

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor R. Carl Mumpower; 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: Councilwoman Terry M. Bellamy

PLEDGE OF ALLEGIANCE

Councilwoman Jones led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Dunn gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 11, 2005, AND THE WORKSESSION HELD ON JANUARY 18, 2005**
- B. RESOLUTION NO. 05-10 - RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR A GRANT AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES TO ASSIST WITH THE RENOVATION OF THE MONTFORD COMPLEX**

Summary: The consideration of two resolutions authorizing the Mayor to apply for a grant and enter into an agreement with the N.C. Dept. of Environment and Natural Resources to assist with the renovations of the Montford Complex and Aston Park.

Funds are available through the N.C. Dept. of Environment and Natural Resources, Division of Parks and Recreation in the North Carolina Parks and Recreation Trust Fund (PARTF) to assist with the development of parks and greenways.

The renovation of Aston Park has been identified as a priority by the community at large and by the tennis community. For many years, the Dick Covington Foundation raised money to help build a new tennis center at the park. The City of Asheville now holds \$260,000 from the Covington Foundation to help build the tennis center. In anticipation of the park transfer as part of the Water Agreement, Parks and Recreation wishes to pursue grant funds to renovate the park including construction of a new the tennis center, and renovation of the playground, trails and basketball court.

The Montford Complex is in the heart of the Montford neighborhood and the most heavily used park featuring the Montford Center and the surrounding park. The center and features in the park are in need of renovation and in some cases complete replacement in order to meet safety and handicap accessibility requirements. The Parks and Recreation Department wishes to pursue grant funds to renovate the park including improvements to the center, new amphitheater, playground, ball field lights, ropes course and basketball courts.

The Parks and Recreation Department is requesting \$260,000 in grant funds for renovation of Aston Park, and \$150,000 for renovation for the Montford Complex from the N.C.

-2-

Parks and Recreation Trust Fund. Each grant application requires a dollar for dollar cash match. The cash match for renovation of Aston Park is available in the Parks and Recreation Department's existing Capital Improvement Project budget via the Dick Covington Foundation. The cash match for the Montford Complex renovation is in the proposed Parks and Recreation Department's Fiscal Year 2005-06 Capital Improvement Project budget.

The Reid Center renovation, a top Capital Improvement Project priority, is not being considered for the 2005 PARTF funding cycle, but will be a PARTF application in January 2006. The PARTF awards up to \$500,000 requiring a dollar for dollar cash match. The Reid Center fundraising team wishes to apply for the full amount but at this time the cash match is not available.

By 2006, the first year of fundraising will be complete and matching funds will be in place to apply for the full amount.

This action complies with City of Asheville Strategic Operating Plan, Council Focus Area: Natural and Built Environment, Goal 2: Increased greenway benefits equitably throughout Asheville – Continue to implement and develop greenways that enhance quality of life for Asheville.

Pros:

- The trail in the Aston Park renovation will link densely populated neighborhoods near downtown Asheville to the Clingman Forest Greenway Corridor, which will connect to the French Broad River Greenway Corridor.
- Continue to make progress on the Parks and Recreation Department's strategic plan to renovate and improve Montford Complex.
- Respond to public demand to improve Aston Park.
- Be ready to manage Aston Park upon transfer from Buncombe County.
- Raise outside funds to support facility renovations and reduce reliability on City funds to support Capital Improvement Project cost.

Cons: None noted

The Parks and Recreation Department recommends the City of Asheville apply for and enter into an agreement for grant funds through the North Carolina Parks and Recreation Trust Fund for \$260,000 for renovation of Aston Park, and for \$150,000 for renovation of the Montford Complex.

RESOLUTION BOOK NO. 28 – PAGE 470

C. RESOLUTION NO. 05-11 - RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR A GRANT AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES TO ASSIST WITH THE RENOVATION OF ASTON PARK

Summary: See Consent Agenda Item "B" above.

RESOLUTION BOOK NO. 28 – PAGE 471

D. RESOLUTION NO. 05-12 - RESOLUTION AUTHORIZING THE CITY CLERK TO PUBLISH A NOTICE REGARDING THE EXCHANGE OF AN EASEMENT ON REAL PROPERTY LOCATED ON BLACK OAK DRIVE FOR AN EASEMENT ON REAL PROPERTY LOCATED ON PINECROFT ROAD

-3-

Summary: The consideration of a resolution authorizing the City Clerk to publish a notice regarding the exchange of an easement on real property located on Black Oak Drive for an easement on real property located on Pinecroft Road.

The City and Mr. & Mrs. Fulton H. Beville have negotiated an exchange of a driveway easement over the Beaverdam Reservoir property (PIN No. 9751.17-10-7654) on Black Oak Drive for a slope/fill easement across real property located on Pinecroft Road (PIN No. 9751.17-10-9594).

At the time that the Beaverdam Reservoir was built a substantial amount of fill was placed on the Beville's property thereby allowing a cost savings to the City and providing lateral support to the reservoir site maximizing the use of the property. The Beville's were not compensated for the use of their property, but instead understood that the use of the reservoir access road would be available to them to access a portion of their property not easily accessible from Pinecroft Road because of topography.

A formal arrangement has not been in place heretofore, but it is advisable to formalize the arrangement through an exchange of easements which will satisfy the City's need to keep the fill in place as well as the Beville's need to access their property.

The driveway easement would be 12' wide and about 350' long comprising an area of 4,200 square feet. Based on the tax value of the land per square foot (.92), at a 50% easement value, the driveway easement would have a value of \$1,932. Water Resources staff estimates that the benefit to the City of having the fill in place would equal or exceed the value of the driveway easement.

The use of the driveway by the Bevilles will not impair the function nor security of the reservoir, but could improve security

to the extent that the Bevilles would be able to observe the reservoir site.

The positive aspects of the transaction are:

- The exchange will be a fair exchange of value for value.
- It will establish record title in the City of the right to have the fill area remain on the Beville's property.
- It will establish a clear description of the size and location of the driveway easement.
- It will formalize the arrangement thereby reducing the likelihood of future misunderstandings.

The negative aspects are:

- The driveway easement will limit the use of the reservoir property within the easement area.

Approval of the resolution will initiate the exchange of the properties through the process provided in N. C. G. S. 160A-271.

Planning & Development staff and Water Resources staff recommend adoption of the resolution authorizing the City Clerk to publish a notice regarding the exchange of an easement on real property located on Black Oak Drive for an easement on real property located on Pinecroft Road.

RESOLUTION BOOK NO. 28 – PAGE 472

-4-

E. RESOLUTION NO. 05-13 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY FOR A GRANT TO ASSIST WITH THE PURCHASE AND INSTALLATION OF VIPER-COMPLIANT RADIOS

Summary: The consideration of a resolution to apply for and enter into an agreement with the North Carolina Department of Crime Control and Public Safety for funds through the Governor's Crime Commission to assist with the purchase of 800 MHz VIPER-compliant radios for Asheville Fire Rescue and Asheville Police Departments.

Public safety agencies in WNC experienced a serious need for interoperability in their communications systems when mutual aid services were provided during the historic flooding of 2004. In response to this need, several public safety agencies from Asheville and Buncombe County are collaborating to establish an interoperable communication system, which will ensure a better communication link among all agencies. In addition to promoting efficient disaster response, an interoperable system will be an important component of terrorism prevention.

