

Tuesday – November 14, 2017 - 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

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING NOVEMBER 11-19, 2017, AS “NATIONAL HUNGER AND HOMELESSNESS AWARENESS WEEK”

Mayor Manheimer read the proclamation proclaiming November 11-19, 2017, as "National Hunger and Homelessness Awareness Week " in the City of Asheville. She presented the proclamation to Rev. Amy Cantrell, and others, who thanked Council for this proclamation.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 24, 2017

B. MOTION TO APPROVE THE CAPITAL IMPROVEMENT PROGRAM BUDGET SCHEDULE

Summary: Motion to approve the Capital Improvement Program (CIP) Budget Schedule.

As discussed with City Council at its August meeting, staff is proposing to expedite the CIP budget timetable this fiscal year in order to hold discussions and receive feedback from Council earlier in the overall budget process. The CIP budget schedule, which outlines key dates in the process, was reviewed by the Finance Committee at its October 24, 2017.

Staff recommends that City Council review the proposed Capital Improvement Program (CIP) Budget Schedule, make changes as needed, and approve the motion to adopt the schedule.

C. RESOLUTION NO. 17-245 - RESOLUTION AMENDING THE 2017 CITY COUNCIL MEETING SCHEDULE TO ADD THE CITY COUNCIL ORGANIZATIONAL MEETING ON DECEMBER 5, 2017, AT 4:00 P.M. IN THE COUNCIL CHAMBER

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D. RESOLUTION NO. 17-246 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH GREEN OPPORTUNITIES TO ALLOW THEM TO BUILD A GRAVEL FINES TRAIL AS A TRAIL BUILDING LEARNING EXPERIENCE

Summary: The consideration of a resolution authorizing the City Manager to enter into agreement with Green Opportunities (GO) to allow them to build a gravel fines trail along the Town Branch Greenway Corridor as a trail building learning experience.

GO approached the City with the desire to build a gravel fines trail on the Town Branch Greenway Corridor as a learning experience for their Landscaping and Maintenance program. The trail would measure six feet wide and approximately 1000 feet long. It would begin in the field behind the Wesley Grant Center at Depot Street on city-owned property known as PIN 9648-14-0398-00000. It will then travel east through said property to end at South French Broad Avenue behind the firehouse (PIN 9648-14-5341-00000).

GO will build the trail and maintain it in accordance with the Agreement. The trail project will be overseen by staff of the Parks Maintenance Department. The Parks Maintenance Division will oversee the project to ensure that maintenance meets City standards. Any work with heavy equipment will be handled by the City. In the event GO is unable to maintain the trail to City standards, the Parks Department will take up the maintenance of the site. The approximate number of labor hours needed from the Parks Maintenance Department is 72 hours.

The total costs to be encumbered by the City for this trail is \$7,400. To offset the costs, City staff applied for a \$5,000 grant through New Belgium Brewing Company's Bike Infrastructure Program, which is the maximum amount an applicant can request. If New Belgium does not award the grant to the City, the costs will be paid for from the Transportation Department's Planning Division budget.

The Finance Committee reviewed and unanimously supported this request on October 3rd, 2017. The PED Committee reviewed the project on October 17, 2017 and also recommended to support it.

Pros:

- This project will provide a unique opportunity for Green Opportunities' students to learn trail building skills as a part of their curriculum.
- The interim trail will provide public access to a portion of the Town Branch Greenway
- This project will provide community members who do not understand the advantages of a neighborhood greenway a "preview" of what the permanent greenway will be like.

Cons:

- There will be a fiscal impact to the Transportation Planning Division
- The Parks Department will need to provide labor hours and oversight of the project
- In the long-term, the Parks Department Maintenance budget will be impacted.

The total cost for this project will be \$7,400. If the \$5,000 grant is awarded, the City contribution will be \$2,400. If the grant is not awarded, the total amount will be paid for through the Transportation Planning Division's current adopted budget. Additionally, the maintenance material costs in the future years may impact the Parks Maintenance budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into an agreement with Green Opportunities to use a portion of the Town Branch Greenway as a trail building learning experience for their landscaping and maintenance program that will build and maintain an interim trail until the permanent greenway is constructed as part of the Grant Center bond project.

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E. RESOLUTION NO. 17-247 - RESOLUTION ACCEPTING THE REPORT

**PREPARED BY CITY STAFF FOR THE FLOOD MITIGATION ACTION ITEMS
ASSOCIATED WITH THE REPETITIVE LOSS AREA ANALYSIS REPORT**

Summary: The consideration of a resolution accepting the annual Repetitive Loss Area Analysis report which identifies actions staff has taken over the past year as a member of the Community Rating System (CRS) Program.

The City of Asheville joined the Community Rating System (CRS) program administered by the Insurance Services Office (ISO) in 2014. As required by the CRS program, a Repetitive Loss Area Analysis (RLAA) to supplement the Buncombe's County-wide All Hazards Mitigation Plan was prepared in 2014 by the consultation firm of Brown and Caldwell.

A Repetitive Loss Area (RLA) is defined as an area that contains one or more repetitive loss structures (two or more claims of more than \$1,000 that have been paid by the National Flood Insurance Program (NFIP) within any 10-year period since 1978). The RLAA is a mitigation plan developed for those areas with the purpose of reducing damages and increasing awareness from flooding and lowering the cost of claims submitted to the NFIP. The ultimate goal of lowering these costs is to reduce the increase in flood insurance premiums that has been occurring for a number of years.

The Community Rating System (CRS) is a program administered by the Federal Emergency Management Agency (FEMA). It provides lower insurance premiums under the National Flood Insurance Program. The premium reduction is in the form of a CRS Class. A 5 percent reduction is received by policyholders within the City for each class reduction the community obtains. The classes are obtained by actions that are above and beyond the requirements of the National Flood Insurance Program administered by FEMA. The benefits of joining the CRS program has been a reduction of flood insurance premiums paid for by those citizens who have flood insurance. Currently, the citizens of Asheville receive a 10 percent reduction in their flood insurance premiums through participation in the CRS program.

In order to maintain the current status in the CRS program, staff is required to provide to council the annual report of the Flood Mitigation Actions Items that were part of the RLAA report from Brown and Caldwell adopted by Council on December 10, 2013. As highlighted in the report, staff continues to look for ways to reduce flooding and damage from floods through community awareness through our website and flyers, staff is working with the Army Corps of Engineers on opportunities within the Swannanoa River Basin for flood mitigation opportunities and city staff works with developers and property owner on ways to protect their properties from flooding.

Pros:

- The citizens of Asheville will continue to receive a 10 percent reduction on their flood insurance program.
- Provides higher level of protection through our current flood ordinance
- Promotes public education of the Special Flood Hazard Areas

Con:

- Considerable amount of staff time is necessary to maintain these requirements

There is no additional fiscal impact to continuing the efforts necessary for the CRS program, staff time is currently programmed into the annual operating budget.

Staff requests council to approve a resolution accepting the report prepared by city staff for the flood mitigation action associated with the repetitive loss area analysis report.

F. RESOLUTION NO. 17-248 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND ACCEPT, IF AWARDED, FISCAL YEAR 2017-18 EMERGENCY SOLUTIONS GRANT AND PROVIDE FUNDING TO SELECTED AGENCIES

Summary: The consideration of a resolution to apply for and accept if awarded Fiscal Year (FY) 2017-18 Emergency Solutions Grant (ESG) funds and provide funding to selected agencies.

ESG funds are made available from the US Department of Housing and Urban Development through the State of North Carolina Division of Aging and Adult Services (DAAS). The City of Asheville has been the fiscal sponsor for Emergency Solutions Grant funding since 2012 to fund local agencies working to address homelessness.

In the FY 2016-17 cycle, the community received an initial award of \$113,354. An additional allocation of \$34,977 was granted for Emergency Shelter Operations and the Homeless Management Information System.

The Homeless Initiative Advisory Committee appointed a Finance Subcommittee to review the ESG projects and application process. This subcommittee was comprised of individuals and agencies who did not apply for ESG funding. Each project was evaluated using the 2017 Scorecard for ESG funds developed by the North Carolina Balance of State Continuum of Care. These recommendations were endorsed by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee.

