

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

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis (excused at 9:30 p.m.); Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 11, 2014**
- B. RESOLUTION NO. 14-265 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CH SECURITY FOR SECURITY SERVICES IN THE CITY'S PARKING GARAGES**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with CH Security for security services in the City's parking garages.

The City of Asheville, through the Parking Services Division, operates four parking garages; Civic Center, Rankin Avenue, Wall Street and Biltmore Avenue. The Parking Services Division uses a combination of City employees and contract security officers to provide security and customer assistance in the garages. Generally, City employees work during the business day and early evenings while contract security is on duty during late nights, weekends, and holidays.

Contracts for security are in effect for three years and the current contract expired on November 30, 2014. In October 2014 the Parking Services Division requested quotes for service from interested vendors resulting in 21 vendors responding as shown on the vendor bid sheet. CH Security provided the lowest price for the service. They are headquartered in Alpharetta, Georgia, and they have a district office in Burnsville, N.C. They have been our provider since December 2011. On a normal week, a total of 205 hours of security services will be needed. In addition, the Parking Services Division will request additional security support during periods of high demand; for example, Southern Conference Tournament, Moogfest, employee vacations, or large concerts at the US Cellular Center. The total cost of the three-year security contract will be \$405,000.00 but will not exceed \$135,000.00 per fiscal year.

Pros:

- Provides safe facilities for residents and visitors to park in.
- Using contract security is the most cost effective manner to augment the Parking Services Division's security requirements.
- Achieves the City of Asheville's assurances to its partners at 51 Biltmore that adequate security will be maintained in the Biltmore Avenue Parking Garage.

Con:

- Total cost of \$405,000.

The necessary funds are already budgeted in the Parking Services Fund's Operating Budget for FY 2014-15.

City staff recommends that City Council adopt a resolution authorizing the City Manager to sign a three-year contract with CH Security to provide security services in the City's parking garages at a total cost of \$405,000.00; not to exceed \$135,000.00 per fiscal year.

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- C. RESOLUTION NO. 14-266- RESOLUTION ADOPTING THE 2015 CITY COUNCIL MEETING SCHEDULE, INCLUDING THE CITY COUNCIL ANNUAL RETREAT ON JANUARY 30 & 31 2015, BEGINNING AT 8:30 A.M. IN THE BANQUET HALL OF THE U.S. CELLULAR CENTER**

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- D. RESOLUTION NO. 14-267 - RESOLUTION AUTHORIZING A PUBLIC HEARING TO BE HELD ON JANUARY 13, 2015, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR LINAMAR**

Summary: The consideration of a resolution authorizing a public hearing to be held on January 13, 2015, to consider an economic development incentive grant for Linamar.

City of Asheville has been requested by Buncombe EDC for consideration of a performance based incentive grant under the City of Asheville Economic Development policy to Linamar. Linamar is a diversified global manufacturing company of highly engineered products with facilities across North America, Europe, and Asia. The purpose of the City's participation would be to induce Linamar to make additional investments in the City and Buncombe County for expenditures to expand its existing facilities located at 2169 Hendersonville Road in Asheville. The project will require additions to and renovations of existing buildings and purchase of additional machinery and equipment which may increase the tax value as determined by the Buncombe County Tax Department, regardless of funding sources for said property, in the amount of \$190,000,000. This commitment replaces and is an increase of \$115 million and 150 jobs to Linamar's second expansion announcement in June of 2012, which encompassed a \$75 million investment and 250 new employees. The City of Asheville is considering offering a performance-based grant in an amount not to exceed \$3,500,000, which will replace a phase II grant of \$1 million. No payments have been made on Phase II.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

The economic development incentive grant for Linamar supports the City Council's Strategic Operating Plan as it addresses Council focus areas. Under the Job Growth and Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies and efficient use of existing resources.

Pros:

- Performance driven grant that is distributed after job and investment is achieved or mutually agreed performance bench marks are established;
- Supports job creation and capital investment in Asheville;

- Supports regional and state cooperation in the project.

Con:

- Grant is formulated based on use of a portion of the new incremental increase from property tax revenue generated by the project.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive a portion of the new incremental property tax revenues from the project. As noted above, the City of Asheville performance-based grant amount will not exceed \$3,500,000 in total.

City staff recommends Council approve a resolution authorizing a public hearing to be held on January 13, 2015, on an economic development incentive grant agreement to support Linamar.

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E. RESOLUTION NO. 14-268 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH MOORE & SON, INC. FOR THE BEAUCATCHER TANK WATERLINE IMPROVEMENT AREA PROJECT

ORDINANCE NO. 4371 - BUDGET AMENDMENT FOR THE BEAUCATCHER TANK WATERLINE IMPROVEMENT AREA PROJECT

Summary: The consideration of the following items relative to the Beaucatcher Tank Waterline Improvement Area Project ('Project'): (1) a resolution authorizing the City Manager to enter into a construction agreement with Moore & Son, Inc., for the bid amount of \$432,480; (2) a contingency amount of \$65,470 for a total project budget in the amount of \$497,950; and (3) a budget amendment in the amount of \$372,950 from savings in other capital projects that were completed under budget.

This project consists of all materials, labor, incidentals, and equipment necessary for the waterline installation on two separate roads and the abandonment of multiple waterlines across the former Beaucatcher Tank site. The waterline installations will occur on College Street with the installation of approximately 1,100 Linear Feet (LF) of 10-inch Ductile Iron Pipe (DIP) and Beaucatcher Road with the installation of approximately 350 LF of 24-inch DIP with related appurtenances and materials required to complete the work. This project is being completed in order to remove and abandon all public lines off the former Beaucatcher Tank property, which is a condition of an existing property trade agreement between the City of Asheville and Fiesta Resort Properties. The property trade is needed to complete the proposed Beaucatcher Greenway Project. The WRD issued an Advertisement For Bids for the construction project. In response to the Advertisement For Bids, the WRD received four bids. Companies responding were:

1. Dillard Excavating Company, Inc. – Pelzer, SC	\$544,115.00
2. Huntley Construction Company, Inc. – Asheville, NC	\$511,125.75
3. Moore & Son, Inc. – Mills River, NC	\$432,480.00
4. Patton Construction Group, Inc. – Asheville, NC	\$473,300.00

Following a review of bids by City Staff, Moore & Son, Inc., was selected as the lowest responsible, responsive bidder for the bid amount of \$432,480. A contingency amount of \$65,470 has been added for a total project budget of \$497,950.

Pros:

- This project will remove and replace aging infrastructure from existing City of Asheville property and relocate all lines to within the road right-of-way. The existing lines are considered to be main transmission lines and due to age, have a high risk of failure that could cause costly repairs for the WRD. This is intended to reduce frequent outages for the customers with a durable, reliable, sustainable water system for the project area.
- The completion of this project enables the City to meet the conditions for the existing property trade agreement with Fiesta Resort Properties, which is required for the City to complete the proposed Beaucatcher Greenway.
- This project is aligned with the City and WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.
- Approval of the construction contract to the lowest responsible, responsive bidder will invest City funds in the local economy.

Cons:

- Failure to award a construction contract would prevent the completion of this waterline system improvement and goal of continued investment in our infrastructure.
- Failure to award would also prevent the City from fulfilling a condition of the existing property trade agreement with Fiesta Resort Properties, which is required for the City to complete the proposed Beaucatcher Greenway.

The Water Resources Department currently has \$125,000 budgeted for this Project. The scope of this project has expanded beyond the original scope identified more than six years ago. The remaining funds of \$372,950 needed for the contract will be transferred from two capital projects that were completed under budget. In order to transfer the funds, a budget amendment is necessary.

Amount in Project Budget	\$125,000
Amount Needed for Construction Contract	\$372,950
Total Amount for Project	\$497,950

City staff recommends City Council authorize the following relative to the Beaucatcher Tank Waterline Improvement Area Project: (1) a resolution authorizing the City Manager to enter into a construction agreement with Moore & Son, Inc., for the bid amount of \$432,480; (2) a contingency amount of \$65,470 for a total project budget in the amount of \$497,950; and (3) a budget amendment in the amount of \$372,950 from savings in other capital projects that were completed under budget.

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F. RESOLUTION NO. 14-269 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CAROLINA CORNERSTONE CONSTRUCTION FOR THE RENOVATION OF THE STEPHENS-LEE RECREATION CENTER

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Carolina Cornerstone Construction to replace the existing recreation center flooring, gym ceiling, interior paint, sports equipment, and provide structural upgrades at Stephens-Lee Recreation Center for an amount not to exceed \$340,000.

The City of Asheville has determined the existing flooring, sports equipment, interior paint, and gym ceiling tiles at the Stephens-Lee Recreation Center have exceeded their life expectancy, are in poor condition, and poses safety hazard for users. Additionally in response,

the city has identified the need for a renovation and plans to complete the project in FY 2014-2015 under the parks and recreation deferred maintenance program.

The City issued an Advertisement for Bids for construction of the renovations and received a bid from Carolina Cornerstone Construction located at 357 Depot Street in Asheville, North Carolina who was selected as the lowest, responsible bidder at the amount not to exceed \$340,000.

Pros:

- Improves safety by replacing uneven and cracked flooring and ceiling surfaces from years of patching and repairing; replacement of outdated and broken sports equipment.
- Provides safe alternative for recreation.
- Improves performance through ongoing care and maintenance.

Con:

- None

The \$340,000 to support the Carolina Cornerstone Construction contract for Stephens-Lee Recreation Center renovation is budgeted in the FY 2014-2015 Parks and Recreation Department operating budget as part of the deferred maintenance budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Carolina Cornerstone Construction to renovate Stephens Lee Recreation Center for an amount not to exceed \$340,000.