To support this system, Asheville Fire Rescue and Asheville Police Departments are partnering with other agencies (Buncombe County Rescue, Buncombe County Sheriff, Buncombe County Emergency Services, Enka Fire, Haw Creek Fire, Reynolds Fire, Riceville Fire, Skyland Fire, Swannanoa Fire, and West Buncombe Fire) to apply for a \$492,800 grant from the Governor's Crime Commission to purchase a total of 127 radios to be distributed among the participants. Asheville will assume lead responsibility in applying for the grant and purchasing all radios, including radios for our partner agencies. The grant requires a 25% match of the total cost (\$492,800), or \$123,200. The cost of the match will be shared by all participating agencies based on the number of radios each receives. The City's net cost is expected to be \$61,300; it will come from the City's fund balance.

This action coincides with the City of Asheville's Strategic Operating Plan under the focus area of Partnerships To Improve Critical Services & Infrastructure, goal #3: Explore ways for the City and County to work together to share in regional infrastructure investment needs.

Pros

- This project will help develop in WNC the statewide voice interoperable network including 800 MHz radios, in collaboration with the Voice Interoperability Plan for Emergency Responders (VIPER) that has been established by the state of NC.
- The public safety agencies listed are committed to interoperability and have agreed to participate in the project and to match 25% of the cost of the radios.
- The project will improve public safety in Asheville and Buncombe County by enabling WNC emergency responders to communicate with each other and with others across the state.

Cons

- The cost of the match.

The Fire Rescue and Police Departments recommends the City of Asheville apply for and enter into an agreement for grant funds to assist with the purchase of the radios.

RESOLUTION BOOK NO. 28 – PAGE 473

F. RESOLUTION NO. 05-14 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MOUNTAIN WORKFORCE DEVELOPMENT BOARD FOR THE 2005 SUMMER YOUTH DEVELOPMENT PROGRAM

-5-

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the Mountain Area Workforce Development Board for the 2005 Summer Youth Development Program.

The Parks and Recreation Department contacted the Mountain Area Workforce Development Board (MAWDB) on the campus of A-B Technical College to determine the feasibility of organizing and administering a summer youth employment program for 2005. The MAWDB has actively administered and delivered career development services, remedial education, job skills training and subsidized employment opportunities for Asheville's economically disadvantaged youth for more than 30 years.

Highlights of the proposal:

- Employment of 55 disadvantaged youth from the City of Asheville.
- Summer employment period of June 8, 2005 – July 29, 2005 (8 weeks)
- Youth Employees between the ages of 14 and 17 years old.
- Specific application process and selection procedures mutually agreed upon by the City and MAWDB.
- Education and training components aimed at assisting youth to move forward in school and toward a successful productive life.
- MAWDB will develop, organize, administer supervise and evaluate the program through an agreement with the city including recruitment of youth, development of worksite agreements, orientation and training of worksite supervisors and employees, monitoring and counseling of youth employees and program accounting and oversight.
- The City of Asheville will provide payroll services and worker's compensation insurance.

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This action is in keeping with the City Council Strategic Plan's economic development goal #4 of providing vocational training opportunities for teenage youth and the plan's critical services and infrastructure goal #4 of reducing drug related crime activities through holistic approaches targeting at-risk and economically disadvantaged youth. The Parks and Recreation Department recommends entering into an agreement with the MAWDB for the delivery of a youth development program that combine the opportunities for summer employment with meaningful training and education in the areas of job success skills, career planning, life skills, personal financial management and development of teamwork and interpersonal relations on the job.

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Pros:

- History of proven professional administration of youth employment programs in Asheville by MAWDB for over 30 years.
- Cooperative agency approach to providing youth development activities.
- Ability to integrate the City's youth employment program with the efforts of the MAWDB career development programs.
- Existing connections to public and private agencies through the MAWFDB "workforce board partners program" which allows for better recruitment of disadvantaged youth and potential worksites.
- Allows for program over site by City staff without the extensive time commitment necessary to actually administer a program of this magnitude.

Cons:

- More students may apply than are funds available.

The Parks and Recreation Department recommends that City Council accept the proposal and authorize the City Manager to enter into an agreement with the Mountain Area Workforce Development Board for the 2005 summer youth development program.

-6-

RESOLUTION BOOK NO. 28 – PAGE 474

G. RESOLUTION NO. 05-15 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Summary: The terms of Tom Muncy (Regular), Beverly Robinson (Regular) and David Brown (Alternate) on the Board of Adjustment expired January 21, 2006.

At the City Council's worksession on January 18, 2005, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Tom Muncy, as a Regular member; Beverly Robinson, as a Regular member; and David Brown, as an Alternate member, to the Board of Adjustment to serve a three year term respectively, terms to expire January 21, 2008, or until their successors have been appointed.

RESOLUTION BOOK NO. 28 – PAGE 475

H. RESOLUTION NO. 05-16 - RESOLUTION APPOINTING MEMBERS TO THE FAIR HOUSING COMMISSION

Summary: The terms of Christiana Tugman and Jim McCulley, as members on the Asheville-Buncombe Fair Housing Commission, expired on December 31, 2004.

At the City Council worksession on January 18, 2005, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Ms. Tugman and Mr. McCulley to each serve an additional three year term respectively, terms to expire December 31, 2007, or until their successors have been appointed.

RESOLUTION BOOK NO. 28 – PAGE 476

I. RESOLUTION NO. 05-17 - RESOLUTION APPOINTING A MEMBER TO THE GREENWAY COMMISSION

Summary: The terms of Paula Robbins and Scott Jackson, as members on the Greenway Commission, expired on December 31, 2004.

At the City Council worksession on January 18, 2005, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Ms. Robbins and Mr. Jackson to each serve an additional three year term respectively, terms to expire December 31, 2007, or until their successors have been appointed.

RESOLUTION BOOK NO. 28 – PAGE 477

J. RESOLUTION NO. 05-18 - RESOLUTION ACCEPTING THE NEW STREET NAME OF "OWENS BELL LANE"

Summary: The consideration of a resolution accepting the new proposed street name "Owens Bell Lane."

Mountain Housing Opportunities, Inc., owner of lots on Owens Bell Lane off of Clingman Avenue has petitioned the City of Asheville to accept the street name "Owens Bell Lane." The new street will begin at Clingman Avenue and end at Rector Street.

City staff recommends adoption of the resolution accepting the new street name of "Owens Bell Lane."

-7-

RESOLUTION BOOK NO. 28 – PAGE 478

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.

Councilman Newman 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 REZONE 8.8 ACRES LOCATED ON BRITT DRIVE FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT AND RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO RIVER DISTRICT

Mayor Worley said that at the request of City staff this public hearing will be re-noticed and scheduled for City Council consideration on February 8, 2005.

B. PUBLIC HEARING TO CONSIDER THE CONDITIONAL USE ZONING OF TWO LOTS ON EDWIN PLACE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL USE; AND APPROVAL OF THE MASTER PLAN FOR PROPOSED BUILDINGS FOR DAYCARE AND NON-CHURCH RELATED COMMUNITY ACTIVITIES

ORDINANCE NO. 3202 - ORDINANCE REZONING TWO LOTS ON EDWIN PLACE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL USE

ORDINANCE NO. 3203 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE MASTER PLAN FOR PROPERTY ON EDWIN PLACE

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

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

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 5:06 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.