The following projects have been recommended for the 2017-18 ESG Grant Application:

2017-2018 Emergency Solutions Grant Recommendations				
	Emergency Shelter	Homelessness Prevention	HMIS	Total
Helpmate	\$28,500			\$28,500
City of Asheville			\$10,000	\$10,000
Homeward Bound of WNC		\$64,594		\$64,594
Salvation Army	\$20,366			\$20,366
Total	\$48,866	\$64,594	\$10,000	\$123,460

This distribution provides level funding for emergency shelters, additional HMIS support and includes housing assistance through Homeless Prevention activities. These projects are expected to maximize the use and ensure the expenditure of ESG funds.

Pro:

- The Emergency Solutions Grant program is a key funding resource for emergency shelter and for rapid rehousing of persons experiencing homelessness.

Con:

- Funds available are not adequate to meet full agency requests.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing Community Development Division staff will administer the program. No general funds are requested to support this program. A budget amendment will be made if grants funds are awarded.

Staff recommends that Council authorize the City Manager to apply for FY 2017-18 Emergency Solutions Grant (ESG) funds and to accept these grant funds if awarded, and provide funding to selected agencies, including any additional allocations.

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G. RESOLUTION NO. 17-249 - RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT A 457 (b) RETIREMENT PLAN FOR FIREFIGHTERS OF THE ASHEVILLE FIRE AND RESCUE DEPARTMENT

Summary: The consideration of a resolution authorizing the City Manager to implement a 457(b) Retirement Plan for firefighters of the Asheville Fire and Rescue Department.

As you know, in August 2007, City Council approved a resolution for the creation of a 401(a) plan for firefighters that would provide a 2% match to their contributions. This was done as a result of AFD's earlier decision to opt out of Social Security in prior years. As you may recall, on June 13, 2017, at your regular meeting, Council voted to approve an increase of the City's matching contribution into that plan from 2% to 4%. Again, this matching contribution is done by the City exclusively for the firefighters in consideration of their opting out of Social Security several years ago.

Immediately following the June 2017 meeting, Human Resources (HR) began work to implement the change from a 2% to 4% contribution match. During that process, however, the Human Resources Department became aware that there are some limitations with the 401(a) that would be less advantageous for our city's firefighters. Specifically, in order to participate in a 401(a) plan, firefighters are required to contribute a full 4%, and do not have an option to contribute a lesser amount. This would preclude firefighters who might elect a contribution smaller than 4% from participation in this benefit.

HR explored options and has determined that a 457(b) Deferred Compensation Plan will allow the firefighters more flexibility in their contributions to their respective accounts and still allow the City to match that contribution up to 4%, as approved by the Council at your June meeting.

If the City replaces our existing 401(a) plan with the 457(b) Deferred Compensation Plan, each firefighter may contribute a smaller percentage of their salary if they opt to do so (rather than being required to contribute either 4% or 0% as is the case with the 401(a)).

Members of HR have discussed this with Chief Burnette who discussed it with his staff. A survey was conducted to ascertain the firefighters' willingness to make the change from a 401(a) to a 457(b) plan. The consensus was that the change would be a positive one.

The HR Staff has worked with other parties as necessary to bring to you and to Council the proposed resolution for the creation of the 457(b) which will replace the existing 401(a).

No additional fiscal impact. These funds were approved during the FY 2018 budget process.

Staff recommends that a resolution be adopted authorizing the City Manager to implement a 457(b) retirement plan for City of Asheville Firefighters.

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H. RESOLUTION NO. 17-250 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR HIGHWAY SAFETY GRANT FUNDS

ORDINANCE NO. 4622 - BUDGET AMENDMENT FOR THE PURCHASE OF EQUIPMENT FOR THE TRAFFIC SAFETY UNIT AND EXPENSES FOR THE REGIONAL LIAISON

Summary: The consideration of (1) a resolution authorizing the City Manager to accept awarded funds by the North Carolina Governor's Highway Safety Program for highway safety grant funds in the amount of \$43,000; and (2) a budget amendment in the full amount of this grant to authorize staff to expend funds for program expenses.

The Asheville Police Department currently participates in the North Carolina Governor's Highway Safety Program Highway Safety campaigns. In order to facilitate better participation and efficiency of highway safety initiatives, a regional law enforcement network was created to enhance safety communication and effectiveness. The Asheville Police Department promotes highway safety statewide by designating a member of the department to serve as the regional liaison for GHSP Region 10 covering Buncombe, Henderson, Madison, Mitchell, Polk, Rutherford, and Yancey counties.

Through outreach and education efforts like those undertaken by this group, number of alcohol related fatalities in North Carolina dropped in 2016. Enforcement had much to do with this reduction, but education of the public also played a part. To further educate the public on consequences of impaired driving and to continue to reduce our alcohol related fatalities, a portion of this grant will be used to purchase a DWI simulator and train staff on its use.

The funds will be used to purchase equipment for the Traffic Safety Unit (\$23,000). Funding would also covers the costs associated with training for officers in the use of this equipment and covers travel expenses for the Regional Liaison duties (\$20,000).

The experience of using the simulator lets drivers see the effect of driving with and without alcohol through virtual reality. The cost of the virtual reality equipment is \$23,000. Staff training and travel is also required and will cost \$20,000. There is no local match of funds required for this grant. The expenses created by the purchase of the equipment and the duty related travel are reimbursed by the Governor's Highway Safety Program through the National Highway Traffic Safety Administration.

This action received unanimously approved by the Finance Committee on October 24, 2017.

Pros:

- Reimbursement revenue to cover the cost of obtaining the needed equipment including, CDR Software subscription, and Driving While Impaired Simulator.
- Reimbursement revenue to cover the cost of necessary training and travel related to highway safety duties and operations.
- Will provide a valuable tool to educate the public on the dangers of impaired driving.

Con:

- Dedicate the staff hours for the officer charged with the liaison duties to accomplish the goals stated in the grant contract.

This budget amendment is fully funded with grant revenue and there is no impact to the General Fund budget.

Staff recommends City Council adopt (1) a resolution authorizing the City Manager to accept awarded funds by the the North Carolina Governor's Highway Safety Program for highway safety grant funds in the amount of \$43,000; and (2) a budget amendment in the full amount of this grant to authorize staff to expend funds for program expenses.

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ORDINANCE BOOK NO. 31 - PAGE 355**

I. ORDINANCE NO. 4623 - BUDGET AMENDMENT FOR DWI TASK FORCE GRANT

Summary: The consideration of budget amendment, in the amount of \$402,331, from the North Carolina Governor's Highway Safety Program (NCGHSP) for a grant to fund 1 year of the multi-jurisdictional DWI Task Force involving the Asheville Police Department (APD) and Buncombe County Sheriff's Office (BCSO)

In Asheville and Buncombe County, the number of impaired drivers has been a serious concern to citizens and law enforcement for many years. In October 2013, the North Carolina Governor's Highway Safety Program granted the Asheville Police Department a four year grant to combat impaired driving incidents within Buncombe County. The Asheville Buncombe DWI Task Force (DWI Task Force) was developed and put into action August 2014. Since then, the DWI Task Force has made 920 Driving While Impaired arrests and has conducted 54 drug evaluations.

Public education on the dangers of impaired driving is a focus area of the DWI Task Force. Through partnerships with the Asheville Police Department Traffic Safety Unit and the Asheville Downtown Business Association this educational effort has been directed to some key audiences. These educational efforts have included presentations at local high schools and downtown festivals. These educational efforts have included the following:

- Distribution of information on the impaired driving laws and alternative ways to get home.
- Surveying festival participants anonymously about their willingness to drive at a point where they believe their blood alcohol levels exceed the legal limit.
- Allow festival goers to use roadside instruments to check their breath to determine their level of intoxication.

These interactions allow the team to engage the public in conversations and educate them on what the Illegal Per Se law is and what a 0.08 BAC feels like. The DWI Task Force efforts have directly resulted in a 40 % reduction with impaired driving fatalities in Buncombe County as of October 2016. The DWI Task Force is also a member of the board for Buncombe County's Sobriety Court. Members actively assist defendants assigned to this program through direct interaction following a DWI charge.

