

Tuesday – December 8, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Boy Scouts from Troop 91 led City Council in the Pledge of Allegiance.

ANNOUNCEMENTS

Mayor Manheimer asked for a moment of silence in memory of Taylor Hunt, son of former Vice-Mayor Marc Hunt.

Mayor Manheimer said Happy Hanukkah and since the City Council's next formal meeting will not be until January 12 2016, she wished all happy holidays.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER, 17, 2015, FORMAL MEETING; AND THE DECEMBER 1, 2015, ORGANIZATIONAL MEETING

B. MOTION ADOPTING ASSIGNMENT OF BOARDS & COMMISSIONS MEMBERS/LIAISONS FOR 2014-15

Summary: City Clerk Burleson has a complete listing of all appointments made for City Council liaison and mandatory seats for Council on the various boards and commissions.

C. RESOLUTION NO. 15 - 225 - RESOLUTION ADOPTING THE 2016 CITY COUNCIL MEETING SCHEDULE

Summary: City Council Formal Meetings will be held at 5:00 p.m. on the 2nd and 4th Tuesdays of each month in the Council Chamber – 2nd Floor of City Hall Building, Asheville, N.C. The following meetings are hereby cancelled: Tuesday, July 12, 2016; Tuesday, August 9, 2016; Tuesday, November 22, 2016; and Tuesday, December 27, 2016.

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D. ORDINANCE NO. 4462 - SECOND AND FINAL READING OF ORDINANCE GRANTING A FRANCHISE TO OPERATE A LOW SPEED VEHICLE SHUTTLE SERVICE WITHIN THE CITY OF ASHEVILLE

Summary: See Minutes of November 17, 2015.

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E. RESOLUTION NO. 15-226 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CHARTWELL STAFFING SOLUTIONS FOR TEMPORARY SERVICES IN THE PARKING GARAGES, SURFACE PARKING LOTS AND OTHER FACILITIES

Summary: The consideration of a resolution authorizing the City Manager to enter in to a contract with Chartwell Staffing Solutions, Inc. for temporary services in the City's parking garages, surface parking lots, and other facilities during the period of December 1, 2015 through June 30, 2016.

The City of Asheville, through the Parking Services Division, currently operates four parking garages and several monthly parking and pay-by-space surface parking lots downtown. Parking Services Division uses a combination of City employees and administrative contract temporary workers to provide service and customer assistance in these facilities and lots. Generally, City employees work during the business day and early evenings while contract temporary services are used for fill-ins, special events, and to extend garage and public restroom hours during late evenings, weekends, and holidays. Use of temporary workers allows the greatest flexibility as needs vary greatly depending on time of year and events booked at the U.S. Cellular Center, outside special events, and other large venues downtown. On some days Parking Services may only need one temporary service employee to fill in for a City employee sick or on vacation. At other times, Parking Services may need six to 15 to support a major event downtown.

In late March 2015 Parking Services requested and received bids from interested vendors in providing temporary service employees. Eight vendors responded. Chartwell Staffing Solutions provided the lowest bid for the service. They are located in Charlotte, North Carolina with local recruiters in the Asheville area servicing their existing clients.

City Council delayed action on this item at their meeting on July 28, 2015, in order to give staff an opportunity to improve overall garage cleanliness, to develop an action plan to improve customer service when exiting the garages when the booth attendants are not on duty, and to possibly increase the hours for the public restrooms.

The stairwells in all four parking garages are now power washed on a monthly basis (this work began in August), the Biltmore Avenue Parking Garage public restrooms have been power washed, the walls have been repainted, and the floors have been replaced, and the roofs for the stairwells in the Civic Center and Wall Street Parking Garages are currently being repaired. Once these repairs are completed, the stairwells in all four parking garages will be repainted (this work will be accomplished throughout the winter months depending on weather conditions). Staff has received positive feedback regarding this work.

Regarding a long-term solution to improve customer service when exiting the garages, staff is researching a call center business model that the City of Greenville, South Carolina uses and we plan on moving towards that model during FY 2016-17. In addition, staff will be issuing a Comprehensive Parking Study RFP during January 2016 to research and document all available new technologies including pros and cons and cost information including pay-on-foot options. It will also include a 10-year financial model that will help staff determine when more capital debt could be incurred including fee increases needed to support capital needs.

The issue regarding public restrooms throughout the Central Business District is currently being reviewed by staff and recommendations will probably be included in the overall budget process.

Pros:

- Provides safe and convenient facilities for residents and visitors parking.

- Using temporary service employees is the most cost effective and flexible manner to augment the Parking Services Division's staffing requirements.
- Allows parking Services to capitalize on extended weekend/nights/holiday hours and special event parking to provide better customer service and to bring in additional revenue.

Con:

- Total cost of \$130,000.

The necessary funds for the contract are already budgeted in the Parking Services' Operating Budget for FY 2015-16.

City staff recommends that City Council adopt a resolution authorizing the City Manager to sign a contract with Chartwell Staffing to Solutions to provide temporary services in the City's parking garages and lots at a total maximum cost of \$130,000.

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F. ORDINANCE NO. 4471 - BUDGET AMENDMENT FOR THE CONTINUED PARTNERSHIP EFFORTS WITH THE CORPS OF ENGINEERS FOR THE SWANNANOA RIVER FLOOD MITIGATION PROJECT

Summary: The consideration of a budget amendment in the amount of \$360,000 from Stormwater Fund Balance which would allow the City to continue the partnership with the Corps of Engineers for the flood mitigation efforts along the Swannanoa River.

The Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reduction for North Carolina communities hardest hit by the 2004 hurricane season. The Biltmore Village area of the City of Asheville (within the Swannanoa River watershed) was named as a recipient of this funding. The city previously hired a consultant (Brown and Caldwell) to perform the Swannanoa Flood Risk Management Project which identified potential flood mitigation projects.

City Council authorized the City Manager to enter into a Feasibility Cost Share Agreement (FCSA) with the US Army Corps of Engineers. This partnership with the Corps has allowed the City to continue the flood mitigation efforts and to focus on key projects that will be most effective in the flood mitigation efforts. The three key projects the Corps has identified is the removal of the flood plain fill near the Biltmore Avenue Bridge, reconfiguration of the Lake Craig Dam and the peak flow control structure at Warren Wilson College. In order to complete the feasibility report for the Swannanoa Flood Risk Management Project, additional efforts are needed to complete the report.

The City has a goal to continue to be stewards of the environment. Through this continued partnership the Corps of Engineers will finalize the flood mitigation efforts along the Swannanoa and will develop a recommendation for construction projects. The feasibility phase has to be complete prior to Construction activities beginning in order to receive Corps partnership funding.

The FCSA will recognize a majority of the work completed by the Brown and Caldwell and McGill on Phase 1 of the Lake Craig Project as "work-in-kind" matching to Section 205 funds allotted to the Project. However, in order to complete the work requested of the U.S. Army Corps of Engineers, agreement to a cash match of an additional \$360,000 is required. In addition, once identified flood control projects have proceeded to the final design and construction stages and as additional study needs are identified, additional funding may be required.

Pros:

- The cooperation of the U.S. Army Corps of Engineers and execution of a Federal Cost Sharing Agreement will position our community to receive Federal investment in flood control projects for the construction of the measures
- Flood mitigation efforts will reduce the depth of flooding to businesses and infrastructure within the Swannanoa River area.
- By continuing this feasibility study, the City is a step closer to having projects implemented.

Cons:

- The project management and coordination will consume staff time and City Funds.
- Payment requires an appropriation from Stormwater fund balance.

The additional funds for the continuation of the partnership will come available from fund balance in the Stormwater Fund. The Stormwater Fund ended FY 2014/15 with approximately \$2.0 million in available fund balance. After this appropriation, Stormwater will have available fund balance of approximately \$1.64 million. City staff will coordinate with the Corps and participate in the continued development of future projects.

City staff recommends City Council a budget amendment for the continued partnership with the US Army Corps of Engineers for the Flood Risk Management Project.

