

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor R. Carl Mumpower; Councilwoman Terry M. Bellamy; Councilman Jan B. Davis; Councilman Joseph C. Dunn; Councilwoman Diana Hollis Jones; Councilman Brownie W. Newman; City Manager James L. Westbrook Jr.; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

**PLEDGE OF ALLEGIANCE**

- Col. Ray Green, Veteran of the US Air Force, led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilwoman Bellamy gave the invocation.

**I. PROCLAMATIONS:**

**II. CONSENT:**

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 10, 2004, AND THE WORKSESSION HELD ON AUGUST 17, 2004**
- B. RESOLUTION NO. 04-170 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY THE CITY'S INTEREST IN PROPERTY ON MILLBROOK ROAD TO BUNCOMBE COUNTY IN EXCHANGE FOR EASEMENTS OVER COUNTY-OWNED REAL PROPERTY LOCATED AT HOMINY CREEK PARK AND RECREATION PARK**

Summary: The consideration of a resolution authorizing the Mayor to convey the City's interest in property on Millbrook Road to Buncombe County in exchange for easements over County-owned real property located at Hominy Creek Park and Recreation Park.

- The City and Buncombe County have negotiated an exchange of the City's interest in property on Millbrook Road for greenway easements over the County's property at Hominy Creek Park and Recreation Park. The property on Millbrook Road (PIN Nos. 9638.07-67-0634 and 9638.11-67-1425) includes two contiguous lots owned by the County and City comprising 1.4 acres. The property has a tax value of \$50,000. The County proposes to donate the property with restrictions to the Buncombe County Rescue Squad for a new facility.

The proposed greenway easements are over property owned by the County at Hominy Creek Park (PIN No. 9637.01-16-5732) comprising 1.5 acres and at Recreation Park. (PIN No. 9668.13-04-6364) comprising 1.5 acres. The proposed Hominy Creek Greenway will connect Hominy Creek Park to Amboy Road Park. The Azalea Park Greenway will connect Azalea Park to Recreation Park and Swannanoa River Road (NC 81). The total value of the greenway easements would be approximately comparable to the City's interest in the Millbrook Road property.

The positive aspects of this transaction are:

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- It is mutually beneficial to the City and the County.
- The County will be able to donate the land to the Rescue Squad for a needed facility.
- The City will acquire needed greenway easement at no cost.
- It is an opportunity for local government collaboration for the benefit of the community.
- It involves only publicly owned property and does not remove any property from the tax base.
- The City receives real estate interests of comparable value for its interest in the Millbrook Road property as opposed to donating it.

A negative aspects is:

- The property on Millbrook Road will remain in public ownership and not be returned to the tax base.

Approval of the resolution will authorize the exchange of the properties as provided in N. C. G. S. 160A-271.

Planning & Development staff recommend adoption of the resolution authorizing the Mayor to convey the City's interest in property on Millbrook Road to Buncombe County in exchange for easements over County-owned real property located at Hominy Creek Park and Recreation Park.

**RESOLUTION BOOK NO. 28 – PAGE 324**

**C. RESOLUTION NO. 04-171 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE PROPERTY AT THE CORNER OF BARTLETT AND NELSON STREETS**

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer to purchase property at the corner of Bartlett Street and Nelson Street in the East Riverside community.

A bid has been received from Ray Quate, in the amount of \$4,000, for the purchase of a parcel of land at the corner of Bartlett Street and Nelson Street in the East Riverside Community.

The land at the corner of Bartlett Street and Nelson Street is a rectangular shaped parcel comprising 0.13 acre+ (37'X151.9'). It is generally level at street grade and slopes up gradually to the rear. It is covered with grass. The long narrow shape renders the parcel unsuitable as a homesite. The subject parcel is a cut-out from a 5.73 acre property acquired from the Housing Authority which is now a part of Murray Hill Park. Based on an opinion letter dated July 28, 2004, by L. Ted Prosser, the value of the cut-out parcel is \$4,000. The bid from Ray Quate, owner of an adjacent parcel is in the amount of \$4,000. Mr. Quate plans to renovate the building on the adjoining parcel with attention to preservation of historic architectural characteristics. The main floor on Depot Street will be three artist's studios and on the second floor will be five apartments with inside parking. Some of the apartments will be one bedrooms and are expected to be within the affordable range. He plans to assemble the subject parcel with the property he owns to provide access to the parking and a buffer.

The proposed renovations are consistent with the Strategic Plan policies of encouraging a strong small business environment and increasing the supply of affordable housing.

The positive aspects of the transaction are:

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1. The sale will be at fair market value as established by the upset bid process.
2. It will return property not needed for public use to the tax rolls.
3. It will transfer responsibility for maintenance to the private sector.
4. A small parcel will be assembled with an adjoining parcel to provide a more efficient land use.
5. The sale of this lot to Mr. Quate will facilitate the proposed re-development by providing necessary access.

Planning & Development staff along with Parks & Recreation staff recommends adoption of the resolution which will initiate the sale of the property through the upset bid process.

**RESOLUTION BOOK NO. 28 – PAGE 326**

**D. RESOLUTION NO. 04-172 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE FOR UPSET BIDS FOR PROPERTY LOCATED ON COURTLAND AVENUE (LOT #11)**

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer of purchase for upset bids for property located on Courtland Avenue.

The subject property is an RS-8 Residential Single-Family High Density District zoned parcel located on Courtland Avenue comprising approximately 0.14 acre (PIN No. 9649.17-01-0636). The Fair Reuse Value for the parcel, based on an appraisal dated April 21, 2004, by Gwen M. Keller is \$6,000.00. The proposed land use for the property in the Head of Montford Redevelopment Plan is for residential development.

Ross B. Parkinson has submitted a bid to purchase the property in the amount of \$6,000, and he proposes to build a

single-family residence for his home.

The positive aspects of the transaction are:

- The sale will be at fair market value as established by the upset bid process.
- It will return property not needed for public use to the tax rolls.
- It will transfer responsibility for maintenance to the private sector.
- The sale of this lot will afford the opportunity for infill development.

Approval of the resolution will establish a minimum price of \$6,000 and initiate the sale of the property through the upset bid process as provided in N. C. G. S. sec. 160A-269.

Planning & Development staff recommends adoption of the resolution authorizing advertisement for upset bids for property located on Courtland Avenue.

**RESOLUTION BOOK NO. 28 – PAGE 327**

**E. RESOLUTION NO. 04-173 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE FOR UPSET BIDS FOR PROPERTY LOCATED ON COURTLAND AVENUE (LOT #12)**

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer of purchase for upset bids for property located on Courtland Avenue.

The subject property is an RS-8 Residential Single-Family High Density District zoned parcel located on Courtland Avenue comprising approximately 0.15 acre (PIN No. 9639-20-91-9684). The Fair Reuse Value for the parcel, based on an appraisal dated April 21, 2004, by

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Gwen M. Keller is \$6,000.00. The proposed land use for the property in the Head of Montford Redevelopment Plan is for residential development.

Samuel Koerber has submitted a bid to purchase the property in the amount of \$6,000, and he proposes to build a single-family residence for his home.

The positive aspects of the transaction are:

- The sale will be at fair market value as established by the upset bid process.
- It will return property not needed for public use to the tax rolls.
- It will transfer responsibility for maintenance to the private sector.
- The sale of this lot will afford the opportunity for infill development.

Approval of the resolution will establish a minimum price of \$6,000 and initiate the sale of the property through the upset bid process as provided in N. C. G. S. sec. 160A-269.

Planning & Development staff recommends adoption of the resolution authorizing advertisement for upset bids for property located on Courtland Avenue.

**RESOLUTION BOOK NO. 28 – PAGE 328**

**F. RESOLUTION NO. 04-174 - RESOLUTION APPROVING THE BUDGET FOR THE PACK SQUARE RENAISSANCE PROJECT AS ADOPTED BY THE PACK SQUARE CONSERVANCY**

Summary: The consideration of a resolution approving the Pack Square Renaissance Project budget as adopted by the Pack Square Conservancy.

The agreement for the Pack Square Renaissance development between the Pack Square Conservancy (PSC) and the City requires that the Asheville City Council approve the budget for the project. In early July, the PSC adopted a revised budget for the project that represents the current cost projections based on the approved design.

Please note that in approving the PSC budget, there is absolutely no commitment on the City's part to any funding participation beyond what we have committed to in the agreement.

The revenue to pay for construction costs will come from private donations and grants secured by the Pack Square Conservancy.

City staff recommends City Council approve the resolution approving the PSC budget for this project as adopted by the Pack Square Conservancy.

**RESOLUTION BOOK NO. 28 – PAGE 329**

- G. RESOLUTION NO. 04-175 - RESOLUTION AMENDING THE 2004 SCHEDULED CITY COUNCIL MEETINGS TO DELETE THE SEPTEMBER 7, 2004, WORKSESSION**

**RESOLUTION BOOK NO. 28 – PAGE 332**

- H. RESOLUTION NO. 04-176 - RESOLUTION REAPPOINTING MEMBERS TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE**

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Summary: The terms of Sherry Fitzpatrick and Mary Robertson, as members on the Americans with Disabilities Act Compliance Committee expired on August 22, 2004.

At City Council's worksession on August 17, 2004, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Sherry Fitzpatrick (representing the disabled community representative) and Mary Robertson (representing the disabled community) as members of the Americans with Disabilities Act Compliance Committee, to each serve an additional three-year term respectively, terms to expire August 22, 2007, or until their successors have been appointed.

**RESOLUTION BOOK NO. 28 – PAGE 333**

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

Councilwoman Bellamy moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Jones and carried unanimously.

**III. PUBLIC HEARINGS:**

- A. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING AN UNNAMED ALLEY OFF SOUTH FRENCH BROAD AVENUE**

**RESOLUTION NO. 04-177 - RESOLUTION PERMANENTLY CLOSING AN UNNAMED ALLEY OFF SOUTH FRENCH BROAD AVENUE**

Mayor Worley opened the public hearing at 5:07 p.m.

Public Works Director Mark Combs said that this is the consideration of a resolution of intent to close permanently close an unnamed alley off South French Broad Avenue. This public hearing was advertised on July 30, August 6, 13 and 20, 2004.

N. C. Gen. Stat. sec. 160-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, the adjoining property owners have requested the City of Asheville permanently close to public use as a public street an unnamed alley off South French Broad Avenue.

Public Works Department staff has researched and determined that this alley is not a City maintained street. Closure of this alley will not deny any of the abutting properties a reasonable means of ingress or egress. There are six lots that abut this section of right-of-way. They are identified by PIN Nos. 9648.05-29-1708, 9648.05-29-0747, 9648.05-29-0716, 9648.05-29-0668, 9648.05-19-9786 and 9648.05-19-9645. All abutting property owners except Bost Bakery (9648.05-19-9645) have joined in the petition to

close. This closing is subject to the retention of easements extending the full length and width of said alley by Bell South and Progress Energy for the operation and maintenance of public utilities.