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G. RESOLUTION NO. 14-270 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH AMERICAN SEATING COMPANY FOR THE REPLACEMENT OF THE MCCORMICK FIELD SEATING

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with American Seating Company for the replacement of seating at McCormick Field for an amount not to exceed \$259,453, with the City Manager authorized to approve change orders up to the budget amount.

In March 2012 City Council approved a five-year lease with DeWine Seeds –Silver Dollar Baseball, L.L.C for the use of McCormick Field for the operation of the Asheville Tourists minor league baseball team. As part of that agreement, the City committed to fund certain capital improvements at McCormick Field during the term of the lease, including the replacement of seating in Fiscal Year 2014-15. The City issued an Advertisement for Bids for McCormick Field seat replacement on November 6, 2014, and received the following two bids:

Irwin Seating Co. - Grand Rapids, MI	\$312,774
American Seating Co. - Grand Rapids, MI	\$259,453

American Seating Company from Grand Rapids, MI, was selected as the lowest, responsible bidder at an amount not to exceed 259,453.

Pros:

- This project will remove and replace aging infrastructure from existing COA property.
- The project will also make this site more aesthetically pleasing.

Con:

- None

Funding for this contract is already budgeted in the adopted Fiscal Year 2014-2015 capital improvement budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with American Seating Company for the replacement of seating at McCormick Field for an amount not to exceed \$259,453, with the City Manager authorized to approve change orders up to the budget amount.

At the request of Councilman Davis, Director of Finance and Management Services, said that she would be happy to provide the detailed specs and photos of the seats.

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H. RESOLUTION NO. 14-271 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WASTE PRO OF NORTH CAROLINA INC. TO PROVIDE BULK CONTAINER REFUSE AND RECYCLING COLLECTION SERVICES AT CITY FACILITIES

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Waste Pro of North Carolina Inc., to provide bulk container refuse and recycling collection services for the U.S. Cellular Center, Transportation, General Services, Public Works, Parks and Recreation and Water Resources Departments.

The City of Asheville U.S. Cellular Center, Transportation, General Services, Public Works, Parks and Recreation and Water Resources Departments generate and/or collect moderate amounts of solid waste on a regular basis through normal operations. These items are deposited frequently into large 4, 8 and 34 cubic yard capacity dumpsters located at the various City Department's facilities.

In total, there are 34 dumpsters throughout the City; 21 located at Parks and Recreation facilities, 2 at parking garages, 3 at General Services facilities, 4 at Water Resources facilities, 2 at the U.S. Cellular Center, 1 at Public Works, and 1 located at the Purchasing warehouse.

The City of Asheville does not own these types of dumpsters or the specialized machinery and equipment to haul the waste to the various transfer stations.

A competitive bid process was conducted, receiving four (4) bids for the rental of equipment and collection of bulk waste generated by the City. The bid summary is below:

Waste Industries, LLC, Raleigh, N.C.	\$51,496.00
Waste Management of Carolinas Inc., Arden, N.C.	\$40,380.20
Waste Pro of North Carolina Inc., Arden, N.C.	\$40,310.20
Republic Services of North Carolina, LLC, Asheville, N.C.	\$40,530.75

Waste Pro of North Carolina Inc. was the lowest responsive and responsible bidder with an estimated yearly amount of \$40,310.20. By adding a 5% contingency for future year price adjustments, the total expense for three years is \$127,078.00

Pros:

- Allows for an efficient work environment by frequently removing waste material from city facilities.
- Provides a safe means of storing and disposing of waste.

Con:

- None identified

The first year of the multi-year contract expense is budgeted in the FY 2014 – 2015 operating budgets of the aforementioned Departments, and the remaining years will also be budgeted for in the respective operating budgets.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into and approve change orders for a three (3) year contract with the option of two (2) one (1) year extensions; with Waste Pro of North Carolina Inc. to provide bulk container refuse/recycling collection services in the amount of \$127,078.00.

RESOLUTION BOOK NO. 36 - PAGE 444

I. RESOLUTION NO. 14-272 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH FIELD CONSTRUCTION SERVICES INC. FOR THE INSTALLATION OF AN IRRIGATION SYSTEM ON THE BACK NINE HOLES AT THE ASHEVILLE MUNICIPAL GOLF COURSE

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Field Construction Services, Inc. for the installation of a new irrigation system on the back nine holes at the Asheville Municipal Golf Course for an amount not to exceed \$365,000.

City Council approved \$450,000 as part of the City's Fiscal Year 2014-2015 capital improvement budget for the irrigation system at the Asheville Municipal Golf Course. The City issued an Advertisement for Bids for the irrigation system and installation, and received a bid from Field Construction Services, Inc., located in Charlotte, North Carolina, who was selected as the lowest, responsible bidder at the amount not to exceed \$365,000.

Pros:

- The new irrigation system will replace an old, leaking and antiquated system that is manually operated and in continuous need of repair.
- The new system will save considerable resources in staff time, repair costs and water use.
- The new system will increase water efficiency while improving overall playability of the golf course and enhance customer service.

Con:

- None

The \$365,000 to support the Field Construction Services, Inc. contract for the Asheville Municipal Golf Course back nine irrigation system is budgeted in the Fiscal Year 2014-2015 capital improvement budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Field Construction Services, Inc. for the irrigation system and installation on the back nine holes of the Asheville Municipal Golf Course not to exceed \$365,000.

Mayor Manheimer said that the City leases the Golf Course to a private entity that runs it for the City and that has enabled the City to re-direct its dollars to make investments in capital improvements needed for the Golf Course.

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J. ORDINANCE NO. 4372 - BUDGET AMENDMENT FOR THE SENIOR OPPORTUNITY CENTER AND HARVEST HOUSE FROM THE SENIOR CENTER GENERAL PURPOSE FUND FOR FISCAL YEAR 2014-15

Summary: The consideration of a budget amendment in the amount of \$3,893 for Senior Opportunity Center and \$3,893 for Harvest House for an appropriation from the State of North Carolina, Department of Health and Human Services, Division on Aging and the Land of Sky Regional Council/Area Agency on Aging through the Senior Center General Purpose Fund.

Funds will be used at the Senior Opportunity Center to enhance the front entrance patio and landscaping around the building. The allocation requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

Funds will be used at Harvest House to 1) add new storage space, and 2) purchase program and facility equipment. This allocation also requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

Pros:

- Facility improvements will address existing maintenance projects and improve accessibility.
- Equipment purchases will enhance the customer experience and expand programming opportunities in senior centers.

Con:

- None

The allocation will increase the City's General Fund budget by \$7,786 in special project accounts designated for the Senior Opportunity Center and Harvest House. The 25% local match will be provided through in-kind services of staff time to manage the projects.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to establish a budget in the amount of 1) \$3,893 for Senior Opportunity Center, and 2) \$3,893 for Harvest House for facility improvements and equipment.

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K. RESOLUTION NO. 14-273 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A DONATION FROM THE ASHEVILLE DOWNTOWN ASSOCIATION OF THE STAGE CANOPY AT PACK SQUARE PARK

Summary: The consideration of a resolution authorizing the City Manager to accept a donation from the Asheville Downtown Association (ADA) of the stage canopy at Pack Square Park.

In 2013 the City authorized ADA to install a canopy on the stage at Pack Square Park. Since then ADA successfully met all the requirements of the canopy installation and the work is complete. ADA is now making a gift of the stage canopy to the city valued at \$125,000.

Upon acceptance of the gift, the City will assume responsibility for all maintenance and operations of the canopy including but not limited to maintenance, repair and replacement. Each 10-year period of operation is anticipated to cost a minimum of \$155,000.

Pro:

- Supports the partnership between the City and ADA to enhance Pack Square Park events and programming

Con:

- Increase cost to the City's budget for canopy maintenance, repair and replacement

The addition of the stage canopy in Pack Square Park will increase the City's operating budget by \$155,000 for each 10-year period.

City staff recommends City Council to adopt a resolution authorizing the City Manager to accept a donation from the Asheville Downtown Association of the stage canopy at Pack Square Park.

Councilman Davis thanked the Asheville Downtown Association for the donation of the stage canopy.

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L. ORDINANCE NO. 4373 - TECHNICAL BUDGET AMENDMENT TO APPROPRIATE FUNDING FOR PRIOR YEAR CONTRACTS AND PURCHASE ORDERS THAT ROLLED FORWARD TO FISCAL YEAR 2014-15

Summary: The consideration of a technical budget amendment in each of the City's annual operating funds to appropriate from restricted fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to Fiscal Year 2014-15.

As part of its ongoing operations, the City enters into various contracts and purchase order agreements throughout the fiscal year. When these contracts and purchase orders are entered into, budget funds are encumbered for the full amount of the expected purchase. Often these contract and purchase orders are not fully completed and paid in one fiscal year. North Carolina General Statutes provide authorization for local governments to reserve the unexpended portion of these prior year commitments and roll those budgets forward to the new fiscal year.

As a part of the Fiscal Year 2013-14 annual audit, staff identified prior year commitments and carry-over appropriations to roll forward to Fiscal Year 2014-15, and these dollar amounts were deducted from the unassigned fund balance amounts that were reported in the Comprehensive Annual Financial Report. The technical budget amendment will provide authorization to officially appropriate these amounts in the Fiscal Year 2014-15 budget for each of the City's annual operating funds.

Pro:

- Provides budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to Fiscal Year 2014-15.

Con:

- None.

As noted above this budget amendment simply provides budget authorization for prior year commitments which have already been reserved in the City's Fiscal Year 2013-14 financial statements. There is no impact on unassigned/available fund balance in the City's operating funds.

City staff recommends City Council approve the technical budget amendment in each of the City's annual operating funds to appropriate from restricted fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to Fiscal Year 2014-15.