-8-

Urban Planner Shannon Tuch 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. Tuch said that this is the consideration of a request to rezone property located on Edwin Place from RM-6 Residential Multi-Family Low Density District to Institutional District/Conditional Use, and a request to issue a conditional use permit for a Master Plan for proposed building(s) for daycare and non-church related activities.

In July of 2004 there was a conditional use rezoning request at 200 Charlotte Street. The rezoning request was to rezone a portion of a lot from RM-16 to CB-1 in order to accommodate a parking lot expansion for an existing office use (Attachment to City Exhibit 3 – Location Map). Additionally, approximately 4 years ago there was a conditional use permit request for an ancillary parking area on the southwest corner of Edwin Place and Charlotte Street that was denied at City Council (Attachment to City Exhibit 3 – Aerial Map).

The applicant, Unitarian Universalist Church, is seeking a Conditional Use Rezoning of both lots from RM-6 Residential Multi-Family Medium Density District to Institutional District to allow for the operation of a private daycare and other non-church related community uses.

The subject properties are located in north Asheville in the nationally registered historic Grove Park neighborhood. Both lots total 1.51 acres and are currently zoned RM-6. The larger of the two properties, the primary church property, is a through-lot with frontage on Edwin Street and Bond Street and is further bounded on a third side by Charlotte Street to the east. The smaller lot has frontage and access off of Edwin Place only. Directly across Charlotte Street is another church use while the rest of the adjacent properties all support residential uses ranging from low-density single-family homes to the high density historic Manor Inn apartments. Zoning ranges from RS-4 along the southern edge of the property and northeast corner, with Historic Conditional Use to the east, and RM-6 to the west and north.

The master plan shows two existing structures with the largest structure housing the Church sanctuary, offices, daycare,

and other meeting rooms (Attachment to City Exhibit 3 – Concept Plan). The master plan delineates a future office expansion for the larger structure with area dedicated for additional parking as needed. The second smaller structure, “Jefferson House”, is a former single family home that is currently used as additional meeting space for the church and community. Also shown on the site plan are the existing off-street parking, playground, street trees, street buffering, and other existing vegetation. A type ‘B’ landscape buffer is required but may be adjusted through alternative compliance. Off-street parking is limited with the balance of parking needs historically being met with on-street parking (permitted per Sec. 7-17-7(b)). A limited number of additional trees and shrubs are shown to meet landscaping compliance (Attachment to City Exhibit 3 – Site Photos).

The primary purpose of this application is to legalize a recently revived private child care center (Attachment to City Exhibit 3 – Concept Plan). Formerly, the church housed a half-day private child care center not understanding that the center was non-conforming and that a lapse in use would not allow the re-establishment of a new private day care. Although child care centers can be permitted as an accessory use to a church, the daycare must be operated by the church and the workers must be employees of the church. In addition, the majority of the children enrolled should be children of members of the congregation. Since this center is a private cooperative program operated by one full-time employee and parent volunteers, and because enrollment is open to the larger community, a rezoning would be required to a designation that allows “child care centers” which are not currently permitted in the RM-6 zoning district.

-8-

Current enrollment is 13 children but staggered attendance results in no more than 11 children requiring supervision at any given time. Children attend the center between the hours of 9 a.m. and 12:45 p.m., Monday through Friday. In addition to approval for their current child care center; the church is also seeking approval for the ability to expand their enrollment to 20 children for regular full day care. In the event that a full-day program is pursued, additional site plan and building requirements may have to be met and a change of use application pursued.

In addition to the child care center, the church would also like to open their facilities to the community for other non-church related functions including, but not limited to, music and other performances as well as meeting space for small groups. Church use and non-church related activities, including the day care, will not overlap in operation and off-street parking along with other infrastructure needs appear to be adequately met.

At their January 5, 2005, meeting, the Asheville Planning and Zoning Commission met to review the project and made a motion to approve the rezoning and Conditional Use Permit request with the conditions that (1) All outstanding TRC conditions are met; and (2) Any future outdoor lighting be equipped with a 90 degree cutoff feature and be directed away from residences.

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 appears to meet 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 including the NC Child Care Division for Daycare Licensing.

2. That the proposed use or development of the land is reasonably compatible with significant natural or 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 proposed project will be occupying an existing building and only a nominal amount of site disturbance is expected in order to comply with minimum landscaping requirements.

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

The proposed daycare use will be housed within the existing church building with the exception of the outdoor play area. The outdoor play area is located internally to the church property and is separated from adjacent uses by vegetation, parking, single family structures, and road right-of-way and is located no closer than 150' from the nearest single family home (140' to the nearest multi-family structure). The current use experiences no more than 11 children outside, for approximately 45 minutes a day. The expanded enrollment and hours would typically result in the same number of children

on the playground at one time but would occur with more frequency. The past daycare use was not reported to have a negative impact on the value of adjacent properties where homes in the neighborhood have experienced an impressive appreciation. Similarly,

-10-

current and expanded day care and community use is not expected to have a negative impact on the value of adjacent properties.

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 proposed use will not alter the current facilities and will remain in harmony with the neighborhood within which it is located.

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.

Although the Asheville City Development Plan 2025 does not specifically address support for churches or other non-profit business/organizations, there is discussion regarding public institutions (i.e. schools) as important neighborhood and community centers. It is recognized that new construction or additions/expansions of these neighborhood centers should be supported where good community access can be gained and neighborhood compatibility ensured. Additionally, the small area plan for the Charlotte Street Corridor includes both subject parcels and calls for a mix of uses south of Edwin Place and the continuation of the existing residential and institutional uses north of Edwin Place. It also calls for the identification of business and other uses which serve the needs of the adjacent neighborhoods to help create an economically vibrant and pedestrian environment. The Unitarian Universalist Church is strategically located to be an extremely walkable and valuable community gathering place and service provider.

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

The project area is located on the Charlotte Street within 1 mile of downtown and interstate connections. It is also well located in respect to transportation facilities with the Route 5 bus line operating up and down Charlotte St. In addition, sidewalk also surrounds the project area with extensive connections to existing neighborhoods and downtown. Lastly, technical review from other departments has not revealed any problems for serving the proposed use.

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

The proposed use(s) will not overlap in hours of operation with regular church services and all parking and loading needs can be met with existing off-street parking. The proposal also calls for the elimination of one existing driveway cut on Edwin Street, reducing hazards associated with backward movements into traffic.

Pros

- Provides a valuable service to the church and neighborhood
- Provides valuable meeting space to the church and neighborhood
- Assures the preservation of the architectural integrity of the Jefferson House, reducing the potential for further encroachment into the residential neighborhood
- Results in minor site improvements including the reduction of driveway cuts

-11-

Cons

- Results in a slightly higher use and impact

Staff concurs with the Planning and Zoning Commission's recommendation of approval of the rezoning request from RM-6 to INST and approval of the associated Conditional Use Permit and conceptual master plan.

Ms. Christine Magnarella Ray, representing the Unitarian Universalist Church, urged City Council to support the conditional use permit and explained their outreach to the neighborhood (Applicant Exhibit 1).

Ms. Alicia Sessoms spoke about the integrity of the pre-school and urged City Council to support the conditional use permit.

After hearing no rebuttal, Mayor Worley closed the public hearing at 5:19 p.m.

