at the request of a property owner rather than being unilaterally applied to a site by the City. It is a large site zoning district, with a minimum initial property size of 10 acres. Its application will likely be limited to fairly level sites rather hillsides due to the requirement

that the developer create an internal network of streets forming a series of blocks, however, a creative designer may be able to adapt it to a hilly situation.

This internal street network is the key to the Urban Village zoning district. The street network will shape the form that the development takes by providing a series of blocks that organize how the buildings are arranged, provide a place for on-street parking, and create a public sphere for community interaction. Off-street parking generally must be shielded from the street by buildings and incentives are provided for the use of structured parking. In effect, the district's requirements for an internal street system, on-street parking, and building setbacks create a small-scale replica of a traditional downtown.

As in a traditional downtown, there is considerable leeway given to the developer regarding building height (the district calls for most structures to be in a range from two to four stories, but some buildings can be single story and others can be as tall as eight stories), residential density (no formal density limits – the building size and placement will ultimately determine the number of units that can be placed in an Urban Village), on-street parking (the ability to count this parking toward the total parking required for the development), and development review (projects within an Urban Village are considered Level II projects for review purposes). In exchange for this flexibility, the developer must work within the provisions of the ordinance regarding site design and provide a traffic impact analysis.

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The Planning and Zoning Commission voted unanimously to recommend adoption of the ordinance amendment. The Planning and Development Department staff supports the ordinance amendment.

As a result of Council's September 4, 2001, worksession, staff has developed some ideas for determining when revisions to an Urban Village District master plan require reconsideration by City Council. Staff is suggesting that revised Urban Village Districts would require review by Council if:

- There is an increase in overall development intensity.
- There is an increase in overall height.
- There is a decrease in perimeter open space or perimeter parking lot buffering.
- There is a reduction of 25% or more in the number of blocks created by the Urban Village street network.

Staff feels these provisions will address the key impacts to surrounding properties by any revisions to the Urban Village District master plan.

Also, as a result of further discussion at Council's September 18, 2001, worksession, over the issue of reconsideration involved when the mix of uses began to be altered over the course of construction, staff has included a quantifiable (25%) factor in the ordinance.

Ms. Anne Campbell, 102 Crowfields Drive, thought the idea of urban villages was a good one, however, she did have some concerns about the density. She felt that Crowfield Condominiums could be a model if designated as an Urban Village District. She did stress, however, that there is no provision for bus stops and there is a desperate need for a sidewalk on Hendersonville Road from Carolina Day School south.

Mayor Sitnick said that she has sent at least two letters to the N. C. Dept. of Transportation requesting sidewalks on Hendersonville Road, at least south of West Chapel Road.

Ms. Hazel Fobes spoke in favor of the Urban Village District designation.

Ms. Rebecca Campbell, 727 Haywood Road, supported the Urban Village concept. She felt that we did need to retrofit the sprawl in south Asheville and also need to deal with proper mitigation of stormwater.

Mr. Jim Bannon, representing Smart Growth Partners, spoke in support of the Urban Village District and explained why they feel this is a good development pattern for Asheville to adopt.

Mr. Pat Whalen, representing the Sustainable Economic Development Implementation Task Force, felt this new district is a useful tool in our development ordinance.

Mayor Sitnick closed the public hearing at 7:10 p.m.

Mayor Sitnick said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2851. This motion was seconded by Councilwoman Bellamy and carried unanimously.

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C. PUBLIC HEARING TO CONSIDER REZONING PROPERTY LOCATED AT THE NORTHEAST CORNER OF HENDERSONVILLE ROAD AND GERBER ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO URBAN VILLAGE DISTRICT

ORDINANCE NO. 2852 - ORDINANCE TO REZONE PROPERTY LOCATED AT THE NORTHEAST CORNER OF HENDERSONVILLE ROAD AND GERBER ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO URBAN VILLAGE DISTRICT

Mayor Sitnick opened the public hearing at 7:11 p.m.

Urban Planner Alan Glines said that this is consideration of an ordinance to rezone property at the northeast corner of Hendersonville Road and Gerber Road to Urban Village District. This public hearing was advertised on September 14 and 21, 2001.