In reviewing these statistics, the NCGHSP contacted APD and suggested the DWI Task Force continue with its efforts of reducing the number of DWI related collisions, injuries and deaths in Asheville and Buncombe County, as well as educating the public on impaired driving and its effects. NCGHSP has recommended the continuation of the existing grant and authorized additional funding in the amount of \$402,331 in FY 2018. This funding covers the cost to pay for six officers focused on DWI enforcement and training. The City of Asheville will match this grant at 75% for a cost of \$200,493.75. Buncombe County will match their portion of the grant at 75% for a cost of \$101,254.50. Under this grant, APD would continue to supply one sergeant and three officers while BCSO would continue to supply two deputies. These six officers would continue to conduct DWI enforcement throughout Asheville and Buncombe County and conduct Traffic Safety Checking Stations throughout the County. The appointed officers will also continue to hold educational events for the public.

This action received unanimously approved by the Finance Committee on October 24, 2017.

Pros:

- NCGHSP grant funds used to pay for 25% of the costs of salary and benefits to officers participating in the DWI Task Force.
- Potential reduction in impaired driving collisions, injuries and deaths throughout Asheville and Buncombe County.

Con:

- Funding from NCGHSP is evaluated annually and not fully guaranteed beyond this year.

The City match for this grant for the 2017-18 fiscal year totals \$200,494. This amount was included in the Adopted FY 2017-18 General Fund Police Department budget. An additional match amount will need to be included in the FY 2018-19 budget.

City staff recommends City Council adopt a budget amendment in the amount of \$ 402,331 to establish a budget for this year's DWI Task Force Year # 05 grant.

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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.

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

III. PRESENTATIONS & REPORTS:

A. NEIGHBORHOOD ADVISORY COMMITTEE UPDATE

Mr. Phil Lenowitz, Chair of the Neighborhood Advisory Committee (NAC), updated City Council on the work and reflections of the Neighborhood Advisory Committee. He explained the formal participation by the Accessory Dwelling Unit Task Force, Sidewalk Subcommittee, Comprehensive Plan Advisory Committee and the Multimodal Transportation Commission. Neighborhood and community engagement consisted of the Coalition of Asheville Neighborhoods, Affordable Housing Committee, Comprehensive Plan workshops, neighborhood

association/organization boards, organizing neighborhoods, ice cream socials - potlucks, Neighborhood Night Out, Leadership Asheville Forum, and Justice for Black and Brown Bodies.

The Committee meets monthly, has presentations from neighborhoods that are looking to have their voice heard; members attend events and meetings throughout the city to gather information on what is going on in our neighborhoods. Helping neighborhoods get organized has been a priority for NAC. These efforts have been quite successful in the past year in South Asheville thanks to the work of Pat Deck, the NAC Vice-chair. We know that neighborhoods are not a monolith; although almost all want sidewalks, some have traffic speeding as an issue; others have traffic so snarled that they can only wish that speeding could be an issue.

Some significant events the Committee participated in have been a neighborhood ice cream social, National Night Out, Asheville neighborhoods were invited to participate in "Plan on a Page", invited neighborhoods to register, invited neighborhood groups to participate in Asheville Festival of Neighborhoods, worked to recognize Steve Mitchell as Asheville Neighborhood Volunteer of the Year, etc. The Advisory Committee holds regional meetings in the north, south, east, west and central areas.

Since the City's character continues to change and the need for strong neighborhoods is critical, they would like a strong City Council liaison for the Committee. They also look forward to working with the new Neighborhood and Community Engagement Manager. Because they need more participation from people of color, they will work with the City's new Equity and Inclusion Manager in order to see a diverse Committee membership. They also asked for Council's support for small area plans, and requested feedback on if the Neighborhood Advisory Committee is relevant.

Councilman Smith, liaison of NAC, was pleased with the Plans on a Page and how they are effective as a collective voice from the community.

In response to Councilman Young, Director of Planning & Urban Design Todd Okolichany explained how the Plans on a Page are incorporated into the Comprehensive Plan.

On behalf of City Council, Mayor Manheimer thanked Mr. Lenowitz and the entire Neighborhood Advisory Committee for their hard work and dedication to this committee.

B. BLUE RIBBON COMMITTEE ON THE HUMAN RELATIONS COMMISSION UPDATE

Vice-Mayor Wisler said that the Blue Ribbon Committee on the Human Relations Commission attended an earlier Boards & Commissions Committee and updated them on their activities. The Blue Ribbon Committee held an initial meeting on August 23, 2017, and held 6 official meetings bi-weekly until November 1, 2017, followed by an additional official meeting on November 8. In between the regular meeting times, they have met in small working groups to develop specific portions of their recommendations. At the November 1 meeting, the Committee passed a motion requesting an extension of their charge through the end of January 2018. If this request is approved, they will proceed with their work to finalize their recommendations around membership and staffing to support the efforts of the Human Relations Commission. An extension would also provide us with the opportunity to hold 2 meetings focused on receiving feedback from the public, an important step in ensuring the success of a Human Relations Commission in Asheville. They requested that City staff assist them in promoting these public input sessions and identify an appropriate space and time for these larger meetings.

By vote of the members of the Committee, they adopted a Mission Statement and Focus Areas for a Human Relations Committee. They have discussed criteria for members, and they have included their current criteria within this interim report, but they have not been officially adopted. They also discussed, but not finalized, a proposal for staff or other funding to support the efforts of the Commission.

Their Mission Statement is “The Human Relations Commission strives to improve human relations with priority on racial equity in Asheville by partnering with communities and agencies in an effort to better promote and ensure diversity, equity, and inclusion. The Commission works to identify and address all forms of individual, institutional and community level discrimination through education, advocacy and policy recommendations.”

Focus areas (which included duties) include (1) make policy recommendations to City Council to enhance equity; (2) support the efforts of the Equity and Inclusion Manager; (3) provide a public forum for community to voice complaints; (4) engage the community around funded programs and policies; (5) promote equity in public safety; (6) promote equity in educational opportunities; (7) promote equity in economic development efforts; (8) health and human services; and (9) housing.

The Committee also provided some membership criteria that has not been officially adopted by the Committee.

Councilman Young thanked the Committee for their efforts and hard work on this Committee. He suggested City staff help promote their two public input sessions with perhaps a link on Open City Hall.

At the request of Vice-Mayor Wisler, City Manager Jackson said that he would be happy to meet with the Chair and Vice-Chair of the Blue Ribbon Committee and the new Equity and Inclusion Manager to flesh out details around process.

At the Committee’s request, Vice-Mayor Wisler asked for a motion to extend their deadline until January 31, 2018. Therefore, Councilman Smith moved to extend their report deadline until January 31, 2018. This motion was seconded by Councilman Young and carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF 12 MIAMI CIRCLE FROM INSTITUTIONAL DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING FOR THE USE OF A DRIVE-UP WINDOW ASSOCIATED WITH A RESTAURANT

ORDINANCE NO. 4624 - ORDINANCE TO CONDITIONALLY ZONE 12 MIAMI CIRCLE FROM INSTITUTIONAL DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING FOR THE USE OF A DRIVE-UP WINDOW ASSOCIATED WITH A RESTAURANT

Urban Designer David Hazzard said that this is the consideration of an ordinance to conditionally zone 12 Miami Circle from Institutional District to Community Business II District/Conditional Zoning to install a drive-up window at an existing restaurant (Pizza Hut) that was previously approved as Level I project. This public hearing was advertised on November 3 and 10, 2017.

Drive thru uses are not permitted within the Institutional (INST) Zoning District, thus the applicant is pursuing a rezoning to Community Business II-CZ (CBII-CZ). This project is considered a Conditional Zoning review pursuant to Section 7-7-8 of the Unified Development Ordinance (UDO).

The site is zoned Institutional and consists of an existing 2,700 s.f. restaurant (Pizza Hut) located at 12 Miami Circle, PIN 9644-89-6900. The parcel is approximately 0.81 acres. Parcels to the north and east of the site are also zoned INST, to the west is Miami Circle road, and to the south is a narrow strip of land in between the subject parcel and Long Shoals Road that is zoned Low Density Single-Family (RS2).

