

Tuesday - January 23, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Sellers gave the invocation.

TROOP 75 OF THE BOY SCOUTS

Mayor Martin recognized Mr. Randall Barnett and Troop 75 of the Boy Scouts.

MOBILE ARSON INVESTIGATIVE FIELD UNIT

Mr. Ron Moore, Chairman of the Asheville-Buncombe Arson Task Force, passed out a list of accomplishments from the Task Force. He also thanked the City Council for their monetary support for the purchase of the mobile arson investigative field unit.

ASHEVILLE TRANSIT AUTHORITY

Mr. Jim McCulley thanked the City Council for their confidence in his appointment to the Asheville Transit Authority.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING TO CONSIDER A SMALL AREA PLAN FOR WEST END/CLINGMAN AVENUE

RESOLUTION NO. 96-9 - RESOLUTION ADOPTING A SMALL AREA PLAN KNOWN AS THE WEST END/CLINGMAN AVENUE PLAN AS AN ADDENDUM TO THE COMPREHENSIVE PLAN FOR THE CITY OF ASHEVILLE (ASHEVILLE CITY PLAN 2010)

Mayor Martin said that this public hearing was opened on January 9, 1996, and continued until this date in order to give interested persons an opportunity to be heard.

Mr. Paul Benson, Urban Planner, said that in October of 1994 the City Council directed the staff to prepare a neighborhood plan for the "Chicken Hill" area. Since that time the staff, with the guidance of a ten person steering committee, has conducted a planning process for that area. As a result, a draft plan has been prepared and endorsed by the steering committee. If this plan is adopted, it would be an amendment to the City's comprehensive 2010 Plan.

During the planning process, a residents survey and six community meetings were held to obtain public input. The Planning & Zoning Commission held a public hearing on the plan on October 11, 1995.

The steering committee has endorsed the draft plan. The Planning staff

recommended adoption. The Planning & Zoning Commission, by a vote -2-

of 4 in favor, 2 opposed and 1 abstention, voted to recommend that the plan not be adopted.

At the worksession held on December 19, 1995, Councilman Skalski suggested that language in the plan be included that encouraged home ownership and the maintenance of those homes. For Council's consideration, Mr. Benson suggested the following language in Recommendation #4 of Goal #3 to read: "Ensure that any new programs encourage owner-occupancy and do not lead to displacement of existing residents or reduction in number of affordable housing units within the study area." This amendment is intended to promote a goal of owner-occupancy of residential units.

Before the public hearing on January 9, Mr. Jerry Sternberg had a suggestion and Mr. Benson felt the following language could be inserted between the first and second paragraphs of the Proposed Land Use section on page 22 to address his suggestion: "The six land use categories shown on the Future Land Use Map are not intended to represent specific zoning districts, but rather to indicate generalized types of land uses, and are defined as follows: Mixed Use - a wide range of development ranging from multi-family residential to heavy industrial; Commercial/Industrial - a wide range of commercial uses, as well as lower impact industrial uses; Commercial Services - a wide range of commercial activities; General Commercial - a more limited range of commercial uses focusing on retail sales and services; Parks/Recreation/ Institutional - as explained later, intended to promote the future use of the former Queen Carson School property as a community focal point; Residential - intended to limit use to residential and to preserve the predominantly single-family, higher density character of the neighborhood. The following section expands on the corresponding land development patterns planned for specific portions of the study area." This change is intended to clarify the intent of the land use categories used in the Proposed Land Use section narrative, and on the Proposed Land Use Map.

At the January 9 meeting, Mr. Sternberg then urged Council to delete the land starting at the Smokey Park Bridge extending south all the way to Lyman Street and bordered on the east by Roberts Street from the Plan. As a result of that request, Mr. Benson suggested Council amend the third paragraph in the Proposed Land Use section on page 22 as follows: "Since the riverfront area is emerging as a unique mixed-use district, a new zoning district that is tailored to the unique goals and needs of this area is recommended. This district should promote economic development and redevelopment of the land along the riverfront by allowing for a wide range of land uses and by permitting flexibility in mixing land uses, while protecting investment through appropriate development standards. This district should recognize and promote the potential economic and quality of life benefits of visual and physical accessibility to a revitalized riverfront. The specific standards of this district re beyond the scope of this plan, and intended to be developed at a future date as a zoning ordinance amendment." This change is intended to stress the economic advantages of the proposed river district, while not including specific reference to buffering, recreational development protection of the river ecosystem, responsible development with regard to historic and cultural resources or application of the district to the entire length of the French Broad and Swannanoa Rivers, as in the current text.

