

Tuesday – September 9, 2014 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

**PLEDGE OF ALLEGIANCE**

Mayor Manheimer led City Council in the Pledge of Allegiance.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING SEPTEMBER 21, 2014, AS "DAY OF PEACE"**

Councilman Bothwell read the proclamation proclaiming September 21, 2014, as "Day of Peace" in the City of Asheville. He presented the proclamation to Kala Shaffer, representing Peace is Possible North Carolina, who briefed City Council on some activities taking place during the day.

**ANNOUNCEMENT**

Mayor Manheimer was pleased to announce that the City of Asheville has received the U.S. Dept. of Transportation's Fiscal year 2014 National Infrastructure Investments or TIGER VI Discretionary Grant for the River Arts District Transportation Improvement Plan. This \$14.6 Million grant will go towards the \$30 Million project. The City received help from RiverLink, Riverfront Redevelopment Plan, Buncombe County Tourism Development Authority, N.C. Dept. of Transportation, Land-of-Sky Regional Council, former City leaders, Representatives Meadows and McHenry, and others. She said this is a step in the right direction.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 26, 2014**

**B. RESOLUTION NO. 14-202 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A UTILITY RELOCATION AGREEMENT WITH PROPERTY OWNER OF 311 COLLEGE STREET (PULLIAMSPAKE LLC) TO TO RELOCATE A FAILING STORM DRAINAGE PIPE**

Summary: The consideration of a resolution authorizing the City Manager to execute a utility relocation agreement with property owners of 311 College Street (PulliumSpake, LLC), to construct a new storm drainage pipe paralleling South Charlotte Street on City property to replace a failing storm drainage pipe on this property with a 50%/50% cost share.

During the investigation of a future development for 311 College Street, the development team found an arch concrete culvert bisecting the property. After thorough investigation by the City's legal staff, it was determined that during the early 1920's the City had acquired an easement and constructed the drainage structure in this location. Upon further investigation from

the development team which involved physically entering the system, it was discovered that there are several concerns with the drainage system including partial failure in a couple of locations.

As the legal team continued to research this area, it was discovered that the section of pipe located along the Buncombe County parcel was also installed in a partnership between the property owners at that time and the City. This was also performed in the 1920's.

As staff discussed this with the development team, a plan to relocate the system along South Charlotte Street and reconnect the system on the property currently owned by Buncombe County became the most cost effective and viable option.

As this system is beginning to fail, this partnership would be the most cost effective method to correct these issues. The plan would involve the City reverting the easement back to the property owners, (Buncombe County and PulliumSpake, LLC) and obtaining new easements from both property owners for the new drainage system.

The plan would be for the development team to design and construct the system and the City would then reimburse the development team up to 50% of the cost of design and construction not to exceed \$245,002.50.

This work will involve placing a new drainage system running along S. Charlotte Street the crossing back under S. Charlotte Street to connect in to a stable section of the concrete culvert. The project will need additional easements to make the connections.

Staff recommends that a new pipe be installed along S. Charlotte Street to bypass the failing storm drainage system.

Pro:

- If this recommendation is approved, the construction team would be able to move quickly on the construction of the new pipe, minimizing future damage to properties.

Con:

- The City Stormwater Utility is paying a portion of the cost of the project.

The engineer's estimate with a 10% contingency is \$490,005. \$245,002.50 is proposed to be funded by the Stormwater Utility Enterprise Fund using capital funding already included in the FY 2014-15 adopted budget. The remaining cost of \$245,002.50 is proposed to be paid by the private property owners. The project will be completed by the developers' construction crews.

City staff recommends City Council authorize the City Manager to execute an utility replacement agreements with property owners (PulliumSpake, LLC) to construct a new storm drainage pipe along S. Charlotte Street to replace a failing storm drainage pipe.

#### **RESOLUTION BOOK NO. 36 - PAGE 336**

#### **C. RESOLUTION NO. 14-203 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION CONTRACT WITH THOMAS CONSTRUCTION CO. INC. FOR THE HORIZON HILLS WATERLINE IMPROVEMENT PROJECT**

#### **ORDINANCE NO. 4338 - BUDGET AMENDMENT FOR THE HORIZON HILLS WATERLINE IMPROVEMENT PROJECT**

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a construction agreement with Thomas Construction Co. Inc., for the bid amount of \$1,779,590.40; (2) a contingency amount of \$266,939.60 for a total project budget in the amount

of \$2,046,530.00 for the Horizon Hill Waterline Improvement Project; and (2) a budget amendment in the amount of \$1,873,762 from Water Resources Fund Balance.

This project consists of the construction and installation of: approximately 13,150 linear feet of 8-inch & 6-inch ductile iron pipe, a limited amount of 2-inch copper pipe, and all necessary accessories and appurtenances to replace the existing water mains, including valves, hydrants, service connections, abandonment of existing water mains and appurtenances, and other miscellaneous work in order to improve water service to the Horizon Hill Neighborhood. The Water Resources Department (WRD) issued an Advertisement For Bids for the construction project. In response to the Advertisement For Bids, the WRD received six (6) bids.

Companies responding were:

1. Davis Grading, Inc. – Shelby, NC
2. Dilliard Excavating – Sylva, NC
3. Buckeye Construction Company, Inc. –Canton, NC
4. Cooper Construction Company, Inc. – Hendersonville, NC
5. T&K Utilities, Inc.– Asheville, NC
6. Thomas Construction Co. Inc., - Johnson City

Following a review of bids by City staff and W. K. Dickson & Co. Inc., Thomas Construction Co. Inc., was selected as the lowest responsible bidder at a bid of \$1,779,590.40. A contingency amount of \$266,939.60 has been added for a total project budget amount of \$2,046,530.00.

Pros:

- This project will replace existing waterlines, which are undersized for adequate fire protection and due to age, have a high risk of failure causing costly repairs for the City and Water Resources Department and frequent outages for the customers; with a durable, reliable sustainable water system for the Horizon Hill Neighborhood.
- This project is aligned with the City and Water Resources Department goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- Failure to award a construction contract would prevent the completion of this important waterline system improvement.

The Water Resources Department currently has \$172,768 budgeted for the construction contract. The remaining funds of \$1,873,762 needed for the contract and contingency will be appropriated from Water Resources Fund Balance. In order to transfer funds from the Water Resources Fund Balance, a budget amendment is necessary.

Amount in Horizon Hills Waterline Project for Construction Contract	\$ 172,768
<u>Additional Amount Needed for Construction Plus Contingency</u>	<u>\$1,873,762</u>
Total Amount Needed for Project, including contingency	\$2,046,530

City staff recommends City Council take the following actions: (1) authorize the City Manager to enter into a construction agreement with Thomas Construction Co. Inc., for the bid amount of \$1,779,590.40; (2) authorize a contingency amount of \$266,939.60 for a total project budget in the amount of \$2,046,530 for the Horizon Hill Waterline Improvement Project; and (3) authorize a budget amendment in the amount of \$1,873,762 from Water Resources Fund Balance.

**RESOLUTION BOOK NO. 36 - PAGE 337**  
**ORDINANCE BOOK NO. 29 - PAGE 154**

**D. SECOND READING OF ORDINANCE NO. 4330 - ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A TROLLEY BIKE TOUR SERVICE (PUB-CYCLE) WITHIN THE CITY OF ASHEVILLE**

Summary: See August 26, 2014, minutes for first reading.

**ORDINANCE BOOK NO. 29 - PAGE 131**

**E. SECOND READING OF ORDINANCE NO. 4331 - ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A PEDAL BICYCLE TAXI SERVICE (PEDI-CYCLE) WITHIN THE CITY OF ASHEVILLE**

Summary: See August 26, 2014, minutes for first reading.

**ORDINANCE BOOK NO. 29 - PAGE 138**

**F. SECOND READING OF ORDINANCE NO. 4332 - ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A TROLLEY SERVICE (GRAY LINE TROLLEY) WITHIN THE CITY OF ASHEVILLE**

Summary: See August 26, 2014, minutes for first reading.

**ORDINANCE BOOK NO. 29 - PAGE 143**

**G. RESOLUTION NO. 14-2-4 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR FISCAL YEAR 2014 EMERGENCY SOLUTIONS GRANT FUNDS**

Summary: The consideration of a resolution to apply for Fiscal Year 2014 Emergency Solutions Grant funds.

In the process approved by Housing and Community Development Committee at the August 19, 2014 HCD meeting, the City submitted a timely application to the State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit for Emergency Solutions Grant (ESG) funding. This funding supports community agencies who are providing eligible emergency response and housing stabilization activities for those who are homeless. Funding recommendations were made to the Housing and Community Development Committee by the Homeless Initiative Advisory Committee. These recommendations followed a process that included submittal of letters of intent from eligible agencies, review and preliminary selection by the ESG Subcommittee of the Advisory Committee, and endorsement of those recommendations by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee.

The following are the agency project applications being submitted in the City of Asheville's Regional Application:

	Emergency Response	Housing Stabilization	Total
<b>Organization</b>			
ABCCM	\$	\$ 18,500	\$ 18,500
Helpmate	\$ 22,000	\$ -	\$ 22,000
Homeward Bound	\$	\$ 71,992	\$ 71,992
Salvation Army	\$ 20,000		\$ 20,000
City of Asheville	\$	\$ 12,000	\$ 12,000
<b>TOTAL REQUESTS</b>	<b>\$ 42,000</b>	<b>\$ 102,492</b>	<b>\$ 144,492</b>

These awards are conditional on the application being approved by the State. These conditions will include, but are not limited to, adequate documentation of required matching funds. These matching funds are provided by the individual agencies (and not the City), except in the case of the proposed allocation to the City. That allocation will support the administration of the Homeless Information Management System (HMIS), and the City provides matching funds through its annual allocation of general funds for the Homeless Initiative.

The application and proposed agency funding was unanimously supported by the HCD Committee at their August 19, 2014, meeting.