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M. RESOLUTION NO. 14-274 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SUPPLEMENTAL UTILITY AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE RELOCATION AND ADJUSTMENT OF MUNICIPALLY OWNED WATERLINES WITHIN THE I-

26/NC 280 (AIRPORT ROAD) INTERCHANGE PROJECT AREA

Summary: The consideration of a resolution authorizing the City Manager to execute a Supplemental Utility Agreement with N.C. Dept. of Transportation (NCDOT) for the relocation and adjustment of municipally owned waterlines within the I-26 / NC 280 (Airport Road) interchange project area.

On July 23, 2013, City Council authorized the City Manager to execute a Municipal Utility Agreement with NCDOT for the I-26 / NC 280 Interchange Project (No. I-5501) in the amount of \$164,000. Afterwards the Water Resources Department was informed that the cost of the project increased to \$196,900 and on June 10, 2014, City Council authorized the City Manager to execute the first Supplemental Utility Agreement. Since construction has begun on the project it has been determined that an additional 200' of 24" water transmission main will have to be relocated due to it being in conflict with the roadway project. Because the City of Asheville owns and maintains municipal waterlines within the right-of-way of the project area, the Water Resources Department is responsible for 100% of the cost associated with adjustment or relocation of the waterlines.

The current project estimate is \$196,900. The Supplemental Utility Agreement increases the project estimate by \$106,780. The new adjusted estimate for the relocation and adjustment of the waterlines is \$303,680 plus an additional contingency amount of \$45,552 for other possible unforeseen additions, for a total project budget estimate amount of \$349,232.

Pros:

- Execution of the supplemental agreement allows the City of Asheville Water Resources Department to meet its obligations to NCDOT for the adjustment or relocation of municipal waterlines within the NCDOT right-of-way.
- Execution of the supplemental agreement allows the required adjustment or relocation of municipal waterlines to be performed under the NCDOT construction contract, which will provide construction efficiencies producing cost savings and allow construction schedules to be met.

Cons:

- Failure to execute the supplemental agreement hinders the City of Asheville Water Resources Department ability to meet obligations to NCDOT for the adjustment or relocation of municipal waterlines within the NCDOT right-of-way.
- Failure to execute the supplemental agreement prevents the required adjustment or relocation of municipal waterlines from being performed under the NCDOT construction contract. This will create difficulties with construction coordination, create a lack of efficiencies and add to the overall cost of the construction.

The funding needed for this agreement is currently allocated within the NCDOT I-26 Widening Project in the Water Resources Capital Improvement Projects fund. City Council previously approved a budget of \$196,900, so this request would increase the budget amount by \$152,332. No budget amendment is necessary.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a Second Supplemental Utility Agreement with NCDOT for the relocation and adjustment of municipally owned waterlines within the I-26 / NC 280 (Airport Road) interchange project area. The adjusted estimate for the relocation and adjustment of the waterlines is \$303,680 plus an additional contingency amount of \$45,552 for other possible unforeseen additions, for a total project budget estimate amount of \$349,232.

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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 Hunt moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

Councilman Smith asked that when the City enters into contracts, that Council be advised on what is being provided in terms of wages. City Manager Jackson will check what reporting is being reported now and what will be needed to satisfy that request.

III. PRESENTATIONS & REPORTS:

A. PRESENTATION OF THE EXTERNAL AUDIT OF THE FISCAL YEAR 2015 COMPREHENSIVE ANNUAL FINANCIAL REPORT

Director of Finance and Management Services Barbara Whitehorn said that this is the consideration of a motion to accept the Fiscal Year (FY) 2014 Comprehensive Annual Financial Report (CAFR).

Mr. Eddie Burke, CPA, Audit Partner with Cherry Bekaert LLP, presented Council with the City's CAFR, and then provided a review of the audit. He reviewed the different audit areas of focus.

Cherry Bekaert has provided the City with an unmodified, or "clean," opinion that the financial statements are fairly presented in conformity with generally accepted accounting principles. This opinion is the highest form of opinion that the external auditors can express on the presentation of the City's financial statements.

In response to Councilwoman Wisler, Mr. Burke said that all three recommendations from last year have been addressed/corrected.

Vice-Mayor Hunt moved to accept the Fiscal Year 2014 Comprehensive Annual Finance Report. This motion was seconded by Councilman Bothwell and carried unanimously.

B. QUARTERLY FINANCIAL UPDATE

Director of Finance and Management Services Barbara Whitehorn noted the following key items in the first quarter financial report:

- Major General Fund revenues, such as property and sales taxes, are on track to match budget estimates, but more refined projections will be available in the second quarter report. Please note that many revenues are remitted to the City either on a delay from collection (sales tax) or peak during a particular month or quarter (property tax). In the case of sales tax, the actual collections as of 9/30/2014 represent only one month of sales tax. Since the date of these financials, we have received the August and September receipts, on which we base our assertion that these taxes are on track with budget. Property Tax collections will be recorded primarily in December and January.
- Smaller General Fund revenues, such as Development Services fees and Local ABC shared revenue continue to perform better than original budget estimates; the Development Services fee revenue budget was amended in October (Quarter 2) to account for the ongoing high level of activity.

- General Fund expenditures were at 20% of budget at the end of the first quarter – which is typical for this point in the fiscal year. Although Police Department overtime and augment pay expenses were running ahead of budget through the first quarter, overall Police salary expenses (including regular and overtime pay) were on budget due to offsetting vacancies. Staff will be adjusting budgets between Police regular and overtime/augment pay during the second quarter to reflect first quarter results and projections for the remainder of the year.
- While staff anticipates that unassigned fund balance in the General Fund will increase in FY 2014-15, staff will have more refined projections later in the year.
- All Enterprise Funds are currently projected to perform at or better than budget.
- Staff has identified no financial or budget issues with capital projects in the first quarter that significantly impact budget estimates or cash flow projections.

She then provided Council with the following financial information which reflects the City's overall financial position for the fiscal year through September, 2014. The following is the executive summary:

Amendments. The General Fund budget presented in this first quarter report reflects the adopted budget of \$99,547,954 along with two budget amendments approved by City Council. A summary of the budget amendments is presented below. The budget amendments that involved an appropriation from fund balance are noted with an asterisk.

Adopted Budget	99,547,954
Budget Amendments:	
Parks & Recreation Grants/Donations	53,795
WNC Diversity Engagement Coalition Support*	<u>10,000</u>
9/30/2014 Budget	<u>\$99,611,749</u>

*Fund Balance Appropriation

Revenues. Through September 30, 2014, the City has collected \$9.3 million in General Fund revenue, which represents approximately 10% of the total General Fund revenue budget. Based on FY 2014 year end revenue collections and FY 2015 first quarter trends, staff is currently projecting that ***FY 2015 General Fund revenue will slightly exceed budget.***

Expenditures. General Fund expenditures through September 30, 2014 totaled \$19.9 million or 20% of budget, which is typical for this point in the fiscal year. Personnel expenses, the largest component of the General Fund budget, are on budget through the first quarter. Staff is projecting that ***FY 2015 expenditures (including contract and purchase order commitments) will finish the year under budget by \$767,000 (99% of budget).***

Fund Balance. The City began FY 2015 with unassigned fund balance of \$15.0 million. As noted above, an additional \$10,000 was appropriated from unassigned fund balance during the first quarter. Based on ***current revenue and expenditure projections for FY 2015, staff estimates that unassigned fund balance at June 30, 2015 will be \$16.26 million or 16.5% of estimated expenditures.***

In response to Vice-Mayor Hunt, Ms. Whitehorn said that it's a little early in our first quarter to project our unassigned fund balance, but so far the trend is looking good.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING RESIDENTIAL DEVELOPMENT DENSITY STANDARDS IN CERTAIN COMMERCIAL ZONING DISTRICTS AND ONE RESIDENTIAL ZONING DISTRICT

ORDINANCE NO. 4374 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING RESIDENTIAL DEVELOPMENT DENSITY STANDARDS IN CERTAIN COMMERCIAL ZONING DISTRICTS AND ONE RESIDENTIAL ZONING DISTRICT

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance amending the Unified Development Ordinance regarding changes to the residential density allowed in certain commercial zoning districts (all but one would be increases). This public hearing was advertised on November 28 and December 5, 2014.

Staff originally brought forward the wording amendment in question, proposing changes to residential density limits in commercial zoning districts, primarily as an effort to better realize the goal of increased residential infill density along commercial corridors. However, with Asheville's affordable housing shortage also in place as one of Council's focus areas, Council and staff recognized that the amendment could also serve as an instrument to encourage the construction of more new affordable units.

In winter and spring of 2014, when the wording amendment was first being drafted, staff developed the proposed maximum densities based on a methodology assuming that residential building volumes would not exceed the theoretical largest building that could be developed as a wholly *commercial* development. The figures were also affected by suppositions about site design: landscape buffers, parking, building height, multiple buildings on a site, etc.

In June of this year, Council was scheduled to hear the wording amendment. The item was continued in order that staff might further discuss the figures with the Housing and Community Development (HCD) Committee, reconsider the numbers associated with those limits and whether they needed to be adjusted to better meet the aforementioned Council goals.

The conversation with HCD ensued at that committee's July meeting. The committee asked staff to reconsider, and do more analysis of, the proportion of units that would be required to be affordable in order to maximize density. Further, staff was asked to consult with the Affordable Housing Advisory Committee, and to examine whether the maximums were sufficiently high as to fully support the goal of encouraging infill density while still ensuring compatibility with surrounding areas.

Staff has devoted considerable time to refining the numbers, and has used interactive spreadsheets, as well as other tools, to investigate how the density numbers are affected when certain assumptions (e.g., number of parking spaces provided per unit) are adjusted. Staff also has given attention to the matter of the percentage of affordable units required to maximize density, and how that maximum density relates to the density allowed for purely market-rate housing.

