

REGULAR MEETING  
BOARD OF ALDERMEN  
TOWN OF WAYNESVILLE  
NOVEMBER 8, 2005  
TUESDAY - 7:00 P.M.  
TOWN HALL

The Board of Aldermen held a regular meeting on Tuesday, November 8, 2005. Members present were Mayor Henry Foy, Aldermen Gary Caldwell, Libba Feichter and Kenneth Moore. Also present were Town Manager A. Lee Galloway, Town Clerk Phyllis McClure and Town Attorney Woodrow Griffin. Mayor Foy called the meeting to order at 7:00 p.m.

Approval of Minutes of October 25, 2005

Alderman Caldwell moved, seconded by Alderman Moore, to approve the minutes of the October 25, 2005 meeting as presented. The motion carried unanimously.

Public Hearing - Annexation Petition - 54 Jacobs Drive - Terry M. Morgan and Gail G. Morgan

A petition was received requesting voluntary annexation of .5912 acres located at 54 Jacobs Drive. The owners of this property, Terry and Gail Morgan, asked to have sewer service and were required to petition for annexation in order to receive this service.

Attorney Griffin opened the public hearing. No one spoke; Attorney Griffin closed the public hearing.

Alderman Moore moved, seconded by Alderman Caldwell, to adopt an ordinance annexing the property at 54 Jacobs Drive. The motion carried unanimously. (Ord. No. 27-05)

Public Hearing - Amendment to Section 154.124(B)(8)(b) Permitted Uses in the Raccoon Creek Neighborhood District

A request was received to change the permitted uses in the Raccoon Creek Neighborhood District. At the present time, this district is mainly a medium density residential area. The present regulations for this district restrict "Business, Professional and Personal Services" and "Retail Trade and Food Services" to an area within 200 feet of Business 23 on property abutting Business 23 and located between Sims Circle Road and Monte Vista Drive. Under the amendment being requested, these commercial uses would also be permitted between "Zemery Lane and Hillside Terrace Drive, provided that Clement Drive may not be used for non-residential access".

Originally, the applicant requested that one lot between Zemery Lane and Hillside Terrace Drive be rezoned to the Raccoon Creek Neighborhood Center which is on the opposite side of the Asheville Road and includes the Haywood Electric, Farm Bureau and Carolina Farm Credit

properties. This request was withdrawn and a proposal was made by the Planning Board to amend the text of Section 154.124(B)(8)(b) to read as follows:

All "Business, Professional and Personal Services" uses and "Retail Trade and Food Services" uses permitted in the RC-ND District (as listed in Sec. 154.124(C)) must be within two hundred (200) feet of Business 23 on property abutting Business 23 and located between Sims Circle Road and Monte Vista Drive, or between Zemery Lane and Hillside Terrace Drive, provided that Clement Drive may not be used for nonresidential access.

Approximately twenty people attended the meeting regarding this request. Attorney Griffin opened the public hearing. The following persons spoke:

Attorney Jack Kersten, a resident off Camp Branch Road, represented client Melody Francis. Attorney Kersten said Ms. Francis is a native who has done what Waynesville wanted young people to do, and Waynesville needs people like her. She owns her own beauty salon and employs approximately six people. It is difficult to find affordable commercial property in Waynesville. A local realtor checked with the Town Staff and was assured that she could conduct the hair salon business at this location so she ordered new equipment for her business. Then someone with the Town said there had been a mistake made because this use was not allowed on this property. One side of the Asheville Highway allows this use but not the other side. Ms. Francis went to her neighbors, except one elderly woman in a nursing home that she did not want to disturb, and all those neighbors have agreed that this area is no longer fit for a residential area but should be commercial and they support the proposed amendment.