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G. RESOLUTION NO. 15-227 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A GENERAL SERVICES CONTRACT WITH PASSPORT PARKING INC. FOR ON-STREET METERED PARKING

Summary: The consideration of a resolution authorizing the City Manager to enter into a general services contract with Passport Parking, Inc. in order to enable customers to use credit/debit cards in addition to cash to pay for their on-street metered parking experience in downtown Asheville.

Passport Parking is a “cloud-based” pay-by-phone with validation system that enables customers to use credit/debit cards in addition to cash to pay for their on-street metered parking experiences in downtown Asheville. Customers simply access the system through their cell telephones by using voice, text, or a mobile “app” (with a smart phone). Individual accounts are secured with the specific telephone number and a unique PIN number (similar to using an ATM machine).

The system works with our existing parking meters without any needed changes or “add-ons”; therefore, there was no initial capital outlay. The existing parking meters continue to accept coins (the system simply provides other options for payment). City Council authorized City staff to charge a convenience fee of \$0.25 per transaction on August 14, 2012 (Ord # 4105) and no complaints regarding the convenience fee have been received (Passport Parking has already agreed to leave the convenience fee at \$0.25 per transaction). Although the anticipated annual expense of the contract is about \$30,000 +/-, staff is seeking City Council approval because the total value of the contract will probably exceed \$90,000 if the contract remains in effect for the initial 3-year time period and two 1-year extension time periods (the total maximum length of the contract is 5 years).

We began using Passport Parking during September 2012 as a test at 100 parking meters and then expanded the system to all of our parking meters during February 2013. We have now completed two full fiscal years (at full implementation); specifically, FY 2013-14 and FY 2014-15 and the results have been outstanding. Transactions have ranged from a low of 3,500 per month during July 2013 to a high of 8,600 per month during June 2015. During the past seven consecutive months, transactions have been greater than 8,000 per month and during two

of these months, we exceeded 9,000 transactions. 1,400 new users “came online” during September 2015! To date, Passport Parking has generated a total of \$352,000 in net revenue in the Parking Enterprises Fund as shown below:

Gross Revenue =	\$397,000
Convenience Fees =	-\$45,000
Net Revenue =	\$352,000

Based on this information and the positive comments that we receive about Passport Parking, I believe it is very successful and it provides a very good service to our customer base. The service is well established in our downtown area and I am confident that we will be expanding into other areas of the City during the next three to five years.

Pros:

- Enables customers to use credit/debit cards in addition to cash.
- Increases revenue.
- Customers pay a convenience fee.
- General Fund monies are not used.

Con:

- Credit/Debit card fees are an operating expense (\$27,260 paid in FY 2014-15).

The contract amount is directly dependent on the amount of transactions that occur at a rate of \$0.25 per transaction. For budgeting purposes, staff is assuming there will be 10,000 transactions per month which equates to an annual contract amount of \$30,000. The appropriate amount is currently budgeted in the Parking Enterprises Fund operating budget and will be budgeted each fiscal year.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into a general services contract with Passport Parking, Inc. in order to enable customers to use credit/debit cards in addition to cash to pay for their on-street metered parking experience in downtown Asheville.

RESOLUTION BOOK NO. 37 - PAGE 339

H. RESOLUTION NO. 15-228 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE U.S. GEOLOGICAL SURVEY APPLICATION TO NAME A CREEK IN WEST ASHEVILLE "FOX CREEK"

Summary: The consideration of a resolution authorizing the City Manager to sign the United States Geological Survey (USGS) application to name a creek in West Asheville “Fox Creek”.

As a part of its “Name that Creek” program, RiverLink recently worked with city staff to perform a community engagement process to gather nominations and identify a preferred name for the short creek that runs through West Asheville’s Falconhurst neighborhood, roughly parallel to Louisiana Avenue through to Patton Avenue. The neighborhood group identified the creek and the need to maintain and name it during the review process for the Craggy Park subdivision project.

The Falconhurst neighborhood proposed three names and the community-based engagement process initiated by RiverLink and supported by the City of Asheville (City) resulted in the selection of the name “Fox Creek” in honor of the fox and other wildland creatures that live in that area.

In order to complete the application to the United States Geological Naming Convention form to name this water body "Fox Creek", a local government official must sign the form to demonstrate support and to certify that the naming process followed USGS guidelines.

Because the request came from a Neighborhood Association and the creek is contained within a neighborhood, the request was referred to the City's Neighborhood Advisory Committee (NAC). On October 26, 2015, the NAC reviewed and unanimously approved the following motion: "We advise Council to support the proposed name of "Fox Creek" for the creek in West Asheville flowing through the Falconhurst neighborhood into Smith Mill Creek."

Pros:

- Naming of a creek or stream can bring attention to its existence, help identify it as a part of neighborhoods ecosystem, and encourage environmental stewardship that enhances quality of life.
- Supporting this community-driven effort further develops partnerships between groups like RiverLink, the Falconhurst neighborhood and the City.

Con:

- None identified.

There is no fiscal impact related to this item.

Staff recommends City Council authorize the City Manager to sign the USGS form to name the creek in West Asheville "Fox Creek."

RESOLUTION BOOK NO. 37 - PAGE 340

I. RESOLUTION NO. 15-229 - RESOLUTION APPROVING THE SUBMITTAL OF THE 2015-16 U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT CONTINUUM OF CARE COMPETITION GRANT

Summary: The consideration of a resolution approving the submittal of the 2015-16 Department of Housing and Urban Development Continuum of Care (CoC) Competition Grant Application on behalf of the Asheville-Buncombe Continuum of Care (CoC NC-501).

The City of Asheville serves as the Continuum of Care Lead for the Asheville-Buncombe CoC. Each CoC Lead is responsible for submitting the community's application to be considered for grant funding from the CoC Competition. For 2015-16, the Asheville-Buncombe CoC is eligible to apply for \$1,196,396 in renewal funding. The renewal projects currently assist in housing more than 300 formerly homeless individuals, including providing for case management funding, and includes the financial support necessary to operate the Homeless Management Information system for the entire NC-501 CoC. An additional \$179,459 is available for a new Permanent Supportive Housing project and \$35,892 is available for CoC Lead Planning costs.

The Homeless Initiative Advisory Committee (HIAC) appointed a Finance Subcommittee, comprised of individuals and agencies who did not apply for CoC funds, to review the Continuum of Care projects and application process and make recommendations to the HIAC. Their recommendations were approved unanimously by the HIAC. The HIAC recommended the following projects to the Housing and Community Development Committee for the 2015-16 CoC Grant Application. HCD approved these projects and recommends to City Council the submission of the 2015-16 CoC Grant Application.

Project	Type	Amount	Agency
Bridge to Recovery	Permanent Supportive Housing	\$293,831	Homeward Bound
PPH Extreme Needs 3	Permanent	\$73,311	Homeward Bound

	Supportive Housing		
Smoky Mountain Center, Shelter Plus Care	Permanent Supportive Housing	\$324,496	Smoky Mtn Center
PPH Extreme Needs 2	Permanent Supportive Housing	\$56,244	Homeward Bound
HMIS Renewal	HMIS User Fees and Support, Lead Agency Cost	\$67,500	City of Asheville
PPH Extreme Needs	Permanent Supportive Housing	\$218,798	Homeward Bound
PPH Extreme Needs 5	Permanent Supportive Housing	\$162,216	Homeward Bound
PPH Extreme Needs 4	Permanent Supportive Housing	\$179,459	Homeward Bound
CoC Planning Project	Planning and Coordination for NC-501	\$35,892	City of Asheville

Pro:

- Continuum of Care funding is a key funding resource for permanent supportive housing for homeless individuals and families, as well as operating the HMIS necessary for NC-501 to receive this funding.

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. Matching funds for the CoC Planning Project will come from Buncombe County. No general funds are requested to support this program.

Staff recommends that Council approve the Housing and Community Development Committee's recommendation to adopt the resolution authorizing the City to apply for CoC funding in order to provide those funds to the agencies for the programs approved by the U.S. Department of Housing and Urban Development.

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J. ORDINANCE NO. 4472 - BUDGET AMENDMENT FOR INSURANCE RECOVERY FUNDS TO REPLACE POLICE DEPARTMENT DWI TASK FORCE VEHICLE

Summary: The consideration of a budget amendment in the General Fund in the amount of \$35,389.71 from from insurance recovery funds from a totaled Asheville Police Department vehicle to utilize towards the purchase of a replacement vehicle.

