

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

Planning & Zoning Commission Mid-Month Meeting  
Minutes of October 16, 2014  
1st Floor North Conference Room - City Hall

**Present:** Chairman Jeremy Goldstein, Vice-Chair Holly P. Shriner, Kristy Carter, Karl Koon, Jane Gianvito Mathews and Joe Minicozzi

**Absent:** Jim Edmonds

**Pre-Meeting - 3:30 p.m.**

Staff covered the logistics of the meeting, noting that they expected several citizens and there would be a sign-in sheet for speakers. In response to the Commission members wondering why the agenda was so large, staff explained that projects are processed in a timely manner based on when they are received.

**Regular Meeting - 4:00 p.m.**

Chairman Goldstein called the meeting to order at 4:00 p.m. and informed the audience of the public hearing process.

**Administrative**

- Vice-Chair Shriner moved to approve the minutes of the September 3, 2014, meeting. This motion was seconded by Mr. Koon and carried unanimously by a 6-0 vote.

**Agenda Items**

- (1) **Review of a request of Brynn Drive Subdivision, a 14 lot major subdivision off Kenilworth Road with a modification for right-of-way and pavement width. The subject property is a total of 2.46 acres and includes PINs 9648-84-5097 and 9648-84-3372. Planner coordinating review – Jessica Bernstein.**

Chairman Goldstein acknowledged that they received notice that someone was not satisfied with the process of notification. After review by City staff and the City Attorney's Office, all requirements have been met.

Urban Planner Jessica Bernstein oriented the Commission to the site location and said that the applicant is requesting review of a major subdivision including a modification of subdivision standards pertaining to road and right-of-way widths in order to access and create new parcels of land.

The project consists of two parcels with a combined area of 2.46 acres, located behind Kenilworth Road, Waverly Road and Lakewood Drive in the Kenilworth neighborhood. The site is zoned RS-8, as are adjacent parcels. The subject properties are currently vacant and wooded and are surrounded (primarily) by single-family houses.

The applicant is proposing to create a new city street to provide access to 14 new residential lots. The lots will all comply with RS-8 standards as found in Section 7-8-4 of the UDO.

The new street will intersect with Kenilworth Road on the north side of Harvest House to provide access to the homes, first utilizing the historically-platted (but previously unopened)

Berkeley Road right-of-way and then following to the new Brynn Drive which includes a fire-turnaround. Plans indicate 20 feet of pavement within a 25 foot right-of-way, which is less than the City's standard for new roads. The Transportation and Fire Departments have recommended approval of this modification based on historical, existing right-of-way widths throughout this undeveloped section of Kenilworth.

There are no sidewalks required pursuant to Section 7-11-8 of the UDO.

Street trees are required along the new road(s) and are shown on plans. Retaining wall sections are shown on plans but no details are provided. Walls must comply with Section 7-10-5 of the UDO.

Tree Save Area is required for this residential subdivision and is equal to thirty percent of the total area, which is 32,147 square feet. This area is shown on plans to preserve/establish natural areas. Twenty percent of the site is required to be dedicated as Open Space, which is 21,432 square feet. The plans show a walking path through the open space areas, which run behind the homes on both sides. The path is accessed via easements from the new street in several locations. The final plat and homeowner's association documents will be clear that these are common open spaces even though they traverse individual home lots and that they must be maintained and remain open and undeveloped.

A research request report dated June 6, 2014, established that these lots were legally platted in 1928 and therefore may be developed, pursuant to the improvement of all applicable unopened rights-of-way (or development on compliant roads). On the historical plats, there is an existing 25 foot right-of-way for Berkeley Road (intersecting with Kenilworth Road) and a number of other existing ROWs throughout this wooded area with a similar width (North and South Brandon Parkways) which are proposed to remain unopened. The modification is for (new) Brynn Drive, which does not follow an historical plat, to have a 25 foot right-of-way and 20 feet of pavement based on similarities in the vicinity. City standards require all new streets to have 45 feet of right-of-way. The Fire and Transportation Departments have deemed that the reduced width is safe and adequate.

The Technical Review Committee met on September 15, 2014, and this project was recommended for approval with conditions. Comments received from the public include: environmental impact, sediment, erosion, steep wooden lots, etc.

Staff recommends approval of the proposal as shown on plans and renderings, based on the ability of the project to comply with the technical standards (with the modification as approved by the Technical Review Committee).

When Ms. Carter asked what would happen if the road modification was not granted, Ms. Bernstein assumed that the project would have to be re-designed.

In response to Chairman Goldstein, Ms. Bernstein said that even though there is a City standard for new roads, it is not a technical standard and there is a process for the applicant to request a modification. The road modification request was part of the Technical Review Committee review, and City staff recommended approval of that road modification.

Ms. Mathews noted that many roads in neighborhoods don't meet the current standards for new roads, but they provide adequate safety for policy and fire.

Mr. Chris Day, applicant, explained that their primary reason for stepping outside the existing right-of-way (use of paper streets) and asking the modification to move the road up to the high side of the property is to reduce the amount of disturbance in the area, since there are great walkways, trails and good stream mitigation. He said the existing lots and the proposed lots meet the RS-8 standards.

At 4:29 p.m., Chairman Goldstein opened the public hearing.

The following individuals spoke in opposition or delay of review of the major subdivision for various reasons, some being, but are not limited to: not adequate time for neighborhood review; development impacts all Kenilworth residents, not just the adjoining property owners; environmental impacts downstream; low-value cheap cookie-cutter houses will decrease area property values; lots and road will be on steep grade; who will maintain bio-retention cells to counteract erosion and siltation and what assurances do property owners have that this maintenance will occur; level of difficulty for this project is very high; who will enforce long-term tree save areas; property is mostly in a ravine with three springs on the lot; Kenilworth Lake already has extensive silting; steep property; there will be water runoff from that property; sewer line that serves the property is overloaded; some lots will be built on springs and existing sewer rights-of-way; already congested Kenilworth Road; existing retention pond at the bottom of the property has already been compromised; prevention of significant sedimentation from stormwater runoff through the proposed project has not been addressed by the developer; Kenilworth Lake will have significant sedimentation; construction of retaining wall at edge of property which will violate property rights; has an environmental impact study been done to find out what effect this will have on neighboring properties; Kenilworth is full of substandard roads and there are existing problems; concerned that a developer would be allowed to build a new road which does not meet current standards; Kenilworth is a unique area and if this project is allowed it will be overbuilt; need to keep property vacant for green space and trails; this project will be detrimental to the neighborhood; concern that large massive trees will be destroyed; no need to build this development because the Beaucatcher Heights development has a lot of empty units and they are also located on Kenilworth Road; City should maintain existing roads in Kenilworth; more traffic on Kenilworth Road will make it even harder for elderly people at Harvest House to back out onto the road; Kenilworth Road is narrow and a new road will create additional danger to pedestrians and bicyclists; physical barriers will affect animal habitats and wildlife corridor ; how can a developer request a substandard road; project will require extensive civil engineering; property owners need to be assured their property will be protected from mudslides, erosion, cave-ins, tree debris and property damage; too many homes are being fit into a small space; how will emergency vehicles manage to use the new narrow road with limited parking and turnaround; how does the developer plan to dispose of the cutting of hundreds of very large hardwood trees and what impact will the noise and air pollution have on the neighborhood; clear-cutting 2.46 acres will drastically increase erosion, run-off and sediment; development will adversely impact the new RiverLink sediment control project at the lower end of the creek; and the property is a ravine that has steep slopes, springs, creek, old hardwood trees, hawks, owls, fox, and bears:

Teddy Jordan, member of the Kenilworth Residents Neighborhood Association and member of the Neighborhood Advisory Committee

Mike Stevenson, President of the Kenilworth Residents Neighborhood Association

Greg Lewis, area property owner

Alvis Tingle, area property owner

Michael Skrzynski, resident on Waverly Road

Angela Maddux, Kenilworth resident

Rudi Boekschoten, Kenilworth resident

Melinda Hopkins, resident on Lakewood Drive

Marvin Chambers, Kenilworth resident

Luke Butterworth, adjoining property owner

Nancy Watford

Suzanne Fullar, resident on Waverly Road (presented petition to reject this development to require significant modifications signed by 25 area residents)

Vanessa Byrd, resident on Lakewood Drive

Marcia Windham, Kenilworth Forest resident

Jan Trainer, Kenilworth Lake resident

Jan Howard, Kenilworth resident

Claire Payne, Kenilworth Forest resident  
Jeff Kinzel  
Carolyn Tingle, member of the Kenilworth Residents Neighborhood Association  
Valeria Hoh

Chairman Goldstein closed the public hearing at 5:24 p.m.