The project proposes to remove four existing parallel parking spaces on the north side of the building to create a 10' wide drive thru lane. The developer is proposing that the drive thru will only be used for online / phone pickup orders and no separate ordering station or outside amplification will be installed. As per the B1 Conditions list, the hours of operation for the pickup window would be limited to 11:00 am - 11:00 pm Sunday - Thursday and 11:00 am - 12:00 am Friday and Saturday.

Vehicular access to the site is through an existing single driveway off of Miami Circle road. There is no direct access to Long Shoals Road for vehicles, pedestrians or bicyclists. A five foot wide planting strip and a five foot wide sidewalk exist along Miami Circle. The required range of parking spaces for this project is a minimum of 26 and maximum of 42. The applicant is providing 33 parking spaces around the buildings. Both the necessary number of handicap and bicycle parking spaces are provided.

All required landscaping has previously been approved and installed for this project.

Open space is not required for this project because the parcel is less than one acre.

The applicant is seeking to conditionally rezone the property to Community Business II-CZ for the purpose of expanding the uses permitted to allow for the drive thru facility not permitted under the current Institutional zoning district. However the Institutional zoning district does allow restaurant uses.

Conditions –

1. A new pick up window for the site with the following conditions: No separate ordering station or outside amplification will be permitted and hours of operation shall be limited to 11:00 am - 11:00 pm Sunday - Thursday and 11:00 am - 12:00 am Friday and Saturday.
2. There shall not be direct access to Long Shoals Road.
3. A safe pedestrian route from the existing public sidewalk to the restaurant shall be provided.

Projects undergoing conditional zoning review are required to hold a neighborhood meeting; the meeting for this project was held on June 26, 2017. This project was approved with conditions by the Technical Review Committee (TRC) on August 7, 2017, In addition the Planning and Zoning Commission unanimously approved this project on October 4, 2017. Final TRC review is needed prior to the issuance of any permits.

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

The subject property is bordered to the north by a restaurant (White Duck Taco) and is zoned Institutional. To the east of the site are two single family residential properties, also zoned

Institutional. To the west is Miami Circle road, and to the south is a narrow strip of land in between this parcel and Long Shoals Road that is zoned RS2.

Long Shoals Road was widened to a four lane road (circa 2008) and this area represents a transition from a history of low density residential uses to one of a mix of highway businesses, higher density residential, medical facilities, and schools. The Long Shoals Road corridor has a number of existing auto oriented businesses; however, there are sidewalks, schools and a bus stop in the vicinity of this parcel.

Further, the city's draft Comprehensive Plan update, titled "Living Asheville", identifies the Long Shoals Road corridor as a transit-supportive corridor where multimodal transportation options should be considered. Thus, city staff has requested the applicant provide a safe pedestrian route from the existing sidewalk on Miami Circle to the restaurant and a bus shelter and pad at the adjacent existing bus stop on Long Shoals Road. These requests are to help mitigate the automobile oriented nature of a drive thru by increasing the options of modes of transportation. The Planning and Zoning Commission supported the request for the safe pedestrian route; however, they did not support the request for the bus shelter and pad. The applicant agreed to provide a safe pedestrian route from the sidewalk to Miami Circle and has updated the site plan to indicate this change.

The Skyland Exchange a multifamily residential project received a Conditional Zoning approval in 2016 for 290 multifamily residential units on 11.39 acres to the northwest of this project. A Level II project for a planned commercial center which includes a Bojangles on 7.08 acres was approved in 2016 to the north west of this project south west of this project.

The *Asheville City Development Plan 2025* ("Comprehensive Plan") highlights the importance of smart growth transportation policies and encourages multimodal transportation interconnectivity between neighborhoods and to destination areas such as parks and neighborhood shopping locations. In addition, the Plan states that new development projects should incorporate mass transit features where appropriate. Further, the Comprehensive Plan also identifies Long Shoals Road as a "Connecting Corridor." The purpose of the Connecting Corridor is to preserve the flow of traffic along major thoroughfares that connect compact centers of urban development. This project is an existing restaurant with no direct access to Long Shoals Road; therefore, it is compliant with the intent of a Connecting Corridor in preserving the flow of traffic. The proposed safe pedestrian connection from the restaurant to Miami Circle will help bring this project more in line with the Comprehensive Plan's smart growth transportation policies.

The proposed development most closely aligns with the goal of a *Transportation and Accessibility*. This proposal is a drive thru addition on an existing restaurant so it is difficult to deem that it wholly aligns with city goals. However, there are similar existing uses within this corridor and with the addition of a safe pedestrian route it most closely aligns with this goal.

Considerations:

- This is an existing restaurant with a proposed drive thru similar to other restaurants within the Long Shoals Road Corridor.
- The drive thru will be for online / phone pickup orders only and no separate ordering station or outside amplification will be installed.
- The applicant has agreed to provide a safe pedestrian route from the restaurant to Miami Circle.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable and recommends approval of this request.

The Planning & Zoning Commission reviewed this request at their meeting on October 4, 2017, and voted 7-0 in support of the project. Commissioners supported this project with the condition that the applicant provide a safe pedestrian route from the existing sidewalk to the restaurant. The applicant has agreed to this condition and has included a revised plan with a safe pedestrian route shown.

Mr. Hazzard responded to Councilwoman Mayfield when she asked where this project is in relationship to the residential development recently approved and the other commercial development in the area.

Mayor Manheimer opened the public hearing at 5:39 p.m. and when no one spoke, she closed the public hearing at 5:39 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 Conditional Zoning request from Institutional to Community Business II-CZ Zone (CBII-CZ) to allow for the construction and operation of drive thru at an existing restaurant at 12 Miami Circle, 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) supports moderately scaled commercial development near a commercial highway corridor; (2) is consistent with other existing restaurants and uses along the Long Shoals Road Corridor; and (3) provides a safe pedestrian route from the restaurant to Miami Circle. This motion was seconded by Councilman Haynes and carried on a 6-1 vote, with Councilwoman Mayfield voting "no."

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B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 175 LYMAN STREET FROM RIVER DISTRICT TO MIXED USE EXPANSION DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF 133 RESIDENTIAL UNITS, COMMERCIAL SPACE, RESTAURANT IN 5 BUILDINGS AND A PARKING STRUCTURE

ORDINANCE NO. 4625 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 175 LYMAN STREET FROM RIVER DISTRICT TO MIXED USE EXPANSION DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF 133 RESIDENTIAL UNITS, COMMERCIAL SPACE, RESTAURANT IN 5 BUILDINGS AND A PARKING STRUCTURE

Mayor Manheimer said that this public hearing was continued from June 27, 2017, to July 25, 2017, and then on July 25, 2017, to August 22, 2017. On August 22, the applicant requested it be continued to a date uncertain.

Urban Planner Sasha Vrtunski said that this is the consideration of an ordinance to conditionally zone property located at 175 Lyman Street from River District to Mixed Use Expansion District/Conditional Zoning for the development of 133 residential units, commercial space, restaurant in 5 buildings and a parking structure. This public hearing was advertised on November 3 and 10, 2017.

The project site consists of three parcels totaling 2.88 acres in the heart of the River Arts District on the corner where Lyman Street turns south paralleling the French Broad River. It is the site of the former JR Stone Sales and the Carolina Coal and Ice Building, which was built in 1912. The entire site is in the 100-year Floodplain, which necessitates new construction being raised

two feet over Base Flood Elevation (BFE). The site is also in the River Arts District Transportation Improvement Project (RADTIP) area, and is immediately adjacent to the future roundabout at Riverside and Lyman Street.

Zoning to the north and south of the property is mostly River district, with the exception that Curve Studios on Riverside is zoned Urban Place. East of the project area, properties are currently zoned Commercial Industrial. The entire River Arts District is slated for rezoning through the River Arts Form-Based Code.

The project proposes to build a 133 apartments in four buildings and a 247-space parking structure between those buildings. The project also includes the rehabilitation of the Carolina Coal and Ice building, which dates to 1912, for a restaurant and offices. The four apartment buildings are structurally separate from the parking building are all six stories where the ground floor is not occupied (parking). Because the site is in the floodplain, there are not occupiable spaces on the ground floors. The Carolina Coal and Ice building has received a variance based on its historic status to allow ground floor occupancy.

