

Tuesday – September 8, 2015 - 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. INTRODUCTION OF NEW DIRECTOR OF PLANNING & URBAN DESIGN

City Manager Jackson was pleased to introduce Mr. Todd Okolichany, the City's new Director of Planning & Urban Design.

B. PROCLAMATION PROCLAIMING SEPTEMBER 14-18, 2015, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Manheimer read the proclamation proclaiming September 14-18, 2015, as "Minority Enterprise Development Week" in the City of Asheville. She presented the proclamation to members of the Board of Minority Enterprise Development Week who briefed City Council on some activities taking place during the week.

C. PROCLAMATION PROCLAIMING SEPTEMBER 21, 2015, AS "DAY OF PEACE"

Councilman Bothwell read the proclamation proclaiming September 21, 2015, as "Day of Peace" in the City of Asheville. He presented the proclamation to Ms. Rachael Bliss and others who briefed City Council on some activities taking place during the day.

D. PRESENTATION TO CITY MANAGER GARY JACKSON

On behalf of City Council, Councilman Davis recognized City Manager Jackson for his win in his class in the recent Grand Fondo, and presented him with a picture of that celebratory moment.

II. CONSENT AGENDA:

At the request of City Manager Jackson, Consent Agenda "H" was removed from the Consent Agenda for consideration on October 13, 2015.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 25, 2015

B. SECOND READING OF ORDINANCE NO. 4438 - ORDINANCE TO ADOPT A FRANCHISE AGREEMENT WITH SPIRIT COMMUNICATIONS

Summary: First reading of Ordinance No. 4438 was adopted on August 25, 2015.

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C. RESOLUTION NO. 15-170 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH GRAHAM COUNTY LAND COMPANY, LLC, FOR THE HENDERSONVILLE ROAD SIDEWALK IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Graham County Land Company, LLC, for the amount of \$2,997,301.75 plus 15% contingency and any change orders within the project budget for the project known as Hendersonville Road Sidewalk Improvements Project, City of Asheville Project #ENG-12-13-015, pending concurrence with award by the N.C. Dept. of Transportation.

The 4.5-mile stretch of Hendersonville Road (US 25) from Seminole Street to Long Shoals Road is populated by many commercial properties, offices, and residential complexes, and lacks consistent pedestrian infrastructure. The project connects existing isolated sidewalks with the construction of approximately 13,000 linear feet of new sidewalk, and also includes new retaining walls, storm water drainage structures, a pedestrian boardwalk, pedestrian crossing signal facilities, and all associated appurtenances. Federal funding administered through the North Carolina Department of Transportation will account for 80% of the project, with the City of Asheville matching the remaining 20%.

This project was initially advertised on May 28, 2015, but no bids were received. The project was re-advertised on July 30, 2015. Bids were opened and the following bids were received:

Graham County Land Company	Robbinsville, NC	\$2,997,301.75
GLF Construction	Asheville, NC	\$3,590,704.00
NHM Constructors	Asheville, NC	\$4,040,975.90
Buchanan and Sons	Whittier, NC	\$3,197,469.50

Graham County Land Company, LLC was the lowest responsible bidder with a bid of \$2,997,301.75. Adding in a 15% contingency, the total required budget for construction is \$3,446,897.01. The work produced from this contract would resolve liability issues associated with inadequate pedestrian facilities. The work complies with the City of Asheville's Strategic Operating Plan Focus Area 1 Goal 2, and Focus Area 3 Goal 1.

Pros:

- Provides connectivity for needed linkage.
- Ensures pedestrian safety.
- Confirms investment in community infrastructure

Con:

- Project management and contract administration will consume staff time and resources.

The budget for this project, which totals \$4,125,000, is already included in the City's adopted Capital Improvement Program. The table below shows actual expenses and contracts to date for items such as right of ways, design, and project management. Staff anticipates at this point that the remaining budget of \$151,765 will be fully spent on project management and inspection costs. If costs exceed the remaining budget, staff will return to Council to amend the budget. As noted above, federal funding administered through the North Carolina Department of Transportation will cover 80% of the project costs, with the City of Asheville matching the remaining 20%.

Total Budget	4,125,000
Less:	
Expenses & Encumbrances to Date	(526,338)
Graham County Land Co. Contract + 15% Cont.	(3,446,897)
Remaining Budget	151,765

City staff recommends City Council adopt the resolution awarding the contract to Graham County Land Company, LLC, pending concurrence with award by the North Carolina Department of Transportation, and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of \$2,997,301.75 plus a contingency of 15% (\$449,595.26), for a total of \$3,446,897.01, with Graham County Land Company, LLC for the project known as Hendersonville Road (US 25) Sidewalk Improvements Project.

Councilman Pelly was pleased to see these new sidewalks being constructed.

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D. RESOLUTION NO. 15-171- RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A NON-WARRANTY DEED CONVEYING ANY AND ALL INTEREST THE CITY MAY HAVE IN THE CLOSED ALLEY OFF OF BROAD STREET

Summary: The consideration of a resolution authorizing the City Manager to execute a North Carolina Non-Warranty Deed conveying any and all interest the City may have in the closed alley off of Broad Street.

By Resolution No 15-10, dated the 13th day of January, 2015, the City Council of the City of Asheville closed an unnamed Alley off of Broad Street pursuant to the provisions of N.C.G.S. §160A-299. Subsequent thereto, the attorney for the petitioning property owner inquired as to why the City only closed five-feet of the 10-foot unnamed alley, as more specifically set forth in the metes and bounds description describing the closing.

To the extent the public had any interest in the alley, based upon deed research, the only interest the public could have acquired was a 5-foot interest, since the western 5-foot was never part of the alley but, instead, a part of the fee simple title to the property owner adjoining the alley to the west.

Due to a number of issues and confusion regarding the status of the unnamed alley, in order to resolve title issues with the title company, the attorney for the petitioning property owner, asked that the City convey whatever interest, if any, the City has in the alley to the petitioning property owner, who owns the property on both sides of the alley.

Both the Transit Committee and the Multimodal Transportation Commission previously unanimously agreed to the closure.

Pros:

- Eliminates all confusion as to any public interest in the alley
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution authorizing the City Manager to execute a non-warranty deed conveying any and all interest the City may have in the alley off of Broad Street.

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E. RESOLUTION NO. 15-172 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AUTHORIZE AN EXCHANGE OF CITY-OWNED REAL PROPERTY ALONG NORTH FORK LEFT FORK ROAD FOR PROPERTY OWNED BY 10 SUGAR MAPLE LLC FURTHER NORTH ON NORTH FORK LEFT FORK TO ASSEMBLE LAND AREA IMMEDIATELY TO THE ENTRANCE OF NORTH FORK RESERVOIR

Summary: The consideration of a resolution authorizing the exchange of City-owned real property on North Fork Left Fork Road (S.R. 2576) for property owned by 10 Sugar Maple LLC also located on North Fork Left Fork Road.

The City of Asheville has learned that the access road to the North Fork Water Treatment Plant crosses property owned by Sharon Came of 10 Sugar Maple LLC. She is developing a subdivision south of the water treatment plant on North Fork Left Fork Road and had the area surveyed. She provided this information to Water Resources. She has agreed to convey ownership of a tract of land (4,316 square feet or 0.10 acres), labeled Tract C that encompasses the existing entrance gate and a portion of the driveway into North Fork. In return, the City proposes to convey a tract of land of equal size labeled Tract B to 10 Sugar Maple LLC. This will eliminate a sliver of property between the new subdivision and North Fork Left Fork Road. The majority of the City land being exchanged is located within the NCDOT right of way on North Fork Left Fork. In addition to the land being exchanged, Water Resources has agreed to install a 2-inch waterline, within an existing City of Asheville waterline easement, that would allow water meters to be installed for the developer's three new lots. Ms. Came and her attorney have approved the preliminary survey and the proposed land exchange agreement.