The property being reviewed is located on Hendersonville Road, which is 23 acres in size and was the site of the former Gerber Plant. This rezoning proposal is for only a portion of the original parcel (PIN No. 9655-09-26-4943) and is bordered by Hendersonville Road and Gerber Road (the property encompasses Gerber Road for a portion of the parcel). The parcel is a likely candidate for the Urban Village District zoning due to its location on Hendersonville Road and its relatively flat topography. The plans of the owner/developer will be a good fit for the Urban Village District. This proposed mixed use project embodies Smart Growth goals by providing higher densities where current infrastructure (roads, water and sewer) already exists. This project will also have the benefit of helping to discourage sprawl by re-developing an in-town brownfield site

He reviewed the master plan for the property which has been submitted. The master plan portrays a network of streets, sidewalks, on-street parking, open space and the building arrangement. The project will be a mixed-use and will have a strong residential component. A majority of buildings will be two to four stories. There will be a commercial node close to Hendersonville Road although commercial activities will be scattered throughout the District. Careful attention has been made to ensure that attractive pedestrian spaces are integrated into the streetscape.

The master plan will be made up of a mixture of the following uses:

- 465 Residential Units
- 100 Tourist Accommodation Units

220,000 gross square feet of retail, restaurant and other consumer commercial space (175,000 square feet net)

- 65,000 square feet of office space
- 20,000 gross square feet of other non-residential space

The property is surrounded by a variety of zoning districts including Industrial to the north, Highway Business across Hendersonville Road to the west, and Commercial Industrial to the east and south adjacent to the railroad tracks.

The site is currently vacant and the property is adequately served by water and sewer.

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The Planning and Zoning Commission voted 6-0 to recommend application of the Urban Village District zoning to property at northeast corner of Hendersonville Road and Gerber Road. The Planning and Development Department staff also recommends application of the Urban Village District zoning to this site formerly known as the Gerber Plant.

Upon inquiry of Councilman Peterson about how much detail they need to submit with their master plan, Mr. Glines said that the first phase drawings are for buildings two and three stories tall. He said that 95% of the buildings will be between 2-4 stories tall for the full development. There will be potentially 5% of the buildings from the build-out will be one story to accommodate the ancillary uses. Planning & Development Director Scott Shuford further explained that Council is approving a building structure range from 1-4 stories in height. If there is anything taller than 4 stories, it would come back to City Council for re-consideration. He said that as long as they develop the property in the block pattern required and as long as they meet the Traffic Impact Analysis and other technical requirements of the ordinance, they would have some flexibility in how they develop the property.

Mr. Herbert Ellis, representing New Hope Presbyterian Church at 3070 Sweeten Creek Road, was concerned about (1) structures over 35 feet in height blocking the Church's view of the mountains; and (2) street lights that are also high enough to spoil the Church's view and might have glaring light directed toward the Church.

Mayor Sitnick closed the public hearing at 7:34 p.m.

In response to Mr. Ellis' concerns, Mr. Shuford said that in all likelihood, the streets will ultimately be public streets and they would have public street lights on it. Also, the railroad right-of-way is quite significant resulting in a much greater setback from the Church property than you would ordinarily see. He suggested Mr. Ellis attend the Technical Review Committee meeting on this project to have some of his concerns addressed.

Mr. Jackson Ward, property owner, said that they are willing to work with the neighbors and they do not intend to build multiple four-story units. They may build a few four-story units to create a diversity in the skyline of the project.

Mayor Sitnick said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2852. This motion was seconded by Councilwoman Bellamy and carried unanimously.

Councilwoman Bellamy felt this is a good development as this project support's our community's initiatives.

At 7:50 p.m., Mayor Sitnick announced a short break.

D. PUBLIC HEARING TO CONSIDER REZONING PROPERTY KNOWN AS BILTMORE FARMS GARDEN HOMES/TOWN CENTER EAST LOCATED IN BILTMORE PARK FROM CENTRAL BUSINESS DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN VILLAGE DISTRICT

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ORDINANCE NO. 2853 - ORDINANCE TO REZONE PROPERTY KNOWN AS BILTMORE FARMS GARDEN HOMES/TOWN CENTER EAST LOCATED IN BILTMORE PARK FROM CENTRAL BUSINESS DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN VILLAGE DISTRICT

Mayor Sitnick opened the public hearing at 8:06 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance to rezone Biltmore Park Town Center from Central Business District (CBD) and RS-8 Residential Single-Family High Density District to Urban Village District. This public hearing was advertised on September 14 and 21, 2001.