City staff recommends that City Council adopt the resolution permanently closing an unnamed alley off South French Broad Avenue.

Mr. John Ellis urged City Council to permanently close the unnamed alley.

Mayor Worley closed the public hearing at 5:10 p.m.

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

Councilman Dunn moved for the adoption of Resolution No. 04-177. This motion was seconded by Councilwoman Bellamy and carried unanimously.

#### **RESOLUTION BOOK NO. 28 – PAGE 334**

#### **B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED BETWEEN ZILlicoa ROAD AND MONTFORD AVENUE, IDENTIFIED AS CAMPUS CREST AT ASHEVILLE, TO CONSTRUCT A 152-UNIT APARTMENT COMPLEX**

#### **ORDINANCE NO. 3153 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED BETWEEN ZILlicoa ROAD AND MONTFORD AVENUE, IDENTIFIED AS CAMPUS CREST AT ASHEVILLE, TO CONSTRUCT A 152-UNIT APARTMENT COMPLEX**

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. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 5:11 p.m.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

City Attorney Oast said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

Urban Planner Kim Hamel submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Hamel said that this is the consideration of the issuance of a conditional use permit for property located between Zillicoa Road and Montford Avenue, identified as Campus Crest at Asheville, to construct a 152-unit apartment complex (City Exhibit 3 – Location Map).

The project is supported by numerous goals and strategies in the plan relating to infill development, smart growth and transportation policies. The project utilizes the existing zoning on the lot to create a sustainable medium-density residential development within the City Limits in a location where the existing infrastructure is capable of supporting the proposed use. The project will assist in meeting the demands of student housing for the area. The project proposes shuttle service to UNC-A for its residents and is also within walking distance to the University. The project will also provide a bus shelter and transit stop on Montford Avenue. The project is also located within close proximity of parks, greenway systems (Reed Creek Greenway) and many other viable shopping venues.

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Some recent rezoning include: 2002: Broadway Corridor Rezoning to Neighborhood Corridor District; 2003: Rezoning of 2 lots on the corners of Starnes and Flint from Neighborhood Business to RM-8; 2004- Conditional Use Rezoning on Catawba Street

from RS-8 to RM-8 for the construction of a quadraplex.

On May 28, 2004, Campus Crest Developers, LLC, submitted a conceptual master plan for the construction of a large-scale multi-family development to be located within the Highland Park office complex located off of Zillicoa Street. The property will be subdivided from the main tract to create a 16.85-acre parcel that will house the development.

The property, zoned Institutional, allows for a density of 16 units per acre. Based on the acreage, up to 269 units could be constructed (City Exhibit 3 – Site Plan). The developer is proposing 154 units, a density of approximately 9 units per acre. The development will function and cater towards student housing. Individual bedrooms (each with their own bathroom) will be rented, with its occupants sharing the other common facilities within the unit such as the kitchen, living area, etc.

The project will consist of 11 buildings. Buildings 1-10 will consist of 14, 3-bedroom units; and Building 11 will consist of 14, 2-bedroom units. They will be constructed in a 4-3 story split design (4 stories in the front, 3 stories in the back) with a maximum height of 37-4' feet. Amenities to the complex include: a 2-story clubhouse, a multi-functional sport court, open court yard areas between each building, a designated loading area for shuttle transportation to UNC-A, and transit stop with bus shelter on Montford Avenue. Open space, in excess of the standard City requirement, is shown in multiple locations throughout the development. Sidewalks and trails will provide pedestrian connectivity within the development and to Zillicoa Street and Montford Avenue.

The site plan illustrates proposed access from Zillicoa Street and Montford Avenue with a 462-space parking lot connecting the two ends. (The North Carolina State Building Code-Fire Volume, adopted by the City of Asheville, requires a development of this size to either have 2 points of access to the development (one of which must connect to a public street) or requires all buildings to be sprinklered.)

A 15-foot type "A" buffer is required along the West, East and South sides of the property, all of which are heavily wooded. The project will be heavily buffered from adjoining properties by the preservation of existing vegetation supplemented with additional plant materials as needed.

The site plans presented to the Planning and Zoning Commission on August 5, 2004, were revised to address several Technical Review Committee (TRC) comments and also addresses other site plan changes. These include: an increase in the number of units (from 152 units to 154 units), decrease in number of bedrooms (from 456 bedrooms to 448 bedrooms), clarification of building heights and design, an increase in the number of parking spaces (from 446 spaces to 462 spaces – 14 spaces over the maximum permitted), design change to the parking area to include a loop road, changes to the landscaping, sidewalk connections to the street, addition of a transit stop and bus shelter on Montford Avenue, proposed dumpster location, a shuttle bus loading area, multi-functional sport court, open area courtyards between the buildings, and elevation changes.

The changes to the plans address a majority of the conditions outlined in the TRC staff report (City Exhibit 4 – Original Proposed Building Façade; and City Exhibit 5 – New Conceptual Elevation). For items not yet addressed, detailed plans will need to be resubmitted to the TRC for final review, should Council decide to approve the project.

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City Council must take formal action as set forth in section 7-9-9(c)(4) of the Unified Development Ordinance (UDO), and must find that all seven standards for approval of conditional uses are met 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.

The proposed project has been reviewed by City staff and has the potential of meeting all public health and safety related requirements. The project must meet the technical standards set forth in the UDO, the Standards and Specifications Manual, the North Carolina Building Code and other applicable laws and standards that protect the public health and safety.

- 2) That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The existing site is heavily wooded and straddles a relatively steep ravine that contains a tributary of Reed Creek. Significant grading of the site and containment of the tributary will be necessary to develop the property as proposed. The site, however, has been designed in a manner that somewhat more environmentally sensitive by concentrating the

development on the more level areas within the ravine to limit land disturbance at its bank and to preserve existing vegetation around the perimeter of the property. Additionally, the project must comply with all City Standards in regards to maximum clearing and grading, erosion control, and maximum slope for streets.

A condition has also been added to the project for the developer to work with staff to ensure water quality issues in regards to Reed Creek, are addressed through the design and monitoring of stormwater run-off infrastructure.

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

The existing site is heavily wooded. The developers have designed the project so that the buildings along the west side of the property are not closer than 80 feet to the property line. Because the development is being concentrated within the lower areas of the ravine, land disturbance around the immediate perimeter of the property will be minimal to none. The landscape plans provided indicate that all existing perimeter vegetation is to be preserved to meet the City's Landscape requirements, supplementing with additional vegetation, if needed.

Although, this project is not being developed within the Montford Historic District overlay, the architects for the project are working with staff to ensure that the design and architectural features of the buildings are compatible with those found in the surrounding neighborhood.

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 apartment buildings will be located at least 80 feet away from properties along the south and west sides of the site. Additionally, they are being constructed within the lowest parts of the site, which will assist in providing visual relief from the full scale and

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height of the buildings. Furthermore, the developers are proposing buildings constructed of high-quality materials and are also working with staff to ensure that the design and architectural features of the buildings are compatible with those found in the surrounding neighborhood.

In addition, the existing vegetation around the perimeter of the property will be preserved, supplementing with additional vegetation as needed, to meet the City's landscape buffer requirement.

5) That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

The project is supported by numerous goals and strategies in the plan relating to infill development, smart growth and transportation policies. The project utilizes the existing zoning on the lot to create a sustainable medium-density residential development within the City Limits in a location where the existing infrastructure is capable of supporting the proposed use. The project will assist in meeting the demands of student housing for the area. The project proposes shuttle service to UNC-A for its residents and is also within walking distance to the University. The project will also provide a bus shelter and transit stop on Montford Avenue. The project is also located within close proximity of parks, greenway systems (Reed Creek Greenway) and many other viable shopping venues.

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

There is currently no transit service available on Broadway. The subject site is, however, located within walking distance of existing transit service on Montford Avenue. Additionally, the development proposes a new transit stop and bus shelter near the Montford Avenue drive entrance and also proposes a passenger loading area within the development for shuttle service to UNC-A.

The City's TRC, which includes representatives of the Water Resources Department, Fire Department, Engineering Department, Public Works Department, and Planning Department, has reviewed the proposed development.

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

The Campus Crest development is proposed with access to Broadway and Montford Avenue. Montford Avenue is a

collector street, and it is appropriate to provide such access for a residential development. The Traffic Impact Analysis submitted for the project predicts only 20% of development traffic using Montford Ave, which is reasonable considering the primary destinations will be UNC-A, downtown, and I-26, all of which are more accessible via Broadway, with its ample lanes, higher speeds, and more direct route. The traffic on Montford Avenue would increase by about 300 cars per day (36 during the peak hour, or one every 1 minute 40 seconds during peak hour).

The design of the Montford Avenue access will be required to use a traffic calming technique called a "driveway link" segment, in which the access is designed to look like a residential driveway, making it further less attractive than the Zillicoa/Broadway driveway, which will look like a public street. This design should further limit the traffic volume using Montford Avenue to those destined in the neighborhood.

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At their June 21, 2004, meeting, the TRC reviewed the Conceptual Master Plan and voted unanimously to recommend approval of the project, subject to the conditions outlined in the staff report and the following additional conditions:

1. Construction traffic is to be routed away from Montford Avenue.
2. Traffic calming measures are to be implemented on site.
3. A handicapped accessible route must be provided to the transit stop.

**Pros:**

1. The project is supported by numerous goals and strategies in the plan relating to infill development, smart growth and transportation policies.
2. The proposed use and development is supported by the future land use and transportation plans for this area.
3. The project will assist in meeting the needs of student housing in close proximity to UNC-A's campus.
4. The site has been designed in a manner that works with the existing topography by concentrating the majority of the development in the lower levels of the ravine. This will reduce the amount of grading needed at the top of the bank where a thick vegetative buffer exists. It will also reduce the over-all visual appearance of the height and scale of the project from neighboring properties.
5. The project, catered towards student housing, is located less than a mile from the campus of UNC-A, making the use of other modes of transportation such as walking, bicycling and shuttle and transit service, more appealing and readily available.
6. The project is located within close proximity of parks, greenway systems (Reed Creek Greenway) and other viable shopping venues.

**Cons:**

1. The existing site is heavily wooded and consists of a relatively steep ravine with an unnamed tributary of Reed Creek that runs in the center of the property.
2. Due to the existing topography, significant grading of the site will be necessary to develop the site, as proposed.
3. Although the project will have to comply with current stormwater regulations to control the quantity of run-off, it will not address "water quality". Due to the natural topography of the land and lack of any proposed filtration methods, the run-off from the parking lot may contribute to the degradation of Reed Creek.
4. The number of parking spaces proposed for the development seems excessive due to information provided from the UNC-A Facilities Manager who indicated that only 64% of the student population housed on campus at UNC-A own cars.
5. Although a majority of the traffic is likely to use Zillicoa Street to Broadway, an increase of traffic is expected on Montford Avenue. The City, however, will require the developer to design the Montford driveway connection with traffic calming elements that will make it less appealing.