Vice-Mayor Mumpower moved to approve the conditional use rezoning for property located on Edwin Place from RM-6 Residential Multi-Family Low Density District to Institutional District/Conditional Use. This motion was seconded by Councilman Dunn and carried unanimously.

ORDINANCE BOOK NO. 21 - PAGE

Vice-Mayor Mumpower moved to adopt Ordinance No. 3203 to issue a conditional use permit adopting the proposed master plan and uses for the Unitarian Universalist Church located on Edwin Place, subject to the following conditions: (1) all outstanding Technical Review Committee conditions are met; (2) enrollment is restricted to not more than 20 children; and (3) any future outdoor lighting be equipped with a 90 degree cutoff feature and be directed away from residences. This motion was seconded by Councilman Dunn and carried unanimously.

ORDINANCE BOOK NO. 21 – PAGE

C. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO NAVIGATIONAL SCIENCES INC.

RESOLUTION NO. 05-19 - RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO NAVIGATIONAL SCIENCES INC.

Mayor Worley opened the public hearing at 5:23 p.m.

City Manager Jim Westbrook said that this is the consideration of a resolution granting an economic development incentive grant to Navigational Sciences, Incorporated (NavSci). This public hearing was advertised on January 14 and 21, 2005.

City Council has previously considered Navigational Sciences for an economic development incentive grant on March 18, 2003. The initial grant was for \$25,000 payable in equal installments over three years. In December 2004, Navigational Sciences advised that a portion of the prior understanding would need to be changed. Based on new information, the current economic development incentive grant is based on the following: the project will entail a capital investment of \$2 million and the creation of 12 new jobs with an average annual salary of \$50,000. The prior commitment was for a \$4 million investment.

Based on the new information with a capital investment of \$2 million and the addition of 12 new jobs at an average annual salary of \$50,000, staff feels the economic development

-12-

incentive of \$25,000 paid in three equal installments over a three year period promotes economic development within the City, supports small businesses in the downtown area, and adds additional employment of highway jobs to the local economy.

Buncombe County has approved a grant under similar conditions as the City.

NavSci is a company that has developed a marine transportation control system. It's a global asset tracking and management system delivering a direct commercial value with direct applications for homeland security.

Strategic Plan:

- Grant supports expansion of local small business. Key Area – Economic Development Goal 1, Objective A.
- Navigational Sciences, Incorporated continues to invest in the downtown area.

Staff recommends City Council approve the resolution granting an economic development incentive grant to Navigational Sciences, Incorporated.

Mr. Ray Denny, Vice-President of Economic Development at the Chamber of Commerce, spoke in support of this

economic development incentive grant.

Mr. Dale Carroll, President of AdvantageWest, said that he would appreciate City Council's consideration of joining Buncombe County and AdvantageWest in providing financial grant support regarding this technical operations center for western North Carolina. NavSci's plans for the future not only has implications for trade and commerce in this world, but there are also some very favorable homeland defense implications surrounding this technology. Mr. Carroll also thanked Congressman Taylor for his help with the pieces of infrastructure necessary for a high tech company.

Dr. Eric Dobson, CEO and founder and NavSci, said that in general they are constructing a network operations center. It will be the revenue center of a business tracking shipping containers as they move globally. The technology itself has a number of other market opportunities in areas that can move and they expect to commercialize those here in western North Carolina. He said that they will be outsourcing the manufacture, which is potentially another opportunity for western North Carolina. He said the idea started from a mandate from the Dept. of Energy to develop a means of operating robots wirelessly in plutonium recovery facilities. Very early in the discussion they realized the implications of this technology was such that you can put a container in a hold of a ship and still communicate effectively with wireless technologies.

Upon inquiry of Councilman Dunn, Dr. Dobson said they ran a small business innovative research grant program through the Dept. of Homeland Security last year and received a grant. They expect to compete again this year for further work.

Upon inquiry of Councilman Newman, Dr. Dobson said they are relocating here from Charleston, South Carolina. He said they chose Asheville because they needed a place of low occurrence of natural hazards and a substantial commitment to broadband internet.

When Vice-Mayor Mumpower asked if they are anticipating hiring the 12 new employees from the Asheville area, Dr. Dobson said that they will be searching in the Asheville community but also there will be a national search for some of the employees, all which will have benefits. They have already found a number of very qualified candidates locally.

-13-

In response to Councilman Davis, Dr. Dodson said they plan to establish a much more significance presence in Asheville around March, with the expectation of relocating four people from the Charleston location by June.

In response to Mayor Worley, Dr. Dodson explained that while they are pledging 12 new jobs for this community now there is a tremendous potential for growth.

Upon inquiry of Councilman Newman, Dr. Dodson explained the different entities that are directly investing to help in the relocation.

Vice-Mayor Mumpower was glad that NavSci is relocating here and said that if there is a vote against this proposal, it is not a reflection on the good thing that they are bringing to Asheville. Personally, he has some philosophical issues about incentives because we do have limited dollars. We started out with a \$4 Million capital investment and now it's \$2 Million.

In response to Vice-Mayor Mumpower, Dr. Dodson said that part of the reduction from \$4 Million to \$2 Million was the fact that the computer hardware to accomplish these tasks is getting so much cheaper on a constant basis.

Mr. Fred English said Asheville needed more companies to bring jobs to the area but felt that the Chamber of Commerce should be doing more in that direction.

Mayor Worley closed the public hearing at 5:40 p.m.

Councilman Dunn felt that Asheville needs to start encouraging these types of businesses in Asheville, especially ones that might outsource work. He was, however, concerned that there are a lot of other companies that locate in Asheville that don't receive any incentive grants.

Councilman Newman shared some of Vice-Mayor Mumpower's philosophical concerns, but will support this incentive grant. Part of his concern is how a lot of businesses create jobs (sometimes one at a time) and don't get any incentives from the City. He felt it would be good to review our economic development policy and develop ideas on how we can spread these benefits more equitably in the community.

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

read.

Councilman Dunn moved for the adoption of Resolution No. 05-19. This motion was seconded by Councilman Davis and carried on a 5-1 vote with Vice-Mayor Mumpower voting "no."

RESOLUTION BOOK NO. 28 – PAGE 479

D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING NOTICE OF VIOLATION PROCEDURES

ORDINANCE NO. 3204 - ORDINANCE CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING NOTICE OF VIOLATION PROCEDURES

Mayor Worley opened the public hearing at 5:47 p.m.

-14-

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to amend the Unified Development Ordinance for the purpose of changing the notice of violation procedures to allow notification and citation of property owners for tenant noncompliance. This public hearing was advertised on January 14 and 21, 2005.

Article XVIII of the City of Asheville's UDO sets forth procedures for enforcing the provisions set forth in the ordinance. The section (Sec. 7-18-3) dealing with procedures for notice of violation and the issuance of citations currently provides that notifications go to the person in violation and only if that person cannot be ascertained shall the notification be sent to the owner of the property on which the violation is occurring. The ordinance makes no provision for notifying and holding a property owner responsible when their tenant is non-compliant with the city's ordinances. In practice, there have been a number of instances where a tenant has failed to comply and notification of the property owner has brought quick results. The City Attorney's office, in working with the enforcement staff of the Planning and Development Department, has suggested that a provision be added to the ordinance that clearly allows for this additional measure to gain ordinance compliance.

The amendment has been routed to CAN, CREIA, and CIBO for review and comment.