Pro:

- ESG funding is a key funding resource for emergency shelter, and is now becoming an important resource for rapid rehousing of persons experiencing homelessness;

Con:

- None noted.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing community development division staff will administer the program. No general funds are requested to support this program.

Staff recommends that Council approve the resolution authorizing the City to apply for ESG funding, and to provide those funds to the agencies for the programs approved by the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit.

#### **RESOLUTION BOOK NO. 36 - PAGE 343**

#### **H. RESOLUTION NO. 14-205 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE METROPOLITAN PLANNING PROGRAM, SECTION 5303 OF THE FEDERAL TRANSIT ADMINISTRATION**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the Metropolitan Planning Program, Section 5303 of the Federal Transit Administration (FTA).

The FTA Section 5303 Metropolitan Planning Program is part of the annual Unified Planning Work Program (UPWP) of the French Broad River Metropolitan Planning Organization (FBRMPO), which outlines transportation planning tasks to be performed by the FBRMPO. The Metropolitan Planning Program is designated to pay exclusively for transit planning activities, such as grants administration and reporting activities, short range and long range transit planning, transportation improvement program preparation, Title VI and DBE programs, and planning and operational analyses. The funds are used to supplement the Transit Projects Coordinator position (90% of the grant) and a portion of the Transportation Manager position (the remaining 10%) for time spent on transit planning.

This funding makes possible to have dedicated staff developing and engaging in complex processes such as the transit master plan implementation, and to develop programs required by the Federal Transit Administration for recipient and subrecipients to ensure compliance with federal regulations.

FY 2014-15 funding totals \$84,230. The subject grant will provide 80% of the anticipated funding (\$67,384), the North Carolina Department of Transportation will provide 10% (\$8,423), and the City will provide the remaining 10% (\$8,423). The grant funding and the City's local

match in the amount of \$8,423 are currently budgeted in the Transportation Department's approved budget for the current fiscal year.

The Transit Committee supports the subject action.

Pros:

- The subject grant supplements funding for two existing positions.
- The subject grant enables the City of Asheville to use \$75,807 in Federal and State funds for transit planning activities. Transit planning activities include but are not limited to: analysis of transit data, implementation of the transit master plan, route development and scheduling; operational improvements, development of the Title VI and DBE programs; development of specifications related to transit products; bus stop program and shelter installation.

Con:

- A 10% local match in the amount of \$8,423 is required.

The total grant funding for Fiscal Year 2014-15 is \$84,230. The City is required to provide a 10% local match in the amount of \$8,423. The anticipated grant funding and the City's local match in the amount of \$8,423 are currently budgeted in the Transit Services fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation to fund the transit planning program, Section 5303 Metropolitan Planning Grant of the Federal Transit Administration for FY 2014-15.

#### **RESOLUTION BOOK NO. 36 - PAGE 344**

#### **I. RESOLUTION NO. 14-206 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE APPRENTICE/INTERN PROGRAM FOR FISCAL YEAR 2014-15**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the Apprentice/Intern Program for FY 2014-15.

The NCDOT Public Transportation Apprenticeship Program gives current college seniors the opportunity to work in the field of public transportation management upon receiving their undergraduate degree. The 12-month program, which starts July 1<sup>st</sup>, provides exposure to all aspects of a transit system and allows apprentices to gain experience in managing public transportation operations.

The City applied for this program and was granted funding. After a selection program was conducted by the NCDOT the City has hired Gregg Godwin to work in the Transportation Planning Division, Transportation Department. Mr. Godwin will focus specifically on improving the ADA program, which include updating the eligibility criteria to use the paratransit system and the city's discount program for people with disabilities, developing a user guide, and looking at reducing inefficiencies in program operation. He will also assist with route planning, analysis of transit related surveys and procurement processes.

FY 2014-15 funding totals \$32,423. The North Carolina Department of Transportation will provide 90% of the anticipated funding (\$29,180), and the City will provide the remaining 10% (\$3,243). The grant funding and the City's local match in the amount of \$3,243 are currently budgeted in the Transportation Department's approved budget for the current fiscal year.

The Transit Committee supports the subject action.

Pros:

- The subject grant supplements funding for an apprentice position for FY 2014-15.
- The subject grant enables the City of Asheville to use \$29,180 in State funds for transit planning activities.

Con:

- A 10% local match in the amount of \$3,243 is required.

The total grant funding for Fiscal Year 2014-15 is \$32,423. The City is required to provide a 10% local match in the amount of \$3,243. The anticipated grant funding and the City's local match in the amount of \$3,243 are currently budgeted in the Transit Services fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation to fund the Apprentice/Intern program for FY 2014-15.

**RESOLUTION BOOK NO. 36 - PAGE 345**

**J. RESOLUTION NO. 14-207 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PATTON CONSTRUCTION GROUP FOR THE 482 SUNSET DRIVE RETAINING WALL CONSTRUCTION PROJECT**

**ORDINANCE NO. 4339 - BUDGET AMENDMENT FOR THE 482 SUNSET DRIVE RETAINING WALL CONSTRUCTION PROJECT**

Summary: The consideration of (1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$740,688.00 plus a contingency of 15% (\$111,103.20) with Patton Construction Group, Inc. for the project known as 482 Sunset Drive Retaining Wall Construction; and (2) a budget amendment in the amount of \$476,069.63 from reimbursements from the Federal Emergency Management Agency and the N.C. Dept. of Public Safety for the declared disaster identified as FEMA-4146-DR-NC to fully fund the contract and other costs associated with the project.

From January 1, 2013, to July 8, 2013, the Asheville area received 41.67 inches of rainfall, exceeding the City's normal annual rainfall for the same time period by 4.68 inches. More specifically, the Asheville area received almost 5 inches of rain within the 24-hour period from July 3 to July 4, 2013. During this 24-hour period stormwater runoff rapidly undermined steep soil banks, causing damage to the asphalt/pavement shoulders of many City roads due to the wearing pressure of the high-velocity stormwater flow. In particular, the stretch of Sunset Drive adjacent to and above the property located at 482 Sunset Drive experienced significant structural damage to the soils underlying the road surface.

Several large and complicated landslides required consultation outside the City workforce, and several consultants were chosen for the more extensively damaged areas. To reinforce the road surface, a design including a soldier pile and lagging retaining wall was chosen for this site, and includes some road rebuilding. The project was advertised on July 29, 2014. Bids were opened and the following bids were received:

Patton Construction Group Inc.	Asheville NC	\$740,688.00
NHM Constructors, LLC	Asheville NC	\$908,400.00

Patton Construction Group, Inc. was the lowest responsible bidder with a bid of \$740,688.00. A 15% contingency (\$111,103.20) has been added to allow payment for any

unforeseen costs that typically arise during construction. The work produced from this contract would resolve liability issues associated with a deteriorating road structure and rebuild the road's underlying support. The work complies with the City of Asheville's Strategic Operating Plan Focus Area 1 Goal 1, and Focus Area 3 Goal 1.

Pros:

- Will remove a potential liability issue from the City's transportation network.
- Improve access to an area of valuable residences, improving the City's tax base.

Cons:

- Project management and contract administration will consume staff time.
- Temporary financial obligations of project work.

In March 2014, City Council adopted an initial budget for this project that totaled \$562,326.95. Staff now anticipates that the total cost for this project will be \$1,038,396.58. The budget amendment tonight in the amount of \$476,069.63 will fully fund the contract and other costs associated with the project. As noted above, this project is fully funded by reimbursements from the Federal Emergency Management Agency and the North Carolina Department of Public Safety for the declared disaster identified as FEMA-4146-DR-NC.

City staff recommends City Council adopt (1) a resolution awarding the contract to Patton Construction Group, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$740,688.00 plus a contingency of 15% (\$111,103.20), for a total of \$851,791.20, with Patton Construction Group, Inc. for the project known as 482 Sunset Drive Retaining Wall Construction; and (2) a budget amendment in the amount of \$476,069.63 from reimbursements from the Federal Emergency Management Agency and the N.C. Dept. of Public Safety for the declared disaster identified as FEMA-4146-DR-NC to fully fund the contract and other costs associated with the project.

**RESOLUTION BOOK NO. 36 - PAGE 346  
ORDINANCE BOOK NO. 29 - PAGE 156**

**K. RESOLUTION NO. 14-208 - RESOLUTION AUTHORIZING THE CITY  
MANAGER TO EXECUTE A CHANGE ORDER FOR ENGINEERING DESIGN  
SERVICES WITH W.K. DICKSON & CO., INC. FOR THE HORIZON HILLS  
WATERLINE IMPROVEMENT PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to execute a change order in the amount of \$104,480 to increase the engineering design services contract for W. K. Dickson & Co., Inc. from a total in the amount of \$205,350 to \$309,830 for the Horizon Hill Waterline Improvement Project.

On July 23, 2013, City Council awarded the engineering design services contract to W. K. Dickson & Co., Inc. for the Horizon Hill Waterline Improvement Project. The contract originally consisted of a survey, a hydraulic analysis, engineering design, construction administration, and other related professional services for approximately 9,500 linear feet of 6-inch and 8-inch waterlines within the Horizon Hill area neighborhoods. During the initial design and analysis phase, it was determined that more of the existing water system needed to be replaced and the area and scope of the project needed to be expanded in order to meet the project objectives of the replacement of existing substandard and failing waterlines in favor of new waterlines to create improved water service and fire protection. An additional 3,650 linear feet of waterline survey, hydraulic analysis, engineering design, construction administration, and other related professional services was added to the engineering design services contract.



The additional engineering services for the increased linear feet and scope of waterline replacement creates the need for a change order to increase the contract amount by an additional \$104,480.00 for a total contract amount of \$309,830.00.

Pro:

- Approval of the change order will allow the city to complete the engineering services for the entire project.

Con:

- If the change order is not approved, then the project cannot be completed to meet the intent of the project.