The maximum height of the residential buildings as shown on plans is 70 feet, which complies with the standard in the Mixed Use Expansion district requirements (maximum height of 80 feet). This district has a density standard of 35 units/acre or 70 units/acre for projects with 20% affordable units. Due to the costs of building in the floodplain, the applicant is not able to commit to affordable units. An increased density from 35 units/acre to 46 units/acre is being requested.

Parking is provided both on the entire ground level and a second, smaller level, for a total of 247 spaces. It is intended that residents use the second level of parking and the ground floor is for the restaurant, office, studios and some residents. This is five percent lower (5%) than required by the UDO, but within this district, up to a 25% reduction in parking is allowed for projects that provide pedestrian and bike amenities. With the mix of uses the parking should be sufficient as proposed.

Automobile access to the site is provided by three driveways. On Lyman Street (North side) there is a three-lane driveway that is 36 feet wide, with one lane leading to the ground floor parking, and the other two lanes leading to the upper story of parking. On the future Riverside (currently Lyman along the west) there are two driveways, both 24 feet wide; one serves the ground floor parking, and the other is a ramp to the upper story of parking. Plans indicate 24 bicycle spaces will be located throughout the site.

Sidewalks are shown as planned under the RADTIP project. The developer/owner has not offered to pay for sidewalks as these are planned already as a part of the RADTIP.

Plans show building impact and parking deck perimeter landscaping, which are required. Due to the building and lot layout, some of the parking deck landscaping will be located on other parts of the site, but the total number of required plantings will be met. Street trees are also required, and the city is providing trees along the western edge through the RADTIP project. Street trees are not shown on the north side due to conflicts with utilities. The proposal includes planters on the roof of the parking structure (not required). Open space is required and is provided as five percent of the project area, and includes landscaped areas between the buildings and sidewalk as additional pedestrian amenities.

The new Mixed Use Expansion District has several design standards in Section 7-8-46. The project as proposed generally complies with these standards with the exception of providing operable entrances on each building at the street. Building 1 (corner building) and Building 4 do have an entrances on the west side along Lyman Street, which were added after meeting with the River Design Review Committee. However, Buildings 1 should have a second entrance on the

north side. Building 2, which is next to the railroad tracks does not have a pedestrian entrance due to the change of topography. Along the north side of Lyman, there is a pedestrian walkway that leads to entrance of the Carolina Coal and Ice Building, which is on the back side of the building.

Conditions – The applicant is requesting several conditions based on topography and financial feasibility.

1. Additional density from 35 units/ acre to 46.1units/acre. The cost of raising the occupiable floors out of the floodplain, and the materials being used drive up the cost of construction, and the applicant is requesting density at 46.1 units per acre.
2. The developer/owner will not be required to construct the sidewalks shown on the site plan. They will be constructed by the RADTIP project.
3. Building impact and parking deck landscaping will meet UDO requirements approved as shown on site plans with final placement to be shown on the final site plans. Street trees are approved as shown, and will be installed with the RADTIP.
4. Building entrances to the street are provide on the west side, for Buildings 1 and 4, but not along the north side of the project.
5. Impervious surface will not exceed 85% of the site.
6. The developer will make a \$50,000 contribution to the Affordable Housing Trust Fund.

This project was approved with conditions by the Technical Review Committee (TRC) on May 15, 2017. The project was reviewed by the Asheville Area Riverfront Redevelopment Commission (AARRC) on May 11, 2017, for compliance with the River Design Guidelines for the Core Area. The AARRC voted to recommend approval of the project design for River Design Review with a 13-0 vote.

The Planning and Zoning Commission reviewed this project on June 7, 2017. The Commission voted 3-2 in favor of the project. One of the commissioners was concerned that the developer is asking for additional density but not willing to commit to affordable housing as a part of the proposed conditions. If approved by City Council, a Final TRC review is also required. Staff has not received any additional public comment outside of the public hearing at the Planning & Zoning meeting.

The change in zoning to the expansion district is required because the project reaches the Level III threshold of over 50 residential units.

Nearby the RAD Lofts were approved by City Council for 235 units under Urban Place Conditional Zoning. As mentioned earlier, the River Arts District Form-Based Code is proposed for this site and the surrounding area. If the Conditional Zoning is approved for this site, it will be taken out of the RAD Form-Based Code study area as conditional zoning will supersede any later changes to the zoning.

The proposed project, although a bit taller than most buildings in the area, should be compatible with the surrounding context. The River Arts District has had numerous larger industrial buildings, and many of the surviving buildings have been reused for artist studios, restaurants and shops. The building layout on the site which consists of four buildings with relatively small footprints (6600-8900 sf), placed at the four corners of the property, leaves breaks between the buildings, giving visual relief and helps make this project compatible with the surrounding area. The architectural style of the buildings seek to fit into the industrial context and

history of the area. The rehabilitation and reuse of the Carolina Coal and Ice building also contributes to the compatibility as it is part of what defines the River Arts District character.

The redevelopment of these parcels aligns with several aspects of the *City Development Plan 2025* including supporting infill development where infrastructure is already present, supporting urban development patterns and high quality development that complement and adds to the character of Asheville. The 2025 plan also provides that the riverfront should be redeveloped to maximize its potential both for quality of life and commercial opportunities.

The project also aligns with the Wilma Dykeman Riverway Plan, adopted by City Council in 2004. The plan envisions a “concentration of new and reused buildings offering live/work arrangements for artisans and those interested in living along the River.”

The proposal aligns with the 2036 Council vision in the following areas: (1) *A Well-Planned and Livable Community* – The project is located in the heart of the River Arts District and will offer housing where residents can access local businesses, transit (1/4 mile away) and future greenways in close proximity; and (2) *Thriving Local Economy* – One of the keys to a thriving business district is having local residents who support small businesses as well as making it safer through eyes on the street throughout the day/night.

Considerations:

- The River Arts District is an Innovation District where Council is looking to promote private investment.
- Residential units in the River Arts District will add greatly to the long-term vitality of the district
- Preservation of the Carolina Coal and Ice building will help retain the character of the RAD.
- Applicant has not committed to the inclusion of affordable housing as outlined and provided by the density requirements in the Mixed Use Expansion District in the UDO. However, the developer is making a \$50,000 contribution to the Affordable Housing Trust Fund.
- This is the first Mixed Use Expansion District CZ application, and one of the first larger projects that is fully in the floodplain in the River Arts District.

Staff recognizes that this proposal aligns with goals for redevelopment and revitalization of the riverfront and policies stated in the Comprehensive Plan and other plans, such as the Wilma Dykeman Riverway Plan and City Council’s 2036 Vision Considerations. For those reasons, staff recommends approval of this project.

It would be preferable to have some affordable units built into the project, which is a provision of the zoning ordinance, or studios guaranteed at a rate affordable to local artists for a minimum period of time. Typically, when a development is proposed, public improvements along the street frontage are made by the developer, including sidewalks and street trees. The developer has not committed to building these improvements and staff recommends that these improvements be made by the developer.

The Planning and Zoning Commission reviewed this project on June 7, 2017. The Commission voted 3-2 in favor of the project and recommended Council approval of this Conditional Zoning request subject to Final TRC approval and the B-1 Conditions that were presented to Planning & Zoning. One of the commissioners was concerned that the developer was asking for additional density but not willing to commit to affordable housing as a part of the proposed conditions. At the time of the Commission meeting, the B-1 Conditions did not include public parking nor a \$50,000 contribution to the Affordable Housing Trust Fund.

Mr. David LaFave, developer, said that they identified this land 5 years ago for their first development in Asheville and they spent 1.5 years in developing the full site plans. Their goals were to achieve three key things (1) meet all City existing guidelines and recommendations; (2) insure fit with old industrial character of the RAD and the surrounding neighborhood; and (3) preserve 100+ year Carolina Coal & Ice Building. During this process they worked closely with City staff and met with individual and RAD stakeholders. They were set to obtain Final TRC in late September-early October of 2016, but had to pause in order to resolve a technical RADTIP issue that would prevent building the project.

