Tuesday – January 27, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson (excused from meeting at 8:43 p.m.); Director of Planning & Multimodal Transportation Cathy Ball (arrived in meeting at 8:43 p.m.); City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized (1) Sara McHone - NC AWWA Walter J. Courmon Safety Award; (2) Leslie Carreiro - Outstanding Water Operator of the Year; (3) Randy Rhodes - Distribution System Operator of the Year; (4) Greg Shuler, Shannon Tuch, McCray Coates, Abigail Riley, Nathan Pennington, Keisha Lipe, Tim Bayless, Stephanie O'Conner, Chuck Watson, Ray Tracy and Mark Case - National Flood Insurance Program Community Rating System; (5) Ivan Thomas - Highlighted in the Municipal Sewer and Water Magazine.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. PROCLAMATION PROCLAIMING JANUARY 27, 2015, AS THE "TEN-YEAR ANNIVERSARY OF WATER RESOURCES DEPARTMENT ISO 14001 REGISTRATION DAY"

Mayor Manheimer read the proclamation proclaiming January 25, 2015, as the "Ten-Year Anniversary of Water Resources Department ISO 14001 Registration Day" in the City of Asheville. She presented the proclamation to Director of Water Resources Steve Shoaf.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 13, 2015

B. RESOLUTION NO. 15-18 - RESOLUTION AUTHORIZING THE CITY MANAGER TO COMPLETE NEGOTIATIONS AND EXECUTE A PROFESSIONAL SERVICES CONTRACT WITH BROWN AND CALDWELL FOR THE CITY WIDE STORMWATER ASSESSMENT

Summary: The consideration of a resolution authorizing the City Manager to complete negotiations and sign a contract with Brown and Caldwell for the completion of the City Wide stormwater assessment.

In 2013, the City of Asheville received record rainfall. As staff was investigating many areas of concern, citizens were asking staff to perform additional maintenance activities and perform more watershed analysis which would help identify flood mitigation projects.

This past year, council approved an increase in the Stormwater Utility Fee, this was the first increase to the fee since its inception in 2005. The new revenue is designed to be utilized on maintenance activities and also to provide new capital construction projects.

The City of Asheville solicited request for qualifications for professional services for the Stormwater Assessment. From the proposals, the top 4 firms were interviewed in order for the City to obtain the most qualified team. From this interview process, the City selected Brown and Caldwell.

The top 4 firms were:

Brown and Caldwell Charlotte Office, NC
McGill Associates Asheville, NC
WK Dickson, Raleigh Office, NC
Kimley Horn, Charlotte Office, NC

In order to get accurate information, Brown and Caldwell will conduct and assessment of the City's drainage system. This assessment will identify potential issues, provide concepts toward solutions to these issues and prepare a 2 year and 10 year Capital Improvement Plan (CIP). The CIP plan will prioritize projects for future implementation.

The City has a goal to continue to be stewards of the environment. Through this assessment, Brown and Caldwell will also assist in identifying and prioritizing watersheds for further studies. The team will also look for opportunities to implement green infrastructure practices into the projects selected and opportunities for localized flood mitigation projects.

Pros:

- Provides a CIP for both drainage infrastructure and watersheds.
- Identify future issues with City infrastructures and provide a priority list for addressing these issues.
- Utilize the stormwater utility fee for construction related projects

Con:

- The project management and contract administration will consume staff time and City Funds

The City's Stormwater Utility will be responsible for the cost for the professional services contract. The total contract for professional services will be $500,000 with a 10% contingency for a total project up to $550,000. Funding for this contract is included in the adopted FY 2014-15 Stormwater Fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to complete negotiations and execute a contract with Brown and Caldwell for the professional services associated with an assessment of the City's stormwater system for a contract amount of $500,000, and to enter into change orders to this contract not to exceed 10% of the original contract $50,000 for a total amount up to $550,000.

RESOLUTION BOOK NO. 37 - PAGE 21

C. RESOLUTION NO. 15-19 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION FOR GRANTS OF FEDERAL

TRANSPORTATION FUNDING, AND IF SUCCESSFUL, TO ACCEPT SUCH GRANTS AND EXECUTE NECESSARY AGREEMENTS

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

The MPO has opened a second call for projects to use federal Surface Transportation Program – Directly Attributable (STP-DA) funds and Transportation Alternative Program (TAP) funding sources. The MPO expects to have approximately $3.8 million in STP-DA and TAP funding available for fiscal years 2016 and 2017. All of these funds are expected to be distributed via this competitive call for projects.

Staff is pursuing funding for the following projects:

- Design and construction for connectors between three city greenways, Beaucatcher, Town Branch and Clingman Forest, for $125,000 with 80% funded by the grant.
- Craven Street Bridge design and construction, estimated to cost $3 million, with 80% funded by the grant.
- A study to determine how Federal Transit Administration (FTA) operating assistance funds for urban transit services should be distributed among local governments in Buncombe, Henderson, Haywood and Madison counties. These funds are also referred to as 5307 funds. The study is expected to cost $90,000, with 80% funded by the grant.
- Update of the Transit Master Plan for $120,000, with 80% funded by the grant.

If received, these projects will be added to the city's capital and operating budgets.

Pros:

- Allows the City of Asheville access to up to $3.3 million in capital, planning and infrastructure investment from these grants
- Allows the City of Asheville to make clear connections between three upcoming greenways, making them part of a growing network of transportation pathways
- Allows the City of Asheville to make the next step in implementing the vision of the River District transportation system by improving connectivity of Craven Street for all travel modes
- Allows the urban transit providers in the MPO region to comply with federal regulations requiring a well-considered and equitable way to distribute the FTA 5307 allocation among qualifying providers.
- Allows the City of Asheville to meet FTA requirement to keep the transit master plan up-to-date

Con:

- Commits the city to funding to the match, at least for the time the applications are pending.

If successful, the grant applications will involve the spending of city funds to leverage 80% grant funding for these projects, up to a grant value of $3.3 million and a city match of up to $667,000.

City staff recommends City Council adopt a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds, and to express the intention to provide the required local match.

D. RESOLUTION NO. 15-20 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH CLARK PATTERSON LEE FOR THE ARCHITECTURAL AND ENGINEERING SERVICES NECESSARY TO DESIGN AND REMODEL THE 7TH AND 8TH FLOORS OF CITY HALL

Summary: The consideration of a resolution authorizing the City Manager to enter into a professional services contract with Clark Patterson Lee for the architectural and engineering services necessary to design and remodel the 7th and 8th floors of City Hall.

The final phase of the City Hall Renovation project is the design and remodeling of the 7th and 8th floors of City Hall, which are currently unoccupied. The proposed professional services contract will provide the architectural and engineering services required to modernize the building systems, design the 7th & 8th floor space to be remodeled, and related services.

During the August 26, 2014, the Finance Committee received a briefing which included (a) an update on the overall City Hall Renovation Project, (b) available funding for the design & remodeling work on the 7th and 8th floors, (c) the proposed procurement of architectural & engineering services for the design phase, and (d) a description of potential uses for the space (multi-purpose meeting space for use by City Council, City staff, and the public; innovative and collaborative team space; records storage; and office space if needed).

In response to a Request for Qualifications, the following ten firms submitted:

Architectural Design Studio (Asheville, NC)	Novus-Bowers, Ellis, and Watson (Asheville, NC)
Clark Nexsen (Asheville, NC)	Clark Patterson Lee (Asheville, NC & Rochester, NY)
Mackey Mitchell Architects (Asheville, NC)	ARCA (Asheville, NC) & Craig Gaulden Davis (Greenville, SC)
Matthews Architecture, P.A. (Asheville, NC)	Creech & Associates (Charlotte, NC & Mt. Pleasant, SC)
Padgett and Freeman Architects (Asheville, NC)	Tise-Kiester Architects, P.A. (Asheville, NC & Chapel Hill, NC)

In reviewing submittals, an inter-departmental team utilized a scoring matrix to assess the qualifications. Clark Patterson Lee scored the highest by a significant margin, so it was selected for an on-site team interview. The interview process confirmed the capabilities of the consultant team. Clark Patterson Lee's multi-disciplinary team is well-qualified, and the firm includes disciplines such as architecture, engineering, historic preservation, interior design, and more. Further, its understanding of the renovation of historic public buildings ranges from the Cherokee County Courthouse (2012) to Asheville City Hall (1998). The Clark Patterson Lee team has exhibited flexibility and an understanding of the City's needs for phasing the work, authorizing services only as needed, and preparing for the technical and communications challenges of the proposed project.