Attorney Kersten said the traffic count along the Asheville Highway is 20,000 vehicles per day and it is anticipated that this amount will increase to 30,000 per day. People do not want to have pets and children on a four lane highway. The original request of Ms. Francis was to rezone this one lot. However, planning staff did not want to see this done. Instead a recommendation was made that the section be amended to add certain commercial uses to several properties fronting the Asheville Highway. Attorney Kersten said a natural buffer is in place to protect the residential area behind this property and the street directly behind these properties, Clement Drive, is not to be used for non-residential access.

Melody Francis, said she is the owner of Cutter's Corner and when she began her process of looking for a place to move her business, it was not her intention to find a house that would need to be rezoned or required a text amendment. However, she feels that her future is at stake here if this amendment is not approved. Everything she has found for sale has been limited in the uses allowed and she could not understand why you could have a riding stable on this property but not a nail salon. All the real estate she has looked at is too expensive or has very limited commercial use. This piece of property only has access from the Asheville Highway, not Clement Drive. The business she is proposing is not a loud or all night business and she felt that it would not disturb the neighborhood.

Kent Plemmons, a resident of Monte Vista Drive, said he owns the property adjacent to this property and had not met Ms. Francis until tonight. Mr. Plemmons said he supports the Board and what they have done with the Land Use Planning issue, but he would like to help people to

have businesses. The neighborhoods that have been set up are good but it is becoming difficult in and around Waynesville to do business. He grew up on Hillside Terrace and during that time there were many properties along the Asheville Highway where businesses were located. He asked that the Board help people with these neighborhood districts to live and work around Waynesville.

Philan Medford, 99 Pisgah Drive, said in 2003 when the Town adopted the Land Use Ordinance they knew that the Asheville Highway would be four lanes and that a traffic circle would be constructed at this location. Part of the plan was to encourage the redevelopment of underutilized properties that are empty in the Hazelwood and South Main Street areas where acreage is available which would allow these types of uses and to avoid unintended impact on neighborhoods. There are unintended consequences that result when you try to drive redevelopment into neighborhood center districts such as being disturbed by dumpsters being emptied in the early morning hours.

The current property owner selling the property said she would be hard pressed to find a buyer for this property as a residence. She felt that this area along the Asheville Highway is no longer an ideal place to live but is more of a commercial type nature.

Sandra Best, Ms. Francis' mother, said this beauty shop would maintain the integrity of the Asheville Highway and will not change the look of the houses. She said her daughter has looked for properties to locate her beauty salon and affordable property has been difficult to find.

Attorney Kersten said Government is supposed to be responsible to its citizens' wishes. This area has changed and the people who live in this area feel the same way. Attorney Kersten said it may have been a mistake to include this area in the Raccoon Creek Neighborhood District. Alderman Feichter said she did not feel that the zoning of this area was a mistake and to say so would be a disservice and somewhat overreaching.

Mayor Foy said a beauty salon is a calmer use than some of the other uses which would be allowed by this amendment. He said Hillside Terrace is a planned residential development and should be kept as a medium density residential area.

Ronnie Francis, husband of Melody Francis, said he has heard rumors that Lowe's, Home Depot or Wal Mart may someday be located on the other side of the Asheville Highway and he asked what the area would be like then. Mr. Francis said he and his wife found a comparable house in Waynesville for \$600,000 and another above Tuscola High School for \$975,000 but this is not affordable for them.

Attorney Griffin closed the public hearing.

Alderman Feichter said this may be a reasonable compromise without an adverse effect. She added that this Board is trying very hard to make sure that there is not a Super Walmart across the street. She believes that Ms. Francis has tried to find something else.

Mayor Foy said what bothers him is some of the other types of businesses which could be added with the proposed amendment and how they could affect the neighborhood. He felt that the Planning Board should look at some of those other uses allowed with the proposed amendment.

Manager Galloway said he attended about 100 meetings while the Land Use Plan was being developed. In trying to protect neighborhoods it was felt that grocery stores and convenience stores would have a negative impact on the neighborhood districts. Although a beauty salon may be suitable in this area, some of the other uses may be too broad and could be too damaging to the residential area located directly behind the area proposed for the amendment.

