
Mr. Paul Benson, Urban Planner II, said that this public hearing was advertised on April 17 and 27, 2001. He said that he has filed a certification of notification with the City Clerk, as follows: "(1) Buncombe County tax listings were obtained from the Buncombe County tax office on March 13, 2001; (2) on April 2, 2001, 114 letters, including a notice of property owner's rights,

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a map and description were mailed to property owners identified from said property tax listings of Buncombe County; (3) on or before April 23, 2001, one letter to the property owners was returned to his office; (4) on April 12, 2001, the returned letter was re-mailed by certified mail to either a new address provided by the Post Office on the returned envelope or to the same address; and (5) on April 24, 2001, letters were sent to the solid waste providers identified as being active in the affected area, with said letters including the

Resolutions of Intent adopted by the City Council on March 13, 2001."

City Clerk Burleson filed a certification of notification as follows: "(1) on April 2, 2001, a statement of impact was delivered to the Clerk of the Buncombe County Board of Commissions; and (2) a published notification in the Asheville Citizen-Times on April 17, 2001, and April 27, 2001, included a notice of property owner's rights, a map, and a description of the areas being considered for annexation. On March 26, 2001, a letter was received from the Enka-Candler Fire & Rescue Department Inc.; on March 29, 2001, a letter was received from the Skyland Fire Department; on April 18, 2001, a letter was received from the Reynolds Volunteer Fire Department Inc.; and on April 26, 2001, a letter was received from the Haw Creek Fire & Rescue, all requesting to receive a good faith offer from the City of Asheville for fire protection services." The maps of the proposed annexations, the Annexation Services Plan and the property owners list have been displayed in the Office of the City Clerk for public inspection beginning March 30, 2001.

Mr. Benson explained that purpose of this hearing is for the City to explain the plan for extending City services to the proposed annexation area, and to give all persons resident or owning property within the area, and all residents of the City the opportunity to be heard. The effective date of annexation will be June 30, 2002.

The Arden area includes 128 acres, subdivided into 114 properties; there are 73 dwelling units with an estimated population of 145 persons. This area would extend the corporate limits into the rapidly growing South Asheville area, and link 4 existing satellite areas to the primary corporate limits.

Mr. Benson then summarized the plan as follows: The Arden area qualifies for annexation in that at least 60% of the lots are developed, and 60% of the acreage of properties that are either vacant or in residential use are subdivided into lots of 3 acres or less. Police protection is to be extended on effective date of annexation with no increase in personnel or equipment. Fire protection is to be contracted from the Skyland Rural Fire Department (.075/5) and supplemented by the City to bring service up to City standards. Solid waste collection is to be extended on the effective date of annexation with no increase in personnel, or equipment. New customers would receive the automated collection service. Street maintenance services are planned for Linden Street, Peach Tree Street, Sycamore Drive, Blake Drive, Royal Pines Drive, Cedar Lane and Sycamore Terrace, (1.6 miles). In addition, property owners located on private roads may petition for City maintenance provided that adequate public right-of-way is provided.

Water distribution in the Arden Area currently meets City standards. Sewer collection in the Arden Area currently meets City standards. City Financial Impact - Annual Expenses = \$15,017; Annual Revenues = \$147,577; and Capital Expenditures = \$29,811.

Mayor Sitnick wanted to be sure that the City is working on creating a small farm designation within the extraterritorial jurisdiction and annexation areas so that the City doesn't put those people out of business. Mr. Benson said that he was not aware of any agricultural operations in any of these annexation areas. In addition, Buncombe County has not coded any of these properties as agricultural use.

City Attorney Oast pointed out to Council that in addition to the urbanization requirements, there is also a contiguity requirement with respect to areas that we annex. This

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area, even though it is adjacent to a pending annexation does qualify on the basis of the existing City limits.

Mr. Pat Cary, area property owner, spoke in opposition to the annexation and felt that the urban density requirement has not been met.

Mr. Kevin Rollins, speaking on behalf of the Libertarian Party of Buncombe County, hoped City Council does not tax residents out of their land. He felt that annexation is a violation of democracy and it should be put on a ballot so people can vote on whether people want to be annexed or not.

Mr. Fred English spoke in opposition of annexation.

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

Mayor Sitnick said that the ordinance to extend the corporate limits into this area will be considered by City Council on June 12, 2001.

G. ORDINANCE NO. 2810 - ORDINANCE DIRECTING THAT THE DWELLING LOCATED ON WYATT STREET BE DEMOLISHED

Mayor Sitnick opened the public hearing at 6:39 p.m.

Mr. Jeff Baker, Housing Code Coordinator, said that this is consideration of an ordinance directing that the dwelling located on Wyatt Street be demolished and all debris removed from the property.

The dwelling located on Wyatt Street (PIN No. 9657.09-05-9999) is a shell of a building with a roof, but no walls, and no windows and doors. The real property owners, Mr. and Mrs. James R. White Sr., have not responded to ongoing requests by the Housing Division to repair or demolish the building.