The Biltmore Park Town Center area is an urban village already under construction in the Biltmore Park development. It is a fine example of Smart Growth in that it creates a mixed use node that serves the surrounding residential and commercial uses within the Biltmore Park project. Its design establishes a street network that creates public space that promotes community interaction while allowing multimodal access both internally and externally.

Most of this area was recently zoned CBD in the extraterritorial jurisdiction initial zoning because that zoning was the most similar to the development pattern being undertaken by the developer. However, CBD zoning is not an ideal "fit" for the Town Center area because of a variety of factors. CBD zoning, while allowing minimal setbacks, is much more intensive than necessary to accomplish the development goals for this project – there are no height limits other than a requirement that buildings be a minimum of two stories in height, for example. For some of the smaller scale residential uses being proposed, CBD did not match at all due to these types of issues and other zoning districts had to be used in the initial zoning.

The Biltmore Park Town Center is projected to contain the following level of development. Ten to fifteen percent (10-15%) of the project's structures will be one story, 80-85% will be two to four stories in height, and five percent (5%) or less of the buildings will be taller than four stories.

- 290 Residential Units
- 350,000 square feet of Retail, Restaurant, and Other Consumer Commercial Space
- 200,000 square feet of Office Space
- 150,000 square feet of Other Non-Residential Space

The Urban Village District also provides for a mix of uses where the infrastructure is in place to support an urban pattern of development. The Urban Village District is designed to promote an internal street network that creates a public sphere, along with reduced setbacks and flexibility in land use types.

With regard to the zoning pattern, the property is surrounded by a variety of zoning districts consistent with the master plan for Biltmore Park. This site is already under construction as an urban village project. The Town Center area is adequately served by water and sewer.

The Planning and Zoning Commission voted 6-0 to recommend application of the Urban Village District

zoning to the Biltmore Park Town Center. The Planning and Development Department staff also recommends application of the Urban Village District zoning to the Biltmore Park Town Center.

Mr. William Lapsley, consulting engineer representing Biltmore Farms, spoke in support of the rezoning and explained the project area.

Mayor Sitnick closed the public hearing at 8:12 p.m.

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Mayor Sitnick said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2853. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE

E. PUBLIC HEARING TO CONSIDER THE CONDITIONAL USE REZONING FOR 1238 HENDERSONVILLE ROAD, KNOWN AS LAURELWOOD APARTMENTS, FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL USE

ORDINANCE NO. 2854 - ORDINANCE TO REZONE 1238 HENDERSONVILLE HIGHWAY FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL USE

ORDINANCE NO. 2855 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR 1238 HENDERSONVILLE ROAD

Councilman Hay moved to excuse Vice-Mayor Cloninger and Councilman Worley from participating in this matter due to a conflict of interest. This motion was seconded by Councilwoman Field and carried unanimously.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

City Attorney Oast reviewed with Council the conditional use district zoning process by stating that this is a two part process. It requires rezoning, which is a legislative act, and the issuance of a conditional use permit, which is a quasi-judicial site specific act. Even though the public hearing on those two items will be combined, all the testimony needs to be sworn and two votes will need to be taken. The first vote will be to grant the rezoning to the conditional use district category and the second vote will be to issue the conditional use permit. If Council runs into a situation that it votes to rezone, Council doesn't have to issue the conditional use permit on the same night.

After hearing no questions about the procedure, Mayor Sitnick opened the public hearing at 8:18 p.m.

The following Council members disclosed that they had visited the site: Mayor Sitnick, Councilwoman Bellamy and Councilman Peterson. Mayor Sitnick and Councilwoman Field had a conversation with a representative of the owner to let them know this project was coming before Council, however, they have no special knowledge that will affect the decision.

Ms. Stacy Merten, Urban Planner, submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners), City Exhibit 3 (Staff Report dated 9-25-01).