Council discussed whether the portion of property Mr. Sternberg requested to be deleted from the Plan should be, and if not, then why.

Ms. Jane Mathews, member of the Planning & Zoning Commission, recalled that there was not a whole lot of comment about the plan itself in the Commission meeting. There were some concerns raised about whether the whole river or portions of the river are looked at. She felt that no matter when the City does a comprehensive plan, we need to look at pieces of the plan for impacts that are unique to those areas. She felt that the effort will be to look at the whole river and its impact on the City and the County, but this area will have unique needs and characteristics that we need to address as well.

Ms. Jesse Smith Coleman hoped that some block grant funds will be set aside for senior citizens and citizens with low incomes who live in the area and who would like to upgrade their homes.

A man who represented Pioneer Welding Supply on Park Avenue, urged Council not to rezone Pioneer's property from Heavy Industrial because they would like to expand. Mr. Benson responded by saying that specific language has been added to the proposed land use section in the plan saying that even though the Pioneer's property is recommended to eventually become residential, that it was a 20+ year vision. The plan does not call for immediate down-zoning of the property and as it the plan currently stands, he felt that Pioneer's concerns have been addressed.

Ms. Heetderks, resident on Park Avenue, hoped Pioneer would not enlarge their business because it will cause additional traffic.

Ms. Gloria Howard Free said that after looking at the plan, the area residents see that it does have some merit. She urged Council to allow the residents in the area to have input into the plan. She suggested that the planning be open-ended for continual study and involvement of the community. The residents are very much concerned about the economic development implications in what is being proposed for the community. She asked that the Asheville Parks & Recreation storage facility on the corner of Clingman & Hilliard be removed. She stated that there were traffic problems in the area of Clingman Avenue and would like to see that traffic reduced. They asked for residents in the area to be informed of the demolition process and rehabilitation opportunities. They mentioned Rector Street being reopened. The community is interested in the City's funding resources for grading properties in the area. She asked for Council's guidance to help the community understand the MSD sewer charge on the water bill. She stated that they want their bills reduced and residents to be reimbursed retroactively.

Upon inquiry of Mayor Martin, Ms. Free said that a neighborhood association is being established in order to make sure that the neighborhood is properly served and represented as the planning process moves forward.

Councilman Worley explained that the MSD sewer charge on the water bill, that Ms. Free spoke about, is not something City Council has any authority over. MSD sets the rates and tells the City what to bill. The City only operates as their billing agent. Mayor Martin suggested that Ms. Free talk with the City Manager who will direct her to the appropriate staff to address her concerns.

When Councilman Hay asked Ms. Free if the residents in the community favored the plan, Ms. Free responded that personally she felt the plan was okay if it was left open for study and evolvment as people -4-

become more involved in it. She said the community hasn't had as much in depth study into it as they would like, but if it benefits the community, the it was okay.

Mayor Martin said that members of Council have previously received a copy of

the resolution and it would not be read.

Councilman Hay moved for the adoption of Resolution No. 96-9, with the three amendments read by Mr. Benson to the Plan. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 89

B. CONTINUATION OF A PUBLIC HEARING RELATIVE TO REZONING TWO LOTS AT 401 OLD COUNTY HOME ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

Mayor Martin said that this public hearing was opened on January 9, 1996, and continued until this date in order to give the other interested persons an opportunity to speak and also to give the Planning staff an opportunity to look at the uniqueness of this area and perhaps bring Council a different solution to the problem.

At the request of Mr. Jones Byrd, attorney representing the petitioner, Councilman Worley moved to continue the public hearing, without further advertisement, until February 27, 1996, in order to give all parties concerned an opportunity to meet and perhaps come up with a compromise solution to the problem with some guidance from the Planning Department. This motion was seconded by Vice-Mayor Field and carried unanimously.

C. PUBLIC HEARING RELATIVE TO CLOSING AN UNNAMED ALLEY IN BETWEEN TWO UNNAMED ALLEYS CONNECTING WEST CHESTNUT STREET AND BLAKE STREET IN THE BLOCK BETWEEN MONTFORD AVENUE AND CUMBERLAND AVENUE

RESOLUTION NO. 96-10 - RESOLUTION TO CLOSE AN UNNAMED ALLEY IN BETWEEN TWO UNNAMED ALLEYS CONNECTING WEST CHESTNUT STREET AND BLAKE STREET IN THE BLOCK BETWEEN MONTFORD AVENUE AND CUMBERLAND AVENUE

Mayor Martin opened the public hearing at 5:52 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Larry Ward, Assistant Public Works Director, said that a petition has been received from Carolyn F. Spain and others requesting that an unnamed alley connecting two unnamed alleys between West Chestnut and Blake Street be permanently closed to public use.