Pros:

- This assemblage of land will cure the encroachment issue at the North Fork Water Treatment Plant.
- The tracts to be swapped are of equal size and approximate value.

Cons:

- Water Resources has agreed to install the water line for meter connections.
- The City Attorney's office will prepare both deeds.

There are no financial proceeds associated with this disposition, but the conveyance would clear the title should the City want or need to sell any of the property in the future. The City's legal office will perform the closing, therefore no additional costs are anticipated for this transaction.

City staff recommends City Council adopt a resolution authorizing the exchange of real properties located off of North Fork Left Fork Rd.

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F. RESOLUTION NO. 15-173 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MOTOROLA INC. FOR RADIO SYSTEM MAINTENANCE FROM AUGUST 1, 2015, THROUGH JULY 31, 2016

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement with Motorola, Inc. to provide maintenance coverage for the City's radio system.

Motorola, Inc. has provided maintenance services for the City's radio communications system since installation of the system in 1992. The service agreements are renewed annually. The maintenance agreement covers what should be the final year of use for the existing radio system during the renewal period of August 1, 2015, through July 31, 2016. The new radio system is scheduled to be complete and come online near the end of this maintenance term.

Pros:

- The primary benefit of this contract is to keep the City's radio system reliable and operational for public safety officers. By keeping the radio system in optimal condition the City is also able to provide communication services to several outside agencies, thereby improving interagency communications.

Cons:

- None noted.

The renewal agreement reflects an annual charge of \$148,634.88. Funding for this contract was appropriated in the FY 15/16 budget process.

City staff recommends the adoption of the resolution for radio maintenance coverage for the term of August 1, 2015, through July 31, 2016.

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G. RESOLUTION NO. 15-174 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BREWGRASS FESTIVAL

RESOLUTION NO. 15-175 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT BLUE RIDGE PRIDE

RESOLUTION NO. 15-176 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE NEW YEAR'S RESOLUTION RUN & WALK

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at Brewgrass Festival on September 19, 2015; Blue Ridge Pride on October 3, 2015; and the New Year's Resolution Run & Walk on January 1, 2016.

- Big Brothers Big Sisters of WNC has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Brewgrass Festival and allow for consumption at this event.

The Brewgrass Festival will be held on Saturday, September 19, 2015 from 12:00 p.m. – 8:00 p.m. within the boundaries of Memorial Stadium including a fenced extension of the premises as per the area limits referenced on the accompanying site map.

- Blue Ridge Pride has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Blue Ridge Pride and allow for consumption at this event.

Blue Ridge Pride will be held on Saturday, October 3, 2015 from 11:30 p.m. – 7:00 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

- YMCA of WNC has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at the New Year's Resolution Run & Walk and allow for consumption at this event.

The New Year's Resolution Run & Walk will be held on Friday, January 1, 2016, from 8:30 a.m. – 12:30 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Big Brothers Big Sisters of WNC, Blue Ridge Pride, and YMCA of WNC

Con:

- Potential for public safety issues

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Brewgrass Festival, Blue Ridge Pride , and the New Year's Resolution Run & Walk.

RESOLUTION NO. 15-174 - RESOLUTION BOOK NO. 37 - PAGE 254
RESOLUTION NO. 15-175 - RESOLUTION BOOK NO. 37 - PAGE 257
RESOLUTION NO. 15-176 - RESOLUTION BOOK NO. 37 - PAGE 260

H. RESOLUTION TO ESTABLISH AN OPEN DATA POLICY FOR THE CITY OF ASHEVILLE FOR SUSTAINING PUBLIC DATA AVAILABILITY USING OPEN DATA STANDARDS

This item was removed from the Consent Agenda for consideration in two weeks.

I. RESOLUTION NO. 15-177 - RESOLUTION TO SUPPORT REDISTRICTING REFORM

Summary: The current redistricting process creates a conflict of interest – as State legislators are effectively choosing their own constituents. The redistricting process should be conducted in an open manner with real opportunities for public dialogue and feedback, not behind closed doors. Legislative incumbents often draw districts that are not compact and split communities of interest. Important principles such as the protections of the Federal Voting Rights Act of 1965 and respect for neighborhoods and cities should be clearly listed for a Commission to abide by. Voters are more likely to participate when they feel that their vote will count and that they have a reasonable chance of electing candidates who represent their interests. Elected officials are more responsive to constituents when voters have a choice of candidates, thus increasing accountability and serving the best interests of the voters on North Carolina.

Therefore, The State of North Carolina should establish an independent redistricting process that ensures diversity, partisan balance and geography, for all future redistricting.

In response to Councilwoman Wisler, Mayor Manheimer said that this resolution will be made available to the folks lobbying the legislation for redistricting reform.

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J. MOTION TO REFER THE AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING HOMESTAYS TO THE CITY COUNCIL PLANNING & ECONOMIC DEVELOPMENT COMMITTEE

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.

Councilwoman Wisler moved for the adoption of the Consent Agenda with the removal of Consent Agenda "H". This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. SIMPLICITY

This presentation was moved until October 13, 2015.

B. LEGISLATIVE UPDATE

Mayor Manheimer stated that the legislation is still in session working on the budget. She also said that cities are watching a provision that would shift the cost of bicycle lane infrastructure to cities, even if it is a N.C. Dept. of Transportation project.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER ADOPTION OF THE HISTORIC PRESERVATION MASTER PLAN FOR ASHEVILLE AND BUNCOMBE COUNTY AS PART OF THE ASHEVILLE CITY DEVELOPMENT PLAN 2015

RESOLUTION NO. 15-178 - RESOLUTION ADOPTING THE HISTORIC PRESERVATION MASTER PLAN FOR ASHEVILLE AND BUNCOMBE COUNTY AS PART OF THE ASHEVILLE CITY DEVELOPMENT PLAN 2025

Historic Resources Director Stacy Merten said that this is the consideration of a resolution adopting the Historic Preservation Master Plan for Asheville and Buncombe County. This public hearing was advertised on August 28 and September 4, 2015.

The Historic Preservation Master Plan for Asheville and Buncombe County represents the work of many individuals, conducted over the past 18 months with the assistance of Heritage Strategies, the planning consultants.

Although the Historic Resources Commission (HRC) currently has a successful preservation program, which has been in place since 1979, this plan will help guide the future work of the commission and further historic preservation efforts as supported through the city's adopted comprehensive and downtown development plans. This will ensure that historic preservation remains integral to quality urban design, sustainability and the strategic planning vision of Asheville and Buncombe County.

The following goals were identified early in the process and all subsequent strategies outlined in the plan are intended to facilitate these four overarching goals.

- Heighten public appreciation of Asheville and Buncombe County's heritage and historic resources.

- Ensure that public sector initiatives and actions are models for best practices in the preservation and treatment of historic resources.
- Support private initiative as a primary method through which historic resources are recognized, preserved, and enhanced.
- Enlist historic preservation in the quest for great 21st century growth – make historic preservation central to Asheville and Buncombe County’s pursuit of livability and a high quality of life, including economic and environmental sustainability.