Chairman Goldstein explained that this is a major subdivision review. Different types of applications require different processes. For this review the Commission is charged with making the sure project meets the technical standards only. If the Commission disagrees that the developer cannot meet the technical standard they must state why it doesn't meet the specific technical standard. Mr. Minicozzi also noted that this process was asked for by the citizens and that prior to this process only City staff reviewed for technical compliance with no opportunity for public comment.

Mr. Marcus Barksdale, City Stormwater Services Supervisor, explained the process for maintenance of stormwater bio-retention cells, noting it is conducted through an agreement that is recorded. Said agreement has specific language about maintenance of the cells and a map of the location of the cells. The City does conduct random inspections, noting that there must be an annual inspection with reports submitted to the City. If an inspection of a cell (or complaint) identifies failure, a stormwater inspector is dispatched to investigate and if failure, require the owner to repair or violations would be issued. There is always the potential of a civil suit that a property owner may file if they are receiving sediment from the failed cell.

Regarding development impacts to streams in the area, Mr. Barksdale said that there are several unnamed stream tributaries that the project will disturb. It is unknown if these streams are regulated and if stream buffer rules would apply. The City will be provided, from the N.C. Dept. of Environment and Natural Resources (DENR), a copy of each stream determination for each of the tributaries impacted prior to release of grading and stormwater permits. If affected stream tributaries are jurisdictional, copies of the Corps of Engineers and DENR permits for work within jurisdictional waters shall be provided to the City prior to release of grading and stormwater permits.

At the request of Mr. Minicozzi, Councilman Chris Pelly said that he would be happy to bring the issue of sewer going into Kenilworth Lake to the MSD Board if specifics are provided.

City Traffic Engineer Jeff Moore explained that he did not have a concern about the new road being too narrow or too little right-of-way for maintenance. He said that due to the traffic volumes generated from this development, a Traffic Impact Analysis was not required. Traffic volumes are not enough that the existing infrastructure could not handle.

There was considerable discussion, initiative by Mr. Minicozzi after citing the standard on page 3-8 of the Asheville Standard Specifications and Details Manual, of why the applicant did not want to use the paper streets and their use of a cul-de-sac. Regarding the cul-de-sac, Ms. Bernstein said that staff does encourage connectivity and discourages dead-ends. However, because this is a technical review, staff does not have the ability to base their review on the Comprehensive Plan. There is no UDO standard or standard in our Standard Specifications and Details Manual that prohibits a dead-end street.

Regarding the cul-de-sac vs. connectivity, Mr. Day said they felt that connectivity of the street to Lakewood would be more disruptive to the neighborhood and the street would be located much closer to the creek, noting that the new street would also be a cut-through for traffic.

Regarding the bio-retention ponds, Mr. Day said that there will be a maintenance agreement with the homeowner association and the City will have easements to inspect them.

In response to Ms. Mathews, Mr. Day explained that their goal will be to save as many trees as possible. In addition, there will be no grading on adjoining properties.

When Ms. Carter asked about any plans to improve the sewer line, Mr. Day said that all infrastructure is in place and no additional public sewer extensions are necessary.

At 6:01 p.m., Chairman Goldstein announced a short recess.

There was more discussion regarding street connectivity from Mr. Minicozzi. From a planning perspective, street connectivity is important; however, it is not a technical requirement.

Mr. Koon moved to recommend approval of the Level II site plan for Brynn Drive major subdivision off Kenilworth Road along with the modification for right-of-way and pavement width, subject to the conditions in the Technical Review Committee report. This motion was seconded by Chairman Goldstein.

Ms. Mathews said that the Commission is bound to look at technical standards. Trees are very valuable but it private property and a person has the right to development it if it meets technical standards. If the community doesn't want to see development at all on that property they should look at other options, i.e., buying the property and converting it into a park like they did in the Haw Creek community.

When Ms. Carter asked if the applicant would be willing to consent to a delay, Mr. Eller said that they have spent a lot of time and money and effort to get the property under contract. Therefore, respectfully, they would not like a delay; however, they would be happy to continue talking with the neighborhood.

The motion made by Mr. Koon and seconded by Chairman Goldstein carried on a 5-1 vote, with Mr. Minicozzi voting "no."

- (2) Review of a request for a 9 lot major subdivision and a road to serve those lots off Waters Road. The subject property is a total of 3 acres and includes PINs 9658-49-7059, 9658-48-9915, 9658-48-9805, 9658-48-8793, 9658-48-8599, 9658-48-8518, 9658-48-7741, 9658-48-7840, 9658-48-7950, and 9658-49-7041. Planner coordinating review – Julia Fields.**

Urban Planner Julia Fields oriented the Commission to the site location and said that the applicant is requesting review of a preliminary plat for a nine (9) lot subdivision (unnamed at present) located off of Waters Road in the Haw Creek Community. This project is considered a Major Subdivision pursuant to Section 7-5-9 of the UDO.

The project consists of ten parcels with a combined area of approximately 3.0 acres, located off of Waters Road in the Haw Creek Community. The site is zoned RM-6 (Residential Multi-Family Low Density District) as are the properties in the immediate vicinity. The subject properties are currently vacant and wooded and surrounded by single-family and multi-family (to the east - Spruce Hill Apartments) dwellings.

The applicant is proposing to create a new city street to provide access to nine new residential lots. The lots all comply with RM-6 standards as found in Section 7-8-5 of the UDO. Stormwater is proposed via bio-retention cells on some of the individual lots.

The proposed new street (yet unnamed) will intersect with Waters Road and end in a cul-de-sac. The street follows the previously platted right-of-way. Plans indicate 20 feet of pavement within a 50-foot right-of-way. Grassed swales are proposed instead of traditional curb and gutter. No sidewalks are required pursuant to Section 7-11-8 of the UDO. Street lights will be provided and are shown compliant with city standards.

Street trees are required along the new road and are shown on the plans meeting the standards found in Section 7-11-3 of the UDO. Tree save area is required for this subdivision equal to thirty percent of the total area, or 39,422 square feet which is compliant with the UDO, including proposed plantings.

Twenty percent of the site is required to be dedicated as open space. The open space proposed runs across the back of the single-family lots. It is proposed that a trail system will be constructed through much of the open space, connected to the new street via easements.

In early 2000, a final plat was approved for Springtime Subdivision, a 38-lot subdivision off of Waters Road. The size of the property in the original subdivision was 5.67 acres. Although the final plat was recorded, no improvements were completed and no bond posted. Some of the lots were sold and some lots along Waters Road had homes constructed on them.

In 2012, a developer purchased 3.25 acres of the original subdivision proposing to create a 12-lot subdivision with two additional lots for open space. This subdivision was never completed but additional lots were sold off. The preliminary plat currently under review contains many of the same lots that were proposed in 2012.

This project was approved with conditions by the Technical Review Committee at their meeting on September 15, 2014. Many of the TRC comments have been addressed in the submittal before the Planning and Zoning Commission. No public comment has been received regarding this proposal.

Staff recommends approval of the project subject to compliance with the remaining conditions as included in the TRC staff report. Staff finds that all city standards have been or can be met with this major subdivision application.

In response to Mr. Minicozzi, Mr. Chris Day, applicant, said that it would be topographically difficult to connect to Old Haw Creek Road.

Chairman Goldstein opened the public hearing at 6:28 p.m.