The petition received includes the signatures of all property owners along the alley. The two alleys connecting Blake Street and West Chestnut Street are open alleys. The alley connecting these two alleys being petitioned to be closed is an unopened alley.

The Public Works Department staff recommends the petition to close be approved.

Mayor Martin closed the public hearing at 5:54 p.m. -5-

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

Vice-Mayor Field moved for the adoption of Resolution No. 96-10. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 90

D. PUBLIC HEARING RELATIVE TO REZONING FIVE LOTS OFF DEAVERVIEW ROAD FROM R-3 RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

Mayor Martin opened the public hearing at 5:55 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this ordinance seeks to rezone lots 9628.10-26-6939, 8265, 8994 and 9628.10-37-3002 from R-3 Medium Density Residential to LI Light Industrial District (hereinafter "LI"). The subject property is approximately 25 acres. The five lots are located on Deaverview Road just west of the intersection of Bear Creek Road. The five lots contain eight residential structures. The 2010 Plan recommends that this area be low and medium density residential. The subject property is surrounded on all sides by residential.

The Planning staff reviewed the rezoning request and recommended denial of the rezoning of all five lots to LI. At the Planning & Zoning Commission's meeting on November 1, 1995, the Commission voted 4-3 to recommend denial of the rezoning request.

An appeal from the Planning & Zoning Commission's decision was filed on November 10, 1995.

A protest petition was filed on January 17, 1996, and said petition has been verified as a valid protest petition on the north and south side of the property. On January 23, 1996, a letter was received in the Planning Department signed by six people asking to "withdraw my name from the petition that I signed on December 11, 1995, opposing the rezoning of the property owned by Mr. James R. Beck on Deaverview Road, West Asheville, North Carolina. After reviewing all the facts regarding the rezoning, I believe it will be in the best interest of the community to rezone this property as requested by Mr. Beck." The Planning staff then reviewed the protest petition again and found that one of the names that requested deletion was within in the protest petition area and thus invalidated the north area as being part of the protest petition. However, the south area still remained valid resulting in a valid protest petition.

Mr. Robert Long, attorney for Deaverview properties, pointed out to Council, by use of a map, where the subject property lies in connection with other properties in the neighborhood zoned LI. He noted that the property is currently zoned R-3 which allows multi-family housing up to 16 units per acre. He cited the utilities that were available, i.e., a 6" water line, natural gas and public transportation. Sewer is also available on Cub Road, although depending on the use of this property if it was to be upgraded, and any upgrade would have to be done at the property owner's expense. He said that at the Planning & Zoning Commission meeting, Mr. Ownbey said that the City Engineer -  
6-

commented that LI would place less of a burden on the road structure than apartments would. He believed LI is generally compatible with the neighborhood. He also stated that Mr. Ray Denny from the N.C. Dept. of Commerce stated that there is a need for LI sites in Asheville and the vicinity. He presented two letters (one from Mr. Charles Freeman and the other from Clyde and Geneva Travis) stating that they had no objection to the property being rezoned to LI. He understood that a petition in support of the rezoning to LI was given to the Planning Department signed by some people on Cub Road. He said that they have a civil engineering consultant who states that this site could be developed with minimal disruption in terms of earth moving, etc. For these

reasons, he asked Council to consider rezoning this property to LI. He felt that the feeling of the neighbors are that the type of facility that would go into a LI site would be a lot less disruptive than more apartments (which are allowed in the current R-3 designation). He also noted that he obtained the police call records for 275 Deaverview Road, for a specific time period, and there were many, many calls for police assistance which he felt would not happen if the area was rezoned to LI.

Upon inquiry of Vice-Mayor Field, Mr. Long said that this subject tract of land can be developed for apartments under the current R-3 designation (with 16 units per acre). That would be a big disruption on the community and the petitioner does not want to cause that much disruption.

When Councilman Skalski inquired about whether there have been any neighborhood meetings, Mr. Long responded that the petitioner and his engineer did meet with some neighborhood residents.

Councilman Skalski then noted that Council is faced with two issues: one is, do the people that live around the property want it and can it be made so that everyone can live together; the other being, the City needs to consider the overall zoning for the area contained in the 2010 Plan. Mr. Long responded that he firmly believes that LI would impact the area less than more apartments, in terms of schools, water usage, sewerage and traffic.