On September 1, 2015, a City of Asheville (City) Police Department vehicle was totaled by a third-party. Recently, the City settled the property damage claim for \$35,389.71 and seeks to utilize the settlement funds to replace the vehicle.

Pro:

- Provides funding for APD Vehicle purchase.

Con:

- None.

The insurance recovery funds will be received in the City's Property & Liability Fund and then be transferred to the General Capital Project Fund, from which the new vehicle purchase will be made.

Staff recommends City Council adopt the budget amendment in the General Capital Project Fund in the amount of \$35,389.71 from insurance recovery funds to be utilized towards the purchase of a new Police Department vehicle.

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K. RESOLUTION NO. 15-230 - RESOLUTION IN SUPPORT OF THE CONNECT NC BOND

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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.

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

III. PRESENTATIONS & REPORTS:

A. DEVELOPMENT REVIEW AND PRESERVING DOWNTOWN CHARACTER

Director of Planning & Urban Design Todd Okolichany said that at its November 10, 2015, meeting, the Asheville City Council directed staff to present an evaluation of the development review process for Downtown Asheville, as well as strategies to preserve Downtown character. Strategy 6, Action Item 5 of the Downtown Master Plan recommends that after a four-year pilot period, the City should evaluate the success of the development review process changes that were made after the adoption of the Downtown Master Plan. The following evaluation is being provided at Council's request, and as recommended by the Downtown Master Plan.

BACKGROUND

Downtown Context - As the urban center of Asheville and western North Carolina, the Downtown's Central Business District (CBD) is an area where private and public investment is encouraged to preserve the CBD as the primary retail, office, hotel, institutional, cultural and entertainment center of our community. It is the further purpose of this district to encourage a strong supportive retail center along with high density residential development, which will complement other Downtown uses and surrounding neighborhoods, while slowing down the negative impacts of urban sprawl. A high priority is placed on design, integrating new uses into and with existing architecture in a respectful and cohesive manner. Further, a well-balanced transportation system is encouraged for this district, with an emphasis on all forms of transportation, including pedestrians, bicycling, transit and automobiles.

Downtown Master Plan - The Downtown Master Plan was adopted by City Council in 2009 after an extensive public outreach process that incorporated ideas from a broad spectrum of Downtown stakeholders and shared community interests. The result of this public input enabled the formulation of a vision for Downtown Asheville, which is to empower Asheville's essential creativity, entrepreneurship and energy to make Downtown flourish in a new era of opportunity.

The Plan's recommendations are further concentrated in a series of seven strategies, grouped into three main themes: Experiencing Downtown, Shaping Downtown and Managing Downtown Asheville, all derived from the community's vision.

Prior the adoption of the Downtown Master Plan, the CBD was experiencing rapid development and redevelopment, and several tall buildings were proposed for the core of Downtown, where the historic fabric is most intact. There was no height limit in Downtown and there were limited adopted design standards. In general, neither the citizens nor the development community were satisfied with the development approval process because it was unpredictable and there was a lack of standards for buildings.

While Strategies 4 and 5 of the Downtown Master Plan focused on the creation of a hybrid form-based code and additional design standards for the Downtown, including new maximum building height limits, Strategy 6 was established to update the regulatory framework for the development review process in order to address current development trends and in response to public concerns about the development review process.

Strategy 6 sought to achieve the following regulatory changes for the development review process:

- Clarify design standards and guidelines and ensure approvals are clearly linked to specific standards
- Provide predictability in the development review process rather than discretionary decisions
- Require the developer to hold a neighborhood meeting before submitting plans
- Require approval bodies to consider whether a proposal meets policy goals in the Downtown Master Plan
- Limit application of Conditional Use Permits
- Encourage infill development by making the Level I approval process easier and replacing the residential density caps from the development review thresholds with maximum development size and height thresholds in order to remove barriers to housing
- Guarantee multiple opportunities for public input, especially at the early stages of development review, and ensure that recommendations of lower boards/commissions are considered
- Enhance the role of the Downtown Commission in design review (i.e. building form and context over use)

The above changes revised the development review process, including new project size thresholds for Level I, Level II and Level III site plan review. Design standards were also codified in the city's Unified Development Ordinance (UDO) and additional design guidelines were established by the Downtown Commission to guide new development in the Downtown. Together, these changes helped to provide clarity and certainty in Downtown Asheville, allow ample public input, assure a level playing field for developers, promote confidence among elected officials, remove barriers to residential development, and give City staff a firm set of procedures and regulations.

Downtown Development Review Process - Prior to the adoption of the Downtown Master Plan, the Downtown development review thresholds were divided into the following three different categories (which are the same for the rest of the City):

- Level I: under 35,000 sq. ft. commercial or office, or 3 to 19 dwelling units
- Level II: 35,000 sq. ft. to 100,000 sq. ft. commercial or office, or 20 to 50 dwelling units
- Level III: more than 100,000 sq. ft. commercial or office, or more than 50 dwelling units

The following changes were made to the Downtown development review thresholds upon the adoption of the Downtown Master Plan and after extensive public input. These are the current site plan review thresholds for projects proposed in the CBD:

- Level I: new development or additions not meeting the threshold for Level II review, or modification to exterior walls/roofs, or renovations with a total cost exceeding 75% of the appraised value of the building
- Level II: gross floor area of 20,000 sq. ft. to 175,000 sq. ft. or building height under the Intermediate Height Zone (145 ft.)
- Level III: gross floor area greater than 175,000 sq. ft. or building height above the Intermediate Height Zone (145 ft. to 265 ft. maximum)

Project Type & Review Threshold	Current Downtown Project Review Process							
	Pre-Development Conference	Applicant Meeting w/ Neighborhood	Staff Review	TRC	Downtown Commission	Planning & Zoning Commission	City Council	Final TRC
Level I ¹			X					
Level II	X	X	X	X	X	X		X
Level III ²	X	X	X	X	X	X	X	X

Notes:

1. For Level I projects, a predevelopment conference with planning staff and a neighborhood meeting are recommended but are not required.
2. Level III projects located in Traditional Downtown Core shall be reviewed via the conditional zoning process. Level III projects located outside the Traditional Downtown Core shall be reviewed only for compliance with applicable standards and regulations.

As part of the changes that were made to the development review thresholds, new maximum height zones were established in the CBD. The Downtown Design Review Map and the Intermediate Height Zone (up to 145 feet) encompasses a majority of the Traditional Downtown Core of the Central Business District (CBD), with the exception of some parcels east of North Market Street, as well as several parcels west of O Henry Avenue and near the intersection of Patton and Coxe Avenues. The Intermediate Height Zone also applies to a majority of the CBD perimeter, adjacent to residential neighborhoods. The Tallest Height Zone (up to 265 feet) generally applies to areas within the CBD but outside the Traditional Downtown Core. These changes reflected community input during the Downtown Master Plan process. Citizens were mostly concerned about very tall buildings in the historic core of Downtown Asheville.

Downtown Development Trends - The following table indicates the number of development projects proposed in the Downtown each year since 2010, when the amendments to the UDO were adopted for the CBD. The table further separates each project by the primary type of use proposed:

Year	Number of Projects (Primary Use) by Type						Number of Projects Reviewed by City Council (Level III, CZ or CUP)
	Residential	Hotel	Residential/Hotel	Office	Institutional	Other	
2010					1		1
2011	1				1		1
2012							
2013	1	1				1	

2014	1	3		1			
2015	6	1	1		1		2
Total	9	5	1	1	3	1	4

Regarding the Downtown Projects Summary (2010-2015), the following types and amount of development have been proposed in Downtown Asheville since 2010. As can be seen, there is an overall trend over the past few years towards proposals for residential and hotel development in Downtown Asheville, especially since 2013:

- Residential: 700 dwelling units (height range: 32 feet to 62 feet)
- Hotel: 794 rooms (height range: 49 feet to 115 feet, with the exception of the BB&T building/One West Tower at Pack Square, which is an existing building that reaches 205 feet to the highest floor level)
- Retail/Restaurant: 32,250 square feet (mostly limited mixed-use as part of other projects)
- Office: 68,000 square feet (maximum height of 48 feet)
- Institutional: 212,000 square feet (height range: 74 feet to 140 feet)
- Other: 37,800 square feet (maximum height of two stories)

In spite of the recent increase in development proposals in Downtown Asheville, approved development projects have not reached their full allowable development potential. As shown above, the maximum proposed building height of recent projects has been well below the overall maximum allowable height of 265 feet for areas outside the Traditional Downtown Core. Within the Traditional Downtown Core, recently proposed residential projects have reached 62 feet, which is only 43% of the maximum height of the Intermediate Height Zone (up to 145 feet). The maximum proposed building height of recent hotel projects in the Traditional Downtown Core has reached 115 feet, which represents 79% of the maximum height of the Intermediate Height Zone (For purposes of this building height analysis for both residential and hotel projects, the BB&T building/ One West Tower at Pack Square is excluded as it is an existing building.)