Staff's analysis also led to the inclusion of two more districts. The Neighborhood Corridor District, another mixed-use district similar to those already included, was determined to have an unsuitably low maximum density. Staff also recognized that, if the changes to commercial districts were to take effect, there would be a marked discrepancy with the highest density *residential* district in the development ordinance: the Urban Residential (URD) district. To offer a maximum in the Office district that was higher than the maximum offered in the Urban Residential district

seemed too inconsistent an approach to addressing the goals of increasing multifamily density in appropriate locations.

Unlike the other affected districts (and unlike most districts in the ordinance), the URD district exists on the ground in very limited circumstances. Since its adoption in 2003, it has only been applied when property owners have requested a rezoning for certain projects (e.g., The Larchmont, Clingman Lofts). There are no existing districts of privately-owned, undeveloped land zoned URD. As such, any developer seeking to develop in the URD district would need to request a rezoning, and compatibility for a development of such density would be assessed at that time.

Staff made the determination that the URD district should be included after it was too late to add that modification to the Planning and Zoning Commission’s November agenda. At their November 5th meeting, the Commission voted unanimously to recommend approval for the modifications to the other eleven districts. At their December 3, 2014, meeting, the Planning and Zoning Commission voted unanimously (6-0) to recommend approval of revising the wording amendment text to include the changes to density in the Urban Residential district.

Recognizing that incentives for density and affordable housing will appeal to developers only if the math truly represents an encouraging option, staff has sought conversations with multiple developers to examine the key ratios and factors that would enable the amendment to have the desired impact. The table below is meant to illustrate how the proposed change affects the numbers, not only of maximum density, but also of affordable housing units provided, and additional market units provided. Of the eleven districts where increases are proposed, three representative districts are shown here for the sake of simplicity.

Zoning District	Status quo maximum density (units/ac)	Proposed maximum density (units/ac)		Additional units yielded by bonus	
		Market-rate	With 20% affordable	Market-rate	Affordable
Office Business	12	20	40	12	8
River	16	30	60	18	12
Regional Business	32	35	70	21	14

It’s worth noting that the maximal density levels were determined for a “best case” scenario parcel without the irregular shapes, topographic constraints, utility conflicts, flood hazards and other obstacles common to Asheville parcels. Staff recognizes that many parcels will not be able to be developed to these densities, but nonetheless concluded that the option should be available for the parcels that can support such levels.

The next table shows the existing densities for all of the districts proposed for increases, as well as the current proposal. If just 10% of the vacant land area in these districts – to say nothing of the underdeveloped land – were developed at the maximum density, more than 2,300 multifamily units would be built (more than 460 affordable) or if developed all at market rate, more than 1,150.

Proposed for Increased Residential Density

District Name	Current Density (units per acre)	New Proposed Density (units per acre)	
		Market Rate	20% Affordable
Office	8	20	40
Office II	12	20	40
Office Business	12	20	40
CB I	16	20	40
CB II	16	25	50
Institutional	16	30	60
River	16	30	60
Highway Business	32	35	70
Regional Business	32	35	70
Neighborhood Corridor	32	35	70
Urban Residential	32	35	70

Another element of the proposed amendment involves *reducing* the allowed density for one district: Commercial Industrial. The reduction proposed in May (aimed to temporarily curtail residential development of land with industrial potential) had been from 16 units per acre to two units per acre. Staff is now proposing a change to eight units per acre to reduce the degree of nonconformity created for existing residences in the CI zoning, while still achieving the goal of preventing large multifamily projects.

In the Asheville City Development Plan 2025, references to encouragement of mixed-use development, higher residential densities in appropriate locations, and multi-family housing along corridors abound. Such instances are almost too numerous to list—multiple examples exist on page 155 alone.

The City Council 2014-2015 Strategic Plan (Focus Area 2) Goal 1 is to “Expand Asheville’s supply of quality, affordable homes for current and future residents.” Action Items under that goal speak directly to revisiting the UDO to encourage affordable housing close jobs and transportation; and providing financial assistance and development incentives. Focus Area 1, Goal 2 says the City should act to “Research, develop and propose incentives for in-fill and redevelopment.”

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

Considerations:

- Amendments could encourage infill development in areas where current density limits may have inhibited desirable high-impact projects.
- Amendment is hoped to stimulate construction of mixed-income housing (including affordable) on location-efficient corridors.
- Stricter limits will prevent residential development of land with industrial potential while study of industrial land is conducted.

Staff recommends approval of the modification to the wording amendment text.

In response to Councilman Smith, Mr. Esselstyn said that they have had discussions with developers and they are in general agreement on the numbers.

Councilman Bothwell felt that this is a workable and rational plan to help increase density.

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

A piano teacher in west Asheville was concerned that on the City's website it lists the median income as \$39,000 but most of the people that she works with are making half of that. She asked Council to consider a percentage of affordable housing in any project moving forward.

Mr. Rich Lee, representing the East/West Asheville Neighborhood, felt this is a great first step to consolidate apartments along corridors and protect the core of the neighborhoods.

Mayor Manheimer closed the public hearing at 5:45 p.m.

Councilman Smith felt this is the leading edge of this Comprehensive Housing Affordability Strategy and was encouraged to hear the community wanting Council to take future steps. Ultimately this is about thoughtful growth in the City of Asheville and knowing that the affordable housing need is so great, how are we going to accommodate the density necessary to solve the problem.

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 revised wording amendment modifying residential density in selected districts, 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) References to the benefits of higher-density residential development in corridors closer to jobs are widespread in the 2025 Plan; (2) Encouraging more density on transit routes is also a stated objective in the Comp. Plan; (3) Affordable housing, a goal of both the Comp. Plan, City Council Strategic Plan, and multiple other adopted plans, would be furthered, and (4) The aim to promote more mixed-use infill development figures prominently in the Comp. Plan, as well as the City Council Strategic Plan. This motion was seconded by Councilman Smith and carried unanimously.

On behalf of City Council, Vice-Mayor Hunt thanked Mr. Esselstyn for his compassion and professionalism as a planner with the City and wished him well in his future endeavors.

ORDINANCE BOOK NO. 29 – PAGE 307

B. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING OF A PORTION OF WESTOVER ALLEY

RESOLUTION NO. 14-275 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF WESTOVER ALLEY

Public Works Director Greg Shuler said that this is the consideration of a resolution to permanently close a portion of Westover alley. This public hearing was advertised on November 14, 21 and 28, and December 5, 2014.

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

Pursuant to this statute, adjoining property owner Matt Depofi has requested the City of Asheville to permanently close a portion of Westover Alley.

The Multimodal Transportation Commission met on September 24, 2014, and approved the closure.

Pros:

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

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution to permanently close a portion of Westover Alley.

Mayor Manheimer opened the public hearing at 5:56 p.m., and when no one spoke, she closed the public hearing at 5:56 p.m.

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

Councilwoman Wisler moved for the adoption of Resolution No. 14-275. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 448

C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY OFF FAIRVIEW ROAD FROM URBAN VILLAGE DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR DEVELOPMENT OF A MIXED USE PROJECT CONTAINING APARTMENTS AND RETAIL, WITH MODIFICATIONS TO PARKING STANDARDS FOUND IN SECTION 7-8-26 OF THE UNIFIED DEVELOPMENT ORDINANCE

Mayor Manheimer said that Mr. Lou Bisette, representing the owner, asked for a continuance until January 27, 2015, in order to (1) further look at the City's Land Use Incentive Program and other ways to achieve 10% affordable housing in the project; and (2) meet with the neighbors to discuss any of their concerns. Therefore, Councilman Smith moved to continue this public hearing until January 27, 2015. This motion was seconded by Councilman Davis and carried unanimously.

D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING 275 AND 281 HAZEL MILL ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR WHITE OAK GROVE APARTMENTS ON HAZEL MILL ROAD AND CLAYTON ROAD

ORDINANCE NO. 4375 - ORDINANCE TO CONDITIONALLY ZONE 275 AND 281 HAZEL MILL ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR WHITE OAK GROVE APARTMENTS ON HAZEL MILL ROAD AND CLAYTON ROAD

At the request of Mayor Manheimer, Councilman Pelly moved to recuse Mayor Manheimer from participating due to a conflict of interest. This motion was seconded by Councilman Bothwell and carried unanimously. At this time, Mayor Manheimer handed over the gavel to Vice-Mayor Hunt to preside over this portion of the meeting.

Urban Planner Julia Fields said that this is the consideration of an ordinance to conditionally zone 275 and 281 Hazel Mill Road from RM-8 Residential Multi-Family Medium Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning for White Oak Grove Apartments on Hazel Mill Road and Clayton Road. This public hearing was advertised on November 28 and December 5, 2014.

City Attorney Currin said that a valid protest petition has been filed, thus requiring a three-fourths vote of the seated City Council to approve the rezoning of the property. Since Mayor Manheimer is recused, the number of votes necessary to rezone the property would be five.

The project site consists of two parcels (currently addressed 275 and 281 Hazel Mill Road) located off of Hazel Mill Road, just north of Patton Avenue, with frontage along Clayton Avenue, Hazel Mill Road and Nancy Street. The project proposes a recombination which would result in an overall project area of 6.501 acres. The property slopes gently from west to northeast.

There are two vacant dwellings and several associated structures existing on the parcels which will be removed for this project.

The applicant is proposing to construct a multi-family development that will consist of ten (10) buildings. The buildings are either two-story or two/three split configurations (maximum height of 40 feet) and contain a mix of one (32) and two (72) bedroom units for a total of 104 residential units. The developer is proposing that 10% (11 units) of the dwelling units be affordable meeting the City's standards. The remaining units will meet the City's criteria for "workforce" housing. A number of amenities are provided on the property for the benefit of the residents including a dog park, community garden, and picnic areas. The buildings will be constructed to meet North Carolina Healthy Built Homes standards.