This public hearing was advertised on September 14 and 21, 2001.

Ms. Merten said that this is the consideration of rezoning 1228 Hendersonville Road, known as Laurelwood Apartments, from RM-6 Residential Multi-Family Low Density District to

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RM-16 Residential Multi-Family High Density District, and issuance of a conditional use permit (conditional use zoning).

On August 3, 2001, John Mock submitted plans for a conditional use rezoning for a 31.7 acre parcel located at 1238 Hendersonville Road (PIN No. 9656.09-05-9482). The request is to conditionally rezone the property from RM-6 to RM-16 (CU) to permit construction of a 440 unit multi-family development for a gross density of 13.88 units per acre. The existing zoning allows six units per acre and 190 dwellings could be placed on the property under that zoning.

The property is located in the City's extraterritorial jurisdiction area on the east side of Hendersonville Road approximately .5 miles north of the Blue Ridge Parkway (City Exhibit 3 - location map). Access to the property is via a driveway located to the north of Ballard Appliances and requires the crossing of the Norfolk Southern railroad line that runs behind the business (City Exhibit 4 – copy of site plan).

The site is partially wooded and currently used primarily for agriculture. There are also a limited number of residential dwellings on the property which will be demolished. The project consists of 21 buildings surrounding a central recreational area. The buildings will be three stories in height and consist of 11 with 20 units each, 7 with 22 units and 3 with 24 units. The project site design preserves existing tree canopy on the site to a significant extent. The buildings are clustered on the lower part of the property leaving a large wooded upland entirely intact .

The project has the potential to assist the City with its affordable housing problem. The anticipated rents for these units are accessible to moderate income residents.

The Planning & Zoning Commission and the Police & Fire Departments have identified access to the property as a concern as the property is "landlocked" except for the access across the railroad tracks. The applicant is working with surrounding property owners to obtain a secondary means of ingress and egress to the site. Additionally, the Fire Department recommends but does not require that the buildings be equipped with sprinklers.

This project will create an urban level of density in an area outside of the City's corporate limits. This requires an urban level of public safety services (Fire, Police and Emergency Medical Services). Voluntary annexation in phases would be one means of addressing this concern, although staff is open to considering other options.

The project consists of over 20 buildings of the same architectural style. The repetition of a single building style with little connection to the architectural character of Asheville was also identified as a concern by the Planning & Zoning Commission. However, it was also acknowledged that the affordability of the units must be taken into consideration. The applicant is willing to work with staff to improve the quality of design while keeping the project within an affordable price range.

All of the technical conditions have been met with a few minor exceptions. A Transportation Impact Analysis (TIA) was required for this project and has been reviewed by the City's Traffic Engineer (City Exhibit 5) . The TIA indicates that the nearby signalized intersections will experience slight increases in delay based on this project, but they will still be within acceptable levels. The TIA makes the following recommendations for the site driveway:

1. Construct the site driveway with one ingress lane and two egress lanes, one of which should be a right turn lane with 150 feet of full width storage. The plan includes a 200 ft. length right turn lane

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2. Construct a southbound left turn lane into the site. This can be accommodated by using the existing two-way left turn lane.
3. Install a traffic signal at the site driveway upon full build-out of the development. The City's Traffic Engineer recommends that this traffic signal be required whenever the intersection actually meets signal warrants and is approved for construction by the N. C. Dept. of Transportation (NCDOT). A condition below reflects this recommendation.

City Council must take formal action as set forth in section 7-5-5(e) of the Unified Development Ordinance (UDO), and must make the following findings based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case [UDO 7-16-2 (c)]:

1. That the proposed use or development of the land will not materially endanger the public health or safety.

As proposed the project will have a single access via the Norfolk Southern Railroad line. Norfolk Southern has indicated that approximately 8-12 trains per day traverse the tracks at this location. The Asheville Police & Fire Departments have identified this as a public safety concern and have recommended that a secondary means of access be identified to serve the development that would not require emergency vehicles to cross the rail line.

Voluntary annexation of this property or some other method of enhancing security will insure that adequate public safety services will be available for an urban community of over 1,000 persons.