The funding needed for this change order is currently allocated within the Horizon Hill Waterline Improvement Project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council approval of the resolution authorizing the City Manager to execute a change order in the amount of \$104,480 to increase the engineering design services contract for W. K. Dickson & Co., Inc. from a total in the amount of \$205,350 to \$309,830 for the Horizon Hill Waterline Improvement Project.

#### **RESOLUTION BOOK NO. 36 - PAGE 347**

#### **L. ORDINANCE NO. 4340 - BUDGET AMENDMENT FOR SERVICES WITHIN THE PARKS AND RECREATION DEPARTMENT**

Summary: The consideration of a budget amendment in the amount of \$53,795 from donations for services within the Parks and Recreation Department.

The City of Asheville has received donations totaling \$53,795 from the Asheville Parks and Greenways Foundation and other donations to support projects and programs within the Parks and Recreation Department. Funds will be used to support the projects listed below.

- \$51,594 to purchase supplies, materials and equipment for FY15 activities at recreation centers, swimming pools, special events, senior programs, summer camp, outdoor recreation, and therapeutic recreation.
- \$2,201 to purchase materials for maintenance in parks.

Pro:

- Provide funds to support parks, facilities and programming enhancements

Con:

- None

These donations enhance parks and recreation services at no impact to the General Fund operating budget.

Staff recommends City Council to approve a budget amendment in the amount of \$53,795 from donations for projects within the Parks and Recreation Department.

#### **ORDINANCE BOOK NO. 29 - PAGE 158**

#### **M. ORDINANCE NO. 4341 - BUDGET AMENDMENT FOR AN ALLOCATION FROM THE N.C. DEPT. OF COMMERCE FOR THE WNC NATURE CENTER**

Summary: The consideration of a budget amendment in the amount of \$72,400 for an allocation from the North Carolina Department of Commerce for the WNC Nature Center.

Each year the State of North Carolina in the Department of Commerce allocates funds to museums, science centers and zoos in North Carolina. The WNC Nature Center is eligible to annually receive an allocation to be used for capital improvements, animal exhibits, materials, and goods and services at the WNC Nature Center.

The allocation is intended to support the 20/20 Vision Site Plan for the WNC Nature Center. The funds will be used to support construction of a pavilion and restroom which is identified as a high priority in the site plan.

Pros:

- Provides funds to support capital improvements at the WNC Nature Center.
- Provides funds to enhance special projects and services to WNC Nature Center visitors.
- Provides funds to assist in fulfilling standards and maintaining WNC Nature Center accreditation with the Association of Zoos and Aquariums.

Con:

- None

The project budget for one-time facility improvements at the WNC Nature Center will increase by \$72,400. This increase is funded by an allocation from the State of North Carolina Department of Commerce. Thus, there is no impact to the City's General Fund budget.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to accept funds from the North Carolina Department of Commerce to increase the project budget by \$72,400 for capital improvements at the WNC Nature Center.

### **ORDINANCE BOOK NO. 29 - PAGE 161**

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer 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.

Vice-Mayor Hunt moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Davis and carried unanimously.

### **III. PRESENTATIONS & REPORTS: None.**

### **IV. PUBLIC HEARINGS:**

#### **A. PUBLIC HEARING TO CONSIDER ADOPTION OF THE HAYWOOD ROAD FORM BASED CODE FOR THE HAYWOOD ROAD CORRIDOR**

#### **ORDINANCE NO. 4342 - ORDINANCE ADOPTING THE HAYWOOD ROAD FORM BASED CODE AS AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE AND ASSOCIATED MAP AMENDMENTS FOR THE REZONING OF THE CORRIDOR PARCELS**

Urban Planner Alan Glines said that this is the consideration of adoption of the Haywood Road Form Based Code (HRFC) amendment to the Unified Development Ordinance (UDO) and associated map amendments for the rezoning of corridor parcels. This public hearing was advertised on August 29 and September 5, 2014.

Mr. Glines said that Form Based Codes are a newer zoning tool that focuses on the form and placement of new structures on parcels instead of relying on a list of permitted uses. By emphasizing the building form, the character of the area is enhanced and protected because the buildings with their defining features and their placement in relation to the street and sidewalk create a strong neighborhood context. The Haywood Road Form Code is a redevelopment tool and is divided into six zoning types based on their location on the corridor and potential for a mix of development. The proposed zoning will support orderly investment and new neighborhood-scaled construction (while encouraging the retention of existing building) along Haywood Road and includes community-identified pedestrian oriented requirements. While the proposal is centered along Haywood Road, in some limited areas adjoining properties are also included in the proposed district that could relate to or support Haywood Road properties. The Haywood Road Form Code (HRFC) has been developed through the work of a consultant team led by Lee Einsweiler of Code Studios from Austin Texas and other consultants including Sasha Vrtunski, a local planner and team members who considered traffic and market analyses.

The HRFC will be a document within the Unified Development Ordinance (UDO). In some ways the form code is a stand-alone piece but in places general sections of the UDO are also relevant for development proposals and will overlap for purposes of plan review. The form code contains a zoning map, descriptions and requirements for each of six proposed districts. The common theme of the new zoning is pedestrian-oriented development with a mix of uses encouraged but not required. Buildings will be oriented towards the street-facing portion of their lot with parking to the side or rear of the building. While most of these concepts are *not* new to Asheville and are found in other districts in the UDO, they are assembled together and presented in a new way with a focus on the scale of the building appropriate to the specific context and presented in a visually accessible format. Form Based Codes could be a positive precedent for other areas and corridors of Asheville.

Six general districts outlined in the HRFC:

- **Core District (HR-1):** The Core District is associated around the community's two historic Haywood Road main street areas that for many people define the character of west Asheville. This district focuses on commercial uses and permits office and residential uses on upper floors. While there are no existing structures taller than two stories, the height of new buildings would allow a maximum height of four stories with a step-back above the second-story level. The Core District is red on the new zoning map and is replacing the two central business districts on the corridor. Since west Asheville has the only two CBD areas outside of the downtown CBD district, the proposed ordinance also includes the removal of a west Asheville CBD description from 7-8-18 of the UDO.
- **Expansion District (HR-2):** The Expansion District is a mixed-use district that will support a wide range and scale of commercial buildings. Residential units are encouraged on upper floors of structures. The height of new buildings is limited to four stories (with a step-back required above the second story). The two Expansion District areas are located to the east of the two proposed Core Districts with building standards that will extend the strong character of the Core area. The Expansion area is orange on the new zoning map and replaces mainly Community Business II (CB II) zoning.
- **Corridor District (HR-3):** The Corridor District is a mixed-use district found in two large sections of Haywood Road. These areas are located to the west of the two historic Core areas and will be most suitable for residential uses and limited office and retail activities. The building height in the Corridor District is three stories and unlike the other districts, the buildings may provide a wider setback from Haywood Road to create additional pedestrian or green spaces in front of the building. The Corridor District is green on the new zoning map and replaces mainly Institutional and CB II zoning.

- **Traditional District (HR-4):** The Traditional District provides a limited range and scale of development because the character of this area is of much smaller structures on small shallow parcels. New construction in this district will be limited to two stories. The Traditional District is below Beecham's Curve and is bright blue on the new zoning map and replaces CB II zoning.
- **Live-Work District (HR-5):** The Live-Work District is located above the French Broad River and focuses on residential uses while providing an opportunity to work in a shared space. The non-residential uses are limited to those that complement a residential environment such as studios or office uses. Building heights in this district will be limited to three stories. The Live-Work District is located in the area above the French Broad River and is yellow on the new zoning map. Currently this area is primarily CB II zoning with a limited amount of residential multi-family medium density parcels (RM-8).
- **Town District (HR-6):** The Town District is focused along Patton Avenue and although it is a mixed-use district it will relate closely to the highway environment in that area. The Town District allows new construction up to six stories tall but with the potential to have a network of smaller streets with a unique urban environment. The Town District is centered in the area close to Patton Avenue and Parkwood Road and is dark blue on the new zoning map. Currently this area is zoned Highway Business (HB).

The HRFC draft was developed after a five day charette held in West Asheville in September 2013. That effort continued with the release of a charette report in February 2014 followed by a large community meeting and smaller meetings with stakeholders in March. Since then the plan has been presented in a work session with the Planning and Zoning Commission in April. A letter was mailed to all property owners whose property was under consideration for a zoning change in advance of the April work session. Since then staff has continued to meet with stakeholders who had questions about the specific districts and concerns about changes to the development potential on their parcels. Regular updates for these meetings were provided to the Planning and Zoning Commission at several of their scheduled meetings during the intervening months.

In preparation of the formal hearing process for adoption of HRFC for the Planning and Zoning Commission and City Council, notification measures were undertaken which included:

- Legal advertisement in the newspaper listing all property parcel identification numbers with proposed zoning categories.
- 900 letters sent to owners affected by the proposed zoning changes and to neighboring property owners within 200 feet of those properties.
- Posting of almost 40 'Z' signs with the date for the meeting along the corridor area.
- Updates to the web site and staff provided an interview for the local newspaper (story was published on Tuesday August 12, 2014).
- Updates for the West Asheville Business Association website and Facebook.
- Email to an on-going list of interested residents and property owners (numbering about 250)

Since the letters were sent and notifications made there have been about 45 citizen inquiries to staff via email, phone calls or in-person visits to understand the zoning changes or ask specific questions pertaining to their property or specific use.

The Comprehensive Plan encourages denser sustainable infill development along existing corridors in the city. Changes to the UDO that further these goals are encouraged. Form codes are a newer innovative tool that focus on community goals developed through public

processes highlighting input and involvement and this is encouraged in the Comprehensive Plan. Part of the Comprehensive Plan is the *Haywood Road Vision Plan* that was adopted in February 2014. This plan created with extensive community input provides a view for the future of Haywood Road that includes mixed-use development and multimodal transportation along with a number of other community identified goals such as historic preservation and economic health. The details of the form code proposal provide specific requirements that mesh with the community vision and furthers the objectives of the Comprehensive Plan.