Access to the site is proposed via two drive entrances off of Clayton Avenue. It is proposed that Clayton Avenue be widened to accommodate some on-street parking (18 spaces) while allowing for two-way traffic on that street. A total of 204 parking spaces are provided. All parking spaces on site will be constructed using pervious pavers. Provisions are made for the parking of 40 bicycles. Sidewalks are provided along both Clayton Avenue and Hazel Mill Road. The sidewalk proposed along Hazel Mill will be constructed largely back from the road (not immediately adjacent) and will be ten feet in width.

Street trees are required along all street frontages. The project also includes compliant street buffer, building impact, tree save, and parking lot landscaping, with the preservation of some existing vegetation along Hazel Mill Road. The applicant is proposing 2.38 acres of open space, well above the 1.20 acres of open space required.

Under the current RM-8 zoning, the combined site would be permitted a total of 57 units.

In 2009, a Level II project consisting of 42 single-family townhouses housed in 21 structures was conditionally approved for the site. No development activity occurred at that time. Subsequently, in 2012, a conditional zoning request was submitted (from RM-8 to RM-16CZ) proposing construction of a 92-unit apartment complex. This request was withdrawn prior to final consideration by the Asheville City Council.

The Technical Review Committee (TRC) reviewed this application at their meeting on September 15, 2014, and approved it with conditions. The developer has addressed many of the conditions noted by TRC in the submittal that is before the City Council.

The proposal was considered at a public hearing before the Asheville Planning and Zoning Commission on October 16, 2014. Five people spoke against the project at the meeting

with one person speaking in support. The main concerns voiced by those opposed were density and transportation issues along Hazel Mill Road. Following the public hearing, the Commission voted 4-1 to recommend approval of the project to the Asheville City Council. They added two additional conditions to those recommended by TRC as follows:

1. That the developer completes a comprehensive traffic study prior to final TRC approval.
2. That the developer provide annual bus passes for two years/per unit and in perpetuity if a transit line returns to Hazel Mill Road.

If approved by Council, the project must return to the Technical Review Committee for final review.

Although not required, the developer held two neighborhood meetings on the proposed development. These meetings were held on Thursday, September 11th (to introduce the proposal to those who own property or reside in the area) and on Monday, October 27th (transportation issues focus).

The subject parcels and adjacent lots are zoned RM-8, with Highway Business, Institutional, Office, Resort, and RS-8 zoned properties in the general vicinity. The properties are immediately surrounded by single family homes and townhomes with a large car dealership, offices, and a church in close proximity. The proposed development, with a density of approximately 16 units per acre, is of greater density than is found on the immediately surrounding residential properties, however, the property is within approximately ¼ mile of transit service and within walking distance of a number of service and retail businesses. The developer plans initially to provide an annual bus pass for each unit.

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

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
The proposed project has been approved by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.
2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
The proposed use and development of the land are reasonably compatible with the natural features and topography of the site. The developer worked with the existing topography on the site in the placement of the buildings. Landscaping and open space surround the development and a number of existing trees are proposed to be saved.
3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
The development is not expected to injure the value of adjoining or abutting properties. The use proposed is similar to adjacent parcels (residential) although at a higher density. Given the proximity to the commercial / mixed-use Patton Avenue corridor, higher-density residential uses can be considered to be appropriate in this location. The developer is proposing a number of street and sidewalk improvements along Hazel Mill and Clayton

Road which should improve conditions along the segments of roadway surrounding the property.

4. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
The proposed use as multi-family is in harmony with the area in which it is located. Although surrounded primarily by single family homes, this site is less than a quarter mile from the Patton Avenue commercial corridor, making it an appropriate location for higher-density residential development. Additionally, there are a number of other parcels in the vicinity with multiple residential units, including condo units on adjacent Nancy Street and Townview Drive. None of these other developments include buildings as large as the apartment structures proposed in this development; however, the developer has worked to reduce the height and scale of the buildings from the previous submittal to make the structures more in keeping with surrounding buildings.
The number of units proposed exceeds the underlying (existing) density; however, staff feels that the site layout and proximity to Patton Avenue and transit (as mentioned above) makes this an appropriate location for this proposal.
5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*
The *Asheville City Development Plan 2025* encourages a Smart Growth development pattern by recognizing the need for higher density residential infill projects (pg. 31). With 104 units, this project is not only meeting that goal but also seeks to assist with what the *Plan* calls “the number one economic development problem for this community” (pg. 45): lack of affordable housing. The project includes 10% of the units as affordable.
6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
The developer is proposing a number of street and sidewalk improvements along Hazel Mill and Clayton Road which should improve road conditions adjacent to the project site. Basic infrastructure appears adequate and preliminary review by other service providers has not revealed any problems for future service to the development.
7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*
The proposed project has been reviewed by the City Traffic Engineer and it has been determined that the project should not cause undue traffic congestion along the existing street infrastructure.

One of the smart growth principles in the *Asheville City Development Plan 2025* highlights the importance of higher density infill development where infrastructure can easily be provided. Given the proximity to the commercial/mixed use Patton Avenue corridor, higher density residential units seem appropriate. The comprehensive plan additionally speaks at length about the issue of affordable housing. This development proposes 10% (11 units) of affordable housing

City Council’s adopted goals for 2014-2015 stress expanding Asheville supply of affordable housing. This project offers 11 new affordable units in a location near many needed services. Council has a goal of expanding the supply of housing and this proposal increases the density that can be placed on the property.

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

Considerations:

- Higher density development furthers the goals and objectives of the comprehensive plan.

- The proposed development provides housing in an area close to many services.
- The project will be designed to qualify for Healthy Built Homes certification.
- The project proposes 10% affordable units.
- The project exceeds the density allowance under the current RM-8 zoning district unless the conditional zoning is approved.
- Concern has been voiced by surrounding neighbors regarding increased traffic.

Staff recommends approval of the proposed conditional zoning, finding it consistent with City-adopted plans and strategic goals for development. The Planning and Zoning Commission additionally recommended approval to the Council (4-1).

Vice-Mayor Hunt opened the public hearing at 6:07 p.m.

Mr. Robert Grasso, developer, felt that this design has responded to a lot of the concerns expressed two years ago by City Council and the neighborhood. Two years ago a Traffic Impact Analysis was performed for 108 units (now 104 units) and at that time it showed that they were not significantly having an impact on the traffic on Hazel Mill Road and Louisiana Avenue. One hundred and four units are now being proposed into smaller buildings that conform with the slope of the land. Two of the buildings will be a floor below Clayton Avenue. Amenities will be provided, such as a dog park, community garden, benches, etc. They have committed to 10% affordable apartments and all their rents will be well within the workforce range. This is a unique location which is close to Patton Avenue and they were originally on the bus line. Since that line has since moved, he has committed to a bus pass per unit to encourage people to use that service. He has tried to be sensitive to the concerns of the neighborhood, with their one big concern the existing traffic issue on Hazel Mill Road. He committed \$10,000 toward comprehensive traffic study so the neighborhood can come up with recommendations for traffic calming. A preliminary meeting was held and the outcome from that meeting was that the neighborhood wanted sidewalks. Instead of the \$10,000 for the traffic study, he instead committed up to \$15,000 towards construction of additional sidewalks off of his property. He did note that \$1,000 has been spent on the consultant at the preliminary meeting, and therefore, committed to spending up to \$14,000 for sidewalks. Regarding the construction schedule, he said they hope to break ground in the spring and after two years of construction, they hope to be completed in the spring of 2017. He was excited about moving forward and hoped City Council would support his project.

Ms. Fields said that the condition number 5 "The developer shall complete a comprehensive traffic study prior to final TRC approval" will be removed and replaced with the condition that the developer is committed to spending \$14,000 on sidewalk construction off his property. Mr. Grasso agreed with replacement condition, along with all the other conditions provided to Council.

Mr. Timothy Sadler spoke about ways he supported the project.

The following individuals spoke in opposition of the project for various reasons, some being, but are not limited to: will the school district be able to accommodate the additional 200 children; since easiest route from this property to Patton Avenue is a private road off Hawkins Lane that cross Harry's Cadillac's property, a request that a condition be that the developer advise his tenants not to use the private road; the 15-20 townhouses and Section 8 housing on Nancy Street have negatively impacted the ability for vehicles to get onto Hazel Mill Road and these apartments will only exacerbate the problem; possible negative impact of my real estate values; abutting property owners do not want to see the apartments across the street from their homes; need for sidewalks on Hazel Mill Road; existing infrastructure and traffic challenges on Hazel Mill Road; need for stop sign at corner of Clayton Avenue and Hawkins Lane; every intersection from Patton Avenue to Clayton Road does not have the required site distance; the rents for a one-bedroom are still out of the range for many in our community; traffic calming on Hazel Mill Road is necessary; Hazel Mill Road is a narrow road; tenants will not work to beautify

the neighborhood like single-family homeowners; one-bedroom apartments will have a high turn-over; neighborhood wants single-family homes, not one-bedroom apartments; and stormwater runoff onto neighboring properties during construction:

Mr. Roy McGuinn, former principal
Mr. Craig Justice, attorney on behalf of Harry's Cadillac
Mr. Rich Steinhoff, property owner on Townview Drive
Mr. Steven Slack, property owner on Hazel Mill Road
Mr. Nat Burke, tenant on Townview Drive
Ms. Valerie Martin, property owner on Townview Drive
Ms. Bridget Nelson, resident on Nancy Street
Mr. Gary Dunbar, resident on Nancy Street
Mr. Nathan Merchant, property owner on Hazel Mill Road
Resident on Townview Drive

In response to Councilwoman Wisler, Transportation Director Ken Putnam said that if the private road across Harry's Cadillac's property is closed (as was a possibility noted by Mr. Justice), the traffic signal on Patton Avenue would not go away. Mr. Putnam then explained how the Transportation Department is constantly doing speed studies and is always open to listening to the neighborhood's concerns. Regarding traffic calming, the City has budgeted funds this year to work on the backlog of projects. If a road has been analyzed for traffic calming measures, there are several factors that are reviewed, including speed humps.