In response to Councilman Smith, Mr. LaFave said generally, the studio apartments would be approximately \$750-800/month range; fairly large 1-bedrooms would be approximately \$1,100/month; and 2-bedrooms would be in the \$1,300-1,400/month range.

In response to Councilwoman Mayfield, Mr. LaFave said that the entire second floor will be 10 artist studios, with a lobby. He explained the features of the studio units and said that they are committed to making them affordable. He anticipated the rents to be in the range of \$300-400/month (approximately 350 sq. ft. average) and perhaps the large artist studio spaces would be a little more than that.

When Vice-Mayor Wisler asked what, other than parking, could have been built on the ground floor, Mr. LaFave said they are putting in a restaurant on the ground floor (through a variance). There will be no residences on the ground floor.

Vice-Mayor Wisler said that it's Council's policy that developers make public improvements along the street frontage, including sidewalks. Mr. LaFave said that because sidewalks are shown as planned under the RADTIP Project, they do not have to install sidewalks. He noted if they waited a couple of years, the sidewalks would already be in the area.

Mayor Manheimer opened the public hearing at 6:03 p.m.

The following individuals spoke in opposition to the conditional zoning mainly because Asheville has an affordable housing crisis and there are no dedicated affordable housing units in this development:

Mr. Peter Lance, downtown resident
Mr. Casey Campfield
A west Asheville resident
Ms. Kim Roney

The following individuals spoke in support of the conditional zoning for several reasons, some being, but are not limited to: public parking; truly affordable artist studios; workforce housing; artist studios, development will bring other investments into the community; infrastructure improvements; and more people will be living in the RAD:

Ms. Pattiy Torno, RAD resident
Ms. Hedy Fischer, property owner in the RAD
Mr. Dave Campbell, RAD Business Association Chair
Ms. Helaine Greene, property owner in the RAD
Mr. Matt Wallace, property owner in the RAD
Representative of the NC Glass Center in the RAD

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

In response to Vice-Mayor Wisler, Mr. LaFave said that there will be no short term rentals allowed in the apartments. He said that he would be willing to add that as a condition, Ms. Vrtunski said that there is currently a condition that reads "Approved uses of the development include residential, studio, retail, restaurant, office and parking. No other uses will be allowed."

Vice-Mayor Wisler was pleased with the adaptive reuse and public parking, but could not support the project at the expense of Council's other values - especially affordable housing being one of Council's highest priorities. Given the fact that the developer is not using the entire 20% density that would normally be for a project like this, she suggested the developer contribute \$175,000 be deposited into the City's Affordable Housing Trust Fund (instead of \$50,000). She explained she arrived at the \$175,000 amount using the percentage of density that the developer is using above the right by use, multiplied by the City's typical subsidy for affordable housing and the \$50,000 for sidewalks.

Councilman Smith said that the City has long term housing needs and Council has been asked to represent citizens of Asheville fewer than half of whom would be able to afford to be able to live in the building that we would be offering public subsidy to. The sidewalks are essentially a public subsidy and the density bonus is also essentially a public subsidy. There is also Council's policy to create more affordable housing. He felt this will also be setting a precedent for RAD. He would be open to adding more height to get some affordable units in the project. If that is not a conversation at this point, he would support Vice-Mayor Wisler's request for \$175,000 to the Affordable Housing Trust Fund to help us make up that gap.

Councilwoman Mayfield agreed with the benefits of the project, and also with the concerns about the minimal contribution to addressing our affordable housing crisis. She had hoped there would be some agreement on the affordability of the artist studios. Addressing the City's needs has to be a partnership between private development and public resources. It costs approximately \$17,000 a parking space and we need public parking in the RAD. Because the City doesn't have any plans to build public parking in the RAD, \$17,000/parking space by 85 public spaces by this development is almost \$1.5 Million. To others that are thinking about developing in the RAD, do not think that she is stepping back from the need for private developers to assist the City in solving our problems. Here on this project, she feels parking is not a bad deal.

Councilman Young said development in the RAD is going to be a fine balancing act. We have to make sure that the development of this area will benefit not only the people that visit Asheville but those that live here and have to deal with everyday tasks. Parking is important and some of the different mixtures in the RAD will be important to its viability moving forward. Developers need to understand that when it comes to putting forth good projects that they need to have a good mix.

Councilman Bothwell said that he has been involved in construction he is acutely attuned to the cost of building up. It will be very likely there will be parking under other new projects in this area in the future. He suspected the density increase was needed to pay for the extra expense of parking. He recognized we need affordable housing but we also need more housing units. He wondered if we will be able to impose affordability requirements on places that are expensive to build. He also felt the property in the RAD will be bid up quickly with the RADTIP project, which RADTIP project was to encourage development and activation of the RAD.

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 conditional zoning request from River District to Mixed Use Expansion Conditional zone for the Stoneyard Apartments project with the

requested conditions and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: (1) the project redevelops an under-utilized property through infill and preservation of an existing historic structure; (2) the project substantially complies with the intent of the River Design Review Guidelines; (3) the buildings meet many of the requirements of the future form-based code; and, (4) the development of residential units in the area will support the redevelopment and revitalization of the River Arts District and the River Arts District Transportation Improvement Project. This his motion was seconded by Councilman Haynes and carried on a 5-2 vote, with Vice-Mayor Wisler and Councilman Smith voting “no”.

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C. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO ADOPT THE RIVER ARTS DISTRICT FORM BASED CODE FOR THE GREATER RIVER ARTS DISTRICT AREA AND THE ASSOCIATED PROPERTY REZONING

ORDINANCE NO. 4626 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO ADOPT THE RIVER ARTS DISTRICT FORM BASED CODE FOR THE GREATER RIVER ARTS DISTRICT AREA AND THE ASSOCIATED PROPERTY REZONING

ORDINANCE NO. 4627 - ORDINANCE REZONING PROPERTIES IN THE RIVER ARTS DISTRICT FORM BASED CODE AREA

Mayor Manheimer said that this matter was continued from October 24, 2017, because there was a question on whether or not she had a conflict under the rules that govern licensed attorneys in North Carolina. She disclosed that her law firm has represented or represents one of the property owners in this area to be affected. After contacting the School of Government, she did not have a conflict in the rules as an elected official. After contacting the State Bar Association, she does not have a conflict to vote on this item.

Project Manager for the River Arts District Form Based Code Sasha Vrtunski said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance to adopt the River Arts District Form-Based Code for the greater River Arts District area and the associated property rezoning. This public hearing was advertised on October 13 and 20, 2017.

Over the last two years, the city has been engaged with the River Arts District on new zoning districts for the area. The code calls for the creation of seven new zoning districts that are tailored to the area. At the July 25 City Council meeting, City Council directed staff to take out Lodging Facilities (20 guest rooms or less) as a use by-right from the mixed use districts. Because of this change, the code was remanded back to Planning & Zoning for review and a public hearing. Council also asked for Planning and Zoning to consider the area between the French Broad River and the railroad tracks and whether that area should be included in the zoning district.

For each district in the area, the focus is on the placement of buildings in relation to the public realm - or rather the street and sidewalk. The districts also define different allowable heights, setbacks, uses, and building frontage. This code divides the district into seven zoning types based on their location, topography, road widths and potential for a mix of development.

District Name	Primary Uses	Notes
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RAD – Residential	Residential – some small in-home commercial/studios	Relatively small area of the district is in this zoning category.
RAD – Neighborhood Transition RAD – Shopfront RAD – Lyman Hollow RAD – River	Mixed Use, various heights depending on location Includes light industrial and in some districts, industrial.	Maximum heights vary between 3 and 7 stories. Scale is sensitive to adjacent neighborhoods. Height bonus for affordable housing in the RIV and SHP districts.
RAD – Industrial	Industrial uses, some secondary commercial allowed	Currently only on New Belgium location, but other property owners could request it
RAD - Open Space/Public Facilities	Park land, open space, trails, public facilities including community centers, playgrounds, fire stations, etc.	Allows for a small amount of commercial uses in support of recreation, such as bike rentals, snack bar, etc.

In addition to the above areas, there are a small number of parcels on the outside edge of the district where rezoning is being proposed to ensure that zoning is in line with community goals. Two of these parcels have remnants of older commercial zoning but would not be able to be developed commercially because of size, topography and street access. All three parcels in this case will be rezoned or partially zoned to RM-8, which is in harmony with the surrounding parcels. These areas are noted on the map with a purple hatch symbol.

