

These minutes are a summary of the discussion. The audible recording is available at the following website: <http://bit.ly/T3S7CB>

Planning & Zoning Commission Meeting
Minutes of April 6, 2016
1st Floor North Conference Room - City Hall

Present: Chairman Jeremy Goldstein, Jim Edmonds, Tony Hauser, Laura Berner Hudson and Karl Koon

Absent: Vice-Chair Kristy Carter and Guillermo Rodriguez

Pre-Meeting - 4:30 p.m.

The Commission (1) reviewed the agenda items and received communication about the need to continue the 311 Haw Creek Road conditional zoning amendment until the April 21 mid-month meeting.; (2) clarified the 39 Elm Street hotel proposal noting that there had been an earlier proposal that was a conditional zoning but the current proposal has been scaled back to meet the Level 2 review threshold; (3) discussed the the 11 Wayside conditional zoning request to understand the applicant's communication about possibly asking for a continuance, noting that fines associated with the Notice of Violation would accrue if the item is continued; and (4) agreed to the April 21 mid-month meeting with a brief presentation from Ben Brown on behalf of the National Charette Institute.

Regular Meeting - 5:00 p.m.

Chairman Goldstein called the meeting to order at 5:00 p.m. and informed the audience of the public hearing process.

Administrative

- Mr. Koon moved to approve the minutes of the March 2, 2016, meeting, with a typographical amendment. This motion was seconded by Ms. Hudson and carried unanimously by a 5-0 vote.
- Mr. Koon moved to continue the previously approved conditional zoning (Ordinance No. 4449) to amend the site plan to remove tiny houses and allow a building addition and associated conditions on a single 6.16 acre parcel known as 311 and 315 Old Haw Creek Road and PIN 9659-80-1408, with conditions from standards found in UDO Sec. 7-11-3 to allow a driveway in a property line buffer until April 21, 2016. This motion was seconded by Ms. Hudson and carried unanimously by a 5-0 vote.

Agenda Items

- (1) Review of a Level II site plan for the construction of 18 four-story townhome units and associated parking on a portion of 1.22 acres known as 88 Southside Avenue and PIN 9648-37-5186. The property is owned by Peter Thom and the project contact is Warren Sugg, PE. Planner coordinating review –Sasha Vrtunski**

Urban Planner Sasha Vrtunski oriented the Commission to the site location and said that the applicant is requesting review of site plans to construct 18 townhomes in two buildings in the Central Business District (CBD). This project is considered a Level II review pursuant to Section 7-5-9.1 of the Unified Development Ordinance (UDO).

The project site consists of one parcel totaling 1.22 acres. The parcel is split zoned between CBD and RM16 (Residential Multifamily High Density District), with most of the parcel in the Central Business District. The project disturbance area is all within the CBD, and totals .89

acres. The site fronts Short Coxe and Southside Avenues, neither of which are a Key Pedestrian Street. The site is outside of the Traditional Downtown Core, and is in the Intermediate Height Zone.

The project proposes to build two 4-story buildings with 18 townhomes. The total residential building square footage is 46,020 sf and 3,670 sf of patio/outdoor deck space. The buildings are 29.5 feet, to the floor of the top story. The overall height including roof elements is approximately 45 feet. Parking is also proposed for this development (see detailed information below).

The interior of the site is accessed from a single driveway from Short Coxe Avenue between the two buildings. The driveway is shown at 20 feet wide, which is an appropriate width for a downtown setting and a low volume of cars.

The sidewalks along Southside and Short Coxe Avenues are proposed at 10 feet wide, with a greater width at the intersection of Short Coxe, Southside and Coxe Avenues. Although not required in the UDO, the applicant is providing 39 parking spaces in both surface parking (12 spaces and 2 ADA spaces) and within most of the units (25 spaces). The necessary number of handicap parking spaces (2) and bicycle parking (2) are provided.

The applicant originally proposed (and the site plans show) on street parking on Short Coxe Avenue, however, the city is requiring bike lanes on both sides of the street, so there is insufficient space to accommodate both. In addition, this is an important greenway connection, between the Town Branch Greenway and the Beaucatcher Greenway. Staff is working to make sure citizens and visitors can safely navigate to and from these greenways via bike or walking.

Street tree plantings and vehicular use area plantings are required for this project. Parking deck landscaping is not required for this project. Open space is not required in the CBD.

The applicant is proposing 12 street trees along Short Coxe and Southside Avenues in front of their project. An additional 4 trees are shown on Short Coxe Avenue along the east side of the parcel between the townhomes and Wilbar Avenue. The required vehicular use area (VUA) landscaping is provided on the plans: 8 trees and 31 shrubs.

There are a number of design standards required by the UDO for downtown projects, including fenestration on all elevations; base-middle-cap design orientation; parking garage design; location of pedestrian entrances; streetwall height and step-backs to protect the pedestrian environment; screening rooftop equipment and restrictions on base materials. The project has been determined to comply with the design and operational standards in the UDO.

Required Reviews: The project was reviewed by the Technical Review Committee (TRC) for compliance with the UDO, Building Code and other required codes. The Downtown Commission conducted Downtown Design Review of this project at their meeting on March 11, 2016, and approved it 9-0.