There was a brief discussion about possible strategies to eliminate cut-through traffic, noting that sometimes a strategy will just shift the problems onto another street.

It was confirmed that Hazel Mill Road is a no through truck street.

At 7:07 p.m., Vice-Mayor Hunt closed the public hearing.

Councilman Bothwell felt that we should act separately to have sidewalks on Hazel Mill Road both to Louisiana Avenue and to Patton Avenue.

Vice-Mayor Hunt said that the challenge we face is that we can't predict where the next development will go in and it's difficult to put in the infrastructure without knowing that fact.

Councilman Pelly heard emphasis on the expansion of affordable housing options, and at the same time Council has committed ourselves to greater mobility. If this project is approved, City Council is committed to ameliorate the impact to the surrounding community.

Councilman Pelly moved to approve the conditional zoning request for White Oak Grove Apartments on Hazel Mill and Clayton Roads from Residential Multi-Family Medium Density District (RM-8) to Residential Multi-Family High Density Conditional Zoning (RM-16CZ), subject to (1) the replacement of condition 5 in the list of conditions to be replaced with the condition that the developer is committed to spending \$14,000 on sidewalk construction off his property; and (2) the developer notifying the tenants that the private road off Hawkins Lane, which crosses Harry's Cadillac's property, is a private road which is not available to access Patton Avenue, with said notice be printed by using a font and color sufficient to be notice by the tenants and posted at a conspicuous location in the community and be provided to all new tenants with the materials provided to such tenants along with their leases; 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 plans for increased density on this site further City goals promoting higher density residential infill in appropriate areas; (2) the plan for 10% of the units to meet the City's affordability standards respects City goals working to address the needs of the community for increased affordable housing. This motion was seconded by Councilman Smith.

Mr. Grasso agreed to all conditions, including those in the motion that (1) condition 5 being revised that the developer is committed to spending \$14,000 on sidewalk construction off his property; and (2) notice to tenants that the private road off Hawkins Lane is a private road and not available to access Patton Avenue.

City Attorney Currin said that she would contact Mr. Justice to obtain the PIN Number of Harry's Cadillac's property and include that in the condition.

Councilman Davis felt that Harry's Cadillac has been a good neighbor for many years and felt that blocking access to Patton Avenue seems to send a wrong message to the people in the community.

The motion made by Councilman Pelly and seconded by Councilman Smith carried unanimously (Mayor Manheimer was recused).

At this point in time, Vice-Mayor Hunt returned the gavel back to Mayor Manheimer to continue residing over the meeting.

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Because Councilman Pelly understood the need for sidewalks, he moved to direct the City Manager to investigate giving funding priority to Hazel Mill Road sidewalk sections discussed tonight during preparation of the Fiscal Year beginning July 1, 2015, and the Fiscal Year 2015-2019 capital improvement plan, with design work to be anticipated in Fiscal Year 2016 and construction thereafter in Fiscal Year 2017 and to report back to Council. Said motion is made with the understanding that advancement of the sidewalk project should be contingent upon satisfactory progress of the development and the granting of the easements necessary for sidewalk construction; and, that completion of the public sidewalk construction be timed to coincide with completion of the final phase of the development. This motion was seconded by Councilman Bothwell and carried unanimously.

Vice-Mayor Hunt noted that doing infrastructure is contingent upon easements from the property owners. He encouraged those that want infrastructure along Hazel Mill Road work together to help the City obtain the necessary easements.

Closed Session

At 7:25 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); (2) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4); and (3) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:47 p.m., Vice-Mayor Hunt moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

E. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR RIVER MILLS LOFT LOCATED OFF OF THOMPSON STREET FOR A NEW PROJECT OF 254 RESIDENTIAL UNITS WITH A REQUEST FOR A MODIFICATION TO THE SETBACK REQUIREMENTS, A REQUEST FOR

MODIFICATION FOR THE WIDTH OF A PORTION OF SIDEWALK IN THE PROJECT, AND VARIANCES TO THE DESIGN AND OPERATIONAL STANDARDS

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

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

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 7:55 p.m.

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

Mr. Glines said that this is the consideration of the issuance of a conditional use permit for River Mills Loft located off of Thompson Street (Location Map - Attachment to City Exhibit 3), for the development of 254 residential units and 4,000 square feet of commercial space on a single parcel zoned Urban Place District in accordance with Section 7-5-5 of the Unified Development Ordinance (UDO), including a request for modifications to building setback standards found in Section 7-8-26 of the UDO.

The project site consists of a single parcel with a combined area of approximately 9.52 acres (according to submitted plans) and frontage on Thompson Street and Stoner Road to the east of Biltmore Village on the Swannanoa River (Aerial - Attachment to City Exhibit 3) (Aerial - City Exhibit 4) (Aerial - City Exhibit 5). The site is zoned Urban Place which was rezoned in 2013 at the request of the owner. Adjacent parcels are zoned Commercial Industrial (CI) to the south, River to the east and west and Urban Place to the west. The Swannanoa River is adjacent on the north side of this parcel and the Norfolk Southern rail line is on the south side.

The project area is currently vacant and was graded and filled several years ago as part of an approved development plan. Surrounding uses include commercial operations, the rail line and storage.

The applicant is proposing a primarily residential project with a limited amount of non-residential space. Plans indicate a total of 254 residential units made up of 248 two-bedroom and 6 three-bedroom units in two large 'L-shaped' 4-story structures described as Building A and Building B. Building A is located at the corner of Thompson Street and Stoner Road and Building B is located on Thompson Street adjacent to the entrance drive (Site Plan - Attachment to City Exhibit 3). Within each large structure will be a small non-residential spaces: one in Building A close to the corner of Stoner Road and the other in building B at the entrance. (Site Plan - City Exhibit 6). While the exact uses of these spaces has not been determined at this point, there is an expectation that they will be used as commercial space especially as the surrounding area receives further redevelopment (Map of Commercial Space - City Exhibit 7). The project also includes a one-story clubhouse structure located interior to the site.

The project site is within the 100-year flood hazard area and is also affected by the more restrictive floodway zone (Site Plan Marked for Floodway - City Exhibit 8). The finished floors of occupied buildings are required to be two feet above the base flood elevation which places the proposed ground floor level approximately 10 feet above the grade of Thompson Street.

The height of the large structures (Building A and B) is 41 feet to the ceiling height of the residential units and 67 feet to the top of the gabled roof. This places the project within the

maximum building height for the district.

The project proposes two access points; the main entrance is from Thompson Street and a second on Stoner Road towards the rear of the property, both are two-way driveways. There are a total of 327 parking spaces proposed, including required accessible spaces and 18 bike parking spaces at the interior of the project. This number is well within the UDO parking range.

New 10 foot wide compliant sidewalks are shown on Thompson Street and Stoner Road. The developer is requesting a modification for a portion of the sidewalk width along Stoner Road past the entrance terrace area because the design team feels the surrounding context does not warrant the need for the wider 10' sidewalk and the amount of impervious pavement in the floodplain could be reduced. This modification request was supported by both the Planning and Zoning Commission and the Asheville Area Riverfront Redevelopment Commission.

In addition to the external sidewalks there are internal walkways throughout the site across the parking lot and into key locations in the building. Because of the grade required to elevate the site above the level of the floodplain, the site is surrounded by retaining walls where the building interacts with the street. This is most prominent for Building A at the corner location. The developer is requesting a wider setback for both buildings to accommodate the location of the floodway and to provide an improved transition from Thompson Street. The pedestrian access into the development is provided along the building frontage along Building A and for Building B, along the front of the building adjacent to the driveway and sidewalk connections. The setback expansion represents the second modification request for this project.

Landscaping is required for this project and includes street trees, parking lot landscaping building impact and dumpster screening. With minor amendments to the plan, the project will comply with all landscape requirements.

Open space is required in an amount equal to five percent of the lot area, which is 20,735 square feet (or 0.47 acre). This is provided in the area around the clubhouse, and in the area along the Swannanoa River.

The site is located in the 100-year flood hazard area and is also affected by the more strictly regulated *floodway*. The setbacks in the Urban Place district are a maximum of 15 feet unless the site is affected by the flood hazard area and other topographic challenges, in which case the setback can be expanded through modification (Landscape Plan - City Exhibit 9). The survey for the project identifies the approximate boundaries of the floodway and the project has been setback from Thompson Street to accommodate this zone. Staff is supportive of this modification. The Stoner Road side has fewer challenges with the flood hazard zone but the need for the sidewalk and the topographic grade difference also requires additional setback area. The retaining wall proposed for Building A is about 10 feet above the surrounding street and according to revised plans will provide a ramp along the west side of the building, a large stairway at the corner, and other treatments such as plantings and terracing to reduce the scale/ mass of the retaining wall. The changes to the wall were proposed on the recommendation and discussion with the River district Design Committee and concerns from the Planning and Zoning Commission during their review. The setback modification request was supported by both the Planning and Zoning Commission and the Asheville Area Riverfront Redevelopment Commission.

Variations to design and operational standards are reviewed by the Planning and Zoning Commission acting as the Board of Adjustments.

The project was granted a variance by the Planning and Zoning Commission for the spacing between public entrances for buildings A and B (Retaining Wall Pictures - City Exhibit 10).