The Haywood Road Form Code fits within City Council's goal for *Economic Growth and Financial Stability* because the strategic plan seeks to create strong mixed-use neighborhoods that identify underperforming zones and focus redevelopment efforts to include job growth, housing, recreation, and multi-modal transportation. The Haywood Road Form Code is a redevelopment plan that embodies these goals along an important corridor in the city. The proposal also aligns with Council's goal of providing a *High Quality of Life* in that development must focus on the public realm, providing multimodal transportation access, wider sidewalks and safe and vibrant community spaces.

The HRFC was developed through a public process that included a 5-day community charette held in September of 2013 and numerous community meetings with community stakeholders and the large presentations to the community. Although precise numbers are difficult to determine it is estimated that several hundred community members and property owners participated at some point in the development of this plan. After a work session with the Planning and Zoning Commission in April, staff continued to meet with community members and owners of property to answer questions about the proposal and in some cases recommended amendments to the proposal based on those conversations.

The Planning and Zoning Commission reviewed the plan at their mid-month meeting on Thursday August 21, 2014, and recommended approval with a vote of 6-0. There were a large number of attendees at the meeting for the form code which was the only item on the agenda and nine people spoke during the public hearing period. There were some concerns about the scale of potential development along the corridor (although existing zoning permits similar scale) and some concern about the growth of traffic and the need for sidewalks along Haywood Road. Overall the level of support for the plan was high. The Planning and Zoning Commission recommended some minor amendments to the draft which have been incorporated into the final draft version to be presented to City Council.

Considerations:

- As with any new ordinance of this scale there may be unintended omissions which once discovered would be brought forward as future amendments to the ordinance
- The consultants proposed limited strategic expansions of commercial zoning into the residential areas surrounding Haywood Road but in the future there may be others that may be proposed and would be considered through individual rezoning applications
- Although staff have been aware of this zoning proposal since its inception there will be a normal learning curve as new projects come in since there are a number of new concepts in the proposed plan

Staff recommends the adoption of the Haywood Road Form Code and amendments to the zoning map and believes that the form code and rezoning proposal are reasonable and in the public interest and are consistent with the Comprehensive Plan because the goals of the Comprehensive Plan for denser and sustainable infill redevelopment are met and because it aligns with the goals of the strategic plan for creating strong mixed-use neighborhoods focusing redevelopment efforts to include job growth, housing, recreation and multi-modal transportation through the form code document and rezoning of the identified parcels.

Mayor Manheimer opened the public hearing at 5:18 p.m.

The following individuals spoke in support of the Code, however, noted some various concerns as follows: increased density on corridor; parking spill-over in neighborhoods; need for Haywood Road Parking Study to be completed before implementation of Code; 4-story buildings too high; and need for more green space:

Ms. Deidra Duffy  
Resident on Craggy Avenue  
Rev. Christopher Chiaromonte  
Mr. Austin Walker  
Ms. Linda Giltz  
Mr. Michael Connelly  
Mr. Timothy Sadler  
Ms. Liz Pryor

Mayor Manheimer closed the public hearing at 5:43 p.m.

Councilman Pelly noted that this is an evolving process and would look forward to seeing how it evolves over the years.

In response to Councilman Pelly, Mr. Glines explained how the Code is reflecting potential growth. At the two-story level, there is a setback which will reduce the impact from the street. He noted that not every property is sized for a 4-story building.

Councilman Smith said that the City is working on some foundational infrastructure investments. He was pleased that we will have a parking plan moving forward, which may include some one-way streets, permit parking, or perhaps some on-street meter parking. He'd also like to explore a shorter transit route, like a loop from Haywood Road to Patton Avenue to the River District and then to downtown. He did acknowledge that there is a lot of cut-through speeding traffic on Druid Drive. He said we will continue to work with the N.C. Dept. of Transportation to examine how to move pedestrians safely across Haywood Road.

Vice-Mayor Hunt was eager to see the Form Based Code move forward.

Mayor Manheimer said that the only other form based code that the City has is the Downtown Master Plan and that has worked well as a usable tool in guiding development downtown. City Council is interested in seeing our urban corridors rezoned for form based codes. This is a community based process.

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

Vice-Mayor Hunt moved to approve the Haywood Road Form Code amendment and the Council finds that the request is reasonable and in the public interest and is consistent with the Comprehensive Plan and other adopted plans, because the proposal encourages denser sustainable infill development and will facilitate creating strong, safe mixed-use neighborhoods focusing redevelopment efforts to include job growth, housing, recreation and multi-modal transportation for a high quality of life and based on information provided during the hearing. This motion was seconded by Councilwoman Wisler and carried unanimously.

Vice-Mayor Hunt moved to adopt the zoning map amendment to implement the Haywood Road Form Code for the properties identified in the proposed zoning map and the Council find that the request is reasonable and in the public interest and is consistent with the Comprehensive Plan and other adopted plans, because the amendment supports denser sustainable infill development and will facilitate creating strong, safe mixed-use neighborhoods focusing development efforts to include job growth, housing, recreation and multi-modal transportation and

based on information provided during the hearing. This motion was seconded by Councilman Bothwell and carried unanimously.

**ORDINANCE BOOK NO. 29 – PAGE 163**

**B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF GREYMONT VILLAGE APARTMENTS LOCATED ON SARDIS ROAD FROM INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION FO A MULTI-FAMILY APARTMENT DEVELOPMENT**

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone Greymont Village Apartments located on Sardis Road from Industrial District and Commercial Industrial District to RM-16 Residential Multi-Family High Density District for the construction of a multi-family apartment development. This public hearing was advertised on August 29 and September 5, 2014.

The overall project location straddles the City of Asheville / Buncombe County jurisdictional line and consists of a total of 41.1 acres. The portion of the project within the City limits is a single parcel, approximately 11.8 acres in size. The parcel is currently spit-zoned with a small portion Commercial Industrial and the bulk of the site zoned Industrial. The parcel has a “flag lot” configuration with approximately 123 feet of frontage along Sardis Road; the “pole” (zoned CI) contains a 70 foot wide Progress Energy transmission line easement and will not be disturbed.

Adjacent zoning includes CI to the north, IND to the east and County zoning to the west (EMP) and south (R3). The (City) site is currently owned by Industries for the Blind, with their use adjacent, located on Sardis Road. Other nearby uses include multiple car dealerships and light industrial uses (metal roofing, plastic manufacturing), the forestry service offices/garage and a truck rental business.

*Overall Project Proposal:* The multi-family apartment complex development proposes a total of 356 units in 14 residential buildings and one community building with 713 parking spaces throughout the site. The City and County portions are divided by a stream running through the site (with existing wetlands and a required 30 foot buffer area).

Buncombe County approved the project as a Conditional Use Permit in 2008; however those approvals have lapsed. The proposal has been approved by the County’s Board of Adjustment (August 2014) and includes variances to allowed height as well as parking.

*City Portion:* Within the City of Asheville jurisdiction, the project includes four buildings containing 108 units: one building is 3-stories and three buildings are a ¾ split configuration and all have a maximum height of 30.5 feet (44’3” to the top of the roof peak). Plans propose a mix of 1-bedroom (24 units), 2-bedroom (60 units) and 3-bedroom (24 units) layouts.

*Access, Sidewalks, Parking:* Vehicles access the site from Greymont Lane, which is within the Buncombe County jurisdiction and is proposed to be improved to 18 feet with 18 inch curb and gutter. No secondary access point is shown on plans.

Greymont Lane circles through the site and into the COA portion of the project, terminating in a parking area with a total of approximately 198 parking spaces, including six accessible spaces. Also, 10 bike parking spaces are provided, distributed among the buildings.

There are no sidewalks shown along the portion of the property fronting on Sardis Road, which is the only COA right-of-way frontage, nor are there sidewalks proposed along the access

road (Greymont Lane). There are internal walkways within the site, linking the parking area and buildings.

*Landscaping & Open Space:* Landscaping is required for this project and includes street trees, parking lot landscaping, building impact landscaping and tree save area. There is a significant area of the site that will not be disturbed due to a required stream buffer and existing vegetation within this area may be used to satisfy some landscaping requirements if needed.

Fifteen percent of the total lot area is required to be dedicated as open space, which would be approximately 76,909 square feet for this site. Just over that minimum is provided, with 76,980 square feet shown on the plans (or approximately 1.77 acres).

There are two retaining walls on the City's portion of the site, showing a maximum height of 17 feet. Aesthetic treatment or landscaping is required for all walls over eight feet in height, according to Section 7-10-5 of the UDO.

This proposal was approved with conditions by the Technical Review Committee (TRC) on July 21, 2014, and requires review by City Council and Final TRC prior to zoning approval.

The Planning & Zoning Commission reviewed this request at their meeting on August 6, 2014, and ultimately voted to support the request by a vote of 4-3 with an additional condition that the applicant provide an accessible walkway for visually-impaired residents to connect with the IFB property adjacent. At the meeting, Commissioners in support of the project felt that:

- The addition of rental units in this part of town was a needed element,
- That the proposed density on the "buildable area" (as presented by the applicant) was sufficient,
- That the industrial suitability of this particular site was low and
- That the pending approval of the County piece supported the development of the City portion.

Commissioners in opposition to the proposal:

- Wanted to see hard numbers on how many units would be provided for visually-impaired residents (*the applicant stated at the meeting that these units are something they are planning to provide but haven't worked out the details yet*),
- Wanted to know what the actual rents would be (*at the meeting the applicant indicated that their rents would be at or below workforce levels as established by the City of Asheville but haven't established numbers yet*),
- Did not believe they had received any conclusive evidence that the site isn't well suited for an industrial use and
- Felt that the site itself was not compatible with a residential use due to the lack of typical residential-infrastructure in the immediate vicinity.