Staff recommends approval of the proposal as shown on plans and renderings and based on the ability of the project to comply with the technical standards for downtown development in the UDO.

Mr. Warren Sugg, representing Civil Design Concepts, spoke in support of the project and said that regarding parking vs. bike lanes they are having on-going discussions with the City to understand exactly what the City wants and what will work within the existing 50-foot right-of-way.

When Ms. Hudson asked about the UDO requirements for mechanical screening, Ms. Vrtunski explained and said that the mechanical screening will be painted to match the roofs.

Architect Patti Glazer also responded that the units on the roof are only visible from the very steep hillside and that they won't be seen from the streets.

Chairman Goldstein opened the public hearing at 5:18 p.m. and when no one spoke, he closed the public hearing at 5:18 p.m.

Mr. Koon moved to recommend approval of the Level II site plan for the 88 Southside Townhomes, subject to the conditions in the TRC report. This motion was seconded by Mr. Hauser and carried unanimously by a 5-0 vote.

(2) Review of a Level II site plan for the construction of a 5-story, 44,986 square foot, hotel on a parcel known as 39 Elm Street and PIN 9649-42-1474 and a portion of 9649-32-9489. The property is owned by Asheville Property, Inc. and the project contact is Mark Phillips. Planner coordinating review – Jessica Bernstein

Urban Planner Jessica Bernstein oriented the Commission to the site location and said that the applicant is requesting review of site plans for the construction of a new hotel in the Community Business II (CBII) zoning district. This project is considered a Level II review pursuant to Section 7-5-9 of the Unified Development Ordinance (UDO).

The project site consists of a single parcel and a small portion of the adjacent parcel to the west to be recombined for a total project size of 1.02 acres (according to submitted plans). The project site is located at 39 Elm Street and is zoned Community Business II (CBII). Adjacent zoning includes CBII and Office II. Interstate 240 is to the south.

The applicant is proposing to construct a new hotel building and parking on the site (which is currently vacant). Plans indicate a 104-room hotel that is 44,986 square feet GFA and five stories in height (39 feet per UDO definition and 45 feet to the tallest architectural element).

The proposal shows a zero foot setback for the hotel building, which is allowed when pedestrian-oriented design features are incorporated into the design. As shown, the project incorporates widened sidewalks, street furniture and a direct pedestrian access into the building from the sidewalk to meet with elements of pedestrian-oriented design. The main entrance into the lobby, which provides the accessible access, is under a covered portion along the east side of the building.

Access to the site is proposed via two driveways from Elm Street. The easternmost driveway extends under a covered entry and shows both egress and ingress while the westernmost access point is for egress only. Cars are able to travel behind the building to access two levels of structured parking. There are a handful of parking spaces in several surface locations but the bulk of the parking for the project is provided in the level below the building. Based on the requirements found in the UDO a range of between 52 and 104 spaces are required for the use; 78 spaces are provided.

Sidewalks are proposed along Elm Street in front of the building at ten to eleven feet wide. The sidewalk is shown narrowing down to five or six feet on the western and eastern ends of the parcel to match the sidewalks along neighboring properties.

Landscaping is required for this project and includes street trees, parking deck and building impact landscaping and dumpster screening. Open space is required for the project at a rate of 5% of the project area, or 2,211 square feet, and has been provided in both landscaped areas at the western end of the site as well as the pool and patio amenities.

There is a tall retaining wall at the rear of the site (appears to be up to 17 feet in height) that will need to comply with aesthetic screening requirements in Section 7-10-5 of the UDO.

This project was reviewed at the March 21, 2016, meeting of the Technical Review Committee (TRC) and has been approved with conditions. As this is a Level II review, it will not be reviewed by the Asheville City Council.

Staff has received public comment in opposition to this proposal primarily concerning the proposed access with driveways only from Elm Street which will make locating the entrance to the hotel confusing for visitors. The one-way configuration of Elm Street on this block requires that vehicles exiting from I-240, head north out of downtown on Merrimon Avenue and use a circuitous route along Orange and South Liberty Streets to tie back in with Elm Street. Additional concerns with this traffic flow are related to the number of new and existing business uses along South Liberty and Orange Streets that do not have sufficient off-street parking to accommodate their patrons and the resulting congestion in the general area and the potential negative impacts from introducing additional visitor traffic. While staff would prefer an access from Merrimon Avenue, there is no requirement that the applicant provide this additional driveway.

Staff recommends approval of the proposal as shown on the submitted plans based on the ability of the project to comply with the minimum technical standards.

When Chairman Goldstein asked if there was any discussion on additional traffic, Ms. Bernstein said that a similar proposal came through for a conditional zoning last year and there was a Traffic Impact Analysis (TIA) submitted for that larger project. That TIA did not yield any negative traffic impact. A TIA was not required for this project; however, they are updating one previously submitted for the larger project.

In response to Chairman Goldstein, Ms. Bernstein said that the project does comply with the parking requirements in the UDO.

