

Tuesday – January 23, 2018 - 5:00 p.m.

Regular Meeting

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

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 9, 2018**

- B. RESOLUTION NO. 18-14 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT FUNDS IF AWARDED THROUGH THE N.C. GOVERNOR’S CRIME COMMISSION’S STATE APPROPRIATION COMMITTEE FOR THE 2017-18 BODY/DASHBOARD CAMERAS - LOCAL SOLICITATION**

Summary: The consideration of a resolution authorizing the City to apply for and accept funds if awarded through the North Carolina Governor’s Crime Commission’s State Appropriation Committee for the 2017-18 Body/Dashboard Cameras — Local Solicitation for a state-issued matching grant in the amount of \$61,535.

The City of Asheville Police Department (APD) requests authorization to apply for and accept funds if awarded from the NC Governor’s Crime Commission’s State Appropriation Committee 2017-2018 Body/Dashboard Cameras - Local Solicitation. If the grant is approved APD will be allocated \$61,535 based upon the state-issued matching grant (\$1 state for every \$1 local). The distribution of funds would be approved through a signed Memorandum of Understanding.

Funds will be utilized to purchase 50 Axon Fleet Dashboard Camera Systems for APD police vehicles, along with the camera accessories. The video cameras will: 1) enhance the police-community partnership guided by integrity, fairness, respect, and professionalism; 2) produce a “civilizing effect” for both the police officers and citizens; 3) provide transparency on the scrutiny of traffic stops; 4) augment APD’s criminal and internal investigations, particularly on Driving While Intoxicated (DWI) traffic stops; and (5) enhance and streamline the sharing of recordings with the Buncombe County District Attorney’s Office for discovery in criminal cases.

This funded state-issued matching grant for the purchase of Dashboard Cameras, as the studies suggest because of the “civilizing effect,” will enhance the police-community partnership by decreasing citizen complaints on police officers, to include decreasing the use-of-force complaints; while at the same time decreasing the number of assaults against police officers.

Moreover, criminal and internal investigations will be augmented through audiovisual evidence that corroborates the factual basis of an incident.

This report will be presented to the Finance Committee on January 23, and if there is anything other than a unanimous approval is received, the details of the decision by the Finance Committee will be made clear to City Council at their meeting later that same day.

Pros:

- Dashboard Cameras should produce a “civilizing effect” that enhances the police-community partnership with decreased citizen complaints on the police; decrease use-of-force complaints; and decreased assaults on police officers; and add transparency to the scrutiny of traffic stops.
- Enhanced criminal and internal investigations, particularly DWI traffic stops.

Cons:

- Ongoing budgeted funding required to sustain the Dashboard Camera program into the future police operations that includes the current FTE to manage the program and the continual costs for the storage, maintenance and replacement after the approximate five-year service life of the devices.
- Ongoing task and costs associated with managing, storing, providing discovery, and following retention schedules.

If the grant is awarded, the city will incur an expense as the Local Solicitation is a state-issued matching grant (\$1 state for every \$1 local). The total expense for the purchase of the 50 camera systems is \$123,070; \$61,535 from the State grant and \$61,535 provided by the City of Asheville from the allocated APD CIP funds intended for Dashboard camera purchases and APD’s FY18 operating budget. Moreover, there will be continual annual costs for storage, maintenance and replacement after the approximate five-year service life of the devices.

Staff recommends City Council adopt the resolution authorizing the City Manager to apply for grant funds through the NC Governor’s Crime Commission’s State Appropriation Committee for the 2017-2018 Body/Dashboard Cameras - Local Solicitation in the amount of \$61,535.

RESOLUTION BOOK NO. 39 - PAGE 237

C. RESOLUTION NO. 18-15 - RESOLUTION ACCEPTING AN HONORARIUM FROM THE UNIVERSITY OF NORTH CAROLINA - ASHEVILLE’S MCCULLOUGH INSTITUTE

Summary: The consideration of a resolution authorizing the City Manager to accept, on behalf of the Office of Sustainability, the McCullough Institute Honorarium from the University of North Carolina’s (UNC) Asheville campus.

The McCullough Fellowship Program at UNC Asheville connects undergraduate researchers with area organizations, businesses and resources to address real work challenges in one or more the the following areas: Land Use and Conservation, Urban Planning, Sustainable Agriculture, and Resilience and Environmental Sustainability. Each fellowship includes honorarium for project partners. The honorarium is in the amount of \$800.00.

Over the last year, the Office of Sustainability mentored a McCollough Fellow to examine “Food Cultivation in Urban and Public Green Spaces: Design, Management, Civic Engagement and Lessons from the Field.” Resulting in several workdays with City parks staff and community partners to bring much needed maintenance to the Dr. George Washington Carver Edible Park as

well as a seed exchange and community walking tours to educate the public on the edible plants within the park.

The work of the McCollough Fellow supports the Resolution 17-257, the City's Food Policy Action Plan. The honorarium in the amount of \$800 will be utilized for future maintenance and organized work days within the edible park honoring the work and collaboration of the McCollough Institute.

Pros:

- Supports Resolution 17-257 Food Policy Action Plan
- Management of Dr. George Washington Carver Edible Park

Con:

- None

There is no fiscal impact.

Staff recommends City Council adopt a resolution authorizing the City Manager to accept, on behalf of the Office of Sustainability, the McCullough Institute Honorarium in the amount of \$800.00.

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D. RESOLUTION NO. 18-16 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE TRANSIT PLANNING PROGRAM, SECTION 5303 OF THE FEDERAL TRANSIT ADMINISTRATION

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

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

This funding makes it possible to have dedicated staff developing and engaging in complex processes such as the transit master plan implementation, route changes, and to develop programs required by the Federal Transit Administration for Asheville, as designated recipient, and sub-recipients to ensure compliance with federal regulations. This resolution is required by the North Carolina State Department of Transportation.

FY 2018-19 funding totals \$75,000. The subject grant will provide 80% of the anticipated funding (\$60,000), the North Carolina Department of Transportation will provide 10% (\$7,500), and the City of Asheville will provide the remaining 10% (\$7,500). The grant funding and the City's local match are budgeted annually in the Transit Services Fund budget.

This report is being reviewed by the Finance Committee on January 23, 2018, and if anything other than a unanimous approval is received, the details of the decision by the Finance Committee will be made clear to City Council at their meeting later that same day.

Pros:

- Supplements funding for multiple transit-related positions.
- Enables the City of Asheville to use \$67,500 in Federal and State funds for transit planning activities.

Con:

- A 10% local match in the amount of \$7,500 is required.

The total grant funding is \$75,000. As noted above, the City is required to provide a 10% local match in the amount of \$7,500. The anticipated grant funding and the City's local match in the amount of \$7,500 are budgeted annually in the Transit Services Fund budget.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation to fund the transit planning program, Section 5303 Metropolitan Planning Grant of the Federal Transit Administration for FY 2018-19.

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E. ORDINANCE NO. 4638 - BUDGET AMENDMENT FROM THE FEDERAL TRANSIT ADMINISTRATION FOR THE JOB ACCESS AND REVERSE COMMUTE (JARC) PROJECTS

Summary: The consideration of a budget amendment in the amount of \$196,648 from the Federal Transit Administration to set up project budgets for Fiscal Year (FY) 2016 and FY 2017 Job Access and Reverse Commute (JARC) projects.

Job Access and Reverse Commute (JARC) is a Federal Transit Administration (FTA) grant program that is targeted at providing job access in urbanized and suburbanized areas. The job access refers to projects relating to the development and maintenance of transportation services designed to transport low-income individuals to and from jobs and activities related to their employment. The reverse commute refers to a public transportation project designed to transport residents of urbanized areas to suburban employment opportunities.

JARC is funded through a 10% allocation of FTA 5307 funds that are administered by the French Broad River Metropolitan Planning Organization (FBRMPO). The FBRMPO posted the call for projects on March 27, 2017. A total of \$537,692 was awarded for projects in the FBRMPO region including \$292,163 to the City of Asheville to partially fund ART Sunday Service and Route 170 to Black Mountain. \$48,881 is also available to the City of Asheville for JARC Administration. A summary of the funded projects for FY 2016 and FY 2017 JARC funding is shown below:

Sub-Recipient	Project	Amount funded	Local Match
Mountain Projects (Haywood County)	Deviated Fixed Route - Capital	\$56,000	\$14,000
Mountain Projects (Haywood County)	Deviated Fixed Route - Operations	\$58,000	\$58,000
Buncombe County	Black Mountain Trailblazer	\$82,648	\$82,648

City of Asheville	Limited Sunday Service	\$187,200	\$187,200
City of Asheville	Route 170	\$104,963	\$104,963
City of Asheville	Program Administration	\$48,881	N/A

The City of Asheville expenses for Limited Sunday Service, Route 170, and Program Administration are already budgeted in the adopted Transit Services Fund budget so no budget amendment is needed for that portion of the grant. The budget amendment in the amount of \$196,648 will provide budget authorization for the City to receive and pass through the subrecipient grant amounts from FTA.

This report is being reviewed by the Finance Committee on January 23, 2018, and if anything other than a unanimous approval is received, the details of the decision by the Finance Committee will be made clear to City Council at their meeting later that same day.

Pros:

- This funding will help maintain existing transit services that are essential to many residents.
- This funding will help offset operating costs.
- The City receives \$48,881 for administration purposes, which does not require a local match.

Con:

- The City funding for Limited Sunday Service and Route 170 requires a local match.

The City of Asheville's fiscal impact is the local match for Sunday Service and Route 170 that totals \$292,163. The local match is already budgeted within the adopted Transit Services Fund budget .

Staff recommends City Council adopt a budget amendment in the amount of \$196,648 from the Federal Transit Administration and local sources to set up project budgets for FY 2016 and FY 2017 Job Access and Reverse Commute (JARC) projects.

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F. ORDINANCE NO. 4639 - BUDGET AMENDMENT FROM THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION FOR AN UPDATE TO THE CITY'S PEDESTRIAN PLAN AND AMERICANS WITH DISABILITIES TRANSITION PLAN UPDATE

Summary: The consideration of a budget amendment in the City's Special Revenue Fund in the amount of \$175,000 to budget \$140,000 in federal grant funds awarded through the French Broad River Metropolitan Planning Organization (MPO) along with a City match of \$35,000 for an update to the City's pedestrian plan and ADA transition plan; and a budget amendment of \$35,000 in the City's General Fund from unassigned fund balance to appropriate the City match.

By Resolution 16-117, adopted May 17, 2016, City Council authorized the City Manager to apply for, and if successful, to execute agreements to accept the funding for several grants from the French Broad River MPO, including \$175,000 for an update to the city's 2005 pedestrian plan and older ADA transition plan. The grant was awarded, with project funding slated for FY 2017-18. Execution of the grant agreement is pending the adoption of this budget amendment to add the project to the current budget.