The proposed design work and subsequent renovations would support Goal 4 in Focus Area 1 of the 2014-2015 Strategic Operating Plan because the renovated space is being designed to improve energy efficiency and modernize building systems, thus reducing operations and maintenance (O&M) costs and supporting sustainability efforts. The process undertaken for this phase of the project also supports the action item "ask employees to innovate and seek savings" listed in Goal 3 under Focus Area 1 of the 2013-2014 Strategic Operating Plan because a staff-based cross-functional team has already developed some cost-savings ideas as part of the design considerations for this architecture/engineering phase of the renovation project.

Pros:

- Allows the renovation of interior space and modernization of building systems on the 7th & 8th floors of City Hall to proceed;

- Multi-disciplinary team includes architecture, engineering, interior design, historic preservation, and other professional disciplines; and
- Plan to preserve historic elements while modernizing systems and providing multi-purpose meeting space, office space, and general storage/records retention.

Con:

- None identified.

Project funding was approved by City Council in the Capital Improvement Program (CIP Project B1101), and the proposed expenditures are within the existing budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a professional services contract with Clark Patterson Lee for the architectural & engineering services needed to design & remodel the 7th and 8th floors of City Hall.

RESOLUTION BOOK NO. 37 - PAGE 23

E. MOTION APPROVING THE BOARD OF ALCOHOLIC BEVERAGE CONTROL'S TRAVEL POLICIES ADOPTED JUNE 28, 2011

Summary: Changes in Commission rules require ABC Boards across the state to adopt a travel policy that mirrors the travel policy of their appointing authority. In order to meet the requirements of Chapter 18B-700, Article 7 (g2), the Asheville ABC Board seeks to continue to use the travel policies of its appointing authority, the City of Asheville. Section g2 states, "The local board shall annually provide the appointing authority's written confirmation of such approval …" The ABC Board approved the current policies on June 28, 2011. There are no changes to the current policies.

The Asheville ABC Board is requesting formal written confirmation of the approval of the Asheville Board of Alcoholic Control Board Member Travel Policy and the Asheville Board of Alcoholic Control Travel Policy.

F. RESOLUTION NO. 15-21 - RESOLUTION APPOINTING A MEMBER TO THE TREE COMMISSION

Summary: On January 13, 2015, by Resolution No. 15-17, City Council appointed Mr. Carl Nyberg to fill the expired term of Ms. Amy Kemp. An error was made in calculating the terms and Ms. Kemp was eligible to serve another term. Mr. Nyberg has agreed to give up his term until the next available seat on the Commission. Therefore, Mr. Carl Nyberg is hereby removed as a member of the Tree Commission, until the next vacancy, in order to allow Ms. Amy Kemp to serve another term. In addition, Ms. Amy Kemp, is hereby reappointed as a member of the Asheville Tree Commission, to serve an additional three year term, term to expire December 31, 2017, or until her successor has been appointed.

RESOLUTION BOOK NO. 37 - PAGE 24

G. RESOLUTION NO. 15-22 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH THE Z SMITH REYNOLDS FOUNDATION AND SOCIAL PROFIT STRATEGIES TO FACILITATE THE DEVELOPMENT OF TRAINING MATERIALS AND PROCESS TO ENHANCE PARTNERSHIPS TO BUILD NEIGHBORHOOD CAPACITY

ORDINANCE NO. 4378 - BUDGET AMENDMENT FROM THE Z SMITH REYNOLDS FOUNDATION TO FACILITATE THE DEVELOPMENT OF TRAINING MATERIALS AND PROCESS TO ENHANCE PARTNERSHIPS TO BUILD NEIGHBORHOOD CAPACITY

Summary: The consideration of a resolution authorizing the City Manager to sign agreements with the Z Smith Reynolds Foundation and Social Profit Strategies (formerly Dynamic Governance Institute/Sims and Steele Inc.) to facilitate the development of training materials and process to enhance partnerships to build neighborhood capacity; and the associated budget amendment in the amount of $30,000 from the Z Smith Reynolds Foundation.

The project to be funded by this grant is a collaborative effort of the City's Communication and Public Engagement Division, Social Profit Strategies, and residents of Public Housing Communities in the South French Broad neighborhood and was developed to strengthen effective neighborhood participation in planning decisions.

This grant award is for a second year of funding from Z Smith Reynolds Foundation in the amount of $30,000 for the continuation of the pilot program entitled "Building Neighborhood Capacity and Leadership across Race and Class." The 2014 grant supported the development of a collaboration between the Communication and Public Engagement Division and the Dynamic Governance Institute (now a branch of Social Profit Strategies and called "Circle Forward") to strengthen the city's work with neighborhoods to increase effective citizen participation in government.

The 2014 grant-funded project focused on developing the capacity of the HACA Residents' Council in order to grow their ability to provide leadership for public housing residents' participation in the decisions that impact them. Early in the grant funding cycle, this became a crucial endeavor as HACA leadership and residents struggled to find common ground on how to implement the HUD Rental Assistance Demonstration project adopted by the HACA Board. Support and training provided by the grant Leadership Team were a catalyst for the Residents' Council Executive Committee's successful restructuring and establishment of a transparent process and development of an action plan to train the leadership of every public housing community's Residents' Association. Results of this effort include a 2-year action plan for strengthening the Residents' Council, revitalization of five public housing communities' Residents Associations, and efforts to develop a comprehensive communication network to more effectively connect public housing residents to the information they need to more actively participate in their communities.

In addition to using Circle Forward to facilitate Residents' Council and Association meetings more effectively, members of the Executive Committee participate in ongoing facilitation trainings in order to provide leadership for public housing communities as they reach out to their neighbors outside of public housing. Social Profit Strategies' involvement with the Leadership Team has resulted in the development of training materials that will support the Residents' Council in their efforts to build the capacity of Residents' Associations in all public housing to more effectively participate in shared decision making. The 2015 grant will provide support for expanding the use of the Circle Forward method by public housing communities as they seek to build partnerships with their neighbors and establish their role as capable facilitators of collaboration for the larger community.

Pros:

- Creates a more level playing field for historically disenfranchised residents who may lack the training and experience needed to participate effectively in public processes.
- Supports the development of a structured training opportunity with culturally sensitive materials that can be used for similar efforts in neighborhoods throughout the city.
- Empowers public housing residents by providing opportunities to act as process facilitators and trainers for other neighborhoods.
- Previous grant has resulted in a more effective Residents' Council and the re-establishment of active Residents' Association in five public housing communities.

Cons:

- While the Leadership Team is confident ongoing resources can be secured to sustain the program after this grant year, funding sources have not yet been identified.

Grant revenue of $30,000 will be administered by Social Profit Strategies through a sub-award agreement at no cost to the City. Funding will be used to administer the grant, oversee the development of materials, and coordinate and facilitate meetings and training sessions, including providing support services like babysitting and transportation to enable residents to participate in the free training. In addition, the grant provides opportunities for residents who assume key leadership roles to receive stipends for activities aimed at making the program sustainable over time and available to all Asheville neighborhoods.

Staff recommends that City Council adopt the resolution authorizing the City Manager to sign the grant agreement with the Z Smith Reynolds Foundation and the Sub-Award Agreement with Social Profit Strategies; and the associated budget amendment.

RESOLUTION BOOK NO. 37 - PAGE 25
ORDINANCE BOOK NO. 29 - PAGE 333

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

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

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

III. PRESENTATIONS & REPORTS:

A. MULTIMODAL TRANSPORTATION COMMISSION UPDATE

Mr. Jim Grode, Chairman of the Multimodal Transportation Commission, gave a brief update on the Commission which was authorized in May 2013. He explained how the Commission is working with other City departments and commissions on different multimodal projects. He asked the Council to consider extending the Commissions' terms for an additional six months to bring them into the calendar year as other commissions. They embrace their role to serve as liaison between the community and Council and are grateful for Council's recognition of the need for multimodal transportation.