Pros-

- The amendment provides a mechanism for improving the effectiveness of gaining compliance with the ordinance.

Cons-

- The amendment may create conflicts between property owners and tenants.

The Asheville Planning and Zoning Commission recommended approval of this code amendment on January 5, 2005, by a unanimous vote of 7-0. Staff recommends approval as well.

Mayor Worley closed the public hearing at 5:48 p.m.

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

Ms. Cogburn responded to various questions/comments from Council, some being, but are not limited to: what are the types of violations; what happens if the violation re-occurs; is there a provision in the ordinance to enable an extension; and how frequently does non-compliance occur.

Upon inquiry of Vice-Mayor Mumpower, City Attorney Oast said that a property owner is not fined if they can establish they lack the ability to comply with the ordinance.

Councilman Davis moved for the adoption of Ordinance No. 3204. This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

ORDINANCE BOOK NO. 21 – PAGE

E. PUBLIC HEARING RELATIVE TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO CORRECT AND CLARIFY ZONING DISTRICTS THAT ALLOW GROUP HOMES AS A USE OF RIGHT, SUBJECT TO SPECIAL REQUIREMENTS

ORDINANCE NO. 3205 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO CORRECT AND CLARIFY ZONING DISTRICTS THAT ALLOW GROUP HOMES AS A USE OF RIGHT, SUBJECT TO SPECIAL REQUIREMENTS

Mayor Worley opened the public hearing at 5:57 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 purpose of correcting and clarifying zoning districts that allow group homes as a use of right, subject to special requirements. This public hearing was advertised on January 14 and 21, 2005.

This proposed ordinance amendment is intended to correct an error made in the UDO that lists "Group homes" as uses by right, subject to special requirements in the RM-6 and RM-8 districts. Presently, the standards for these two districts lists "Group homes" as both uses by right, subject to special requirements and conditional uses. As presented and discussed during a UDO amendment adopted by City Council in August, 2003, the intent was for group homes to be conditional uses in the RM-6 and RM-8 districts. The proposed amendment would eliminate the words "Group homes" from the listing under uses by right, subject to special requirements.

This proposed amendment has been forwarded to CAN, CIBO, and CREIA.

Pros –

- This amendment would correct the UDO to comply with City Council's intentions when adopting UDO requirements for group homes in August, 2003.
- This amendment would clarify the UDO for anyone seeking to know where group homes are allowed.

Cons –

- None

The Planning and Zoning Commission recommended approval of these code amendments on December 1, 2004, by a unanimous vote of 6-0.

Staff recommends approval of the amendment to the UDO for the purpose of correcting and clarifying zoning districts that allow group homes as a use of right, subject to special requirements.

Mayor Worley closed the public hearing at 5:58 p.m.

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

Vice-Mayor Mumpower moved for the adoption of Ordinance No. 3205. This motion was seconded by Councilman Newman and carried unanimously.

ORDINANCE BOOK NO. 21 – PAGE

- F. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO EXPEDITE THE DEVELOPMENT APPROVAL PROCESS BY ALLOWING DEVELOPMENT PROJECTS TO BE SCHEDULED FOR REVIEW BY THE PLANNING & ZONING COMMISSION PRIOR TO CONSIDERATION BY THE TECHNICAL REVIEW COMMITTEE**

ORDINANCE NO. 3206 - ORDINANCE TO AMEND TO THE UNIFIED DEVELOPMENT ORDINANCE TO EXPEDITE THE DEVELOPMENT APPROVAL PROCESS BY ALLOWING DEVELOPMENT PROJECTS TO BE SCHEDULED FOR REVIEW BY THE PLANNING & ZONING COMMISSION PRIOR TO CONSIDERATION BY THE TECHNICAL REVIEW COMMITTEE

Mayor Worley opened the public hearing at 6:00 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 to expedite the development approval process by allowing development projects to be scheduled for review by the Planning & Zoning Commission prior to consideration by the Technical Review Committee (TRC). This public hearing was advertised on January 14 and 21, 2005.

This proposed ordinance amendment is intended to expedite the development approval process by allowing projects to be scheduled for review by the Planning & Zoning Commission prior to consideration by the TRC. Presently, this section states that a project cannot be scheduled for a Planning & Zoning Commission meeting until after review and approval by the TRC, which can place unnecessary restraints on time-sensitive projects. To help expedite the development review process in certain circumstances, staff is requesting this amendment to allow greater flexibility in scheduling applications for Planning & Zoning Commission review.

This amendment does not propose to change the number of required meetings, nor does it propose to change the order of the process. So, it does not limit opportunities for public review or comment in any way.

This proposed amendment has been forwarded to CAN, CIBO, and CREIA.

This amendment would be one step toward meeting the goal of improving the plan review process outlined in City Council's adopted Strategic Operating Plan.

Pros –

- This amendment would help to expedite the review of development projects in certain situations.
- This amendment is consistent with the City Council's adopted Strategic Operating Plan.

Con –

- This amendment may be viewed by certain people as an attempt to "fast track" projects and limit public review.

The Planning and Zoning Commission recommended approval of these code amendments on December 1, 2004, by a unanimous vote of 6-0.

Staff recommends approval of the amendment to the UDO to expedite the development approval process by allowing development projects to be scheduled for review by the Planning & Zoning Commission prior to consideration by the Technical Review Committee.

Mayor Worley closed the public hearing at 6:01 p.m.

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

-17-

Councilman Newman moved for the adoption of Ordinance No. 3206. This motion was seconded by Councilwoman Jones and carried unanimously.

ORDINANCE BOOK NO. 21 – PAGE

G. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO REDUCE THE AMOUNT OF WINDOWS REQUIRED ON THE FRONT AND SIDE FACADES OF BUILDINGS IN THE NEIGHBORHOOD BUSINESS DISTRICT AND TO ALLOW ALTERNATIVE FORMS OF LANDSCAPE BUFFERING TO BETTER ACCOMMODATE DEVELOPMENT IN THE NEIGHBORHOOD CORRIDOR DISTRICT

ORDINANCE NO. 3207 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO REDUCE THE AMOUNT OF WINDOWS REQUIRED ON THE FRONT AND SIDE FACADES OF BUILDINGS IN THE NEIGHBORHOOD BUSINESS DISTRICT AND TO ALLOW ALTERNATIVE FORMS OF LANDSCAPE BUFFERING TO BETTER ACCOMMODATE DEVELOPMENT IN THE NEIGHBORHOOD CORRIDOR DISTRICT

Mayor Worley opened the public hearing at 6:03 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 purpose of reducing the amount of windows

required on the front and side facades of buildings in the Neighborhood Corridor District and to allow alternative forms of landscape buffering to better accommodate development in the Neighborhood Corridor District. This public hearing was advertised on January 14 and 21, 2005.

The Neighborhood Corridor District (NCD) was adopted by City Council in November of 2002 for the purpose of accommodating medium-density, mixed-use development in appropriate areas throughout the City of Asheville. Since this District was created, staff has been looking for opportunities to evaluate if the design and development standards are effective and reasonable. Evaluation of several recently proposed projects leads staff to believe that the current standards for landscaped buffers, building setbacks for taller buildings, and the amount of windows (60%) required on first floor facades are overly restrictive.