From a building form and design perspective, approved development projects have been guided by the UDO and Downtown Design Guidelines. While design standards in the UDO are required, the Downtown Design Guidelines require mandatory review (by the Downtown Commission) but only voluntary compliance. This type of review structure allows for flexibility in the design process as long as developments meet the intent of the design guidelines.

Changes to the UDO and design guidelines have led to projects that are held to a higher design standard in terms of fenestration, street wall step-backs, the orientation of buildings, the use of high quality materials, and respect for the Downtown's historic resources and overall character. Recent development is incorporating many of the qualities of older, more traditional urban development patterns that contribute to Downtown character and vibrancy. Traits that characterize these developments include interconnected street systems, wider sidewalks, a mix of uses, activated ground floors, higher density and less parking.

Although recent development trends have added value to the Downtown's urban form and vibrancy, increased development has led to a number of issues that are common in downtown areas, but manageable. Concerns have been expressed by residents, visitors and business owners about overcrowded sidewalks, pedestrian crowding in roadways, motorist safety, blocked crosswalks, handicap access, the availability of a sufficient number of parks, the functionality of existing public spaces, and construction staging. As the City continues to grow, there needs to be greater emphasis on its public spaces to ensure that it is meeting or exceeding standard levels of service, accommodating multiple users, and balancing public safety concerns for the use and creation of public spaces that contribute to the dynamic environments that make Asheville such a unique place to live, work and visit.

ALTERNATIVE STRATEGIES

Strategies to Expand Council Review - As noted in the Downtown Master Plan, prior to its adoption, conditional use permit decisions in the Downtown led to public concerns about discretionary design review being conducted by City Council, failure to consider the recommendations of lower boards/commissions, and potential costly requirements being unexpectedly placed on projects at the final stage of the review process. In response to these concerns, conditional use permits were limited only to certain uses that could prove incompatible with existing Downtown uses and character. City Council may have a desire to expand their UDO authority to review additional uses that may be impacting Downtown Asheville neighborhoods via the following two zoning tools:

Conditional use permit: this zoning tool allows conditionally-appropriate uses to be considered through a quasi-judicial public hearing process. Conditional uses are uses which are generally compatible with other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding neighborhood and/or the city as a whole, require individual consideration of their location, design, configuration, and/or operation at the particular location proposed. In a quasi-judicial proceeding, the Council is not setting new policy but is applying policies expressed by an existing ordinance, statute or regulation to past or present facts presented at a hearing.

Under a conditional use permit, there are currently seven standards that must be met, such as the development will not endanger public health or safety. Consideration may also call for the imposition of additional individualized conditions. For example, in the Neighborhood Corridor district, drive-through facilities must be located to the side or rear of the building and not be placed on the street side of the building. Hours of operation may also be limited by City Council.

In the consideration of applying the conditional use permit process to new uses in Downtown Asheville, the City Council could require minimum parking requirements or additional design criteria. City Council could also require that for certain uses, the proposed building must contain a minimum percentage of mixed uses, such as housing.

If the Council chooses to apply the CUP process to a new particular use(s) it would require a zoning text amendment to the City's UDO. Per North Carolina statutes any zoning amendment must be consistent with an adopted comprehensive plan or any other officially adopted plan that is applicable. If the zoning amendment is not consistent with the City's Comprehensive Plan, the Plan must be updated accordingly.

Pro:

- City Council may apply the conditional use permit process to certain uses (rather than change the site plan review threshold for all uses) and may include additional standards or design criteria that should be met.

Cons:

- As a quasi-judicial process, City Council members may not participate in ex parte communications (written or verbal) with the applicant, the Planning and Zoning Commission, other City Council members or community members outside of the public hearing.
- The decision is based on evidence at the City Council hearing and Council may have no choice but to either grant or deny based on evidentiary presentations.
- If the proposed zoning amendment to apply the CUP process to a new particular use(s) is inconsistent with the City's Comprehensive Plan, the Plan will need to be revised.

Conditional zoning: this is a rezoning that is pursuant to a particular development proposal. Conditional zonings can only be initiated by the property owner. In addition to specific conditional zoning requests for zoning district changes, all Level III projects in the Traditional

Downtown Core are currently reviewed via the conditional zoning process. The City Council could consider expanding the conditional zoning review process within the CBD to areas outside the Traditional Downtown Core.

Pros:

- Flexibility in the review process in that City Council and the applicant may agree upon certain conditions that could improve the overall project.
- Communication between City Council members and others is allowed outside of the public hearing.

Cons:

- Conditional zoning can be perceived as arbitrary and unpredictable, and could lead to unforeseen costs for the applicant.
- May require changes to the UDO and a new overlay district or other zoning district

Design guidelines: In addition to the standards prescribed by the UDO, the CBD is contained within the Downtown Design Review Overlay District. This district requires mandatory review, but voluntary compliance, with the Downtown Design Review Guidelines. The guidelines were approved by the Downtown Commission but have not been adopted by the City Council. If formally adopted, the design guidelines could aid City Council in their review of projects in the CBD, and provisions could be drafted which would permit the denial of a project based on noncompliance with the adopted design guidelines.

Strategies to Preserve Downtown Character - The City of Asheville has recently been engaged in a public conversation regarding Downtown character. Most recently, this topic was discussed at several Downtown Commission meetings, including a subcommittee of the Commission, and at their November 2015 retreat. Specific concerns voiced by the Council on November 10th included ways and means to preserve authenticity and shaping the character of Downtown.

The City currently utilizes a number of different strategies to preserve and enhance Downtown character, including codified design standards, Downtown Design Review Guidelines, Downtown Master Plan and Historic Preservation Master Plan policies, the Comprehensive Plan and other planning documents, and economic incentives and programs:

UDO - The City's Unified Development Ordinance (UDO) includes the City's zoning and development requirements. It contains several standards aimed at protecting and enhancing character in the Central Business District (CBD). One such standard is the minimum height requirement of two stories that helps to maintain a building form that is consistent with downtown environments. Shadow impacts on public parks or plazas are also limited in the CBD, while stepback requirements help to enhance the traditional scale of Downtown and ensure adequate air and light at the sidewalk level and neighboring properties. Requirements for the placement of parking to the side or rear of buildings, no minimum front building setbacks and other design standards further contribute to the Downtown's urban form.

2025 Comprehensive Plan - The City's Comprehensive Plan sets forth the goals and policies which serve as the basic policy guide for development in the City of Asheville. These goals and policies may be amended from time to time to meet the changing requirements of the City. A Comprehensive Plan is advisory in North Carolina but all zoning regulations must be made in accordance with a comprehensive plan.

The current Comprehensive Plan was adopted in 2003 and contains a number of goals and policies that promote community character, including the creation of standards for building orientation that address build-to lines and site relationships, promoting quality building design and contextual design, and increased connectivity and walkability. Together, these policies help to promote traditional urban development patterns that contribute to neighborhood character.

In October 2015, the City released a request for proposals to hire a consultant to assist the City in updating the 2025 Comprehensive Plan. The project kick-off is anticipated to occur in the first quarter of 2016 and the overall timeframe of the project is expected to be 18 months.