This report is being reviewed by the Finance Committee on January 23, 2018 and if

anything other than a unanimous approval is received, the details of the decision by the Finance Committee will be made clear to City Council at their meeting later that same day.

Pros:

- Allows the City to update the pedestrian and ADA transition plans
- Leverages \$140,000 in grant funding

Con:

- Grant requires \$35,000 in local match from General Fund unassigned fund balance

As noted above, the City's local match is \$35,000. It will be funded through an appropriation from General Fund unassigned fund balance.

Staff recommends City Council adopt the attached budget amendment in the City's Special Revenue Fund in the amount of \$175,000 to budget \$140,000 in federal grant funding awarded through the French Broad River MPO along with the City's match of \$35,000; and a budget amendment of \$35,000 in the City's General Fund from unassigned fund balance to appropriate the City match.

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G. RESOLUTION NO. 18-17 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT FUNDING FROM THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION FOR FISCAL YEAR 2018 FOR A TRANSPORTATION FEASIBILITY STUDY ON BILTMORE, MCDOWELL AND BROADWAY AND TO EXECUTE ALL NECESSARY AGREEMENTS

ORDINANCE NO. 4640 - BUDGET AMENDMENT FOR TRANSPORTATION FEASIBILITY STUDY ON BILTMORE, MCDOWELL AND BROADWAY

Summary: The consideration of (1) a resolution authorizing the City Manager to accept transportation funds from the French Broad River Metropolitan Planning Organization (MPO) for a feasibility study regarding transportation operations on Biltmore Avenue, McDowell Street and Broadway; and (2) a budget amendment in the City's Special Revenue Fund in the amount of \$200,000, to budget \$160,000 in federal grant funds, with a required City match of \$40,000; and a budget amendment of \$40,000 in the City's General Fund from unassigned fund balance to appropriate the City match.

In May of 2016 City Council approved a resolution authorizing the City Manager to apply for, and if successful, to execute funding agreements for transportation funding from the French Broad River MPO. One of these grant applications was for the engineering and design of complete streets projects on Biltmore Avenue, Coxe, Avenue, and South Lexington Avenue.

Ultimately, the French Broad River MPO awarded funding for project design of Coxe Avenue and South Lexington Avenue. Both of these design projects are currently included in the City's Capital Improvements Program.

With regard to Biltmore Avenue, the MPO committees decided to direct funds toward a feasibility study that would look more comprehensively at north-south mobility in this area. In particular, north-south bicycle facilities are needed. Biltmore Avenue will be studied along with the parallel corridor of McDowell Street to look at all modes of transportation, including the feasibility of adding bicycle facilities.

In addition to Biltmore and McDowell, the Broadway corridor was added to this study because all of these corridors are owned and operated by the North Carolina DOT, and have

similar operational issues. Namely, these are relatively high volume traffic corridors with an identified need for bicycle facilities. Adding the facilities would be challenging given the current configuration of the streets.

This resolution and budget amendment clarifies the following: 1) The French Broad River MPO initiated a corridor study process for Biltmore Avenue, McDowell Street and Broadway; 2) The need for this study arose, in part, in response to a funding application from the City of Asheville for complete streets projects; 3) that the MPO programmed \$160,000 in federal funding toward the study; and 4) the City of Asheville is expected to manage the study and provide the \$40,000 match.

This report is being reviewed by the Finance Committee on January 23, 2018, and if anything other than a unanimous approval is received, the details of the decision by the Finance Committee will be made clear to City Council at their meeting later that same day.

Pros:

- Advances the implementation of the City's Complete Streets Policy
- Leverages \$160,000 in federal grant funding
- Continues a cooperative effort with the NCDOT and the French Broad River MPO

Con:

- Grant requires \$40,000 in local match from General Fund unassigned fund balance

As noted above, the City's local match is \$40,000. It will be funded through an appropriation from General Fund unassigned fund balance.

Staff recommends City Council (1) adopt the resolution authorizing the City Manager to accept transportation funds from the French Broad River MPO for a feasibility study of transportation operations on Biltmore Avenue, McDowell Street and Broadway; and 2) adopt the budget amendment in the City's Special Revenue Fund in the amount of \$200,000 to budget \$160,000 in federal grant funding awarded through the French Broad River MPO along with the City's match of \$40,000; and a budget amendment of \$40,000 in the City's General Fund from unassigned fund balance to appropriate the City match.

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**H. RESOLUTION NO. 18-18 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO APPLY FOR, AND IF AWARDED ACCEPT, A GRANT FROM
THE NATIONAL LEAGUE OF CITIES LEADERSHIP IN COMMUNITY
RESILIENCE GRANT**

Summary: The consideration of a resolution authorizing the City Manager to apply for a grant, and accept funding if awarded, from the National League of Cities Leadership in Community Resilience Grant.

Asheville's Climate Resiliency Assessment is designed to help the City be prepared for and lessen the impacts of future extreme weather events.

Over the past year, the City engaged with the University of North Carolina Asheville's National Environmental Modeling and Analysis Center (NEMAC) to analyze possible impacts of extreme weather through modeling the City's vulnerabilities and risk.

The current planning focuses on prioritization of identified preparedness options. The intent of this phase is to develop options and strategies that can be incorporated in City and community policy agenda through the City's Comprehensive Plan, *Living Asheville*.

The National League of Cities Leadership in Community Resilience grant offers an opportunity for the City to receive a year-long assistance program to be delivered in three (3) ways:

1. Policy and practice exchange,
2. \$10,000 Grant to support a local resilience event, and
3. Attendance to the 2018 Resilient Cities Summit.

The Office of Sustainability will utilize grant funding, if awarded, to create a proactive framework centered around educational outreach and awareness to mitigate risk and build community resilience around identified climate threats.

This item was passed unanimously by the Finance Committee to advance to City Council's Consent Agenda.

Pros:

- Supports community resilience through the City's Climate Resilience Assessment
- Supports the City's Sustainability Master Plan

Con:

- None

If awarded, the \$10,000 grant will be spent during the Fiscal Year 2018 - 2019. Matching funds are not required. As a result, the only fiscal impact related to the City is staff time to manage and participate over the next 12 months.

City Council approval of a resolution authorizing the City Manager to apply for, and accept funding if awarded, a grant from the National League of Cities Leadership in Community Resilience.

RESOLUTION BOOK NO. 39 - PAGE 241

I. RESOLUTION NO. 18-19 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH CLARK PATTERSON LEE, P.C., FOR DESIGN SERVICES FOR THE ART TRANSIT STATION FACILITIES RENOVATION PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a Professional Services Agreement with Clark Patterson Lee, P.C. in the amount of \$188,000 for design services for the ART Transit Station Facilities Renovation Project.

On March 28, 2017, at the Budget Work Session, City Council directed staff to proceed with a design to improve the ART Transit Station based on a recommendation from the 2009 Transit Master Plan for Near-Term Enhancements that were never completed. The above-referenced master plan recommended that the City should *"make modest improvements to the Downtown Transit Center. In order to prolong the life of the transit center until a replacement is constructed, modest improvements and repairs should be made to the central location of transit service."* This project will be managed by the Building Construction Division in General Services, in coordination with the Transit Planning Division of the Transportation Department as sponsor.

On July 18, 2017, the General Services Department issued a Request for Qualifications for Architectural & Engineering Services for the ART Transit Station Facilities Renovation project for a contract that includes planning & public engagement, design, and construction administration services. The project will involve a complete renovation of the ART Transit Station with the goals of: improving passenger experience; improving building performance and energy efficiency; maximizing the renovation within budget; and minimizing disruptions to transit performance.

The design will consider all structures on the 0.5-acre parcel, including the passenger waiting area, restroom, dispatch & break room, passenger loading platform, and canopy. Also, the design will consider the site's potential for expanding building footprint. Lastly, the design will assess the feasibility of adding a solar array on top of the canopy roof and, if feasible, will design the solar array. The base scope for this design work is funded by the General Fund, and the solar assessment and design work would utilize Sustainability "Green CIP" Funds.

In response to the Request for Qualifications, the department received three submittals on September 25, 2017. Companies responding were:

1. Moser, Mayer, Phoenix Associates (Moser, Mayer, Phoenix Associates was acquired by Clark Patterson Lee, P.C. while the fee proposal was being negotiated. The acquisition was completed on November 1st, 2017.)
2. LS3P Associates Ltd.
3. Form & Function Architecture

Following a review of qualifications by City staff and the program manager, Moser, Mayer Phoenix Associates (now Clark Patterson Lee, P.C.), was selected as the most qualified firm and provided a negotiated fee of \$188,000.

Pros:

- This project will improve passenger experience by modernizing the transit station facilities, and fulfilling the near-term enhancements recommended in the last Transit Master Plan.
- This project is aligned with the City, General Services and Office of Sustainability's goals of continued investment and improvement of the City's facilities through Capital Improvement Projects, in order to provide lower cost, more sustainable facilities.

Con:

- None.

The funding needed for this agreement is currently allocated within the ART Transit Station Renovation Project (B1703) in the Capital Improvement Program (CIP) Fund.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a Professional Services Agreement with Clark Patterson Lee, P.C., for the amount of \$188,000 for design services for the ART Transit Station Facilities Renovation Project.

RESOLUTION BOOK NO. 39 - PAGE 242

J. ORDINANCE NO. 4641 - ORDINANCE TO ENACT AND/OR CHANGE THE SPEED LIMITS ON VARIOUS SECTIONS OF STREETS IN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance to enact and/or change the speed limits on various sections of streets in the City of Asheville.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected. Speed limits on N.C. Dept. of Transportation (NCDOT) maintained streets may also be raised or lowered but require concurring ordinances to be passed by both the NCDOT and the City authorizing the speed limit.

City staff recently reviewed all existing speed limit ordinances for accuracy and applicability. This review revealed a number of ordinances that are incorrect for various reasons. In some cases, the descriptions are incorrect or no longer apply. In a couple of instances, the streets or portions of the streets no longer exist or were abandoned from City maintenance. Additionally, there is a school zone speed limit concurring ordinance where the school is no longer in existence.