Mr. Ronnie Radford, 41 Cub Road, spoke in opposition of the rezoning, stating that the residents in the area keep hearing that LI is better than apartments. He said that the R-3 designation doesn't mandate that apartments be built. He said that the area did have a community meeting and most opposed the rezoning to LI. However, some have changed their minds because of the threat of apartments being built there. He said that at the meeting the residents kept hearing that an office warehouse would be built, but LI zoning has a lot of uses. Most of the residents whose properties border the subject land are opposed to the rezoning. He stressed that the 2010 Plan does call for the area to remain residential and this property is currently surrounded by residential. He felt like the noise (from burglar alarms) and crime factors will disrupt the quiet neighborhood and urged Council to keep the property zoned residential.

Ms. Sherrie Cook, 356 Deaverview Road, spoke in opposition to the rezoning noting that there are many things that can be placed in the LI zone. She alleged that two letters in support of the rezoning that Mr. Long has are from tenants, not property owners.

Mr. Webb Morgan, 333 Hi Alta Avenue, felt that if Mr. Beck wants to build an office warehouse in the area on his property, he should be allowed to do that.

-7-

Ms. Susan Wallace, 91 Cub Road, was very much opposed to the rezoning. She urged Council to leave the area residential nothing that they prefer homes in the area.

Ms. Kathryn Wiggins, area resident, spoke in opposition of the rezoning. She also presented Council with a letter from Barbara D. Wells, property owner of 49 Cub Road, who expressed her opposition of rezoning this land to LI.

Mr. Carl Chesick, 66 Cedar Hill Road, spoke in support of the rezoning to LI. He said that there is an unoccupied strip of land that is completely covered in laurel which is a natural buffer zone between area residents and the subject property. He said that there is a petition in favor of the rezoning which was turned into the Planning Department today, and he wasn't sure if the people who

signed the protest petition even knew what they were signing. He felt that residential zoning which allows 16 units per acre is not medium to low density. He said that unless Council can guarantee that no housing apartments would be built in there, they feel the LI zoning would be the best thing for the community. He presented Council with a memorandum to the residents of Cub Road dated January 22, 1996, from Mr. James B. Beck, General Partner of Deaverview Properties, which reads: "In the event the above parcels of Deaverview Properties is rezoned to light industrial district, Deaverview Properties, a North Carolina General Partnership, agrees with the residents of Cub Road, as follows: (1) That a chain link fence will be installed between the properties on Cub Road and any facility built or constructed on the above property. (2) That a 50-foot buffer zone will be established between the properties adjoining the subject property and adjoining properties on Cub Road. (3) That no night club or liquor store will be established on said property. (4) That upon the erection of structures complying with light industrial district, private security will be maintained on the property."

Upon inquiry of Vice-Mayor Field about if the protest petition is valid, City Attorney Slawter said that it has been determined that it is a valid protest petition.

Ms. Linda Lunsford Davis, 71 Cub Road, said that she signed the protest petition thinking that it was asking that the property be rezoned R-1A. She is one of the people who has asked that her name be removed from the protest petition. She now feels the property should be rezoned LI and has signed the "in favor of rezoning" petition. She stressed that the residents do not want a housing development on that property.

Upon inquiry of Councilman Sellers, Mr. James Beck, petitioner, said that he has agreed to put a security fence around the property and build a 50 foot buffer (where the zoning requirements only require a 20 foot buffer). He said that residential houses would be a bigger impact on the community than an office warehouse.

City Attorney Slawter reminded Council that when they are considering a rezoning, they have to look at every possible use that the property can be used for under that particular zone. If this is going to be rezoned light industrial, Council cannot rezone the property on the condition that it be used for a specific use. That's called contract zoning and is not legal in North Carolina. He reiterated that anything in the LI zone can be built on that property. At this time, Vice-Mayor Field read out all the possible uses that would be allowed in the LI district.

-8-

Upon inquiry of Councilman Sellers, Mr. Beck described the topography of the land. Mr. Beck then urged Council to rezone his property so he could build a nice office warehouse which would have setback and shrubbery. He felt that unless he rezones his property to LI, apartments will go in there. He stated that he doesn't want to sell his property but keep it for his own use.

Upon inquiry of Ms. Leni Sitnick, Mr. Beck described what an office warehouse would look like.

Ms. Jane Mathews, member of the Planning & Zoning Commission, attempted to explain the vote of the Planning & Zoning Commission. She ended by saying that maybe R-3 is not appropriate, but also it has some opportunities for other types of development other, not just necessarily a maximum density of 16 units per acre. It could have less density but still be in character with the surrounding area.

Mr. Beck stated that he bought the land, cleaned it up and wants to do something right with it. He said that if it has to come to it, apartments will go in. He stressed that LI would have the least impact on the community.