Downtown Design Review Guidelines - The guidelines aid architects for new buildings, renovations and additions to existing buildings in the CBD to achieve buildings of distinction whose designs are true to the present day and sensitive to the architectural fabric of the city. The guidelines further help to promote active and mixed uses that contribute to the vibrancy of Downtown Asheville.

Downtown Master Plan and Downtown Coordinator Position - The Downtown Master Plan aims to help the community shape growth in a way that preserves Downtown Asheville's character and authenticity, while promoting strategies that help to contribute to Downtown's vibrancy. The plan recommends the development of character areas or neighborhoods as development spreads outside of the downtown core. These are the future neighborhoods of Downtown where there will be opportunities for small businesses.

At its November retreat, the Downtown Commission discussed a recommendation to City Council that the City should consider updating the Downtown Master Plan to focus on public spaces and streetscape issues.

City Council also recently approved the creation of a Downtown Coordinator position. This person will serve as a liaison between City departments and downtown businesses, residents, property owners and the Downtown Commission. This position was previously staffed by the City Development Director until 2005. With the surge in tourism, development and general downtown vibrancy, the City has recognized the need for a point person to coordinate many of the complexities of the Downtown. The Downtown Coordinator position will be able to assist and support small business owners, especially as it relates to working with City processes and standards.

Historic Designation/Historic Preservation Master Plan - Downtown Asheville is designated a National Historic District. Federally designated historic districts are listed on the National Register of Historic Places, which makes available federal tax credits for rehabilitation. However, federal listing imposes no restrictions on what property owners may do with a designated property.

In March 2015, City Council adopted the Historic Preservation Master Plan for Asheville and Buncombe County, North Carolina. The Master Plan was designed to establish goals and recommended actions for historic preservation, as well as to guide future program development and decision-making. Recommendations include policies that preserve historic buildings and the character defining elements of the public realm, enhanced coordination between the Historic Resources Commission and Downtown Commission regarding demolition permits, implementing the City's wayfinding system, and supporting the adaptive re-use of historic buildings for affordable housing.

City Programs and Studies - Earlier this year the City Community and Economic Development Department completed a small business incentive study and presented the study to both the Planning and Economic Development Committee and the Housing and Community Development (HCD) Committee. Both committees agreed that the City should continue to invest in streamlining the customer service experience, provide information on how to start a new business in the city, and raise awareness of existing small business support programs. The committees also agreed that if the City were to fund a small business revolving loan program, it would look to a partner agency for administration. The HCD committee was also interested in exploring façade grants and small business grants that encourage job creation.

In August of this year the U.S. Small Business Administration awarded a \$50,000 grant, called "Startup in a Day", to Asheville to simplify the startup process for entrepreneurs so that they can review through an online portal the necessary regulatory processes to start a business. City staff is currently working on the program, which will help streamline the licensing, permitting and other requirements needed to start a business in the City through a single point of entry.

Economic Incentives and Tax Credits - Economic incentives, such as business tax credits, can be a useful tool in supporting businesses; however, this type of tax credit is generally available at the state level. The City has a performance based economic incentive program. The City's Business Development Grant can help to stimulate small business expansions. Similar to the state's business tax credits, award of the City's grant is dependent on such factors as the location of the business, the amount of capital investments and the number, equity and quality of jobs created.

Additional Strategies - The City's statutory zoning authority is governed by primarily by North Carolina General Statutes Sections 160A-381 and 160A-383. Zoning allows cities to regulate building size, height, lot size, setbacks, and the types of uses that are permitted within certain districts. However, cities in North Carolina cannot regulate based upon who is the owner or operator of a business as North Carolina General Statutes (and federal law) do not permit municipalities to interfere in commerce.

There may be other local programs and partnerships that the City could explore that support small businesses and the overall economy; however, further analysis of these strategies is needed in order to determine and understand potential state restrictions and other barriers, the City's role, potential partnerships, funding mechanisms and other information. Some of these strategies include:

- Supporting businesses that contribute to sustainable, inclusive economic development
- Incentives to property owners who prioritize reasonable rent increases or property owners who place deed restrictions or trusts
- Partnering with organizations that can offer support in negotiating leases and protecting tenant rights
- Incubating small, creative start-ups to foster and elevate the small business entrepreneur
- Community investment and partnership with a non-profit land trust

Summary and Next Steps

Downtown Development Review Process - As noted above, the current Downtown development review process and Downtown design standards have helped to provide clarity and certainty in Downtown Asheville, allow ample public input, assure a level playing field for developers, promote confidence among elected officials, and give City staff a firm set of procedures and regulations.

Development trends show an increase in overall development throughout the City, including recent increases in residential and hotel activity in the Downtown. Although these projects are not meeting their full allowable build-out potential, increased development has led to a number of issues, such as overcrowded sidewalks and the functionality of existing public spaces.

If City Council decides to revisit the current development review thresholds, it is recommended that the City conduct a public outreach process in order to solicit community input from citizens, businesses, property owners, neighborhood and business groups, other organizations and various City boards and commissions. Additional factors that should be considered are the potential unintended consequences of changing review levels (e.g. developers may propose lower density projects that are under that threshold, which could be counterintuitive

to the purpose of the Downtown), as well as the extra standards that Council would review if the site plan level threshold is changed.

As an alternative to revisiting the development review process for all projects in the CBD, City Council may consider expanding its UDO authority to review certain specific types of uses via the conditional use permit process, or expand the conditional zoning review process within the CBD to areas outside the Traditional Downtown Core. In addition, City Council may consider adopting the Downtown Design Review Guidelines so that projects would be subject to mandatory review and mandatory compliance with the guidelines.

Preserving Downtown Character - A community engagement process will occur as part of the City's effort to update its Comprehensive Plan. In regards to the CBD, the Comprehensive Plan will address conflicting expectations, values and ideals for Downtown parks and other types of public spaces. At its November retreat, the Downtown Commission discussed a recommendation to City Council that the City should consider updating the Downtown Master Plan to focus on public spaces and streetscape issues.

There may be other local programs and partnerships that the City could explore that support small businesses and the overall economy; however, further analysis of these strategies is needed in order to determine and understand potential state restrictions and other barriers, the City's role, potential partnerships, funding requirements and other information.

At this time, City staff requests further direction from Council as to how staff should proceed or be of further assistance.

Councilwoman Mayfield felt we need to clearly identify the problems and concerns with downtown development as a first step in figuring out the right strategy.

Mayor Manheimer said we only have certain tools to use to address the problem. A short time ago, Council asked to look at a process to accelerate the review of development review thresholds. She reiterated some tools that might address some of the concerns - bringing Level II's under the review of Council; expanding the UDO authority to review certain specific types of uses via the conditional use permit process, or expand the conditional zoning review process within the CBD to areas outside the Traditional Downtown Core; or adopting the Downtown Design Review Guidelines so that projects would be subject to mandatory review and mandatory compliance with the guidelines. She recommended this be reviewed by the Planning & Economic Development Committee (PED) to take a more thorough look at these issues (including the pros and cons of all approaches) and the process on how any changes would work and make a recommendation to City Council.

Councilman Smith was pleased that the City is updating the Comprehensive Plan as the values of the community can shift over time. Back in 2010 when we looked at downtown design review, we needed to stimulate investment and growth in our downtown. The hotel industry has not responded to the needs of the citizens to what we felt were very reasonable calls for cooperation and partnership regarding the occupancy room tax. Among the values of the citizens of Asheville are providing a living wage, sources things locally, turning to local businesses, and recognizing we are in the midst of an affordable housing crisis. Regarding mandatory compliance with the downtown design guidelines, he didn't want to homogenize our downtown because our community values also surround independent spirit and an arts and culture vibe. We need to strike a balance. He would support lodging (hotels) as a use into a conditional use permit process and to expand the conditional zoning review process within the CBD to areas outside the Traditional Downtown Core. He would also support reducing the development review threshold for Level II's from 175,000 to 100,000. He supported businesses that contribute to sustainable, inclusive economic development; incentives to property owners who prioritize reasonable rent increases or property owners who place deed restrictions or trusts; partnering with organizations that can offer support in negotiating leases and protecting tenant rights; incubating small, creative

start-ups to foster and elevate the small business entrepreneur; and community investment and partnership with a non-profit land trust.