City staff has determined that:

1. The following streets no longer exist as City maintained roadways: Pearlman Alley, Second Street, and University Heights.
2. The following NCDOT streets no longer have concurring ordinances or no longer are identified as shown in the ordinances: Airport Road, Pearson Bridge Road, and Riverside Drive.
3. The following streets were previously maintained by NCDOT and had a concurring ordinance for 25 mph, but when they were taken over by the City, the concurring ordinance was not rescinded and a City ordinance was not enacted: Braeside Circle, Sycamore Drive, Sycamore Terrace.
4. The ordinances for the following streets are no longer correct due to wording or other errors/omissions or partial abandonments: Aston Street, Beverly Road, Davidson Street, Edgewood Road (Enka), Fairview Road, Federal Alley, South Beaumont Street, Spruce Street, and Wilson's Alley.
5. The ordinances for the following streets conflict due to lower speed limits being enacted without the repeal of the higher speed limit: Columbine Road and Wolfe Cove Road.
6. The following school zones are obsolete because the schools no longer exist: Haywood Road (St. Joan of Arc School), and Victoria Road (St. Genevieve).

Pros:

- The speed limit ordinances will be current and accurate.
- The ordinances will be more enforceable.
- Obsolete ordinances will be removed.
- City staff will be able to "clean up" the speed limit ordinances.

Con:

- None.

There is no anticipated financial impact for this action.

City staff recommends that City Council repeal ordinances from streets that have changed or no longer apply and approve an ordinance detailing correct names and descriptions.

ORDINANCE BOOK NO. 31 - PAGE 422

K. ORDINANCE NO. 4642 - ORDINANCE TO PROHIBIT MAKING RIGHT TURNS ON A RED INDICATION AT THE INTERSECTION OF DEAVERVIEW ROAD AND BEAR CREEK ROAD NORTH AND THE INTERSECTION OF PATTON AVENUE AND NORTH FRENCH BROAD/SOUTH FRENCH BROAD AVENUES; AND TO REMOVE THE RIGHT TURN ON RED PROHIBITION FROM THE INTERSECTIONS OF HAYWOOD STREET AND BATTERY PARK AVENUE, LIBERTY STREET AND FAIRVIEW ROAD, AND PATTON AVENUE AND CHURCH STREET

Summary: The consideration of an ordinance enacting a prohibition from making right turns on a red indication at the intersection of Deaverview Road and Bear Creek Road North and the intersection of Patton Avenue and North French Broad/South French Broad Avenues; and to remove the right turn on red prohibition from the intersections of Haywood Street and Battery Park Avenue, Liberty Street and Fairview Road, and Patton Avenue and Church Street.

According to state law (NCGS # 20-158), local authorities, with reference to highways under their jurisdiction, are authorized to control vehicles at intersections and other appropriate places, by erecting or installing steady-beam traffic signals and other traffic control devices, signs, or signals. This section further discusses right turns on steady red indications and the means to restrict them.

City staff recently reviewed the right turn on red ordinance for accuracy and applicability. This review revealed a number of intersections that have the restriction, but are no longer signalized. Those intersections are Haywood Street and Battery Park Avenue, Liberty Street and Fairview Road, and Patton Avenue and Church Street. Council action is required to remove these restrictions.

City staff has conducted engineering studies to determine their appropriateness at two intersections. Based on these studies, a right turn on red prohibition will increase the safety for all modes of transportation without adding undue delay or hardship to motor vehicles. Those are the intersection of Deaverview Road and Bear Creek Road North and the intersection of Patton Avenue and North French Broad/South French Broad Avenues.

Pros:

- The right turn on red indication ordinances will be current and accurate.
- The new intersections will be more friendly to all modes of transportation.
- City staff have responded favorably to citizen's requests.

Con:

- None.

The financial impact to install the appropriate signs at the two intersections is less than \$500 and is included in the Transportation's operating budget for the current fiscal year.

City staff recommends that City Council approve an ordinance enacting a prohibition from making right turns on a red indication at the intersection of Deaverview Road and Bear Creek Road North and the intersection of Patton Avenue and North French Broad/South French Broad Avenues. City Staff further recommends that City Council remove the right turn on red prohibition

from the intersections of Haywood Street and Battery Park Avenue, Liberty Street and Fairview Road, and Patton Avenue and Church Street as these signals have been removed.

ORDINANCE BOOK NO. 31 - PAGE 425

L. RESOLUTION NO. 18-20 - RESOLUTION TO AMEND THE RESOLUTION ESTABLISHING THE HOMELESS INITIATIVE ADVISORY COMMITTEE TO UPDATE THE NAME, PURPOSE AND DUTIES OF THIS COMMITTEE

RESOLUTION NO. 18 -21 - RESOLUTION ADOPTING THE ASHEVILLE-BUNCOMBE HOMELESS INITIATIVE ADVISORY COMMITTEE'S NEW BYLAWS

Summary: The consideration of a resolution adopting the Asheville-Buncombe Homeless Initiative Advisory Committee (HIAC) new Bylaws and a resolution amending HIAC's enabling resolution to update the name, purpose and duties of the HIAC to recognize a joint committee of the City of Asheville and Buncombe County.

Looking Homeward: Ten Year Plan to End Homelessness in Asheville and Buncombe County was adopted as a guiding document in 2005 by the City of Asheville and Buncombe County. The Ten Year Plan was the culmination of community efforts and stakeholders to address housing the significant chronic homeless population in Buncombe County.

In 2008, the City of Asheville and Buncombe County established the Homeless Initiative Advisory Committee within the City organization, primarily for the purpose of implementing the Ten Year Plan to 'address issues related to homelessness, to provide for official recognition, and allow for appropriate administrative support' of the plan. In 2009, the City of Asheville became the Lead Agency for the Continuum of Care (CoC), designated as NC 501, a federally recognized entity capable of receiving federal dollars targeted to addressing homelessness. Subsequent policies developed and guided by the HIAC, as well as increased funding have enabled a systems' response to homelessness resulting in: the reduction of all types of homelessness, the number of persons that become homeless, the duration and frequency of homeless episodes and a reduction of the number of persons experiencing chronic homelessness from 293 in 2005 to 74 in 2017. Funding for NC 501 has more than doubled in the last ten years as a result of comprehensive strategies and HIAC oversight of the CoC.

The Homeless Initiative Advisory Committee's Five Year Strategic Plan adopted in 2017, addresses the ongoing issues of homelessness in Buncombe County and is predicated on the original success of the Ten Year Plan. The HIAC acts in advisory capacity to implement the strategic plan and make funding and policy recommendations to Council to ensure oversight and community support for these critical initiatives. The proposed Bylaws reflect HIAC's role as the advisory body that works to reduce the underlying causes of homelessness in Buncombe County through support of system-wide collaboration designed to decrease the many barriers homeless individuals and families face in accessing safe, stable and affordable housing.

On November 21, 2017, the HIAC recommended and the Housing and Community Development Committee approved and recommended to the Boards and Commissions Committee and City Council, approval and adoption of the revised Bylaws, the accompanying resolution and approval and adoption of the amended resolution detailing the purpose and duties of the HIAC beyond the initial oversight of the Ten Year Plan in Buncombe County. The Boards and Commissions Committee approved and recommended to City Council approval and adoption of the HIAC Bylaws and all accompanying resolutions on January 9, 2018.

The federal, state and local funding all support or subsidize quality affordable housing and align with the 2036 Council Vision of an inclusive, diverse community and quality affordable housing by supporting an effective network of community service providers to address homelessness.

This recommendation complies with the goals of the Five Year Strategic Plan on Homelessness in Buncombe County adopted by City Council and Buncombe County in 2017 and the 2015 Comprehensive Plan.

Pros:

- HUD funding is a key funding resource for homeless individuals and families in the community. HUD funding is dependent on proper implementation of community wide strategies within a prescribed framework to serve the homeless population in Buncombe County.
- The HIAC serves as the advisory committee to ensure compliance and effective use of key federal, state and local dollars in excess of 1.2 million dollars every year.

Cons:

- HUD funding is allocated yearly in the Congressional Budget process, and is subject to change annually.

Homeless program services and subsidy funding is received from the US Department of Housing and Urban Development and the State of North Carolina. Existing Community Development staff administer and monitor current programs and initiatives

Staff requests to City Council to approve and adopt the Asheville-Buncombe Homeless Initiative Advisory Committee's proposed Bylaws; and amend their enabling resolution establishing the purpose and duties of the HIAC to coordinate and support efforts to address issues of homelessness throughout the NC 501 Continuum of Care.

RESOLUTION NO. 18-20 - RESOLUTION BOOK NO. 39- PAGE 243
RESOLUTION NO. 18-21 - RESOLUTION BOOK NO. 39- PAGE 245

M. REQUEST TO RENAME LAKEWOOD PARK IN KENILWORTH TO LEAH CHILES PARK

Summary: Announcement of a request to rename Lakewood Park to Leah Chiles Park.

Community members James Vaughn and Kevin Broadwater are proposing to rename Lakewood Park to Leah Chiles Park, and to donate a historical plaque to be located on site.

Leah Chiles and her husband James Chiles were the founders and developers of the town of Kenilworth in the 1920's. In 1928, Leah Chiles became the first women elected mayor of a town in western North Carolina. As Mayor of Kenilworth, Mrs. Chiles stood up for rights of Kenilworth residents by demanding a vote of residents before agreeing to annexation by the City of Asheville in 1929. Mrs. Chiles was also a businesswoman, continuing the Kenilworth Development Corporation after the death of her husband. Additionally she created a nationally renowned art exhibition in Asheville and founded the Kenilworth Galleries. The present day Lakewood Park was donated to the town of Kenilworth in 1924 and is located directly across the street from the historic James Madison Chiles and Leah Arcouet Chiles House.

Pursuant to the City's policy on naming public facilities, Mr. Vaughn and Mr. Broadwater submitted the renaming proposal and the required petition signed by over 30 registered voters who reside within the city limits of Asheville.

The proposal was presented to the Recreation Advisory Board on November 13, 2017, and the Kenilworth Neighborhood Association on July 11, 2017, and received unanimous support from the board and association.

Also pursuant to the City's naming policy, Council shall make the announcement at a scheduled public meeting as to provide for an opportunity to receive input from appropriate sources. Prior to voting, the Council may solicit the advice of surrounding property owners, residents, affected parties and other City officials or anyone else that the Council believes can contribute meaningful input.

In order to receive that input, Council will make a decision at its next regularly scheduled meeting.

The City Clerk's office has verified with the Buncombe County Board of Elections that at least 30 signatures on the request are registered voters of the City.

The cost to the City to support the renaming of Lakewood Park to Leah Chiles Park is \$4,000 to \$6,000 for the park identification sign. The funds to support the cost is budgeted in the City's Capital Improvement Program for the Parks and Recreation Department. There is no cost associated with the historical plaque since it will be donated to the City.

The Recreation Advisory Board recommends the renaming of Lakewood Park to Leah Chiles Park, and to place a historical plaque on-site to honor Leah Chiles.

