Asheville Tree Commission
Alternative Compliance Committee
Monday, October 20, 2014
Minutes

Members: Bob Gale (Chair); Mike Kenton and Amy Kemp

Staff Present: Chris Collins (Development Services); Lora Morgan (Public Works); Chad Bandy (Public Works); Greg Shuler (Public Works); Mark Foster (Public Works)

Guest: Ronald Gates, Shelly Gates, Brian Morris, Derek Allen, Sue Schweikart, John Schweikart, Shirley Bailey, Santa Holloway, Dominique McMillian

CITY OF ASHEVILLE TREE COMMISSION
STAFF REPORT FOR ALTERNATIVE COMPLIANCE REQUEST

To: City of Asheville Tree Commission

From: Nathan Pennington, Plan Review Coordinator

Date: Monday, October 20, 2014

Updated Recommendation:

The amended site plan increases the number of native plant species and eliminates the large stand of invasive bamboo along the northern perimeter property line. Asphalt from (4) four interior parking places is proposed to be removed in order to accommodate interior tree islands. An area of asphalt along the rear of the property is proposed to be eliminated and planted, but there are still areas along the rear and side yards that do not propose to be eliminate asphalt. These areas (located in the required setback and buffer) are still indicted to be striped and labeled as "no parking" zones. The amended plan improves on some of the deficiencies identified in the original review, but staff's concern remains the same in regards to the asphalt areas that are located in the vegetable perimeter buffer and setback. For these reasons the staff recommends denial of the amended sited plan.

Meeting Date: September 15, 2014 October 20, 2014

Project Name: Greater Works Church
Location: 25 Forsythe Street
Pin: 9649.24.3580.00000
Zoning: RS-8
Acreage: 1.5 acres

Background and Description of Alternative Compliance Request:
In 2012, a zoning permit was issued as part of a Level II site plan review to re-establish a place of worship in a former church building. The UDO requires that site upgrades are made to sites that have been vacant for a period of two (2) years or more. The zoning permit to reestablish the church use included a site plan

that demonstrated compliance with the Use by Right Subject to Special Requirements for places of worship located in residentially zoned districts specifically listed in Section 7-16-1(c) (55). The former church property is currently out of compliance with landscaping and impervious surface coverage standards including perimeter parking areas that are located within a required 25 foot setback of adjacent residential properties. Since this time, the Greater Works Church has been occupying the building under a Temporary Certificate of Occupancy (TCO) and in conjunction with a performance bond that ensures that site improvements will be completed before a permanent Certificate of Occupancy (CO) is issued.

The church has now decided to request alternative compliance to the following landscaping standards:

Requirement:
20 foot wide Type "A" property line buffer (761.35 LF) required along north, east and western perimeters of property consisting of 30 evergreen trees, 23 large deciduous trees, 23 small deciduous trees, 76 large shrubs and 76 small shrubs of which 50% are required to be evergreen. The approved plan utilized existing vegetation credits and proposed the following new plantings: 9 evergreen trees, 7 large deciduous trees, 76 large maturing shrubs and 76 small maturing shrubs.

Proposed Alternative:
An approximate 15 foot wide buffer that proposes only 4 additional evergreen trees, 2 large deciduous trees, 2 small maturing deciduous trees, 73 small/medium evergreen shrubs and 15 large deciduous shrubs. The proposed alternative deletes the 15 foot buffer within a 73 linear foot section along the northern perimeter and indicates a row of plantings on the adjacent property. The remaining required buffer width (5-20 feet) is proposed to be striped and labeled as "No Parking." It should be noted that the plan proposes to retain a large existing and invasive exotic stand of bamboo along the western perimeter of the buffer. **Deficiency – 5 evergreen trees, 5 large deciduous trees, 64 shrubs within the required buffer.**

Requirement:
One (1) deciduous tree and four (4) shrubs required for every 1,500 square feet of vehicular use area (VUA). At least 75 percent of the required deciduous parking lot trees must be large-maturing trees. Each parking space shall be located within 60 feet of a tree and 50 percent of required trees and shrubs must be planted in islands or medians located within the parking lot. The approved plan was based on 29,036 square feet of VUA (post asphalt removal to accommodate perimeter buffer area) and proposed four (4) new interior islands, nine (9) large maturing parking lot trees and 14 shrubs after utilizing existing vegetation credits.