Councilman Bothwell was interested in seeing what other cities have used for design guidelines that push for quality. He also supported the mandatory compliance of the design guidelines.

Councilwoman Mayfield suggested that we might investigate having a very high level architectural review, which would be different from compliance with design guidelines.

Mayor Manheimer said that in general she is concerned about going in the direction of conditional use permits for downtown because she felt we can get a good project with just conditional zoning, which will allow us to speak directly to the applicants and enter into a more negotiation setting. But, the downside would be we can't require conditional zonings by use - it would be by size, and that would be capturing hotels and apartments.

Vice-Mayor Wisler preferred Council to direct PED to look at two or three different options that can be result in a relatively rapid decision while other options will be reviewed in the update to the Comprehensive Plan.

There was consensus of Council to have PED look at reducing the Level II threshold in downtown from 175,000 sq. ft.

There was discussion about if Council wanted to look at expanding the conditional zoning review process within the CBD to areas outside the Traditional Downtown Core. Mr. Okolichany clarified that in the CBD is further refined to the Traditional Downtown Core. That is where the conditional zoning process is currently implemented. Outside of the Traditional Downtown Core, but still within the CBD projects go through a Level III process, but it is not currently through conditional zoning (it is the conditional use permit process).

In response to Councilman Young, Mr. Okolichany explained one of the main differences between the conditional use permit process vs. a conditional zoning. He said with a conditional use permit process, you can apply that to a specific use. If Council decides to expand the conditional zoning process to all areas within the CBD, that would apply to all uses - residential, hotel, institutional uses, etc.

It was the consensus of Council to have PED look at mandatory design guidelines for downtown, which might consist of an historic overlay, conservation, or an architectural review.

Councilwoman Mayfield also suggested PED look at perhaps implementing some of the recommendations about preserving the Traditional Downtown Core from the Historic Preservation Master Plan.

It was the consensus of Council that PED look bringing in any Level II project in the entire CBD before Council for review. PED can flush out whether it is appropriate to make them reviewed by City Council as a conditional zoning or a conditional use permit.

After discussion about whether Council wanted to review all hotel applications outside of the CDB, it was the consensus of Council to review that as part of the comprehensive plan.

Mayor Manheimer said that regarding preserving the downtown character, at the City Council retreat Council will have the opportunity to provide policy direction to incorporate the small business focus and menu of options for promoting and helping supporting small businesses in our downtown.

At the request of Councilman Young, Mr. Okolichany said that he will provide best practice guidelines from other cities, along with additional analysis on the menu of options.

When Councilwoman Mayfield asked if we can look at zoning individual parcels that have a lot of opportunity for good developments, Mr. Okolichany explained that they normally look at segments, not parcels. The Comprehensive Plan is the best approach to look at corridors.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING AT 671 SAND HILL ROAD TO ADD A 2-STORY, 8,000 SQUARE FOOT BUILDING FOR AN ESTABLISHED PRIVATE SCHOOL

ORDINANCE NO. 4473 - ORDINANCE AMENDING A PREVIOUSLY APPROVED CONDITIONAL ZONING AT 671 SAND HILL ROAD TO ADD A 2-STORY, 8,000 SQUARE FOOT BUILDING FOR AN ESTABLISHED PRIVATE SCHOOL

Assistant Director of Planning & Urban Development Alan Glines said that this is consideration of an amendment to a previously approved conditional zoning at 671 Sand Hill Road to add a 2-story, 8,000 square foot building for an established private school. This public hearing was advertised on November 27 and December 4, 2015.

Mr. Glines said that the applicant is requesting an amendment to the conditional zoning for the property located at 671 Sand Hill Road to build an additional school building from the originally approved plan. Per Section 7-7-8(c)(6) of the City of Asheville Unified Development Ordinance (UDO), changes to a previously approved plan must be approved by the City Council as an amendment to the conditional zoning (CZ).

The site is a 1.91 acre parcel that slopes up gently from Sand Hill Road. The property PIN is 9627-59-0175 and the owner is Classical Properties, LLC. The applicant is Andrew Cross and the school is known as the New Classical Academy. The driveway to the school is shared by easement with a residential community of 46 homes behind this site on separate parcels. The parcels surrounding the school are zoned *Residential multi-family low density* (RM-6) which includes mostly residential uses, primarily single and multifamily units. *Institutional* zoning located further west is owned by the Asheville School abutting Sand Hill Road.

New Classical Academy seeks to expand their school operations on the site by constructing a new classroom building with a multipurpose room. The new two-story building would total about 8,000 square feet. Four new classrooms will be a part of the building. The current building totals about 3,400 square feet on two levels providing space for three classrooms and worship space. Since the original conditional zoning application was approved in 2012, site improvements are in place and are compliance with technical standards. The school currently has an enrollment of 56 students and would like to eventually grow to a maximum of 80 students in classroom programs K-8.

Principal access to the site is from Sand Hill Road along a shared driveway. Sidewalks are not in place at this location but will be added as a condition of this proposal. There is ample parking on the site based on a total of seven classrooms proposed for the school. Plans show 19 spaces with a longer drive aisle for parents dropping off and picking up students. The existing facilities can accommodate this future increase because the existing parking area is ample based on calculations in the UDO, and could also be expanded if necessary. A condition was placed on the prior approval that if the school should grow beyond 60 students, a traffic management plan would be submitted for review by City staff. The plan was submitted to the Transportation Department as a part of the current application and was found to be sufficient.

Landscaping is required for this project and includes street trees, parking lot landscaping, building impact landscaping, and tree save area. Landscaping shown on the submitted plans complies with requirements and were installed during the approval of the original conditional zoning application. The project is also required to have a minimum of 15% open space, which is provided in the form of a play area at the back of the site.

A condition from the original 2012 conditional zoning approval to modify the property line buffer requirement along the east property line will continue with this amendment. The property line buffer in this location was waived because of a lack of sufficient space due to the shared access driveway.

The proposal was approved with conditions by the City's Technical Review Committee (TRC) on October 19, 2015. The Planning and Zoning Commission reviewed the project and recommended unanimous approval at their meeting on November 4, 2015. Should City Council approve the amendment, the project will have a final review by the TRC.

One neighbor called to ask that additional plantings or a fence be provided at the east side of the parcel. There is limited space in this area to provide additional plantings on the applicant's property. A second nearby property owner came to the Planning and Zoning Commission meeting with concerns about traffic in the area at the end of the school day as parents are picking up students from the public school bus. The applicant and the neighbor agreed to meet and discuss this situation.

In 2012, the subject property was rezoned to Institutional-CZ (INST-CZ) for the original school development. Prior to this application, this property was zoned Residential Multifamily Low Density (RM-6). A K-8 school use in a residential zone is a use by right subject to special requirements (USSR) with a requirement that the parcel size be a minimum of two acres. Since the project site is 1.91 acres it could not be permitted without a conditional zoning change.

Adjacent uses include apartments to the north of the property, which share the driveway at Sand Hill Road. Other uses in the area are primarily single family in nature. Schools are allowed in residential areas and this school has been in operation for several years. The location along Sand Hill Road is good for a school use because of easy access with ample room to provide for parking needs and outdoor play space.

The proposed development supports the goal stated in the *Asheville City Development Plan 2025* that appropriately-scaled non-residential uses that serve residents of neighborhoods should be allowed in appropriate locations. The site has been evaluated and has sufficient infrastructure in place to manage impacts on the surrounding community. Schools are supported with this goal.

The proposal is aligned with Focus Area One: Economic Growth and Sustainability; and Goal 2: Invest and leverage investment in community infrastructure because the proposal will bring additional investment in the school expansion and will be adding a sidewalk linkage at the street.

Considerations:

- The school will expand at this location with a new 8,000 square foot building.
- The site has sufficient space to manage the proposed increase in the number of students/ classrooms.
- Parking and traffic needs will be managed onsite.

Based on policies stated in the Comprehensive Plan and other plans, staff finds this request to be reasonable and within the public interest and recommends support of the conditional zoning as proposed.

Mr. Clay Mooney, representing the applicant, said that they are willing to comply with the conditions and requested Council approved the conditional zoning amendment.