No communication has been received from the public as of the writing of this report.

*Zoning:* The proposal requires a change in zoning due to the fact that the maximum residential density in the Industrial district is only 2 units per acre and would result in only approximately 24 units allowed on the City portion of the site. The current proposal for 108 units on 11.8 acres is approximately 9 units per acre.

Per the applicant, only 6.8 acres of the site is buildable due to restrictions from the Progress Energy easement and stream buffer. The applicant contends that therefore their proposed density should be considered as 16 units per acre (or further contends that the "buildable area" should only include the 5.05 acre portion of the site to the north of the stream,



resulting in a density of around 20 units per acre). Staff disagrees with this analysis presented by the applicant at the Planning & Zoning Commission meeting and retains the 9 unit per acre determination because while a (horizontal) portion of the site might not be buildable, staff practice does not factor out encumbered areas on a site when determining density. An applicant could use those existing site constraints as a justification to request additional height and build “up” rather than “out” to maximize the allowed density on a parcel.

There was some internal discussion whether to apply the conditional rezoning request to the entire City parcel as RM-16 or to leave the “flag pole” currently zoned as CI as is. With the entire site as RM-16, any future redevelopment on the CI-zoned sites to the north and the Industries for the Blind site would be required to include a 20 foot landscaped property line buffer. This is required by the UDO whenever non-residential development is proposed adjacent to residential uses and is an appropriate mitigation tool; however it does result in a burden to that industrial development that would not apply if this land stayed zoned CI. It is worth noting that the “flag pole” portion is encumbered by a 70 foot wide utility easement which essentially acts as a buffer already.

Conversely, leaving the CI zoning in place results in a split-zoned parcel which is not ideal and would result in setback discrepancies. The City generally seeks to avoid creating split-zoned lots and the application is proceeding with a full site rezoning request as shown on plans.

*Industrial Suitability:* At the Planning & Zoning Commission hearing, the applicant’s stance was that the site is not suited to an industrial use due to the access and size of the resulting buildable area (as described above). Staff finds that a parcel of this size, access and topography is not unsuitable for uses allowed in the Industrial zoning district, based on an analysis of existing industrial parks throughout the City and Buncombe County. There are a variety of sizes of sites currently active with industrial uses across the region, ranging from less than one acre up to 19 acres, with varying topography and with similar access on two and three-lane roads.

Recent Zoning Actions: The most applicable zoning actions related to this project are not necessarily geographically-related but more so of a similar zoning nature. However, notable projects in the area include the Franklin School of Innovation (Level I – under review); the Buncombe County Intermediate School and the larger piece of this residential development within the County.

Relating to zoning, most recently City Council approved a conditional rezoning from IND to RM-16 for the development of a multi-family apartment complex on Sweeten Creek Road (The Avalon; 5-2 vote, February 2014). While this request was ultimately approved by City Council, it was not without considerable discussion regarding balancing the loss of industrially-zoned land and the need for projects to meet City goals on residential density and affordability.

Compatibility Analysis: Zoning and uses adjacent to this site include CI to the north (vacant parcel, metal roof manufacturing, heating and cooling contractor); IND to the east (Industries for the Blind); Buncombe County R3 to the south (vacant, proposed extension of this residential development) and Buncombe County EMP to the west (Progress Energy sub-station). Along the northwest property line is a 70 foot wide high power transmission line easement. The current uses in the immediate vicinity are not definitively incompatible with a residential development; however the context is generally thought of as having a low level of compatibility.

The proposed development is located back off of Sardis Road behind and among industrial and manufacturing uses. Per submitted plans, there are no sidewalks proposed along Buncombe County’s Greymont Lane and no sidewalks exist along Sardis Road either, which otherwise could get residents safely out of the complex. When staff is evaluating the suitability of an area for a new use, the analysis includes examining factors such as whether or not there are community amenities and infrastructure that would be found in a typical residential area and the

answer is no, not at this time. Outside of the immediate area there are neighborhoods and residentially-supported community uses (library over a mile away, proposed intermediate school approximately 0.5 mile away, Buncombe County Sports park over two miles away) however the lack of sidewalks or transit is not conducive to safe pedestrian or bike access to these uses.

City staff did another analysis of over 50 sites throughout the City and Buncombe County and found many active, successful industrial uses and manufacturing operations. A lot of the sites have very small parcels and similar access. We found that the average parcel size was 5 acres, and this site is 11.8 acres. Staff felt that even with the challenges of stream buffers and small pockets of steeper slopes, it would still be suitable in terms of size and access for an industrial use.

Conditional Zoning Findings: Section 7-7-8(d)(2) of the UDO states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

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.
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 site has a stream bisecting it with significant wetlands and some existing vegetation. The proposed development protects the stream with a 30 foot buffer and preserves the wetlands and trees by incorporating this area into the required open space and tree save area. The natural features will be protected during the construction process. There are several retaining walls within the development to accommodate grade changes on the site (approximately 60 feet of vertical change across the site).
3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*  
The proposed use of the land for residential use is not expected to injure the value of adjoining or abutting property; with perhaps the only exception being that once the site is zoned residentially, adjacent properties would be required to install a landscape buffer along the common property line in the case of new construction or substantial improvement to their sites.
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.*  
While there are residential uses in the larger area (primarily westwards towards Biltmore Lake, over a mile from the site) the general area surrounding this project location along Sardis Road is not of a residential nature. The character is largely commercial and industrial, with predominant uses including car dealerships, truck rental, light industrial uses (metal roofing, plastic manufacturing) and the forestry service offices/garage. Prior to reaching the residential neighborhoods off of Sand Hill Road is the Jacob Holm Way industrial park and Coca-Cola bottling plant. Additionally, there is a 70 foot wide high power transmission line running along the northwest boundary of the proposed project.

Several proposed projects in the vicinity are more compatible with and supportive of a residential environment, such as the Buncombe County Intermediate School, Franklin School of Innovation and the larger County piece of this same development. Also, the proximity to AB-Tech Enka Campus and Buncombe County Sports Park is supportive of a residential use.

Ultimately, because of the existing non-residential nature of the immediate vicinity, the proposed use is not considered to be in harmony with the scale, bulk, coverage, density and character of the current uses in the area in which it is proposed. For reasons identified in the compatibility analysis above, even with the construction of the County-portion of the project, staff does not believe that this is an appropriate and harmonious location for a residential development at this time.

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.*  
As enumerated below, the proposal is not aligned with several key goals of the City's plans and policies, most notably the loss of industrial land and not maximizing residential density, the lack of dedicated affordable housing and locating a residential development in an area lacking in transit, pedestrian and bike access.
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 proposal has been determined by the TRC to have adequate water supply, police protection, waste disposal and similar facilities. Aside from those attributed to a personal vehicle, transportation facilities are lacking as the site is approximately 1.7 miles from the nearest transit stop (W2) at the Biltmore Square Mall and there are no sidewalks in the area.
7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*  
A traffic impact study (TIS) is required because the volume of traffic is expected to warrant a study and is under review. The project is not expected to create a hazard or undue congestion based on the proposed plans, and the recommendations contained by the TIS.

Compliance with Comprehensive Plan: One of the smart growth principles in the Asheville City Development Plan 2025 highlights the importance of [infill] development where infrastructure can be easily provided. Also there are comments within the Plan relating to schools as "places of...important neighborhood and community centers." There are two new schools proposed in close proximity to this site. However, the Plan does stress the importance of linking residential neighborhoods, schools and residential amenities with safe pedestrian and bike access and this location is lacking in that regard.

Also in the Plan is a recommendation for residential projects to have a higher density, especially able to support transit and the future expansion possibilities of the Asheville Regional Transit system (currently no City transit routes run along Sardis Road). This proposal is at just around 9 units per acre (when taking into account the full acreage, as staff does as standard practice to determine maximum residential density) which is at the low end of the minimum density determined as necessary for optimum transit performance and doesn't maximize the density potential for the site.

Affordable housing options are highlighted throughout the Plan as a strong community need; and as of the writing of this report, no dedicated affordable or workforce rents are proposed.

One of the City of Asheville's adopted Smart Growth Land Use policies noted in the Plan states that Industrially zoned land should be reserved for industrial purposes and not lost to lower density development. The proposed conditional rezoning does not comply with this policy. Additionally, the Sustainable Economic Development Strategic Plan (2000) notes that the shortage of industrial sites within the City as an area of potential concern, stating that the City should seek to ensure the availability of suitable sites will meet the business needs of the City into the future. Staff's analysis is that the size, access and slopes/encumbrances on this site are comparable to other industrial areas and do not impede its suitability for industrial uses.

City Council's adopted goals for 2014-2015 stress expanding Asheville supply of affordable housing and maintaining a high quality of life for residents. This project does not offer any dedicated affordable units and there is some question as to whether locating residential uses in an area surrounded by non-residential and industrial uses is the most ideal location to enhance quality of life. Additionally, Council has a goal on expanding the supply of housing and this proposal does not maximize the residential density in the proposed zoning district. Additionally, one of Council's strategic goals is to support economic growth and this rezoning would be a loss of scarcely available industrial land; a loss of land on which to locate a business that has the zoning in place to attract private investment and create jobs.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff does not find this request to be reasonable, consistent with the comprehensive plan or within the best public interest.

Considerations:

- The Comprehensive Plan, as well as the Sustainable Economic Development Strategic Plan, includes a stated policy to preserve Industrially-zoned land for industrial uses and ensure the availability of sites for future business needs. Staff's analysis has found that the size of and access to the site is not inconsistent with other industrial uses through the City.
- Application does not propose to dedicate any units as affordable, which is a clearly stated goal for the City.
- The residential density is at the low end of the optimal density for supporting transit or maximizing the site.
- The project preserves sensitive environmental area through the stream buffer.
- There are two new schools proposed in the vicinity and residential amenities nearby, which this proposal could support (*however there is not safe pedestrian or bike access along Sardis Road nor transit*).
- The larger portion of the overall project has been approved by the County, which would bring residential into this industrial area regardless of City support.