Mr. Mark Phillips, engineer for the project, clarified that the project is for an 83 room hotel, not a 104 room hotel. He said that even though a TIA was not required, they did one out of good faith.

Chairman Goldstein opened the public hearing at 5:26 p.m.

The following individuals spoke in opposition of the Level II site plan for various reasons, some being, but are not limited to: due to the one-way of Elm Street on this block, traffic will be travelling through the S. Liberty and Orange Street neighborhood to reach the hotel (as seen by a Google search); increase of neighborhood traffic due to opening of Trader Joe's and Harris Teeter; preference to have ingress/egress from Merrimon Avenue since 51 Merrimon has the same agent as this property; area existing businesses (some expanding) currently do not have sufficient off-street parking to accommodate their patrons; existing limited on-street parking on Orange Street; and concern about water run-off from hotel:

Mr. Bill McDowall, owner of several properties on S. Liberty, Clayton and Orange Streets
Mr. Joe Sasfy, resident on Liberty Street
Owner of 25 Orange Street
Owner of properties on S. Liberty, Clayton and Orange Street
Mr. William Reed, has office adjacent to this project
Owner of business on 35 Orange Street

Mr. Timothy Sadler suggested a way for Council to review Level II projects, e.g., if the project will generate an additional 50 cars.

Chairman Goldstein closed the public hearing at 5:41 p.m.

In response to Mr. Edmonds, Ms. Bernstein said that the TRC will be reviewing the stormwater plans. Mr. Phillips also noted that the stormwater will be captured on site and routed underground.

In response to Ms. Hudson, Ms. Bernstein said that "No Left Turn" signs will be posted at both driveways on the site.

In response to Mr. Edmonds, Mr. Phillips said that they will use wayfinding signage to direct traffic away from Orange Street and Liberty Street. Assistant Director of Planning & Urban Design Alan Glines also said that there a lot of existing problems in the area regarding traffic and perhaps a parking study or other parking arrangements can be considered for the area - similar to the Haywood Road Parking Study. He said that he would contact the Transportation Department to share the traffic concerns in the area.

When Chairman Goldstein asked about the two parcel ownerships, Assistant City Attorney Jannice Ashley said that there is no legal requirement that the properties be combined to have access onto Merrimon Avenue. She noted that all technical standards must be met on the one parcel that is before the Commission.

In response to Ms. Hudson, Craig Justus, attorney representing the owner, said that they are willing to place on their website and communicate to their guests to not rely on Liberty and Orange Streets to reach the hotel, and that the best way is to use Chestnut and Central.

Mr. Koon moved to recommend approval of the Level II site plan for the Towne Place Suites at 39 Elm Street subject to the conditions in the TRC report. This motion was seconded by Ms. Hudson and carried unanimously by a 5-0 vote.

(3) Review of a Conditional Zoning request from RM-6 Residential Multi-Family Low Density District to Community Business I - Conditional Zoning (CBI-CZ) for the operation of a short-term rental within an existing residential single-family home structure. The subject parcel is 0.31 acres and is located at 11 Wayside Drive (PIN 9648-89-8352). The property owner and project contact is George Tsiros. Planner coordinating review- Shannon Tuch

Principal Planner Shannon Tuch oriented the Commission to the site location and said that the applicant is requesting conditional zoning for one parcel located on Wayside Road from RM-6 Residential Multi-Family Low Density District to Community Business I/ Conditional Zoning(CB-I (CZ)) in accordance with Section 7-7-8 of the Unified Development Ordinance (UDO) to allow the conversion of a residential dwelling unit into a lodging facility.

The site is located mid-block on Wayside Rd. but is a through-lot with parallel frontage on Beaucatcher Rd. (no access). According to Buncombe County land records, the subject property is 0.3 acres (13,725 square feet) with an average natural slope of 52%. The property ranges in elevation from 2,290 to 2,335 feet and is located in the steeply ascending slope of Beaucatcher Mountain. The PIN is 9648-89-8352 and the property owner is listed as the George and Tammy Tsiros Trust.

The applicant is proposing to rezone the property from RM-6 to CB-I (from residential to commercial) to allow the conversion of the existing single-family home into a short-term vacation rental.

While no work is proposed as part of the project, the change of use results in a change in the impact classification. Per UDO Sec. 7-17-3(c) single family homes are classified as a low impact use while a lodging facility is classified as a medium impact use. A change of use that results in a higher impact requires that the property come into full compliance with the standards found in Article XI of the UDO. Additionally, per Sec. 7-7-8(c)(c) a Conditional Zoning request

also requires that the site comply with the standards and requirements of the general use zoning district being requested (CB-I).

The home fronts Wayside Dr. to the west where access via a residential driveway currently exists. While the property also has frontage on Beaucatcher Rd. to the east, there is no access from Beaucatcher due to topographic and space constraints. Off-street parking requirements are based on the number of guest rooms; as a result, the four bedroom home would require a minimum of two spaces and a maximum of four spaces. The property currently supports two stacked parking spaces not normally permitted in a commercial, lodging application.

Sidewalks are not required as part of this project.