The site will be extensively buffered and the parking areas landscaped in order to mitigate any possible negative environmental impacts from dust, glare and fumes.

2. That the proposed use is reasonably necessary for the public health or general welfare, such as by enhancing the successful operation of the surrounding area in its basic community functions or by providing an essential service to the community or region.

The project will provide reasonably priced housing in a rapidly developing area of the City where there is a great need.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

It is recommended that the proposed development be designed and constructed with materials that will be long lasting and in a manner that will contribute to and enhance the surrounding community. If developed in this manner, it is not anticipated that the development would injure the value of adjoining property. The access and layout of the site do not pose a major impact on adjacent property.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

The project will be located adjacent to a heavily developed commercial corridor and in the general vicinity of other large scale multi-family development projects.

5. That the proposed use or development of the land will generally conform to the Comprehensive Plan and other official plans adopted by the City.

The Asheville City 2010 Plan indicates residential use for this area.

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6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

The proposed development is located in an existing developed area. The project received conditional approval from City's Technical Review Committee, including the Water Resources Department, the Fire Department, Metropolitan Sewerage District, Engineering Department and Public Works Department. The Technical Review Committee recommended certain conditions, which have been met. Sidewalks and a transit stop will be provided.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The developer has submitted a TIA which studies the traffic that is anticipated to be generated by the development. This TIA was completed according to the requirements of the City's ordinances, and the assumptions used have been approved by the City's Traffic Engineer. The City's Traffic Engineer has reviewed this project and the TIA. The Traffic Impact Analysis looked at pre- and post-development traffic conditions at three intersections along Hendersonville Road (US25): the site driveway, the existing signalized intersections at Rock Hill Road, and the existing signalized intersection at Harris Teeter and Carolina Day School. The TIA included a theoretical Traffic Signal Warrant Analysis at the site driveway.

While the nearby intersections are predicted to operate acceptably at build-out, the major roads in this area including Hendersonville Road are experiencing rapid traffic growth and will at some point reach capacity. Any increase in density will accelerate this traffic growth.

The City's Traffic Engineer made a suggestion to the developer to work with the owner of the adjacent property to try and create a new collector road that would connect between Hendersonville Road and Sweeten Creek Road. This would serve to potentially reduce long-term congestion in this area by providing more connectivity and improving the efficiency of existing roads in this area. The developer and the project's engineer decided not to pursue this option, likely due to topographical constraints, costs, and the fact that this road would split the property.

The Planning & Zoning Commission recommended approval with conditions. Based on information available to the Planning & Development Department in advance of the public hearing, staff recommends approval of the conditional use rezoning.

If Council takes action to approve the request, staff also recommends the following conditions:

- The applicant shall work with staff to determine appropriate changes to the building façades to increase variety and better incorporate the architectural character of Asheville while respecting the cost impact of these changes to rent affordability. Pursuant to this, the applicant is encouraged to consider: (1) A greater mix of materials; (2) including greater articulation in the roof line, possibly mixing hip and gabled roof styles; and (3) more variation in the window styles. Staff has worked with the applicant on this issue and they will review revised drawings reflecting the changes discussed.
- Additional landscaping should be provided around the buildings to help break up the massing.
- A greenway/trail system should be provided for additional recreation benefits.
- A transit and school bus stop should be provided within the complex; if this proves infeasible after examination by both the City of Asheville's Transit Director and the Buncombe County School System,

the applicant shall provide a bus shelter at Hendersonville Road at a location determined by the Transit Director and/or the Transportation Services Division.