Based on policies stated in the Comprehensive Plan and other plans, as well as direction provided by City Council in recent policy discussions, staff cannot recommend support of the proposed rezoning. With the concern over the loss of Industrially-zoned land for a proposal that does not substantially align with City Council's adopted strategic plan goals, the basis for support is low.

However, both the Planning and Zoning Commission and City Council have supported similar rezoning actions in the recent past and the EDC did not pose strong objections to the proposal when consulted. City Council may consider this rezoning independent of the existing policies. While staff still does not support approval, should Council decide otherwise, staff strongly recommends that the conditions be requested of the applicant in order to allow the application to further some important City policies and the public interest.

Pursuant to Section 7-7-8 of the UDO, the conditions pertaining to this application must be mutually agreed upon by both the applicant and City Council. The applicant has not agreed to the suggested Conditions 2, 3, 4 and 11 (m) outlined below.

1. Approval is for a 108-unit apartment complex contained in four buildings with 24 one-bedroom units, 60 two-bedroom units and 24 three-bedroom units, in accordance with the attached site plan.
2. *WORKFORCE RENTS – All units will be offered at the workforce maximum or lower. The workforce rent limits are according to income standards determined by the City of Asheville Community Development Department.<sup>(1)</sup>*
3. *ACCESSIBLE UNITS – The project will provide at least 20 units specifically for visually-impaired residents.<sup>(2)</sup>*
4. *ACCESSIBLE WALKING PATH TO ADJACENT LOT – The applicant will provide an accessible walking path from the residential structure(s) to the Industries for the Blind facility adjacent to this site.<sup>(3)</sup>*
5. There are 198 parking spaces with six accessible spaces and 10 bicycle parking spaces.
6. Signage shall be separately permitted and shall meet the standards of the City of Asheville Sign Ordinance (Article XIII of Chapter 7 of the Code of Ordinances).
7. All site lighting must comply with the City's Lighting Standards (Section 7-11-10 of the Code of Ordinances). Proposed lighting plans must be submitted at Final TRC.
8. All landscaping must meet the minimum size requirements set forth in Section 7-11-3(f)(3) of the UDO. All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans.
9. The applicant is providing 76,980 acres of open space and thirty-percent of the lot as tree save area. There is a 30-foot stream buffer in the open space area.
10. Retaining walls will comply with aesthetic treatments or landscaping as required in Section 7-10-5 of the UDO.
11. The project shall comply with all conditions outlined in the TRC staff report as indicated below:
  - a. Street trees are required along all road frontages (Sardis Road) per 7-11-3.
  - b. If required, the applicant must obtain driveway permit and encroachment agreement from NCDOT. Submit the driveway permit package, which includes four sets of plans and applications, to the Planning Department to be forwarded to the Transportation & Engineering Department (*Ted Williams*) for signatures and the City will then forward them to the appropriate NCDOT office.
  - c. If required, all driveway connections to public streets must conform to City of Asheville Std. Detail 3.15A including 42 inch corner radii. Include the appropriate detail on the plans. ADA accessibility must be maintained through the driveway.
  - d. Sidewalk and curb and gutter construction is required for property frontage along Sardis Road. Sidewalk must be 5 feet wide with a 5-foot wide buffer strip between street and sidewalk. A 10-foot wide easement/right of way area, centered on the sidewalk, is required for sidewalk maintenance. Revise plans accordingly. Sidewalk requirements along Sardis Road must be met through construction of the sidewalk or via a recorded easement and payment of a fee-in-lieu.
  - e. Bicycle racks must support the bicycle frame in at least two places, allowing the frame and wheel to be locked using a u-lock or cable lock; prevent the wheel of the bicycle from tipping over; not damage the bicycle; be durable and securely anchored; and allow front in or back in parking. Inverted "U" racks or "A" racks, as well as some other designs, meet this requirement. Detailed information may be obtained from Barb Mee at (828) 232-4540.
  - f. Access drive must meet all applicable codes and be a minimum of 20 feet wide.
  - g. Accessible routes within the site shall be provided from public transportation stops; accessible parking; accessible passenger loading zones; and public streets or sidewalks per 1104.4
  - h. Per 1107.4 At least one accessible route shall connect accessible building or facility entrances with the primary entrance of the (residential buildings and with those facilities that serve the units; dumpster, club house, playground etc.)- If taking exception 1; please indicate the slope of the finished grade which makes

- this requirement *technically infeasible*.
- i. Accessible parking count does not comply with the requirements of NCBC Section 1106.2. This is a parking requirement above and beyond those found in table 1106.1; by my calculations you should have 15 HC parking spaces dispersed among the parking areas at the apartment buildings.
  - j. The parking area adjacent to the playground should also provide HC parking. "Where parking is provided, accessible parking shall be provided" Ref Section 1106.1
  - k. All required exits to provide an accessible route to the Public Way or a Safe Dispersal Area per section 1027.6 of the 2012 NCBC. It is likely that the residential buildings will have more than one point of egress; please coordinate the egress locations with the Architect and provide additional sidewalk as needed.
  - l. Based on current Emergency Operations Center CAD mapping system Buncombe County emergency services will respond to and serve all buildings with Greymont Ln street address assignments.
  - m. **Single access road only approved if ALL buildings are sprinklered using NFPA 13 standard.**
  - n. Show turning radius for fire trucks.
  - o. Hydrants to be no further than 600' from building.
  - p. FDC to be within 100' of hydrant.
  - q. Water Engineering will perform an independent review of the plan for water service for this project. Applicant should follow the Plan Review process described on Water's Home Page.
  - r. Specific grading, erosion control, stormwater and/or flood plan review comments are not covered under this zoning review and will be covered under separate permit review. Separate grading and stormwater permits will be required and applications shall be submitted concurrent or prior to submittal of TRC final plans. Detailed plans and calculations will be required with the Permit Applications. Any revisions or re-submittals are to be submitted to the Development Services Department per the instructions at the end of this letter.
  - s. Quality and quantity stormwater management will be required for this project in accordance with Section 7-12-2 of the City of Asheville Unified Development Ordinance.
  - t. Stormwater BMP's must comply with the requirements of the City of Asheville Unified Development Ordinance, Section 7-12-2, the City of Asheville Standard Specifications and Details Manual and the NCDENR Stormwater BMP Manual unless otherwise approved by the Stormwater Administrator.
  - u. Please note that there appear to be jurisdictional streams and wetlands in the proposed area of work. Copies of the Corps of Engineers 404 and NCDENR 401 Permits for work within jurisdictional waters will need to be provided to the City of Asheville, Development Services Department prior to release of Grading and Stormwater Permits.
  - v. An NCDOT Driveway Permit and/or Encroachment Agreement will be required to perform work within an NCDOT maintained right-of-way. Copies of any required permits must be submitted prior to release of the Grading Permit.
  - w. A pre-construction conference will be required for this project. The conference will be scheduled after all City departments have completed their review, and after any required Grading, Stormwater and Flood Permits have been approved.
  - x. A security for re-vegetation is required for all land-disturbances which will exceed five acres. The security shall be in the form of a construction bond or letter of credit and must be provided prior to issuance of the grading and stormwater permit. The security shall be sufficient to re-vegetate proposed disturbed areas and must be valid for one year from the issuance of the permit and be updated throughout the process. The City of Asheville has set the re-vegetation amount at \$3,500.00 per acre.

- y. Setback from existing adjacent property and right-of-way lines for retaining walls and constructed moderate and severe slopes must be at least equal to the height of the retaining wall or slope, unless a subsurface exploration analysis of the area is provided by a North Carolina registered professional engineer with geotechnical expertise and the analysis indicates that the reduction in the setback will not cause greater risk of damage to adjacent public and private properties.
  - z. A wastewater allocation approval has been issued for this project. A sewer extension and separate review is required for this project. Recommend approval with conditions that applicant completes all the requirements listed on the allocation approval letter and complies with any other comments during plan review.
    - aa. A sewer service application for each building along with payment of applicable fees will be required prior to release of building permits.
    - bb. Certificates of occupancy will be held until sewer extension project has been completely closed out by MSD.
12. The project will undergo final review by the TRC prior to issuance of any permits and compliance with the items listed above will be required at that time.
13. A planning inspection is required prior to obtaining a certificate of occupancy. This inspection should be scheduled through the Development Services inspection line.

She explained that Conditions 2-4 were statements made by the applicant to the Planning & Zoning Commission on different aspects they would put into the project but unwilling to commit to them. Regarding workforce rents, the applicant stated that all of the units would be at the City's workforce maximum or lower, but when staff asked the applicant to commit, they would not. Accessible units were discussed as the site is adjacent to the IFB. The applicant is planning to incorporate specific units into the development that were for visually impaired residents. The Commission felt that would be a great benefit, so staff asked them to state how many units they would dedicate, but they were unwilling to commit to a specific number of units. Staff suggested 10 units. Regarding the walkable path, the applicant stated that they wanted to put in a walking path from the development to the IFB site. Staff recommended it be an accessible walking path, given the path was specifically for the visually-impaired residents. The applicant has agreed to provide a walking path, but not commit to making it an accessible walking path. Regarding Condition 11 (m), typically with this number of units, the City would require two points of access, so in lieu of providing two points of egress, because there is only 108 units in the City, it would not trigger two access points, but the overall project would trigger 2 access points. The Fire Department has recommended that when you only have the one access point is to do the NFPA-13 sprinkler standard. But, because it is not technically required because Council is only looking at the City's portion of 108 units, that is just a suggestion. She did note that although the County's portion is not under City Council's review, the City contracts with the County to provide the fire protection in this area, so essentially from the fire protection standpoint, they are all the City's units to protect.