Lodging Facilities - At the July 25 City Council meeting, Council directed staff to remove Lodging Facilities, 20 guest rooms and under, from the Permitted Use table as a use by-right. The code was changed to reflect this direction and an updated code was released on August 28. At the Planning and Zoning Commission meeting on September 6 there were nine people who spoke about the lodging issue. All but one of the speakers were against removing lodging as a by-right use, and several of these speakers were property owners that will be affected by this change. Several speakers asked for the Commission to postpone their decision so that the community in the district could give more feedback on the change to the code. One resident, a neighbor in East West Asheville, spoke against allowing lodging as a by-right use.

Area between the French Broad River and the Railroad - Also at the July 25 City Council meeting, Council directed staff to reconsider areas between the River and the Railroad tracks. This issue was discussed at the Planning and Zoning Commission meeting. No one came forward during the public hearing to speak on this issue. The Commission generally felt that taking this area out of the district would be a substantial change resulting in a reduction in the impact and usefulness of the ordinance. They agreed that they did not want to take this area out of the new form districts.

One small change in the ordinance before Council being requested is to remove 18 Little Big Lane from the rezoning area (PIN 9648-07-9847). It is nonconforming due to lack of access, and can only accommodate a single home. It does not match the form based code and the property owner has asked that his lot be removed from the code area.

Another issue that has come up this week is about Ralph Street. There is a very small portion of RAD-Residential, which allows for denser development than current zoning, removes

Commercial Industrial from part of the park property, and allows opportunities for some small businesses. Four of the lots are bisected and they are sloped. On three of the four lots, the homes front John Street so they can subdivide the lots for more density than the current RS-8 allows now. The height on the Commercial Industrial piece that the City owns (connected to the Dr. Wesley Grant Sr. Southside Center) is reduced to 3 stories.

Other Community Concerns - Another issue that arose at the Planning and Zoning Commission was a concern from residents of Vernell Avenue about the potential height in the RAD-Lyman Hollow district. These residents had made their concerns known at the Planning and Zoning Commission meeting in June, City Council in July and again at the September 6 meeting. Four residents of the area came forward to speak about the issue. During their discussion, the Commission decided not to recommend any changes to the RAD-LYH district. A few commission members stated that the RAD-LYH could be a potential location for affordable housing, and they did not want to limit the development potential in this area because of a few residents' viewshed.

The form code has been through the full review process including the Asheville Area Riverfront Redevelopment Commission on May 11, Planning and Zoning Commission on June 7 and City Council on July 25. Because of the changes to lodging as directed by City Council, it was remanded back to Planning and Zoning.

On September 6, the Planning and Zoning Commission reviewed the code again with the changes regarding Lodging Facilities and held a public hearing. The Commission voted 7-0 against the amended code as the Commission did not support removing lodging facilities as a by-right use from the River Arts District Form Code. There were 14 citizens who spoke during the public comment time as described above.

The Comprehensive Plan encourages denser sustainable infill development along existing corridors in the city. Changes to the UDO that further these goals is encouraged. Form codes are a newer innovative tool that focus on community goals developed through public processes highlighting input and involvement and this is encouraged in the Comprehensive Plan. This plan created with extensive community input provides a vision for the future of the River Arts District that includes mixed-use development and multimodal transportation along with a number of other community identified goals such as historic preservation, flexibility for property owners and economic health. The details of the form code proposal provide specific requirements that mesh with the community vision and furthers the objectives of the Comprehensive Plan.

Additionally, The Wilma Dykeman Riverway Master Plan envisions reuse and redevelopment of property and buildings in the River Arts District. The form-based code provides a predictable framework for that redevelopment to happen over time.

The River Arts District Form-Based Code fits within City Council's vision for *A Well-Planned and Livable Community* and *A Thriving Local Economy*. The code takes the community vision developed during the charrette process and numerous input sessions and brings it together in the zoning. The code provides a greater level of clarity and predictability for the community, property owners and developers. Given the large investment that the city is making in the district with new multimodal transportation infrastructure, the form-based code will complement those improvements. When the city has made investments in walkable urban realms, private investment has quickly followed as evidenced in the downtown. Lastly, the process used to develop the code also aligns with Council's goal of a *Connected and Engaged Community*, through the high level of engagement with stakeholders.

Staff recommends the adoption of the River Arts District Form-Based Code and believes that the form code and rezoning proposal are reasonable, are in the public interest and are

consistent with the Comprehensive Plan by laying the framework for mixed-use development, future job growth and housing. Moreover, the rezoning aligns with the River Arts District Transportation Improvement Project (RADTIP) and The Wilma Dykeman Riverway Master Plan in that it will help create a walkable, vibrant public realm and mixed-use district.

The Planning & Zoning Commission voted unanimously to not support the Code amendment based on the changes recommended by City Council on July 25. Through its discussion, the Commission indicated support for the entire code, with the exception of the change to take Lodging Facilities out as a by-right use in the form-based code.

Mayor Manheimer said that Council has received a lot of emails about land trusts and future uses of the City property on Ralph Street. The property is not on the market and there is no project currently pending for the City property (other than the expansion of the Dr. Wesley Grant Sr. Southside Center). Ms. Vrtunski agreed and said that this RAD-Residential does not preclude community land trusts, which is an incredibly important tool.

Councilman Smith suggested looking at allowing a temporary community garden for the area residents on the City-owned property behind Greens Mini-Mart.

In response to Councilman Haynes, Mayor Manheimer said that this Council gave direction to staff to hire a consultant to work with the community to develop a form based code proposal.

Mayor Manheimer opened the public hearing at 6:54 p.m.

Several individuals spoke asked Council to remove the Ralph Street area from the Form Based Code for several reasons, some being, but are not limited to: City property should be site of a community land trust; to rezone the Ralph Street area will cause gentrification; land should be made available for affordable housing;

Ms. Sarah Skinner, west Asheville resident
Ms. Matilda Bliss
Ms. Dee Williams
Representative of Black Lives Matters
Resident of south Asheville
Member of the WNC Green Party
Mr. Matt Shepherd
Resident of west Asheville
Ms. Kim Roney

Ms. Annalise Mundy spoke about the vulnerable slopes in the RAD-Neighborhood Transition District on Craven Street with no ordinance to protect properties from landslides.

Mr. Albert Sneed, attorney representing Asheville Waste Paper, asked that their three lots (12 acres) be left out the the RAD Form Based Code because if the buildings flood, they will have to rebuild to the new code, which costs will be enormous.

The following individuals spoke in support of adopting the RAD Form Based Code as presented by staff at this meeting:

Ms. Rachel Larson
Mr. Casey Campfield

The following individuals spoke in support of adopting the RAD Form Based Code as presented to Council on July 25 (which kept Lodging Facilities, 20 guest rooms and under, in the Permitted Use table as a use by-right) because this has been a 2-year process and it's not fair that Council asked the community to come up with a plan and Council changes it without the community's input):

Ms. Pattiy Torno, property owner in the RAD
Ms. Hedy Fischer, property owner in the RAD
Ms. Helaine Greene, property owner in the RAD

Mayor Manheimer closed the public hearing at 7:32 p.m.

Councilman Smith said Council wants to make sure that we are not squeezing out locals to make room for tourists. He said that the short term rental restriction is not a ban in that property owners can still ask Council permission to do rentals through individual conditional zoning changes. The RAD is not being singled out because there will be a more broad examination of all our districts with the RAD going first. He reiterated that including the Ralph Street area does not prohibit a community land trust.

Councilman Bothwell suggested Asheville Waste Paper be removed from the zoning. He felt we are trying to go back to the livable community and this in no way will cause gentrification.

In response to Councilman Bothwell's suggestion about removing Asheville Waste Paper from the zoning, Councilwoman Mayfield said the main goal of the zoning is to ensure that future owners of the property had to comply with the standards if they build a new structure.