On August 5, 2004, the Planning and Zoning Commission voted unanimously (6-0) to recommend approval of the project subject to the following conditions:

1. Staff and TRC recommendations be met.
2. No fee in lieu of sidewalks be permitted.
3. Placement of electronic pedestrian crossing signals at crosswalks, if permitted by NCDOT; placement of crosswalks of design and/or color to clearly delineate them, if permitted by NCDOT. **(Alternate language suggested by staff: A crosswalk crossing Zillicoa shall be added at Broadway. Material shall be white thermoplastic meeting NCDOT standards.**

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**Both crosswalks crossing Broadway shall be upgraded to high-visibility type crossings. Markings may be ladder-style or piano-key style, similar to City markings in the downtown area. Material shall be white thermoplastic meeting NCDOT standards.)**

4. Placement of transit stop and shelter at the Zillicoa/Broadway entrance; **(Alternate language suggested by staff: A transit pad shall be provided at the intersection of Broadway & Zillicoa to provide for potential future service along Broadway. The pad shall be concrete, 13' long x 8' wide, with cross-section meeting the City's sidewalk specifications. The pad shall be attached to, but shall not overlap, the sidewalk. Location shall be in the south corner of the intersection along Broadway, or other location approved by staff.)**
5. Placement of low-level/impact lighting, but sufficient to accommodate safety; **(Alternate language suggested by staff: All site lighting shall be equipped with 90-degree cut-off fixtures and oriented away from surrounding properties; a lighting plan shall be implemented to minimize light trespass.)**
6. Architectural design of the buildings in compliance with Montford area sufficient to satisfy staff (staff had already noted the design was sufficient). **(Alternate language suggested by staff: The developer shall continue working with staff to ensure that the proposed structures are architecturally compatible with the surrounding neighborhood.)**
7. Eliminate one of the Zillicoa Drive entrances, but only if compliant with State Fire Regulations; this included meeting and working with the Fire Marshal on this issue.
8. Developer must cooperate with staff, Parks and Recreation, Asheville Greenway Commission and John Calabria of NCSU Extension Service in development of a plan for water quality and storm water issues. **(Alternate language suggested by staff: Best Management Practices (BMP's) shall be utilized to address water quality issues; at a minimum, the updated EPA water quality standards shall be met, along with any conditions imposed by the Asheville City Engineering office.)**

Based on the seven findings, staff recommends approval of the conditional use permit with the conditions outlined by the Technical Review Committee, Planning and Zoning Commission's recommendation and the following added conditions:

1. The developer shall work with city staff and other independent groups to address water quality issues in the design and monitoring of stormwater run-off infrastructure.
2. All parking spaces over the maximum number of spaces permitted must be constructed with pervious paving and comply with additional landscaping requirements.
3. The dumpster should be relocated to an internal location within the site to reduce its impact on neighboring properties and discourage traffic from proceeding onto Montford Avenue.
4. All buildings must comply with the Institutional District height standards.
5. The developer is required to contact the Corps of Engineers office to determine appropriate permits required for developing over a tributary stream. Any permits required, are to be obtained prior to the issuance of the zoning permit.
6. A sidewalk connection along Zillicoa to Broadway shall be provided in a location approved by staff.
7. The driveway access on Montford Avenue shall be constructed with traffic calming elements as required by the City's Traffic Engineer.

Mr. Albert Sneed, attorney representing the developer, said that the City's Traffic Engineer and the Fire Marshal require the road to go all the way through to Montford. The developer would prefer not to have the road go to Montford. If there needs to be some kind of road to Montford, the developer would like to have a road with a gate on it that the Fire Department could "break down" if they needed to get in the apartment complex.

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Mr. Chris Eller, Civil Design Concepts and Engineer of record on the project, said they did try to preserve as many of the existing trees as possible, arranged the buildings in a cluster fashion to preserve a perimeter buffer of trees, and noted the elevation of the buildings are set at an elevation that will minimize impacts to surrounding property owners. They did meet with the neighborhood and they have tried to incorporate many of their concerns. They have agreed to add a bus stop at Broadway as well as the one requested by City staff at Montford. He has met with the Fire Department staff to discuss ways of potentially limiting the access off of Montford. He said the access is more of an operational concern, however, he understands the Fire Department would allow the Montford access to be an ingress only, being gated or bollard controlled. The developer would be open to that or to eliminate the Montford access entirely. This could be a potential compromise to eliminate some of the neighborhood concerns. We have hired an environmental consultant to work directly with the Corps of Engineers and they did get a notification of jurisdictional determination from the Corps of Engineers stating that they concurred with their consultant that there were no U.S. waters or wetlands on the properties of any significance that would require permitting through the Corps of Engineers. The owners have met with representatives from the N.C. State University Extensive Service and looked at potential water quality devices that could be used. We have worked with that group on other projects in the region and feel confident that what the developer is proposing will satisfy and be an extreme enhancement to water quality at this project site. He noted that water quality is not a requirement of the UDO standards, but it has been recommended by neighborhood concerns. The developer has agreed to do water quality in addition to stormwater detention volume control. This will be an additional \$30,000 spent to address water quality

issue. We have relocated the dumpster to be centrally located in the project. We agreed to put a sidewalk in from Zillicoa (where the current project entry is) down to Broadway and have agreed to do traffic calming measures within the development as well. A Traffic Impact Analysis (TIA) was performed on the project and it concluded that it would have no adverse impacts on the surrounding intersections. The project incorporates many smart growth principles. We feel the project clearly meets the seven standards for conditional use approval.

Mr. Mike Hartnett, partner with Campus Crest Communities, said that early in the process, they started communicating with the neighbors by hosting a reception and then holding another meeting. Two issues repeatedly came up. One was the entrance onto Montford. Our initial conceptual plan did not include an entrance onto Montford, but City staff felt this entrance was required. We are fine with our road ending as a cul-de-sac, or a knock down gate or bollards for emergency entrance only, or a very residentially scaled small entrance. The other issue was how is this property going to impact the Montford neighborhood. There are three tangible items that might affect the neighborhood – traffic, quality of our finished community product, and the behavior of our residents. Regarding traffic, we feel that most of our traffic flow (80%) will be going toward the main entrance on Broadway. Regarding quality of our development, we have spent consideration time and effort on the architecture and design. People will probably never get a real site line on this property from Montford because we will be keeping the existing 80-foot tree buffer along Montford as well as the topography that slopes down onto the property. Regarding management, Campus Advantage is a management company out of Austin, Texas, and he personally feels they are one of the best in the United States. They manage over 5,000 beds in several states. We are confident in their ability to educate the residents on policies and enforce those policies. This will be a high quality housing option for a growing population at UNC-A, which will be managed by nationally recognized firm. This project may free up rental housing inventory throughout the community making options available to other families who are finding it difficult to rent affordably in Asheville. And, this will be a nice infill development within the City limits where there is a lot of urban sprawl going on these days.

Responding to Mr. Sneed, Mr. Hartnett showed pictures from houses across the street to where the project will be constructed (Applicant Exhibits 1, 2 and 3). Again, his plans are to keep the existing 80-foot width of vegetation from Montford right-of-way down to their property line.

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Responding to Mr. Sneed, Mr. Hartnett said that the developer is approaching \$100,000 already in engineering, architecture, Army Corps of Engineer consultants, and traffic engineer - not including our time as developers.

Mr. Hartnett did not feel this project will have any negative impact on adjacent property owners. They will be building a \$15 Million asset, which will be nicely maintained.

Mr. Michael Peter, President of Campus Advantage, which is a student housing management company, said that they manage over 5,000 beds. He explained the credentials of his senior staff. They are involved in several professional organizations that are dedicated to student housing and student development. The cornerstone of our approach is grounded in the fundamentals of student development and residence life. We have a national director of residence life whose sole job is to oversee the social and educational programming that takes place at each one of our properties. At this property we have slated 6 Resident Assistants (RA) living on site. He said an RA is typically a student staff member, with substantial GPA's and student leaders. Each RA will be responsible for approximately 50 residents. We also have a resident director who oversees the RA staff. And, they have an on-site manager. That is just the residence life staff. Using a chart (Applicant Exhibit 4), he showed Council the proposed organizational structure. He said this is different than other student housing because we have staff living on-site 24 hours, 7 days a week. There is interactive staff participation in everything that goes on. There is always a RA on call and there is always a RA on duty during the 24-hour period of time. The resident director or the general manager must remain on-site. He said all rental contracts require a guarantor to sign and that guarantor needs to be someone that is responsible for that student (normally a parent). The importance of the guarantor is not only in terms of us collecting rent, but also any violations of the lease will instantly result in a letter to both the tenant and the guarantor of the lease and it outlines what that violation was. We have a zero tolerance drug policy, which is written in our lease and in our rules and regulations. If the issue is drug use, the student will be immediately evicted from the property. We have similar rules regarding conduct and behavior. If certain behavior rises to the level that it requires an eviction, we undergo an eviction. Regarding alcohol, there is no open consumption of alcohol allowed on the property – regardless of age. We have quiet hours every weekday beginning at 10:00 p.m. and the sports court is closed at 10:00 p.m. also. On weekends that time is extended to 11:00 p.m. If we get a call from a resident complaining about noise, the RA will ask the person to turn it down whether it is quiet hours or not. Regarding parking, all our residents will be given a parking permit, which they will pay for each semester for the privilege of parking. Typically the permit is \$25-\$50 per semester. We enforce the parking in our lots. We will have designated visitor parking. During the day, we have our maintenance team walking the property picking up as well as observing the parking. Regarding recreation, each RA is required to provide one social and one educational event for their pod each month. In addition, the entire RA staff is required to provide a building-wide activity educational and social each month. These units are fully-furnished and the entire program is structured with students in mind, so this not a

program that would be enticing to anyone other than the student or the parent of a student. Mr. Peter submitted to Council the Resident Assistant Manual (Applicant Exhibit 5).

Ms. Janice Brummit said that she is on the Board of Trustees at UNC-A, but her statement is not an official UNC-A statement. She explained to Council some of the needs they have on the campus. This fall their enrollment was 2829 students. Currently on campus they have 1,191 beds available. The freshman enrollment is 705 and freshman must live on-campus. Historically our students are well-behaved and they come for an education, not to party. As in any case, there are incidents where students are not well-behaved but we have rules in place to take of those incidents when they do happen. Our student body is very conscious environmentally, morally and socially about what happens in our community. There is a need in our community for affordable housing and this project is close to campus where they can ride their bikes.