Mr. Jim Freeman, resident whose property is across the street from the gravel road on Old Haw Creek Road, asked if he can be given the opportunity to maintain the green space or if the owner would be willing to sell him some of the green space for an additional buffer on the back side of his property.

Mr. Grant Strawcutter adjoining property owner, wanted to make sure that he had access to his home once the development is complete.

Chairman Goldstein closed the public hearing at 6:30 p.m.

Mr. Day said that Mr. Strawcutter will be able to access his home off the new road. Regarding the gravel road, since it is not required for their project, they would be open to discussions.

When Mr. Minicozzi asked if there could be connectivity to Spruce Hill Lane, Mr. Day said that he did not know if they had the legal right to tie to the apartment complex. Ms. Fields was not sure if Spruce Hill Lane was a public or private street.

Vice-Chair Shiner moved to recommend approval of the 9 lot major subdivision and road to serve those lots off Waters Road, subject to the conditions included in the Technical Review Committee report. This motion was seconded by Ms. Mathews and carried on a 5-1 vote, with Mr. Minicozzi voting "no."

**(3) Review of a request for a Level II review of a proposed 6-story 76,276 square foot hotel located at 190 Hendersonville Road. The subject property is a total of 4.09 acres and is PIN 9647-78-1709. Planner coordinating review – Jessica Bernstein.**

Urban Planner Jessica Bernstein oriented the Commission to the site location and said that this is the review of site plans for the construction of a new 118-room hotel (Holiday Inn & Suites) with structured parking at 190 Hendersonville Road. This project is considered a Level II review pursuant to Section 7-5-9 of the UDO.

She said the project site consists of a portion of a single parcel with a small area to be recombined from an adjacent parcel, overall 4.43 acres in size, located at 190 Hendersonville Road just south of Biltmore Village. The parcel is zoned Highway Business and is currently the site of the Howard Johnson Hotel. There is an Arby's restaurant on an adjacent parcel on this same block, also zoned HB with frontage on Hendersonville Road. Other nearby zoning includes Institutional to the north; RS-8 to the east and south and HB to the south and west.

The site has road frontage on all four sides, Lula Street to the north; Reed Street to the east; Irwin Street to the south and Hendersonville Road on the west.

The applicant is proposing to demolish the existing hotel structure and associated improvements currently on the site and create two separate parcels. The 2.10 acre outparcel on the southern end of the overall project site is not proposed for development at this time.

The portion of the site for development will be a 2.33 acre parcel and plan show a Holiday Inn & Suites hotel in a single building with a separate parking structure. The hotel is 6 stories with 118 rooms (76,287 square feet gross floor area) and is 50 feet 8 inches tall. The parking structure is two levels and is located to the front of the building.

Access to the site will be reoriented slightly from the current configuration, creating a single combined driveway to access both the new hotel, the future outparcel, as well as the Arby's. The intersection will require ultimate approval by the NCDOT and the driveway configuration requires an access easement from the adjacent owner to the applicant and an easement from the applicant to the future developer of the outparcel.

Sidewalks currently exist along Hendersonville Road but not along Lula and Irwin Streets. In addition, there is no sidewalk along Reed Street, but they will be providing it for the portion of this development. The Lula Street requirement will be handled through a fee-in-lieu.

The parking structure contains 132 parking spaces for the hotel use, which is between the minimum (67 + 25 employee spaces) and maximum (129 + 25 employee spaces) as required by the UDO.

Landscaping is required for this new development and includes property line buffers along the eastern boundary of the property with RS-8 across Reed Street; street trees; building impact landscaping, parking lot and parking deck landscaping. Existing trees along Lula Street are proposed to be preserved and used as credits. The dumpster is located off of Lula Street and screening requirements apply.

When development occurs on the outparcel, property line buffers will be required in two stretches but will not be included in this submittal due to the recombination plat that will be required as a part of the zoning permit.

Open space is required at an area equal to 15 percent of the lot area, which is 15,224 square feet for the 2.33 acre portion of the site proposed for development. Active recreation spaces within and outside of the hotel (including terraces) can be counted towards the open

space standard and are included, along with an outdoor area on the southeastern end of the site as well as areas of existing vegetation along Lulu Street (which can only be counted towards a portion of the open space requirement due to grade).

There appears to be one retaining wall around the front of the parking structure that is over eight feet in height and will therefore require compliance with aesthetic treatment standards found in Section 7-10-5 of the UDO.

The dumpster location (which is to the rear of the property at the intersection of Lulu and Reed Streets) is not permitted within a property line buffer, so they have located it across the street from an Institutional District.

Neighborhood concerns regarding include: while the dumpster is across from Institutional property there are residences that are in close proximity; height of the building (which is technically compliant, but where it is located on the site, it has more of an impact on the single-family homes); visual impact and light and noise trespass of the building; potential for increased traffic in the neighborhood; noise from the demolition and forthcoming construction process; and questions about maintenance of the outparcel.

The Technical Review Committee met on September 15, 2014, and this project was recommended for approval with conditions.

Staff recommends approval of the proposal as shown on plans and renderings, based on the ability of the project to comply with the technical standards.

There was considerable discussion about the location of the dumpster and attempts to find an alternate location on the applicant's property possibly closer to the hotel. Questions rose of how the hotel employees would access the dumpster, along with how the trucks would pick up the trash.

Mr. Hudson Owen, engineer on the project, said that hotel employees would take the trash up to the dumpster in golf carts on Lulu Street. He said that they did discuss relocating it further to the east, which would be directly in front of single family homes on Reed Street.

Mr. Owen said that the neighborhood asked that they preserve the existing evergreen trees on Lulu Street and they have agreed to that request.

When Ms. Mathews suggested the dumpster location being at the corner of their parking lot, Mr. Owen said that they may have to lose some of the parking spaces, but was also concerned about the large trucks in the parking lot for the client's safety. They felt it was appropriate to separate the clients from the trash trucks.

Chairman Goldstein opened the public hearing at 6:52 p.m.

The following individuals expressed concerns with this development, some being, but are not limited to: dumpster location which will bring noise, rats, etc. to the residential property; height of the building; lack of view of the mountains; light pollution from the building; suggestion to utilize the entire property (including the outparcel) and go wider and shorter with the hotel; a sidewalk on the developer's portion of the property doesn't bring anything to the neighborhood; and trash truck would be blocking two lanes on Lulu Street and both lanes on Reed Street to remove trash from dumpster:

Teri Calloway, resident on Reed Street  
Business Owner on Lulu Street  
Stacie Parsons, resident on Reed Street

Laurie Frarey, resident on Reed Street  
Wendy Hughes, area resident

Chairman Goldstein closed the public hearing at 7:02 p.m.

In response to Chairman Goldstein, Ms. Bernstein said that the height limit is 60 feet from the point of Fire Department access which is how building height is measured. From that point up, it is 50 feet, 8 inches. In the rear, because of the grade change it's 66 feet, but again, that is not from where the building height is measured. The building height is technically compliant.

Ms. Mathews understood the height measurements, but felt it would be helpful to have the Unified Development Ordinance reflect the Building Code. It is a different way of measuring.

Mr. Minicozzi reviewed several chapters in the Code of Ordinances which seem to prohibit the dumpster being in the location at the intersection of Lulu and Reed Streets.

Mr. Minicozzi was frustrated that even though there has been initial conversations amongst the Commission members about Highway Business Districts against other incongruent zoning, that conversation is not moving quick enough.

After further consideration, Mr. Owen said that the applicant is willing to move the location of the dumpster from the intersection of Lulu and Reeds Streets to another location on their property and that it will be accessed from the interior of their property and not from the public right-of-way.

City Attorney Currin said that the plan will need to be revised to show the new location of the dumpster and the preservation of the existing evergreen trees.

When Mr. Koon felt it was important to see the dumpster relocation, Mr. Owen couldn't commit to a specific spot immediately because there are too many variables but he could commit that it will be compliant. Ms. Bernstein also noted that the dumpster relocation would also need to be reviewed by staff.