Councilwoman Mayfield said this is an opportunity for us to say what we want the area to look like. We are trying to build a place that is special and unique. Regarding the process, she is a big believer in process and realizes the restriction of short term rentals in the RAD was not part of that process. But, Council keeps learning about how short term rentals continue to be a problem and it is one of the main factors driving unaffordability of our City. We must take advantage of the opportunities in front of us to get a handle on it.

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 River Arts District Form-Based Code and zoning map as presented on July 25, 2017, 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 code will encourage infill development and facilitate vibrant mixed-use neighborhoods; (2) the rezoning will complement the future RADTIP road realignment and infrastructure improvements; and (3) the proposal was developed with a robust input process that included input from property owners, businesses and stakeholders. This motion died for a lack of a second.

Councilman Smith moved to approve the River Arts District Form-Based Code and zoning map as presented by staff at this meeting, 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 code will encourage infill development and facilitate vibrant mixed-use neighborhoods; (2) the rezoning will complement the future RADTIP road realignment and infrastructure improvements; and, (3) the proposal was developed with a robust input process that included input from property owners, businesses and stakeholders. This motion was

seconded by Vice-Mayor Wisler and carried on a 5-2 vote, with Councilman Bothwell and Councilman Young voting “no.”

Councilman Bothwell felt the rule goes against the idea of the form based code. He also felt it creates different rules for short term rentals than in residential zones and other parts of the city. He felt it should be handled comprehensively

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Councilman Smith moved to approve the rezoning of the real properties described in the Exhibit A map and associated with the River Arts District Form-Based Code, 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 rezoning will encourage infill development, a vibrant public realm and facilitate healthy mixed-use neighborhoods; (2) the rezoning will complement the future RADTIP road alignment and infrastructure improvements; and (3) the rezoning embodies redevelopment goals in a designated innovation district. This motion was seconded by Vice-Mayor Wisler and carried on a 5-2 vote, with Councilman Bothwell and Councilman Young voting “no.”

ORDINANCE NO. 4627 - ORDINANCE BOOK NO. 31 - PAGE 380

C. PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO REMOVE RIVER PARKING REDUCTION AREA IN ITS ENTIRETY

Mayor Manheimer said that this matter was continued from October 24, 2017, because there was a question on whether or not she had a conflict under the rules that govern licensed attorneys in North Carolina. She disclosed that her law firm has represented or represents one of the property owners in this area to be affected. After contacting the School of Government, she did not have a conflict in the rules as an elected official. After contacting the State Bar Association, she does not have a conflict to vote on this item.

Project Manager for the River Arts District Form Based Code Sasha Vrtunski said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance to remove river parking reduction area in its entirety. City Council heard this item on July 25 by remanded it to be reconsidered by the Planning & Zoning Commission at the same time as the River Arts District (RAD) Form Code. This public hearing was advertised on October 13 and 20, 2017.

In March 2011, the City of Asheville adopted reduced parking standards for the River Arts District to support the redevelopment of buildings in the area. The current section 7-11-2(c)(5) is provided as follows:

- (5) *Parking requirements for the River Parking Reduction Area.* All properties located within the River Parking Reduction Area (see map: Planning and Development Department) will be eligible for reductions based on the following:
- a. Projects with a base requirement of 30 spaces or less may receive a 50% reduction
 - b. Projects with a base requirement of 31-50 spaces may receive a 30% reduction
 - c. Projects with a base requirement of 51-75 spaces may receive a 20% reduction

These reductions may not be combined with other reductions offered through individual zoning districts.

Since that time, a number of new businesses have opened in the area, New Belgium has opened, and a new greenway on the west side of the river has been completed. All of which have resulted in a higher number of visitors to the River Arts District and parking has become generally scarce during peak times. If the new form code is approved, there will be new parking standards for this area which are slightly lower than the UDO standards for most other districts. Property and business owners have indicated to staff that more parking is needed in the area. The current parking reduction standards in the UDO are no longer appropriate for the area. This wording amendment is staff initiated to respond to changing circumstances and respond to community needs.

This wording amendment was reviewed by the Planning and Zoning Commission on June 22, 2017, and was approved 5-0. Staff has received no public comment on the amendment.

This wording amendment complies with City's Comprehensive Plan as it relates to exploring zoning tools that align with current trends and needs to encourage redevelopment and new investment.

The wording amendment aligns with the 2036 Council vision in the area of a Well-Planned and Livable Community. This amendment ensures that future development will provide adequate parking for those uses.

This proposal supports the goals outlined in the Comprehensive Plan and City Council 2036 Vision, the draft RAD form-code and staff recommends approval of the wording amendment.

The Planning and Zoning Commission reviewed the wording amendment again on September 7, 2017, and voted 6-1 in favor of the change.

Mayor Manheimer opened the public hearing at 7:53 p.m.

Mr. Matt Wallace recommended Council look for some sort of exemption for lots under .25 or .45 acres because you are severely restricted on what you can build on that lot. Ms. Vrtunski noted that there is a provision in the ordinance for narrow lots.

Mayor Manheimer closed the public hearing at 7:56 p.m.

Councilwoman Mayfield understands that the parking requirements in the form based code are less than the parking requirements in the current code and realized that is the direction that smart growth is moving. She wants us to be a step ahead but understood that we have not had the conversations with the RAD property owners. Eventually what she wants to do is to get rid of mandatory minimum parking requirements because that is the best way to create a walkable community.

Councilman Bothwell said that transportation is changing really fast and we won't need as much parking in the future.

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 wording amendment removing the River Parking Reduction Area from Section 7-11-2(c)(5) in its entirety 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) Provides a consistent parking standard to support the viability of local businesses; and, (2) Ensures that the zoning code can adapt to the changing

needs of the River Arts District as it continues to grow. This motion was seconded by Councilman Young and said motion failed on a 3-4 vote, with Mayor Manheimer, Vice-Mayor Wisler and Councilman Haynes voting "yes"; and Councilman Bothwell, Councilman Smith, Councilwoman Mayfield and Councilman Young voting "no."

Councilman Smith suggested this matter around parking be referred to the City Council Planning & Economic Development Committee, with input from Councilwoman Mayfield.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the Homeless Initiative Advisory Committee, the following individuals applied for the vacancy: Kerry Keihn, Val Ball, Michelle Stowe Ong, Joey Grisanti, Angela Dubs, Marcia Bacoate, Donald Alexander, Kate Caton, Douglas Ray Oeser, Andrew Monroe, Timothy Moser, Bill Robinson, Michael Carlebach, Roberto L. Hess, Thomas Cash and Tamarie Macon. At the request of the Homeless Initiative Advisory Committee, it was the consensus of the Council to postpone appointments until after the Committee has had an opportunity to review all applications and make a recommendation.

A. RESOLUTION NO. 17-251 - RESOLUTION APPOINTING A MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the ABC Board.

The term of John Menkes expired on November 13, 2017.

The following individuals applied for the vacancy: Matt Massarelli, Mychal Bacoate and Lakota Denton.

It was the consensus of the ABC Board and the Boards & Commissions Committee to reappoint Mr. Menkes.

Vice-Mayor Wisler moved to reappoint John Menkes to serve an additional three-year term, term to expire November 13, 2020, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

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B. RESOLUTION NO. 17-252 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Firemen's Relief Fund..

There currently exists a vacancy, left by Alfred Kalahati, until January 1, 2018.

The following individuals applied for the vacancy: Raymond Tweed, Mark Klein and Jennifer Bosworth.

It was the recommendation of the Firemen's Relief Fund and consensus of the Boards & Commissions Committee to appoint Mr. Tweed.

Vice-Mayor Wisler moved to appoint Raymond Tweed to serve a two-term, term to expire January 1, 2020, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Amy Kemp urged Council to continue to look at short term rentals and their impact on our housing availability.

Mr. Ben Stockdale, on behalf of Renew AVL, spoke to Council about establishing a commitment by the City to power municipal operations by 100% renewable energy.

Mr. Jackson Tierney said that Council should look have a comprehensive reassessment of short term rentals regulations with a possible rollback of short term rentals where they are now legal.

Mr. Peter Landis spoke about the increased presence of short term rentals downtown and felt we need a balance of retail and residential in the downtown.

Closed Session

At 8:16 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.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 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. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:35 p.m., Vice-Mayor Wisler to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:35 p.m.

CITY CLERK

MAYOR