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that they will consider the Commissions request for calendar year terms at their next meeting.

In response to Councilman Smith, Mr. Grode said felt there is a lot of room for improvement on pedestrian safety using our limited resources.

On behalf of City Council, Mayor Manheimer thanked Mr. Grode and the entire Commission for their hard work and dedication on the Commission.

B. 2015 HOUSING MARKET STUDY AND NEEDS ASSESSMENT

Assistant Director of Economic and Community Development Jeff Staudinger said that the City’s Community and Economic Development department contracted with Bowen National Research of Pickerington, Ohio to conduct our 2015 Housing Market Study and Needs Assessment. This study is a key element in the development of the 2015-2019 Consolidated Strategic Plan for CDBG and HOME, and is one of the precedent steps in the development of the Comprehensive Affordable Housing Strategy, presented to Council in October, 2014.

The Housing Market Study reports for the Asheville Regional Hosing Consortium four-county area, including Buncombe, Henderson, Madison and Transylvania Counties. Each county's specific market conditions and needs are also reported on separately, with a separate report also for the City of Asheville.

The report focuses on the market conditions and needs for households earning less than 120% of median income. The report concludes that the region is experiencing a significant housing supply gap across all income levels, and in both rental and for-sale housing supply.

He then summarized the key statistical information, leading to the consultant's opinion about housing needs and housing gaps, as well as summarizing the consultant's key finding, which are (1) insufficient rental housing (multi-family) supply; (2) emerging need for senior housing and/or efforts to enable seniors to age in place; (3) insufficient supply of for-sale housing affordable to moderate-income (80% to 120% AMHI) households; (4) utilization of affordable rental housing programs; and (5) need for home repair/maintenance programs.

Councilman Smith asked that the City place the link to the entire report on the front page of the City's website. He recognized that there are housing needs across the board. He was grateful for the leadership City Council has shown in the area of the affordable housing crisis. City Council is making some changes to help; however, there is no single solution. The City has made a change to allow residential density on commercial corridors, and is looking at several other items, e.g., a Request for Proposal for housing development on some City-owned properties, land-banking for future housing, revisions to accessory dwelling units, rules for tiny houses; short term rental housing, plan to renovate Lee Walker Heights, etc. The Housing & Community Development Committee will be reviewing housing targets and would keep the Council apprised of that process.

Councilman Bothwell said that Asheville is not different than the rest of the county. We are under the assumption that housing is expensive in Asheville, but that is not exactly the case. It's scare, but it's not unusually expensive, compared to wages.

Councilman Davis felt that the report shows there are housing needs in almost every income bracket, but recognizing it is more severe in the 80% or below.

Mr. Staudinger responded to Mayor Manheimer when she asked if we are out of line with other similar cities in the south.

Vice-Mayor Hunt noted that another constraint in Asheville is the competition for the land. There is limited land availability to build a large number of units.

Mr. Staudinger responded to Vice-Mayor Hunt regarding the lack of supply in the current market and how that relates to rent rates and land values.

Councilman Smith felt Council needs to incentivize development of populations that require a more intensive living environment, e.g., senior living homes, senior care homes, homes for the disabled, homes for the mentally ill, etc.

IV. PUBLIC HEARINGS:

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

ORDINANCE NO. 4379 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY OFF FAIRVIEW ROAD FROM URBAN VILLAGE DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR DEVELOPMENT OF A MIXED USE PROJECT CONTAINING APARTMENTS AND RETAIL, WITH MODIFICATIONS TO PARKING STANDARDS FOUND IN SECTION 7-8-26 OF THE UNIFIED DEVELOPMENT ORDINANCE

Mayor Manheimer said that this public hearing was continued from the November 11, 2014, meeting to December 9, 2014, at the applicant's request. At the City Council meeting on December 9, 2014, Mr. Lou Bissette, representing the owner asked for a continuance until January 27, 2015, in order to (1) further look at the City's Land Use Incentive Program and other ways to achieve 10% affordable housing in the project; and (2) meet with the neighbors to discuss any of their concerns.

Urban Planner Jessica Bernstein said that this is the consideration of a Conditional Zoning for two parcels located on Fairview Road from Urban Village (UV) to UP (Urban Place District) – Conditional Zone in accordance with Section 7-7-8 of the UDO, for the construction of a mixed-use development with a condition regarding parking. This project was originally on City Council's December 9, 2014, agenda but a continuance was requested at that meeting to the January 27, 2015 date. This public hearing was advertised on October 31 and November 7, 2014.

Ms. Bernstein said that a valid protest petition has been filed, thus requiring a three-fourths vote of City Council to approve the rezoning of the property.

She said that 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 retail space. As indicated in the *Required Reviews* section of this report, the project was revised after an original plan was not supported by staff or the Planning & Zoning Commission. Current plans indicate a total of 309 residential units with 155 1-bedroom, 122 2-bedroom and 32 3-bedroom configurations *(up from 298 units previously)*. There are 5 live-work units identified as well as 9,742 square feet for retail uses *(original plan showed 7,600 square feet for retail)*.

The design incorporates four buildings with surface parking throughout the site. The buildings range from four to six levels and have a maximum height of 73 feet. Buildings 300 and 400 are unchanged from the original plan (four/five splits at 53 feet maximum height) but Buildings 100 and 200 were revised to provide access into retail spaces along Fairview Road and this has resulted in a greater height for those two buildings (73 feet and 63 feet respectively).

The project proposes two vehicular 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 578 parking spaces shown, including required accessible spaces and bike parking *(previously 533 spaces – number*

of spaces increased to accommodate additional retail spaces and residential units).

New sidewalks are shown on Fairview Road. While the previous submittal indicated that sidewalks along Stoner Road would be handled through a fee-in-lieu; the applicant is now committing to installation of sidewalks on this side as well. Final location and details of sidewalk installation will be worked through in the Final TRC review.

There are internal walkways throughout the site. The previous plan showed very limited pedestrian access from Fairview Road into the retail shops; however the proposal has been revised to provide multiple direct access points along this streetscape.

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). More than this amount is provided in hardscaped plaza areas throughout the site.

The redesign has greatly eliminated the retaining walls originally shown along Fairview Road, with the exception of a stretch approximately 80 feet long at the southwest end of the site. This section has been stepped in a way with incorporated landscaping at each level (10 and 12 foot sections) to reduce the perception of overall height and also includes stairs to provide additional access into the site. The west, north and east boundaries have not changed from the original plan and include (fill) walls up to 40 feet along the western (internal) property line, 16 to 36 feet along the northern boundary (rear of the site) and cut walls 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.

Council Conditions*:*

- In the Urban Place zoning district, 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. Due to landscape buffer requirements along Stoner Road and difficulties resulting from 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 the grade change.

The proposal was approved with conditions by the Technical Review Committee at their meeting on September 15, 2014.

On October 16th, the Planning & Zoning Commission reviewed the original proposal and voted unanimously NOT to support the requested conditional zoning (6-0). Commissioners agreed with staff's recommendation on that application that the project's design and mix of uses was not aligned with the intent of the Urban Place zoning district and had serious concerns about the retaining walls as a method of incorporating the use into the site. Additionally, the Commission did NOT approve the requested variance relating to the distance between pedestrian entrances along Fairview Road.

The project was amended to address many of the comments raised by staff and the Commission and the revision was approved by a vote of 4-1 on November 20, 2014. The dissenting vote was due to concerns about integration of the project into the area and a desire for a greater mix of uses. Additionally there was some discussion regarding the district requirement for locating entrances on each primary façade, with one Commissioner wishing to see more entrances on each building; however staff has consistently and historically applied this

requirement only to *street facing* façades which in this case would be Fairview Road and not internal buildings as they face onto a parking field.

Since the Planning & Zoning Commission meeting, staff has met with the two adjacent residential neighbors who have expressed significant concern regarding the increased traffic into the neighborhood, the retaining walls and the lack of integration of the proposal into the area. Other area residents have expressed similar concerns.