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- The developer has proposed building the traffic signal at the intersection of the site driveway and Hendersonville Road at project build-out. However, this signal must be constructed at a time when the intersection meets signal warrants based on the traffic counts at that time, as determined by the NCDOT. To accomplish this, the developer should place funds in escrow to pay for the traffic signal. This amount will be determined by the City Engineering Department based on recommendations from the NCDOT. The amount should include the costs of pedestrian signals and the costs of connecting this traffic signal to other signals in the area.
- The site access for this development is planned to be built between two existing driveways to existing buildings. The driveway spacing is already closer than optimal. The developer must work with the Engineering Department and the NCDOT to eliminate and/or restrict turning movements at some of the nearby driveways. Ideally, the adjacent parking lots can be connected to the site driveway so these properties can have access to the traffic signal for egress.
- A secondary emergency access is required in a location that will not require emergency vehicles to wait for a train. This access does not have to be available to the general public. If general public access is not provided, the blocking mechanism shall be equipped with an electronically operated device or other device acceptable to the Fire and Police Departments. At least 30 ft. of separation between buildings on the site must be maintained to accommodate the emergency access. This access must be constructed with an all-weather surface, but is not required to be paved. The developer has obtained an easement for this secondary emergency access.
- The applicant shall work with staff to insure that the urban level of density proposed in this project receives the urban level of public safety services.
- In order to insure that the grading, erosion control, landscaping, tree protection, access, and paving are consistent with the approved conditional use permit, the applicant shall submit any plans required by other government agencies (including Buncombe County and state agencies) to City staff for prior review. There shall be no City fees for such reviews pursuant to this purpose. If there are any City inspections during and after construction required as a result of this review, such inspections shall be coordinated by the City with the other affected agencies to minimize the potential for any duplication or confusion in requirements.

Ms. Merten said they have worked through the conditions with the developer and they are amenable to all the conditions.

Upon inquiry of Councilwoman Bellamy, Ms. Merten said the existing development next to the proposed subject development will continue to operate. The proposed easement for emergency access only will be on a lot that will still be developed as part of that subdivision and the access will be from the north side into the proposed development (City Exhibit 6).

Ms. Merten answered various questions from Council, some being, but are not limited to: how will the private road be improved; how far away will the first set of buildings begin with regard to the railroad tracks; are the units priced appropriately for the people who need housing; and will sidewalks be required.

Upon inquiry of Councilwoman Bellamy, Ms. Merten said that the Buncombe County Schools will only provide school bus service to a publicly maintained road. After working with the developer, the developer has proposed to make their access road off Hendersonville a publicly maintained road all the way into the development so the children would not have to cross the railroad tracks.

Traffic Engineer Michael Moule explained that the TIA looked at three major intersections with one being the

site driveway and the second and third being the nearest signalized

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intersections along Hendersonville Road. The study showed no significant increase in delay and no letter grade deterioration at either of the two intersections based on the traffic generated by this development. A signal will be warranted, however, at the site driveway at the proposed build-out year of 2004.

Mr. Louis Bisette, attorney representing the developer Carroll Investment Properties, gave a brief history of Carroll Investment Properties, stating they have an excellent reputation. They build clean, safe, affordable housing. He explained that the project will contain one, two and three bedrooms ranging from approximately \$500-\$800. He also described some of the amenities planned for the project (Applicant Exhibit 1). There is almost eight acres near the back of the project which will contain trails and picnic areas and they have designed the project to keep most of the large trees. The developer has had several meetings with City staff and have met with almost all the adjoining neighbors to explain the project and to answer questions. This project was approved by the TRC and unanimously by the Planning & Zoning Commission. The developer has agreed to additional landscaping, to put in a broader mix of materials to change the roof articulation, to change the detail on the windows, and a number of other changes that City staff has suggested. They have agreed to petition for voluntary annexation into the City so their residents will have all of the City services. In addition, they have agreed to the school bus stop and also agreed to build the entrance road to City standards so that the City can accept the road which would allow the school buses to come in, drive around the circle and drive back out. The road will actually be moved over to the north from where it is now so that it will "T" up with Eastwood Road coming out of Biltmore Forest with a traffic light. They have been in close contact with the railroad and they know what kind of gated crossing needs to be installed and they have an easement. He noted that while the project went through the TRC and then the Planning & Zoning Commission, no one mentioned the need for the emergency access easement. However, they have now secured, at some cost, an emergency access 20-foot wide easement from Swann Construction. They have met all the standards and they feel this is affordable housing in a location that will work. He said they did look at the connector road that the City Traffic Engineer recommended. But, behind their site is a mountain and they don't own the approximate one mile from this site to Sweeten Creek Road.

Mr. Chris Eller, Consulting Engineer with Civil Design Concepts, clarified some technical comments regarding the railroad easement and stormwater detention (City Exhibit 4).