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Upon inquiry of Councilman Newman about why there hasn't been more of a position from UNC-A, Ms. Brummit said that they are a public institution and this is a private development. Many legal ramifications are associated with when a public institution steps out and endorses a private development. Again, she is not speaking for the Board of Trustees of UNC-A, but when you endorse a project, it becomes an alienation between the community and the University. The University of North Carolina is a good neighbor and we don't want that to be slandered in anyway for any cause. But, we also want to be very cognizant of the fact that our students need a safe environment to live and have easy access to campus. She feels this is a win/win for UNC-A, but she cannot speak for the University, only as a private citizen. She did say that UNC-A is always willing to work with the community for a win/win situation.

Councilman Newman felt there are opportunities to coordinate some of the transportation issues, especially since UNC-A has just hired a transportation planner. He is not asking for an endorsement, but wondered if there would be more opportunities to do some planning together. Ms. Brummit responded that UNC-A is always willing to work with the community for a win/win situation.

Upon inquiry of Councilwoman Jones, Ms. Brummit said that other dormitories are planned on campus, but that still not meet the needs that we have. They anticipate the campus growth over the next 10 years to be about 4,500 student and we don't see that type of growth of housing on campus. The problem with building dorms is timing. Private entities can build a residence much more quickly off campus. Another issue is they have to transplant parking spaces when they build new dorms and this would alleviate some of those issues on our campus.

Mr. Scott Hughes, property owner of 19 Zillicoa, spoke in support of the project noting that he will see the project right out his back window. He spoke highly of UNC-A and in fact his firm has hired a number of UNC-A graduates. UNC-A is land-locked and in need of housing for their students. This project is a great solution for part of UNC-A's housing needs and it's being done with private dollars. City-wide traffic might be reduced if housing for the students remains close to campus. The nature of the property and the planned use should direct much of the traffic to the Broadway area. Buffering will make the development less obvious and on-site management should keep noise and security issues to a manageable level. This is another investment in the lives of the students that come here looking for knowledge and community.

Mr. Sneed summarized an email from Jim Barrett (Applicant Exhibit 6). He said Mr. Barrett is a resident of Montford and an advocate for more affordable housing. He wanted to urge approval of this development for some of the following reasons: (1) Asheville needs more affordable housing units; (2) this development will increase the supply of units for students, thus increasing the supply of affordable units for the entire City. Students currently occupy units around town that could otherwise be used for lower income families; (3) private construction of this complex will create taxable apartments and land and save the taxpayers from having to build one or more at UNC-A; (4) students will be able to bike and walk to campus decreasing the need for cars and other transportation and this should reduce air pollution; and (5) Broadway is an under-utilized four-lane thoroughfare that can accommodate traffic from a multi-family apartment complex. The complex is virtually adjacent to I-26. Broadway is or should be on the City bus route.

Vice-Mayor Mumpower inquired about the reading of emails prior to this public hearing. City Attorney Oast said that since the emails are from people who are not at the public hearing, and also regarding the email that Mr. Sneed read from Mr. Barrett, Council cannot ask questions to those people and in Superior Court that would be hearsay evidence. Mr. Sneed responded that the fact is Mr. Barrett is President of the Affordable Housing Coalition, he is head of Pisgah Legal Services and a resident of Montford.

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The following individuals spoke against the conditional use permit and/or offered additional conditions to the permit.

Reasons for denial and additional conditions are as follows, but are not limited to: loss of forest will destroy the beauty of the area and allow further air pollution; request to eliminate access on Montford Avenue due to traffic concerns; if access on Montford is necessary, suggestion for a gated or limited access entrance for emergency vehicles only; TIA count was one day instead of three days and relied on data two years old; Montford Avenue is already under strain with traffic with the new Chamber of Commerce building, two schools and the new Health Adventure; it is only an assumption that the majority of trips from this development will go to Broadway, because they will also go to places for entertainment, shopping and jobs and Montford will be the most viable route; hope that staff will work with the developer to assure the site plan on saving the trees and lighting is met; \$500 per unit is not affordable housing; there will be at least 600 students in one spot (400 residents and 200 friends) which will cause a lot of noise problems; the Historic Resources Commission should become involved in this development; if the project fails in the next three years, who will be responsible for the project; this is not smart growth; if the City wants infill housing to provide affordable housing close to downtown, why are there expensive condos in downtown Asheville; the developers are using education as a guise to achieve their goal; the development will be on a creek which eventually leads to the French Broad River which we have been trying to clean up; forest provides for a buffer and barrier of sounds from I-26; noise from project will echo up out of the ravine to Klondyke and Montford residents; project is catered to a transient population; request to slow the process to see if there are other options available; Campus Crest is student housing and not mix-use development; the project is not in keeping with the traditional Montford neighborhood pattern; the project will be built on a steep slope in an environmentally sensitive area; only economic development of this project will be to the developers; the Montford Historic District is a tourism attraction but won't stay that way when it starts to look like Tunnel Road; property values will be adversely affected with a 456 person complex in the neighborhood; there are only mild traffic calming devices proposed; the project might not be profitable enough to stay student housing and managed in the way presented, but in a few years it may become low-income housing; heavy traffic and excessive speeding on Montford Avenue is an ever increasing problem and no measures have been taken to remedy these problems; there will be excessive cut-through traffic onto Montford even if the main entrance is on Broadway; speed on Montford Avenue should be lowered since the average speed is 35 mph; traffic study on Montford Avenue by developer is misleading; housing should be integrated into the neighborhood and just concentrated in one area; don't corrupt the neighborhood and disturb the delicate balance of homes with more traffic and people who are not invested in the neighborhood; people invest a lot of money to renovate their homes and their re-sale value will be decreased due to the proximity of large single-family apartments; if there is no Montford access, then students will use other area streets to cut-through to get to Montford; there is documented loud noise calls in the past three years from a 24-unit apartment complex for students and this will be 150 units; there isn't guaranteed oversight for the project; Campus Advantage's website only shows 2-3 active properties under management; and need to look at the bigger picture of Broadway and Montford how they are intertwined:

Mr. Fred English  
Mr. Gerald Green, Montford resident  
Mr. Tim Schaller, Montford resident (Neighborhood Exhibit 1)  
A 20-year resident of Montford  
Mr. James Revels, Montford resident  
Ms. Linda Palmer, Montford resident  
Ms. Dee Eggers, Montford resident  
Ms. Terry Walton, Montford resident  
Ms. Mary Jo Brezny, Montford resident (Neighborhood Exhibit 2)  
Ms. Constance Richards, Montford resident  
Mr. Kerry Shackelford, Panola Street resident

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Ms. Elizabeth Hunter, Panola Street resident  
Ms. Rebecca Goldson, Montford resident

The following individuals spoke in support of the conditional use permit and/or offered additional conditions to the permit. Reasons for approval and additional conditions are as follows, but are not limited to: the project meets the need of the community; request the developer not grade right up to Zillicoa but leave the stand of mature trees; request the developer enhance the planting on Zillicoa to allow for a vegetation screen; request to eliminate access on Montford Avenue due to traffic concerns; adjoining business on Zillicoa has on-street parking and students will be tempted to use those spaces which will be detrimental to the business; request the developer to internalize the loop system to help protect parking on Zillicoa; encourage the developer to use features in the Reed Creek Greenway Plan regarding creative stormwater management opportunities; Campus Crest project, because of their interest in stormwater mitigation, can be a model that demonstrates how collaboration will produce solutions that balance the goals of all the stakeholders; and recommend Campus Crest meet the EPA's Revised Water Quality Standards:

Mr. Steve Buie, adjoining property owner  
Ms. Billie Buie, adjoining property owner

Mr. Kevin Hogan, Pearson Drive resident  
Ms. Megan Gordon, Montford resident

When Mr. Schaller began reading a letter that was someone handed to him regarding one of the partners of the Campus Crest project being under federal litigation by the Securities and Exchange Commission for fraud, Mr. Sneed objected. He asked Mr. Schaller if he knew of the contents of the letter of his own personal knowledge. Mr. Schaller replied no. City Attorney Oast questioned the relevance of the information. Mayor Worley sustained the objection. (Neighborhood Exhibit 1)

Ms. Brezny pointed out that the staff report submitted as City Exhibit 3 states that Mr. Barry Lowe is the applicant on the project and he is no longer associated with the project. She felt the entire process is null and void and should have to be re-reviewed. City Attorney Oast responded that the owner is still Highland Park, LLC, and is still behind the application. If Mr. Lowe signed as a representative, then he had the authority to sign on behalf of the owner. The fact that Mr. Lowe is no longer associated with the owner makes no difference.

Responding to Mr. Sneed, Mr. Peter said that Campus Crest manages 9 properties at 9 different colleges. He has been in student housing since 1985 and in March of 2003, Campus Advantage was incorporated. They now employ 150 employees. He pointed out that the rent cost includes a full telecom package, all utilities paid and each unit is fully-furnished.

Responding to Mr. Sneed, Mr. Hartnett said that over the past 2-1/2-3 years he has personally developed and been an owner of 3,000 beds at different universities. He and his construction partners personally guarantee the \$11 Million construction loan and they would not do that without the proper due diligence and study of the market.

Upon inquiry of Councilman Newman, Mr. Hartnett said that the only coordination with the other universities is that the university will sometimes allow them a website on their off-campus student housing page. They have no interactive management relationship. Occasionally they get to market and advertise on campus.

Upon inquiry of Councilman Dunn, Mr. Hartnett said that he has been doing student housing for four years. Their properties are well-maintained and range from 95-100% leased with a waiting list.

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Upon inquiry of Councilwoman Jones, Mr. Hartnett said that by industry standards this is a relatively small project. He personally likes to develop properties in the 300-450 bed range. It makes good economic sense and you can get a good sense of community there.

When Councilwoman Jones asked about the management team, Mr. Hartnett said that the management of student housing is a critical cog for the success of this project. He has used traditional apartment management people in the past, but student housing is different. The parents and students are your customer and resident lifestyle programming is essential. Campus Advantage was recommended to him by several people in the industry and he flew to Austin, Texas, to check their corporate headquarters and one of their sites. They do satisfaction surveys, they monitor students and parents frequently. They are very interactive on what is working and what isn't working. He was very impressed with their work and feels fortunate to have them as part of their team.

Councilwoman Jones asked about parking for the project. Mr. Hartnett said that their parking standard is one parking space per bed. The national average for student apartments is a one to one ratio. Most universities require freshmen to leave their cars at home and live on campus, but when they become sophomores, they want their car to have the freedom to drive. We think it's an advantage for us as a provider of housing to have one space per resident.