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 almost 10,000 square feet 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. This revised proposal has increased the amount of retail and has been redesigned to allow for the buildings to step along the grade changes on the site, providing direct access to retail spaces from the sidewalk as well as internally along the main drive access. The Fairview Road frontage has been revised to be an active and pedestrian-oriented streetscape, more in line with the intent of the Urban Place zoning district.

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 River Mill Lofts CUP at Thompson Street and Stoner Road from River to Urban Place (2014).

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 (CarePartners 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 70-90 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 a more ideal building surface within the site, the applicant is proposing significant retaining walls around the bulk of the project area's perimeter. 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); and from 9 to 26 feet along the eastern boundary (the site drops down below the adjacent single family homes but is 30-40 feet above the homes across Stoner Road). The plans have been revised to address the interaction between the project and Fairview Road, greatly reducing the walls along this southern boundary line.

While the revisions address the project's ability to facilitate pedestrian activity along Fairview Road and meet the intent of the Urban Place zoning district, the large retaining walls on the rest of the site remain and prohibit integration of the project 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 <u>use</u> 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. The revisions along Fairview Road greatly enhance the streetscape and the interaction of the proposal within the area. However, there may still be some question of how the <u>development</u> 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 or 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 currently and the multi-family component offers an acceptable transition in scale and intensity between the single-family uses to the east and the commercial uses to the west. The activation of retail spaces along Fairview Road should enhance the corridor leading to Biltmore Village and should benefit the area.

Again, there remains concern about the development of the land around and how the large retaining walls around the perimeter of the site complement the scale and character of the 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.*
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. The applicant has slightly increased the residential density and has indicated a commitment to provide 10 one-bedroom units as dedicated affordable rentals for a period of five years.

While the proposal is considered by staff to be a good use for this location and revisions allow the project to enhance Fairview Road in a way that meets with the purpose and intent of the requested zoning district, the topographic challenges on this parcel still result

in a difficulty relating to the Stoner Road frontage and very large retaining walls on three sides.

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 was required due to the anticipated volume of traffic and has been reviewed by the Traffic Engineer. 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. Two of the recommendations that will be incorporated into the design are a dedicated left turn-in lane heading eastbound and a dedicated right turn-in lane heading westbound on Fairview Road.

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, the applicant has indicated a commitment to dedicate ten 1-bedroom units as affordable by the City's standards, for a period of five-years.

One aspect where the proposal does not align with the *Plan* is that when considering the retaining walls along the perimeter of the project facing existing residential uses and the lack of activity or integration along Stoner Road; 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". The walls are proposed to accommodate development on a site with existing topographic challenges.

The revised plan aligns with several of City Council's adopted goals for 2014-2015: from "Economic Growth and Sustainability" is supporting mix-use development and development with multi-modal improvements; and "Affordability and Economic Mobility" stresses expanding Asheville supply of available housing with an emphasis on affordable units close to jobs and transportation. However, there is some concern as to how the large perimeter retaining walls will impact adjacent single-family properties (relating to the goals on "High Quality of Life."

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

<u>Considerations</u>:

- Revisions to the buildings along Fairview Road result in direct pedestrian access to retail spaces and meet the purpose and intent of the Urban Place zoning district by enhancing the streetscape.
- 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 includes dedication of ten 1-bedroom units as affordable for a period of five years

- Due to retaining walls and topographic difficulties, the project does not interact with adjacent single-family neighborhood.

The proposal is for a higher-density mixed-use project in an ideal infill location. Staff feels this is a good use for the site and revisions from the original submittal create the opportunity for an active streetscape environment along the primary frontage. The project complies with a number of City goals and objectives, including inclusion of affordable housing. There is still some concern regarding the lack of integration of the development with adjacent neighborhoods and staff encourages the developer to increase the commitment to affordable housing but overall, the project meets the purpose and intent of the requested zoning district and City goals. Staff recommends approval.

When Councilman Bothwell asked why the current zoning of Urban Village District does not apply here. Ms. Bernstein said that when an Urban Village District is approved, it goes with a larger overall Master Plan which has to be built, or come back to Council for an amendment. In 2007 the overall Master Plan was approved which included two of the parcels, but also included a neighbor to the east and lots across Fairview Road. This was a significant amendment to eliminate three additional parcels. Urban Place District is the next step down from Urban Village District.

In response to Councilman Bothwell, Ms. Bernstein said that the Urban Place District allows for a much greater density - 64 units per acre. This application is approximately 22 units per acre.

In response to Vice-Mayor Hunt, Ms. Bernstein said that after hearing comments from the community and based on comments from a prior Council-approval on River Loft Apartments, the following conditions (agreed to by the applicant) which were posted on-line Friday, have been amended as follows: (1) Condition 3 now reads "The applicant will dedicate seven percent (7%) of the units at the City's affordable rent for a period of ten years. The rent limits are according to income standards determined by the City of Asheville Community Development Department; (2) Condition 9 now reads "The project includes new sidewalks with a minimum width of 10 feet along Fairview Road and new sidewalk along Stoner Road for the length of the property; and (3) Condition 13 now reads "The property owner and/or applicant shall pay to the City of Asheville $50,000 on or before the date the first building permit is issued for the purpose of promoting connectivity from the property to Sweeten Creek Road and Biltmore Village and/or for traffic calming measures or pedestrian enhancements on or around Fairview Road and Stoner Road."

When Councilman Pelly asked if the applicant's sidewalks can be connected to Fairview Road, Ms. Bernstein said that there are two other properties between this site and Fairview Road that are not owned by the applicant. She said they tried to open up that conservation with those owners to see if they would be willing to grant a sidewalk easement.

In response to Councilman Pelly about a direct connection to Biltmore Village, Ms. Bernstein said that the applicant is not proposing to make any sidewalk connections outside of their property.

Councilman Bothwell said that from the seven conditional use standards, Condition 2 states that the development shall be compatible with the topography of the site, and he didn't understand how a 40-foot retaining wall makes it compatible with the site. Ms. Bernstein said that it's subjective. She said it's compatible when you look at different sides of the project. For instance, the 40-foot retaining wall on the west side (which is a manufacturing operation) might be considered compatible. Across Stoner Road, there was a lot of conversation with the applicant about that, acknowledging that there are a lot of challenges with the site.

In response to Councilman Smith, Ms. Bernstein said that the applicant has dedicated 7% (22 units) for 10 years. When Councilman Smith asked how we will monitor the other price

points so we don't lose the Urban Place District intention, Ms. Bernstein said that the City has not worked through a secure procedure to monitor workforce units.

In response to Mayor Manheimer, City Traffic Engineer Jeff Moore said that a Traffic Impact Analysis (TIA) was performed. The study shows that there aren't any major things that need to be done in order to handle the traffic that will be produced by this development. There are a couple recommendations, for instance, a signal on Fairview Road and some turn lanes. It does address Stoner Road, the intersections with Stoner Road, and how the traffic will work there.

Councilman Bothwell read a report that suggested the accident rate on Fairview Road is 211% compared to the accident rate on similar roads. He wondered what that meant for the safety of Fairview Road. Mr. Moore responded that he prepared that report. He looked at similar roads that were N.C. Dept. of Transportation-type roads in the rural areas. Fairview Road, which is a City street, is different. He would not say that Fairview Road is a dangerous road, but that it's a busy road and there were crash patterns identified in the report. There seemed to be a crash pattern at the intersection of Glendale and Fairview. One solution out of the report was to move the signal head to the opposite side of the street (when you come around a curve). Another suggestion out of the report was to lower the speed limit.

In response to Councilman Bothwell, Mr. Moore said that this TIA includes the traffic from the recently approved project on Thompson Street.

In response to Vice-Mayor Hunt, Mr. Moore described the level of service on Fairview Road.

Councilman Pelly said that the November, 2013, report referenced by Councilman Bothwell, notes that there were 210 reported crashes over five years between Sweeten Creek and the Oakley Elementary School. He said that other recommendations made in the report included overgrown vegetation on the sidewalks, and the need for center-line and crosswalk stripping and wondered if those have been accomplished. Mr. Moore said that the City has a contract in place to do the stripping, but are waiting on some consistently warm weather. The vegetation has been trimmed back.

