ORDINANCE NO. 3929

ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO AMEND DEVELOPMENT STANDARDS FOR THE CENTRAL BUSINESS DISTRICT

WHEREAS, the City of Asheville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, a comprehensive amendment to the City's zoning regulations was adopted on May 27, 1997, (Ordinance No. 2369) and is codified in Chapter 7 of the Asheville City Code (herein "Zoning Ordinance"), and maps dividing and classifying the property within the City's zoning jurisdiction were adopted on May 27, 1997 (Ordinance No. 2370) and are on file and maintained in the Offices of the Asheville City Planning and Development Department (herein "Official Zoning Map"); and

WHEREAS, this proposed amendment is consistent with the City's 2025 Comprehensive Plan, Smart Growth policies, and other official plans of the City for the reasons set out in the Staff Report, which is hereby adopted and incorporated by reference; and

WHEREAS, this proposed ordinance is determined to be reasonable and in the public interest as follows:

a. It implements a portion of the adopted Asheville Downtown Master Plan;
b. It provides a form-code framework for designing new structures;
c. It aligns future development potential with community goals

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Section 1. Chapter 7 of the Asheville City Code be amended and replaced as follows:

a. By revising Section 7-8-18(f) to read:

"*(f) Development standards - Downtown.*

The following development standards apply to all parcels zoned Central Business District for new construction and/or changes that modify the exterior walls and/or roof of an existing building that are located within the boundaries of the Downtown Design Review Overlay District, as described in section 7-9-3 of this chapter. Routine maintenance, repairs or replacement of same or similar materials on existing buildings are exempt from these requirements.

(1) *Density standards.* None

(2) *Structure size standards.* Structure size shall not be limited except that Height and Design and Operational Standards shall apply.

(3) *Lot size standards.* None

(4) *Lot width standards.* None

(5) *Setback standards.* The following minimum setbacks shall be required for uses in the Central Business District.

Front:

Minimum setback: Zero feet from the right-of-way line. For corner lots buildings are to be placed at the corner.

Maximum setback: Zero feet from the right-of-way line. The following exceptions to the maximum setback may be permitted. The agency or official responsible for project review may consider allowing greater setbacks under one or more of the following circumstances:

a. A setback of up to 50 feet from the edge of the curb may be approved for places of worship, civic and governmental buildings, and residential projects that will provide a public space, such as a courtyard or plaza space.

b. A setback of up to 20 feet for uses in the district providing courtyard or plaza spaces in the setback area.

Courtyard and plaza areas should meet definitions located in 7-2-5 of this chapter which describe form and purpose. The main façade of the building must face this setback area.

c. An adopted plan or other official document of the city recommends a greater setback.

d. A greater setback is determined as part of a design review process.

Side: None required, except that a fifteen foot setback will be required when adjacent to residentially zoned property.

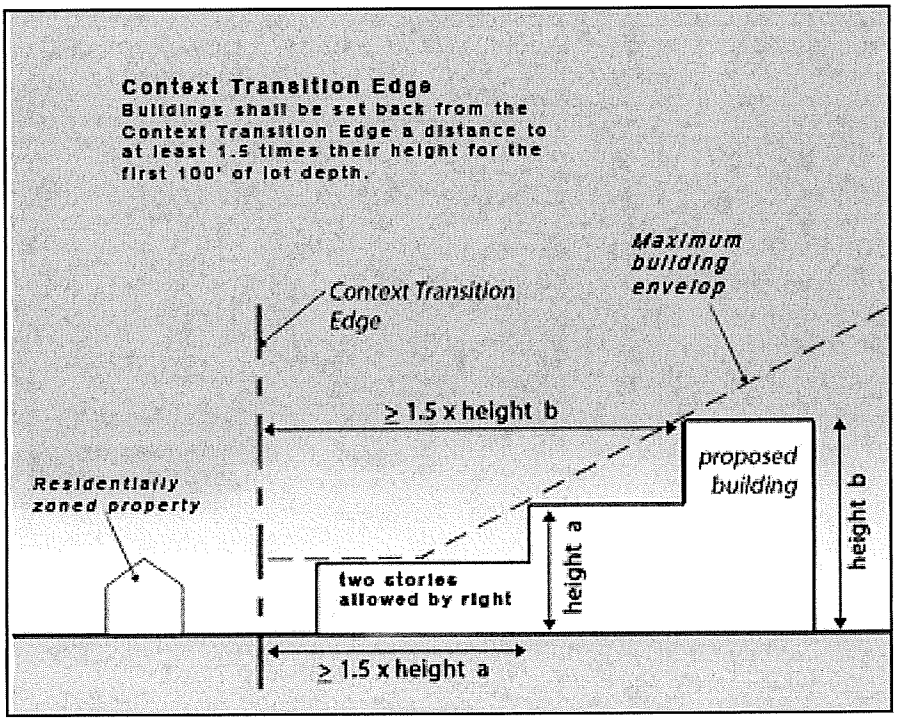
Rear: None required, except that a fifteen foot setback will be required when adjacent to residentially zoned property.