After reviewing these requirements, staff is recommending that a landscaped buffer ten feet (10') wide with the provision of a fence eight feet (8') in height be allowed as an alternative to landscaped buffer requirements in the NCD. Alternative landscaping solutions could also be approved by the Planning Director to provide appropriate buffers in unusual situations. In addition, staff is recommending the elimination of a forty-foot (40') setback requirement for buildings of four stories. The intent of these proposed amendments are to allow greater flexibility during site development.

Staff is also proposing new standards of 45% window coverage for front facades and 40% windows for side street facades. The intent of this standard is to have buildings constructed with more traditional, first floor storefront windows. The proposed amendment offers more flexibility for developers while still meeting this intent.

This proposed amendment has been forwarded to CAN, CIBO, and CREIA.

-18-

Pros –

- These amendments would offer greater flexibility and encourage future development within the NCD district.
- The buffer amendment would allow staff to find creative solutions for providing appropriate buffers against adjacent residential properties.

Cons –

- It is hoped that these amendments will promote multi-story, mixed-use development along key corridors. Certain people perceive this type of development to be incompatible with adjacent residential areas.
- Certain people may also prefer a firm standard to the allowance of flexible options for landscaped buffers.

The Planning and Zoning Commission recommended approval of these code amendments on December 1, 2004, by a unanimous vote of 6-0.

Staff recommends approval of the amendment to the Unified Development Ordinance for the purpose of reducing the amount of windows required on the front and side facades of buildings in the Neighborhood Corridor District and to allow alternative forms of landscape buffering to better accommodate development in the Neighborhood Corridor District.

Mayor Worley closed the public hearing at 6:07 p.m.

Discussion occurred, initiated by Councilman Newman, regarding the initial group who had significant input into the standards in the Neighborhood Corridor District not being given an opportunity to review this proposed ordinance and getting feedback from them.

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. 3207. This motion was seconded by Councilwoman Jones.

Councilman Newman was not convinced that sending a letter to the President of the Coalition of Asheville Neighborhoods for input was the same thing as notifying the group of people who had significant input into the original District standards. He felt that some of the changes are not substantial, but the elimination of the 40-foot setback requirement for buildings of four stories is a substantive change and should have review by the group.

Upon inquiry of Vice-Mayor Mumpower about a possible conflict of interest, City Attorney Oast said that he did not feel Vice-Mayor Mumpower had a conflict of interest. The proposed ordinance is a general application throughout the Neighborhood Corridor District, not specifically regarding Vice-Mayor Mumpower's property.

Councilwoman Jones felt that even though running proposed ordinances by CIBO, CAN and CREIA was a good idea,

sometimes there may be other groups that could lend their expertise. From a courtesy standpoint, she felt it would have been good to invite comments from the group, especially since they volunteered their time to help develop the initial standards. She hoped that staff would think outside of the traditional box in the future

Councilman Davis felt that when you send a revision back to a group formed 2 years ago, it might be hard to get the same people to review it. You may get new people who want to be involved and make various other changes to the District. He was encouraged that we are encouraging development with these ordinance revisions.

-19-

The motion made by Councilman Davis and seconded by Councilwoman Jones carried on a 5-1 vote, with Councilman Newman voting "no."

ORDINANCE BOOK NO. 21 – PAGE

H. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE FOR THE PURPOSE OF CALCULATING MAXIMUM RESIDENTIAL DENSITY REQUIREMENTS FOR MULTI-FAMILY RESIDENTIAL DEVELOPMENT BY ROUNDING UP

ORDINANCE NO. 3208 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE FOR THE PURPOSE OF CALCULATING MAXIMUM RESIDENTIAL DENSITY REQUIREMENTS FOR MULTI-FAMILY RESIDENTIAL DEVELOPMENT BY ROUNDING UP

Mayor Worley opened the public hearing at 6:26 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 (UDO) for the purpose of calculating maximum residential density requirements for multi-family residential development by rounding up. This public hearing was advertised on January 14 and 21, 2005.

This proposed ordinance amendment is intended to change the manner in which maximum residential densities are calculated in the UDO. In situations where the number of dwelling units allowed on a property is a fractional number, the proposed amendment states that all fractions of one-half or greater will be rounded up to the nearest number. For example, a property on which 8.4 units could be constructed would be limited to eight (8) units, but a property on which 8.5 units could be constructed would net nine (9) units, as the ".5" or higher is rounded up. This amendment would only apply to multi-family residential development of five (5) units or greater, not to duplexes, triplexes, and quadraplexes. To encourage mixed-use development along key corridors, the amendment is also proposed to apply to any level of multi-family residential use in the Neighborhood Corridor (NCD) and Urban Residential (UR) districts.

This amendment is consistent with the City of Asheville's adopted definition of "Smart Growth" as it would encourage higher density, infill development. This amendment is also consistent with policies recommended by the Affordable Housing Task Force as it would allow for a minor increase in housing density under certain circumstances.

This proposed amendment has been forwarded to the Coalition of Asheville Neighborhoods, CIBO, and CREIA.

Pros –

- This amendment is consistent with the City's adopted "Smart Growth" policies.
- This amendment is consistent with recommendations of the Affordable Housing Task Force.
- This amendment could encourage infill housing by allowing a minor increase in housing density under certain circumstances.

Con –

- Certain people may be opposed to this allowance for additional residential density.

-20-

The Planning and Zoning Commission recommended approval of these code amendments on December 1, 2004, by a unanimous vote of 6-0.

Staff recommends approval of the amendment to the UDO for the purpose of calculating maximum residential density requirements for multi-family residential development by rounding up.

Mayor Worley closed the public hearing at 6:28 p.m.

Upon inquiry of Vice-Mayor Mumpower, Mr. Heard said that Ms. Barber Melton, with CAN, expressed some concern of the cumulative effects of incremental increases in density.

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

Councilwoman Jones moved for the adoption of Ordinance No. 3208. This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

ORDINANCE BOOK NO. 21 – PAGE

I. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ADD WEDDING CHAPELS AS A SPECIFIC USE AND ESTABLISH PARKING STANDARDS FOR THIS TYPE USE

ORDINANCE NO. 3209 - ORDINANCE CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ADD WEDDING CHAPELS AS A SPECIFIC USE AND ESTABLISH PARKING STANDARDS FOR THIS TYPE USE

Mayor Worley opened the public hearing at 6:33 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 (UDO) for the purpose of establishing development standards for commercial wedding chapels. This public hearing was advertised on January 14 and 21, 2005.

Planning & Development staff has received several inquiries regarding the establishment of wedding chapels in the City of Asheville. It has been difficult to review these requests, because commercial wedding chapels are not presently listed as specific uses in the UDO. Staff has studied the potential impact of these uses and researched standards for wedding chapels in other communities in developing this proposal.

This proposed amendment has been forwarded to CAN, CIBO, and CREIA.

Pros –

- This amendment would set clear, firm standards for commercial wedding chapels in the UDO for anyone seeking to establish this type of use.
- The proposed standards treat wedding chapels in a fair manner – allowing them in office or commercial districts while limiting their encroachment into residentially zoned areas.

Cons –

- Certain people may not agree with the standards proposed for wedding chapels.

-21-

The Planning and Zoning Commission recommended approval of these code amendments on January 5, 2005, by a unanimous vote of 7-0.

Mayor Worley closed the public hearing at 6:35 p.m.