Councilman Pelly asked about what we can offer the community as far as improving their quality of life and the pedestrian experience in the future. Mr. Moore said that their goal in transportation is how can we improve that experience for everyone - safety for walkers, bikers and drivers. The lower speed limit and the 10-foot sidewalk will help create a visual friction. Instead of driving by an open field, there will be things happening next to the road and that tends to slow people down. They will look at from the three-pronged approach of engineering, enforcement and education.

In response to Councilman Pelly, Mr. Moore explained why speed humps on Fairview Road are not considered, which is due to the slow response time for emergency vehicles.

Mr. W. Louis Bissette, attorney representing the applicant, said that the applicant is a reputable builder throughout the southeast and they also have the Aventine Apartments at the end of Long Shoals Road. Those apartments are a quality asset for our community. We all recognize that something needs to be done to increase the inventory of housing - and not only one group of income. This project will add 309 units and also 5 live/work units. It also has almost 10,000 square feet of retail space. He said this project meets most of City Council's plans and objectives for a mixed-use, infill project. The project is within walking distance from three of our largest employers in Buncombe County - CarePartners, Mission Hospital, and A-B Tech. The developer is prepared to construct sidewalks on its property down Stoner Road and along Fairview Road. We heard from the community about their need for sidewalks and that is one reason why they are prepared to commit an additional $50,000 for the use of sidewalks, traffic

calming, etc. They have agreed to dedicate 22 units to affordable housing for 10 years. The projected rates for the remaining units (somewhere between 80-85%) are at workforce maximum or below. An agent of the developer has attempted to meet with two adjoining property owners about one year ago. He recent met with the protest petitioner's attorney and asked what their concerns were so they might be able to address them, but they did not do that. This project is infill development, mixed-use development and provides a wide range of affordable housing options. The developer has worked with the City for over one year and these plans have been revised 20 times in an effort to resolve the affordability, connectivity, topographical issues, and other issues that would benefit the Oakley community and the City. The property is now valued at $593,700. His client is prepared to invest approximately $25 Million into this project. Currently the total tax revenue going to both the City and County are $7,000. If this project continues, the annual taxes going to the City and County will be increased to approximately $294,000 per year. He acknowledged there are some topographical problems with the site and that is one of the reasons why we don't have the supply of housing that we need. But, overall, this project meets the types of things the City is trying to promote. He asked for Council's support of the project.

Mr. Will Buie, engineer representing the applicant, said that the site currently is vacant and Council approved a plan for that property back in 2007. That project truly didn't take in the topography of the site. He personally felt that might be the reason why that project did not move forward. He also believed that practically any project that occurs on that property will have to make use of the retaining walls, short of a single-family development. This project tries to meet some of Council's housing goals. There are topographic challenges with elevation changes, thus requiring retaining walls in order to develop a reasonable project. He explained their stormwater controls which will be in place and which will meet the City's stormwater standards. As he reads the TIA, the capacity of the road to move the vehicles through the intersections and along the road is more than acceptable. The levels of service are all in the "b" and "c" range. With the improvements they will make at the intersection they will continue to function in those levels of service. They heard a quality of life message from the community. That is why the developer stepped forward to commit to building sidewalks along Stoner Road and Fairview Road in addition to contributing $50,000 for improvements. They would like to see those improvements stay in the Oakley community. Regarding the sidewalk to be located on the lower end of Stoner Road will be in inside the railroad right-of-way which presents challenges. Because the River Mills Lofts Project also has a sidewalk that would located in the railroad right-of-way, he suggested that through the City they find some way that jointly they can approach the railroad for a single plan on how pedestrians along that path can safely cross the railroad and a plan that the City would support and hopefully that would bear some weight with the railroad.

In response to Councilman Davis, Mr. Buie provided additional information about the retaining walls, noting that they will have a number of reviews by engineers and the City.

Mayor Manheimer opened the public hearing at 7:01 p.m.

The following individuals spoke in opposition of the conditional zoning for Biltmore Apartments mainly due to the increased traffic in the neighborhood, the retaining walls and the lack of integration of the proposal into the area, along with other various reasons, some being, but are not limited to: public safety threats due to increased traffic; increased crime; potential transportation difficulties for emergency responders in the area given multiple train crossings; stormwater and floodplain impacts; aesthetic impacts of the planned multi-story apartment buildings and retaining wall in the midst of a community largely composed of single-family residences; changes to the landscape and overlooking Biltmore Village; increased congestion in Biltmore Village and impacts on tourism; failure to include significant affordable housing; parking concerns for residents on Stoner Road; failure to include significant retail space; interior of project is mostly made up of parking lots; property is almost entirely surrounded by retaining walls; affordable housing should be in perpetuity; project will detract from adjoining property values; retaining walls should be reduced in scale and terraced in shorter sections; buildings are too high and should be no more than a 2/3 story split; sidewalks will not solve the issues with too much

traffic on the roads; there is already existing water runoff; affordable units are not affordable to most of Asheville; project does not benefit the people in the Oakley community; Glendale/Fairview is a very dangerous intersection; no sidewalks going down Glendale; Fairview Road sidewalks are currently in disrepair; a new daycare at Fairview/Glendale will add additional traffic in the area; still waiting on solutions from November 2013 traffic report; project shows no regard for the zoning and master plan in place for the Oakley neighborhood; development does not meet the minimum standard of dedicated retail space to qualify as a mixed-use project under current zoning; developer disregards the historic uses of Stoner Road by residents, businesses and the historic church on that road; developer made no effort to include neighbors or community members in their planning process; existing traffic congestion on Thompson Street; additional traffic from recently approved River Mills Loft Apartments; Stoner Road is narrow with on-street parking; sidewalks from the project should be connected to Biltmore Village or Fairview Road; defer development until long term planning issues are fully resolved; resolve Fairview Road existing 211% injury crash rate and improve to acceptable standards before additional density into Oakley neighborhood; developers should be required to engage the broader surrounding community early in the process; implement a planning classification similar to the River Arts District; hire a City liaison specifically dedicated to citizen development concerns; allegation that the current zoning is not Urban Village thus making all the procedures and notices provided to date fatally flawed; the application does not meet the standards for Urban Place District; the project fails to comply with other Urban Place District standards, including, but not limited to, the entrance design requirements; the TIA is flawed in that it only addresses apartments and does not include the proposed retail uses; the TIA ignored the City Code requirement for an analysis of traffic safety/accident history; and the project does not comply with the Asheville City Development Plan 2025 and with the City Council Strategic Operating Plan Goals for 2014-15:

Mr. Jeff Hicks, resident on Fairview Road (also presented a petition entitled "Petition to Asheville City Council to Deny Fairview Rd. Mixed Use Project As Proposed) containing approximately 18 signatures)
Ms. Mary Carroll, area resident
A resident on Unaka Avenue
Mr. David Lynch, resident on Fairview Road,
Mr. Devin Walsh, Chair, Precinct 9.1, Buncombe County Democratic Party (also Presented a resolution entitled "Resolution of 9.1 Precinct Committee, Buncombe County Democratic Party to Oppose Flournoy-Biltmore Apartment Development in Oakley Neighborhood, Asheville, NC"
Ms. Dana Davis, Oakley resident
Mr. Nelson Ward, property owner on Stoner Road
Mr. Scott Campbell, Oakley resident
Minister Mike Carroll, Fairview Baptist Church
Mr. David Ankeney, resident on Fairview Road
Ms. Patsy Brison, attorney representing Pamela Tripp and David and Emily Ankeney (presented several documents with a cover letter dated January 27, 2015)

Mr. Bissette responded to various allegations outlined by Ms. Brison, noting that they have been proceeding based the City's zoning map and they have not gone back through the zoning history of the property. Since Ms. Brison just presented these allegations, he felt that he should have the opportunity to discuss them with City Attorney Currin, perhaps during a brief recess.

City Attorney Currin couldn't give unequivocal answers to all of the allegations raised by Ms. Brison; however, some of the allegations that are made have to do with an interpretation of the zoning ordinance, which is done by the Planning & Zoning staff. Ms. Bernstein and Interim Planning Director Alan Glines reviewed this particular zoning classification and made a determination under the conditional zoning ordinance that it was still under the previous zoning. She did not know what actions were taken between the time it was originally zoned and now. Planning staff did make that decision and generally that decision would be appealed to the Board

of Adjustment. She didn't think Council can conclude at this meeting that that zoning is not what it says on the map.