Attorney Griffin said if changes are made to the proposed amendment that are substantial to those that were advertised, another public hearing would be required. Alderman Feichter felt that a delay may not be fair to Ms. Francis. Attorney Kersten suggested that this amendment be adopted as presented and any changes could be considered at a future public hearing.

Ms. Francis said she was pressed for time because she was already scheduled to close on her loan and it has been postponed in order to have a public hearing for this amendment and her loan has increased percentage points during this time.

Alderman Moore moved, seconded by Alderman Feichter, to adopt an ordinance to amend the permitted uses in Section 154.124(B)(8)(b) as presented. The motion carried unanimously. (Ord. No. 28-05)

Alderman Caldwell moved, seconded by Alderman Feichter, to instruct Town Clerk Phyllis McClure to prepare an advertisement for another public hearing on November 22 to discuss the removal of retail trade and food services uses from the Raccoon Creek Neighborhood District affected by the amendment as approved in Ordinance 28-05. The motion carried unanimously.

#### Public Hearing - Amendment to Section 154.303(C) Regarding Street Trees

At the present time, there is a requirement that where both street trees and a street wall is required along a public street, the Town of Waynesville will be responsible for purchasing of street trees. Public Works Director Fred Baker has recommended that this section be deleted to remove the liability from the Town to pay for these street trees. This amendment was unanimously recommended by the Planning Board at their meeting on October 17, 2005.

The proposed amendment is as follows:

Text amendment to Section 154.303(C) - delete the last item on page 436.

"Where both street trees and a street wall is required along a public street, the Town of Waynesville will be responsible for the purchasing of street trees."

Attorney Griffin opened the public hearing. No one spoke; Attorney Griffin closed the public hearing.

Alderman Feichter moved, seconded by Alderman Moore, to adopt an ordinance amending Section 154.303(C) regarding street trees as recommended. The motion carried unanimously. (Ord. No. 29-05)

#### Report on Attendance Requirements Boards and Commissions of the Town

At the meeting of October 25, Alderman Brown noted that some of the Boards or Commissions appointed by the Town Board are unable to meet due to the inability to have a quorum at their meeting. There was some discussion about whether there should be some type of attendance requirements at these meetings. Town staff noted that there were some attendance requirements already in place for some of the Boards and Commissions. The Board asked that a report be prepared for them detailing the existing attendance requirements and that report was distributed to the Board. This item will be placed on the agenda of November 22 for further discussion.

#### Mib Medford - Comments Regarding Asheville Highway

Mib Medford asked to speak to the Board regarding comments she has heard regarding the Asheville Highway. Ms. Medford said one person in 1999 who wanted to see a six-lane highway like Pigeon Forge is now charmed with the roundabout and has commented favorably about all the trees that have been planted along the highway. Another in 1998 sat across the room from her and said the highway was going to be five lanes all the way and the trucks would tear up the roundabout. They now say the nicest thing is the roundabout.

#### Closed Session to Discuss Real Estate

Alderman Caldwell moved, seconded by Alderman Feichter, to adjourn at 8:12 p.m. to closed session to discuss a real estate matter.

Alderman Caldwell moved, seconded by Alderman Moore to return to regular session at 8:35 p.m. Both motions carried unanimously.

#### Real Estate Matter - Authorization to Proceed With Condemnation and Purchase of Brookmont Motor Court Property Located on North Main Street

Alderman Caldwell moved, seconded by Alderman Moore, that the Town Manager be authorized to initiate appropriate and necessary testing of the Brookmont Motor Court site now owned by Home Trust Bank and that if the test results are favorable, the Town Attorney and Town Manager be authorized to proceed with the condemnation and purchase of the 1.581 acre tract from the owner at a price of \$650,000. The motion carried unanimously.

#### Adjournment

With no further business, Alderman Moore moved, seconded by Alderman Caldwell to adjourn the meeting at 8:42 p.m. The motion carried unanimously.

Phyllis R. McClure, Town Clerk  
Henry B. Foy, Mayor