The work of Heritage Strategies was guided by an advisory committee chaired by Brendan Ross, the chair of the HRC. Membership of the advisory committee represented a diversity of interests including Buncombe County, the Asheville business community, Asheville neighborhoods, the Preservation Society of Asheville and Buncombe County and the Historic Resources Commission. The community was further engaged through a series of public meetings, focus groups and individual interviews to gather information for input and preparation of the plan.

The plan has been reviewed by the Historic Resources Commission, the Downtown Commission, the Planning and Zoning Commission, and the Planning and Economic Development Committee and was recommended for approval by all.

HRC staff has also consulted with city staff from Planning and Urban Design, and Economic and Community Development, as well as staff from the Preservation Society of Asheville and Buncombe County to gain support for the specific strategies involving those agencies.

Planning staff from Buncombe County were also involved in the planning process and it is the intent of the Historic Resources Commission to work with Buncombe County on adoption of the plan well.

Considerations:

- Provides a clear focus and direction for historic preservation work in Asheville and Buncombe County
- Promotes quality urban design that reflects Asheville’s architectural legacy
- Identifies opportunities and partnerships to enhance the historic preservation program
- Outlines strategies for neighborhood and small area planning efforts
- An adopted plan is a tool for local governments to further partnerships and pursue funding opportunities for implementation of the plan
- Is consistent with the Asheville City Development Plan 2025.

City staff recommends City Council adopt a resolution to accept the Historic Preservation Master Plan for Asheville and Buncombe County as part of the officially adopted comprehensive plan for the City of Asheville.

In response to Councilman Bothwell, Ms. Merten explained that there was considerable discussion regarding mandatory downtown design review, but voluntary compliance. Discussion surrounded whether we should try to make downtown a local historic district or not. Ultimately the Advisory Committee didn't think it was the most appropriate thing to do, but they did support a number of strategies to strengthen the downtown review process and bring it more in alignment with preservation goals. Also, there is a possibility that we could create small conservation districts in commercial areas even with some of the changes by the legislature.

Mayor Manheimer opened the public hearing at 5:30 p.m.

Mr. David Nutter spoke in support of the Plan.

Mr. Jack Thomson, Executive Director of The Preservation Society of Asheville and Buncombe County, urged City Council to support the Plan.

Mayor Manheimer closed the public hearing at 5:35 p.m.

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

Councilman Bothwell moved to adopt a resolution to accept the Historic Preservation Master Plan for Asheville and Buncombe County as part of the officially adopted comprehensive plan for the City of Asheville and find that the request is reasonable, in the public interest, and is consistent with the Asheville City Development Plan, 2025 in the following ways: 1) the Plan will encourage the protection of downtown's wealth of historic buildings, 2) a high quality design, in new construction projects, 3) the identification, evaluation and documentation of Asheville's historic resources, 4) the continuation of efforts to preserve and manage change within historic districts, 5) the continuation of education towards preservation of Asheville's historic resources, and 6) the strengthening of a strong positive identity and sense of place for all. This motion was seconded by Councilman Pelly and carried unanimously.

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B. PUBLIC HEARING TO PERMANENTLY CLOSE AN UNNAMED ALLEY BETWEEN WYOMING ROAD AND KEEBLER ROAD

RESOLUTION NO. 15-179 - RESOLUTION TO PERMANENTLY CLOSE AN UNNAMED ALLEY BETWEEN WYOMING ROAD AND KEEBLER ROAD

Street Division Manager Chad Bandy said that this is the consideration of a resolution to permanently close an unnamed alley between Wyoming Road and Keebler Road. This public hearing was advertised on July 31, August 7, 14 and 21, 2015.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, SABA Holding Group, LLC, Thomas Wolfe, Manager, owner of parcels 9648-64-5150 and 9648-64-6029, and Stephen Carr, owner of parcels 9648-64-5116 and 9648-64-5197, have requested the City of Asheville to permanently close the unnamed alley between Wyoming Rd. and Keebler Rd.

The Multimodal Transportation Commission met on May 27, 2015, and approved the closure.

On June 7th, 2015 Duke Energy, PSNC Gas, Charter Communication, Metropolitan Sewage District (MSD) and AT&T were contacted about the request to close an unnamed alley between Wyoming Road and Keebler Road. At that time PSNC and Duke Energy both expressed no concern with the closing of this right of way. Charter Communication and AT&T made no comment. MSD does have a facility located within the current R/W and the applicant, Thomas Wolfe, has been in conversation about the dedication of an MSD R/W upon completion of the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution to permanently close an unnamed alley between Wyoming Road and Keebler Road.

Mayor Manheimer opened the public hearing at 5:38 p.m., and when no one spoke, she closed the public hearing at 5:38 p.m.

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

Councilman Smith moved for the adoption of Resolution No. 15-179. This motion was seconded by Councilman Davis and carried unanimously.

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C. PUBLIC HEARING RELATIVE TO REZONING 200 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT AND AMENDMENT TO THE HEIGHT ZONE MAP

ORDINANCE NO. 4446 - ORDINANCE TO REZONE 200 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4447 - ORDINANCE AMENDING THE OFFICIALLY ADOPTED HEIGHT ZONE MAP IN THE CENTRAL BUSINESS DISTRICT

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to rezone 200 Asheland Avenue from Regional Business District to Central Business District and an amendment to the Height Zone Map. This public hearing was advertised on August 28 and September 4, 2015.

Ms. Bernstein said that the site proposed for rezoning consists of a single parcel owned by Jim F. Hughes of Beacon Properties, is located at 200 Asheland Avenue (PIN 9648.37-0638). There is a single building existing on the approximately 0.48 acres site, one-story in height and approximately 5,000-square feet in size, currently operating with office uses. The site is accessed via a single driveway from Asheland Avenue to the surface parking spaces surrounding the building.

The applicant is proposing a standard rezoning of the single parcel to Central Business District (CBD).

The parcel to the north (172 Asheland) was rezoned from RB to CBD in 2013. Several other parcels in the vicinity have been similarly rezoned in 2013 and 2014. Staff continues to pursue a large-area rezoning along Asheland Avenue and anticipates this action in the early fall.

Because of the repeated requests, staff and the Downtown Commission (DTC) continue to discuss a multi-parcel, City-initiated rezoning on the remaining parcels along Asheland Avenue from Hilliard Avenue to Southside Avenue. Various maps provided in the Downtown Master Plan (2009) included this area along Asheland Avenue due to its proximity to the CBD, wide right-of-way and potential for urban growth. Staff and members of the DTC held a meeting with Asheland Avenue property owners in January 2014 and plan to continue the dialogue with affected neighbors this year, intending to pursue the corridor rezoning and expand the CBD.

Approval of the rezoning request requires an amendment to the Downtown Height Zones map and this parcel would be placed within the Intermediate Height Zone. Asheland Avenue is already considered a Key Pedestrian Street. Extension of the context transition edge is not

applicable as there is no adjacent residential zoning. Any future development would be required to comply with Central Business District design requirements and review standards.

The Downtown Commission evaluated this proposal at their meeting on July 10, 2015, and unanimously supported the rezoning request as well as the application of the intermediate height zone. At their meeting on August 5, 2015, the request was unanimously supported by the Planning & Zoning Commission.

Zoning in this area includes CBD with office and medical uses to the north; a recently approved apartment building (185 Coxe Avenue) in CBD zoning to the west; printing and medical offices in Regional Business zoning to the south; and vacant land and supplies/distribution in Regional Business zoning across Asheland Avenue to the east. Uses allowed in the CBD would be appropriate and compatible on this site. Design standards mandated by the UDO would require that any future development be pulled up towards the corner and focused on the street rather than set back with parking in the front, as seen with the current suburban-style of development on the site and along the corridor. The maximum height permitted (145 feet) would be significantly greater than current RB zoning (80 feet) but is less than the properties adjacent to the west along Coxe Avenue, which are within the tallest height zone.