Mayor Manheimer opened the public hearing at 6:22 p.m., and when no one spoke, she closed the public hearing at 6:22 p.m.

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

Vice-Mayor Wisler moved to approve the Institutional Conditional Zoning Amendment based on the site 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) appropriately-scaled non-residential uses that serve residents of neighborhoods are encouraged where impacts can be managed; and (2) the proposal will bring further investment at an infill location and will improve public infrastructure. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 200

B. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING AN UNNAMED ALLEY OFF JARRETT STREET

RESOLUTION NO. 15-231 - RESOLUTION TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF JARRETT STREET

Streets Manager Chad Bandy said that this is the consideration of a resolution to permanently close a portion an unnamed alley off Jarrett Street. This public hearing was advertised on November 13, 20, 27 and December 4, 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, TS Investments, LLC, owners of parcel 9638-25-1024, and Ira Bernstein, parcel 9638-25-0070, and David Chambers, parcel 9638-25-1177, have requested the City of Asheville to permanently close the unnamed alley off Jarrett Street.

The Multimodal Transportation Commission met on October 28, 2015, and approved the closure.

Communication has been made with the various utility companies and there are no easements to retain in the closed portion.

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 off Jarrett Street.

Ms. Kathy Durham, managing partner with TS Investments, thanked City Council for their consideration.

Mayor Manheimer opened the public hearing at 6:27 p.m. and when no one spoke, she closed the public hearing at 6:27 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 for the adoption of Resolution No. 15-231. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 343

V. UNFINISHED BUSINESS:

A. I-26 CONNECTOR PROJECT

REVIEW OF TECHNICAL COMMENTS AND PROCESS

Transportation Director Ken Putnam said that the purpose of this memorandum is to update City Council regarding staff's comments about the I-26 Connector Project Draft Environmental Impact Statement (DEIS).

The I-26 Connector Project is an interstate freeway project that is being proposed to connect I-26 in southwest Asheville to US 19-23-70 in northwest Asheville. The North Carolina Department of Transportation (NCDOT) has programmed this project to upgrade and widen I-240 from I-40 to Patton Avenue, and then proceed northward from Patton Avenue on new location across the French Broad River and connect to US 19-23-70 just south of Exit 25 (Broadway). Upon completion, this project will be part of the I-26 interstate that extends from Charleston, South Carolina to Kingsport, Tennessee. It is about 7 miles long and includes three sections: C, A, and B.

The NCDOT completed and released the DEIS for review and comment on October 16, 2015. As a part of the release, copies of the actual document were provided to the following locations; the NCDOT local Division 13 office on Orange Street, the Land-of-the-Sky offices on New Leicester Highway, the City of Asheville Transportation Department in City Hall, the Pack Memorial Library, the West Asheville Library, and the Buncombe County Law Library. In addition, the public hearing maps were provided to the following locations; the NCDOT local Division 13 office on Orange Street, the Land-of-the-Sky offices on New Leicester Highway, and the City of Asheville Transportation Department in City Hall. All of the project materials can also be viewed at the project website at <http://www.ncdot.gov/projects/i26connector/>.

The Open House and Public Meeting were held on Monday, November 16, 2015, at the Renaissance Hotel located at 31 Woodfin Street. The informal open house was held from 4:00 pm until 6:30 pm and during this time, NCDOT representatives were available to answer questions and receive comments on a one-on-one basis. Earlier in the day (from noon until 1:00 p.m.), an informational meeting with local officials was held. The formal public hearing began at 7:00 pm with a presentation including an explanation of the proposed corridor location, design, right-of-way, relocation requirements/procedures, and the state-federal relationship. After the presentation, statements, questions, and comments were received by the persons attending the meeting. All of the comments were recorded and a transcript is being prepared. The official comment period ends on December 16, 2015, and the NCDOT has provided many ways for comments to be submitted. In addition, the City's public media staff has worked closely with the NCDOT to ensure that all comments are submitted to the NCDOT.

City staff conducted two “work sessions”; one on November 6, 2015, and the other one on November 17, 2015, to review the materials and prepare comments. Attendees included staff members from the Transportation Department, the Planning Department, the Public Works Department, the Multi-Modal Transportation Commission, the Asheville Design Center, and the Southern Environmental Law Center. Staff comments focused on multi-modal transportation elements and the City’s transportation plans as outlined in the joint resolution approved by the City of Asheville, Buncombe County, and the French Broad River Metropolitan Planning Organization (FBRMPO) on March 25, 2014 (Resolution # 14-54). Staff’s comments are more technical in nature and staff does not recommend a specific alternative. In summary, staff comments (1) strongly encourage inclusion of complete streets elements; (2) strongly encourages minimizing overall project footprint; (3) strongly encourages active participation during the design phase; (4) strongly encourage mitigation strategies during the construction phase; and (5) strongly encourages NCDOT to redesign Amboy Road to be consistent with the City’s ongoing project. The comments will be submitted to the NCDOT via a cover letter on December 16, 2015.

Councilwoman Mayfield suggested the following comment amendments: (1) express concern about the impacts of Alt. 4 and 4B on the east side of the river, particularly in the Hill Street Street, Isaac Dickson and Riverside Cemetery; (2) making Patton Avenue (in Alt. 4 and 4B) a pedestrian friendly, truly multi-modal urban boulevard instead of just a high speed thoroughway to downtown; (3) use of current updated base maps in the final EIS in order to reflect construction activities (new homes and businesses) that have occurred during the past several years; and (4) explore possibilities of constructing buildings on the Haywood Road bridge in an effort to maintain connectivity as a business corridor through west Asheville.

RESOLUTION NO. 15-232 - RESOLUTION REGARDING THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION I-26 CONNECTOR TIP PROJECT 2513

Councilwoman Mayfield said that this is probably going to be the largest infrastructure project we will ever see in western North Carolina. It will cost approximately ¾ of a billion dollar just in this corridor in the City. It will be a huge impact on neighborhoods and businesses, all of which are growing. How the project unfolds will dictate the character and feel of our city for decades going forward. She then explained the potential impact of this project, along with a background of it leading up until now.

She said some citizens want to see the project go away. She felt the City should resist that temptation for several reasons: (1) there are very real safety issues in this corridor; (2) even if the City of Asheville did not want the project doesn’t mean it would stop NCDOT from moving forward; and (3) we would forfeit the critical opportunity to make the City’s voice heard about what it is we want to see from this project.

She said that basically we want to see a project that matches the scale and character of our community; that reunifies and connects community; minimizes impact of neighborhoods and local businesses; and separates local and interstate traffic. The resolution below accomplishes those goals.

She then reviewed the following resolution, including three amendments: "WHEREAS, the North Carolina Department of Transportation (“NC DOT”) has issued a Draft Environmental Impact Statement (“DEIS”) for the I-26 Connector Project, TIP Project I-2513 (“the project”); and WHEREAS, NCDOT is seeking public input on the DEIS and held a public information session and hearing on November 16, 2015; and WHEREAS, the City of Asheville is providing comments to NCDOT on the DEIS through a letter and this resolution; and WHEREAS, the I-26 and I-240 corridors are critical to local and regional residents, visitors, interstate travelers, and regional commerce; and WHEREAS, traffic congestion and safety are continuing problems along I-240 and I-26 through Asheville; and WHEREAS, improvements to the I-240 and I-26 corridors should be minimally impactful to the local community and should enhance the quality of life for residents and the quality of experience for visitors wherever possible; and WHEREAS, NC DOT has been