N. MOTION APPROVING THE BOARD OF ALCOHOLIC BEVERAGE CONTROL'S TRAVEL POLICY ADOPTED JANUARY 26, 2016

Summary: Each year the N.C. ABC Commission, in compliance with Chapter 18-B700, Article 7, g (2), requires its 167 ABC boards to get annual approval of board travel policies from their appointing authorities. Section g (2) of 18B-700 states, "The local board shall annually provide the appointing authority's written confirmation of such approval...".

The ABC Board approved the current policy January 26, 2016. Two years ago the ABC Board incorporated all the elements to changes in the City's Travel Policy, and we made no changes to the current policy.

The ABC Board formally requests the City of Asheville's written confirmation of the Asheville Board of Alcoholic Control Travel Policy.

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

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

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

III. PRESENTATIONS & REPORTS:

A. I-26 CONNECTOR UPDATE

Transportation Director Ken Putnam gave a brief update on the I-26 Connector Project, concentrating on the consultant they hired. On October 12, 2017, the consultant had a kick-off meeting and during that date they also had three separate meetings - one with City staff, one with the N.C. Dept. of Transportation (NCDOT), and various stakeholders including the Asheville Design Center, Housing Authority (Hillcrest), Burton Street community, Montford community, and the East West Asheville Neighborhood Association. They reviewed the urban design (surplus property redevelopment), transportation designs review greenways planning, and aesthetics betterment concepts.

Councilwoman Mayfield said that a key priority is reclaiming the Patton Avenue corridor for development and they are hopeful that the NCDOT will revise their current design to allow for more of reclaiming that corridor.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 153 SMOKY PARK HIGHWAY FROM HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING TO COMMERCIAL EXPANSION DISTRICT/CONDITIONAL ZONING FOR THE EXPANSION OF A MULTI-TENANT COMMERCIAL DEVELOPMENT FOR INGLES MARKETS

ORDINANCE NO. 4643 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 153 SMOKY PARK HIGHWAY FROM HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING TO COMMERCIAL EXPANSION DISTRICT/CONDITIONAL ZONING FOR THE EXPANSION OF A MULTI-TENANT COMMERCIAL DEVELOPMENT FOR INGLES MARKETS

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located at 153 Smoky Park Highway from Highway Business District/Conditional Zoning to Commercial Expansion District/Conditional Zoning for the expansion of a multi-tenant commercial development for Ingles Markets. This public hearing was advertised on January 12 and 19, 2018.

She said the applicant is requesting review of conceptual plans for the construction and renovation of a commercial retail development at 153 Smoky Park Highway with a conditional zoning request from Highway Business (HB) to Commercial Expansion (COM EXP) District. This project is considered under conditional zoning pursuant to Sections 7-7-8 and 7-8-42 of the Unified Development Ordinance (UDO).

The subject property (PINs 9628-10-0202, 9628-10-2994 and 9628-10-5221) are currently owned by Ingles Markets Inc; the petitioner is Ingles Markets Inc and the project contact is Preston Kendall.

The project site consists of multiple parcels with a combined area of over 32 acres. There are existing retail structures and surface parking on the site; some will be renovated while some will be removed for new construction.

The project area is zoned Highway Business Conditional Zone (overlay from Ordinance No. 3954, approved in 2011 but not constructed). Nearby uses along the commercial corridor are largely retail business in nature and zoned HB. There are residential uses and residential zoning to the north and northwest (RS-4) and Institutional zoning across Smoky Park Highway to the south (Asheville School). The Norfolk Southern rail line and right-of-way runs across the southeastern edge of the project site.

The applicant is proposing to demolish several existing structures on the site and build new retail spaces and a new grocery store as well as retain and renovate the strip retail building on the westernmost side of the site. The total square footage for all uses combined is approximately 251,493 square feet. The plan includes a gas canopy use towards Smoky Park Highway and shows three outparcels at the front of the site that would be developed as Level II projects in the future.

The plans propose a minimum of 620 surface parking spaces which does not meet the minimum number of spaces required based on the overall retail square footage proposed (*see condition*). There is an existing parking area in front of the building to be renovated, which would otherwise not be permitted in this location according to district standards (*see condition*).

There are a number of access and mobility standards required by the expansion district that will be met by the proposal, including requiring future outparcel development to have internal driveways only (*see condition*) and connecting internally to the State Employees Credit Union to the west. However there are conditions requested as well such as multiple driveways onto Smoky Park Highway (*see condition*).

Plans show a ten-foot sidewalk along the Smoky Park Highway frontage with a pedestrian crossing from Asheville School to the south and across the drive to Lowes to the west. Existing sidewalks are not able to be expanded across the bridge over the rail line at the eastern end of the project frontage and there is no sidewalk heading north into the Lowe's driveway along the bridge on this side of the street. Bike lanes into the development from Smoky Park Highway have been provided, as well as a location for a future transit pad (transit routes do not currently serve this location).

Landscaping is required for this project and includes a property line buffer to the north (the applicant is providing a larger than required buffer), street buffer, street trees, parking lot and building impact landscaping. There is one condition requested by the applicant related to landscaping in the interior of the parking field (*see conditions*).

Fifteen percent of the site is required to be provided as open space; plans appear to comply with four separate areas designated for a total of at least 15% of the project area.

There are standards relating to fenestration, entrances and building appearance. The applicant is proposing a condition related to entrances but will otherwise comply with the standards for the existing and new construction (*see condition*).

This site was approved as a conditional zoning in 2011 (Ordinance No. 3954) but was never completed. The new application is somewhat altered from that proposal and follows the current process (adopted in February 2017) for commercial expansion projects due to the project size.

The applicant is proposing a number of conditions as detailed in the Exhibit B.1 list. Staff is supportive of the conditions. Several are detailed below but supplemental conditions provided by the applicant are noted in the attachment.

1. Parking

- a. Reduction in minimum number provided (*719 required by UDO, a minimum of 620 proposed*)
- b. Location of parking (*district requires parking to be to the side or rear of buildings; plans propose maintaining existing parking field in current location in front of existing shops to be renovated and includes a strip of parking spaces in front of gas canopy*)

- c. Reduction in loading berths (*UDO requires at least 7 loading berths as the calculation is based on overall SF; applicant is requesting to reduce the requirement and base it more on the final tenants, which aren't yet identified. Additionally the request to reduce is based on their experience as a retailer*)
- 2. Landscaping
 - a. Elimination of one landscaping strip and pedestrian pathway within the main parking field (*four strip/pathways would be required by UDO; applicant is proposing two within the main parking field due to reuse of the site and requested reduction in parking*)
- 3. Driveways
 - a. Two requested due to the size of the development (*the zoning district limits developments to have only a single driveway into the site; DOT has approved two signalized driveways from Smoky Park Highway*)
- 4. Entrances into buildings
 - a. Reduction of standard (*the zoning district requires well-defined operable entrances at regular intervals not to exceed 75 feet; applicant requests to comply when the tenant spaces are smaller but to meet the intent of activation with benches or other amenities if the space will be filled by larger tenants due to programmatic/security challenges*)
- 5. Signage
 - a. Freestanding signs (*a total of four freestanding signs are requested to be allowed for the overall development, as illustrated on the signage plans attached, with one multi-tenant sign at the westernmost driveway, one monument sign shared by the Ingles Gas Express and Outparcel 1, one multi-tenant sign at the easternmost driveway for Outparcel 2 and future tenants, and one monument sign to serve Outparcel 3; typically in a multi-tenant development, only two freestanding signs are allowed if there are multiple road frontages but due to the large size of the development and the fact that the outparcels could be developed on their own with additional signage if not reviewed under this application, the applicant requests to have combined signage between the tenants with three freestanding signs on Smoky Park Highway and the fourth on the Lowe's Driveway.*)
 - b. Ingles attached signage (*the applicant is requesting that storefront signage of the main tenant -Ingles - will be allowed to have one square foot of signage per linear foot of building up to 5% of the total front facade square footage with a maximum of 400.27 square feet overall as shown and each wall elevation will be allowed an additional sign to give the appearance of individual shops, as illustrated on the signage plans attached; typically Ingles would be permitted to have only a single sign at the 1 per 1 rate, not to exceed 200 square feet.*)
 - c. Gas canopy attached Signage (*the applicant is requesting one square foot per one lineal foot of canopy with one sign on each side of the canopy as illustrated on the signage plan; this generally complies with HB signage standards as related to a single-tenant for attached signage size except that where typically a sign would be allowed on all four sides of the canopy and in this request, the rear side is relocated to the front of the canopy.*)
 - d. Store frontage signage for future outparcel development (*the applicant is requesting that these buildings will be allowed to have one square foot of signage per linear foot of store front with a maximum square footage of up to 125 square feet, which can be divided up into a maximum of two signs; this generally complies with HB signage standards as related to single-tenant commercial development, attached signage except that they would be permitted to have their own freestanding sign and would not be allowed to split the attached signage*)

Projects undergoing conditional zoning review are required to hold a neighborhood meeting; the meeting for this project was held on September 13, 2017. The project was approved with conditions by the Technical Review Committee on November 6, 2017. The Planning & Zoning Commission unanimously voted to support this proposal and requested conditions at their meeting on December 6, 2017. No communication from the public has been received by staff as of the writing of this report.

In 2016, a 30-lot single-family subdivision was approved approximately 1.7 miles away (Bear Creek Homes) and in 2017, a 39-lot single-family subdivision was approved approximately 2 miles away (Ashcroft Subdivision).

The mixed commercial uses proposed for this development can be considered as appropriate in this location. The project improves and expands an existing shopping center that has been in place a number of years. The corridor is zoned Highway Business and contains similar uses in both directions. The enhanced landscape buffer to the rear provides a suitable buffer to the residential neighborhood; the retail uses are all oriented towards Smoky Park Highway and the front part of the parcel. Sidewalks, crosswalks and other multimodal elements designed into the plan help the development to connect to users from all directions, including creating a pedestrian crossing across the Lowe's Driveway and a pathway from the neighborhood.

This project is aligned with elements in the Comprehensive Plan (*2025 Plan*) in that it provides multi-modal transportation elements to support users not only arriving via vehicle and even incorporating transit features while transit does not yet reach this site; and places development along a commercial (mixed-use) corridor with infrastructure already suited to accommodate the use. While the Plan does encourage mixed-use development when possible, this project does include connection points to improve pedestrian access for residential and institutional users to the south and north and improves and expands an existing retail space.