(6) *Impervious surface standards.* None

(7) *Height standards.* For the definition of height see *building height* in section 7-2-5 of this chapter. The minimum height for new structures in the Central Business District will be two stories. Maximum building height will be determined according to the Context Transition Edge Map, the Height Zone Map, the height zone edge setback and Shadow Impacts described below and with maps following this section;

(a.) Context Transition Edge:

The first step in determining the height permitted for a structure is to review the Context Transition Edge map found at the end of this section to determine if it is applicable to the specific property. This map shows areas where a gradual scale transition is required for new downtown construction from nearby established residential neighborhoods. The map reflects a specific height overlay for properties located near the context transition edge (a 100 foot wide area measured from the transition line). Buildings located within this transition edge will have their actual height determined by using the formula for height: H = D/1.5; (where H is the height of the building and D is the distance from the transition edge). The one exception is that a two-story structure with a 15 foot setback when adjacent to residentially zoned property is exempt from the formula requirements.



(b.) Height zones:
Measurement of height: The second step in determining the height permitted for a structure is to review the Building Height Zone Map located at the end of this section.
(1) The Intermediate Height Zone is 145 feet and the Tallest Height Zone is 265 feet.
(2) Actual building heights may exceed this height by an additional overall amount of 50 feet to accommodate such uses as the final occupied floor, mechanical penthouses and roof cap features.

(c.) Height zone edge setback from the right of way: To protect certain views in downtown, as illustrated on the Height Zone Map by a dashed line (specific to portions of four streets listed below), a height zone edge setback is established. The height zones for the Intermediate Height Zone and the Tallest Height Zone follow property lines except for the following streets where a height transition between these two zones 40 feet wide measured from the right of way line edge will be observed:
(1.) College Street between the tunnel and Town Mountain Road
(2.) Haywood Street between Battery Park Avenue and N. French Broad Avenue (south side)
(3.) Patton Avenue from Pearl Street to Otis Street (both sides of street) and continuing from Otis Street to the point of Pritchard Park (south side)
(4.) Hilliard Avenue between Clingman Avenue and Pearl Street (north side)

(d.) Shadow Impact Limits: Shadows from new construction on large or small public parks or public plazas are limited by the following standard:
(1.) Shadows impacts on any one point are limited to no more than two hours between the hours of 10:00 am and 2:00 pm on the spring or fall equinox at ground level; March 21st or September 21st respectively.
(2.) Where no right of way exists between the proposed project and the public park or plaza, a 50-foot buffer free of any shadow limitations will be observed.

This shadow impact standard will not apply to smaller public spaces such as pocket parks or private plazas, parks and courtyards. See the definition for parks specific to the Central Business District in section 7-2-5 of this chapter for further clarification.

(8) *Landscaping/buffering standards.* Landscaping and/or buffering shall be provided as required by section 7-11-3 of this chapter.

(9) *Parking/loading standards.* If provided, loading facilities shall be placed along alleys or streets not identified on the Key Pedestrian Streets map (found at the end of this section) as a first choice but may be located there if no other alternative is available. There shall be no requirements for off-street parking in the Central Business District. No parking is allowed between the building and any abutting street.

Parking garages placed on a Key Pedestrian Street shall provide a full habitable story and use along the street-side facade(s) with a minimum depth of 20 feet or shall comply with the design and operation standards for openings and design organization requirements for new construction.

(10) Sidewalk standards. Sidewalks shall be provided as required by and pursuant to the requirements for sidewalks as set forth in section 7-11-8 of this chapter. In general, sidewalks shall be a minimum of ten feet wide or the city engineer may approve an alternative width based on context of street and block. Narrower sidewalks may be approved in cases where there is insufficient space for a larger sidewalk.

(11) Access standards. Vehicular entries shall be a maximum of 24 feet in width. In addition driveway curb cuts are limited to a single standard driveway per 200 feet along a block face per development. Automobile access and services from a rear alley is encouraged. The city engineer shall make the final determination regarding access standards for situations where strict compliance is difficult while assuring the goals for a strong pedestrian environment in the CBD are met.

