

Council: Yes to RAD zoning, no to short-term rentals

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For the second time in as many months, the city of Asheville's grand vision for the future of its riverfront has run smack into some hard realities. On the heels of a June 23, meeting of Asheville City Council that saw elected officials agree to a reduced scope for the \$56-million River Arts District Transportation Improvement Project due to higher-than-expected construction costs, the Council on July 25, deferred proposed zoning changes pending additional public comment and deliberation.

Over two years in the making, the planning and public process surrounding the zoning changes appeared to be proceeding fairly smoothly until recently. While owners of industrial property in the district had expressed concern about the impact of the changes on their business interests from the beginning, worries about allowed lodging uses — especially short-term rentals — in four of the seven proposed zoning districts only became an issue over the past two months.

Though four members of the Council — Mayor **Esther Manheimer**, **Vice Mayor Gwen Wisler**, **Julie Mayfield** and **Gordon Smith** — voted to approve the zoning code minus the possibility of short-term rentals anywhere in the district, City Attorney **Robin Currin** advised that such a substantial change in the proposal requires routing the matter back through the city's Planning and Zoning Commission.

Voting against the motion to eliminate short-term rentals, Council members **Cecil Bothwell**, **Brian Haynes** and

Keith Young said that excluding the short-term rental use from commercial districts in one area of the city while continuing to allow it in other areas zoned commercial didn't make sense. The three also advocated excluding the area between the Norfolk Southern Railway tracks and the French Broad River from zoning changes until new infrastructure is in place and the long-term viability of commercial rail shipping is better understood.

Form and function

Map of proposed form-based code for the River Arts District. Graphic provided by the city of Asheville

City planner **Sasha Vrtunski** gave an overview of how a form-based zoning code differs from traditional zoning. In a form-based code, she said, the ordinances place more emphasis on defining a building's form and its relationship to its surroundings. In conventional zoning, the emphasis is on controlling the uses that are allowed within the buildings.

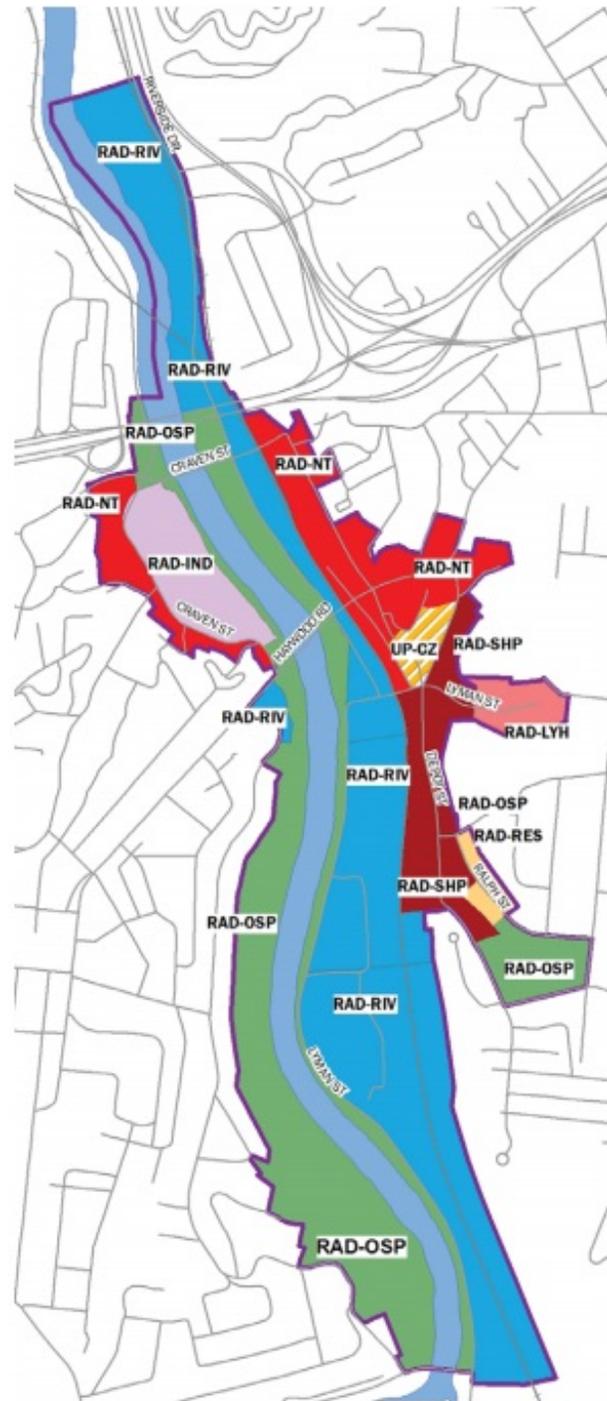
Downtown and West Asheville now use form-based zoning. Mayfield noted that the city's draft Comprehensive Plan update calls for creating form-based codes along major transportation corridors and other areas of dense development.

In addition to the goal of embracing form-based zoning to guide new development in the River Arts District, Vrtunski said, other major issues considered during the development of the draft code included the 100- and 500-year flood plain areas and large parcels either owned by Norfolk Southern Railway or located within its right-of-way. "Zoning doesn't apply to railroads the way it does to anyone else," she pointed out.

Right side of the tracks

Real estate appraiser **Mac Swicegood** kicked off the public hearing on the proposed code with comments on behalf of industrial property owners. "Businesses along the river have operated for many, many years, adding millions to the economy of the area and providing a substantial number of good-paying jobs," he said. "Now, to burden these businesses down with more zoning regulations could put these businesses in peril with nowhere to go with these irreplaceable amenities." Swicegood said the zoning proposal was based on a "political whim" that might look good on the face of it, but would "hurt the community since there is no place for the business to go."