Councilman Newman asked if Mr. Hartnett if it was accurate that 64% of the students on campus have cars. Mr. Hartnett said that the reason that percentage may be low could be because they aren't places to park their car or the places that are available are cost prohibitive.

Councilman Newman asked if Mr. Hartnett would be willing to discuss the amount of parking in the project to minimize the impact. Mr. Hartnett felt that was a technical issue, but conceptually speaking they have discussed parking. We feel strongly that we would like to have one space per bed and enough parking spaces for staff. But, realizing the amount of impervious coverage that we are creating, we have revised our plan and when we go back before staff for final review, we have a number of pervious parking spaces. At the front end of the cars as they go into those pervious spaces, we have rain gardens. Those are some of the systems we are putting into place for the water quality feature.

Responding to Mr. Sneed, Mr. Peter said that if parking is cut, the students will go somewhere else to live if they want to

keep their car. Ideally we tried to make accommodations for guests. Since there is always a flux when people go home for the weekend, it's rare that the parking lot is 100% full so we use those spaces for visitors. Our way to manage the use of the lot is through a parking permit process and we regularly tow non-residents.

At 7:15 p.m., Mayor Worley closed the public hearing and announced a short recess.

Mr. Anthony Butzek, the City's Traffic Engineer, explained the reasons why he is recommending keeping the connection on Montford Avenue. Montford Avenue is a collector street, and it is appropriate to provide such access for a residential development to a collector street than filtering through the local streets. We expect the three primary destinations for most people from the development to be UNC-A, downtown and I-26. He feels that 80% of the traffic will use Broadway and the Zillicoa access since Broadway has ample lanes, higher speeds, and is more of a direct route. We do expect there to be some destinations to the Montford area where people would be more likely to use Montford Avenue as that access. Closure of the Montford access would increase trip length somewhat for people destined to the Montford area from this development. They would have to cut through on some of the local streets to get back to the Montford area. The next concern would be the potential use of some of those local streets as cut-throughs. If the Montford access is not provided, there is a lot of potential in this area for cut-through traffic (City Exhibit 6). The nature thing for people to do is use Zillicoa Street to go up to

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Montford Avenue. Again, we prefer people to use the collector street rather than use the local streets to make that connection to Montford. The Fire Department would like to have the access on Montford and they have indicated that a majority of their calls would use Montford Avenue opposed to Broadway. Having a gated access is a possibility, but it would increase their response time to have to unlock and re-lock the gates at each call. Access to a public street has been raised as a concern. Zillicoa Street is a private street and the City has no control over the fate of that street, so again, we would like to have this development have access to a public street, such as Montford Avenue. Staff has recommended that a special type of driveway be used on the Montford Avenue connection in order to ensure that it looks more like a driveway, whereas the entrance on Zillicoa would look more like a street, to further demonstrate that Zillicoa is the main access. He explained the "driveway link" concept (City Exhibit 7), referred to as the traffic calming measure, is not traffic calming for Montford Avenue, but it is an intent to discourage the use of the driveway, be less convenient, and to fit in better with the neighborhood.

Upon Vice-Mayor Mumpower of the traffic counts, Mr. Butzek said that the development was required to have a TIA and he has reviewed the results and concurs in general with those results (City Exhibit 8).

Upon inquiry of Councilman Davis, an audience member said that the Housing Authority said there are about 150 units with 400 residents in Klondyke Apartments.

When Vice-Mayor Mumpower asked about the speed limit on Montford Avenue, Mr. Butzek said that the posted speed limit is 30 mph, but the average speed limit is 35 mph.

Councilman Davis asked what the distance is between the two curb-cuts on Zillicoa and if we keep the Montford access do we need both curb-cuts on Zillicoa. Mr. Eller responded that the curb-cut distance is roughly 350-feet. One of the reasons we have both access points is because we don't physically have the room for a fire truck to turn around at the end.

Councilwoman Jones said that with or without this development there are several traffic concerns on Montford Avenue. Mr. Butzek said that there isn't anything currently proposed on Montford to slow traffic down. He did say that Montford certainly qualifies for a neighborhood traffic calming program. We have a significant backlog of streets needing traffic calming that we are working through. His long-term plan would certainly be to get some kind of traffic calming to mitigate on Montford from the Cullowhee to Hill Street. However, there are currently no plans to do that. The biggest challenge to do that now is allocating the amount of money that we have reserved for traffic calming. The Kenilworth Road project is going forward and subsequent to Kenilworth Road we would be looking at all of the priorities to determine which ones were most needing. Council can prioritize that list.

Mayor Worley said that the normal process for Council would be to first institute the neighborhood traffic calming process and if there is the support that meets our traffic calming criteria, then Council can choose to change whatever priorities we want to. Councilwoman Jones was satisfied to let the process move forward in the normal methods and that we are open to allocating those funds in addition to the traffic calming.

Councilwoman Jones confirmed that there was no traffic calming on Montford to go along with this project. Mr. Butzek replied that there is not, but one of the TRC comments was to keep in mind the possibility of traffic calming on Montford Avenue. The final determination was that the traffic impact of this development may not justify this developer being responsible for those

costs, but that is certainly a possibility if Council wishes.

Upon inquiry of Vice-Mayor Mumpower of what might be proposed for traffic calming, Mr. Butzek said that he would need to get a lot of neighborhood input. He has heard they don't want

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speed humps but something that looks better. Beyond that he doesn't know what the neighborhood's will is as far as what Montford Avenue should look like. Montford Avenue also falls into the Historic Resources Commission's jurisdiction and that adds another element of consideration. He does not have an idea of how much the traffic calming on Montford would cost.

Councilman Dunn felt that since the project has yet to be built we have some time to address traffic calming on Montford Avenue.

Upon inquiry of Councilman Newman, Mr. Butzek explained that the 80/20 split for vehicles using Zillicoa vs. Montford certainly contains some subjectivity and there is a margin for error, however, he feels it is a reasonable assumption.

Councilman Newman suggested there be one-way ingress into the development from Montford Avenue, which could be used for emergencies. Theoretically it could cut the traffic on Montford by 50%. Mr. Butzek's most significant concern is the enforcement issue because there is very little way to control that short section of driveway if someone goes the wrong way. He doesn't think it creates a dangerous situation, however, he would not recommend it since enforcement is virtually impossible.

When Councilman Davis asked if the ingress of the driveway could be constructed to make it difficult to exit and hard to make any left turns, Mr. Butzek wasn't able to think of any design pattern for that at this time.

Mr. Sneed questioned if there were no road into Montford from this project, would it be illegal, or is the road just a matter of preference. Mr. Butzek couldn't respond for certain, however, he didn't know of anything illegal about it. The two issues raised by the Building Safety Department was the need to connect to a public street as opposed to a private connection and the need to have two connections. He believed that since the buildings are sprinklered, the two connections are not necessary. He could not respond to whether just connecting to a private street is adequate.

Upon inquiry of Councilman Newman about a shuttle bus, Mr. Butzek said that the traffic study recommended that the developer consider, due to the high percentage of trips will be destined for UNC-A, developing some sort of shuttle system. That is a good recommendation and might reduce the need for residents to have cars. We have not recommended that be a requirement for the project.

Councilman Newman asked if the City performs an analysis of cumulative developments near one another, since projects individually may not produce much traffic, but collectively they could make a big difference in traffic. Mr. Butzek replied no. However, City Engineer Cathy Ball said that anytime a project is considered, we look at the projects that have occurred in the past. For instance, if this project is approved, a developer would have to consider the traffic from this project in looking at the evaluation of the next project. Also, we are looking at Montford Avenue in the in the north area to see what improvements can be made in that area to help with traffic flow as well. We are trying to cumulatively look at the problems and each project has to consider the impact of another project.

Ms. Ball recommended that instead of making a decision on traffic calming on Montford at this meeting, that staff come back at the next worksession and bring Council a comprehensive overview of what is going on with traffic calming, where the priorities lists are and then let Council make that decision at that point in time.

Councilman Newman felt that traffic calming is an important issue, but he thinks that the shuttle bus concept, and things like that actually need to be explored in a much more meaningful

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specific way. We are dealing with a big student housing development and there are going to be a meaningful percentage of students who don't have cars. UNC-A is already doing some things to partner with the City around transit. We can slow traffic down, but part of the goal needs to be to lower the number of cars and give people some viable transportation choices. There are things that the City can potentially do to help be part of that solution.

Vice-Mayor Mumpower asked if it is possible to maintain access and decrease convenience at the Montford access. Mr. Butzek said that the developer is already proposing speed bumps throughout their development and we can certainly look at that

and see if there are opportunities at that particular location to make sure that we are inconveniencing it as much as possible within reason.

When Vice-Mayor Mumpower asked about the buffering on Zillicoa, Ms. Hamel said that our ordinance requires only street trees, however, the developer has been very willing to explore options. If the neighborhood wants additional buffering, the developer seems very open to being able to provide that. Council may wish to add that as a condition to the project, if Council should choose to approve it.

Upon inquiry of Vice-Mayor Mumpower regarding noise, Ms. Hamel said that the City has a noise ordinance. Mr. Hartnett said that they address the noise issue in the way we manage the property. Mr. Peter also said that noise is addressed by the on-site staff and there are reasonable limits that are acceptable.

Upon inquiry of Councilman Davis, Mr. Peter said that in addition to the residence life staff there is typically 7 or 8 full-time employees, e.g., a general manager, bookkeeper, receptionist, maintenance chief, and assistant maintenance chief, who will almost all be hired locally.

When Councilman Davis asked about on-site security provisions, Mr. Peter said that the safety provisions in place involve the front-desk being open from 8:00 a.m. – 10:00 p.m. every day, an RA on-call and another RA on-duty that do regular rounds and note problems on their logs. The logs then go to the general manager. On weekends or during special events we have a budget for additional either off-duty police officers, where allowed, or private security firms.

Upon inquiry of Councilman Davis, Mr. Peter described the outdoor sports court and the amenities inside the clubhouse.

At the request of Councilman Dunn, Mr. Peter reviewed the disciplinary process. He said they do allow each general manager on-site a degree of discretion. If there is a violation write-up, a meeting is scheduled for the resident, along with letters sent to the resident and the guarantor. It depends on the circumstances, but if we had 2 or 3 noise violations from the room, we would begin the eviction process because that affects our ability to market and lease this property. In the lease there is language that addresses violations of the rules and regulations. Additionally, each student is given a student handbook when they move in that spells out the specifics, which they have to sign and which is then incorporated into the lease itself.

Upon inquiry of Vice-Mayor Mumpower, Mr. Peter said that the leases can be year-round, not just by semester.

Councilman Davis asked about provisions for married students and children. Mr. Peter said that because of the structure of the units there is not a single property that has a family. A family could rent at a multi-family development much cheaper and satisfy the needs that they have for children.