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

Councilwoman Jones moved for the adoption of Ordinance No. 3209. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 21 – PAGE

J. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO

INCREASE THE MAXIMUM LENGTH OF CUL-DE-SAC STREETS

ORDINANCE NO. 3210 - ORDINANCE CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO INCREASE THE MAXIMUM LENGTH OF CUL-DE-SAC STREETS

Mayor Worley opened the public hearing at 6:36 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 (UDO) for the purpose of allowing longer cul-de-sac streets within manufactured home parks. This public hearing was advertised on January 14 and 21, 2005.

While reviewing the potential development of a manufactured home park in the extraterritorial jurisdiction area, a concern arose about the maximum length of 300 feet for cul-de-sac streets in a manufactured home park. Within typical residential subdivisions, a maximum length of 1,000 feet for cul-de-sac streets is established based on N.C. Fire Code standards. Although streets within manufactured home parks are typically privately owned, they must be constructed to a similar standard as residential subdivision streets. After conferring with Engineering and Fire Department representatives and noting no issues, staff decided that it would be appropriate to consider similar cul-de-sac street lengths within manufactured home parks.

This proposed amendment has been forwarded to CAN, CIBO, and CREIA.

Pros –

- This amendment would set consistent cul-de-sac street length standards in the UDO for a variety of residential uses.
- The proposed standards would allow for additional development to take place in certain situations.

Cons –

- The proposed amendment would potentially encourage a more linear pattern of development with fewer connections between streets.

The Planning and Zoning Commission recommended approval of this code amendment on January 6, 2005, by a unanimous vote of 7-0.

City staff recommends approval of the amendment to the UDO for the purpose of allowing longer cul-de-sac streets within manufactured home parks.

-22-

Mayor Worley closed the public hearing at 6:38 p.m.

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

Vice-Mayor Mumpower moved for the adoption of Ordinance No. 3210. This motion was seconded by Councilman Dunn and carried unanimously.

ORDINANCE BOOK NO. 21 – PAGE

IV. UNFINISHED BUSINESS:

A. SECOND READING OF ORDINANCE NO. 3200, AN ORDINANCE TO REZONE 9 CURRY COURT FROM COMMUNITY BUSINESS II DISTRICT TO COMMUNITY BUSINESS I DISTRICT

Urban Planner Julia Cogburn said that a certified letter, return receipt requested, was sent to the property owners and the return receipt was received by the Planning Department. In the letter she specifically asked for them to contact her if they had any concerns or questions regarding the proposed rezoning. She has not heard anything from the property owners.

Upon inquiry of Vice-Mayor Mumpower, Ms. Cogburn explained why the Planning & Zoning Commission initiated the rezoning.

Councilman Dunn expressed concern with the City zoning someone else's property.

Councilman Davis felt that the City has other important issues to deal with than to zone someone's property not in the City

limits.

Councilman Newman felt that in the first or second quarter of this year Council needs to focus on some of the big issues. One is that if we are going to extend regulatory land use policies to the extraterritorial jurisdiction, it is our choice to do it and to make sure they make sense. If we don't want to have land use policies out there, we need to decide that.

When Mayor Worley called for a vote on the second and final reading of Ordinance No. 3200, it carried on a 5-1 vote, with Councilman Dunn voting "no."

ORDINANCE BOOK NO. 21 – PAGE

V. NEW BUSINESS:

A. RESOLUTION NO. 05-20 - RESOLUTION AUTHORIZING ACCEPTANCE OF TRANSFER OF ASTON PARK TO THE CITY OF ASHEVILLE EFFECTIVE FEBRUARY 1, 2005

Parks & Recreation Director Irby Brinson said that on November 16, 2004, Buncombe County Commissioners unanimously approved the transfer of Aston Park back to the City of Asheville. During this discussion, the Commissioners stated that the park would be submitted to the City "as is" and contingent upon the City accepting the current employee at the facility (which employee has since resigned) and not charging a non-City resident fee until the Water Agreement has been resolved. On December 13, 2004, the City Manager addressed this issue with the County Manager and expressed concern over the removal of the playground equipment by the County several months prior to this. The estimated cost of this playground equipment is

-23-

\$80,000. In addition, the City Manager expressed concern about the non-City resident fee issue and the fact that this additional fee would help the City off-set costs incurred for operation.

The Parks and Recreation Department has been working on a Park and Recreation Trust Fund grant for Aston Park that would be used in conjunction with the Dick and Irene Covington Foundation funds. These funds would be used for improvements to the Aston Park facility including the construction of a new tennis center as well as the installation of a new playground. One of the key issues in regard to this grant involves the City having the title to the property. The title would be necessary in order for the grant process to proceed, which is due on January 31, 2005. Staff, however, does feel that the City should be compensated for the cost of the playground and that staff be able to set differential fees for City residents beginning in July of 2005.

Pros:

- The transfer of the facility will allow the City to apply for a Parks and Recreation Trust Fund grant that will make improvements to Aston Park without any City financial contribution.
- The transfer of the facility will occur prior to the tennis season for 2005.
- Transferring this facility prior to other County facilities will set the standard for how the overall transition occurs.

Cons:

- The replacement of the playground equipment will become an obligation of the City if the County fails to pay for replacement or reinstallation.
- Transferring this facility prior to other County facilities will set the standard for how the overall transition occurs.

This transfer relates to the City of Asheville Strategic Plan regarding steps necessary to resolve the Water Agreement.

The Parks and Recreation Department recommends the transfer of Aston Park to the City of Asheville effective February 1, 2005, if Buncombe County agrees to pay for the operating costs for the Park through June 30, 2005. The City would then be willing to forgive the cost or reinstallation of the playground equipment and implementation of differential rates for non-City residents until July 1, 2005.

Mayor Worley said that he has talked to some of the Buncombe County Commissioners and they don't meet again until after February 1, 2004, however, there has been an indication that they have heard City Council's concerns and will work with us to resolve those concerns. As a result of that, he felt that some of the wording in the proposed resolution will need to be amended.

City Attorney Oast suggested the following amendment to Paragraph 1: "The City be, and is hereby, authorized to accept the transfer of Aston Park from Buncombe County to the City; subject to satisfactory resolution of issues identified by Buncombe County in its action authorizing the conveyance; the form of this conveyance shall be subject to approval by the City Attorney."

Paragraph 2 in the proposed resolution would be deleted in its entirety.

Mr. Fred English supported the City taking over Aston Park but was concerned about who would have to pay for damages and the security of the Park.

Mr. Gene Hamilton supported the City taking over Aston Park. He felt the clay tennis courts are the best in the southeast.

-24-

In response to Vice-Mayor Mumpower about operating costs, Mr. Brinson said that a budget amendment will be brought back to Council which represents an expenditure of \$63,548, which will be offset by \$25,000 anticipated in revenue for the five-month operation. The result is a cost of \$38,598 to the City for this five-month operation. For a full year, he believed the net cost would be approximately \$86,000.

Vice-Mayor Mumpower was grateful to Buncombe County for working with Asheville to transfer this facility, which is in the middle of the City. It makes good sense for the City to manage it. He was sure that the City intends to have this nice facility a safe place. Mr. Brinson said that it is the City's intent to convert the Park into a very active location for positive alternatives.

Councilman Newman asked if we anticipate Buncombe County transferring any additional recreation properties in advance of the termination of the Water Agreement. City Manager Westbrook said that the County has notified us that on June 30 they would transfer Nature Center back to the City. That was under a separate inter-local agreement that was not renewed by the County – not a part of the Water Agreement.