Interim Planning Director Alan Glines said that the Urban Village District is a straight rezoning - it doesn't expire after two years. It stays with the property. It's a general use.

City Attorney Currin said that Ms. Brison is referring to a conditional use zoning in the ordinance, which would revert back without getting vested rights. Mr. Glines said that the Urban Village District zoning is what is known as a general use district, so that reversion provision does not apply at all. With respect to other provisions in the Urban Place District, last month Council changed the conditional use zoning ordinance to say that the conditions could be more or less restrictive than the underlying zoning district. By attaching the site plan and adding the conditions there is no requirement that every single requirement of that underlying district be met. With respect to the TIA, she felt Council can consider that they don't think this TIA convinces them, but it is not a legal requirement that it contain any particular requirements. With respect to compliance with the Comprehensive Plan, that is a subjective determination and as long as Council has a statement that it does or does not comply, and describe that statement, that is not subject to judicial review.

Closed Session

At 8:13 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: City of Asheville v. Robert Frost. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 8:38 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

Continuation of Public Hearing

City Attorney Currin said that Mr. Glines has gone back through the ordinances and he feels confident that this is a general use rezoning. The way to challenge it would be an interpretation to the Board of Adjustment, and there is a very short statute of limitations for challenging zoning designations, which has run.

Mr. Bissette said that his client would like to be a good neighbor and has agreed amend Condition 13 to read "The property owner and/or applicant shall pay to the City of Asheville $200,000 on or before the date the first building permit is issued for the purpose of promoting connectivity from the property to Sweeten Creek Road and Biltmore Village and/or for traffic calming measures or pedestrian enhancements on or around Fairview Road and Stoner Road."

Mayor Manheimer closed the public hearing at 8:45 p.m.

Councilman Bothwell said reviewed the definition of the Urban Place District, and felt that it does not fit this plan. Therefore, he could not support the conditional zoning.

Councilman Pelly understood the need for housing in our community and acknowledged the genuine concerns of the retaining walls, additional traffic impact, and need for connectivity of the sidewalks. He urged staff to look for that sidewalk connectivity. Because we have a

commitment by the developer of $200,000 for traffic/pedestrian improvements, he could support the conditional zoning.

Councilman Smith saw both benefits and cons to this development, some benefits being dense infill, need for housing at all price points, enhancement of the tax base, and compliment of the River Mills Loft development, with some cons being tall buildings, high retaining walls, and multifamily backing up to single-family. Ultimately, after hearing the City's housing needs assessment, the City is in a housing crisis. He would support the project with the knowledge that we continue implementing other pieces of the Comprehensive Housing Affordability Strategy.

Vice-Mayor Hunt explained that the number of units that come into the market that satisfy rental demand will have a general subtle effect on rent rates across the community. It's important that we build density in the City. When projects don't occur in the City, development is forced out of town and it fragments the rural landscape and forest and farm land.

Councilman Pelly moved to approve the conditional zoning request for Biltmore Village Apartments on Fairview and Stoner Roads from Urban Village to Urban Place-CZ 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) the project proposes an active, pedestrian-accessible enhanced streetscape along Fairview Road, following the intent and purpose of the requested Urban Place zoning district; (2) the proposal is for a higher-density, mixed-use development in a location proximate to transit; (3) ten affordable rental units are included with the proposal. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Bothwell voting "no".

ORDINANCE BOOK NO. 29 - PAGE 335

B. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A 168-UNIT MULTI-FAMILY DEVELOPMENT ON PROPERTY LOCATED OFF OF TURTLE CREEK DRIVE

GRANTING OF A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A 168-UNIT MULTI-FAMILY DEVELOPMENT ON PROPERTY LOCATED OFF OF TURTLE CREEK DRIVE

Urban Planner Julia Fields said that this is the consideration of a conditional use permit for the construction of a 168-unit multi-family development on property located off of Turtle Creek Drive. This public hearing was advertised on January 16 and 23, 2015.

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

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

Ms. Fields submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Fields said that the applicant is requesting approval of a Level III conditional use permit for the development of a 168-unit addition to the Hawthorne South apartment complex. This project is considered a Level III review pursuant to Section 7-5-9(a) of the UDO which outlines review for residential projects with more than 50 units. Level III projects are reviewed as Conditional Use Permits.

Using City Exhibit 4 (Hawthorne Apartments South Conceptual Layout), she explained that the site consists of an 11.9-acre parcel located along a private drive, Turtle Creek Drive, which is accessed from Hendersonville Road in South Asheville. The parcel is zoned Highway Business (HB) and is currently vacant. The parcel is bordered by the Norfolk-Southern Railroad to the east with property also zoned Highway Business; industrial/warehousing uses to the south on property zoned Industrial; retail and office uses to the west on property zoned Highway Business; and, existing Hawthorne South multi-family housing to the west and north on property zoned RM-16 (Residential Multi-Family High Density District). Dingle Creek runs along the southern border of the property as does an existing sewer line. A portion of the property is in a flood protected area.

The developer, Hawthorne-Midway Turtle Creek, LLC., proposes to build additional multi-family apartments on property adjacent to the existing Hawthorne South complex. The new development is comprised of a total of 168 units in seven buildings with clubhouse/pool amenities provided. The project density is approximately 14 units per acre. Plans propose a mix of one-bedroom (48 units), two-bedroom (84 units), and three-bedroom (36 units) dwellings. The buildings are designed as three-story structures with a maximum height (per the UDO) of 28 feet.

Access to the site is through the existing Hawthorne South development (previously Turtle Creek) via Turtle Creek Drive. The property is beside and immediately beyond the existing leasing office/clubhouse facility at Hawthorne South.

Twenty-four foot wide two way private drives provide access throughout the site and lead to the units and parking areas. A total of 314 parking spaces are provided including 14 accessible spaces disbursed throughout the site. Sixteen bicycle parking spaces are provided. Five-foot pedestrian pathways provide access throughout the development.

Landscaping required for the project includes buffering to the north and west, vehicular use area landscaping, building impact landscaping, and tree save area. All landscape calculations shown on the plans are compliant.

Fifteen percent of the total lot area is required to be dedicated as open space - 77,885 square feet. A total of 78,347 square feet of open space is provided.

No changed conditions have been requested.

This proposal was approved with conditions by the Technical Review Committee on December 1, 2014 and requires quasi-judicial review by the Asheville City Council and Final TRC review.

The Asheville Planning and Zoning Commission reviewed this proposal at a meeting on January 7, 2015. At this meeting the commission voted unanimously (7-0) to recommend approval of the conditional use permit to the Asheville City Council.

The site is currently zoned Highway Business (HB) and the applicant is proposing to meet the standards of that District with this development proposal.

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. The applicant has provided a statement on these findings.

Staff finds that the relevant standards of the City have been met or can be met with this application. The Asheville Planning and Zoning Commission voted unanimously to recommend approval of this conditional use permit to the Asheville City Council on January 7, 2015.

Mr. W. Louis Bissette, representing the owner Mr. Ed Harrington, asked that the applicant's application (Applicant Exhibit 1) and the Traffic Impact Analysis (Applicant Exhibit 2) be entered into the record. He said there is an existing project on Hendersonville Road containing 384 units, and of those existing units, 80% of them meet the affordable housing standards. This project is an addition to that existing project. This new project provides 168 units will not meet the affordable housing standards, but they are all 20% below the workforce housing standards. If you add the two projects together, 55% of the total units (552 units) will meet the affordable housing standards. The other 45% will be well within the workforce housing standards and close to 20% below the workforce housing maximum.

Using Applicant Exhibit 3 (Aerial Photo of Project Area), Mr. Chris Day with Civil Design Concepts, oriented the Council to the site and said that this will be an expansion of the multi-family community. The 168 units will be built in the northwest of the property so they can preserve the existing creek and about 20% of the site will remain undisturbed along the creek in the south portion of the site. The project meets all seven conditional use standards, noting they are not asking for any changed conditions. The size and layout of the site are compatible with the terrain and topography of the site.