Upon inquiry of Vice-Mayor Field about why staff recommended denial, Mr. Ownbey said that the 2010 Plan recommends that this area be low and medium density residential, that the area is surrounded by residential on all sides, and the addition of truck traffic.

Upon inquiry of Councilman Worley, City Attorney Slawter said that it was his opinion that this would not be considered spot zoning.

Ms. King spoke in support of the rezoning and said that she knew Mr. Beck and felt he would not building anything on the property that would be detrimental to the neighborhood.

Mr. Frank McCurry, resident of Cub Road, spoke in opposition to the property being rezoned and said that whatever goes in there, he doesn't want a trailer park.

Mr. Terry Sprouse, area property owner, spoke in favor of the rezoning. He felt the LI zone would be a benefit to the community. He remembered the property before Mr. Beck bought it and felt that Mr. Beck made vast improvements. He was not opposed to apartments, but felt less people will be less impact on the community.

Mr. Glen Mchaffey, 63 Cub Road, supported the rezoning saying that he would prefer a warehouse be built on the property than housing apartments. Even though conditions cannot be placed on the rezoning, he felt Mr. Beck is a man of his word and would not hurt the neighborhood.

Ms. Harriette Winner, member of the Planning & Zoning Commission, said that even though Mr. Beck has good honest plans, for some reason he may need or want to sell the land and then anything can be built in the LI zone. She thought that maybe someone might develop the property into a community of houses.

Mayor Martin closed the public hearing at 7:02 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read. -9-

Councilman Skalski moved to deny the rezoning request from R-3 to LI. This motion was seconded by Councilman Cloninger. On a roll call vote of 6-1, with Councilman Sellers voting "no", the motion carried.

Councilman Skalski explained his motion to deny was based on (1) the owner can meet with the residents and come to an agreement within the year; (2) people were comfortable with the R-3 zoning when they bought their land, built their homes and started businesses in the area; and (3) there was no reason that Council should not follow the 2010 Plan guidelines.

Councilman Hay felt that as he sees it, Council was not forced to choose between LI and 400 units. If a proposal comes up to build 400 units, problems with traffic, sewerage and schools would be addressed at that time. The area may not be appropriate for the building of those units.

E. PUBLIC HEARING TO CONSIDER A VARIANCE REQUEST FOR COURTYARD OF ASHEVILLE TO REDUCE THE SIDE BUILDING SETBACK REQUIREMENT FROM 8 FEET TO 5.58 FEET

Mayor Martin opened the public hearing at 7:07 p.m.



City Clerk Burluson presented the notice to the public setting the time and date of the public hearing.

Councilman Cloninger felt that he might have a conflict of interest due to his firm doing legal work for Courtyard of Asheville. Councilman Worley moved to excuse Councilman Cloninger from voting due to a conflict of interest. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mr. Gerald Green, Senior Planner, said that Courtyard of Asheville is requesting a variance from the side building setback requirement. On March 8, 1995, Courtyard of Asheville received their group development approval for a 78 room hotel located on Buckstone Place. Some changes were made to the configuration of the building on the property which resulted in the foundation being poured too close to the southeast property line. The zoning ordinance requires an 8 foot side building setback. The foundation was poured 5.58 feet from the side property line. The request is for a variance of 2.42 feet.

At their January 3, 1996, meeting, the Planning & Zoning Commission voted unanimously to recommend approval of the variance request.

Mr. George Jensen, engineer, explained the reason the variance is necessary.

Mayor Martin closed the public hearing at 7:16 p.m.

Councilman Hay moved to approve the variance request for Courtyard of Asheville to reduce the side building setback requirement from 8 feet to 5.58 feet. This motion was seconded by Councilman Skalski and carried unanimously.

### III. UNFINISHED BUSINESS:

### IV. NEW BUSINESS:

-10-

#### A. FINAL PLAT APPROVAL FOR BLUEBIRD KNOLL SUBDIVISION

Mr. Gerald Green, Senior Planner, said that Ken Lawson, developer of Bluebird Knoll Subdivision, is requesting final plat approval for a nine lot subdivision to be located off Eliada Home Road.

Bluebird Knoll is proposed as a nine lot single family subdivision on 8.78 acres. The proposed subdivision is located outside the City limits in the area of extraterritorial jurisdiction. Individual wells and septic systems will serve the lots. As part of the subdivision's development, a new street will be constructed. Lawson Lane will be approximately 820 feet in length and will have a maximum grade of 11.6%. The street will be constructed to N.C. Dept. of Transportation standards and will be dedicated to the State for maintenance as a public street. At their January 9, 1996, meeting, City Council granted a variance permitting the street to have a right-of-way width of 45 feet. The final plat has been reviewed and approved by the Legal, Public Works and Planning Departments and complies with all standards established by the City.