City Attorney Currin said that you can make the revisions part of your requirement. Because the Commission can't see where the dumpster will be located is not a technical reason to deny the project.

Mr. Owen said he could not make a snap judgment without the proper vetting of all the options, taking into account pedestrians and parking. They would commit to moving the dumpster to another location on their property and that it will be accessed from the interior of their property and not from the public right-of-way. Unfortunately he could not pinpoint the exact location at this time.

Ms. Carter moved to recommend approval of the revised Level II site plan for Holiday Inn & Suites located at 190 Hendersonville Road, subject to (1) the conditions in the Technical Review Committee report, (2) moving the dumpster to another location on their property and that it will be accessed from the interior of their property and not from the public right-of-way; and (3) preservation of the existing evergreen trees on Lulu Street. This motion was seconded by Vice-Chair Shriner and carried unanimously by a 6-0 vote.

- (4) Review of a conditional zoning request from RM-8 Residential Multi-Family Medium Density District to RM-8/CZ Residential Multi-Family Medium Density District/Conditional Zoning for road construction and road modifications and flexible development requests for lot size for 6 lots on Klepper Drive. The subject property is a total of 0.61 acres at and includes PINs 9649-60-6028, 9649-60-0311, 9649-50-9372, 9649-50-9332, 9649-50-9208 and 9649-50-8286. Planner coordinating**

## **review – Alan Glines.**

Urban Planner Alan Glines oriented the Commission to the site location and said that the applicant is requesting review of a major subdivision including a modification of subdivision standards pertaining to road and right-of-way width, lot sizes and setbacks in order to access and develop parcels of land for residential use.

He said the site is located on Charlotte Street at Hazzard Street and consists of 6 existing non-conforming lots with limited access. The PINs include 9649-50-8286, 9649-50-9208, 9649-50-9332, 9649-50-9372, 9649-60-0311, 9649-60-0298. The properties have a bit of a complicated history as they were remnant properties that were sold to the current owner by the City of Asheville from excess ROW areas left over from the creation of South Charlotte Street by the NC DOT. Portions of these same parcels were originally created in T.W. Patton by a plat recorded in 1901. The current owner improved area of these lots by purchasing additional excess ROW directly from the NC DOT and then recombining a portion to each remnant parcel to make them more compliant and more buildable. A recombination plat was approved and recorded in 2011. The surrounding area is zoned RM-8 (residential multi-family medium density) but many of the surrounding uses are single family residences along with a place of worship along Circle Street. This area was originally part of the Eagle Street neighborhood that was closely associated with 'The Block' located in downtown Asheville.

The applicant is proposing to create a new private street to provide access to 6 residential lots. The lots are existing but non-conforming due to lot size and frontage width and will be made smaller by the creation of the improved right of way access. The paved access drive is proposed to be 17 feet wide within a dedicated 20 foot wide right of way space (ROW). This width is the minimum width to allow on-street parking. The movement of traffic will be one-way from Circle Street and the size and flow of the street has the approval of the TRC members including Fire and Transportation. The proposed lot sizes will be smaller than RM-8 standards defined in 7-8-6 of the UDO. Standard lots are generally 5,000 square feet with 50 feet of frontage on an improved ROW.

The new private street, Klepper Drive will be accessed from Circle Street. The traffic flow will be one-way from Circle Street and will connect at the bottom with Hazzard Street. Circle Street is a quiet street that has access from the intersection with Hazzard Street and Max Street. There is an important neighborhood pedestrian connection and bridge from Circle Street that crosses Charlotte Street connecting to Davidson Street downtown. There are no other sidewalks in the project area except for along Hazzard Street and Max Street and none are required as a part of this subdivision due to the limited number of lots. Even though the street width is small, Klepper Drive will help to improve connectedness throughout the neighborhood.

These standards are not required for this subdivision because only six lots are proposed and with the proposed smaller lot area these features will be more difficult to provide on-site. In spite of this the developer is proposing a street tree for each of the lots.

### *Modifications:*

- **Area:** All 6 lots are already undersized to the lot area standard for RM-8 (standard 5,000 square feet). To create improved access for the lots, some area is being removed for each parcel making them smaller. The proposed lots will range in size from 3,147 to 4,720 square feet. It is expected that even with the smaller area, the lots will be able to accommodate a site-designed house.
- **Access:** The developer is seeking approval and use of a ROW of 20' which will be a consistent dimension from its connection to circle Street a city-maintained street. The city standard for new streets is 50' ROW which affords two-way movement, sidewalks and on-street parking. It is not unusual though for residential developments to request

modifications to ROW widths which can range from 25 to 40 feet depending on the proposal and neighborhood context.

- **Setbacks:** The developer is seeking flexible development standards for the front and rear setback allowed under Article 11 in the UDO (7-11-7). The UDO specifies that should flexible standards be granted, then at least a ten foot setback be maintained. Since four of the six lots have frontage on two streets, these are considered to be through-lots so the 10' front setback request applies to both fronts (15 foot setback is the standard in this district). The two remaining lots will only need a 10' setback reduction for the **front** of their proposed lot. An approved setback reduction should expand the use of the lots for a house since the building envelop is expanded.
- **Frontage:** The standard lot width is 50 feet in the RM-8 district. Four of the lots have widths proposed to range between 35 and 43 feet. Designing a house to meet the smaller lot widths is possible and accounting for the **side** setbacks of 6 feet (12 feet total) provides a minimum house width of at least 22 feet or better.

The existing zoning is RM-8 (residential multi-family medium density) district and the proposed zoning request is RM-8 CZ (conditional zoning) to accommodate the development of smaller parcels on a smaller right of way.

The Technical Review Committee met on September 15, 2014, and this project was recommended for approval with conditions.

The proposal is for smaller residential lots in an area that is primarily residential in nature. Although the lots border or are close to South Charlotte Street, their access and orientation is from the residential side. Due to their limited size, use of the lots will be limited to one single-family residence and typical residential accessory structures in a similar way that other non-conforming lots are permitted to be developed.

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

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*  
The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.
2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*  
The applicant is proposing to provide better access for existing lots using a narrower one-way street. The residential uses proposed for the parcels will be a good fit for the topography of the site since each house can be designed to fit each individual lot owing to its unique slope and configuration. No access to the development will occur directly from Charlotte Street.
3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*

The proposal for single family subdivision is not expected to injure the value of properties in the area. The proposed lots will be similar to some other historic lots in the vicinity of the development accessed from neighborhood streets.

4. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*  
The proposed site is a part of the historic Eagle-Market Street district known as 'The Block' and was the residential edge of Eagle Street. An original plat was recorded in 1906 and included Eagle Street and Circle Street. The six parcels were remnants of some of those original parcels and when South Charlotte Street was created and the neighborhood altered, these were excess parcels. The city acquired these parcels from the NC Department of Transportation and later sold them to the current owner. The current owner approached NC DOT about acquiring additional land to make each lot more buildable. The lots are compatible with the scale of the surrounding area and with a number of the original parcels that were part of the 1906 plat. The new residential development will contribute to the neighborhood fabric now known as the *East End* neighborhood.
5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*  
The Comprehensive Plan recommends higher density residential infill development at locations that are suitable for such development with basic infrastructure. The proposal is adjacent to the central business district area and is close to jobs, parks, transportation options and shopping. The area is currently vacant and as noted in the Comprehensive Plan, such infill properties can be developed without changing the existing character of the area. Smaller lot sizes were once more common in Asheville before minimum zoning standards were adopted so in some ways this development reflects historic patterns especially for neighborhoods near downtown.
6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*  
This project poised near the edge of downtown is has direct access to a pedestrian bridge crossing South Charlotte Street to provide access to downtown. Multiple modes of transportation are available to the area including bus lines that run along College Street and Martin Luther King Jr. Boulevard. All other urban services are available to this parcel as well.
7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*  
The proposed uses on the site are not expected to create undue traffic congestion or create a traffic hazard. The small number of residential parcels in the subdivision will not create traffic congestion.