The proposal aligns with the 2036 Council Vision in the following areas: *Transportation and Accessibility* (multi-modal access opportunities); and *A Well-Planned and Livable Community* (multimodal elements and access to neighborhood)

Considerations:

- Proposal updates and enhances an existing, dated shopping center along a commercial corridor
- Future development on outparcels will comply with district standards under a Level II review, including fenestration, entrance and building placement standards
- Multi-modal elements and enhanced connection points are designed into the project
- The project does not provide the minimum number of parking spaces for the size of the development nor are all of the required parking lot landscape paths provided
- Signage is customized for the overall large development

Based on policies in the *2025 Plan* and City Council's 2036 Vision Considerations as well as incorporation of standards from the Commercial Expansion District, staff recommends approval of the conditional zoning for the project at 153 Smoky Park Highway inclusive of the conditions as noted in the B.1 attachment.

The Planning & Zoning Commission reviewed this request at their meeting on December 6, 2017, and voted 6-0 in support of the project.

When Councilwoman Mayfield asked if the Tree Commission look at the proposal to eliminate one landscaping strip and pedestrian pathway, Ms. Bernstein replied that they did not. She explained that with a conditional zoning they would be the body to do that for a Level I or a

Level II project; however, since this is a conditional zoning, City Council is tasked with that review. She said that during the Planning & Zoning Commission they looked at some areas where there might be some areas to add an additional landscape strip, but the applicant really wanted to keep the existing corner as is.

Councilwoman Mayfield said that she would support reducing the parking even more in favor of a landscape and pedestrian strip.

Mayor Manheimer opened the public hearing at 5:21 p.m.

Mr. Wyatt Stevens, attorney representing the applicant, said the parking lot has to do with how customers navigate the lot both on foot and in cars, since most people take the most direct route and cut through the cars to get to the store. They didn't think it made sense to have four landscape strips which they felt would create an odd traffic pattern. He felt that Ingles would be open to reconsider that, but noted that a lot of thought went into the parking lot as well as the rest of the plan. The landscape is considerably more in the back than is required and their budget just for landscaping is over \$350,000. He then reviewed the site plan noting they have a number of energy efficient features. This store would be approximately 64% energy reduction over an average store. Currently there are approximately 55-60 employees and with the added footage there will be approximately 275-300 employees, 35% of which will be full-time and all full-time employees of Ingles are offered health insurance. Showing the landscaping plan, he said they will have a significant buffer between this building and the neighborhood (noting nothing will be built in that buffer because it is counted as their open space). There is an existing path that exists that leads into the neighborhood and they will improve the path. They will improve the crosswalk at the existing traffic light on Smoky Park Highway. The sidewalk along the frontage is currently 4 feet in width and they will widen it to 10 feet in width, except for the location where it crosses over the railroad tracks. Within the development there is all kinds of connectivity so people can walk or ride their bike amongst all of the stores. The N.C. Dept. of Transportation has approved an additional traffic light on Smoky Park Highway. He then said that the signage package is like all the other Ingles stores. In summary, he mentioned how Ingles is a good community member and how they give back to the community they serve.

Mayor Manheimer closed the public hearing at 5:33 p.m.

Mr. Journey Pffferling, west Asheville resident, spoke in support of more open area for the public.

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

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

Vice-Mayor Wisler moved to recommend approval of the conditional zoning request for Ingles Markets Inc. for the property located at 153 Smoky Park Highway from Highway Business Conditional Zone (HB-CZ) to Commercial Expansion District Conditional Zone (COM EXP CZ), and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: (1) the proposal supports the strategies found in the City's comprehensive plan on infill development in an area with existing infrastructure and multi-modal transportation elements; (2) the project provides open space, a larger than required landscape buffer and safe pedestrian connections to residential and institutional uses in the vicinity; and (3) the proposal updates and expands an existing retail center following new guidelines that provide more focus on the design of the site and buildings with fenestration and building placement standards. This motion was seconded by Councilman Haynes and carried on a 6-1 vote with Councilwoman Mayfield voting "no".

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B. PUBLIC HEARING TO REZONE 655 BREVARD ROAD (TWO TRACTS) FROM OFFICE I/CONDITIONAL ZONING TO OFFICE DISTRICT (TRACT 1), AND FROM OFFICE I/CONDITIONAL ZONING TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT (TRACT 2)

ORDINANCE NO. 4644 - ORDINANCE TO REZONE 655 BREVARD ROAD (TWO TRACTS) FROM OFFICE I/CONDITIONAL ZONING TO OFFICE DISTRICT (TRACT 1), AND FROM OFFICE I/CONDITIONAL ZONING TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT (TRACT 2)

Principle Planner Shannon Tuch said that this is the consideration of an ordinance to rezone 655 Brevard Road (two tracts) from Office I/Conditional Zoning to Office District (Tract 1), and from Office I/Conditional Zoning to RS-8 Residential Single-Family High Density District (Tract 2). This public hearing was advertised on January 12 and 19, 2018.

Ms. Tuch said that the applicant (Jana Gower, agent) is requesting a rezoning of the property located at 655 Brevard Rd. from OFF-CUZ (Office-Conditional Use Zone) to OFF (Office) and RS8 (Residential Single-family, High Density).

The subject property is approximately 2.29 acres and includes two separate tracts of land. Tract 1 is 1.48 acres and currently is developed with a small dental office and surface parking lot. Tract 2 is .81 acres and is currently an undeveloped wooded lot. Both parcels have frontage on Brevard Rd. with access directly on the corridor. The property has mild to moderate topography sloping down from Brevard Rd.

The applicant has recently subdivided and sold the dental practice to another party and, collectively, the property owners are seeking to remove the Conditional Use Zoning adopted in April of 2000 and apply standard zoning designations. The property containing the dental practice is proposed to be rezoned to Office while the undeveloped tract is proposed to be rezoned to RS-8.

The property was originally a single lot zoned RS-8 consistent with the surrounding properties. The applicant, Janna Gower, applied for a Conditional Use Rezoning in 2000 to allow for the modest single family residential structure to be adaptively reused as a small dental office. The small surface parking lot was added to support the practice as part of the rezoning.

The large 191 acre parcel of land located at 1568 Brevard Rd. was rezoned from Industrial to RM-16 on November 28, 2017.

While having occurred some time ago, it is worth mentioning that in 2004/2005 Planning staff performed a zoning study along the Brevard Road corridor. The results of the zoning study were that despite the multi-lane character of the corridor and the N.C. Dept. of Transportation plans for road widening, the corridor did not appear to be urbanizing at the rate that has been previously thought possible. While changing the zoning designations to allow a higher intensity use was proposed in a few isolated pockets along the corridor, it was generally felt that a conservative approach that allowed individual requests come in when ready was more appropriate.

The purpose of the RS-8 zoning district is to provide a limited range of high density single-family housing while the purpose of the Office zoning district is to support small-scale

(daytime) office uses that may serve as a transition as residential areas convert to other uses, or between residential and commercial areas.

The subject property is surrounded on two sides (north and west) by other RS-8 zoned property, most of which is developed with single family homes but also includes some non-conforming outdoor storage to the west. To the south of the subject property is more Office zoning and light office uses. By dividing the property and applying the RS-8 zoning designation to the northern parcel ensures that the existing residential uses will not be directly adjacent to any potential future office development. Across Brevard Rd. to the east is unzoned property belonging to the Biltmore Estate.

At their regular meeting on January 3, 2018, the Planning & Zoning Commission voted unanimously in support of the rezoning request (see minutes and recommendation attached). The subject property does not lie within any special review areas or overlay zoning districts and does not require review by any other body. Standard rezoning requests are first reviewed by the Planning & Zoning Commission with final review performed by City Council.

The Asheville City Development Plan 2025 encourages compatible “adaptive reuse, redevelopment and infill development.” Additionally, Brevard Rd. is classified as a “Connecting Corridor” that are, “characterized by land uses such as offices and apartments.”. If approved, this rezoning would accommodate future growth in the Office zoned portion of the property consistent with the vision for these corridors, while insulating the existing single family from any immediate impacts.

This action is most closely aligned with the 2036 Council Vision goals of *Quality Affordable Housing* by providing flexibility for future residential development and with *Thriving Local Economy* by allowing the existing office use to grow unencumbered without special requirements, as resources are available and the market will support it.

Considerations:

- Removing the CUZ provides greater flexibility for future uses and development, requiring only minimum technical compliance.
- This rezoning would return a portion of the property to its original zoning designation.
- This rezoning would allow the office use to be improved or expanded, unencumbered by Ordinance.
- The rezoning would create a non-conformity by failing to provide a 20 foot wide, Type A landscape buffer between the office and residential property. Future expansions or new construction could trigger buffer requirements at that time.

Based on the above findings and the analysis provided in the report, staff finds this request to rezone the 1.48 acre parcel (Tract 1) to Office and the .81 acre parcel (Tract 2) to RS-8 located at 655 Brevard Rd. to be appropriate and consistent with the existing neighborhood and broader city goals.

Mayor Manheimer opened the public hearing at 5:39 p.m.

Mr. Journey Pfifferling, resident on Morningside Drive, was concerned about the traffic on Brevard Road.

Mayor Manheimer closed the public hearing at 5:41 p.m.

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

Councilman Young moved to approve the rezoning request from Office-Conditional Use Zone(OFF-CUZ) to Office (OFF) for Tract 1 and Residential Single-family, High Density (RS8) to Tract 2 thereby assigning zoning designations that are more compatible with the surrounding properties 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: the rezoning will, 1) support smart growth goals by assigning compatible zoning designations consistent with the surrounding neighborhood; 2) removes the ordinance attached to the property providing more flexibility for future growth and development, and 3) returns a portion of the property to the original zoning designation. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

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C. PUBLIC HEARING TO REZONE 99999 DEAVER STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO HR-4 HAYWOOD ROAD-TRADITIONAL ZONING

ORDINANCE NO. 4645 - ORDINANCE TO REZONE 99999 DEAVER STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO HR-4 HAYWOOD ROAD-TRADITIONAL ZONING

Urban Planner David Hazzard said that this is the consideration of an ordinance to rezone 99999 Deaver Street from RM-8 Residential Multi-Family Medium Density District to HR-4 Haywood Road-Traditional Zoning. This public hearing was advertised on January 12 and 19, 2018.

The applicant, Barwick & Associates, LLC (Suzanne Godsey, agent) is requesting a rezoning of the property located on an unnamed gravel alley off of Howard Street from RM8 (Multi-family Medium Density) to HR-4 (Haywood Road Traditional). The property address is 99999 Deaver Street however the property does not access or front on Deaver Street.

The subject property is approximately 0.11 acres and is currently undeveloped. This parcel has frontage on an unnamed gravel alley off of Howard Street. This alley functions and reads as a driveway for the adjacent property to the North. The property has existing trees and is relatively flat.