The Housing Code Coordinator sent a letter, Consent of Demolition, and a Complaint and Notice of Hearing to the property owners on the January 25, 2001. The property owners have failed to demolish the dwelling or to respond to any document. A formal housing hearing was held and a "Findings of Fact and Order" was entered and served on the property owners. To date no action has been taken by the owners and the dwelling continues to be uninhabitable and a hazard to the community residents.

Section 4-217(c)(3) of the City's Housing Code, as authorized by N. C. General Statutes sec. 160A-443(5), authorizes City Council to direct by ordinance that the dwelling be demolished.

The following is an overview of some general information regarding this property:

- Fair market value of dwelling is \$2,900 (as listed on the Buncombe County Tax Records)
- Estimated cost to repair and bring into Code compliance is \$20,000-\$40,000
- The affordable housing agencies were notified.

The Building Safety Director recommends adoption of the resolution setting a public hearing ordering that the property located on Wyatt Street be demolished.

Upon inquiry of Councilman Peterson, Mr. Baker said that the structure will probably be demolished in 30 days, however, the owner will still have the opportunity to bring the dwelling up to Code until the actual demolition.

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When Mayor Sitnick asked how much it would cost in demolition and disposal fees, Mr. Baker said it would

be approximately \$4,000 and that amount will be applied as a lien to the land.

Mayor Sitnick closed the public hearing at 6:44 p.m.

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

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2810. This motion was seconded by Councilwoman Bellamy and carried unanimously.

ORDINANCE BOOK NO. 19 - PAGE

H. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR ANCILLARY USE (PARKING LOT) IN A RESIDENTIAL DISTRICT ON SHILOH ROAD

City Attorney Oast reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

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

After hearing no questions about the procedure, Mayor Sitnick opened the public hearing at 6:47 p.m.

Urban Planner Stacy Merten submitted into the record City Exhibits 1 & 2 (Affidavits of Publication), City Exhibit 3 (Certification of Mailing of Notice to Property Owners), City Exhibit 4 (Staff Report dated April 24, 2001), City Exhibit 5 (Letter dated May 2, 2001, from George Morosani); and City Exhibit 6 (Staff Report dated May 22, 2001). This public hearing was advertised on April 27 and May 4, 2001, and then re-advertised with the Parcel Identification Number on May 11 and 18, 2001.

She said that this is the consideration of issuance of a conditional use permit (CUP) for a parking lot to be located on property zoned RS-8 Residential Single Family High Density District on Shiloh Road.

With regard to some confusion about the address for this property, City staff did some follow-up research and found that Mr. Morosani had previously been notified that he should be using 55 Shiloh Road for his business located on the south side of Shiloh Road. Apparently he had not made this change and he made his application with the City.

Using a map (City Exhibit 7), she explained that the proposed project is actually located on the north side of Shiloh Road and that went through the Technical Review Committee (TRC) process. Mr. Morosani has since added another lot to be considered for the parking lot. There is an unopened right-of-way between the two lots.

Mr. George Morosani has submitted development plans to construct a 32-space parking lot on approximately .6 acres in an RS-8 Residential Single-Family High Density District, with the business itself being located across the street. The proposed development would be an ancillary use to the development on the south side of Shiloh and would be constructed in two phases (City Exhibit 8). The existing development contains a mix of uses including a heating and air conditioning retail and service business, a pharmacy and associated offices. The applicant

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wishes to expand the development, but cannot do so without the additional parking. Phase I (17 spaces) was previously reviewed by the TRC, but Phase II (15 spaces) was not.

The site is currently vacant and is surrounded by single-family dwellings (City Exhibit 9). The proposed parking area would be surrounded by a wooden fence and heavily landscaped. A sidewalk is proposed to be constructed along the street.

All of the TRC conditions for this project have been met. A Transportation Impact Analysis was not required for this project.

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

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

The proposed development is a parking lot that will be constructed with methods and materials that will not pose a danger to the public. Landscaping and lighting will be done in manner sensitive to the surrounding uses and to mitigate any possible negative impacts such as glare, noise, dust or fumes.

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

The existing development is out of scale and character with the surrounding community, and as such does not benefit or enhance the community. An expansion of the use, although necessary for the use itself to operate effectively, will provide little public benefit.

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

The proposed parking lot expansion will expand a commercial use into a residential area in the middle of the block with a high potential to injure the value of the adjoining 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 development is a parking lot within the fabric of the neighborhood with landscaping and fencing. Once mature, the landscaping will hide the view of the parking lot from the street. The wooden fencing will not be out of character with the surrounding neighborhood.

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

The Asheville City 2010 Plan indicates residential use for this area, but the UDO allows for ancillary parking in residential zones under certain conditions.

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

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The proposed development is located in an existing developed area. The project received approval from City's Technical Review Committee, including the Water Resources Department, the Fire Department, Metropolitan Sewerage District, Engineering Department and Public Works Department.

The TRC recommended certain conditions, which have been met. Sidewalks will be provided.

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

The City's traffic engineer has reviewed this project and determined that no undue traffic will be generated from this site.