The Comprehensive Plan recommends higher density residential infill development at locations that are suitable for such development with sufficient basic infrastructure. The proposal is adjacent to the central business district area and is close to jobs, parks, transportation options and shopping. The area is currently vacant and as noted in the Comprehensive Plan, such infill properties can be developed without changing the character of the area. Smaller lot sizes were once more common in Asheville before minimum zoning standards were adopted so in some ways this development reflects historic patterns especially for neighborhoods near downtown.

This proposal aligns most closely with City Council's focus area on promoting "Affordability and Economic Mobility" by revisiting land use regulations to identify zoning and regulatory changes that promote affordable housing located close to the CBD, jobs and transportation. While the lots are **not** being designated for affordable units, the lots should be more affordable because of their smaller size and location but also desirable because of their

close proximity to the CBD, jobs and transportation options. The conditional rezoning process allows the consideration of smaller lots on an application-specific basis which also supports Council's goals.

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

Considerations:

- The project proposes improved access for existing vacant residential lots.
- Infill residential parcels close to downtown, transportation options and jobs will be available for new housing development.
- Sidewalks are not proposed (or required) as a part of this subdivision and are limited in the surrounding area.
- An important pedestrian bridge over S. Charlotte Street close to this site links the neighborhood to the downtown area.

The Technical Review Committee met on September 15, 2014, and this project was recommended for approval with conditions.

Staff recommends approval of the proposed RM-8 CZ conditional zoning to allow for six residential lots with improved right of way access as proposed in the site plans, to allow for single-family residences and typical residential accessory structures and, finding that the request is consistent with City-adopted plans and strategic goals.

Mr. Paul Dow, applicant, said that he is asking for this conditional zoning essentially to make the 6 non-conforming lots work on the property.

Chairman Goldstein opened the public hearing at 7:28 p.m.

Mr. Derrick Jones wondered how the N.C. Dept. of Transportation sold the lots when adjoining property owners were not notified. Mr. Minicozzi suggested Mr. Jones contact the Division Office on Orange Street who can help him understand the process.

Chairman Goldstein closed the public hearing at 7:30 p.m.

In response to Mr. Minicozzi, Mr. Glines said that the City is discussing in the long-term of reinvigorating Charlotte Street down by the William F. Wolcott Jr. Public Works Facility.

Chairman Goldstein moved to recommend approval of the conditional zoning request for the Klepper Drive Development from RM-8 Residential Multi-Family Medium Density District to RM-8 Residential Multi-Family Medium Density District/Conditional Zoning, and approval of the modifications, based on the site plan, compliance with TRC requirements and conditions agreed upon by the applicant, and find that the request is reasonable, in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) higher density residential infill development at locations that are suitable for such development with sufficient basic infrastructure is supported; (2) The proposal is adjacent to the central business district area and is close to jobs, recreation, transportation options and shopping; (3) The land is currently vacant and will contribute to the fabric of the existing East End neighborhood. This motion was seconded by Ms. Carter and carried unanimously on a 6-0 vote.

At 7:33 p.m., Chairman Goldstein announced a short recess.

- (5) **Review of a conditional zoning request from RM-8 Residential Multi-Family Medium Density District to RM-16/CZ Residential Multi-Family High Density District/ Conditional Zoning for White Oak Grove Apartments, a proposed multi-family development located at 275 and 281 Hazel Mill Road. The subject property is a total**

**of 6.501 acres is PINs 9638-39-1310 and 9638-39-6188. Planner coordinating review – Julia Fields.**

Due to a conflict of interest, Ms. Mathews moved to recuse Ms. Carter from participating in this matter. This motion was seconded by Vice-Chair Shriner and carried unanimously on a 6-0 vote.

Urban Planner Julia Fields oriented the Commission to the site location and said the applicant is requesting conditional zoning for two parcels located off of Hazel Mill Road from RM-8 (Residential Multi-Family Medium Density District) to RM-16 CZ (Residential Multi-Family High Density District Conditional Zoning) in accordance with Section 7-7-8 of the UDO to accommodate the development of a 104-unit multi-family development.

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

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

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

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

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

The Technical Review Committee (TRC) reviewed this application at their meeting on September 15, 2014, and approved it with conditions. [The developer has addressed many of the conditions noted by TRC in the submittal that is before the Planning and Zoning Commission]. As with all conditional zoning applications, this development proposal will be heard by both the Planning and Zoning Commission (October 16) and the Asheville City Council. It will return to the Technical Review Committee, if approved by Asheville City Council, for Final TRC review.

Although not required, the developer held a neighborhood meeting on Thursday, September 11, 2014, to introduce the proposal to those who own property or reside in the area.

The subject parcels and adjacent lots are zoned RM-8, with Highway Business, Institutional, Office, Resort, and RS-8 zoned properties in the general vicinity. The properties are

immediately surrounded by single family homes and townhomes with a large car dealership, offices and a church in close proximity. The proposed development, with a density of approximately 16 units per acre, is of greater density than is found on the immediately surrounding residential properties, however, the property is within approximately ¼ mile of transit service and within walking distance of a number of service and retail businesses. The developer plans initially to provide an annual bus pass for each unit.

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

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*  
The proposed project has been approved by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.
2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*  
The proposed use and development of the land are reasonably compatible with the natural features and topography of the site. The developer worked with the existing topography on the site in the placement of the buildings. Landscaping and open space surround the development and a number of existing trees are proposed to be saved.
3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*  
The development is not expected to injure the value of adjoining or abutting properties. The use proposed is similar to adjacent parcels (residential) although at a higher density. Given the proximity to the commercial / mixed-use Patton Avenue corridor, higher-density residential uses can be considered to be appropriate in this location. The developer is proposing a number of street and sidewalk improvements along Hazel Mill and Clayton Road which should improve conditions along the segments of roadway surrounding the property.
4. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*  
The proposed use as multi-family is in harmony with the area in which it is located. Although surrounded primarily by single family homes, this site is less than a quarter mile from the Patton Avenue commercial corridor, making it an appropriate location for higher-density residential development. Additionally, there are a number of other parcels in the vicinity with multiple residential units, including condo units on adjacent Nancy Street and Townview Drive. None of these other developments include buildings as large as the apartment structures proposed in this development; however, the developer has worked to reduce the height and scale of the buildings from the previous submittal to make the structures more in keeping with surrounding buildings. The number of units proposed exceeds the underlying (existing) density; however, staff feels that the site layout and proximity to Patton Avenue and transit (as mentioned above) makes this an appropriate location for this proposal.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*  
The Asheville City Development Plan 2025 encourages a Smart Growth development pattern by recognizing the need for higher density residential infill projects (pg. 31). With 104 units, this project is not only meeting that goal but also seeks to assist with what the Plan calls “the number one economic development problem for this community” (pg. 45): lack of affordable housing. The project includes 10% of the units as affordable.
6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*  
The developer is proposing a number of street and sidewalk improvements along Hazel Mill and Clayton Road which should improve road conditions adjacent to the project site. Basic infrastructure appears adequate and preliminary review by other service providers has not revealed any problems for future service to the development.
7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*  
The proposed project has been reviewed by the City Traffic Engineer and it has been determined that the project should not cause undue traffic congestion along the existing street infrastructure.

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

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

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

Considerations:

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

Staff recommends approval of the proposed conditional zoning, finding it consistent with City-adopted plans and strategic goals for development.

In response to Mr. Minicozzi, Ms. Fields said that the City checks each year for rent levels on the affordable housing part, but they don't check every tenant change.

Mr. Bob Grasso, co-developer, explained several changes to the project since it was before the Commission approximately two years ago, some being two-story or two/three split configurations; they put in parallel parking on Clayton Avenue; took out the right in and right out on Hazel Mill Road; and traffic will be coming off Clayton Avenue. He invited the public to a community meeting on October 27 at the Buncombe Baptist Resource Center, to help formulate

traffic calming solutions for Hazel Mill Road. He has also pledged to spend \$10,000 for a comprehensive traffic calming plan for Hazel Mill Road, to discourage cut-through traffic and slow cars down. He felt there is a need for infill and smart growth housing, which this project will fill. He has also added one annual bus pass for each unit to encourage use of mass transit. He will commit to the annual bus pass for two years and if the City brings the bus stop back, he will offer that in perpetuity.