The applicant is requesting a rezoning of the property (9638-74-1740) from RM8 (Multi-family Medium Density) to HR-4 (Haywood Road Traditional) zone. The applicant has recently received approval with conditions for a phased Level II mixed use project (Beacham's Curve) that includes this parcel and 4 other parcels to the south and east of this parcel. The proposed Beacham's Curve property will have road frontage on the east / west portion of Haywood Road and the north / south section of Haywood Road.

The Haywood Road corridor was rezoned to the Haywood Road Form District in September of 2014. This district abuts this parcel to the south and east.

It is the intent of the RM-8 Residential Multi-Family Medium Density District to permit a full range of medium density multi-family housing types along with single-family detached and attached residences. This district is intended to provide a transitional area between high density single-family and multi-family areas. It is the intent of the Traditional District (HR-4) District to permit a limited range and scale of development because the character of this area is of much smaller structures on small parcels. This district allows for a mix of uses that include: residential, office, and commercial. New construction in this district will be limited to three stories (45') and a

20' vegetated buffer (may be reduced to 10' if a wall is constructed) is required when adjacent to RS and RM zoning districts.

The subject property is surrounded on two sides (north and west) by other RM-8 zoned properties, which are developed with single family homes. To the east of the property is a portion of the unnamed alley and a parcel zoned HR-4 with 3 single family residential houses that are proposed to be replaced with a mixed use building. To the south of the subject property is a vacant parcel that is zoned HR-2 Expansion zoning district that is also part of the approved Beacham's Curve mixed use project.

The subject property does not lie within any special review areas or overlay zoning districts and does not require review by any other body. Standard rezoning requests are first reviewed by the Planning & Zoning Commission with final review performed by City Council.

There are policies throughout the 2025 Comprehensive Plan supporting the need for higher-densities and a mix of uses, where placemaking is an important goal and transit is in place to support the development. The Haywood Road Form District is an outcome of this goal. Other sections of the Plan recommend creating opportunities for economic development through higher densities while reinforcing a strong urban form that enhances the pedestrian environment.

The proposal aligns with the 2036 Council visions in the following areas: (1) *A Well-Planned and Livable Community* - through the enhanced design standards that accompany the Haywood Road Form Code; (2) *Transportation and Accessibility* – due to the requirements for wider sidewalks, pedestrian-friendly design and densities to support expansion of transit; and (3) *Thriving Local Economy* - encouraging a wider mix of compatible commercial uses and opportunities for more intense development (including a higher residential density).

Considerations:

- HR4 Traditional and HR-2 Expansion districts are adjacent to the proposed rezoning and will provide areas for community-scaled development.
- Development requirements are in place to buffer residential areas from commercial impacts.
- This parcel is the only RM-8 zoned parcel with its primary lot frontage on the unnamed alley. All other RM-8 parcels in this area front on Deaver St. or Howard St. Thus this rezoning would not affect the existing traditional single family neighborhood pattern that is found on Howard St. and Deaver St.

Based on the above findings and the analysis provided in the report, staff recommends approval of the proposed rezoning to HR4 Traditional zone finding that the request is reasonable and consistent with City-adopted plans and strategic goals for development in this area.

The Planning & Zoning Commission reviewed this request at their meeting on January 3, 2018, and voted 5-0 in support of the project.

Mayor Manheimer opened the public hearing at 5:46 p.m.

Ms. Suzanne Godsey, representing the applicant, explained their request and the development potential between the two zoning types.

Mr. and Mrs. Frankfort, residents on Howard, were concerned about the Level II mixed use project and how Howard Street and Deaver Street are narrow streets and could not support on-street parking. In addition, they were concerned about any entrance or exit onto Deaver Street or Howard Street.

Mayor Manheimer closed the public hearing at 5:53 p.m.

Mr. Hazzard responded to Mr. and Mrs. Frankfort by stating that two accesses will be off Haywood Road. There is conversation with the Transportation Department for a possible exit on Deaver Street.

In response to Councilwoman Mayfield, Ms. Godsey briefly reviewed the Level II project stating that it will be a good infill project.

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

Vice-Mayor Wisler moved to approve the zoning map amendment from RM8 Multi-family Medium Density district to HR4 Traditional district and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: 1) opportunities for community-scaled development are enhanced; and 2) buffering requirements are in place to protect residential areas. This motion was seconded by Councilman Haynes and carried unanimously.

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D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 390 AIRPORT ROAD FROM HIGHWAY BUSINESS DISTRICT TO LODGING EXPANSION/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A LODGING FACILITY WITH 112 GUEST ROOMS

ORDINANCE NO. 4646 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 390 AIRPORT ROAD FROM HIGHWAY BUSINESS DISTRICT TO LODGING EXPANSION/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A LODGING FACILITY WITH 112 GUEST ROOMS

Urban Planner Sasha Vrtunski said that this is the consideration of an ordinance to conditionally zone property located at 390 Airport Road from Highway Business District to Lodging Expansion/Conditional Zoning for the development of a lodging facility with 112 guest rooms. This public hearing was advertised on January 12 and 19, 2018.

Ms. Vrtunski said that this is a request to review a conditional zoning from Highway Business (HB) to Lodging Expansion Conditional Zone (LODG-EXP-CZ) for the development of an 112-room hotel with associated parking at the property located on 1.84 acres at 390 Airport Road in South Asheville. This project is considered a Level III Development, which requires a rezoning and is subject to a Conditional Zoning review pursuant to Section 7-5-9 of the city's Unified Development Ordinance (UDO).

The project proposes to build a 112 room hotel and 106 parking spaces. The hotel has a 13,774 sf footprint with a total gross square footage of 62,522 sf. The building is 5 stories with an overall height of 65 feet.

The project site is 1.84 acres near the Southridge shopping center, adjacent to the Olive Garden restaurant. Currently, the parcel is a part of a larger parcel that includes the restaurant. The proposal includes subdividing the property and creating a flag lot that would have a street frontage of 80.5 feet (standard frontage in Lodging Expansion District is 100 feet).

Zoning surrounding the property is also Highway Business with the exception of an area across the street, where the jurisdiction is Buncombe County and the zoning is Employment

(EMP).

Plans show a five foot sidewalk around sections of the hotel and a five foot sidewalk from Airport Road leading up to the hotel. Along Airport Road there is a new sidewalk recently built by N.C. Dept. of Transportation. Vehicular access is through a shared driveway at Airport Road. There is also a vehicle exit near the sidewalk. A 4 foot bike lane/path is also provided following the driveway with a section separated from the drive. Parking surrounds the hotel, with some extending along the exit drive, providing a total of 106 spaces.

Required landscaping includes street trees, vehicle use area, dumpster screening and building impact. In addition to the minimum standards, one additional tree and 30 additional shrubs are being provided on the site. Open space is being provided at 16% containing several green spaces.

Fenestration requirements are set at 50% of the front facade, which this building meets. The front of the building faces the primary access corridor (Airport Road) and has a well-defined operable pedestrian entrance.

The applicant is requesting one condition to modify the standards - Reduced lot frontage at Airport Road. The new lot will essentially be a flag lot.

This project was approved with conditions by the TRC on November 20, 2017. The Planning and Zoning Commission provided a recommendation for the request. As this is a Level III review, City Council and Final TRC review is required before zoning approval.

Planning and Zoning Commission reviewed this project on January 3, 2018, and voted 5-0 in favor of the project. No public comment has been received regarding this proposal as of the writing of this report.

Current zoning is Highway Business. The applicant is requesting conditional rezoning to Lodging Expansion Conditional Zone district.

In January 2017, City Council approved a Conditional zoning for a large retail development at 352 Airport Road and 12 Loop Road, which is .5 mile north of this site.

The proposed project should be compatible with the surrounding context. There are numerous other hotels in the vicinity and several of them are as tall as the proposed building. Most of the surrounding parcels are zoned Highway Business and across Airport Road is Employment zone (Buncombe County zoning) where there are also hotels and other commercial development.

The redevelopment of this parcel aligns with the City Development Plan 2025 including supporting infill development where infrastructure is already present.

The proposal aligns with the 2036 Council vision in the "A Well-Planned and Livable Community" area – The project is located near stores, restaurants and near the Asheville Airport. The subject site is also located near a highway exit and the ART S3 bus line.

Considerations:

- Project provides a pedestrian and bicycle connection to Airport Road along with a new bus shelter off site.
- Proposal meets almost all standards with the exception of lot frontage and building placement

- This is an infill project in a developing area, providing hotel rooms close to the Asheville Airport.

The Planning and Zoning Commission reviewed this project on January 3, 2018. The Commission voted 5-0 in favor of the project and recommended Council approval of this Conditional Zoning request subject to Final TRC approval and the B-1 Conditions that were presented to Planning & Zoning.

The applicant has also agreed to the additional 4 conditions in the B-1 Conditions: (1) The hotel owner/operator/developer will provide commercially reasonable transportation for paying guests during reasonable hours (i.e. 4 p.m. to 10 p.m.) to reasonable locations (i.e. the Airport, downtown and Sierra Nevada) as demand dictates; (2) The hotel owner/operator/developer will provide bus passes and maps for Asheville Regional Transport (ART) for paying guests and employees as reasonably requested during normal hours of operation of the bus system; (3) The hotel owner/operator/developer will contact utility providers, including but not limited to Duke Energy Progress, and obtain information on available energy efficiency and renewable energy options in construction and operations before obtaining a certificate of occupancy; and (4) As long as the hotel is a Hilton brand, the hotel will participate in energy and resource conservation initiatives offered by Hilton.

Mayor Manheimer opened the public hearing at 6:01 p.m.

Mr. Wyatt Stevens, attorney for the applicant, explained how the site has remained vacant for a long time and felt it was uniquely suited for this hotel project. He explained how the Home 2 Suites (which is an extended stay hotel) doesn't exist in this part of the County. All units have a kitchenette and are designed for business travelers. There are several hotels in the area, but not a lot of quality hotels. He showed statistics showing that during the year 2016, all their peer hotels had an occupancy rate of 80% 7 days a week. He felt here is a massive demand for hotels in that area that are not being met by the existing hotels and there there are a lot of manufacturers in the area that need corporate contracts with hotels. He felt this project complies with the ordinance which reads in part that "development standards are established to ensure the integration of the lodging use with the surrounding neighborhood and to minimize adverse impacts on adjacent land uses." He said that he has letters of support from neighbors in the area which support the project.

Mr. David Burger, hotel operator, said that he did not know what Asheville's living wage is, but their employees don't make less than \$9 an hour and that their extended stay brand caters toward corporate travelers.

Mayor Manheimer closed the public hearing at 6:17 p.m.

Councilman Young said he tries to keep a pragmatic view on voting for hotels, noting that there is a great deal of Asheville citizens that do not want to see any more hotels, Keeping that in mind though, the area for this proposed hotel is near the Airport, on a busy, business, noisy corridor and it's very close to Henderson County. He will support the project; however, he didn't think that they are giving the City anything.