Mr. Lou Bisette, attorney representing the developer, explained the IFB's need to be in a position to market their property. He said that he has the utmost respect for Planning staff; however, he disagreed with their recommendation on this project. He said Buncombe County has just approved the construction of 248 units on their property. He is now asking for City Council to approve 108 units on 11.77 acres of adjacent land in the City's jurisdiction. The estimated investment in the City by the developer will be approximately \$10 Million for the 108 units. The need for multi-family housing in Asheville and Buncombe County is great. The Sardis Road corridor is primarily rural in nature but is becoming a rapidly growing area in our community. There are two new schools going in across from this site, the Buncombe County Sports Complex is nearby and the Asheville Outlets will be employing 1,500 people, which will need places to live. The Planning & Zoning Commissioner Jim Edmonds stated that they need this type of housing in his community. In addition, the Chairman of the Planning & Zoning Commission Jeremy Goldstein said that as a commercial realtor he didn't see any economic benefit from the site for a

very long time if it remains industrial, and that the City would benefit from the development by gaining the apartments plus needed tax revenues if rezoned. Mr. Bisette said that the property is not suited for an industrial designation. Out of the 11.77 acres, only 5.5 acres are suitable for construction. The other acres are either under the power lines or in the wetlands. Using a map, he showed that even the 5.5 acres has several severe slope issues, which will require extensive grading and retaining wall construction. He recently talked with Mr. Ben Teague, Vice-President of Economic Development for the Chamber of Commerce, who thanked Council for trying to retain industrial land in the City of Asheville. He also said that Mr. Teague said that this property is totally non-competitive and supported the rezoning. Mr. Teague said that the Chamber doesn't even market that site as its grade would be low and very uncompetitive for their clients. He said that there are at least 20 IFB employees who have indicated an interest of renting units in the Greymont Village Apartments. Discussions have taken place for many months between the developer and IFB about upfits what would be appropriate for blind and visually-impaired tenants. In addition, the two parties have agreed to an acceptable walking path from the Greymont property to the IFB plant. Regarding the affordability of the units, the rates are planned to be reasonable and affordable for a broad range of our citizens. Using a graph, he showed the workforce/current market/affordable housing rates. He said the City's maximum affordable rent for workforce housing is 1-bedroom - \$1,267; 2-bedrooms - \$1,418; and 3-bedrooms - \$1,563. Although they cannot commit to dedicated rental rates due to a number of issues (including financing), if the development opened tomorrow, the leasing rates would be as follows - 1-bedroom - \$846; 2-bedrooms - \$923; and 3-bedrooms - \$1,409. All those rates are well below the maximum workforce housing rates. The development will not come on-line for at least two years and the developer is not prepared to commit to rental rates. He explained why he felt the project does meet all seven conditional use standards. He urged City Council to support the rezoning request.

Mayor Manheimer opened the public hearing at 6:35 p.m.

Mr. Patrick Bradshaw, representing Civil Design Concepts, said that on the building area of 5.5 acres, it will require about 30 feet of retaining wall to even get the 5.5 acres suitable. He felt that while the property is industrially zoned, from an engineering perspective it is not industrially suitable. Regarding the sprinkler system, he said that NFPA-13R speaks to residential units. All the occupied spaces are sprinklered. The primary difference between NFPA-13R and NFPA-13 draws a line between life safety. Both are on an equal footing on a life safety prospective. NFPA-13 speaks to property coverage (sprinkling unoccupied spaces, i.e. attics). Based on other projects constructed by the developer, NFPA-13R is very much the norm. He said there is a true dollar sign attached to the NFPA-13 standard.

Mr. Randy Buckner, Director of Operations for IFB, gave an overview of the IFB. He explained how this is a very important project and if rezoned, it will allow them to finish their work on their capital campaign projects to improve the quality of life for their employees. They have 20 employees who are interested in relocating to the residential development, which will save them in transportation costs to and from the IFB. The developer has agreed to make a blind-friendly walking path, which will not cross any traffic. The developer has also agreed to work with the Low Vision Department to make some of the units more blind-friendly. He urged City Council to approve the rezoning.

Mr. Charles Pine, Chairman of the local IFB Advisory Board, explained the other capital projects that would be built for their employees. If the land is sold, it will allow them to give their employees what they need. He supported the rezoning.

Ms. Kendra Penland, member of the IFB Advisory Board, explained how IFB serves a critical purpose. The sale of the property (if rezoned) will allow them to expand their operations, retain and add new employees. It's about quality of life.



Ms. Lucille Mahoney, employee at IFB, spoke about the wonderful organization of IFB. She urged the Council to rezone the property as it will be a wonderful convenience for any employee who lives in the residential development.

Brother Christopher Chiaromonte agreed that it was important to keep industrially-zoned land, but felt that if the property is rezoned, that the developer commit to the number of blind-friendly apartments.

Mayor Manheimer closed the public hearing at 6:55 p.m.

In response to Vice-Mayor Hunt, Mr. Buckner said that they do have (1) an agreement with the developer for a suitable walking trail between the plant and the residential development; (2) an arrangement for a significant number of units that the developer will make blind-friendly; and (3) an agreement that there will be a preference for the IFB's employees for the blind-friendly units. Vice-Mayor Hunt felt that those items can be managed between the IFB and the developer and the City doesn't need that assurance.

In response to Vice-Mayor Hunt, Mr. Buckner showed a map outlining where the expansion of the IFB can occur to handle their future needs.

Vice-Mayor Hunt, member on the Economic Development Coalition Board, said that there is an indication that over the next five years this community does not have industrial sites sufficient to entertain the kind of growth and jobs that we have had over the past five years. Our greatest deficiency is industrial land. We must be able to provide sites for companies to employ people. However, based on the Mr. Teague's statement that this site is not suitable for industrial development, he would support the rezoning. He will, however, work hard to reorganize our zoning to know where those industrial sites are located and defend the zoning of them in the future.

Vice-Mayor Hunt moved to approve the conditional zoning request for Greymont Village Apartments on Sardis Road from Commercial Industrial and Industrial to Residential Multi-Family High Density-CZ, based on the site plan and conditions in Exhibit B.1 agreed upon by the applicant (minus 2, 3, 4 and 11 (m)), and find that the request is reasonable, in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) The project adds needed residential rental units to the City; and (2) The project preserves sensitive environmental area through the stream buffer.

City Attorney Currin wanted to make sure that Mr. Bissette agrees to the condition that the approval is in accordance with the site plan attached to the staff report. Mr. Bissette agreed with that condition.

Mr. Bissette said that the conditions not agreed to are Conditions 2, 3, 4 and 11 (m). Again, he said that their market rents are well below the workforce maximum rents. They are not agreeable to committing to those rents. They are also not willing to dedicate a certain number of units since they don't know what will happen in 5-10 years. They have agreed to make the units blind-friendly but don't know what the word "accessible" means. Regarding the walking path, they have agreed to construct a walking path, but again, they don't know what "accessible" means. Regarding the sprinkler system standard, the developer has built hundreds of apartment complexes and they have never used NFPA-13 - always NFPA-13R. He was told that the City's Fire Marshal agreed that there was no difference in life safety between the two standards. The problem for them is the NFPA-13 standard is so much more expensive - the difference between NFPA-13 and NFPA-13R represents \$750,000 in additional costs.

In response to Mayor Manheimer, Development Services Director Shannon Tuch explained that with a large portion of the development not being in the City's jurisdiction, there is a question about whether or not the City can consider the portion of the property that is not in our

jurisdiction. There was some concern about whether we could call it one development or if we needed to limit ourselves to just the portion of the property that is within the City limits. But, as Council has heard earlier, the City will be responsible for providing the fire protection services in that area. From a technical standpoint, we were prepared to stay it would not be required because we would be limiting ourselves to the 108 units that are in the City's jurisdiction, however, looking larger, and in an effort to meet higher City goals to provide adequate service in that area, we would require the NFPA-13 standard for the project as a whole through the conditional zoning. If 200 units were in the City's jurisdiction, there would be no question - it would be required.

Councilman Smith was pleased to hear about the proposed lower rents and noted they are about 82% of medium rents. He was puzzled that there have been many developers that have come before Council that have been able to commit to rent rates. He wondered if there was an openness to committing to 82% of medium, so it can move with the market, or with the base rates suggested being able to adjust those upwards 3% per year to create some kind of commitment. Since we are going to lose this industrial land and help the folks who most need it, he would want us to have a commitment in place. Without a commitment, he did not think he could support the rezoning.

Mr. Dennis Burton, land development manager representing the owner, said that it's only a good business decision to work with the people close by. As far as affordable housing, they cannot have any economic restrictions on the units based on how this project was put together initially. The owner is receptive to enter into discussions about partnering with the City to build affordable housing on another site. They are a market rate developer and those are the current market rates we have in this area. Regarding the NFPA-13 vs. the NFPA-13R, he said this is not a life safety issue. The additional cost for the NFPA-13 will raise the pro forma of this site and it will be a deal-killer.

Councilman Bothwell was concerned about the loss of industrially-zoned land. He noted that land values change a lot over time and what was not buildable in 1920 is buildable in 1970. He did not believe that this is not a good industrial site. If you can put up retaining walls and build an apartment complex, you can put up retaining walls and have an industrial site. He is also troubled about the lack of commitment to the cost of the units. Conditional zoning is to get something good for the community. Other developers are able to commit to 10-years for some framework for the rents. Regarding the fire protection, he suggested a second access be constructed. He could not support the rezoning request.

Councilwoman Wisler understood that the developer intends to do the right thing with rents, but since he won't commit, it puts City Council in a bad position in the future. She could not support the rezoning.

Councilman Pelly believed the development is in the wrong location. City Council is prepared to commit to rezone the property; however, he could not support the rezoning if the developer is not willing to make a commitment in return.

Councilman Davis felt this apartment complex will be built in an area of town with no affordable housing. He felt the area will grow. He felt that the funds generated from the sale of this land will allow them to complete some of their capital projects. The County has already approved their portion of the project, and felt this is an opportunity for the City. He will support the rezoning.