In response to Councilman Smith about the price points for the 168 housing units, Mr. Day said the units fall between 88% of the AMI up to 112% of the AMI. Those numbers are $900-1,000 on the one-bedrooms; $1,100-1,200 on the two-bedrooms; and $1,300-1,400 on the three bedrooms.

Councilman Smith felt it would be helpful to have something at the lower end (80%) that we could be able to let people know who are not in the moderate-income bracket that they are important to us too. Mr. Day responded that any project is a balance. He felt that that with the current zoning they could have put in over 300 units on the site, however, they felt it would not be compatible with the site and we would have to max out the site to be able to bring in the density to lower the price points down. They felt what would be in the most harmonious of the area, the topography of the site, and the surrounding community would be the 168 proposed units at the price points proposed.

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 9:11 p.m.

Councilman Smith said that $900 a month means affordability to someone making approximately $36,000 a year. Thirty-one percent of our service and hospitality workers are making less than $25,000 a year. The housing needs assessment showed that those making less than $15,000 make up about 20% of our population. Again, he looked forward to the City Council annual retreat and the re-committing that City Council is committed to implementing other pieces of the Comprehensive Housing Affordability Strategy.

Councilwoman Wisler moved to approve the conditional use permit for Hawthorne South located off of Turtle Creek Drive, subject to the site plan and elevations and conditions outlined in the Technical Review Committee report, because the proposal meets the seven conditional use permit standards as demonstrated by the applicant. This motion was seconded by Vice-Mayor Hunt and carried on a 6-1 vote, with Councilman Smith voting "no".

C. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR THE EXPANSION OF TUTCO FARNAM

RESOLUTION NO. 15-23 - RESOLUTION FOR AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR THE EXPANSION OF TUTCO FARNAM

Economic Development Specialist Brenda Mills said that this is the consideration of a resolution approving a $30,380 economic development incentive grant for Tutco Farnam. This public hearing was advertised on January 16, 2015.

Tutco Farnam is an existing manufacturing company located in South Asheville. The company produces a variety of air and surface heating units used in industrial applications. The company has been in Asheville for 30 years, starting in 1982. The company leases space and has outgrown the current building. The building owner has agreed to construct a new building addition and in return, the company will sign a new lease for the property. This has been accomplished with the dedication of the new expanded facility on October 10, 2014.

The company is planning a $2.5 Million expansion in its South Asheville campus and has requested consideration for a performance based incentive grant under the City of Asheville Economic Development policy. The company will retain 63 current employees and will create 50 new jobs within three years. The hourly wage of new employees will be $11.09 per hour these employees are provided comprehensive benefits by the company.

Tutco Farnam has requested consideration of a performance-based incentive grant under the City of Asheville Economic Development Incentive policy. The performance based grant for Tutco Farnam for this project is an amount not to exceed $30,380, to be paid in annual installments in an amount equal to 45% of ad valorem City property tax paid by the company in the prior calendar year, for a period of up to seven years; subject to compliance with an Economic Development Performance Agreement between the City and Tutco Farnam. Payments begin after the investment is made, taxes are paid and verified, and the company requests payment.

The City will fund the payments from the general fund. The grant supports the decision by Tutco Farnam to expand in Asheville with the support of the building owner to construct a new building addition and sign a new lease. The jobs created are in a niche market which provides the type of employment that is not common in our region and is a locally owned company.

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

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in existing industry in Asheville;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

Con:

- Grant is formulated based on use of 45% of value of property tax revenue for a 7 year period.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive approximately 55% of the new incremental property tax revenues from the project. After 7 years, the City will henceforth receive 100% capture of new city taxes.

City staff recommends Council approve a resolution authorizing an economic development incentive grant for Tutco Farnam not to exceed $30,380.

Mayor Manheimer opened the public hearing at 9:16 p.m., and when no one spoke, she closed the public hearing at 9:16 p.m.

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

Councilman Smith moved for the adoption of Resolution No. 15-23. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 26

D. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR THE HIGHLAND BREWING EXPANSION PROJECT

RESOLUTION NO. 15-24 - RESOLUTION FOR AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR THE HIGHLAND BREWING EXPANSION PROJECT

Economic Development Specialist Brenda Mills said that this is the consideration of a resolution approving a $60,000 economic development incentive grant for Highland Brewing. This public hearing was advertised on January 16, 2015.

Highland Brewing, a pioneer in the Asheville craft brewery industry is considering expansion. Highland Brewing began in Asheville 20 years ago. Today it is considered one of the region's premier breweries. Demand for Highland product continues to grow and the company, with second generation leadership is considering expansion in the City. Total grant eligible investment is $5,000,000. Capital investment in M/E etc. will be at least $3.8 Million, and improvements to existing real property/real estate will be at least $1.2 Million. Additionally the company will create 15 new jobs over a period of 3 years with average annual wage rate of $42,016. These jobs would offer comprehensive benefits to employees.

Highland Brewing has requested consideration of a performance-based incentive grant under the City of Asheville Economic Development Incentive policy. The performance based grant for Highland brewing for this project is an amount not to exceed $60,000. The grant would be subject to a performance agreement with the City, and would be paid in five annual installments, $12,000 a year, after the conditions of the performance agreement are met and the annual property taxes are paid by the company and verified by the City that company has made the required investment and that investment goes on the tax rolls. The amount of the annual payment will take into consideration the estimated annual ad valorem property tax revenue attributable to the capital improvements. Any amounts paid to Highland Brewing pursuant to the Agreement are subject to adjustment or recapture if the terms and conditions of the Agreement as to investment and job creation are not fulfilled.

The City will fund the payments from the general fund. The purpose of the proposed cash grant is to encourage Highland Brewing to proceed with its proposed expansion. Staff believes that the project will further the economic interests of the area served by the City in several ways, including, but not limited to: (a) creating new jobs having a wage at or above the median average wage for Buncombe County; (b) enhancing the City's tax base and the City's tax revenues; and (c) encouraging the retention and expansion of an industrial operation in an existing facility and in a jobs growth cluster.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in manufacturing in Asheville;

- Supports retention and expansion of existing industry in the City;
- Supports development of an identified economic cluster in the city; and,
- Supports regional and state cooperation in the project.

Cons:

- The project has a positive fiscal impact to the City; however the Grant is formulated based on use of approximately 50% of the value of new incremental tax revenue for a five year period.

The project has a positive fiscal impact on tax revenues received by the City. The company indicates there may be potential for additional expansion. The project creates generation of local and state taxes from job creation. Initially (during the grant period), the City will receive approximately 50% of the new incremental real estate and M/E tax revenues from the project. After the grant period concludes as noted above, the City will henceforth capture 100% of the new taxes.

City staff recommends Council approve the resolution authorizing an economic development incentive grant for Highland Brewing not to exceed $60,000.

Mayor Manheimer opened the public hearing at 9:18 p.m.

Ms. Leah Long-Ashburn, President of Highland Brewing, appreciated City Council's support. They have already begun the expansion and they have now hired up to 49 employees full-time.

Mayor Manheimer closed the public hearing at 9:19 p.m.

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

Councilwoman Wisler moved for the adoption of Resolution No. 15-24. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 27

E. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO WHITE LABS (FORMERLY PROJECT LAB)

RESOLUTION NO. 15-25 - RESOLUTION FOR AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO WHITE LABS (FORMERLY PROJECT LAB)

Economic Development Specialist Brenda Mills said that this is the consideration of a resolution approving an economic development incentive grant for White Labs. This public hearing was advertised on January 16, 2015.

White Labs Inc., a world leader in fermentation sciences for the brewing and winemaking industries, is proposing a new Asheville facility that will provide analytical laboratory services and product related training for industry professionals as well as serve as the base for sales and marketing for the eastern U.S. and global markets. White Labs' fresh yeast and related products, which are a vital link in the worldwide supply chain of the brewing industry, will be manufactured on-site for breweries, wineries and distilleries. The company has been recognized for its pioneering scientific studies on improving strains of yeast at a molecular level. The company is proposing new, taxable, capital investment of $8.1 Million for machinery and equipment and

facility improvements at the project site on S. Charlotte Street in downtown Asheville. The project also includes the creation of 65 new jobs with an average annual wage of $35,818.