Residential properties are exempt from the city's landscape ordinance; however, rezoning this property to a commercial designation that would allow a higher impact use requires the application of landscape standards including a 20-foot Type A buffer along the east and south property boundaries, and a 30-foot Type B buffer along the north property boundary. The buffer to the east may be reduced by 50% due to a change in topography and other reductions may be considered as prescribed in the landscape ordinance. Street trees are also required along the frontage on Wayside Rd.

This property is less than one acre in size, as a result, open space is not required for this project.

According to Buncombe County land records, the subject property has an average natural slope of 52% and ranges in elevation from 2,290 to 2,335 feet, placing it in Steep Slope, Zone A. The existing single-family home was constructed in 1999 and pre-dates the current steep slope development standards. The home is legally non-conforming to those standards as it exceeds the maximum area allowed to be disturbed and for not meeting the minimum lot size. No site work is proposed so the non-conformities will not be increased.

This proposal was approved with conditions by the Technical Review Committee (TRC) on February 1, 2016, and requires review by the Planning and Zoning Commission, City Council and Final TRC prior to zoning approval. No communication has been received from the public as of the writing of this report (written in February when project was scheduled to be before the Commission in March).

The applicant wishes to rezone the residential property in order to allow the single family home to be used as a short-term vacation rental. This introduces the possibility that a rezoning of this nature could constitute spot zoning. In its review of a proposed conditional zoning request a municipality must show that the rezoning is "reasonable" and is not "arbitrary and capricious". Among the factors commonly considered by the courts for reasonableness are:

- The size of the property (placing higher scrutiny of small-scale rezoning)
- The compatibility of the zoning action with the comprehensive plan
- The benefits and detriments resulting from the zoning action for the owner, the neighbors and the surrounding community
- The relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts

The property is a small residential parcel that is typical for home lots in the same zoning district and it is smaller than many other lots in the near vicinity that belong to a lower density district. To introduce a non-residential activity on this parcel introduces a higher impact use on a parcel not appropriately sized to support that use.

The use is not compatible with the stated goals of the Comprehensive Plan that focus on housing, compatible development and quality of life. Asheville has determined that a short-term

rental in a residential district where the owner is not present on the property introduces the potential for nuisance and compatibility concerns, disrupting the harmony and quality of life in those areas; there are no stated land use goals that describe the commercialization of Asheville's residential neighborhoods.

This use, if approved, would afford the property owner a benefit not available to his neighbors or others in similar situations in the city. It would afford him an unfair benefit while introducing detriments to the surrounding properties.

If approved, the short-term rental would be classified as a commercial "lodging use" while all of the surrounding properties are single family residential uses. The commercial use is not consistent or compatible with the surrounding residential land uses.

There have been no recent zoning actions in the area; however, a recent zoning decision was issued for the Swiss Chalets, located approximately 300 feet to the northwest of the subject property. This decision describes the legal non-conforming status of six of the 11 cottages built in the 1960's as legally established but non-conforming short-term vacation rentals.

The property is zoned RM-6 and surrounded on three sides (west, south, east) by other RM-6 zoned properties. The property to the north is zoned RS-2 (Residential Single-Family Low Density). The nearest commercially zoned property is located downslope, less than 200-feet away but is separated by over 100-feet of elevation change. This low lying commercially zoned property is zoned Regional Business (RB) and supports the Innsbruck Mall located on Tunnel Rd.

The Asheville City Development Plan 2025 speaks generally to the value of adaptively reusing existing buildings but also states that it is important that these uses be compatible to the existing neighborhood. Short-term vacation rentals have not been supported as a compatible use in single family neighborhoods due the commercial, transient activity that occurs on these properties. Furthermore, the plan describes the need for affordable housing as the number one economic development problem for the community. While this property may or may not meet affordability standards, the home is a modest home in a city where rental housing is in scarce supply.

The conversion of housing into short-term vacation rentals is not directly addressed in the Council's Strategic Plan Considerations. These considerations do, however, emphasize the need for housing and quality of life.

Considerations:

- Introduces a potentially disruptive use/activity in a quiet, single family neighborhood.
- Removes a moderately sized home from the housing market where rental housing is in scarce supply.
- Introduces a potential legal liability regarding spot-zoning.

Based on policies stated in the Comprehensive Plan, staff does not find this request to be reasonable and within the best public interest, and recommends denial of the proposed conditional zoning.

Mr. George Tsiros, property owner, provided the Commission with a letter from his attorney requesting that this item be continued because he could not be available at this meeting. He was here because he was told he would be cited for violations. He then explained how he was community oriented and how he owns many long-term rentals. He noted that the Master Plan states that sustainability will guide us into a new economy and short term rentals (STRs) are part of that new economy. The Master Plan calls for a wide mixture of housing times for all income levels and an STR is considered a different type of housing. The demand for STRs is growing. He noted that the staff report notes that there has been no communication from the public, so he felt that his neighbors were not opposed to this use. He said he runs a professional organization

and limits the number of people who can occupy the house. He lives two miles away from this house and can be on-site quickly if a need arises. He said that this is a low traffic road and there are other vacation rentals on this mountain. He noted that most of the neighborhood is either short or long-term rentals and there are very few owner-occupied homes in the area. He urged the Commission to support his request.