City Council may consider modifications to dimensional requirements as a part of the

conditional use approvals (Two Exterior Building Elevations and Perspective Views - Attachments to City Exhibit 3):

1. Setback - The maximum building setback in this district is 15 feet,
To better accommodate the required finished elevation and to allow a transition to the street: a setback for Building A is proposed at between 35 and 45 feet from Thompson Street and between 45 and 55 feet from Stoner Road;

To account for the location of the floodway a setback for Building B is proposed at between 55 and 95 feet from Thompson Street. This is due to the wide floodplain area and the existing curvature of the roadway.
2. Sidewalk width- the developer is requesting that the sidewalk along Stoner Road be approved to a more narrow 6 foot width and not be required to install the Urban Place standard of ten feet.

Both modification requests were recommended for approval by the Planning and Zoning Commission and the Asheville Area Riverfront Redevelopment Commission.

The site was zoned Urban Place in 2013 at the request of the property owner because he felt that Urban Place District provided greater options for commercial uses and because the residential density is higher in Urban Place than in the River District. Urban Place (UP) allows 64 residential units per acre and is intended to foster "higher-density, mixed-use development that is economically viable, pedestrian oriented, visually attractive and contributing to the place making character of the city...in the form of mixed-use structures that relate to the street, enhance the streetscape and offer a wide range of complementary land uses and employment opportunities." The district is suitable for areas affected by blight or neglect and for areas where the design and appearance of the built environment is important to the vitality of the area.

The proposal offers a residential density of almost 27 units per acre and includes two small non-commercial spaces located in the prominent corners of Buildings A and B (totaling about 4,000 square feet). The site is in a good location for a multi-family residential use because of the long term plans for the area which include greenway and recreation improvements along the Swannanoa River and because the site is walkable to Biltmore Village and beyond. However, the proposal has some challenges meeting the stated purposes of the Urban Place District of relating to the streetscape and pedestrian orientation due to focus of the proposal on residential uses and the topographic challenges in response to the flood hazard area. The proposed mix of uses is heavily residential and residential uses do not by their nature require such an active publicly accessible ground floor. That said, the building fronts will be designed with windows and private balconies which is something recommended in the ordinance. The flood plain elements work against the goal of direct building connectivity too. However since the initial plans were submitted the design team has continued to work to improve the connection of the building pad and the level of Thompson Street and Stoner Road. There will be a terrace space to reduce the scale and nature of the retaining wall and this will be accomplished with planted sections, change of materials large gateway steps and plantings between sections of the wall. Considering this project over the long term, the surrounding district is expected to become more mixed-use as additional projects come on-line. The Urban Place zoning allows density that is high enough to make the project viable and the influx of new residences will support businesses throughout the area. Over time there may be additional demand for commercial spaces and this development plan should be flexible enough to allow for expansion of non-residential uses provided that changes to parking needs (if any) can be accommodated. Additional commercial space was one discussion point that the Planning and Zoning Commission felt should be a stronger component of the proposal and a better fit for the Urban Place standards.

Staff recommends that the developer provide a level of affordable and workforce housing because this site is a good location for such units being close to employment centers, shopping

and recreation amenities. Mr. Pace Burt, developer, has expressed interest in discussing the topic of affordable/workforce housing with the City's Land Use Incentive Grant Program. Mr. Burt is aware that the extension of the incentive grant requires an application, analysis of the proposal for points and is at the discretion of City Council. Initial discussions to consider the Land Use Incentive Grant Program include some affordable units and a large percentage of workforce units.

The rezoning of this property from River to Urban Place took place in 2013. Across the railroad tracks along Stoner Road and Fairview Road, there have been a number of rezoning efforts including the recent Biltmore Apartments CZ that will be reviewed for a second time by the Planning and Zoning Commission on November 20, 2014.

Zoning and uses adjacent to this site include CI to the south, UP to the west and River to the west and east. Along the south boundary of the site is a 100 foot railroad easement. This location is well suited for a higher-density residential project, with non-residential uses given the proximity and access to employment, shopping and future and current recreational amenities.

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes the following findings, based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case:

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the UDO, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.
2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
There are flood safety requirements that affect this site and buildings must be elevated above the 100-year base flood elevation. The proposal is also setback from the floodway which affects the front setback of the property along Thompson Street. With these mitigation measures the proposal is compatible with the natural and topographic features that affect this site.
3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
The proposed development of the land for residential use is not expected to injure the value of adjoining or abutting property; higher-density residential uses have been anticipated in this area with the number of rezonings to Urban Place District. The proposed development with its investment and influx of new residents should help the businesses in the area.
4. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
This area along Thompson Street has been anticipated for higher-density development for a number of years. Given the proximity to employment centers, shopping, existing and future roadway infrastructure and future greenways this is an appropriate location for the proposed uses. While the scale, bulk, coverage and density are all greater than the adjacent uses in the vicinity at this time, the overall planning picture for the area is for higher density mixed-use development.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*

As enumerated below, elements of the project are directly aligned with the City's plans and objectives as a mixed-use, infill project including multi-modal transportation elements in an area that will with time have improved pedestrian facilities. If the project includes affordable and workforce housing then this will also meet additional stated city goals and needs. Although the site must meet flood hazard requirements that require that the buildings be elevated which makes a direct connection to the street more challenging, the proposal will provide terrace spaces, stairways, shorter wall sections and plantings which along with sidewalk connections will provide additional direct connections to Thompson Street.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*

The proposal has been determined by the TRC to have adequate water supply, police protection, waste disposal and similar facilities. The site is approximately half a mile or so to transit routes that connect through Biltmore Village or the bus stop at Stoner and Fairview Roads. Although the distance is about a half-mile, Biltmore Village is a crossing point for three transit routes.

7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*

The project is not expected to create a hazard or undue congestion based on the proposed plans, and the review and consideration provided by transportation staff.

This proposal is aligned with the *Asheville City Development Plan 2025* in several areas. Smart Growth policies encourage mixed-use developments and higher-density residential infill with an emphasis on locating projects in an area walkable to amenities and proximate to bike paths. Infill development along transit corridors is also highlighted but this site is a little over 2,000 feet to three routes that cross in Biltmore Village. The plan also supports projects that design landscapes to absorb stormwater using bio-swailes and natural stormwater filters.

Affordable housing options are highlighted throughout the Plan as a strong community need; and no dedicated affordable or workforce rents are proposed specifically for the project at this time but the developer for the project is willing to discuss the need with City Council through the land use incentive grant program application.

The area is included in the planning for the Wilma Dykeman Riverway Master Plan and infill development, recreation amenities and roadway improvements are a part of that proposal. Planning for roadways has occurred in the River Arts District area but has not proceeded to this section of the river at this time. The proposed development though seems to fit in with the intent of the Dykeman plan with the inclusion of the river yard and the wide sidewalk along Thompson Street.

City Council's adopted goals for 2014-2015 stress expanding Asheville supply of affordable housing and maintaining a high quality of life for residents. If the affordable and workforce units can be agreed upon, then this important strategy will be met. Additionally, Council has a goal of expanding the supply of housing and this proposal provides about 27 units per acre which given this unique location with a number of environmental constraints and other development requirements provides a useful residential density.

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

Considerations:

- City-adopted plans and policies support mixed-use development, especially providing residential uses in a walkable location with pedestrian amenities
- The location is close to employment areas and shopping amenities and recreation opportunities are provided along the Swannanoa River.
- Affordable units are a goal for higher density residential projects but none are dedicated at this time.
- Due to topographic challenges, the finished floor of the Building A and B is required to be elevated above the surrounding streets but with some design improvements such as terraces and steps, the connection between the buildings and sidewalk could be strengthened.
- The site is not currently served by transit but three routes cross at Biltmore Village.

The proposal was approved with conditions by the Technical Review Committee at their meeting on October 20, 2014. The plans were adjusted and the building layout amended based on comments from the TRC review. The project was reviewed and approved with conditions by the Planning and Zoning Commission at their meeting on November 5, 2014, with a vote of 6-1. The project reviewed by the Asheville Area Riverfront Redevelopment Commission (AARRC) on Thursday November 13, 2014, and recommended for approval with conditions unanimously. Review by the Technical Review Committee is required prior to issuance of a zoning permit. Both AARRC and Planning & Zoning Commission recommended approval along with the request for additional building setbacks to incorporate changes to address the scale of the wall and for the sidewalk reduction along Stoner Road; and also recommended the inclusion of affordable and workforce units with the understanding that a separate approval would be required for that.

The proposal is for a higher-density residential project (with a small commercial component) in a unique infill location along a major river. Staff feels this is a good use for the site and the area would benefit from new investment and the residential units; however, some of the specific elements are challenged to meet all of the goals and design requirements of the Urban Place zoning district. The project is requesting additional setbacks for Building A and Building B due to location of the floodway and site elevations necessitated by flood hazard provisions and staff is supportive of this request subject to the motion and as shown on the site plan. Based on this analysis and strategic plan goals, staff feels that the project meets the seven conditional use permit findings.

In addition and separate from this approval, staff recommends consideration of this project for the land use incentive grant for affordable and workforce units understanding that while not all of the qualifiers or points may be obtained because of the location and other program parameters, the project will help to transform the area in ways that meet other adopted goals and plans.

In response to Mayor Manheimer, Mr. Glines said that Planning staff studied the greenway maps, which greenways are on the other side of Swannanoa River Road. However, this area is part of the Wilma Dykeman Riverway Master Plan (City Exhibit 11). That Plan suggests that on the Swannanoa West side that we could have facilities (maybe not the main greenway) for this area. From a planning study standpoint, staff has not gotten to this part of the River yet. He believed what is proposed could accommodate a future parallel pair.

Vice-Mayor Hunt, member of the Metropolitan Transportation Organization, said that the N.C. Dept. of Transportation (NCDOT) has released a draft Transportation Improvement Plan and the Swannanoa River Road Improvement Project appears to have made the cut for 10 years. As the NCDOT defines the configuration of the roadway, they are obligated to work with the City on the roadway/greenway plan. He felt those improvements to the Road should be considered in this project.