There are policies throughout the *Asheville City Development Plan 2025* supporting the need for higher-densities and a mix of uses, especially concentrating on downtown and areas close to the CBD for this type of development. CBD zoning allows for a greater variety of uses and higher residential densities while maintaining and requiring design elements that will encourage multi-modal transportation and an urban form of development that is more amenable to the pedestrian experience.

The Land Use & Transportation section contains a specific goal to “continue to look for opportunities to expand the boundaries of the CBD to areas appropriate for that type of development”.

The *Downtown Master Plan* recommends strategies for the continued vitality of the downtown and specifically included this section of Asheland Avenue as an area of potential growth and expansion for the CBD. A number of maps in the plan expanded beyond the current CBD boundary because these edge areas were noted as having the potential to grow and improve following an urban development pattern.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- Expansion of the CBD is generally recommended in the *2025 Plan* and specifically recommended along Asheland Avenue in the *Downtown Master Plan*
- Four similar requests have been approved in this immediate location since 2013, leading to staff and the Downtown Commission pursuing a multi-parcel rezoning effort.

Staff recommends approval of the proposed rezoning, finding that the request to expand the CBD is consistent with City-adopted plans and strategic goals for development in this area.

Mayor Manheimer opened the public hearing at 5:42 p.m., and when no one spoke, she closed the public hearing at 5:42 p.m.

Mayor Manheimer said that members of Council have previously received copies of the ordinances and they would not be read.

Councilman Davis moved to approve the zoning map amendment from Regional Business to Central Business District as a standard rezoning and find that the request is

reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Councilwoman Wisler and carried unanimously.

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Councilwoman Wisler moved to approve the amendment to the Height Zone Map and find that the request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Councilman Davis and carried unanimously.

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D. PUBLIC HEARING AND APPROVAL OF MODIFICATION TO A CONDITIONAL USE PERMIT FOR BILTMORE GARDENS ORIGINALLY APPROVED IN 2005 (NOW KNOWN AS COMMERCIAL PROPERTIES AT BILTMORE) TO INCLUDE THE DEVELOPMENT OF THE COMMERCIAL PORTION OF THE PROJECT WITH THREE, 2-STORY OFFICE BUILDINGS AND ASSOCIATED PARKING ON PROPERTY KNOWN AS 700 BILTMORE AVENUE

City Attorney Currin reviewed with Council the conditional use process, which is a quasi-judicial permit hearing. At this public hearing all the testimony needs to be sworn and due process protections afforded to the applicant.

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

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 5:45 p.m.

Assistant Director of Planning & Urban Design Alan Glines submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Assistant Director of Planning & Urban Design Alan Glines said that this is the consideration of an ordinance to to grant modification to a conditional use permit for Biltmore Gardens originally approved in 2005 (now known as Commercial Properties at Biltmore) to include the development of the commercial portion of the project with three, 2-story office buildings and associated parking on property known as 700 Biltmore Avenue. This public hearing was advertised on August 28 and September 4, 2015.

This application modifying the conditional use permit follows the standards outlined in 7-5-5 of the UDO. The site consists of a 6.6 acre parcel located at 700 Biltmore Avenue (City Exhibit 3 - Location Map). The property is owned by Near Urban Development Co, LLC. The parcel is steeply sloping with the residential component at the higher portions of the site and commercial uses at the lower portion of the site near Biltmore Avenue. The parcel is zoned Institutional and is governed by a conditional use permit approved in 2005 as the Biltmore Gardens (Ordinance 3222) for 114 residential units and four commercial structures totaling 15,060 square feet. Parking was also approved for the site along with several access points along neighboring streets. The parcel is bordered by three streets: Caledonia Road to the north, Bowling Park Road to the east, Kenilwood Place to the south and Biltmore Avenue to the west. Neighboring uses include, single family residential and commercial uses along Biltmore Avenue (City Exhibit 3 - Site Layout).

The residential portion of the development has been renovated and sold. The modification proposal consists of changes to the commercial component of the CUP. The original approval included 4 commercial structures totaling 15,060 square feet, The modification seeks to reduce the overall amount of commercial space to 10,255 square feet and proposes only three commercial structures compared to four which were approved in the original permit. The size of one structure, Building Three will be increased by a small amount. In addition the architectural style of the development would change from the original proposal: from a mix of traditional residential revival-styles (colonial, Italianate, arts and crafts) to a more contemporary residential style proposed now. Original and proposed elevations and perspective drawings are included in this report (City Exhibit 3 - Elevation Plans for Buildings 1, 2 and 3). The plans provide a comparison of building footprints on sheets 700 and 701 of the current proposal with the earlier approval. A summary is provided in the table below:

	2005 Approval	2015 Proposal	Change
Building One	6,960 s.f. two-stories	3,800 s.f. two-stories	Reduce 3,160 s.f.
Building Two	4,800 s.f. two-stories	4,555 s.f. two-stories	Reduce 245 s.f.
Building Three	1,500 s.f. one-story	1,970 s.f. two-stories	Add 470 s.f. add one story
Building Four	1,800 s.f. two-stories	Removed from proposal	Eliminated from plan
Total	15,060 s.f.	10,255 s.f.	New reduction 4,805 s.f.

Mr. Glines presented Council with City Exhibit 4 (Revised Table showing the 2015 proposal for Building One is 3,700 s.f. two stories, not 3,800 s.f. two-stories).

Existing and Proposed Building Components: The residential units have been completed and permits have been closed out. Rough grading for the lower area of the site is also completed. The final component of the development is to complete the construction of the new commercial buildings and provide parking and landscaping. The uses of the commercial buildings will be primarily office except for Building One which will be used for office and special events in conjunction with the rental use of some of the residential condominiums. As originally approved this building was to house a restaurant. Buildings Two and Three were originally approved for office and retail and will today focus on office uses.

The new buildings are proposed to be more contemporary in style but with a scale and detailing similar to nearby residential homes (City Exhibit 3 - Building Study). The materials include cementitious siding, stone veneer and aluminum-glass storefront windows, additional smaller windows, and shed-style awnings. The roofs will utilize clipped gables and shed dormers which is compatible with nearby residential roof styles.

Sidewalks surround the site and new sidewalks will connect internally from the parking areas and the new structures to the external sidewalk system.

New surface parking and bicycle parking will be provided for the commercial uses including some that are already in place and others that will be constructed. The parking counts meet UDO requirements.

Landscaping is required for the project and includes parking lot landscaping and building impact landscaping. In addition a number of existing trees will remain on the property and will be protected. The proposed landscaping meets the requirements outlined in the UDO (City Exhibit 3 - Village View from Biltmore Avenue; Village Interior View; Residential Condominium View; Section View; Sketch).

This proposal was approved with conditions by the Technical Review Committee on July 20, 2015. The modification application also requires a quasi-judicial review by the Asheville City

Council and final TRC review.

The site is zoned Institutional District.

A letter of support from The Residences at Biltmore Condominium Owners' Association Inc. has been received (City Exhibit 5).

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. There are total of seven conditional use standards that the project must meet. The applicant has provided a statement on these findings.