The Planning & Zoning Commission reviewed the preliminary plat on December 6, 1995, and unanimously approved the preliminary plat. The Planning staff recommends acceptance of the final plat.

Councilman Worley moved for the approval of the final plat for Bluebird Knoll Subdivision. This motion was seconded by Councilman Sellers and carried unanimously.

V. CONSENT:

Upon the request of Mayor Martin, Item B., resolution directing the Planning & Development Department to prepare a special zoning study of the Haw Creek area, was removed from the consent agenda to be discussed individually.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 9, 1996, AND THE WORKSESSION HELD ON JANUARY 16, 1996

B. RESOLUTION DIRECTING THE PLANNING & DEVELOPMENT DEPARTMENT TO PREPARE A SPECIAL ZONING STUDY OF THE HAW CREEK COMMUNITY

This item was pulled to be discussed individually.

C. RESOLUTION NO. 96-11 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 30 (LOT AT THE CORNER OF CURVE STREET AND ALEXANDER DRIVE) OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

Summary: Disposal Parcel 30 is a residential lot at the corner of Curve Street and Alexander Drive comprising 10,672 square feet.

A bid from Anthony J. Tozzi, in the amount of \$6,210 was received for the purchase of Disposal Parcel 30 in the East End/Valley Street Community Improvement Area in an amount not less than the established minimum price of \$6,100.

The bid from Anthony J. Tozzi for Disposal Parcel 30 includes the proposal to build a duplex, with each unit containing 3 bedrooms and 1-1/2 baths for his personal residence and rental at an anticipated cost -11-

of \$107,340. Mr. Tozzi has applied for the Incentive Housing Program (\$1 lot) subsidy.

An upset bid was received by Charles D. Martin in the amount of \$7,000. The bid from Mr. Martin for Disposal Parcel 30 includes the proposal to build a residential structure containing three bedrooms and two baths for his personal residence at an anticipated cost of \$72,000. Mr. Martin has placed the required deposit. Mr. Martin has applied for the Incentive Housing Program (\$1 lot) subsidy.

An upset bid was received by Anthony J. Tozzi in the amount of \$8,500. Then, an upset bid was received by Charles Martin in the amount of \$9,000. No response was received to the last advertisement of January 5, 1996, and therefore, the offer to purchase from Charles Martin in the amount of \$9,000 was not upset and the sale to Charles Martin should be approved. Mr. Martin will be eligible for the Incentive Housing Program subsidy in the amount of \$6,099.

RESOLUTION BOOK NO. 23 - PAGE 91

D. RESOLUTION NO. 96-12 - RESOLUTION AUTHORIZING THE MAYOR TO SUBMIT A LETTER TO THE BUNCOMBE COUNTY ECONOMIC DEVELOPMENT COMMITTEE AND TO ADVANTAGE WEST ENDORSING THE GRANT REQUESTS OF RIVERLINK

Summary: Recently RiverLink received a \$15,000 grant from the Tennessee Valley Authority towards a \$60,000 goal to be used to develop a master plan, economic impact analysis, and anchor project for the area between the I-240 Bridge and the corner of Depot Street, Riverside Drive and Lyman Street. RiverLink has

spoke with both the Buncombe County Economic Development Commission and Advantage West about matching funds. They are asking for \$22,500 from each agency. RiverLink is requesting that the City submit letters to the Buncombe County Economic Development Commission and Advantage West endorsing the RiverLink funding requests.

RESOLUTION BOOK NO. 23 - PAGE 92

E. RESOLUTION NO. 96-13 - RESOLUTION AUTHORIZING A NAME CHANGE FOR THE WEST ASHEVILLE/HAYWOOD STREET BRIDGE TO BE NAMED THE WEST ASHEVILLE/RIVERLINK BRIDGE

Summary: RiverLink has an interest in seeing the West Asheville/Haywood Road Bridge renamed the West Asheville/RiverLink Bridge. This bridge is the critical link between the downtown and the heart of West Asheville commercial business district. RiverLink sees the bridge serving as the symbol for the river redevelopment project.

Procedurally the name change, if requested by the City, must go to our Board of Transportation member, Gordon Myers. Mr. Myers will then pass the request on to the full Board of Transportation in Raleigh which will act on our request.

The West Asheville Business Association and the West Asheville Steering Committee have both been apprised of this request. Their only concern is that "West Asheville" remain in the name.