"This is the only viable place for rail," said property owner **George Morosani** of the unique role the industrial area in



the river district plays in the city. “With the new highway, we don’t really know what can happen here. We don’t know what can be used there, or how it’s going to affect the neighborhood,” he said, asking Council to delay the rezoning of the area between the railroad tracks and the river for two to four years.

Calling himself the “unelected, unpaid, president-for-life of the River Rats,” a loose coalition of industrial property owners along the river, sometime-*Xpress* columnist **Jerry Sternberg** described the river area as a “living, breathing, economic, dynamic property” alongside and part of a vital transportation corridor. Unlike the riverfront areas in Chattanooga and Knoxville, he said, Asheville’s riverfront is not protected by dams that can minimize flooding.

Sternberg took issue with the new code’s use of seven different zoning areas, which he called “an insidious scheme to balkanize the river.” He asked Council to “exclude from this form-based zoning this area between the rail and the river zone, and if you can’t do that, then please just defeat the motion and let’s start all over.”

Bothwell asked rhetorically, “We hear this won’t change the uses between the river and the railroad. If that’s true, then why change the zoning?”

Asheville resident and mayoral candidate **Jonathan Wainscott** argued the opposite point, saying that industrial businesses in the river area are “economic remnants” that should be removed. He suggested that if Silver-Line Plastics were moved, there would be no need for rail service to the area. Silver-Line Plastics is located in the town of Woodfin, over which the Asheville City Council has no jurisdiction.

Short-term thinking

Other members of the public commented on the possible impact of allowing short-term rentals as a lodging use in four of the seven zoning areas in the district. The city’s Planning Department has heard that particular areas of concern include portions of Craven and Roberts streets where short-term rentals are not currently allowed, but would be under the new code, Vrtunski said.

Craven Street property owner **Hannah Choueke** said she spoke for herself and 11 other property owners in asking Council to let Asheville residents to share in the proceeds of the tourism economy by allowing short-term rentals in the zoning code. “No commercial zones in the city of Asheville currently prohibit short-term rentals,” she said, and the River Arts District should not include a unique exception.

Real estate agent **Mike Figura** said he recently purchased property on Craven Street in expectation of Council’s approval of the new form-based code. In light of the two-year process that led to the development of the code, he said, “I ask City Council not to vote tonight unless you vote to approve the new code in its entirety.”

Other issues discussed included the allowed height of buildings in Lyman Hollow bordering Vernell Street. Currently, building heights up to 80 feet are allowed in the area, Vrtunski said, but the new code would reduce that height to 65 feet. Residents of Vernell Street and South French Broad Avenue argued that was still too high and would block views from their property.

Eddie Dewey, one of the owners of the 13-acre Foundation property at 339 Old Lyman St., urged Council to slow down the implementation of the new zoning code due to recent changes in the scope of the River Arts District Transportation Improvement Project. With funding for some of the promised public amenities removed from the project, he said, he’d “like to hit the pause button” to make sure “we’re all walking down this road together” on plans for the area. Manheimer focused intently on Dewey as he spoke and, judging from her facial expressions, she appeared pained by his comments.

Staking positions

Saying he anticipates “massive investments” in the River Arts District over the next several years, Smith continued,

“That’s why it is important that we make these zoning changes now, because once all that money’s poured in, these buildings are built, we won’t be able to unring the bell.”

“This broad community effort has brought to us something that I’m really grateful that I can support almost in its entirety,” Smith said. However, the possibility of short-term rentals creating “party houses” next to residential neighborhoods led him to move to take “any lodging facilities up to 20 rooms” out of the table of permitted uses in the district. Bed and breakfasts, inns and homestays could remain as permitted uses, he clarified.

Young responded that he’s enthusiastic about the changes that are taking place in the River Arts District, but that “I’m just uncomfortable moving forward. I think there’s a few tweaks.” He said he’s not sure the proposal to disallow short-term rentals in the district makes sense, and industrial property owners need more chance to have their say on the changes.

“I’m uncomfortable with taking what we declared a commercial zone and taking lodging from it, when that’s not true elsewhere in the city,” agreed Haynes.

“I think the whole point of the form-based code is to look ahead and to envision what it is in the future,” said Wisler. “And I think just going with what we have as the status quo is not really the appropriate way to look at this. I clearly believe that adding more short-term rentals, or even having short-term rentals anywhere in a residential area, is inconsistent with our vision for the River Arts District and inconsistent with the comprehensive plan.”

Growth is inevitable

The tools available to local elected officials in North Carolina for influencing economic growth, Manheimer said, are limited. Some people, she said, “think we can actually stop growth in some areas and allow it to happen in others. It doesn’t work like that. But we can shape growth. We can help guide growth through a framework that better reflects the vision of the majority of the community.”

“It would be a shame,” Manheimer continued, “for us not to be able to take advantage of all of the work that’s happened here — all of the momentum that we know is happening, all of the community input — so that we can ensure that the future of the river district better reflects what folks want.”

“Because the growth of this area is inevitable,” the mayor said.

Manheimer concurred that short-term rentals represent a real threat to the city and, therefore, “It’s safer to proceed with caution.”

Council voted 4-3 in favor of Smith’s motion to approve the zoning code following additional public input on removing short-term lodging uses from the district at the city’s Planning and Zoning Commission. Bothwell, Haynes and Young were opposed.

Currin clarified that Council should direct the Planning and Zoning Commission to focus on the lodging question, but that members of the public will be free to raise concerns about any part of the proposed zoning change. After the commission hears public input, the matter will return to City Council for another public hearing and vote. No date has yet been set for Council’s next hearing on the matter.