Chairman Goldstein opened the public hearing at 8:10 p.m.

The following individuals spoke in opposition of the development for various reasons, some being, but are not limited to: speed on Hazel Mill Road, congestion at intersection of Hazel Mill Road and Louisiana Avenue; negative impact on surrounding community; unsafe conditions for pedestrians and bicyclists on Hazel Mill Road; need to update Hazel Mill Road before any high intensity development occurs; pedestrians will still have to walk on Hazel Mill Road to get to bus stop; infrastructure will not support development on site; too much density; community should not bear the burden of developer's financial investment;

Steven Slack, resident on Hazel Mill road  
Valerie Martin, resident on Townview Road  
Bridget Nelson  
Clifton Mears, resident on Hazel Mill Road  
Jack Carrier, resident on Hazel Mill Road and business owner on N. Louisiana Avenue

Mr. Timothy Sadler felt that Mr. Grasso is committed to addressing the traffic concerns on Hazel Mill Road and supported the project.

Chairman Goldstein closed the public hearing at 8:30 p.m.

Chairman Goldstein said that this is an ideal spot to achieve Council's goals of high density, infill, affordable housing, and close to transit, but wondered why we can't make the roads safer in that area.

City Traffic Engineer Jeff Moore said that Mr. Grasso has offered to fund a traffic comprehensive study where options and solutions can be derived. There is no promise of City funding for that study. The City's has a traffic calming project backlog list of 25 projects, and this project would have to complete with those projects. After the study, he could not guarantee the City can install speed humps, build a raised intersection on Clayton Avenue, etc. One problem is the signal at Louisiana Avenue, which is a state-maintained road. He can only make suggestions to them.

When Mr. Minicozzi asked why the bus stop was removed, Ms. Fields said that when the Transportation Department was re-doing the routes trying to gain efficiency and reliability, they eliminated some of the bus stops on side roads and stayed with the ones on the principle corridors. With the addition of the 104 people from the proposed development, perhaps a bus stop at that location can be revisited.

Mr. Mark Teague, traffic engineer for the developer, explained that they did not re-do the Traffic Impact Analysis (TIA) performed three years ago. He said that traffic has actually decreased on Hazel Mill Road and so has the number of units on the project. The earlier TIA did not show a significant impact. In addition, the traffic study assumed there were no transit use and zero traffic on Hawkins Lane.

Mr. Minicozzi said that regardless of the number of units developed on this property, the neighborhood still has traffic issues. He felt the Commission should ask City Council for funds to develop a comprehensive plan for Patton Avenue, and ask the N.C. Dept. of Transportation to meet with the Commission.

When Ms. Mathews suggested stop signs at 3-point intersections, Mr. Moore explained that it is not an effective means of traffic control; however, that may be an option if it is combined with some other traffic calming solution.

Chairman Goldstein moved to recommend approval of the conditional zoning request to conditionally zone 275 and 281 Hazel Mill Road from RM-8 Residential Multi-Family Medium Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning for White Oak Grove Apartments on Hazel Mill and Clayton Roads, subject to the developer completing a comprehensive traffic study prior to final Technical Review Committee approval and that the developer provide annual bus passes for two years and in perpetuity if the bus stop returns, and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) the plans for increased density on this site further City goals promoting higher density residential infill in appropriate areas; (2) the plan for 10% of the units to meet the City's affordability standards respects City goals working to address the needs of the community for increased affordable housing. This motion was seconded by Ms. Mathews and carried on a 4-1 vote, with Mr. Minicozzi voting "no." (Ms. Carter was recused.)

- (6) Review of a conditional zoning request from UV Urban Village District to UP/CZ Urban Place District/Conditional Zoning for the development of a mixed use project (Biltmore Apartments) containing apartments and retail off of Fairview Road with variances to design and operational standards and modifications to setback and parking standards found in Section 7-8-26 of the UDO. The subject property is a total of 13.63 acres and includes PINs 9648-80-8406 and 9647-89-8924. Planner coordinating review – Jessica Bernstein.**

City Attorney Robin Currin said that the Conditional Zoning project needs to be considered first and if that it approved, the Commission can then consider the variance.

Urban Planner Jessica Bernstein oriented the Commission to the site location and said that the applicant is requesting a Conditional Zoning for two parcels located on Fairview Road from UV Urban Village District to UP/CZ Urban Place District/Conditional Zoning in accordance with Section 7-7-8 of the UDO, for the construction of a mixed-use development. This request includes variances to design and operational standards as found in Section 7-8-26 of the UDO as well as modifications to parking and setback standards in the same section.

The project site consists of two parcels with a combined area of approximately 14.02 acres (according to submitted plans) and frontage on Fairview Road and Stoner Road just outside of Biltmore Village on the edge of the Oakley neighborhood. The site is currently zoned Urban Village (rezoned in 2007 as a part of a larger development project that was never realized). Adjacent parcels are zoned Commercial Industrial (CI) to the west and north, RM-8 and UV to the east and UV to the south.

The project area is currently vacant and has mature trees across the site. Surrounding uses include commercial/industrial operations, retail, the Norfolk Southern rail line and single-family residential. The site has some steep grade changes from adjacent parcels, especially along Stoner Road and the parcel to the west, along Fairview Road.

The applicant is proposing the construction of a mixed-use development with primarily residential units but also live-work and some retail space. Plans indicate a total of 298 residential units with 149 1-bedroom, 117 2-bedroom and 32 3-bedroom configurations. There are 5 live-work units identified as well as 7,600 square feet for retail uses.

The design incorporates four buildings with surface parking throughout. The buildings are all four/five splits and have a maximum height of 57 feet.

The project proposes two access points, one from Fairview Road and one on Stoner Road towards the rail line, both two-way driveways. Once inside the site, the buildings are surrounded by a series of linear surface parking areas. There are a total of 533 parking spaces shown, including required accessible spaces and bike parking.

New sidewalks are shown on Fairview Road but none are proposed on Stoner Road which would be handled through a fee-in-lieu. There are internal walkways throughout the site. Because of the grade changes along Fairview Road, the site is surrounded by retaining walls and pedestrian access into the development is limited to just at the location of the driveway on this primary frontage.

Landscaping is required for this project and includes a property line buffer against areas of residential zoning, street trees, building impact and parking lot landscaping and dumpster screening.

Open space is required in an amount equal to five percent of the lot area, which is 30,492 square feet (or 0.7 acre). This is provided in landscaped plaza areas throughout the site.

The site is surrounded by retaining walls ranging in height. The walls are shown at approximately 26 feet in height at the southwest corner on Fairview Road to approximately 6 feet at the driveway into the development, then back up to 10 feet at the south east corner. The walls are up to 40 feet along the western (internal) property line, 16 to 36 feet along the northern boundary (rear of the site) and up to 26 feet along the east side with walls between 2 to 18 feet along Stoner Road. Interior to the site, there are additional walls around each building ranging in height from 2 to 13 feet.

#### *Modifications and Variances*

1. Entrances - All buildings shall include a well-defined operable entrance at regular intervals not exceeding 60' on each primary facade. Buildings along Fairview Road do not meet this standard which requires that a variance be granted by the Planning & Zoning Commission.

While variances to design and operational standards are approved by the Planning & Zoning Commission, the following modifications are granted by City Council with a recommendation from the Commission:

2. Setback - The maximum setback in this district is 15 feet, unless a greater setback is approved by the Planning Director. Building 200 has a setback of approximately 40 feet and building 100 has a setback of between 35 to 65 feet. This is due to topographic challenges with the existing road grade along Fairview and within the site. If this greater setback was proposed to better integrate the buildings with the streetscape and create more activity at the pedestrian level, staff would be supportive but because the greater setback does not better align the proposal with the intent of the Urban Place zoning district, it is difficult to support. If the design was altered to adjust to the natural topography of the site to avoid a single large building pad at the top of the parcel, then less of a setback modification would be needed and would be a better fit to the goals of the Urban Place District.
3. Parking – Parking is not permitted to be closer to the street than the face or edge of a structure. Because the buildings are oriented either towards Fairview Road or internally, the frontage along Stoner Road is not activated. Also, there is no sidewalk proposed along this frontage so it is not pedestrian-oriented. Due to buffer requirements along Stoner Road because of dissimilar zoning, the lack of sidewalk and existing topography, activation in this particular location would be challenging and staff believes the layout as

proposed is supportable, with parking areas separated from the street by landscaping and grade change.