Councilman Newman said that there are several different recreational properties that are wrapped up in the Water Agreement. Out of all of them, Aston Park is the strongest argument that it should be operated by the City of Asheville, since it is in the heart of downtown and primarily used by Asheville residents. However, some of the other recreational properties serve a much more regional audience. While he supports the Aston Park transfer, he hoped that we can talk about the others and where those would best be administered in the future.

Upon inquiry of Councilman Dunn, City Manager Westbrook said that the Municipal Golf Course and McCormick Field are part of the Water Agreement.

City Attorney Oast said that he did have a discussion relative to McCormick Field coming back to the City before July 1, but he didn't know that any action has been taken on that.

Upon inquiry of Councilman Newman, City Attorney Oast said that other recreational properties Buncombe County wishes to transfer to the City prior to the termination of the Water Agreement would require the City to affirmatively say we want it back, unless the entire Water Agreement is terminated in which case they automatically revert.

Mr. Brinson noted that this transfer is tied to a grant request as well. The grant does require us to have a clear deed to the property by January 31, 2005. He was hopeful that we will be able to have a clear deed by that time, however, if not, then we would not be able to apply for the funds through the Park and Recreation Trust Fund.

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. 05-20. This motion was seconded by Councilwoman Jones and carried unanimously.

RESOLUTION BOOK NO. 28 – PAGE 480

G. ORDINANCE NO. 3211 - BUDGET AMENDMENT FROM THE IRENE AND DICK COVINGTON FOUNDATION FOR THE CONSTRUCTION OF A CLUB HOUSE AT ASTON PARK

-25-

Parks & Recreation Director Irby Brinson said that this is the consideration of a budget amendment, in the amount of \$262,576.05, from the Irene and Dick Covington Foundation for the construction of a club house at Aston Park.

Several years ago, the Irene and Dick Covington Foundation was established in order to preserve the memorabilia from

Dick Covington's life and tennis career and to construct a new club house at Aston Park. This Foundation was a dream of the Covington's, and at Dick Covington's death his entire estate was placed in this Foundation. Since Aston Park was operated by the County, in 2002 the Foundation approved the transfer of these funds to Buncombe County to construct this facility. Delays occurred in this construction to the point where the Covington Foundation requested from both the City and the County that this process be expedited by transferring the funds back to the City of Asheville. Now that the County has approved the transfer of Aston Park back to the City of Asheville, this process can continue and be completed. The total amount that was originally sent to the County totaled \$278,709.56. There were expenditures for architectural services that came out of this account.

Pros:

- The facility will be built prior to the 2006 City of Asheville Open Tennis Tournament in July.
- The City will have complete control over construction.

Cons:

- The Covington Foundation has been very frustrated in the delay of this construction and will be monitoring progress.
- Actual costs for construction will be higher than available funds.

The Parks and Recreation Department recommends City Council approve a budget amendment, in the amount of \$262,576.05, to appropriate funds into the Capital Fund in order to enter into a contract for the construction of a new club house at Aston Park.

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

When Councilman Dunn asked if this amount would cover the total cost of the clubhouse, Mr. Brinson responded that the grant we are working on with the Park and Recreation Trust Fund will cover the additional costs. If we are not able to apply for that grant, then we will look at other sources.

Upon inquiry of Councilman Davis regarding the Trust Fund grant, Mr. Brinson said that if we don't have a clear title by January 31, 2005, we will have to wait until 2006 to reapply. Again, we will be looking at other sources for funding.

In response to Councilman Davis, City Attorney Oast said that the City has been doing the legal work necessary to have get clear title, which involves title searches and preparation of the deed. He felt fairly certain that those issues will be resolved in time to facilitate the transfer, however, it's the resolution of the other issues that may interfere with that.

Mayor Worley said that the Buncombe County Commissioners are aware of the need to have clear title by the end of January in order to apply for the grant.

Vice-Mayor Mumpower moved for the adoption of Ordinance No. 3211. This motion was seconded by Councilwoman Jones and carried unanimously.

ORDINANCE BOOK NO. 21 – PAGE

-26-

C. RESOLUTION NO. 05-21 - RESOLUTION APPOINTING THE CHAIR TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Vice-Mayor Mumpower said that City Council appoints the Chair to the Alcoholic Beverage Control Board. Current members on the Board include: Chair Debora Holmes Young, Tom Bell, Barbara Field, Ken Kaplan and Duane Jarnecke.

Tom Bell received 1 vote and Duane Jarnecke received 5 votes. Therefore, Duane Jarnecke was appointed as Chairman to the Alcoholic Beverage Control Board to serve until his term expires on November 13, 2005, or until City Council appoints his replacement.

RESOLUTION BOOK NO. 28 – PAGE 481

VI. OTHER BUSINESS:

Councilman Dunn, member of the Asheville Regional Airport Authority, reported on the increased air traffic capacity in Asheville. He also explained why the Airport Authority would like City Council to consider adding a Henderson County person as

an ex-officio non-voting member on the Authority. Mayor Worley said that the Boards and Commissions Committee will review this request and bring a recommendation to the full Council. In addition, City Attorney Oast said that the Airport Authority is made up in an Inter-local Agreement. He will review that agreement and if Council wishes, bring an amendment forward to make that change.

Vice-Mayor Mumpower announced various board and commission vacancies for the month of February.

Councilwoman Jones announced that the 3rd annual Cut-the-Risk "cut-a-thon" was held on January 17, 2005, and was a great success. She thanked the 80 stylists who donated their time at 18 Asheville salons and spas and served over 200 customers in the benefit that raised nearly \$10,000 for the Women At Risk Program.

The following claims were received by the City of Asheville during the period of January 8-20, 2005: James E. McKinney (Transit Services), John W. Cole (Transit Services), Susan Hise (Police), John Morgan (Transit Services), Dean Metcalf (Transit Services), Kevin Jenkins (Transit Services) and James McElreath (Fire). These claims have been referred to Asheville Claims Corporation for investigation.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Fred English commented on the 10-Year Plan to End Homelessness in Asheville and his version of said plan.

Mr. Bob Smith, Executive Director of the Asheville-Buncombe Community Relations Council, briefed Council on their past year's activities and thanked City Council for their support.

Mr. Gene Hamilton, representing Asheville Citizens for Quality Government, said that in this 21st century it is virtually impossible to operate successfully without a Comprehensive Quality Plan. The International Standards Organization 9000 Series provides ample guidance for the development of such a plan. Since the City is already doing quality management, he suggested City Council perform an audit to determine the degree of quality achievement in all City departments.

At 7:27 p.m., Councilman Newman moved to go into closed session in order to consider the qualifications, competence, performance, character, or fitness of an individual public officer or

-27-

employee. The statutory authorization is contained in G.S. 143-318.11(a)(3); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act - The statutory authorization is contained in G.S. 143-318.11(a)(2); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including lawsuits involving the following parties: Carolina Power & Light Company; and the City of Asheville - The statutory authorization is contained in G.S. 143-318.11(a)(3). The motion was seconded by Councilman Dunn and carried unanimously.

At 9:15 p.m., Councilman Dunn moved to come out of closed session. This motion was seconded by Councilman Newman and carried unanimously.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 9:15 p.m.

CITY CLERK

MAYOR