Mr. John Mock, Project Manager for Carroll Investment Properties, passed out to Council a rendering of a typical building (Applicant Exhibit 2) and said they will strive to provide nice, affordable housing.

Mr. Roy Carroll, President of Carroll Development Properties, spoke in support of this new development.

Ms. Connie Starnes Driscoll, adjoining property owner, felt the developers have gone out of their way to address the neighbor's concerns.

Mr. Doug Morris, speaking on behalf of the school children of South Buncombe County, said at the present time Estes Elementary is at a 105% capacity. He said they do not have anymore room to put anymore children in the schools. He said that Buncombe County Superintendent Dodson is in opposition to this project because of the number of children already in the schools.

Upon inquiry of Mr. Adam Baylus, Mr. Rex Ballard explained the arrangements of the three tenants currently living in the houses which will be demolished.

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Mr. Bill Samuels, Golf Course Superintendent at the Biltmore Forest Country Club, said their concern is

stormwater runoff onto the golf course property (City Exhibit 7).

Mr. Eller explained their plans for stormwater detention. He said they have the opportunity in the lower portion of the property to utilize the railroad as a dry detention pond and allow it to retain water in the events of storms. In addition to that, if it looks as though it will not be enough, they do have opportunities to provide that underground with oversized pipes. He explained there are alternatives if need be to account for additional detention.

Mr. Bisette understood Mr. Morris' concern, however, noted for the record that Mr. Morris is not employed by the Buncombe County School System.

Mr. Shuford said that they recognize the school issue is a service issue, but not a service that the City provides in this area. He felt it would be a good idea to try to coordinate our development plans with both the City and the County school systems as applicable so they know these projects are coming online.

Upon inquiry of Councilman Peterson, Mr. Bisette said that as each phase of their project is complete, they will petition for voluntary annexation.

There being no request for rebuttal, Mayor Sitnick closed the public hearing at 9:30 p.m.

Councilwoman Field moved to adopt Ordinance No. 2854 to rezone 1238 Hendersonville Road, known as Laurelwood Apartments, from RM-6 Residential Multi-Family Low Density District to RM-16 Residential Multi-Family High Density District/Conditional Use. This motion was seconded by Councilman Hay and carried unanimously.

ORDINANCE BOOK NO. 19 - PAGE

Councilman Hay moved to adopt Ordinance No. 2855 granting the conditional use permit for 1238 Hendersonville Road with the conditions outlined above by City staff, and to instruct the City Attorney to prepare the Order for the Mayor's signature. This motion was seconded by Councilwoman Field.

Mayor Sitnick asked if Council could include a condition with regard to stormwater retention. City Attorney Oast said that what Council has before them includes a fairly extensive stormwater control plan.

Mayor Sitnick also said that the City is growing and new schools need to be built to accommodate that growth.

Councilwoman Bellamy said that our community does have decent, safe and affordable housing developments that do receive government subsidies and have even been awarded state awards. She felt this project is smart growth development and it does increase the City's tax base. In addition, it does fill a vacant lot with higher density.

The motion made by Councilman Hay and seconded by Councilwoman Field carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

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A. RESOLUTION NO. 01-149 - RESOLUTION APPOINTING MEMBERS TO THE AMERICANS WITH

DISABILITIES ACT COMPLIANCE COMMITTEE

Vice-Mayor Cloninger said that the terms of Sherry Fitzpatrick and Francis Black, as members on the ADA Compliance Committee have expired.

On September 4, 2001, City Council instructed the City Clerk to prepare the proper paperwork to (1) reappoint Ms. Fitzpatrick (disabled community representative) to serve an additional three year term, term to expire August 22, 2004; and (2) to appoint Ms. Mary Robertson (disabled community) to serve a three year term, term to expire August 22, 2004.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 01-149. This motion was seconded by Councilman Hay and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 463

B. RESOLUTION NO. 01-150 - RESOLUTION REAPPOINTING CHAIR TO THE CIVIL SERVICE BOARD

Vice-Mayor Cloninger said that City Council must annually appoint the Chair to the Civil Service Board.