The proposal was approved with conditions by the Technical Review Committee at their meeting on September 15, 2014. Approval by City Council and Final TRC review is required prior to issuance of a zoning permit.

The site was zoned Urban Village as a part of a larger master plan that was never finalized. Before that rezoning in 2007, the site was zoned as RM-16 (Residential Multi-family High Density). The proposed district, Urban Place, allows 64 residential units per acre and is intended to foster "higher-density, mixed-use development that is economically viable, pedestrian oriented, visually attractive and contributing to the place making character of the city...in the form of mixed-use structures that relate to the street, enhance the streetscape and offer a wide range of complementary land uses and employment opportunities."

The proposal offers a residential density of approximately 21 units per acre and includes five live-work units and a small area of space available for retail use. The site is in a good location for a multi-family residential use because it is sited along a transit route and walkable to Biltmore Village and beyond. However, the application is not a strong fit with the stated purpose of the Urban Place district of relating to the streetscape and pedestrian orientation due to topographic challenges and proposed retaining walls along Fairview Road that prohibit activity into the site along the main frontage. Additionally, the mix of uses included in the proposal is heavily residential and therefore not necessarily aligned with the purpose of the district as stated above. If the applicant was requesting a zoning district that did not place such emphasis on a high mix of uses and interaction with the streetscape along Fairview Road, that would be more supportable, however, the residential density the applicant is looking for was not provided through those districts (such as RM-16).

Recent actions in the general vicinity have included the approval of the Roots & Wings School conditional zoning at 573 Fairview Road (2014); Biltmore Hill mixed-use conditional zoning at 63 Brook Street (2013) and rezoning of Thompson Street at Stoner Road from River to Urban Place (2013).

Zoning and uses adjacent to this site include CI and UP to the north (Norfolk Southern railroad, manufacturing uses); RM8 and UV to the east (single-family residential); UV to the south across Fairview Road (Care Partners and retail) and CI to the west (manufacturing). Along the north boundary of the site is a 100 foot railroad easement. This location is well suited for a higher-density residential, mixed-use development given the proximity and access to employment locations, transit and amenities.

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

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the UDO, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of*

*the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*

There are significant topographic differences around the site and vicinity. Fairview Road drops approximately 70 feet from the eastern to western extents of the parcel. The building on the parcel to the west is approximately 45 feet lower than the elevation at the western property boundary. There is a difference of approximately 90 feet from the railroad line at Stoner Road up into the center of the project site. As is, the parcel sits well above Stoner Road, the adjacent parcel to the west and most of Fairview Road. In order to create an ideal building surface within the site, the applicant is proposing significant retaining walls around the entire perimeter of the project area. This results in walls from 24 to 40 feet in height along the western property line; from 16 to 18 feet along Stoner Road (across from single-story homes); 9 to 26 feet along the eastern boundary (adjacent to single-family homes) and up to 26 feet along Fairview Road (the pedestrian frontage).

While large retaining walls may be a suitable method for accommodating development on a site with topographical challenges such as this one, they do not facilitate the pedestrian activity key to the purpose of the Urban Place zoning district or allow the development to integrate with the residential uses to the east.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*

The proposed use of the land for the mixed-use development is not expected to injure the value of adjoining or abutting property; higher-density uses have been anticipated in this area with the 2007 Urban Village rezoning as well as the RM-16 zoning before that. However, there may be some question of how the development of the land with large retaining walls at the perimeters could impact the value of the adjacent single-family residential uses.

4. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*

As stated in finding number three, this area has been anticipated for higher-density development. Given the proximity to employment centers, residential infrastructure and transit, this is an appropriate location for the use. While the scale, bulk, coverage and density are all greater than the adjacent neighborhood, this is an area with a variety of commercial and manufacturing uses as well and the multi-family component offers a transition in scale and intensity between the single-family uses to the east and the commercial uses to the west.

Again, there is concern about the development of the land (rather than the use) and how the large retaining walls around the perimeter of the site complement the scale and character of the neighborhood and meet the purpose and intent of the requested zoning district (activity and pedestrian interaction along Fairview Road).

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

As enumerated below, elements of the project are directly aligned with the City's plans and objectives as a mixed-use, infill project including multi-modal transportation elements (sidewalks, bike racks, transit shelter) in a walkable location. Conversely there are key strategic policies where this proposal does not align, most notably the lack of affordable housing and not maximizing residential density. Also, while the proposal is considered by staff to be a good use for this location, the topographic challenges and the specific design submitted make it difficult to truly meet the purpose and intent of the Urban Place zoning district with respect to Fairview Road.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*  
The proposal has been determined by the TRC to have adequate water supply, police protection, waste disposal and similar facilities. The site is approximately 800 feet from the nearest transit stop (C) at Fairview and Stoner Roads and approximately two tenths of a mile to the S1 route.
7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*  
A TIS is required because the volume of traffic is expected to warrant a study and is under review. The project is not expected to create a hazard or undue congestion based on the proposed plans, and the recommendations contained by the Traffic Impact Study.

This proposal is aligned with the *Asheville City Development Plan 2025* in several areas. Smart Growth policies encourage mixed-use developments and higher-density residential infill with an emphasis on locating projects in an area walkable to amenities and proximate to transit. Infill development along transit corridors is highlighted and encouraged in various plan chapters.

Affordable housing options are highlighted throughout the Plan as a strong community need; and as of the writing of this report, no dedicated affordable or workforce rents are proposed. Additionally, when considering the retaining walls along the perimeter of the project facing existing residential uses, the plan states that "protection, preservation and enhancement of existing neighborhoods must be as much a part of our development pattern as promoting new construction."

City Council's adopted goals for 2014-2015 stress expanding Asheville supply of affordable housing and maintaining a high quality of life for residents. This project does not offer any dedicated affordable units and there is some concern as to how the large perimeter retaining walls will impact adjacent single-family properties. Additionally, Council has a goal on expanding the supply of housing and this proposal does not maximize the residential density in the proposed zoning district.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff does not find this request to be reasonable or within the best public interest.

Considerations:

- City-adopted plans and policies support mixed-use development, especially providing residential uses in a walkable location proximate to transit.
- The applicant has offered to place a transit shelter on the site.
- Multi-family residential use would provide a good transition between single-family and commercial uses on either side.
- Application does not propose to dedicate any units as affordable or maximize the residential density allowed under the requested zoning district, which are clearly stated goals for the City.
- Due to topographic challenges, the incorporation of retaining walls along Fairview Road and this specific design proposal, the project does not meet the intent and purpose of the Urban Place zoning district with respect to pedestrian level activity and streetscape enhancement.

The proposal is for a higher-density residential project (with a small commercial component) in an ideal infill location. Staff feels this is a good use for the site; however, the design proposed does not match with the goals and intent of the Urban Place zoning district. In addition, based on strategic plan policies, as well as direction gleaned from City Council in recent policy discussions, staff would strongly encourage the applicant to maximize the residential density allowed for the zoning district and to consider including dedicated affordable units in order to better align with City goals. Ultimately, because of the lack of integration of the development

with adjacent neighborhoods and pedestrian orientation along Fairview Road, staff cannot recommend support of the requested Urban Place zoning.