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Councilwoman Jones said that since each RA has to hold one social and one education event, could they possibly hold one community service event once a semester to further build a relationship with the neighborhood. Mr. Peter said that they would be open to that, however, it is all dependent upon participation. We occasionally have an event, like cleaning up the streets, where the RA's are participating but none of the residents.

Upon inquiry of Councilman Dunn, Mr. Peter said that if they have a student that is no longer enrolled in school and they had violations, they would be evicted.

When Vice-Mayor Mumpower asked about the buffering along Zillicoa, Mr. Eller said that if they could re-route the sidewalk through the trees, they could potentially save at least a 10-15 foot buffer along the upper portion of Zillicoa that directly abuts the Buie property. Mr. Shuford recommended the following condition: "A landscape buffer containing the equivalent landscape material as a Type-D buffer should be provided along the Zillicoa Street frontage; in addition, on-site tree retention shall be in accordance with the master plan provided by the developer." (City Exhibit 9)

Mayor Worley asked if sidewalks can meander through trees as opposed to being constructed right on the road. Mr. Butzek said that is a good suggestion as there is no rule that says sidewalks have to go in a straight line.

Mr. Eller said that it will be challenging to get the Type-D buffer sidewalk because of the topography.

Councilman Newman felt there were too many parking spaces in the project. We might be able to solve the problem of buffering on Zillicoa by eliminating some of the parking in that area.

When Councilman Newman asked about the noise ordinance, City Attorney Oast explained the noise ordinance. He said the first person we look to is the person actually making the noise and if we don't get satisfaction that way, we then look to the property owner. Violations escalate per offense from \$50 for the first violation up to \$300 for the fourth and subsequent violations.

Councilman Newman asked if we can tailor some specific noise standards to this project and make it part of the conditional use permit, since it is a unique project having this many students in one place. That way, the owner has a good incentive to not have noise ordinance complaints in the first place. City Attorney Oast said that he would have to research that if Council directs him. Under our current noise ordinance, which is pretty effective, our difficulty is with enforcement. The more special requirements you put on a project, the more difficult it will be to enforce. Another issue Council may encounter is that if you base it only on calls received, you may have a problem substantiating the calls. City Manager Westbrook felt it might be best to see what happens in retrospect since we are dealing with the unknown. That may pose more of a penalty than necessary.

Councilwoman Bellamy was concerned if we could defend the ordinance if challenged if we have a \$1,500 penalty for one project and a \$300 penalty for everyone else. City Attorney Oast said that we might have a problem with that. One thing we could do is monitor the situation for a year after the project is opened and re-visit it to see if any additional measures are necessary.

Councilman Newman said another way might be to look at the noise ordinance as a whole and see if there might need for an amendment to address the kind of situation if there is a chronic violator - there may need to be a different penalty structure.

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Mr. Peter stated that if the fines are \$300 per incident that is a very sufficient monetary motivation for us to curb what would be any noise problems.

Vice-Mayor Mumpower suggested we bring back the noise ordinance for review at a future worksession since it was last amended in 2000.

Upon inquiry of Councilwoman Bellamy regarding security, Mr. Peter said that they do not currently provide free room and board for police officers with their police cars, but that is an option they can look at.

Councilman Davis felt that there is a good management team in place, but he wasn't sure there was an adequate number of Ra's.

Councilwoman Bellamy wanted to be sure the 80-foot buffer would remain on Montford. Mr. Shuford suggested Council adopt the following condition: "A landscape buffer containing the equivalent landscape material as a Type-A buffer should be provided along the Montford Avenue frontage; in addition, on-site tree retention shall be in accordance with the master plan provided by the developer." We feel that is the most we can get equivalent landscaping material in and still be able to accommodate a meandering sidewalk. (City Exhibit 9)

Councilwoman Jones suggested a condition that the project shall be continuously managed by a professional management firm similar to the one presented tonight be added to the permit, if approved.

Councilman Newman said that this is a project he wants to say yes to, however, an outstanding issue is that we have to manage the traffic. He felt there are some creative things we can do in partnership with UNC-A and the transit system to create some alternatives to take the edge off some of the traffic impacts in the neighborhoods. Therefore, Councilman Newman moved to continue this matter for one month in order to have conversations with UNC-A's transportation planner, the developers, City staff (including the Transit Department) to see if there are any ideas that could be viable to help reduce the traffic impacts associated with this project. This motion was seconded by Councilwoman Jones.

Councilman Davis said that since this is not sanctioned by UNC-A he was unsure that they would come to the table providing transportation solutions. Also, considering the available parking at UNC-A, students will be discouraged from driving over there every time they have a class. He felt this is a very walkable area and there will be bicycle use. From a transportation standpoint, he felt our Transit Commission could work with UNC-A on a shuttle bus system, but these are unknowns at this time and can't probably be solved in one month.

Councilman Newman understands that we won't be able to come up with solutions to solve all of our transportation problems, but his concern is that if we approve the project as proposed tonight, there won't be a lot of incentive for people to sit down and talk. UNC-A is making plans to grow in our community and we should be supportive of that. But, if they are going to grow, then with projects of this intensity and scale, we need to be talking about ways to manage some of the adverse traffic impacts of the growth as it happens.

Mr. Sneed said that if the project is delayed one month, because of marketing, building the project and being ready for school opening, it is essentially put off for a one year.

Mayor Worley agreed with Councilman Newman about the transportation issues. He said we have been working with UNC-A to provide improved transit. That partnership could be expanded and ideally if we could find some sort of funding source, either from UNC-A or the City

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or in combination, to perhaps expand the frequency of the bus routes. But that partnership is, and should be, with UNC-A, not with this apartment complex or any apartment complex. We are trying to reach out to provide a public service at the private sector level and he thinks we are over-reaching.

Councilman Newman agreed it's not the developer's problem, but if we are going to find solutions that are going to work, it's going to take UNC-A, the City and the private sector creating the incentives to encourage people to use alternatives. He felt all the partners are necessary to maximize the opportunities.

Upon inquiry of Councilwoman Bellamy, Ms. Hamel said that the minimum number of parking spaces, based on the number of units, is 294 spaces and the maximum parking spaces allowed is 448 spaces. The developer is actually 14 spaces over the maximum. Mr. Hartnett said that they are asking for one space per resident and enough parking for staff. He said they have 48 parking spaces that are pervious spaces that they were not required to provide, but they did that to work on stormwater management. He said that they would be willing to reduce their parking spaces to 448 realizing that 48 of those are pervious.

Councilman Newman would prefer to see the reduction of parking spaces less than 448. Again, he wants to create some real alternatives and incentives for students so they will not bring their car. Another consideration for him is the footprint/scale of the project. He said the main footprint is not the buildings, but the parking lot. If we reduced parking spaces, it would at least allow us to have more buffering on Zillicoa. Mr. Hartnett responded that unit density on this property is less an 10-units per acre, which by multi-family standards is quite low. If we were developing the number of units that we could, by right, we probably would end up having that number of parking spaces. He is confident that they will have a shuttle bus agreement, but cannot confirm that right now. He did note, however, that there is a shuttle bus turn-around near the clubhouse.

Vice-Mayor Mumpower felt that dropping the parking spaces down to the maximum makes sense. He was, however, concerned that Council is discussing policy matters and applying them to the project. He was comfortable with providing some opportunity for dialogue and moving forward.

Upon inquiry of Councilwoman Bellamy, Mr. Shuford said that the previous suggested condition does allow for buffering on Zillicoa. However, there is a row of about 22 parking spaces near Zillicoa and if that row were deleted, you could have an additional 18-feet to add to the Zillicoa buffer area. He did note that the Zillicoa side is the non-residential side, whereas, Klondyke is residential so it is more appropriate for there to be a bigger buffer in that area.

Councilwoman Bellamy asked if we can add a condition to the permit to create dialogue with UNC-A's transportation planner, the developers, City staff (including the Transit Department) to see if there are any ideas that could be viable to help reduce the traffic impacts associated with this project. She said the City can't make UNC-A come to the table, but with this condition on the permit, the developers have to come to the table.

The motion made by Councilman Newman and seconded by Councilwoman Jones to continue the this matter for one month in order to have conversations with UNC-A's transportation planner, the developers, City staff (including the Transit Department) to see if there are any ideas that could be viable to help reduce the traffic impacts associated with this project failed on a 2-5 vote, with Councilwoman Jones and Councilman Newman voting "yes" and Mayor Worley, Vice-Mayor Mumpower, Councilwoman Bellamy, Councilman Davis and Councilman Dunn voting "no."

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Councilman Davis moved for the adoption of Ordinance No. 3253, granting a conditional use permit for property located between Zillicoa Road and Montford Avenue, identified as Campus Crest at Asheville, to construct a 152-unit apartment complex, subject to the following conditions:

1. Technical Review Committee, Planning & Zoning Commission (as stated in the manner by City staff) and City staff

- recommendations be met.
2. No fee in lieu of sidewalks be permitted.
  3. A crosswalk crossing Zillicoa shall be added at Broadway. Material shall be white thermoplastic meeting NCDOT standards. Both crosswalks crossing Broadway shall be upgraded to high-visibility type crossings. Markings may be ladder-style or piano-key style, similar to City markings in the downtown area. Material shall be white thermoplastic meeting NCDOT standards.
  4. A transit pad shall be provided at the intersection of Broadway & Zillicoa to provide for potential future service along Broadway. The pad shall be concrete, 13' long x 8' wide, with cross-section meeting the City's sidewalk specifications. The pad shall be attached to, but shall not overlap, the sidewalk. Location shall be in the south corner of the intersection along Broadway, or other location approved by staff.
  5. All site lighting shall be equipped with 90-degree cut-off fixtures and oriented away from surrounding properties; a lighting plan shall be implemented to minimize light trespass.
  6. The developer shall continue working with staff to ensure that the proposed structures are architecturally compatible with the surrounding neighborhood.
  7. Eliminate one of the Zillicoa Drive entrances, but only if compliant with State Fire Regulations; this included meeting and working with the Fire Marshal on this issue.
  8. Best Management Practices (BMP's) shall be utilized to address water quality issues; at a minimum, the updated EPA water quality standards shall be met, along with any conditions imposed by the Asheville City Engineering office.
  9. The developer shall work with city staff and other independent groups to address water quality issues in the design and monitoring of stormwater run-off infrastructure.
  10. The maximum number of parking spaces shall be 448 of which 48 spaces to be pervious paving.
  11. The dumpster should be relocated to an internal location within the site to reduce its impact on neighboring properties and discourage traffic from proceeding onto Montford Avenue.
  12. All buildings must comply with the Institutional District height standards.
  13. The developer is required to contact the Corps of Engineers office to determine appropriate permits required for developing over a tributary stream. Any permits required, are to be obtained prior to the issuance of the zoning permit.
  14. A sidewalk connection along Zillicoa to Broadway shall be provided in a location approved by staff.
  15. The driveway access on Montford Avenue be a one-way ingress only and shall be constructed with traffic calming elements as required by the City's Traffic Engineer.
  16. That the developer shall participate in dialogue with City staff, including the Transit Services Department staff, the Transit Commission and invite UNC-A to participate to discuss the possibilities that exist to help reduce the traffic impacts associated with this project.
  17. A landscape buffer containing the equivalent landscape material as a Type-A buffer should be provided along the Montford Avenue frontage; in addition, on-site tree retention shall be in accordance with the master plan provided by the developer.
  18. A landscape buffer containing the equivalent landscape material as a Type-B buffer should be provided along the Zillicoa Street frontage; in addition, on-site tree retention shall be in accordance with the master plan provided by the developer.
  19. The project shall be continuously managed by a professional management firm at the same level of on-site staffing as presented during this public hearing; to this end, any

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change of management company from Campus Advantage shall require prior approval from the City which shall not be unreasonably withheld.