Proposed Alternative:
The newest plan proposes to delete four (4) interior islands and includes four (4) large maturing trees, five (5) small maturing trees and 22 shrubs. **Deficiency – deletion of 4 interior islands, substitution of 5 large maturing trees with 5 small maturing trees. Further the VUA is now proposed to be larger due to the request to stripe off parking areas that are located in the required setbacks.**

Staff Findings:

Staff must evaluate alternative compliance requests based on the standards set forth in Section 7-11-3(e)(5) of the UDO (see attached). Based on these standards, staff has concluded that the following findings are of concern after careful evaluation of the application and new site plan:

1. **The request appears to be primarily financially based and not based in physical constraints or hardships – the site has adequate area for both the landscaping and required parking.**
2. **The plan includes the retention of asphalt located in the buffer and appears to violate another use-by-right standard that limits the site to no more than 60% impervious surface coverage. *This standard, like the prohibition against parking in the required setbacks, may not be varied.***

3. **A fully vegetated landscape buffer is designed to mitigate impacts from non-residential uses and to under plant these areas may do a disservice to those residential uses (the proposed plan is not "equal to or better" than the previously approved plan).**
4. **Landscape requirements are meant to address long-term impacts; the use of the property for a place of worship could change in the future and could present an even more significant land use conflict if not properly addressed now.**
5. **It is impractical to think that striping an area alone will prevent parking – this proposal would create an enforcement challenge.**
6. **The proposed plan does not appear to support the stated purpose of improving & protecting visual quality, providing environmental benefits and providing abating transitions between dissimilar zoning districts as found in Section 7-11-3(a) of the UDO.**
7. **The species composition is primarily non-native and does not support naturalizing in a woodland setting (see Section 7-11-3(d) (1) d of the UDO).**

For the reasons listed above and after careful evaluation of the application and supporting site plan, staff recommends **denial** of the alternative compliance request.

Standards for Granting Alternative Landscape Compliance
Sec. 7-11-3(e) (5)

(5) *Alternative compliance standards.* No request for alternative compliance under this section may be approved unless the information provided in support of the request shows the following:

i. The site in question is affected by physical conditions or constraints, not attributable to proposed site design or building design, that make compliance with the standard requirements practically impossible.

ii. The physical conditions or constraints are not a result of the applicant's own actions.

iii. The proposed alternative will not present a safety hazard.

iv. That proposed alternative will, upon maturity, provide landscaping that is equal to or better than the standards requirements.

v. The proposed alternative is designed to address plant health and vigor.

vi. The proposed alternative is reasonably compatible with the natural and topographic features of the site.

vii. The proposed alternative supports the purpose statement noted in 7-11-12(a).

The applicant had asked for an extenuation for next month to give them time to revisit the site and reevaluate the impervious service requirement, the islands, take a look at all the invasive species on the site and look at replacing them with noninvasive species.

10-20-14
Alternative Compliance Committee agreed unanimously, that they appreciate the church for reaching out to the community and allowing them to work with them. The Committee would ask that timbers or such be put in the parking area that will not be used to keep cars from parking there and to protect the plantings.

We support granting the permit with the recommendations above completed.

Asheville Tree Commission
Monday, October 20, 2014
Minutes

Members Present: Mike Kenton (Tree Commission- Chair); Bob Gale (Tree Commission); Amy Kemp (Tree Commission); Brandee Boggs (Tree Commission); Richard Stiles (Bee City USA); Susan Roderick (Tree Commission); Mike Davie (BRAA); Roy Smith (Duke Energy); Eric Schlosser (Tree Commission)

Staff Present: Chad Bandy (Public Works); Lora Morgan (Public Works); Mark Foster (Public Works); Cecil Bothwell (City Council); Greg Shuler (Public Works)

Guest: Douglas McDowell

The Asheville Tree Commission held its monthly meeting on **Monday, October 20, 2014,** at **12:00 p.m**. in Room A-109 of the William F. Wolcott Public Works Complex at 161 South. Charlotte Street. Mike Kenton called the meeting order.

Mike welcomed everyone to the Tree Commission meeting.

The motion was made by Bob Gale to approve the minutes from the September 15, 2014, Tree Commission meeting, Amy Kemp seconded and the minutes were accepted unanimously.

Directors Report:
Greg Shuler

- Introduction of Chad Bandy, Streets Manager of Public Works.
- Service Delivery Initiative
    - First thing we are looking at is our back log of work orders
    - We have a little over 800 back logged work orders
    - The improvements we have made thus far are very eye opening
    - We feel we are doing the best we can as far as Customer Service
    - There is a definite influx of work due to the Asheville App
    - We are currently working on prioritizing the work orders

Tree- Related Activities:
Mark Foster

- Yes the Asheville App has addressed many tree issues. However if you have an emergency situation such as a tree across the road, on a house, it is better for you to call them in do not put them in the Asheville App. It will not see the emergency response it needs.