Ms. Tuch explained that this staff report was written in February in anticipation of the March consideration of this request. Since that time, she has received four calls from the public in opposition to the request.

Chairman Goldstein opened the public hearing at 6:08 p.m.

The following individuals spoke in opposition of the conditional zoning request for various reasons, some being, but are not limited to: up to 18 cars from the STR park on Wayside Drive (one-way street) and property owners in the area cannot get through to their homes without knocking on the door of this house and asking them to move their vehicles (sometimes owners of vehicles are not present or intoxicated); driveway of STR is too steep and vehicles park on the narrow (10-17 feet) Wayside Drive; concern that fire trucks or ambulances will be unable to reach homes that have emergencies due to the on-street parking; from Sunday to Wednesday (trash pick-up day) trash blows all around the neighborhood from the weekend renters; garbage attracts bears, mice, stray cats, rats, etc.; and concern for safety of children in the area due to bears digging through the trash:

An adjoining property owner
A property owner to the east of the property
Resident at 35 Wayside Drive
Resident at 7 Wayside Drive

Chairman Goldstein closed the public hearing at 6:17 p.m.

Mr. Hauser read a portion of correspondence from his neighbors in North Asheville in support of STRs. However, he felt that this issue remains an issue for City Council to address.

Ms. Hudson agreed with Mr. Hauser in that a conditional zoning process is not the way to address this issue, and it is an issue for Council to tackle.

Chairman Hudson also agreed that this is a public policy issue and the conditional zoning process is not the appropriate tool to address this.

Chairman Goldstein moved to recommend denial of the conditional zoning request from RM-6 Residential Multi-Family Low Density District to Community Business I Conditional Zone (CB-1 (CZ)) for the conversion of a single family home into a short-term vacation rental and find that the request is not reasonable, is not in the public interest, and is not consistent with the Comprehensive Plan in that it: (a) Introduces a potentially disruptive use/activity in a quiet single family neighborhood; (b) Removes a moderately sized home from the housing market where rental housing is in scarce supply; and (c) Introduces a potential legal liability regarding spot-zoning. This motion was seconded by Ms. Hudson and carried unanimously by a 5-0 vote.

- (4) Review of a Conditional Zoning request from RM-16 Residential Multi-Family High Density District to Urban Place - Conditional Zoning (UP-CZ) for the redevelopment of an existing housing community resulting in 199 residential units along with 10,975 square feet of commercial space, the extension of public infrastructure and the creation of passive and active recreation and open space. The project is located on 11.59 acres and known as 50 Wilbar Avenue (PIN 9648-36-5793). The property is owned by the Asheville Housing Authority and the project contact is Matt Sprouse, PLA. Planner Coordinating review - Shannon Tuch**

Principal Planner Shannon Tuch oriented the Commission to the site location and said the applicant is requesting conditional zoning for one parcel located at 50 Wilbar Ave. from Residential Multi-Family High Density (RM-16) to Urban Place Conditional Zone (UP - CZ) in accordance with Section 7-7-8 of the Unified Development Ordinance (UDO) to allow for the redevelopment of an existing residential community that will provide: 199 new residential units; 10,975 square feet of non-residential/commercial space; new road, sidewalk, open space and outdoor amenity areas; and the extension of new transportation and public utility infrastructure.

The site is located south of the city's Central Business District (CBD) in the southeast corner of the intersection of Short Coxe Ave. and McDowell St./Southside Ave. The subject property is 11.59 acres that sits above the surrounding area but is shielded from view by a thick vegetated buffer that surrounds the community on three sides while relatively open to the east where it abuts the commercial properties fronting Biltmore Ave. The property is also relatively flat with mild topography across most of the site until it reaches the edges where it drops in elevation down to the surrounding streets. The PIN is 9648-36-5793 and the property owner is listed as the Asheville Housing Authority.

The applicant is proposing to rezone the property from RM-16 to UP-CZ to allow for a complete redevelopment and expansion of the existing Lee Walker Heights community through the construction of seven new, multi-story buildings that will house 199 residential units constructed in two phases. There are four building types proposed with the building details and phases represented in the table below:

Building Type	Number of Units	Square Footage	Number of Stories	Buildings in Phase I	Buildings in Phase II
Building 1	51	54,759	3	0	1
Building 2	100	116,118	4	1	0
Building 3	8/each	9,646	2	1	2
Building 4	12/each	13,476	3	1	1

In addition to the residential units, this project will provide: 10,975 square feet of nonresidential community or commercial space; the extension of public infrastructure (road, water lines, sewer lines, stormwater, and sidewalk); off-street parking; walking paths; active recreation space and passive open space.

Access to the property remains unchanged and is from Short Coxe Ave. via Wilbar Ave. where Wilbar Ave. will be renamed and re-built as part of the project, and a new 50-foot public right-of-way will be extended throughout. Sidewalks are required for the re-construction of the new roads and along all existing road frontages. The Urban Place zoning district requires sidewalks that are a minimum of 10-feet in width, although the applicant is requesting a reduction in the required width at various locations throughout the site. Additional internal sidewalks, courtyards and walking paths also help to provide access throughout the whole development.