This motion was seconded by Councilwoman Bellamy.

Councilman Dunn asked if, after the dialogue, City staff recommends an action be taken is the developer required to comply with that action. Councilman Davis said the condition only requires dialogue, however, the developer is already making provisions for a shuttle turn-around.

Councilman Newman moved to amend the motion to reduce the amount of parking (448 spaces) in the project by 15%, with the option that once the project is built out, they would have the option of potentially building out the rest of the parking if it becomes apparent that there is a need for it. This motion was seconded by Councilwoman Jones and failed on a 2-5 vote, with a 2-5 vote, with Councilwoman Jones and Councilman Newman voting "yes" and Mayor Worley, Vice-Mayor Mumpower, Councilwoman Bellamy, Councilman Davis and Councilman Dunn voting "no."

The original motion made by Councilman Davis and seconded by Councilwoman Bellamy carried on a 5-2 vote with Mayor Worley, Vice-Mayor Mumpower, Councilwoman Bellamy, Councilman Davis and Councilman Dunn voting "yes" and Councilwoman Jones and Councilman Newman voting "no."

Councilwoman Jones hoped that the Montford neighborhood will be contacted so that they can be present to hear the dialogue regarding transit issues. She also hoped that if we have surplus in the past fiscal year, that Council be willing to considered investing that in the Montford neighborhood, so that we can invest in some infrastructure now so that some quality of life can be improved.

**ORDINANCE BOOK NO. 21 – PAGE**

**C. PUBLIC HEARING TO AMEND THE 2004 CONSOLIDATED COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME ACTION PLAN**

**RESOLUTION NO. 04-178 - RESOLUTION AMENDING THE 2004 CONSOLIDATED COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME ACTION PLAN**

Mayor Worley opened the public hearing at 9:42 p.m.

Community Development Director Charlotte Caplan said that this is the consideration of a resolution approving an amendment to the 2004 Annual Action Plan in order to allocate new funds for American Dream Downpayment Initiative (ADDI) activities. This public hearing was advertised on August 13, 2004.

On April 13, 2004, Asheville City Council approved the 2004 Annual Action Plan for the CDBG and HOME program funds. The plan indicated the need for future amendment in order to allocate an expected additional award of \$161,843 in HOME funds for the ADDI Program. These funds can be used solely for downpayment assistance to first-time homebuyers, with special emphasis on public housing, Section 8, and mobile home park tenants.

Staff requested proposals from outside agencies, including non-profits, public housing agencies, and banks, to implement the ADDI program. Three proposals were received. On August 4, 2004, the Asheville Regional Housing Consortium Board of Directors reviewed the proposals and recommended the following allocations:

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1. \$30,000 awarded to the Housing Assistance Corporation for Transylvania County.
2. \$131,843 awarded to Neighborhood Housing Services of Asheville, Inc., for Buncombe and Madison Counties; with at least \$30,000 reserved for public housing and Section 8 tenants referred by the Housing Authority of the City of Asheville.

A public hearing is required and has been advertised for the August 24, 2004, Council meeting.

**Pro:** Adoption of the Amendment will allow the Consortium to expend the funds for downpayment assistance in Buncombe, Madison and Transylvania Counties.

**Con:** None

Community Development staff and the Consortium Board recommend adoption of the resolution approving an amendment to the 2004 Annual Action Plan in order to allocate new funds for American Dream Downpayment Initiative (ADDI) activities.

Mayor Worley closed the public hearing at 9:45 p.m.

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

Councilwoman Bellamy moved for the adoption of Resolution No. 04-178. This motion was seconded by Councilman Newman and carried unanimously.

**RESOLUTION BOOK NO. 28 – PAGE 336**

At 9:46 p.m., Mayor Worley announced a short recess.

**D. PUBLIC HEARING TO CONSIDER A REQUEST TO APPLY THE MONTFORD AREA LOCAL HISTORIC DISTRICT OVERLAY TO A SPLIT ZONED PARCEL ZONED RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT LOCATED AT 240 PEARSON DRIVE**

**ORDINANCE NO. 3154 - AN ORDINANCE TO APPLY THE MONTFORD AREA LOCAL HISTORIC DISTRICT OVERLAY TO A SPLIT ZONED PARCEL ZONED RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT LOCATED AT 240 PEARSON DRIVE**

Mayor Worley opened the public hearing at 9:55 p.m.

Historic Resources Director Stacy Merten said that this is the consideration of an ordinance to apply the Montford Area Local Historic District Overlay to a split-zoned parcel zoned RM-8 Residential Multi-Family Medium Density District located at 240 Pearson Drive. This public hearing was advertised on August 13 and 20, 2004.

The 2025 Plan calls for the continued effort for the preservation, enhancement, and management of change within local historic districts. The proposed zoning change will continue to protect the integrity of the historic district while allowing for new development on a relatively large parcel which has recently been further subdivided.

The property under consideration was the original site of the structure known as the Dr. Marion C. Millender House. Dr. Millender was a beloved Asheville physician, who lived there to the age of 104. The house was designed by Asheville architect Wm. Henry Lord for Dr. Millender

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and his wife Mary Mebane White Millender. Complete in 1907, it is one of the largest residences in Montford and is built in the Shingle style. The two-acre parcel was owned by a member of the Millender family from 1902 until 1969. The Montford Area historic district boundary split the parcel with the line running diagonally in a northwest/southeasterly orientation.

The original 2-acre parcel was recently subdivided in June, 2004. All of the new lots are also split, with a portion of each falling within the current historic district boundary. It appears that a mapping error was made at the time of the original designation as it is customary for historic district boundary lines to follow legally recorded property lines, especially in urban areas.

The applicant, Jim Samsel, wishes to preserve the context of the Millender house as well as the integrity of the district at the edge, now that the original lot has been subdivided. The amendment would also clear up any ambiguity regarding design review for new construction.

**Pros:** The amendment will clear up any ambiguity as to what portion of any new development would be subject to design review.

**Cons:** Any new construction will be subject to design review, which will lengthen the review process and increase the cost of construction.

The overlay amendment has been reviewed by the Historic Resources Commission and they recommended unanimously in favor of the amendment. Staff concurs with the applicant's concerns and also recommends in favor of the zoning amendment to extend the boundary of the Montford area local historic district overlay. City staff recommends approval as well.

Ms. Marcia Davis, Tacoma Street resident, urged City Council to support the Montford Historic District Overlay request.

Mayor Worley closed the public hearing at 9:57 p.m.

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

Councilwoman Bellamy moved for the adoption of Ordinance No. 3154. This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

**ORDINANCE BOOK NO. 21 – PAGE**

**E. PUBLIC HEARING TO CONSIDER THE REZONING OF A PORTION OF PROPERTY LOCATED AT 86 CRAYTON ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT**

**ORDINANCE NO. 3155 - AN ORDINANCE TO REZONE A PORTION OF PROPERTY LOCATED AT 86 CRAYTON ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY**

## HIGH DENSITY DISTRICT

Mayor Worley opened the public hearing at 9:58 p.m.

Urban Planner Kim Hamel said that this is the consideration of an ordinance to rezone a portion of property located at 86 Crayton Road from Commercial Industrial District to RS-8 Residential Single-Family High Density District. This public hearing was advertised on August 13 and 20, 2004.

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Although not specific to the immediate neighborhood, the Future Land Use and Transportation Plan of the 2025 Asheville City Development Plan identifies the intersection of Sweeten Creek Road and Interstate 40 as the dividing point between a Urban/Neighborhood Corridor to the north and a Gateway Corridor to the south. The Sustainable Economic Development Strategic Plan identifies a shortage of industrial zoned properties as one of its top priority issues to be addressed in our area.

Rezoning of a 23.5-acre lot from CI to HB in 2003. The lot is located off of Crayton Road, west of the site, on the opposite side of the railroad right of way.

The subject site is located off of Crayton Road on approximately 4.97 acres. The lot is currently vacant and is split zoned RS-8 (in the front and rear sections of the lot) and CI (located within the center of the lot). Surrounding land uses and zoning include single family residential uses to the north and east zoned RS-8; residential and vacant commercial property zoned Highway Business (HB) and RS-8 located west of the site (with the Highway Business (HB) lot located across a railroad right-of-way); and commercial and residential property zoned Commercial Industrial (CI) and RS-8 to the south.

The subject site is located in a densely developed single-family neighborhood in the Oakley area of East Asheville. The site is accessed from Liberty Street off of Fairview Road, which turns into Crayton Road. Just south of the site a road barrier has been placed across Crayton Road to prevent commercial traffic from entering the residential neighborhood. This came as a request from the community as part of the new I-40 exit at Sweeten Creek. The two commercial lots along the west and south sides of the property are on the south side of the barrier on Crayton Road and are accessed via Sweeten Creek Road.

On July 19, 2004, the Verdi Group received approval from the Technical Review Committee to pursue an 8 lot single-family subdivision on the RS-8 portion of the lot that abuts Crayton Road. The applicant wishes to pursue the rezoning on the Commercial Industrial (CI) portion of the lot to RS-8 in order to continue the same type of single-family development on the remaining portions of the lot. Under the current Commercial Industrial (CI) zoning, single-family dwelling are not permitted.

### Pro's:

- Rezoning the split-zoned parcel to RS-8 will provide consistency in the design of the proposed single-family development.
- Rezoning the CI portion of the lot to RS-8 will inhibit the potential of a high impact use being developed adjacent to an established residential area.
- The rezoning of the lot will be keeping in character with established RS-8 zoning north and east of the site.

### Con's

- The 2025 plan and Economic Development Strategic Plan stresses concern over losing valuable industrial zoned property. Staff, has however, discussed this application with the Economic Development Director who has no concerns over the proposed rezoning.