RESOLUTION BOOK NO. 23 - PAGE 93

-12-

F. RESOLUTION NO. 96-14 - RESOLUTION DECLARING THE INTENT OF THE CITY TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN IMPROVEMENTS TO THE WATER SYSTEM OF THE CITY OF ASHEVILLE

Summary: The City is in the process of preparing for the issuance of Water Revenue Bonds. This resolution is required by the internal Revenue Service if the City wishes to reimburse itself for any expenditures incurred prior to the date of closing on the bonds.

RESOLUTION BOOK NO. 23 - PAGE 95

G. RESOLUTION NO. 96-15 - RESOLUTION TO ESTABLISH A DESIGN REVIEW BOARD FOR THE HEAD OF MONTFORD, EAST END/VALLEY STREET AND EAST RIVERSIDE REDEVELOPMENT PROJECTS

Summary: The redevelopment plans for the Head of Montford Redevelopment Project, East End/Valley Street Community Improvement

Program and East Riverside Redevelopment Project provide for a Design Review Board to review each developer's plans and to advise on such matters as: adequacy of off-street loading, adequacy of off-street parking, provisions for open space, appropriate and densities, landscaping, provisions for aesthetic objects, group development, harmony of design, quality of design, and compliance with historic preservation guidelines and other provisions of the Redevelopment Plan.

The composition of the Design Review Board under the redevelopment plans included: the Housing Authority Executive Director, the City Planning & Development Director, the City Planning & Zoning Commission Chairman and two architects to be appointed by the Housing Authority. Since the responsibility

for redevelopment property now rests with the City of Asheville, the Community Development Director should replace the Housing Authority Executive Director on the Design Review Board and the City Director of Planning & Development should be authorized to appoint two architects as needed to serve on the Design Review Board.

RESOLUTION BOOK NO. 23 - PAGE 97

H. RESOLUTION NO. 96-16 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE TRANSIT AUTHORITY

Summary: The term of Paul Hensley has expired. This resolution will appoint Jim McCulley to serve a four year term, term to expire December 31, 1999, or until his successor has been appointed.

RESOLUTION BOOK NO. 23 - PAGE 98

Mayor Martin said that members of Council have been previously furnished with copies of the items on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Skalski and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2255 - BUDGET AMENDMENT TO SET UP AN APPROPRIATION FOR THE CRIME ANALYSIS MAPPING PROJECT

-13-

Summary: This budget amendment, in the amount of \$31,753, is to set up an appropriation to fund project costs associated with the Police Department's N.C. Dept. of Crime Control & Public Safety grant funded community policing program.

ORDINANCE BOOK NO. 15 - PAGE 263

B. ORDINANCE NO. 2256 - BUDGET AMENDMENT FOR THE CITY'S SHARE IN THE ACQUISITION OF A MOBILE ARSON RESPONSE UNIT

Summary: In 1992, the City of Asheville and Buncombe County created the A-B Arson Task Force ("ABATF") as a join-exercise-of-powers agency. Since that time, ABATF has been an extremely successful example of effective City-County cooperation. Its success rate in determining fire cause is very high, as is its arrest/conviction rate. ABATF has been cited nationally by the U.S. Fire Administration as a model cooperative effort to combat arson.

For the past two years, members of the ABATF Board of Directors have worked to raise the estimated \$40,000 needed to acquire and mobile an arson investigation field unit. Approximately 75% of the needed funds - \$30,000 - are in hand.

The ABATF has adopted a resolution requesting support from the City and County in the form of \$5,000 from each, to allow ABATF to proceed with the acquisition of this mobile arson response unit.

ORDINANCE BOOK NO. 15 - PAGE 265

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be

read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first reading.

ITEM PULLED FROM THE CONSENT AGENDA

RESOLUTION NO. 96-17 - RESOLUTION INITIATING A ZONING AMENDMENT FOR THAT PORTION OF THE HAW CREEK AREA CURRENTLY ZONED R-3 (MEDIUM DENSITY RESIDENTIAL)

Ms. Julia Cogburn, Planning & Development Director, said that a petition has been submitted asking the City to consider rezoning 313 parcels in the Haw Creek section of the City from R-3 to R-2.

The petition meets the requirements of Section 30-11-1 (c) of the zoning ordinance. This section provides that "any group of individual property owners who compromise a minimum of 51% of the property owners in the area and who own at least 51% of the property located within the area to be considered ... may request that the City Council consider initiating a special zoning study to determine if a change in the development plan for the area in question is warranted." Staff has reviewed a petition for the rezoning of over 246 acres of the Haw Creek neighborhood from R-3 Medium Density Residential to R-2 Low Density Residential, submitted by Mr. Chris Pelly, President of the Haw Creek Homeowners Association. Staff has reviewed the signatures on the petition and has determined that it contains signatures of 51% of the -14-

property owners who combined acreage comprises 51% of the total acreage located within the area proposed for rezoning. Therefore, the petition is valid.