Mr. W. Louis Bisette, representing Near Urban Development Company, said that the commercial components original planned as a part of this mixed use project, and approved by City Council in 2005 were never completed as a result of the economic downtown and the project's subsequent bankruptcy and foreclosure. The commercial properties were purchased earlier this year by Near Urban Development Company. Near Urban proposes to complete three commercial buildings, basically as approved in the 2005 conditional use permit. One of the four commercial structures originally approved will not be constructed and is not a part of this application. This modification seeks to reduce the overall amount of commercial space from approximately 15,000 square feet in 2005 to approximately 10,000 square feet today. He explained the size of the three structures compared to what was proposed in 2005. The three buildings are essentially in the same location as previously approved in 2005. Access, sidewalks, parking, landscaping and open space remain as previously approved and meets the City's requirements as outlined in the Unified Development Ordinance. He then reviewed the seven conditional use standards and how their project complies with those standards. He asked for the Council's support of this modification.

After hearing no rebuttal, Mayor Manheimer closed the public hearing at 6:01 p.m.

Councilman Pelly moved to approve the modification to the conditional use permit for Commercial Properties at Biltmore located at 700 Biltmore Avenue, subject to the site plan and elevations and conditions outlined in the Technical Review Committee report, because the proposal meets the seven conditional use permit standards as demonstrated by the applicant. This motion was seconded by Councilman Bothwell and carried unanimously.

City Attorney Currin said that on the September 22 agenda, a motion will be placed approving the Findings of Fact and Conclusions of Law for Commercial Properties at Biltmore located at 700 Biltmore Avenue.

E. PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE TO CREATE A NEW LAND USE THAT PERMITS FELINE ADOPTION TOGETHER WITH RETAIL SALES, KNOWN AS CAT CAFÉ, WITHIN THE CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4448 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO CREATE A NEW LAND USE THAT PERMITS FELINE ADOPTION TOGETHER WITH RETAIL SALES, KNOWN AS CAT CAFÉ, WITHIN THE CENTRAL BUSINESS DISTRICT

Urban Planner Vaidila Satvika said that this is the consideration of an amendment to the Unified Development Ordinance sections 7-2-5 definitions, 7-8-1(d) table of permitted uses, and Section 7-17-3 (c) land use impact table to create a new land use that permits feline adoption together with retail sales, to be defined as Cat Café, within the Central Business District (CBD). This public hearing was advertised on August 28 and September 4, 2015.

The applicant for this wording amendment is Brother Wolf Animal Rescue, a not-for-profit organization whose mission is to provide the resources and lifesaving programs to build a No Kill community.

The applicant is interested in creating a cat café in downtown Asheville, which is a new model of mixing animal adoption with the experience of a café. The cat café model originated in Taiwan in 1998 and has since spread to North America with the opening of a cat cafe in Montreal in 2014. A number of additional cat cafes have opened throughout the U.S. and Canada with the twist of partnering with local animal shelters to showcase adoptable cats looking for new homes. In order to meet health standards, cat cafes are required to separate areas that house cats from food and beverages.

Currently, the UDO precludes animal uses in the CBD. The only two uses in the various zoning districts within the city that relate to live animals are Kennels and Veterinary Clinics.

Kennel means any premises where domestic animals, such as dogs and cats, are boarded, trained, or bred for commercial or animal control purposes.

Veterinary clinics, although not defined, are primarily places of medical service for animals.

The cat café can fit within the kennel use but because kennels permit dogs, a potential noise nuisance for residents and businesses, staff believes permitting kennels within the CBD is not appropriate. The cat café would not meet the veterinary clinic definition because it would only serve orphaned cats that are in need of adoption, not providing medical services to any “owned” cat although medical services would be provided as needed to the cats in the adoption center. Staff proposes to create a new use that would only be permitted in the CBD that would be specific to housing orphaned cats until they are adopted.

The proposed use would be defined as Cat Café and would be permitted only within the CBD:

Cat café means any premises used to house or contain homeless, orphaned, or unwanted cats and that is owned, operated, or maintained by an organization that is licensed by the State as an animal shelter and devoted to the welfare, protection, and humane treatment of animals for the purpose of adoption, and which incorporates retail sales to support the interaction of patrons with cats, such as a café, bookshop, or other permitted use.

The proposed wording amendment would add *Cat Café* as a low-impact use under the Office/Business classification in the Land Use Impact Table of Section 7-17-3 (c), as it would be consistent with the intensity of uses in that section.

The proposed wording amendment was presented to the Downtown Commission on July 10, 2015 and to the Planning and Zoning Commission on August 5, 2015, and received unanimous support from both.

Staff recommends approval of this proposed amendment because the proposed change to the UDO is determined to be consistent with the Comprehensive Plan and other adopted plans, and is reasonable in that it will add to the city’s dynamic and diverse culture and economy by contributing to the eclectic mix of creative, innovative businesses and the employment opportunities they provide.

Mayor Manheimer opened the public hearing at 6:07 p.m., and when no one spoke, she closed the public hearing at 6:07 p.m.

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

Councilman Bothwell moved to approve the proposed amendment to Sections 7-2-5 definitions, 7-8-1(d) table of permitted uses, and Section 7-17-3 (c) land use impact table to create a new, low-impact land use that permits feline adoption together with retail sales, to be defined as *Cat Café*, within the Central Business District (CBD) and find this amendment is consistent with the Comprehensive Plan and other adopted plans, and is reasonable and in the public interest because it will add to the City's dynamic and diverse culture and economy by creating to the eclectic mix of creative, innovative businesses and the employment opportunities they provide. This motion was seconded by Councilwoman Wisler and carried unanimously.

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F. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 311 AND 315 OLD HAW CREEK ROAD FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR CHURCH RENOVATION, PARKING AREA, ADDED SIDEWALKS AND CONSTRUCTION OF 10 STUDENT HOUSING UNITS WITH ASSOCIATED INFRASTRUCTURE, WITH CONDITIONS FOR REDUCED PROPERTY LINE BUFFERS FOR PORTIONS OF THE SITE

ORDINANCE NO. 4449 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 311 AND 315 OLD HAW CREEK ROAD FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR CHURCH RENOVATION, PARKING AREA, ADDED SIDEWALKS AND CONSTRUCTION OF 10 STUDENT HOUSING UNITS WITH ASSOCIATED INFRASTRUCTURE

Urban Planner Vaidila Satvika said that this is the consideration of an ordinance to conditionally zone property located at 311 and 315 Old Haw Creek Road from RS-4 Residential Single-Family Medium Density District to Institutional District/Conditional Zoning for church renovation, parking area, added sidewalks and construction of 10 student housing units with associated infrastructure, with conditions for reduced property line buffers for portions of the site. This public hearing was advertised on August 28 and September 4, 2015.

The project area consists of a single 6.16-acre parcel located at 311 & 315 Old Haw Creek Road with secondary frontage along Bethesda Road. The parcel is currently zoned Residential Single-Family Medium Density (RS-4) and contains a church and minister's parsonage, and a cemetery that measures nearly 69,000 square feet, occupying one quarter of the property. The site is primarily surrounded by residential uses. The site is immediately north and adjacent to Haw Creek Elementary School, a school of approximately 410 students in grades kindergarten through fifth.

The applicant is seeking to create a more flexible use of their property to be able to continue as a place of worship while accommodating other uses. The plan is to create a multi-use property that houses students and seminarians year round as part of an educational and community service curriculum. The project components are outlined here:

- Students would be housed in ten newly constructed small cottages measuring approximately 350-600 square feet each, located at the southwest corner of the property and accessed through a new driveway adjacent to the church. The homes have been designed by Wishbone Tiny Homes but would be built by ministerial students and volunteer labor.