Mr. Will Buie, applicant, said that they were trying to find a plan to fit the property. He noted that this is a challenging site, and felt it was not developed because of those challenges. He said it was tough to activate the frontage on Fairview Road due to the topographical changes. Because of the relatively small site, density had to be high enough to make it work. A challenge was to find a zoning district that allowed the density needed and still allow the development. He said their goal was to meet the spirit and intent of the Urban Place District, knowing they had a challenging site and knowing that district was not exactly what they needed for density. Regarding affordability, the owner will be presenting a plan to City Council as they are still studying it. He then shared with the Commission some renderings from Fairview Road, and urged the Commission for their support.

In response to Mr. Minicozzi, Mr. Buie said that they did not consider on-street parking on Fairview Road due to the steepness of the road.

Chairman Goldstein opened the public hearing at 9:37 p.m. and when no one spoke, he closed the public hearing at 9:37 p.m.

Mr. Koon noted expressed concern about the number and height of the retaining walls.

There was a brief discussion about the difficulty in getting the residential density the applicant is looking for as it is not provided through those districts.

Ms. Mathews explained why she didn't feel this project meets the underlying goals of the Urban Place District, and didn't feel the project would be connected to Biltmore Village.

Mr. Koon moved to deny the conditional zoning request for Biltmore Village Apartments on Fairview and Stoner Roads from Urban Village District to Urban Place District/Conditional Zoning and find that the request is not reasonable, in the public interest and is not consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) The proposed design does not meet the purpose and intent of the requested Urban Place zoning district which requires an active and enhanced streetscape along the primary frontage; and (2) The proposed design incorporates large retaining walls on all sides, impeding integration of the project into the neighborhood. This motion was seconded by Ms. Mathews and carried unanimously on a 6-0 vote.

City Attorney Currin said that since the conditional zoning request was denied, there is no reason to address the variance.

**(7) Review of a conditional zoning request from RM-16 Residential Multi-Family High Density District to Office District/Conditional Zoning to allow an existing residential structure to be used for office space for Asheville-Buncombe Youth Soccer Association, located at 593 Azalea Road. The subject property is a total of 14.16 acres and is PIN 9668-25-1574. Planner coordinating review – Julia Fields.**

Ms. Mathews moved to recuse Mr. Koon from participating in this matter due to a conflict of interest. This motion was seconded by Chairman Goldstein and carried unanimously on a 6-0 vote.

Urban Planner Julia Fields oriented the Commission to the site location and said that the applicant is requesting review of a conditional zoning submittal proposing to rezone property from RM-16 (Residential Multi-Family High Density District) to Office Conditional Zoning (OCZ) in accordance with Section 7-7-8 of the UDO, to change the use of the property from single-family residential to office using the current single-family home as an office building.

The subject property consists of a 14.16 acre parcel (zoned RM-16) located at 593 Azalea Road East in East Asheville. The property contains an existing residential structure that is currently vacant. [Parcel Identification Number is 9668.25-1574]. The property slopes steeply up from Azalea Road and is heavily wooded.

The applicant, Asheville Buncombe Youth Soccer Association (ABYSA), proposes to convert an existing single-family dwelling to an office building with accompanying parking at 593 Azalea Road East. [Property is owned by AVL Investment Properties LLC]. The building is one story in height (with a basement) and has a gross floor area of 4,479 square feet. The structure is served with well water and a septic system.

Access to the site is currently via a gravel/dirt drive off of Azalea Road East. It is proposed that this drive be improved to meet City of Asheville standards. The improved access will lead to the office building and to a parking area containing eighteen spaces. Sidewalks are not required on Azalea Road due to rock impediments on the property. This stretch of Azalea Road is part of a comprehensive infrastructure improvement project being undertaken by the City of Asheville. Sidewalks were proposed not to be constructed through this stretch of the improvements due to the presence of rock.

Landscaping is required for the project and includes street trees, buffering, and vehicular use area landscaping. Street trees and needed buffers are provided for through the extensive existing vegetation. Additional detail is needed on the landscaping plan but can easily be shown compliant. Open space information needs to be provided but will clearly be compliant. Both of these will be shown for the Final TRC review if the conditional zoning is approved.

The Technical Review Committee (TRC) reviewed this application at their meeting on September 15, 2014, and approved it with conditions. [The developer has addressed many of the conditions noted by TRC in the submittal that is before the Planning and Zoning Commission]. As with all conditional zoning applications, this development proposal will be heard by both the Planning and Zoning Commission (October 16) and the Asheville City Council. It will return to the Technical Review Committee, if approved by Asheville City Council, for Final TRC review.

The site is bordered by properties zoned RS-2 to the south (Recreation Park), RS-8 and RM-8 to the north and east (containing single-family homes) and RM-16 to the west (containing townhouses). While most of the surrounding properties are residential in nature there are City of Asheville offices and other facilities in the immediate area.

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

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*  
The proposed project has been approved by City staff and appears to meet or be able to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.
2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*

The proposed use and development of the land are reasonably compatible with the natural features and topography of the site. The developer is using an existing structure and doing minor site work (drive widening and parking); no disturbance will occur on the majority of the property. Most of the existing vegetation will remain on the site.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*

The development is not expected to injure the value of adjoining or abutting properties. The portion of the site that will be used for offices is greatly removed from all surrounding properties and buffered with existing vegetation. The Office District anticipates the development of small scale office uses adjacent to residential uses. It limits hours of operation to between the hours of 7:00 a.m. and 9:00 p.m. The proposed use should not add significant vehicular usage to a busy roadway which is currently being improved to better handle the traffic.

4. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*

The use of the existing home as an office is in harmony with the area in which it is located. There are other offices and a wide variety of uses found in the immediate vicinity. The scale of the office will be in keeping with the residential structures in the area.

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

The *Asheville City Development Plan 2025* encourages compatible adaptive reuse in appropriate areas (pg. 149).

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

The proposed use is located near major roadways and along a road that is undergoing major infrastructure improvements. Basic infrastructure appears adequate and issues identified by the major service providers have been or are being addressed.

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

The proposed project has been reviewed by the City Traffic Engineer and it has been determined that the project should not cause undue traffic congestion along the existing street infrastructure.

The *Asheville City Development Plan 2025* encourages compatible adaptive reuse in appropriate areas.

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

Considerations:

- The project proposes adaptive reuse of a currently vacant building for a use compatible with the surrounding area.
- The proposal results in the loss of a housing unit in the city; however, this unit has been vacant in the recent past.
- The use of the property for an office will be well buffered from surrounding residential properties and hours of operation are limited.
- While the proposed use of the property is perhaps not the highest and best ultimate use of this underutilized parcel (especially when all the road improvements in the area are completed), staff does not find it to be an inappropriate use for a period of time until a more significant development is proposed. Such a development will require major infrastructure extensions/improvements.

Staff recommends approval of the proposed conditional zoning, finding it consistent with City-adopted plans and strategic goals for development and if the Planning and Zoning Commission agrees with staff's recommendation.

Mr. Karl Koon, applicant, encouraged the Commission to approve the conditional zoning.

Chairman Goldstein opened the public hearing at 9:49 p.m. and when no one spoke, he closed the public hearing at 9:48 p.m.

Ms. Carter moved to approve the conditional zoning request for the ABYSA office at 593 Azalea Road from RM-16 Residential Multi-Family High Density District to Office District/Conditional Zoning 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 the following way: the plans propose the compatible adaptive reuse of a property from vacant residential to office. This motion was seconded by Vice-Chair Shriner and carried unanimously on a 5-0 vote (Mr. Koon was recused).

### **Other Business**

When Mr. Minicozzi expressed concern about the Commission not moving forward with addressing all zoning classifications not consistent with the 2025 Plan, including border conflicts, corridor planning, etc. Chairman Goldstein said that he was waiting to hear back from City Council who wanted a joint meeting with the Commission by the end of the year. At that time the Council can direct them on how they want the Commission to proceed.

Chairman Goldstein announced the next meeting on November 5, 2014, at 5:00 p.m. in the First Floor Conference Room in the City Hall Building.

### **Adjournment**

At 9:55 p.m., Ms. Mathews moved to adjourn the meeting. This motion was seconded by Ms. Carter and carried unanimously.