Rezoning the CI portion of this property to RS-8 would provide the applicant an opportunity to construct a single-family development (that may include several affordable-housing units) consistent with the subdivision approved by the Technical Review Committee in July 2004. In consideration of the above and the relationship to the adjoining zoning and land uses in the area surrounding site the proposed zoning change appears to be consistent with the intent and purpose of the UDO.

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On August 4, 2004, the Planning and Zoning Commission made a unanimous vote to approve the rezoning as requested. City staff recommends approval as well.

Mr. Gerald Green, representing the developer, spoke in support of the rezoning.

Mayor Worley closed the public hearing at 10:02 p.m.

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

Councilman Davis moved for the adoption of Ordinance No. 3155. This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

**ORDINANCE BOOK NO. 21 – PAGE**

**F. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE FOR PUBLIC SAFETY PLANS FOR CERTAIN TEMPORARY USES**

Councilman Dunn moved to continued this public hearing until September, 14, 2004, in order to give staff time to research concerns raised at the August 17, 2004, worksession. This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

**G. PUBLIC HEARING TO CONSIDER TECHNICAL AMENDMENTS AND CLARIFICATIONS TO THE UNIFIED DEVELOPMENT ORDINANCE**

**ORDINANCE NO. 3156 - AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO CONSIDER TECHNICAL AMENDMENTS AND CLARIFICATIONS**

**ORDINANCE NO. 3157 - AN ORDINANCE AMENDING SECTION 7-8-21 (B) AND SECTION 7-8-22 (B) TO CHANGE THE WORD "CHURCHES" TO "PLACES OF WORSHIP"**

Mayor Worley opened the public hearing at 10:03 p.m.

Mr. Joe Heard, Director of Development Services with the Planning & Development Department said that this is the consideration of an ordinance to amend the Unified Development Ordinance for the purposes of filling in missing information, correcting mistakes, resolving discrepancies and clarifying the ordinance. This public hearing was advertised on August 13 and 20, 2004.

Working with the Unified Development Ordinance (UDO) on a daily basis, the Planning & Development staff has noted a number of instances where the ordinance contains discrepancies, is incomplete, or needs clarification. Staff has compiled a list of these issues and proposes the following amendments to correct these situations and make the UDO a clearer document for staff and public use. The proposed amendments deal with a variety of issues throughout the ordinance.

Pros –

- The UDO will be more easily understood and interpreted by staff and the public.
- The intent of the ordinance will be made clearer and less subject to legal challenge.

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Con –

- None.

The Planning and Zoning Commission recommended approval of these code amendments on August 4, 2004, by a unanimous vote of 6-0. City staff recommends approval of the proposed code amendments.

City staff recommends approval of the proposed code amendments to the Unified Development Ordinance for the purposes of filling in missing information, correcting mistakes, resolving discrepancies, and clarifying the ordinance.

Mayor Worley closed the public hearing at 10:06 p.m.

Mayor Worley said that members of Council have previously received a copy of the ordinances and they would not be read.

Councilman Newman moved for the adoption of Ordinance No. 3156, with the deletion of Section 7-8-21 (b) and Section 7-8-22 (b). This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

**ORDINANCE BOOK NO. 21 – PAGE**

Councilwoman Bellamy was disappointed that in our ordinances we are moving away from using the word "churches." She feels the words "places of worship" is exclusionary.

When Vice-Mayor Mumpower questioned if both the word "church" and "places of worship" could be used, City Attorney Oast requested time within which to research the question.

After a brief discussion, Councilman Newman moved for the adoption of Ordinance No. 3157, amending the following sections: (1) Section 7-8-21(b) is amended by changing "Churches" to "Places of Worship"; and (2) Section 7-8-22 (b) is amended by placing "Places of Worship" under the "Institutional" use category, rather than "Office/business". This motion was seconded by Councilman Davis and carried on a 4-3 vote, with Mayor Worley, Councilman Davis, Councilwoman Jones and Councilman Newman voting "yes" and Vice-Mayor Mumpower, Councilwoman Bellamy and Councilman Dunn voting "no."

City Attorney Oast said that since the ordinance passed on a 4-3 vote, it will require a second reading which will be held on September 14, 2004.

#### **ORDINANCE BOOK NO. 21 – PAGE**

#### **IV. UNFINISHED BUSINESS:**

#### **V. NEW BUSINESS:**

##### **A. RESOLUTION NO. 04-179 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BAY AREA ECONOMICS FOR A HOUSING NEEDS ASSESSMENT AND MARKET STUDY FOR THE ASHEVILLE REGIONAL HOUSING CONSORTIUM AREA**

Community Development Director Charlotte Caplan said that this is the consideration of a resolution authorizing the City Manager to enter into a contract for \$50,000 with the Bay Area

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Economics for a Housing Needs Assessment and Market Study for the Asheville Regional Housing Consortium Area.

In May 2005, the City must submit to HUD a Five Year Strategic Consolidated Plan for the CDBG and HOME programs, covering the period 2005-2010. A required part of this plan is a detailed Housing Needs Assessment and Market Study covering the four counties that make up the Consortium area: Buncombe, Henderson, Madison and Transylvania.

Under the direction of the Consortium Board, staff issued a request for proposals for this study in June 2004, evaluated the proposals, and negotiated a price with the consultant submitting the most responsive proposal. The proposal recommended by the Consortium Board is Bay Area Economics, a woman-owned company in Silver Spring, Maryland, which will complete the required work for a fixed price of \$50,000. No local or minority-owned firms submitted proposals.

Funding for the contract has already been budgeted in the HOME Fund, under Member Government Administration.

#### **Advantages:**

- The firm is well qualified to carry out this work
- The price is within the range estimated by the Consortium Board
- Approval of the contract will ensure that the study is completed in time to use it in preparing the Strategic Plan later this year.

#### **Disadvantages: None**

City staff recommends City Council authorize the City Manager to enter into a contract with Bay Area Economics, in the amount of \$50,000, for a Housing Needs Assessment and Market Study for the Asheville Regional Housing Consortium Area.

Councilwoman Jones spoke in support of the resolution and the Housing Needs Assessment and Market Study.

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

Vice-Mayor Mumpower moved for the adoption of Resolution No. 04-179. This motion was seconded by Councilwoman Jones and carried unanimously.

**RESOLUTION BOOK NO. 28 – PAGE 337**

**B. RESOLUTION NO. 04-180 - RESOLUTION APPOINTING A MEMBER TO THE PLANNING & ZONING COMMISSION**

Vice-Mayor Mumpower said that this is the consideration of a resolution appointing a member to the Planning & Zoning Commission.

Sharon Bell has resigned as a member of the Planning & Zoning Commission, thus leaving a vacancy on the Commission until August 14, 2005.

At the City Council worksession on August 17, 2004, City Council instructed the City Clerk to arrange interviews for David Brown and Eric Zetterholm. Cindy Weeks is a candidate, however, it was not necessary to bring her in for an interview.

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After Council spoke about the high qualifications of each candidate, David Brown received no votes; Eric Zetterholm received 2 votes; and Cindy Weeks received 5 votes. Therefore, Cindy Weeks was appointed as a member of the Planning & Zoning Commission, to serve the unexpired term of Ms. Bell, term to expire August 14, 2005, or until her successor has been appointed.

**RESOLUTION BOOK NO. 28 – PAGE 338**

**C. RESOLUTION NO. 04-181 - RESOLUTION APPOINTING MEMBERS TO THE RIVER DISTRICT DESIGN REVIEW COMMITTEE**

Summary: The terms of Ed Metz, Marvin Slosman, Gail McCarthy, Ken Fulford, Hunt Mallett, Laura Webb and Robert Camille, as members of the River District Design Review Committee, expire September 1, 2004.

At City Council's worksession on August 17, 2004, City Council instructed the City Clerk to prepare the proper paperwork to (1) appoint Richard T. Hall (one of two members of RiverLink Board of Directors); (2) reappoint Ken Fulford (one of two design professionals); (3) reappoint Hunt Mallett (one of two owners of property located within the River District); and (4) appoint Jane Mathews (one of the two design professionals). All terms are to expire on September 1, 2007, or until their successors have been appointed.

At the City Council worksession on August 17, 2004, City Council instructed the City Clerk to arrange interviews for Kimberly Campton and Maureen Grozier (at large member).

At the City Council worksession on August 17, 2004, City Council instructed the City Clerk to re-advertise for the vacancy of an owner of property within the River District and the member of the RiverLink Board of Directors.

After Council spoke about the high qualifications of each candidate, Maureen Grozier was appointed, as the at-large member of the River District Design Review Committee, to serve a three year term, term to expire September 1, 2007, or until her successor has been appointed. In addition, Council (1) appointed Richard T. Hall (one of two members of RiverLink Board of Directors); (2) reappointed Ken Fulford (one of two design professionals); (3) reappointed Hunt Mallett (one of two owners of property located within the River District); and (4) appointed Jane Mathews (one of the two design professionals). All terms are to expire on September 1, 2007, or until their successors have been appointed.

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**D. RESOLUTION NO. 04-182 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY**

Summary: The term of Victor Trantham, as a member on the Buncombe County Tourism Development Authority, expires August 30, 2004. In addition, Mr. Chris Cavanaugh has resigned, thus leaving an unexpired term until August 30, 2005.

At the City Council worksession on August 17, 2004, City Council instructed the City Clerk to arrange interviews for Victor

Trantham and Ripley Hotch to fill the vacancy for the owner/operator of hotel, motel or other taxable tourist accommodation with 100 or fewer rental units.

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At the City Council worksession on August 17, 2004, it was the consensus of City Council to re-advertise for the vacancy for the individual who is involved in the tourist business but who does not own or operate a hotel, motel or other taxable tourist accommodation.

After Council spoke about the high qualifications of each candidate, Victor Trantham was reappointed to the Buncombe County Tourism Development Authority to fill the vacancy of the owner/operator of hotel, motel or other taxable tourist accommodation with 100 or fewer rental units, to serve an additional three year term, term to expire August 30, 2007, or until his successor has been appointed.

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**VI. OTHER BUSINESS:**

**CLAIMS**

The following claims were received by the City of Asheville during the period of July 30-August 12, 2004: Cherokee Road (Fire), Laurie Fisher (Sanitation), Glenn A. Temple (Sanitation), Jamie Jones (Police), Louise Shade (Streets) and N.C. Dept. of Admin. (Water).

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

**VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Mr. Mike Fryar related to Council a problem that he encountered with the Asheville Police Department regarding a stolen vehicle. City Manager Westbrook said that Mr. Fryar's concern is an administrative issue and he is in the process of working on it.

**VIII. ADJOURNMENT:**

Mayor Worley adjourned the meeting at 10:23 p.m.

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CITY CLERK

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MAYOR