Councilwoman Mayfield thanked the applicant for addressing concerns surrounding energy and sustainability.

Councilman Kapoor strongly opposed this project. Knowing that this part of town wasn't part of Asheville when the 2010 Comprehensive Plan was developed is evident with the current development pattern in the area. He felt his role is to see if this project is compliant with the comprehensive plan. The plan in that area calls for a mixed use land use pattern and that mixed

use developments should be encouraged. He noted that there are 9 hotels within a one mile radius of this proposed hotel, noting that there is another hotel planned to be built further up the road. In looking at the comprehensive plan, he could not support 11 hotels in a one mile radius.

Councilwoman Smith said that the location is great; however, she was struggling to see what benefit it would be to the employees (living wage) and surrounding residents.

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

Councilwoman Mayfield moved to approve the conditional zoning request for Highway Business District to Lodging Expansion Conditional zone for the Airport Road Hotel project with the requested conditions and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: (1) the project is located in a well established commercial area; (2) increases pedestrian connectivity; and (3) a new shelter will be built at an existing ART stop on Airport Road. This motion was seconded by Vice-Mayor Wisler and carried on a 5-2 vote, with Councilman Haynes and Councilman Kapoor voting "no."

ORDINANCE BOOK NO. 31 - PAGE 439

E. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 1093 TUNNEL ROAD AND 3 OTEEN PARK PLACE FROM RS-8

RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT AND HIGHWAY BUSINESS DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A COMMERCIAL USE

ORDINANCE NO. 4647 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 1093 TUNNEL ROAD AND 3 OTEEN PARK PLACE FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT AND HIGHWAY BUSINESS DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A COMMERCIAL USE

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located at 1093 Tunnel Road and 3 Oteen Park Place from RS-8 Residential Single-Family High Density District and Highway Business District to Highway Business District/Conditional Zoning for the development of a commercial use. This public hearing was advertised on January 12 and 19, 2018.

Ms. Bernstein said that the applicant is requesting review of a conditional zoning at 1093 Tunnel Road and 3 Oteen Park Place from Highway Business (HB) and Residential Single-Family High Density District (RS-8) to Highway Business Conditional Zone (HB CZ) District. This project is considered under conditional zoning pursuant to Section 7-7-8 of the Unified Development Ordinance (UDO).

The subject property (PINs 9668.26.6769 and 9668.26.6877) are owned by Lilian and Edison DeGobbi who are also the applicants.

The project site consists of two parcels with a combined area of approximately 0.35 acres. The primary parcel at 1093 Tunnel Road (approximately 0.22 acres) is zoned Highway Business and also has frontage along Oteen Park Place to the east and Pine Cone Drive to the west. The second parcel (approximately 0.13 acres) is located to the south, previously separated

by an unopened right-of-way that only has access onto Pine Cone Drive. This parcel is currently zoned RS-8 and undeveloped, with frontage on Oteen Park Place to the east and Pine Cone Drive to the west. Other uses are commercial in nature along Tunnel Road and single-family residential uses occupy the RS8 neighborhood to the south along Oteen Park Place and Pine Cone Drive.

A zoning permit was issued for the Elff Auto Center by a Level I review (15-15346 PZ) on the Tunnel Road parcel and the work has been completed with the exception of the property line buffer. This approval included a variance from the Board of Adjustment and alternative compliance approval from the Tree Commission. The alley between the parcels was closed by resolution by City Council on March 22, 2016.

The applicant is requesting to rezone the residential parcel at 3 Oteen Park Place in order to expand the area of commercial use for vehicular use area related to the existing auto service center and place the required 30 foot Type B property line buffer on this area. Currently, there is insufficient width along the rear of the parcel to install the buffer and retain vehicular maneuvering area behind the building.

Access, sidewalks and parking were reviewed for compliance through the Level I process. The plan included with this submittal shows two driveways on Tunnel Road and a two-way driveway behind the building in the area that was previously the alley, exiting onto Pine Cone Drive. This would be an asphalt area for vehicular use.

There are four parking spaces are directly in front of the building. Sidewalks are required along Tunnel Road but there is insufficient room to meet the City's standard due to driveways and the existing conditions result in a four to five foot wide sidewalk at the frontage, directly behind the curb. A fee-in-lieu was previously collected in the Level I process for sidewalks along the other two frontages.

Landscaping is required as a part of this application and includes street trees on all three frontages, the property line buffer to the rear and along a portion of the east and west sides adjacent to RS zoning and a street buffer. Tunnel Road street trees are included as a condition along with the street buffer with the applicant proposing to place the material elsewhere on the site due to the driveways and utilities along Tunnel Road. Open space is not required for the project because the overall size is less than an acre.

The Elff Auto Center use on the HB parcel was issued a compliant zoning permit; however the applicant is proposing to rezone the RS8 parcel to the rear to expand the vehicular use area behind the building and shift the location of the required 30 foot wide property line buffer.

Conditions – The applicant is proposing a number of conditions related to the request to comply with the existing conditions on the site as approved under the Level I site plan review process.

1. Elimination of sidewalk along Oteen Park Place and Pine Cone Drive - *paid fee-in-lieu during Level I process*
2. Sidewalk along Tunnel Road - *City standard is five foot sidewalk behind a five foot grass strip, existing sidewalk is approximately four to five feet wide and was constructed as a part of the Level I process*
3. Driveway separation on Tunnel Road - *existing condition requested to remain, approximately 27' apart - 50 feet is standard*
4. Street trees and street buffer along Tunnel Road - *insufficient room due to driveways and water line, both existing conditions and approved by Alternative Compliance at the Tree*

Commission during Level I process, applicant proposing to place trees and shrubs elsewhere on the site

5. *Setback modification - existing building footprint encroaches into side setbacks by five feet, encroachment approved by Board of Adjustment during Level I process*

Projects undergoing conditional zoning review are required to hold a neighborhood meeting; the meeting for this project was held on June 22, 2017. The project was approved with conditions by the Technical Review Committee on December 18, 2017.

The Planning & Zoning Commission was not able to pass a successful motion on this request; both a motion to approve and a motion to deny received a split vote at their meeting on January 3, 2018. Supporters felt that the applicant had made significant efforts to use the property and this rezoning should be approved while others felt that the loss of a residential parcel was not supportable and that the applicant is able to make reasonable use of the property as was proposed throughout the Level I review process. While there have been inquiries from neighbors to staff, there has been no opposition received. A member of the public spoke at the hearing in support of the applicant and her efforts to complete this project.

In 2016, a hotel was approved approximately 1.5 miles to the west and a veteran's housing project approximately 1.4 miles to the east.

The automobile service use on the Tunnel Road parcel can be considered appropriate and compatible with the commercial nature in this area. The corridor is zoned Highway Business in both directions and similar types of uses and site designs can be found along Tunnel Road.

To the south, there are single-family homes along both Oteen Park Place and Pine Cone Drive. Further encroachment of a commercial use into the residential neighborhood can be considered incompatible, however the applicant is proposing to provide a 30 foot landscape buffer between the existing home and the use. Additionally, there is a 10 to 12 foot grade change from the nearest home down to the proposed vehicular use area so that the commercial use is topographically separated from the neighborhood.

There are aspects of the Comprehensive Plan (*2025 Plan*) that do not support this request in that increasing the supply of housing is a clear goal and this would result in the loss of a residentially-zoned parcel. Additionally the plan suggests limiting the number of driveway cuts along a corridor as a way to improve the pedestrian environment as well as traffic flow (pg. 39). Other adopted City plans are clear on the need to preserve any and all existing housing stock and encourage increasing the residential opportunities throughout the City.

The proposal lacks alignment with the 2036 Council vision in the following areas: (1) *Quality Affordable Housing* (proposal eliminates a vacant residential lot); and (2) *Transportation and Accessibility* (multiple curb cuts necessitating a condition of approval, lack of sidewalks to provide safe access from the neighborhood).

Considerations:

- Project was approved under the Level I review process and can operate as-is
- Multiple driveway cuts and a lack of street trees and buffer plantings along Tunnel Road detract from the pedestrian realm
- The proposal eliminates a residential parcel at the edge of an established neighborhood

Staff cannot recommend approval of the conditional zoning to lose a residential parcel in order to increase the commercial use along the corridor. If there was a way to retain a small residential building lot, there may be more cause to support however this does not appear to be possible.

The Planning & Zoning Commission was unable to pass a successful vote in either support or denial at their meeting on January 3, 2018. Both the motion to approve as well as the motion to deny received a 2-2 vote.

Mayor Manheimer opened the public hearing at 6:33 p.m.

Ms. Lilian DeGobbi, owner of the property, explained how tow trucks need to be able to use the back of the site for access. She provided Council with a letter from adjoining property owners on Oteen Park Place that supports this conditional rezoning.

Mr. Karl Koon, member of the Planning & Zoning Commission and adjacent property owner, said that he was out of town during the meeting at which this was discussed. He would have voted in favor of this request and it would have passed on a 3-2 vote. He said that this is not removing any housing stock and properties in the east and west have commercial encroachment much more than is requested here. He felt that there will be an effective 30-foot buffer with the 12-foot elevation difference. He urged Council to approve this request.

Mr. John Cort explained how this project complies with the long-range plan in the 2010 Comprehensive Plan.

Mr. Gary Davis said the building needed to be moved back further onto the site because of an existing sewer line and close to the unopened alley. He felt that 15 feet is not enough room in the back for a two truck to come through the building without encroaching into the slope in the back.

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

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

Vice-Mayor Wisler moved to recommend approval of the conditional zoning request for for Elff Auto Center for the property located at 1093 Tunnel Road and 3 Oteen Park Place from Highway Business (HB) and Residential Single-Family High Density District (RS-8) to Highway Business Conditional Zone (HB CZ) District, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: (1) The proposal makes use of an existing commercial parcel with upgrades to site landscaping; and (2) The landscape buffer will provide an effective screen between the use and the neighborhood. This motion was seconded by Councilman Young and carried unanimously.

ORDINANCE BOOK NO. 31 - PAGE 452

V. UNFINISHED BUSINESS:

A. RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT

**RESOLUTION NO. 18-22 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ACCEPT \$4.6 MILLION ADDITIONAL GRANT FUNDS FROM
THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY FOR
THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT**

**ORDINANCE NO. 4648 - BUDGET AMENDMENT TO ACCEPT FUNDS FROM
THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY FOR
THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT**

Interim Assistant City Manager Jade Dundas said that this is the consideration of (1) a resolution accepting a grant from the Buncombe County Tourism Development Authority (TDA) in the amount of \$4,600,000 to complete construction of the work on Lyman Street in the River Arts District; and (2) a budget amendment in the amount of \$4,600,000 to appropriate this funding.