- This time of year the work for trees slows down a bit. We are working on the Christmas decorations.
- The bucket trucks will be hanging the wreaths and snowflakes and such.
- We are moving forward to try to change all the bulb decorations to LED. We were able to do the Vance Monument and will move to others this year.
- We will be working to catch up on our back log.

Citizen Response Committee:
Mark Foster

- #4 Biltmore Avenue – Bradford Pear- customer complains that it blocks her business and is a trip hazard. We worked on the trip hazard and the other we are working on. We are looking for a frame and grate for her. We agreed the tree could be pruned. It is in excellent condition. Additionally for tree removal and replacement the new trees can be set at the proper depth when sidewalk is put down.
- Maple Tree in front of restaurant- customer complains the tree is damaging the building. Vagrants seeking its shade. Sidewalk buckling due to the roots. Removal of tree would be lots of work.
- The tree is in good shape. We are planning on doing some pruning and the appropriate people above me will take a look at the sidewalk situation.

TRC Committee Report:
Susan Roderick

- Meeting today
- Susan has agenda if anyone would like to look over them with her

Duke Energy Progress:
Roy Smith

- Nothing going on in the immediate Asheville area.

Bee City USA:
Phyllis Stiles/Richard Stiles

- Last weekend was LEAF and Bee City was there.
- Yesterday we installed a Bee City USA at the Asheville Chamber of Commerce.
- It is official: Carrboro, NC is official BEE CITY!!
- Removed a lot of invasive plants at the Audubon Garden at Beaver Lake
- Thank you for a voice around this table
- Phyllis Stiles with UNC-Asheville and Burt's Bees will be doing pollinator meadows on the campus!!!

Blue Ridge Arborists Association:

Mike Davies/ Mark sub for Mike

- Meeting this Wednesday, October 22, 2014 at Public Works.
- November 15, Arbor Day in Black Mountain.
- This month marks our busiest times.
- Reminder: Alliance of for Community Trees Conference in Charlotte. Ask Mike Kenton for information.

Asheville Greenworks:

Bob Roepnack

- Planting in the affordable housing areas.
- Working on planting projects.
- Also on the newly formed sidewalk committee. Setting standards for the new areas for sidewalks.
- I thought we could get valuable information from the Tree Commission when we run into a tree that is in a sidewalk up for replacement yet we need the trees to be saved. How do we get around a tree?
- We want to work with the residents in dedicating property when we go to put new sidewalk in their area.

Education Committee:

- ***Open Tree Map***
  Code for Asheville meeting. Really good timing, they were completing other projects. They just texted me today and they are interested in helping with the app. We will collaborate and see where we can go from here.
- ***Planting List***
  We need to get the list finalized and get the list implemented. Greg will talk with Amy and see where to go from here as far as meeting with Cathy Ball and getting this moved forward.

Alternative Compliance Follow Up
Bob Gale

- See attachment from Bob and if you have any questions or comments please send them to Bob.

Old Business and New Business:

- ***Protection of trees on private property:***

Mike and Cecil-
Cecil met with the new City Attorney and she felt that we could not designate all Trees of this size will fall under this umbrella. However, what we can do, we as the Tree Commission can come up with the strip definition of what we think an historic tree is and then City Council does have the power to protect the historic trees. It can be house by house or by neighborhood. We have to have the concrete definition and take it to Council. The current ordinance allows us to do that with the current property owner but there is no definition.

Mike will work on the definition of an historic tree and would like for us to have it ready to send up at the next meeting.

***Historic Tree of Asheville-
"Any tree that is of a variety included on the city's Recommended Species List, having at the time of submission a dbh of twelve inches or larger, which is deemed by a resident to have historical significance. This could include, but is not limited to, connections to notable people and/or events. It could also include trees that the resident believes add to the character and/or charm of the city of Asheville."

*** Please make changes or suggestions to Mike and he will make adjustments. Mike is waiting on a suggested change and will update everyone on the suggestion at the next meeting.

At the next meeting Mike would like to have Phyllis' suggestions for the definition so he may go ahead with finalizing it.

The next meeting is scheduled for
Monday, November 17, 2014
NO MEETING IN DECEMBER