The City of Asheville is considering offering a lease of property to White Labs for up to five years at $1/year. White Labs will pay taxes on improved property during the lease period. White Labs will have an option to purchase the improved property, for economic development purposes, at 80% of Fair Market Value (FMV), land only, for approximately $1,600,000 at or before the end of the five year period. Should White Labs choose not to exercise the option to purchase, the city will continue to lease the property to White Labs for an additional period of up to five (5) years at the fair market value rental rate. In addition, White Labs will be granted an exclusive option to purchase the adjacent 1.67 acre city owned parcel within the first year of the initial lease term for 80% of FMV (land only) **if** additional improvements and jobs are committed to by White Labs, or for FMV if no additional economic benefits are committed. White Labs shall have the right to renew this option for one (1) additional year for a non-refundable fee of ten thousand dollars ($10,000.00). If White Labs does not exercise its option to purchase the adjacent lot at the end of the second year, the City shall be free to market the property, subject only to a 30 day right of first refusal granted to White Labs during the remainder of the initial lease term.

The lease and purchase would be subject to a performance agreement with the City, and would be governed through the conditions of the lease, economic development performance agreement and option(s) to purchase.

Pros:

- Creates technology driven private sector use for Charlotte Street Corridor;
- Supports job creation and capital investment in Asheville;
- Activates an underperforming asset and places city owned property on the tax rolls;
- Supports development of an identified economic cluster in the City; and
- Supports regional and state cooperation in the project.

Cons:

- During the five year lease period, the city will lease the property below FMV, however, the property is currently providing no income to the City.

The project has an immediate overall positive fiscal impact on tax revenues received by the City since the property improvements made by White Labs will be valued at over $8.1 million dollars. Additionally, if White Labs exercises its option to purchase the property, the city will receive approximately $1,600,000 at the end of the lease. No cash payments will be provided by the City. The City will begin accruing M/E tax payments in year one estimated at $6200. After five years, the City will henceforth receive 100% capture of new city taxes for all investment valued at $8,100,000.

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

City staff recommends Council approve a resolution authorizing an economic development performance agreement, lease, and option(s) to purchase between the City and White Labs.

Mayor Manheimer opened the public hearing at 9:24 p.m.

Ms. Lisa White, Vice-President of White Labs, thanked the City, County, Economic Development Coalition, and others, for helping them select Asheville as their new east coast facility. They will hopefully start ground breaking on March 1 and anticipate Phase I to be completed by August or September. They will begin hiring employees in July and August. They look forward to being a part of this community.

Mayor Manheimer closed the public hearing at 9:26 p.m.

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

Councilman Bothwell moved for the adoption of Resolution No. 15-25. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 28

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 15-26 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGRICULTURAL LEASE WITH BALSAM GARDENS, LLC, ON A PORTION OF CITY-OWNED REAL PROPERTY OFF OF HARDESTY LANE AT AZALEA PARK

Mayor Manheimer said that this item was considered on January 13, 2015, and continued until this date in order to allow staff to work with Balsam Gardens to see if they would be interested in a one-year lease.

The consideration of a potential agricultural lease with Balsam Gardens, LLC, a locally based certified organic farm, for 11 +/- acres of land for commercial agricultural production at Azalea Park.

Prior to the City's acquisition of the Azalea Park, the land was used as an agricultural farm. The former farmland has been converted to a state-of the-art soccer and park facility, however there is still potential for unused lands within the park to be utilized in farm production. For the past six years New Sprout Farms, LLC has leased 11+/- acres of Azalea Park for certified organic vegetable, fruit and hay production. This 11 +/- acre plot is located to the rear of Azalea Park, adjacent to the City's beneficial fill site and the leased site for Danny's Dumpster compost operation. At this time, New Sprout has moved to a permanent location in Buncombe County and the city property is available for a new agriculture lease. Balsam Gardens, LLC has expressed interest in leasing the property and has demonstrated the capacity and wherewithal to be a reliable tenant. Balsam Gardens intends to utilize the property for certified organic fruit and vegetable production for the local market.

Balsam Gardens has offered to enter into a three-year lease with option to renew for one additional three year term at a rent of $3,300 per year, with an annual escalation of 3%. The rental rate was generated through input provided by the NC Cooperative Extension Service, and the WNC LandLink program, a service that connects emerging farmers to vacant agriculture lands.

Balsam Gardens sells to wholesale markets, local grocers, area restaurants and in local farmers markets, therefore no retail or U-pick operations would exist on the City Park property. The proposed lease will respect all stream buffers, conservation easements, wetlands and proposed greenway paths that exist at Azalea Park. Balsam Gardens will maintain all necessary liability insurance for the property as well as limit access to authorized personnel and

representatives of Balsam Gardens. Only USDA organically certified fertilizers, pesticides and herbicides will be permitted at the property. The proposed agricultural use will have no impact on the recreational use of the Azalea Park or the soccer facility.

Pros:

- Supports Food Action Plan.
- Continues a successful use of city property with a new tenant.

Con:

- There is no negative impact.

The fiscal impact is $3,300 per year beginning in January 2015, with 3% annual escalations thereafter.

The Community and Economic Development staff recommends adoption of this resolution.

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

A representative of Balsam Gardens was pleased to be working with the Food Policy Council.

Councilman Bothwell moved for the adoption of Resolution No. 15-26. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 - 29

VI. NEW BUSINESS:

A. BOARDS AND COMMISSIONS

RESOLUTION NO. 15-27 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Vice-Mayor Hunt said that the terms of Rachael Tanksley-Russell and Mike Hahn, as members on the Asheville-Buncombe Community Relations Council, expired on December 31, 2014. In addition, there currently exists a vacancy until December 31, 2016, left by Fyffe Aschenbrenner.

The following individuals have applied for vacancies on the Community Relations Council: Kate Sampson, Sandra Houts, Roberto L. Hess, Dana Blake, Kelly Denson and Ben Scales.

On January 13, 2014, there was a motion and second to reappoint Rachael Tanksley-Russell and Mike Hahn, and interview Sandra Houts and Kelly Denson. Ms. Denson was unable to attend the interview, however, make individual contact with Council members.

After Council spoke highly of both candidates, Sandra Houts received 2 votes and Kelly Denson received 5 votes. Therefore, Councilman Smith moved to (1) reappoint Rachael Tanksley-Russell and Mike Hahn to each serve an additional three-year term respectfully, terms to expire December 31, 2017, or until their successors have been appointed; and (2) to appoint Kelly Denson to serve the unexpired term of Ms. Aschenbrenner, term to expire December 31, 2016, or until their successor is appointed. This motion was seconded by Councilwoman Wisler and carried on a 5-2 vote with Mayor Manheimer and Councilman Pelly voting "no".

RESOLUTION BOOK NO. 37 – PAGE 30

RESOLUTION NO. 15-28 - RESOLUTION APPOINTING A MEMBER TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Hunt said that the term of Matthew Raker, as a member on the Sustainable Advisory Committee on Energy & the Environment expired on December 31, 2014.

The following individuals have applied for a vacancy on the Sustainable Advisory Committee on Energy & the Environment: Katie Bray, Philip H. Pritchard, Julie Loveless, Jackson Tierney, John Noor, Jeremiah Mattysse, Erin Singer McCombs, Hanna Furgiuele, Grant Millin, Sam McLamb and Geoffrey Habron.

On January 13, City Council reappointed Lael Gray and appointed Katie Bray, and directed the City Clerk to arrange interviews for John Noor and Erin Singer McCombs.

After Council spoke highly of both candidates, John Noor received 6 votes and Erin Singer McCombs received 1 vote. Therefore, Councilwoman Wisler moved to appoint John Noor as a member to the Sustainable Advisory Committee on Energy & the Environment to serve a three-year term, term to expire December 31, 2017, or until his successor is appointed. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Bothwell voting "no".

RESOLUTION BOOK NO. 37 - PAGE 31

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jonathan Robert spoke to Council about living wages to all City employees.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:37 p.m.

_____ _____

CITY CLERK MAYOR