- Fellowship Hall – The existing fellowship hall will be remodeled and upgraded to include a co-working kitchen/maker space, co-working office space, and dining hall.
 - Co-working kitchen/maker space – The co-working, commercial kitchen/maker space will be used by the church and will be available for use by the public at a charge. It will incorporate classes such as canning, cooking, and pickling. Food truck operators may use the kitchen as their commissary, where food is prepared and then loaded onto the truck for delivery.
 - Co-working office – A shared co-working office measuring approximately 800 square feet will be developed with approximately 25 work stations that will be used by students and also open to the public for use at a charge.
 - Dining Hall – The dining hall will be used for all users of the premises.
 There shall be no retail sale of good from the co-working kitchen/office spaces and no restaurant sales.
- Sanctuary – The sanctuary of the church will be used as a place for worship for the four church congregations. It will be renovated in order to be a more flexible space so that it can accommodate community meetings and events. The pews will be replaced with moveable seating.
- Classrooms – On the same floor as the sanctuary there are five classrooms that will be used by students and instructors, and may be available to the public for meeting spaces as part of the co-working kitchen/office spaces.
- Parsonage – The parsonage serves as a residence for clergy and lay missionaries associated with the church; it will continue to function as a residential house for the church’s ministers, guests, and temporarily for student ministerial housing.

This chart summarizes the current versus proposed spaces and uses:

Structure	Name of Space	Current Uses	Area	Proposed Uses	Area
Church	Sanctuary	Workshop space	2192 SF	Workshop space	2192 SF
	Fellowship Hall	Dining area	1548 SF	Dining space	774 SF
				Co-working office	774 SF
	5 Class Rooms	Various church/educational	1576 SF	Church/Educational/Meeting Rooms	1576 SF
Kitchen	Kitchen	716 SF	Co-working kitchen/maker space	716 SF	
Parsonage		Ministerial Housing	5116 SF	Ministerial Housing	5116 SF
Tiny Homes		N.A.	0 SF	10 small homes	6000 SF

Co-working space available to the public at a charge	1490 SF 9%
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Access to the property is from either Old Haw Creek Road or Bethesda Road. There will be two parking areas, one accessed from Old Haw Creek Road, the other from Bethesda Road.

There are currently 33 parking spaces on the premises. Based on the mix of uses and the expected overlap, the minimum number of parking spaces required for the project is 41. The project will provide eight additional spaces in order to meet that requirement. Three of the spaces will be provided as accessible parking spaces. Bike parking and a loading berth will be provided.

A 20-foot-wide paved access road will extend from the new parking lot to connect the ten small cottages for access. The applicant will use that access road to join the parsonage so that the parsonage’s currently-used gravel driveway may be removed, which would reduce the number of entrances/exits to enhance safety and it would also allow for the planted buffer yard to be uninterrupted by the gravel road encroachment.

A new sidewalk measuring at least five feet wide is proposed along the length of the property adjacent to Old Haw Creek Road and Bethesda Road, and south, bisecting the property, along the cemetery to a 30-foot right of way, which is unpaved. The sidewalk that bisects the

property will enhance the cemetery by making it easier for visitors to access and it will provide a direct connection for access to the school. The applicant has agreed to allow parents to use the church parking facility to park and walk children to the school through the property, or to have children walk along that sidewalk to the parking area to be picked up after school.

The site is on the ART bus route E2 with a bus stop across the street from the site.

Landscaping is required for this project including street trees, parking lot landscaping, street buffer, building impact landscaping, and a property line buffer. The applicant is requesting modifications to the property line buffer due to the location of the cemetery; to comply would require the relocation of more than 75 graves. The proposed alternative compliance is detailed below.

The open space requirement is 15% of the lot area. The site plan shows sufficient area to meet this standard.

Conditions modifying development standards:

1. Property line buffer – a type B (30 foot wide) property line buffer is required adjacent to RS-4 zoned properties.
 1. Along the cemetery, the property line buffer will be waived. At this southern and southeastern edge of the property along the cemetery, which measures approximately 450 feet, planting a buffer would require the relocation of more than 75 graves. *Staff is supportive of this modification due to existing site constraints and because the uses and activity along this part of the property will not change.*

The applicant promoted a community meeting via direct mail to 2,250 households in January 2015, which resulted in a meeting on January 25, 2015, with over 40 people in attendance. The applicant held two additional community meetings. The first gathered approximately 70 people, the second gathered approximately 75 people. At those cookouts, the applicant reviewed the proposed plan and answered questions. On June 18, 2015, the applicant presented to the Haw Creek Home Owners Association to a group of 25. Two letters of support have been received from the public as of the writing of this report.

This proposal was approved with conditions by the Technical Review Committee on April 20, 2015, and requires review by City Council and Final TRC prior to zoning approval. The proposal was presented to the Planning & Zoning Commission first on May 6, 2015, and, after seeking a continuance to gather more public support and to better articulate the plan, it returned to the Planning & Zoning Commission on July 16, 2015. The Planning & Zoning Commission recommended to approve the proposal with a 3-2 vote. Two commissioners were concerned about the tiny homes.

The site is surrounded by other properties zoned RS-4, most of which are single-family residential. There is a pocket of RM-6 zoning to the north of the site, which is mostly used as a place of worship. By moving from RS-4 to INST zoning, the applicant seeks greater flexibility to be able to continue as a place of worship while also accommodating student housing and co-working kitchen/office spaces. All of the uses proposed are identified in the UDO's impact table as "low."

The primary proposed use of the property will continue to function as a place of worship as it has for many years. The question of commercial activity, however, was a concern at the May 6th Planning & Zoning Commission meeting and is addressed here: Is commercial activity compatible with the proposed project and in this residential neighborhood?

First, it should be noted that only about 10% of the project's gross floor area would be used for commercial activities for part of the time. The co-working kitchen/maker space would

serve as non-commercial dining for church members and students, while the co-working office space would serve ministerial students. In comparison, every residential dwelling, under the *Home Occupation* provision of Section 16, is allowed to use up to 25% of its home for commercial uses as an ongoing business. Commercial activity is not precluded from residential areas, but it is subordinate to the primary use.

There is precedent for neighborhood-scale commercial activity within residential districts. An example would be the Harvest House in Kenilworth Road. Open Monday through Friday from 9 a.m. to 4 p.m., the Harvest House is a parks department-owned facility that offers various free activities as well as paid classes in weaving, wood working, clay sculpture, glass mosaics, painting, and so on. The center is very popular and acts as a vibrant neighborhood community center that is located in the middle of the residential zoning district and Kenilworth neighborhood. The commercial activity of the Harvest House does not contribute to a negative neighborhood environment; it's an amenity for the neighborhood.

Appropriately-scaled commercial activity within residential districts helps neighborhoods to be more walkable and bicycle friendly by offering relevant goods and services close by. For this reason there exist various city goals that promote the development of mixed-use corridors and mixed-use development where appropriate. In fact, the Comprehensive Plan states that "appropriately-scaled non-residential uses that serve residents of neighborhoods should be permitted in appropriate locations."

(As a side note, in regard to taxation, according to the County Tax Department allowing a for-profit business to use the church's facilities would make those facility areas taxable but it would not take the whole church property out of tax exemption. The applicant is aware of this.)

The property is bordered by an elementary school to the south, which, as an institutional use with over 400 children served, will be served by this project by being able to use the church's parking lot and sidewalk as a supplemental drop off and pick up location for the school, which the church has agreed to.

In regard to the added residential density, under the current RS-4 zoning if the owner so chose it would be permissible to build an additional four homes within the 60,000 square feet of the property that is currently not built upon (area behind the parsonage/church and not including the cemetery). In comparison to what is permissible by right, 10 small cottages, when combined (approximately 5000 SF), will be a lower impact use below what is developable by right under RS-4. (Area = 60,000 SF. Min lot size = 10,000 SF. Approx 5 homes and cul-de-sac).