179 parking spaces are scattered throughout the development and are found in a combination of traditional parking lot spaces with on-street parking spaces. The Urban Place zoning district allows for a 50% reduction in required parking which is utilized with this project, although not to its fullest, and the UDO requirement for off-street parking is satisfied.

Landscaping is required as part of the redevelopment and includes street trees along all road frontages; building impact, street buffer and parking lot landscaping on the site; and

dumpster screening around all dumpster locations. Full landscape compliance is shown with the exception of some street trees where topographic and site constraints prevent full compliance. The project also includes the preservation of the existing natural, wooded buffer that surrounds the property on north, west and south sides.

Open space is also required in this zoning district with a requirement equal to 5% (0.57 acres) of the lot area to be designated as open space. Open space is provided and is well in excess of the minimum required.

Other Standards – The Urban Place zoning includes specific *Design and Operational Standards* that address building orientation, well-defined operable entrances at regular intervals, and fenestration requirements for the ground and upper levels and treatments to break up long façades. All design and operational standards will be met with the following exceptions:

- 1) Ground level window/opening fenestration totaling less than 40% at the ground floor for the residential portions of the façades,
- 2) Upper story window/opening fenestration totaling less than 25% of the total façade, and
- 3) Failing to evenly distribute the glazing across the ground levels of Buildings 1 and 2.

As an alternative, the project proposes to meet a minimum fenestration requirement of 20% for all residential street-facing façades (ground level and upper story) and 40% for the non-residential or commercial ground floor portions of the façade. The project will also be requesting to exceed the maximum 0 to 15-foot setback in certain locations for Building 2, or where additional space is desired due to front porch stoops for building types 3 & 4.

This proposal was approved with conditions by the Technical Review Committee (TRC) on March 21, 2016, and requires review by the Planning and Zoning Commission, City Council and Final TRC prior to zoning approval. No communication has been received from the public as of the writing of this report.

The applicant wishes to rezone the residential RM-16 property in order to allow for a denser, mixed-use urban development.

Conditions - This project includes a number of recommended conditions found in the B1-Conditions list. Modifications and special conditions to note include:

1. The minimum 10-foot wide sidewalk is proposed on either side of Walker Plaza Ave. and on one side for a portion of Lee Garden Ave.; 6-foot wide back-of-curb sidewalks are proposed in all other locations.
2. A reduction in the street tree requirement along a portion of Lee Garden Ave. (10 trees total).
3. Building 2 and building types 3 & 4 exceed the maximum setback in designated areas. Building 2 is setback 16-32 feet; Building types 3 & 4 are setback 15-25 feet in designated areas.
4. Sidewalk adjacent to some of the on-street parking spaces is not provided (note: these spaces are in excess of the minimum required).
5. All buildings will provide openings totaling a minimum of 20% on all street facing residential façades, and a minimum of 40% on all non-residential or commercial street facing façades.
6. At least 96 units will be affordable to households earning at or below 60% of the Area Median Income (AMI) for a minimum period of 30 years. The remaining 103 units will be structured to be affordable to a range of income levels.

There is a separate but simultaneous Level II application for an 18-unit townhome development directly north of the subject property (zoned CBD) known as *88 Southside*. There have also been a number of individual rezonings along Asheland Ave. that have occurred over

the last several years which has, in turn, influenced the initiation of the *CBD Expansion and Zoning Study for Asheland Ave. and Southside Ave.* that is currently on the Planning & Urban Design's departmental work plan.

The property is zoned RM-16 and surrounded on all sides by non-residential zoning including: Central Business District (CBD) to the north; Regional Business (RB) to the east; Institutional (INST) and Office Business (OB) to the south; and OB to the west. The surrounding uses are a mix of office and institutional uses, mostly healthcare related, with a few undeveloped or vacant properties to the north and east of the project area. The undeveloped property directly north of the subject property is currently in review for an 18-unit, multi-story townhome development.

The Asheville City Development Plan 2025 highlights the importance of smart growth and very specifically identifies 1) the need for, and value of, affordable housing in Asheville and, 2) the benefits of new urbanism. This project supports the goal of providing safe and affordable housing through a redevelopment that increases the number of affordable and workforce units available in the city. The project also includes elements of new urbanism through the use of higher density, multi-story building designs leaving room for public open and community spaces and by including the improvement and extension of pedestrian and transportation infrastructure making the community more walkable, livable and interconnected.

The redevelopment of the Lee Walker Heights community aligns with the 2036 Council vision in the following areas: (1) **A diverse community** – the new units will increase the supply of housing to those who earn below the area median income making living in the heart of the city attainable to a greater number of people; (2) **A well-planned and livable community** – the redesign of this community applies principles of new urbanism through well designed higher density residential construction, the creation and preservation of open recreation and community space, and significant pedestrian and transportation infrastructure that provides connections within the community with the opportunity for additional connections to the larger community in the future; (3) **Quality affordable housing** – the older public housing units will be replaced with new, well designed units that achieve a higher construction standard through innovative financing and other subsidies. Almost half of all units are committed to be affordable for a period of 30 years to households earning at or below 60% of the AMI; (4) **Transportation and accessibility** – new road and sidewalk infrastructure will be rebuilt and extended as part of the project in addition to other pedestrian connections within the community; and (5) **Connected and engaged community** – the final design for the project is the result of a long and engaged visioning process with the residents and other community members to understand the needs and wants of current and future residents. The redevelopment also involves various partners from the private, non-profit and government sectors.