In response to Mayor Manheimer, City Attorney Currin said that if the project is voted down by City Council, there is a one-year waiting period before the project can be brought back for review, unless the project is substantially different.

Mr. Bissette said that they will be willing to work on some of the outstanding issues and hoped that the City will reciprocate.

Vice-Mayor Hunt withdrew his motion.

Councilwoman Wisler moved to continue this matter until October 14, 2014. This motion was seconded by Councilman Bothwell and carried unanimously

## **V. UNFINISHED BUSINESS:**

## **VI. NEW BUSINESS:**

### **A. RESOLUTION NO. 14-209 - RESOLUTION ADOPTING THE RIVERSIDE DRIVE DEVELOPMENT PLAN**

Urban Planner Stephanie Monson Dahl said that this is the consideration of a resolution adopting the Riverside Drive Redevelopment Plan

In 2013, The City of Asheville hired a team led by Heritage Directions, LLC, to identify redevelopment strategies for ten acres of underutilized City owned land in the heart of the City's River Arts District Transportation Improvement Plan (RADTIP) project area. The plan is complete and has been reviewed by staff, the Asheville Area Riverfront Redevelopment Commission, and the Planning and Economic Development Committee of City Council.

#### *Plan Summary*

The Riverside Drive Development Plan (RDDP):

- Recommends that the preferred renovation strategy for 14 Riverside Drive- an existing 1900 square foot building just to the north of 12 Bones restaurant- revolve around providing visitor amenities such as public restrooms and district information, and providing a place where one can always find some arts and culture programming happening
- Recommends an open space concept plan for several acres of city owned riverfront, just south and north of existing Jean Webb Park, that aligns with the RADTIP plans, leverages the arts and culture character of the district, and provides attractive improvements to stormwater management/water quality
- Presents four massing scenarios (with corresponding fiscal analyses sketches) for new mixed-use construction, centered around the historic smokestack and former Ice House site, that suggest the potential direction for a feature redevelopment partnership
- Suggests improvements in circulation, arts and culture, preservation, and environmental stewardship that helps tie the redevelopment effort together.

#### *Key Recommendations/Policy Considerations from the Plan*

The consultants have identified the following as integral to the success of the plan:

- RADTIP implementation
- Careful development of riverfront open space amenities and greenway between 12 Bones and the Captain Bowen Bridge
- Creation of better connections between New Belgium Brewing and Riverside Drive open space
- Installation of River District Wayfinding and Orientation for visitors
- Design and construction of a parking garage that connects to Roberts Street from Riverside Drive
- Coordination and construction of a flood zone sensitive piece of infrastructure called the Pedestrian Transition Zone
- Development of better regulations for the area such as a Form Based Code with design guidelines

- Speedy renovation of 14 Riverside Drive as a community and visitor resource
- Maximizing the City's development potential on property designated for higher density mixed use buildings
- Encouraging partnerships with nearby landowner and stakeholders to leverage the City's land resource and create better development opportunities.

*Community and Advisory Board Engagement in the Plan*

- The consultants had over sixty points of contact with the public which ranged from individual stakeholder meetings to widely publicized public engagement efforts on site (at 14 Riverside Drive)
- A final public presentation occurred on March 18 at the Rev. Wesley Grant Sr. Southside Center
- The AARRC has received multiple plan updates and received a presentation on key findings for the final draft in March 2014; the Planning and Design Review subcommittee of the Commission reviewed and provided edits to the plan.
- The AARRC, at their August 14, 2014, meeting, voted unanimously In favor of the following motions:
  - 1) *"We advise City Council to adopt the Riverside Drive Development Plan as presented.*
  - 2) *We advise City Council to adopt the Riverside Drive Development Plan as an update to the City's adopted Wilma Dykeman RiverWay Master Plan, and adopt it as a plan that shall stand on its own, a plan not to be excluded from use if the Wilma Dykeman RiverWay Master Plan becomes outdated.*
- At their regular August 19, 2014, meeting, PED members, after receiving a presentation and asked clarifying questions of staff and the lead project consultant, voted unanimously to recommend that Council consider adopting the plan as recommended.

*Alignment with Strategic Operating Plan:*

This plan, if adopted, can be a significant contributor to achieving goals set in Council's 2014-2015 Strategic Operation Plan. The plan:

- Will help implement the Economic Development Capital Improvement Plan (Goal 1, under Economic Growth and Sustainability): The RDDP provides recommendations on how to program, design and construct the open space and greenway portions of the RADTIP, a signature initiative within the City's EDCIP.
- Will help the City invest and leverage investment in community infrastructure (Goal 2, under Economic Growth and Sustainability): The RDDP evaluates ten acres of City owned property to determine its best use; evaluation of City owned property is an action item outlined under this Council goal.
- Directly addresses Goal number 3 in Economic Growth and Sustainability, i.e. it suggests economic development and community investment opportunities through partnerships, planning and incentives.
- Provides financials for staff to evaluate how to "work with developers to increase production of affordable housing units by providing financial assistance and other development incentives" which is an action item under Goal 1 for Affordability and Economic Mobility
- Promotes redevelopment that prioritizes "transportation that supports and multimodal system, including walking biking, greenways and transit," an action item for Goal 2 under the High Quality of Life focus area.

Pros:

- The adoption of this plan as an update to the Wilma Dykeman RiverWay Master Plan reaffirms the City's commitment to professionalism in planning by promoting the regular review and update of adopted plans for current relevancy/alignment.
- The adoption of this as a stand-alone plan sends a clear message to citizens and other stakeholders that their vision for this section of the riverfront will be considered by elected

officials, and that the City continues to commit to riverfront revitalization as an economic development initiative.

- An adopted plan is a tool for local governments to further partnerships and pursue funding opportunities for implementation of the plan.

Con:

- None

While the adoption of this plan will not have a fiscal impact on the City's budget, there are many recommendations within the plan that could have an impact on future City budgets. Staff recommends that Council consider asking staff to work with PED on the review of a recommended implementation schedule, including review of any potential future fiscal impacts.

City staff recommends City Council adopt the Riverside Drive Development Plan as an update to the Wilma Dykeman RiverWay Master Plan and as a stand-alone plan to be used to guide economic development. Staff proposes that, if Council adopts the plan, that staff return to PED with an implementation schedule and other analyses for PED review

Mr. Tom Gallagher, consultant, hoped that City Council would adopt the plan as an amendment to the Wilma Dykeman RiverWay Master Plan. He hoped that Council would (1) develop a RAD-specific form-based code; (2) maximize the redevelopment potential for both the open space and developable land; and (3) encourage creative partnerships.

Mayor Manheimer opened the public hearing at 7:57 p.m.

Ms. Pattiy Torno, Chairman of the Riverfront Redevelopment Commission, spoke in support of the Plan and hoped that whenever there are discrepancies between the Wilma Dykeman Plan and the Riverside Drive Development Plan, that the Riverside Drive Development Plan will be followed, because it is more current. She also felt it was time to do a River Arts District Master Plan.

Mayor Manheimer closed the public hearing at 8:01 p.m.

In response to Councilman Smith, Ms. Monson Dahl explained the promising relationship with Norfolk Southern.

Councilman Smith supported massing on the land in order to meet the needs outlined in the Plan. He was also in favor of the 2% budget for art.

Vice-Mayor Hunt said that regarding the rehabilitation of 14 Riverside Drive that one of the first things we should construct are restrooms.

Mayor Manheimer was very pleased that his Plan is a product of the community.

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

Councilman Davis moved for the adoption of Resolution No. 14-209, and that the Riverside Drive Development Plan be used as an update to the Wilma Dykeman RiverWay Master Plan and as a stand-alone plan to be used to guide economic development. This motion was seconded by Councilman Smith and carried unanimously.

#### **RESOLUTION BOOK NO. 36 – PAGE 348**

#### **RESOLUTION NO. 14-210 – RESOLUTION APPOINTING MEMBERS TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE**

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Affordable Housing Advisory Committee.

The terms of Allison Bond, Jayden Gurney, William Irby, Brian Alexander and M. Mae Creadick expired on September 1, 2014. There also currently exists a vacancy left by Ms. Allison Bond, whose term expired on September 1, 2014.

The following individuals applied for the vacancy: Randall Barnett, James Mastrogiacomo and Laura Simmelink.

On August 26, 2014, it was the consensus of Council to (1) reappoint Mr. Gurney and Ms. Creadick to each serve a three-year term, terms to expire September 30, 2017, or until their successors are appointed; and (2) interview William Irby, Brian Alexander, Randall Barnett, James Mastrogiacomo and Laura Simmelink. Mr. Alexander and Mr. Irby were not available to attend the interview.

After speaking about the qualified candidates, Mr. Irby received no votes, Mr. Alexander received no votes, Mr. Mastrogiacomo received 7 votes, Mr. Barnett received 7 votes, and Ms. Simmelink received 7 votes. Therefore, James Mastrogiacomo, Laura Simmelink and Randall Barnett were each appointed to each serve a three-year term respectively, terms to expire September 1, 2017, or until their successors have been appointed.

In addition, Council confirmed reappointment of Jayden Gurney and M. Mae Creadick, to each serve a three-year term, terms to expire September 1, 2017, or until their successors have been appointed.

#### **RESOLUTION BOOK NO. 36- PAGE 349**

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

Mr. Timothy Sadler brought to Council's attention a rogue cell phone tower that is not registered with the FCC.

#### **Closed Session**

At 8:11 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (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, but not limited to, lawsuits involving the following parties: Caledonia, LLC and the City of Asheville; Roger Aly and the City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); and (3) To discuss matters relating to the location or expansion of industries or other businesses in the area. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4). This motion was seconded by Councilman Pelly and carried unanimously.

At 8:57 p.m., Vice-Mayor Hunt moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

#### **VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 8:57 p.m.

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CITY CLERK

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MAYOR