The Haw Creek Commons project would offer commercial activities that would be significantly subordinate to the principal use of the site as a place of worship and they would serve neighborhood residents. For this reason, the proposal is compatible with the site and the surrounding neighborhood, and it is consistent with broader city goals pertaining to the adaptive reuse of property to support the continuation of a local institution and community space.

The proposal complies with policies adopted by the City in several ways. As stated in the *City Development Plan 2025*, reusing older buildings is "the most sustainable construction" and helps to preserve and protect neighborhood vitality and appropriately-scaled non-residential uses should be allowed in appropriate locations. This proposal aims to repurpose the site to ensure its financial sustainability and the Plan states that the number one strategy for land use is adaptive reuse of (vacant or) underutilized structures. The addition of street trees, sidewalks and on-site bike parking as well as the location along a transit route supports bus use; the streetscape will be enhanced and automobile dependence may be minimized. A large amount of the site will remain planted and additional, native landscaping will be added to the parking areas, along the streets, and in front of buildings adding to sustainability and environmental goals.

This proposal aligns with City Council's Strategic Plan. As part of Focus Area #1: Economic Growth and Sustainability, this project will "ensure a sustainable financial future for Asheville by promoting an environment where citizens and businesses want to live, work, and invest" by reusing this site to create an eastern hub for their organization's operations. In addition, consistent with Focus Area #3: High Quality of Life, the project will enhance the quality of life for neighborhood residents by adding sidewalks that improve safety and provide more pedestrian connectivity.

Considerations:

- The project proposes the adaptive reuse of an existing building and provides a way for a community institution to adapt to changing realities.
- Ten small cottages would be constructed (beyond street view) to accommodate students.
- Subordinate commercial uses would be added to provide neighborhood-scale co-working spaces alongside on-going traditional uses.
- Sidewalks will be provided along both Old Haw Creek Road and Bethesda Road.
- Additional landscaping will be added throughout the site to soften the streetscape and provide buffering to adjacent properties.

Staff recommends approval of the proposed conditional zoning to allow for the redevelopment of the church and fellowship hall at 311 & 315 Old Haw Creek Road for the construction of ten small cottages, development of neighborhood-scale co-working spaces, new parking area, and to enhance the site with landscaping and sidewalks. This recommendation includes approval of the landscape modifications as detailed above.

Mayor Manheimer opened the public hearing at 6:18 p.m.

Pastor Larry Duggins from the United Methodist Church said they are looking to modify this existing Church building to allow the formations of new types of Christian community. They are continuing worship in this facility by each of four congregations that are currently working in this space, but we are making changes to the physical space to allow community formation in the way that people form community today. Research shows people form community around their work places and that is the motivation behind the co-working spaces within the facility. People form community around food so they would like to create a shared use commercial kitchen, modifying the kitchen that already exists. There would be up to four workers allowed in the kitchen space at any one time. People also form community around their children's schools. They are creating a new relationship with Haw Creek Elementary School. They've added new signage to their parking spaces inviting people to park in their parking lot to walk across to pick up their children at school. That will help alleviate the traffic problem that exists at the entryway to the School. They are also creating a sidewalk with gardens from the parking lot to the School. In addition, they have already added a playground and picnic tables to the space to make it a family-friendly place. Finally, they are working with School administration to make sure that we are making all of our space available to the Elementary School for needs and desires they have. People also form community around shared recreational and community activities so they have modified the space for those activities. They are taking out all the pews out of the main sanctuary so that space can be used not only for worship, but for community meetings in the area. Space will also be utilized by a quilting group, an AA group, a woodworking group, etc. The Missional Wisdom Foundation not only creates this new kind of community but they also teach people about that. They have plans to teach high school, college and seminary students, as well as adults in clergy and adults in lay leadership, about this new kind of missional education through classes and retreats at the space. They want to have 10 tiny student houses on the site, to be able to achieve specific educational goals. First they want their students to experience community living in a monastic austere kind of environment in which we can teach the theology of sufficiency. Second they want to expose the students to that particular kind of housing because we believe it has great potential for affordable housing in some areas or housing for the homeless in some areas. On their site, the only use for those tiny houses is student houses. They have held four community meetings. This is not a retail space and they are not having retail sales from

this location, other than those kinds of sales that churches typically have, e.g., bake sales, rummage sales, etc. This is not a restaurant space. They will not have food service to people for sale. This is not a manufacturing facility to sell tiny houses. And, this is not a business, it's a ministry. There is no profit motive. We are charging people to be able to support the on-going operation of this ministry and other ministries of the Foundation. This is an attempt to repurpose the Church building to match how people form community today.

The following individuals spoke against the conditional zoning for various reasons, some being, but are not limited to: to allow this church the additional activities will open the door for other churches in the area to do the same; this is a very residential neighborhood and their quality of life will be encroached upon; size of the tiny homes seem to be getting larger from every community meeting; community meeting attendees were not supportive of this project; suggestion of adding a dorm to the back of the church and eliminate the 10 tiny homes; fear of what will happen to the tiny homes when the students move out; 10 tiny homes are not sustainable; transient students will walk near the school yard and it will not be safe for the children; 10 tiny homes will decrease adjoining property owners tax values; and the 10 tiny lots will be in the woods and will not be visible from the Church or the School which is not good when there is an adjoining School:

Resident on Willowbrook Road
Ms. Barber Melton, Board Member of the Haw Creek Community Association
Mr. Joe Bly, father of adjoining property owner on Trinity Chapel Road

The following members spoke in support of the conditional zoning for various reasons, some being, but are not limited to: churches need to find new ways to keep their doors open; this is a way to give back to the community; and this will be a positive impact on the Haw Creek community:

Ms. Margaret Burnette King, resident on New Haw Creek Road
Pastor from Bethesda United Methodist Church
Mr. Luke Lingle, employee of the Western North Carolina Conference of United Methodist Church
Mr. Shawn Rice, Director of RFD Construct who will provide the general contracting Services
Ms. Lisa Gibbs, resident in the immediate area

Mayor Manheimer closed the public hearing at 6:50 p.m.

Mr. Rice responded to various questions raised by the community. He said if the trees are marked with a yellow ribbon, they will remain. He felt there is no precedent being set as conditional zonings are considered on a case by case basis. The 10 tiny homes are not trailers on wheels. There will be one tiny home on a trailer which will be used for the teaching element, but that will not remain on the site.

Councilman Bothwell felt that the big problem with tiny homes is that there is a very high material use per square footage and they are much less energy efficient than if you put 10, 500 square foot apartments in a block together. You gain the advantages of HVAC, piping and it disturbs less land.

Councilman Bothwell noted there was a question of what would happen to the tiny homes with the students moved out. He said that a 500 square foot home is very easy to move.

Councilwoman Wisler was concerned about the construction of the 4 tiny homes on the property to be used in the teaching curriculum. Mr. Satvika explained that there is a condition that "the teaching curriculum is allowed to include the construction of up to 4 tiny homes per year, but not for commercial sale. Tiny homes will not exceed 600 square feet. Construction of the tiny

homes will occur only between the hours of 9:00 a.m. and 5:00 p.m. and will be located immediately behind the parsonage, as noted in the site plan."

Pastor Duggins explained that they intend to build up to 10 tiny homes that will be on permanent foundations and built up to residential housing codes. They also plan to build up to 4 tiny homes on trailers so that after their infrastructure is built and there is another round of students, they can have the experience of building one of these houses. There is a condition that they have agreed to regarding the construction being limited to daylight houses and only four houses. These will be for teaching tools and will not be sold.