On September 4, 2001, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Mr. Gene Bell as Chairman of the Civil Service Board.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Bellamy moved for the adoption of Resolution No. 01-150. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 464

C. RESOLUTION NO. 01-151 - RESOLUTION APPOINTING MEMBERS TO THE RIVER DISTRICT DESIGN REVIEW COMMITTEE

Vice-Mayor Cloninger said that the terms of Edward Metz, Ben Slosman, Gail McCarthy, Ken Fulford, Hunt Mallett, Laura Webb and Robert Camille, as members of the River District Design Review Committee, have expired.

At City Council's worksession on September 4, 2001, City Council instructed the City Clerk to prepare the proper paperwork to (1) reappoint Mr. Metz (at-large member); (2) reappoint Ms. McCarthy (member of RiverLink Board of Directors); (3) reappoint Mr. Fulford (design professional); (4) reappoint Mr. Hunt Mallett (owner of property located within the River District); (5) reappoint Ms. Webb (member of RiverLink Board of Directors); (6) reappoint Mr. Camille (design professional); and (7) appoint Marvin Slosman (owner of property located within the River District). All terms are to expire on September 1, 2004, or until their successors have been appointed.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Mayor Sitnick moved for the adoption of Resolution No. 01-151. This motion was seconded by Councilwoman Bellamy and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 465

VI. OTHER BUSINESS:

A. COMMENTS BY FRED ENGLISH

Mr. Fred English spoke in support of the revised resolution which condemned terrorist attack and supported the President of the United States. He handed Mayor Sitnick a flag.

B. COMMENTS BY JAN KUBINEK HOWARD

Ms. Jan Kubinek Howard, 5 Reservoir Road, asked that Reservoir Road be closed to vehicular traffic. Mayor Sitnick said that she would have City staff contact Ms. Howard to arrange a meeting regarding her concern

C. COMMENTS BY PETER DAWES

Mr. Peter Dawes stated his disappointment of the dialogue that took place at the September 18, 2001, worksession regarding the resolution condemning terrorists and supporting the President of the United States.

D. COMMENTS BY REBECCA CAMPBELL

Ms. Rebecca Campbell questioned the City's legal authority to rescind a resolution.

E. COMMENTS BY MAYOR SITNICK

Mayor Sitnick said that she was not at the September 18, 2001, worksession when the now rescinded resolution condemning terrorists and supporting the President of the United States was adopted. On Wednesday, September 19, she signed her name to a resolution she didn't vote on as she has signed many other documents she didn't vote for. She said it was her opinion that the reason why she couldn't sleep several nights since then is that her signature didn't belong on that resolution. It wasn't what she felt and she wasn't even at the meeting. She felt it was horrible to academically, intellectualize semantics when the country was in mourning and she personally felt the acts were cowardly. She removed her signature from the resolution and asked Council if they would rescind the resolution signed on September 18 and adopt a new one. All of Council agreed and that is what Council adopted at this meeting.

F. CLAIMS

The following claims were received by the City of Asheville during the period of August 17-30, 2001: Bryan Fisher (Sanitation), Arrivelle Bolden (Transit Services), Cynthia Wade (Streets), Burgerland (Water), Priscilla Bearden (Water) and Martha Bradley (Streets).

The following claims were received by the City during the period of August 31-September 13, 2001: Land Design (Water), Buncombe County Child Care (Water), Slossman Corporation (Water), Ed Dyson (Police), Turtle Creek (Inspections), Ethel Pickett (Traffic Engineering), Tatanisha Davis (Transit Services), Sue Hunt (Streets), Jack Hobbs (Water), Kenny Hayes (Water) and Thelma Penland (Sanitation).

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The following claims were received by the City during the period of September 14-20, 2001: William Allen

Stewart (Parks & Recreation), Frank Covine (Streets), Teresa Dye (Streets), Nypro Asheville (Water), Debra Roher (Sanitation), Nypro Asheville (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

G. LAWSUIT

The City filed a lawsuit on September 14, 2001, against Kay T. George. The action was a Complaint, Injunction, Order of Abatement for removal of aesthetic junked vehicles vehicle are in violation of Section 10-31 of the City of Ordinances. This matter will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 9:57p.m.

CITY CLERK MAYOR