responsive to input from the City of Asheville and Buncombe County by including new bicycle and pedestrian facilities in the DEIS; and WHEREAS, the NC DOT has committed to run the new, local travel demand model and undertake a capacity analysis that considers a six-lane alternative for Section A and has stated that fewer lanes would be built if these analyses demonstrate fewer lanes would be sufficient; and WHEREAS, members of the community have expressed at the November 16 public hearing and through letters their strong preference for a project that addresses current congestion and safety problems but also one that is smaller overall, better reflects the character of Asheville, incorporates additional bicycle and pedestrian facilities, and minimizes harm to the affected neighborhoods of West Asheville, Burton Street, Emma, and Montford; and WHEREAS, the City of Asheville seeks a closer working relationship with NC DOT on the ongoing design of this project to ensure its impacts are minimized. NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT: (1) The City of Asheville calls on NC DOT to use any and all tools at its disposal to reduce the overall size and impact of the project on Asheville's neighborhoods and businesses and to improve community connectivity through inclusion of additional bicycle and pedestrian elements required by NC DOT's Complete Streets policy, reflected in adopted City plans and policies, and referenced in the December 9, 2015, cover letter and December 8, 2015, Memorandum from the City of Asheville, both of which are specifically incorporated herein by reference; (2) The City of Asheville further calls on NC DOT to analyze in both the travel demand model and the capacity analysis a six-lane alternative in Section A (the West Asheville section) coupled with four lanes for I-26 in Section B (the bridge section) and to construct as few lanes as possible to address safety and congestion; (3) The City of Asheville further calls on NC DOT to partner with the City in creating a collaborative working group of City appointees and NC DOT design professionals that will meet regularly starting in early 2016 and throughout the design phase to: (a) minimize the project's size and impact, which will provide community benefits and reduce cost; (b) ensure adequate consideration of the concerns listed in the City's comment letter; (c) analyze the travel demand model, capacity analysis, and the methodology of calculating Level of Service in an effort to gain consensus on these foundational elements of the project; (d) identify opportunities to return land around the project to productive, tax-generating use and to ensure land on the east side of the river under any new bridges is put to use in a way that enhances the riverfront; and (e) identify opportunities to repair or redress impacts of previous transportation projects on neighborhoods and businesses; (4) In order to provide the most benefit to the Asheville community while also accommodating through traffic, and for all the reasons stated in the City of Asheville's comment letter, the City of Asheville endorses Alternatives 4 and 4B for Section B and calls on NC DOT to further minimize the size and scale of these alternatives, particularly the impacts on the Burton Street Community, the impacts of Alt. 4 on the Emma Community and the impacts of Alt. 4B on the Montford Community. Following completion of the new travel demand model and capacity analysis and focused exploration with NC DOT of options to reduce the overall size and impact of the project, the City of Asheville anticipates being able to endorse a single alternative but, in the absence of additional information, is not able to do so at this time; and (5) The City of Asheville endorses Alternative F1 for Section C (I-40/I-26/I-240 interchange) in order to minimize the footprint and cost, while achieving the primary objective of creating full movement between interstate highways. For the reasons cited in the City's comment letter, the City of Asheville does not endorse the increased expense associated with the proposed collector roads and widening of I-40 east of Brevard Road."

She said that we have very real problems in this corridor that need to be addressed and we need to figure out a way to do that while preserving the integrity of our City and the things that make it special.

Closed Session

At 7:13 p.m., Councilman Young 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. Gen. Stat. § 143-318.10(a)(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); and (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, a lawsuit involving the following parties: Rebecca Robertson, Wann Near, Christal Weatherly and the City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 7:50 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

Mayor Manheimer asked for public comment.

The following individuals expressed their thoughts regarding the I-26 Connector and its route, and those with written comments submitted them to Mr. Putnam for forwarding to the NCDOT (others indicated they would submit their comments directly to NCDOT):

John Gordon, resident in the Montford area
Ted Figura
Joe Minicozzi
Steve Rasmussen
Don Kostelec
Alan McGuinn
Mike Sule
West Asheville resident
Timothy Sadler

In response to Vice-Mayor Wisler, Mr. Putnam felt that he didn't think that 1,000 copies of the same letter to NCDOT would rise to the top; but felt it was very important to make sure that the NCDOT receives at least one copy.

Councilman Bothwell felt that the suggestion by Mr. Kostelec be made to the resolution to state that "Whereas, traffic congestion and safety are challenging problems along I-240 and I-26 through Asheville." He felt that a lot of the problems associated with that stretch is distribution of traffic.

It was the consensus of Council to bring this item back on a regular basis to update City Council on the progress of the I-26 Connector.

Councilman Bothwell then moved to approve the resolution, with the amendment noted above. This motion was seconded by Councilwoman Mayfield and carried unanimously.

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VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Richard A. Clemenzi, PE, CGD, PACE-NC Inc., presented information regarding the PACE Financing for Clean Energy. He hoped Asheville will begin the process to actively facilitating PACE in the very near time frame by (1) supporting PACE initiative; (2) form team staff/PACE-NC/Industry/SACEE Team; (3) coordinate with Local Governance Commission; and (2) have the PACE Team report back in 30 days. City Manager Jackson said that policy direction and strategic goals from Council are clear and this is a management project. Staff will continue

working with this group and seek the Sustainability Advisory Committee on Energy & the Environment's advice if they need to come back with additional policy direction.

Rev. Amy Cantrell urged Council to use their tools to work on the affordable housing crisis, in particular, to increase money in the Affordable Housing Trust Fund; to continue to use land banking and creating policies around land banking for the purpose of affordable housing; and to pass mandatory inclusionary zoning so that any new development also includes affordable housing.

Mr. Eric Velez said that he has property in south Asheville and is working with Planning and Community Development staff to develop the property in an positive way for affordable housing.

Mr. Bryon Greiner, member of the Downtown Commission, stated that the Downtown Commission has a process in place to work with developers to get a better project. In addition, mandatory compliance and mandatory review of the design guidelines is a good step. Basically, developers need a clear, understandable process for development.

Mr. Timothy Sadler suggested if apartments get subsidies from the U.S. Dept. of Housing & Urban Development (HUD), they should require a mold test, paid by the HUD. In addition, he urged Council to encourage the use of new products to make sure our buildings are built energy efficient.

Councilman Young urged Council familiarize themselves with the ban the box initiative as it will be going before the Governance Committee in January.

Accessory Dwelling Units

Mr. John Farquhar and Mr. Jackson Tierney asked City Council to expedite a process to include accessory dwelling units into the homestay ordinance.

It was the consensus of Council to instruct the Planning & Economic Development Committee begin exploring the idea of including accessory dwelling units into the definition of homestays.

City-Owned Property on Haywood Street

Ms. Valerie Hoh and Mr. John Morris presented City Council with a petition containing 9,905 signatures requesting City Council preserve the City-owned property in front of the Basilica of St. Lawrence for future use as public green space, and vote against the sale of that property for commercial development.

Mr. Blain Perry felt the City-owned property on Haywood Street should be used for residential. Downtowns are concentrated areas where people can walk without having to have cars. That would be a way to preserve some of our greenspace outside of the City.

Mayor Manheimer said that City-owned property on Haywood Street noted that this property is no longer on the market. She felt we the process should begin at the Planning & Economic Development Committee (PED), with involvement from the Asheville Design Center, the Basilica, etc.

Councilman Bothwell felt the first essential decision is what the streets will be like because the streets will define what we do. The Transportation Department and Asheville Design Center have come up with ideas on how to improve the intersection. Then, with the Planning & Economic Development Committee (PED) involvement, we let the Asheville Design Center, or

others, come in with demonstration ideas that could be installed relatively cheaply and let people see what could happen, i.e. a demonstration garden. He felt there should be a lot of citizen input into this project.

Councilwoman Mayfield understood the Asheville Design Center will not work on this project unless there are a range of options they are allowed to present, to include some level of development and public space. The Design Center has offered (with a very small compensation compared to what the City would pay for a larger design firm) to come up with a range of options that would be vetted by the public, but it would not be just pure open space or public space.

Councilman Smith was not sure how we approach an entity to do planning for the City without having a Request for Qualifications process. He didn't feel that was a public process.

Vice-Mayor Wisler, Chair of the PED Committee, felt that PED can take on the role of looking at ways to find opportunities for the public to come forward with ideas.

Councilman Young supported entire public space with no development, along with community conservation.

Councilwoman Mayfield was interested in an exploration of options that would include everything from a combination of a building and public space, to pure green space, and that we look at what the costs and benefits are of each of the design options.

Councilman Smith felt this item should be placed on an agenda and arriving at a major policy decision at this meeting is not appropriate. He supported starting a process planning at PED.

It was the consensus of Council to have PED start investigating a thorough public process around the options obtaining as much public input as we can, and then PED will come to a consensus on a process and bring that forward to Council.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:11 p.m.

CITY CLERK

MAYOR