When Vice-Mayor Hunt asked what happens to the teaching tiny home after it has been constructed, Pastor Duggins said they will give them away or send them off with people who have a use for them in their area. The one they are building now on site will be used as a teaching tool to take to local United Methodist congregations to tour them and get a feeling of what tiny houses represent.

Councilman Pelly moved to approve the conditional zoning request for Haw Creek Commons at 311 & 315 Old Haw Creek Road from RS-4 (Residential Single-Family Medium Density) to INST - CZ (Institutional District – Conditional Zone) with the conditions for the property line buffer waiver along the cemetery, based on the master plan and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) The project proposes the reuse of an existing building, the most sustainable form of development, (2) the project will provide neighborhood-scale co-working spaces that will serve residents of Haw Creek, and (3) the project improves access and safety for users of the site as well as for neighbors by adding sidewalks along the streets and through the property itself. This motion was seconded by Councilman Davis.

In response to Vice-Mayor Hunt, Mr. Satvika reviewed the process of hearings to date and noted that less than 10% of this proposal would include a commercial component. And in comparison, we allow, with our home occupational rules, any home in the City can have up to 25% of their home as their home occupation. Commercial activity is not prohibited precluded from residential areas, but we definitely think it should be subordinate, and staff believes it is subordinate here.

Vice-Mayor Hunt was concerned that neighbors expect the noise of construction to go away after a project is complete, but that would not be the case here with the construction of the 4 tiny homes for the teaching curriculum. When he asked Pastor Duggins what would happen if Council did not allow the construction of the 4 additional tiny homes, Pastor Duggins said that would remove a teaching component they are trying to incorporate into their curriculum, as they find it's important to give people the actual experience of doing something. They believe tiny homes are a viable alternative to address affordable housing and to address the theology of sufficiency.

Vice-Mayor Hunt moved to amend the main motion to approve the conditional zoning request (with the property line buffer waiver along the cemetery) with the removal of the condition that the teaching curriculum is allowed to include the construction of up to 4 tiny homes per year. This motion was seconded by Councilman Smith.

Councilman Davis did not understand that this would be an on-going teaching curriculum of allowing the construction of up to 4 tiny homes per year.

When Councilman Bothwell suggested the Church build a structure to contain the noise from the construction of the 4 tiny homes, Mr. Rice stated that there is a condition that the applicant will return to the Planning & Zoning Commission in one year to review if there are noise issues.

Councilman Pelly said that there have been concerns expressed, but none from the adjoining property owners about noise. He said this is a 6-acre site adjoining a 20-acre Elementary School site. In addition, the site they will build the tiny times on is below grade.

Vice-Mayor Hunt felt that in a residential area Council would now allow a home occupation that involved construction of buildings and exporting them. He also said the construction of the additional tiny homes doesn't necessarily have to happen on the site for the students to participate.

When Mayor Manheimer asked for a vote on the amended motion, said vote was 6-1, with Councilman Pelly voting "no."

City Attorney Currin said that since this is a conditional zoning, the applicant will have to agree to any conditions imposed by Council. Pastor Duggins acknowledged that Council will remove the condition allowing the teaching curriculum to include the construction of up to 4 tiny homes per year and he agreed to that amendment.

Councilman Pelly, Haw Creek resident, was heartened by the opportunities of this proposal presents and felt the changes associated with the School are good improvements.

When Mayor Manheimer asked for a vote on the amended main motion, said vote carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 130

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the representatives from the Neighborhood Advisory Committee and the Sustainability Advisory Committee on Energy & the Environment, it was the consensus of Council to postpone these appointments until October 13, 2015.

Regarding the Buncombe County Tourism Development Authority appointment, it was the consensus of Council to re-advertise the position for two additional weeks, hold the interviews in the Council Chamber in the afternoon of October 13, and transition into the interview process similar to the Planning & Zoning Commission vacancies.

A. RESOLUTION NO. 15-180 - RESOLUTION APPOINTING MEMBERS TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that the terms of Julie Mayfield, Edward Hay and Jerome Jones, as members of the HUB Community Economic Development Alliance, expired on August 22, 2015.

The following individuals have applied for a vacancy on the Board: Ted Figura, Hunter Goosmann, Ed Manning, Grant Millin, Kendra Sherrod, Cheri Torres and Brooke Brownlow.

The Boards & Commission Committee recommended reappointing Julie Mayfield, Edward Hay and Jerome Jones.

Vice-Mayor Hunt moved to reappoint Julie Mayfield, Edward Hay and Jerome Jones, to each serve an additional three-year term, terms to expire August 22, 2018, or until their

successors have been appointed. This motion was seconded by Councilwoman Wisler and carried unanimously.

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B. RESOLUTION NO. 15-181 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that the terms of Hutch Kerns and Ashley Arrington expired on June 30, 2015. In addition, Josh O'Conner and Patrick Dennehy also resigned, thus leaving two unexpired terms until June 30, 2017.

The following individuals have applied for a vacancy on the Commission: Dean Pistor, Helen Hyatt, Laura Carlson, and Patrick Dennehy.

The Boards & Commission Committee recommended appointing Dean Pistor, Helen Hyatt and Laura Carlson.

Vice-Mayor Hunt moved to appoint (1) Dean Pistor and Helen Hyatt to each serve a three-year term, terms to expire June 30, 2018, or until their successors have been appointed; (2) appoint Laura Carlson to fill the unexpired term of Mr. O'Connor, term to expire June 30, 2017, or until her successor has been appointed; and (3) appoint Pat Dennehy to serve the unexpired term of Mr. Dennehy, term to expire June 30, 2017, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

A group of individuals sought City Council support in urging the City of Asheville to prevent the removal of a stand of valuable tall oak trees on Collier Avenue in Asheville's South Slope. Some of the trees are taller than surrounding buildings, tall enough that you can see them from various vantage points several blocks away. They asked the City to lead the way in preventing the loss of this unique wood in this otherwise urban neighborhood. One way would be to facilitate offering the developer a land swap where he can build his apartment project without the need to remove the forest. Another way would be for the City to assist in finding a donor(s) who would acquire the lot with the purpose to preserve and protect the wood in its natural form. After discussion on how this needs to be a community effort in raising funds, with the City being in a minority investment role as with other parks in the City, it was the consensus of Council to ask City Manager Jackson to first meet with the developer to see how willing he is to consider an exchange of property, and then to provide the following information: (1) what was the staff's perspective for this area during the development of the South Slope Innovation District; (2) how much did the developer pay for the property; (2) what kinds of things is the developer looking at constructing on this property; (3) is there an affordable housing component in the developer's plans; and (5) get background and context of this area from the Parks & Recreation Master Plan, the Downtown Master Plan and the Economic Development CIP.

A representative from the Vietnam Veterans Association Chapter 124 asked City Council to consider donating to the Vietnam Traveling Memorial Wall, which will be at the Harley-Davidson of Asheville on September 9-14, 2015. While this Wall is a replica of the one in Washington, D.C., this experience can have the same emotional and healing effect on our visitors. In addition, traveling to Washington is not always easy or affordable for Vietnam Veterans, family and friends. They have raised over \$13,000 but their budget is \$25,000. He noted that Buncombe County pledged \$6,000, and he asked for a donation from the City of Asheville.

Closed Session

At 8:01 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(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5); and (3) 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. Statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 9:33 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:33 p.m.

CITY CLERK

MAYOR