In the award of the construction work that was to take place in the River Arts District related to the TIGER IV infrastructure project, modifications had to be made the scope of work in the form of postponing various elements of the project. These modifications were necessary in order to build the project within the existing budget for the project. The elements that were proposed for postponement were those that had a significant individual cost and could easily be identified as areas that could be distinctly isolated from the rest of the project. Meeting these criteria were important to ensure that significant cost savings could be achieved and that \$14 million in TIGER IV federal funding could be preserved.

The majority of these identified areas were greenways but the roadway, bike lane, and sidewalk improvements along Lyman Street were also identified as an area that met the criteria for postment. When bids were received for the entire construction package, Lyman Street represented a \$4.6 million decrease in the bid price of the work. This area of work had to be postpone to award a contract that could be constructed for the available funding amount. The postponement of projects meant that these individual sections would be build in future years as funding became available.

TDA approached the City with an offer to grant the City \$4.6 million in funding to complete the work along Lyman Street. This funding was unexpected but the timing allowed City staff to work with the contractor to add this scope of work back to the project at the bid prices which were received in May. This allows the Lyman Street portion of the project to be completed at the exact price that was removed from the contract at the time of award in June of 2017.

The grant from TDA will allow for the completion of core bicycle, pedestrian, and vehicle infrastructure to be completed as one project. Completing the project under one contract will minimize the disturbances to traffic and to businesses. When completed, a fully developed core plan will facilitate future greenway, roadway, and pedestrian connectors. The grant funding will also help to stimulate area business development and tourism.

Pros:

- Will allow Lyman Street to be completed sooner than expected if using City or other unidentified funding sources.
- Limits the disturbance of multiple contracts required to complete the work in a phased approach.
- Use a funding source that takes some of the burden off of local tax base and takes advantage of the tourism dollars which are being spent in the City and County.

Con:

- The change order limits opportunity to reevaluate the current bid environment, although it is believed that since the receipt of the original bids that construction prices have increased.

There no additional City funding required to match or support the recommended change order. The \$4.6 M is fully funded through a grant from the Tourism Development Authority's Tourism Development Product Fund. A budget amendment to appropriate this funding is requested as part of this action.

City staff recommends City Council adopt (1) a resolution accepting a grant from the Buncombe County Tourism Development Authority (TDA) in the amount of \$4,600,000 to complete construction of the work on Lyman Street in the River Arts District; and (2) a budget amendment in the amount of \$4,600,000 to appropriate this funding.

Councilwoman Mayfield, liaison to the Buncombe County Tourism Development Authority, thanked the TDA for this money, noting that they had already invested a lot in the RADTIP and decided to use some left over funds from the Tourism Development Project Fund (TDPF) to fund this project. The City did not approach them and ask them - this was their own decision. She noted that with these funds, they will have invested over \$23 Million (about 80-85% of the money granted to the TDPF) to City projects or City-owned facilities.

RESOLUTION NO. 18-23 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH BEVERLY-GRANT/BARNHILL JV FOR CONSTRUCTION OF THE LYMAN STREET SECTION AND OTHER ADJACENT BICYCLE AND PEDESTRIAN INFRASTRUCTURE FOR THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT

Interim Assistant City Manager Jade Dundas said that this is the consideration of a resolution to execute a contract amendment in the amount of \$4,600,000 with Beverly Grant/Barnhill to complete construction of roadway improvements, a protected bike lane, and a sidewalk along Lyman Street.

On June 27, 2017, City Council authorized a contract with Beverly Grant/Barnhill to construct the River Arts District Transportation Improvement Project (RADTIP). This project constructs vehicle, bicycle, and pedestrian facilities throughout the River Arts corridor. Due to higher than expected bid costs, the project scope had to be modified. All of these features were bid, using the public bid process in May of 2017, but were removed from the project at the time of contract award due to funding limitations. These modifications were made to ensure that the project could be constructed without sacrificing the Federal TIGER grant which would supply over \$14 million of project funding.

Modification of the TIGER VI project scope meant that certain elements of the project would be postponed pending future funding availability. Largely these elements were greenways, but Lyman St. and the associated bicycle and pedestrian improvements were also delayed. The postponement of Lyman St. represented a big section of the transportation network but it was easily isolated from the rest of the project.

Delaying the work in this area represented a significant project savings (\$4.6 million). These were submitted by the contractor in response to the public bid which took place in May of 2017. The scope was removed from the project to be constructed at a later date when funds were made available. It was not anticipated that funding would come available so soon but due to the timing the contractor (and their suppliers) that provide these costs initially was able to hold prices and allow for the work to be added back to the contract at the original bid pricing of \$4.6 million.

TDA felt that the benefits of this portion of the project were significant to completing the improvements to the area. It was felt that through the construction of this infrastructure, Asheville could fully realize the economic and tourism benefits of the project. As a result TDA offered the City a \$4.6 million grant to complete the Lyman Street work including sidewalks and bicycle amenities.

Staff has met with the contractor of this work and received a commitment that they will complete the work for a guaranteed maximum price of \$4.6 million. This is the exact amount that

was removed from the contract as part of the original contract award. Although Council is being asked to authorize a contract amendment for \$4.6 million staff is already working with the contractor to identify ways to reduce the cost of the improvements. Through this interaction it is felt that significant cost savings may be possible.

Other ways to deliver the scope of this work have been considered and are available for City Council consideration. A contract change order with Beverly Grant Barnhill, however, represents the most efficient and likely the most cost effective option for the completion of this work. One of the other options that could be considered is the bidding of the Lyman Street work to be performed separately from the current contract. While this option could result in better bid prices there is a chance that the bids could be higher as well. In either case having two contractors work in the same area is most often complicated and can lead to additional unexpected costs. There is also the option to rebid the work under the Construction Manager at Risk (CMAR). The uncertainty related to pricing exists in this scenario as well the scheduling complications in this scenario exist as well although they would be coordinated by the CMAR.

Staff is proposing to add back the scope of work that was removed associated with the Lyman St roadway. This includes reconstruction of the complete roadway, construction of a protected bike lane on the riverside of the road, addition of a sidewalk, and landscaping. As this reflects the original project design there is very little additional design required to complete this work. Staff is also working with the contractor to value engineer the improvements to reduce costs. The entire amount of savings from a reduced scope of work will be directly recovered by the City.

The total maximum price of the improvements is \$4.6 million. Staff is working with the contractor to develop some cost reduction options but the savings associated with this is undefined at this time.

Tentative Project Timeline:

Finance Committee Approval	December 19, 2017
Council Approval of the Change Order	January 9, 2018
Construction Begin	March, 2018
Construction Complete	August, 2020

Pros:

- Minimizes disruption to the businesses along Lyman Street.
- Minimizes confusion during construction.
- Provides for a sidewalk and protected bicycle lane along the Lyman Street section of the roadway.
- Funding for this change order is provided by the Tourism Development Authority.
- Provides this scope of work to be complete within the originally proposed schedule of three years.

Con:

- Construction cost may be lower (or higher) if the project was bid.

The \$4.6 M is fully funded through a grant from the Tourism Development Authority's Tourism Development Product Fund.

Staff recommends that Council authorize the City Manager to execute a contract amendment in the amount of \$4,600,000 with Beverly Grant/Barnhill to complete construction of roadway improvements, a protected bike lane, and a sidewalk along Lyman Street.

When Mayor Manheimer asked for public comment, no one spoke.

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

Councilman Young moved for the adoption of Resolution No. 18-22. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 39 - PAGE 246

Councilman Young moved for the adoption of Ordinance No. 4648. This motion was seconded by Councilwoman Mayfield and carried unanimously.

ORDINANCE BOOK NO. 31 - PAGE 458

Councilman Young moved for the adoption of Resolution No. 18-23. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 39 - PAGE 247

VI. NEW BUSINESS:

A. STATUS REPORT ON N.C. DEPT. OF TRANSPORTATION PLANNING FOR MERRIMON AVENUE IMPROVEMENTS

Vice-Mayor Wisler said that the N.C. Dept. of Transportation (NCDOT) has been looking at improvements to two intersections along Merrimon Avenue, one of which is at W.T. Weaver Boulevard and Edgewood. Approximately 1.5 weeks ago, the NCDOT held a public forum to explain their plans. She attended that, along with other Council, and there was a large gathering of the public. She was disappointed in the fact that there was a very detailed plan put together with no input from City staff and no marrying with the City's Complete Street Plan, the City's AIM Plan, with the City's Bicycle and Pedestrian Plan, and the City's Comprehensive Plan. And, there was a study that was performed by the NCDOT several years ago that also wasn't looked at. She did not hear any of the public support the NCDOT's plan. She asked City staff to work closely with the NCDOT to get this project consistent with the City's various plans and to open the entire process back up to include more input from City residents. In addition, we need to ask the NCDOT to change their policies and procedures so that nothing happens in Asheville where the NCDOT imposes a plan without any input from our City staff or our citizens. She asked that city staff draft a resolution addressing Council's concerns and communicate that formally to the NCDOT.

Councilwoman Mayfield said that there are 19 NCDOT urban road projects in the City and they should not begin to be worked on unless City staff and some of our volunteer citizen leaders and transportation advocates are at the table on those designs.

Mayor Manheimer agreed with Vice-Mayor Wisler and Councilwoman Mayfield. She felt it would be more effective and work better to engage the community on the front end of projects.

Transportation Director Ken Putnam said that the NCDOT has given the deadline of January 29 for public comment. He will be seeking the Multimodal Transportation Commission's comments at their meeting tomorrow and pass those along to the NCDOT. He has talked with the NCDOT and confirmed that if Council chooses to consider a resolution at their February 13 meeting, they would accept it even after the January 29 deadline.

It was the consensus of Council to place on the February 13, 2018, agenda a resolution regarding the NCDOT planning for the Merrimon Avenue Project.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Journey Pliffering, west Asheville resident, expressed his opinion on short term rentals in the City of Asheville

Mr. Will Thibodeau spoke about the unprofessional conduct of a City employee.

Closed Session

At 7:18 p.m., Councilwoman Smith moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5); (3) To consider the qualifications, competence, performance, character, fitness, or conditions of appointment of an individual public officer or employee. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to N.C. Gen. Stat. § 160A-168, the Personnel Privacy Act. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); and (4) to discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C.Gen. Stat. sec. 143-318.11 (a) (4). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 8:40 p.m., Councilman Kapoor to come out of closed session. This motion was seconded by Councilman Young and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:40 p.m.

CITY CLERK

MAYOR