Considerations:

- Will temporarily displace existing residents.
- Does not fully meet the design and operational standards for window fenestration.
- Does not fully meet the technical standards for sidewalk widths, maximum setbacks and street trees.
- Doubles the existing density while preserving the number of affordable units.
- While density is increased, the project is well below the allowable density of 64 units/acre (742 units).
- New construction successfully employs some principles of smart growth (denser, more urban form).
- Adds almost 11,000 square feet of non-residential community or commercial space.
- Creates significant outdoor recreation, open and gathering spaces.
- Preserves existing wooded buffer areas.
- Provides improved transportation connections and internal pedestrian connections.

City Council will consider a funding request for the project at the meeting on April 26, 2016 (same night as the Conditional Zoning request). The source of the funds comprising a Council commitment has yet to be determined, and would be conditional on the award of tax credits. At the Council budget work session on March 22, 2016, an amount of \$4.25 million was discussed. The action of City Council on April 26, 2016, will be indicated in the application to be submitted by the Asheville Housing Authority and Mountain Housing Opportunities to the NC Housing Finance Agency for federal Low Income Housing Tax Credits.

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

Mr. David Nash, Chief Operating Officer of the Housing Authority, reviewed with Commission the current site and location, noting that 43 key goals and strategies from various City plans are highlighted and addressed in their Master Plan. He then outlined the top ten City of Asheville policy priorities address by the Lee Walker Heights Redevelopment Project, along with a chart of Asheville-Buncombe Jobs and Gross Rent Affordability.

Mr. Nash then responded to questions from the Commission regarding the affordability aspect of the project, the distribution of the affordable units throughout the project, and the displacement/relocation program. He also said that they are willing to add the outdoor water fountain in the public space if it is a requirement for all other similar projects. He questioned it only because of the expense to install and maintain.

Chairman Goldstein opened the public hearing at 6:48 p.m. and when no one spoke, he closed the public hearing at 6:48 p.m.

When Ms. Hudson asked about possible additional density, Mr. Nash said that if they add more units, they would have to build structured parking.

When Chairman Goldstein asked about the condition regarding the outdoor water fountain, Ms. Tuch said that it was included as a draft condition, noting all conditions must be agreed to by the applicant. She said that the water fountain is an outdoor amenity as there would be a concentration of people in one area.

Chairman Goldstein moved to recommend approval of the Urban Place Conditional Zoning (UP-CZ) request to allow for the redevelopment and expansion of an existing housing development for 199 new residential units and 10,975 square feet of nonresidential/commercial space, to be constructed in two phases for a total of seven buildings along with the submitted conditions (minus the outdoor water fountain requirement) site plan and elevations, 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: (a) expands affordable and workforce housing choices in the city; (b) supports smart growth by increasing density and improving transportation and pedestrian infrastructure; and (c) promotes community involvement and strategic partnerships. This motion was seconded by Mr. Koon and carried unanimously by a 5-0 vote.

(5) Review of a variance request for building setbacks found in Section 7-8-18(f)(5) of the UDO for a project located at 151 Coxe Avenue in the downtown Central Business District. The property is owned by Southslope Apothecary Real Estate, LLC and the PIN for the property is 9648-38-2250. Planner coordinating review – Alan Glines

Assistant City Attorney Jannice Ashley explained the procedures for this item which requires the Commission to act as a Board of Adjustment (5 members) and all testimony needs to be sworn. She said that the Commissioners must base their decision on this variance on what is presented in this public hearing. Mr. Glines may refer to parts of the previous presentation as

staff has made certain findings and conclusions. The Commissioners are free to disregard those and make their own findings and conclusions. She asked that any Commissioner who has any special knowledge of this variance disclose that at this time.

City Clerk Magdalen Burleson administered the oath of office to anyone who anticipated speaking on this matter.

Mr. Glines said that the applicant is requesting one variance for building setbacks found in Section 7-8-18 (f) (5) of the UDO for a project located at 151 Coxe Avenue in the downtown Central Business District.

Assistant Director of Planning & Urban Design Alan Glines oriented the Commission to the site location and said the petitioner, Southslope Apothecary Real Estate, LLC, is requesting a variance to the standards found in Section 7-8-18(f)(5) for setbacks to allow a greater setback than the UDO permits.

Variance Request:

	UDO Requirement	Applicant Request	Variance
Building Setback	A setback of up to 20 feet for uses in the district providing courtyard or plaza spaces in the setback area.	Approve a setback of 36 feet from the right of way for a new building to create a courtyard along and beside an existing building (already setback 19 feet)	Allow a variance of 16 feet, (20 feet allowed, seeking a total of 36 feet)

The project site consists of a single parcel with an area of .30 acre and frontage on Coxe Avenue in the Central Business District. The applicant is proposing to renovate an existing building to create a distillery and construct a new two-story building to house a drinking establishment.