Ms. Cogburn said that in working with the area and in working with the neighborhood, they found that certain areas were omitted that are currently zoned R-3 from the study. Therefore, Planning proposes that a new resolution be considered that studies the entire area for rezoning. She said the Planning staff will study the entire area zoned R-3 in the Haw Creek area and that they take a recommendation to the Planning & Zoning Commission at their March meeting, if Council so desires.

Mr. Chris Pelly stated that the neighborhood is supportive of the expanded study.

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

Vice-Mayor Field moved for the adoption of Resolution No. 96-17. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 99

VI. OTHER BUSINESS:

A. RESOLUTION NO. 96-18 - RESOLUTION APPOINTING MEMBERS TO THE CITIZENS/POLICE ADVISORY COMMITTEE

City Clerk Burlson read the resolution to appoint Richard Rice to the Citizens/Police Advisory Committee to serve the unexpired term of Councilman Tommy Sellers, term to expire May 1, 1996, and then to serve a full two year term, term to expire May 1, 1998, or until his successor has been appointed.

The resolution will also appoint Councilman Tommy Sellers to serve as the non-voting Councilmember.

Councilman Worley moved for the adoption of Resolution No. 96-18. This motion was seconded by Councilman Cloninger and carried unanimously.

RESOLUTION BOOK NO. 23 - 100

B. RESOLUTION NO. 96-19 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

City Clerk Burleson read the resolution to (1) reappoint Bernadette Thompson to serve an additional three year term, term to expire December 31, 1998; (2) appoint Cassandra Ingram to serve a three year term, term to expire December 31, 1998; (3) appoint Kathryn Liss to serve the unexpired term of Carol Fabrey, term to expire December 31, 1996; (4) appoint Cynthia Janes to serve the unexpired term of Andrew Gentry, term to expire December 31, 1996; and (5) appoint Leslie Daugherty to serve the unexpired term of Diane Westmoreland, term to expire December 31, 1997. All terms are until their successors have been appointed.

Councilman Hay moved for the adoption of Resolution No. 96-19. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - 101

-15-

C. COMMENTS BY LENI SITNICK REGARDING NUCLEAR WASTE TRANSPORTATION AND THE EXTRATERRITORIAL JURISDICTION AREA (ETJ)

Ms. Leni Sitnick appreciated employees of the Water Resources Department who came out to fix a sink hole on the corner of her property on Gertrude Place. The employees came out and worked in the freezing cold mud and repaired the damage quickly and efficiently.

Ms. Sitnick then said that on December 12 she presented to Council for their consideration a resolution to oppose Federal House Resolution 1020 regarding the transport of nuclear waste through Asheville and the area. At that time members of Council asked for additional time to become acquainted with the subject and to consider it further. For that purpose, she introduced a map entitled "The Nuclear Weapons Complex Transportation Routes" that she thought would help the Council in their decision. Looking at the map, it is clear that North Carolina and South Carolina are the "meat in the east coast's nuclear sandwich". Council can see by this map that there is grave importance in considering every community taking a stand against the incredible nuclear dilemma that we are facing. She urged Council to review the map to see how it impacts us specifically. She noted that the routes represent truck and rail transportation of nuclear materials among the primary nuclear weapons production facilities, laboratories, and waste sites. She hoped that this information will help the Council in their consideration of the resolution.

Ms. Sitnick said that with regard to the ETJ area issue of (1) whether or not the ETJ should be continued, (2) whether or not it was fair for the Asheville taxpayer to pay our Planning Department to do all the work involved in the ETJ area; and (3) how that impacted the County appointees on Planning & Zoning Commission making decisions outside of the ETJ area, she brought to Council's attention that it may be unfair to County residents to have part of their property controlled by the City. She felt the whole issue of ETJ is something that is not only going to affect revisions of the 2010 Plan and its mapping

process, but also the work being done for the Unified Development Ordinance. She urged Council to consider the balance for both the Asheville taxpayer and the County taxpayer.

#### D. CLAIMS

The following claims were received by the City of Asheville during the week of January 5-11, 1996: Gary Dale Helton (Parks & Recreation), David Foster (Streets), Larry McAdams (Streets) and Johnny Buckner (Civic Center).

The following claims have been received during the week of January 12-18, 1996: John Southern (Streets) and Penny Brown (Streets).

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

#### VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:30 p.m.

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CITY CLERK MAYOR

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