In response to Councilman Smith, Mr. Glines said it is the intention of the developer that the corner with the monument steps and terrace be open to the public.

Mr. Carleton Collins, representing McMillan, Pazdan, Smith Architects, said that although they are early in the design phase they are working to keep things simple but compelling on this important site, thinking about how to address the River, the pedestrian connectivity, and use of materials. They hope to set a good precedence in what might happen in this River corridor.

Mr. Clay Mooney, landscape architect with Design Associates, said that the entire parking area and streetscape meets the requirements set forth in the Unified Development Ordinance. All shown on the site plan is the minimum requirements since this is only a conceptual plan. As we move forward, we will be augmenting with additional plantings as necessary, particularly in the areas of the monumental steps and softening the 10-foot vertical separation between Thompson Street and the finished floor elevation. Using Applicant Exhibit 1 (River Mill Lofts Landscape Plan - Detail Views), he explained how they utilized a ramp to provide Americans with Disabilities Act accessibility up to the main floor level. They will have monumental steps that will be inviting to the general public. They do meet the minimum requirements for open space. He said the wet detention basin is located within the floodway. Using City Exhibit 8, said that in the back of the property to capture some of the runoff from the rear parking area they have a subterranean storage and detention area. They will be meeting all the requirements for stormwater control. The modification request for the expansion of the building setbacks is due to the elevation caused by the floodway elevation. The other modification request was to reduce the sidewalk width on Stoner Road just past the ramp area from 10 feet to 5-6 feet. He felt that 10-feet was excessive for the amount of potential pedestrian traffic from Stoner and it would minimize the amount of paving required, especially near the floodway area. The variance request was for spacing between public entrances for buildings A and B and was also requested due to the 10-foot vertical rise. He then briefly reviewed how the project meets the seven conditional use permit standards. He said that Mr. Pace Burke, developer, is interested in providing affordable/workforce housing and that they have submitted to the City an application for a Land Use Incentive Grant.

Mr. Pace Burke, developer, said that this is the third project he has worked on in the City. He said that the River corridor is the most exciting part of this project and is anxious to clean up that area.

In response to Councilwoman Wisler, Mr. James Voso, Traffic Engineer for the developer, said that the traffic numbers for the proposed Biltmore Apartments on Fairview Road are incorporated into the Traffic Impact Study for this project.

When Councilman Pelly questioned the traffic on Stoner Road, Mr. Voso said that from a capacity standpoint, Stoner Road has the capacity to handle the traffic; however, from a quality of life standpoint, the additional traffic will have an impact. Noting that Level of Service E is at capacity and Level of Service F is over capacity, the projected level of service on Stoner Road/Thompson Street is A, and the projected level of service on Stoner Road/Fairview Road is B.

In response to Councilman Smith, Mr. Voso said that the Traffic Impact Analysis did not study the area on Sundays, since the peak traffic at the apartment complex is in the morning and evening peak hours.

Mr. Pace responded to Councilman Smith when he asked about two intents in the Urban Place District - the wide range of complimentary land uses; and a variety of land use and housing types and prices. He said that the entire corridor is underutilized in type of any commercial component. He has confidence in this area and hoped that they can bring in the residential component and as the area develops, more commercial. There is also the elevation issue and if they were street level and they had more of an accessibility from the sidewalk to the commercial

area that would make a big difference. Regarding the housing types and prices, Mr. Pace said that there will be 2 and 3 bedroom units with no one-bedroom units. He cannot commit to a certain percentage of affordable/workforce units at this time but they are committed to the Land Use Incentive Program. He talked to Assistant Economic Development Director Jeff Staudinger stating that maybe after five years they add another component of units on line, or perhaps bringing in the Village of Haywood, even though it's under construction, under the Land Use Incentive Program.

Councilman Smith said that the developer currently has 7% affordable, 85% workforce and the rest market and the developer has said that he would move ahead with the Land Use Incentive Grant application and if that were approved, that he would follow-through with those numbers. Mr. Pace said that he was willing to commit to that process as part of the conditional use permit process. He reiterated that he spoke with Mr. Staudinger about an idea of committing to 7% and then in 5 years commit to another 7%. He will commit as a condition that they submit an application for the Land Use Incentive Program.

Mr. Glines clarified that in the plan the commercial uses are shown but in a river design review of the project there was discussion that there could be some internal constructability methods that would keep wider bays that at a later date could be converted to a live/work space. If the plan changes a lot, the plan may have to be amended.

Mayor Manheimer said that comments need to be limited to whether the project meets the seven conditional use permit standards (Conditional Use Permit Standards - City Exhibit 12).

The following individuals spoke in opposition of the project for various reasons, some being, but are not limited to: if the Land Use Incentive Program application is approved, the developer would provide 7% affordable/workforce housing, but based on the 2008 Study prepared by the a task force, the goal is 20% dedicated to affordable housing; the tenants will not be happy with the noise from the train to the rear of the property; need for sidewalks in the area; Stoner Road is a cut-through street; Stoner Road is a narrow street and they don't need any more additional traffic on it; developer should have met with the neighbors to discuss the project coming into their neighborhood; and size of the project does not fit in with the community:

- Ms. Dana Davis, resident of Oakley and on the board of Asheville Parks & Greenways Foundation
- Mr. Mike Carroll, resident on Stoner Road
- Mr. Walter Barber, attends church in that area
- Ms. Mary Carroll, resident on Stoner Road
- Ms. Katie Hicks, resident on Fairview Road
- Mr. David Ankeney, resident on Stoner Road

At 9:21 p.m., Mayor Manheimer closed the public hearing.

Councilman Smith said that as we try to work the Urban Place District in that area, developers need to do a good job on complimentary land uses or a really good job on the variety of housing prices or a really good job on the variety of employment opportunities. In this application, he understands why the commercial component is not there, and the intention to bring that variety of housing options. He challenged the developer to bring that affordable 80% of area median income and below to 10%. At this point, he understood that the developer is willing to condition the permit on following the process based on the 7% number and 85% number, and he is comfortable beginning there.

Councilman Smith moved to approve the conditional use permit for River Mill Lofts development on Thompson Street and Stoner Roads, (1) with the setback for Building A approved at between 35 and 45 feet from Thompson Street and between 45 and 55 feet from Stoner Road to reduce the effective scale of the retaining wall, through the use of smaller wall

sections, setbacks, landscaping, change of materials, vegetation, stairs, and terraces; (2) with the setback for Building B approved at between 55 and 95 feet from Thompson Street; (3) the sidewalk width along Stoner Road approved to be 6 feet wide at the portion of the project south of the ramp; and subject to (1) an additional condition that the developer complete the Land Use Incentive Grant application and follow through with those allowances and that the application shall reflect 7% affordable at 80% of area median income and 85% at workforce between 80-120% of area median income; and (2) the site plan and elevations and the conditions outlined in the technical review committee report because the proposal meets the seven conditional use permit standards. This motion was seconded by Vice-Mayor Hunt.

Mr. Mooney said that the developer voluntarily commits to the additional condition in that they have already made the application for the Land Use Incentive Grant. City Attorney Currin noted that City Council will need to hold a public hearing on that grant, noting that Council has no obligation to allow the grant or not.

Councilman Pelly remained concerned of the traffic impact on Stoner Road. With that in mind, he believed Council heard clearly that it would be in the developer's best interest to begin a relationship with the neighborhood. We've seen examples of developers and neighborhoods working together well and you'd be surprised at what can be accomplished.

City Attorney Currin clarified, and Mr. Mooney confirmed, that the Land Use Incentive Grant application has already been submitted - the 7% affordable and 85% workforce.

The motion made by Councilman Smith and seconded by Vice-Mayor Hunt and carried unanimously.

City Attorney Currin said that she would prepare the Findings of Fact and Conclusions of Law for Council approval on January 13, 2015.

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

At the request of the petitioner, Councilman Bothwell moved to continue this public hearing until January 13, 2015. This motion was seconded by Councilman Pelly and carried unanimously.

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 14-276 - RESOLUTION ADOPTING THE 2015 LEGISLATIVE AGENDA

Mayor Manheimer said that this is the consideration of the City's Legislative Agenda for the 2015 Session of the North Carolina General Assembly.

The Governance Committee of the Asheville City Council has worked to identify areas of legislative concern with impact on Asheville. Seven focus areas have been identified: municipal authority, municipal revenue, mandates, city services, economic vitality, community standards, and environmental stewardship. Under each focus, policy supporting statements are proposed.

Once adopted by Council, this legislative agenda will be communicated to Asheville's State delegation and will provide direction for the City's legislative program during the 2015 regular session of the North Carolina General Assembly.

When Mayor Manheimer asked for public comments, none were received.

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

Councilman Bothwell moved for the adoption of Resolution No. 14-276. This motion was seconded by Councilman Smith and carried unanimously.

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VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jonathan Robert spoke about the selection process for the new Chief of Police.

Mr. Dylan Cahalan, a student at Warren-Wilson college and a volunteer with Food and Water Watch, asked for City Council consideration of a resolution on the Preservation of Antibiotics for Human Health to help keep antibiotics working. According to the Centers for Disease Control, two million people contract antibiotic-resistant infections, and at least 23,000 of these infections are fatal. The misuse of antibiotics on factory farms to treat animals that are not sick has contributed to the rise of antibiotic-resistant bacteria, unnecessarily threatened by public health. He urged Council to adopt the resolution in support of federal legislation to stop the misuse of our life-saving medicines for animals that are not sick.

Mr. Timothy Sadler spoke about the criteria needed for a new Chief of Police.

Vice-Mayor Hunt announced that Asheville is home for the Pro Cycling Team The Blue Train, sponsored by United Health Care.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:44 p.m.

CITY CLERK

MAYOR