The site plans and elevations relating to the setback request were evaluated by the Downtown Commission (DTC) on March 11, 2016, and they recommended approval. The DTC noted that there is existing context within the South Slope area with other examples of buildings with a greater front setback.

The CBD section of the UDO requires a minimum setback of zero feet from the right of way line but provides a provision for a greater setback of 50 feet for civic or residential uses or up to 20 feet for other uses providing a forecourt or courtyard.

The purpose of the standard is to assure that development relates to and engages the pedestrian at the sidewalk. Other development standards such as primary pedestrian entrance on the main frontage line and fenestration standards have a similar goal, that is, to have buildings provide an urban form and reinforce a strong pedestrian environment.

The first part of the proposal is to renovate the existing building 151 Coxe Avenue which has a setback of 19 feet. The building currently has no pedestrian entrance facing Coxe Avenue and no other street facing fenestration. With the renovation, a new entrance and windows will be added bringing the building into better compliance with the standards of the district.

The second part of the proposal is to build a new two-story structure, attached to, but setback from, the existing building to create a courtyard beside the existing structure. This

proposal will result in a setback of 36 feet from the right of way. The additional space will be activated with outdoor seating and a direct connection to the side of the existing building. The courtyard will have an entrance at the street to the front of each building to invite pedestrians into the space.

A number of existing structures in the vicinity of this proposal have larger setbacks or have created courtyards using spaces in front of existing buildings. These examples show that a deeper setback can be a positive addition and serve to enliven the streetscape meeting the intent of the ordinance.

Staff is supportive of the variance as submitted as the design activates the front area with seating, hardscape and planted areas. When the Downtown Master Plan was completed in 2009 the South Slope had not emerged and developed to the extent that it has today. If the district had been as active then, we might have provided specific requirements pertaining to the character of that area. As it is now, the requirements focus on the character of the traditional downtown core.

Mr. Mitchel Soren, architect, said that in addition to the Downtown Commission approval, he received approval from the South Side Neighborhood Association. Using plans, he showed the new courtyard, the well-defined barrier from the buildings to the street, along with examples of other structures in the area with greater than the 20 feet allowed setback. He explained that they are not in the traditional Central Business District and this area has wider streets and deeper setbacks.

Mr. Soren explained the standards for granting a variance as follows:

1. Unnecessary hardship would result from the strict application of the ordinance. A strict application of the current 20 feet setback requirement does represent a hardship for the owner by limiting the ability to create a viable courtyard space for this project. Therefore, the owner is requesting a setback variance of an additional 16 feet be permitted for this project addition, which will allow for the bar building addition to be constructed with a maximum setback of 36 feet from the Coxe Avenue right-of-way.
2. The hardship results from the conditions that are peculiar to the property, such as location, size, or topography. The location of the existing building on the property does not allow the opportunity to provide a well-designed, appropriately sized, and activated courtyard space in front of the existing building, nor in front of the new addition, if the addition is required to be located within 30 feet of the right-of-way as required by the current ordinance. A deeper central courtyard space, setback 36 feet from the right-of-way, is required to serve both the renovated existing building and the new addition. This will create a more active, functional courtyard, with the space defined by the surrounding building walls and a strong "street edge," which will separate the courtyard occupants from the sidewalk pedestrians and provide a more successful urban space.
3. The hardship did not result from actions taken by the applicant or the property owner. The site conditions that exist for this property and the existing building's location are not the result of the applicant's own actions. It has been acknowledged with City Planning staff and the Downtown Commission that Coxe Avenue in this area of the South Slope is unique and not like the other streets in the traditional Central Business District core. Coxe Avenue is much wider than other downtown streets. It has both a greater diversity and variation of building structures, and a wide variety of building setbacks. These setbacks range from 20 feet to over 60 feet from the right-of-way line.
4. The requested variance is consistent with the spirit, purpose, and intent of the

ordinance, such that public safety is secured, and substantial justice is achieved. The design complements the South Slope neighborhood, provides for public safety and contributes to a successful urban plan in a manner that benefits both the neighborhood and the owner.

Chairman Goldstein opened the public hearing at 7:11 p.m. and when no one spoke, he closed the public hearing at 7:11 p.m.

Ms. Hudson moved approve the variance for building setbacks found in Section 7-8-18 (f) (5) of the UDO for a project located at 151 Coxe Avenue in the downtown Central Business District because the applicant has presented competent, material, and substantial evidence demonstrating compliance with the required variance standards. This motion was seconded by Mr. Koon and carried unanimously on a 5-0 vote.

Other Business

Chairman Goldstein announced the next meeting, which will be a mid-month meeting on April 21, 2016, at 4:00 p.m. in the First Floor Conference Room in the City Hall Building.

Adjournment

At 7:13 p.m., Mr. Koon moved to adjourn the meeting. This motion was seconded by Ms. Hudson and carried unanimously on a 5-0 vote.