(12) Recreational/open space standards. None.

(13) Design and operational standards.

a. **The following requirements apply to all buildings in the CBD:**
Street Wall and Step-back Requirements: In order to enhance the traditional scale of downtown and ensure adequate air and light at the sidewalk level and neighboring properties, a visual demarcation will be established across the facade of the building at a height that is defined as the street wall. Corresponding to this elevation on the facade a step-back across the front or side(s) will be provided and in limited circumstances described below, other alternatives may apply to ensure variety in new construction.

(1.) Street wall height: The street wall height and specific alternatives are established in the following ways:

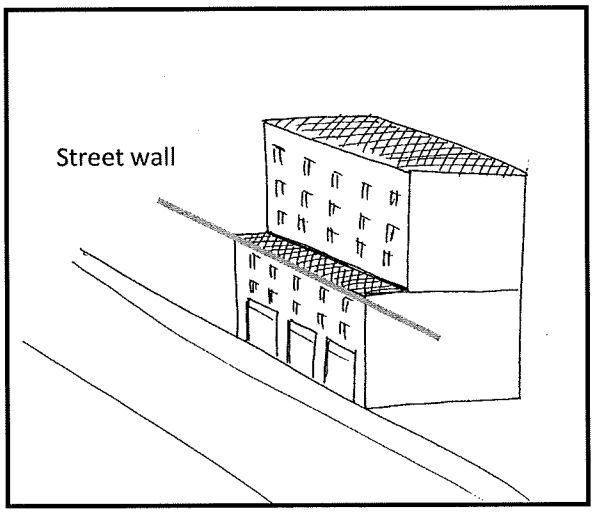
a. If the property is located within the Traditional Downtown Core area as illustrated on the map following this section, the street wall will be set at between two and four stories with a recommendation to reflect the height of neighboring buildings;

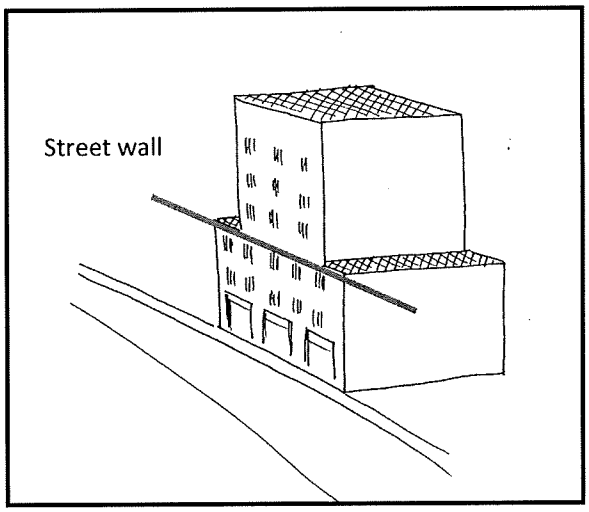
b. If the property is located outside the Traditional Downtown Core the street wall will be established by a one-to-one relationship to the width of the right-of-way (ROW). For example, a ROW of fifty feet would result in a maximum street wall height of fifty feet. Depending on the site the following scenarios may apply:

1. If a parcel fronts on more than one street, the street wall shall be established by:
    a. the ROW width of the Key Pedestrian Street if applicable; or
    b. measuring the ROW from the side of the building with the primary pedestrian entrance.
2. The street wall may wrap around to the side(s) at the same height or be re-established based on the ROW of the side street. For the

purposes of this section frontage on a service alley will be treated the same as an internal property line and therefore would not require a street wall step-back, or;

c. Throughout the CBD, a building that provides a setback along the frontage line to create a plaza or courtyard area (minimum depth ten feet), will not be required to establish a street wall. This setback area must exceed two-thirds of the building width along the frontage line, or;
d. For areas outside the Traditional Downtown Core where the ROW area is greater than 75 feet, a building is not required to provide a street wall step-back or side step-back. Buildings in these situations will be required to meet other design and operational standards as applicable, or;
e. Throughout the CBD, a variance may be sought as set forth in section 7-5-9.1 from the step-back requirements by meeting design guidelines that specify a clear visual demarcation provided between the base of the building and upper floors corresponding to the height of the street wall. The requested variance shall not result in conflict with building code requirements, or;
f. Throughout the CBD, buildings determined to be signature buildings or proposed for landmark locations may seek a variance as set forth in section 7-5-9.1 from street wall and step-back requirements when they meet design guidelines specific to landmarks. See the Public View Corridors map for recommended landmark locations.

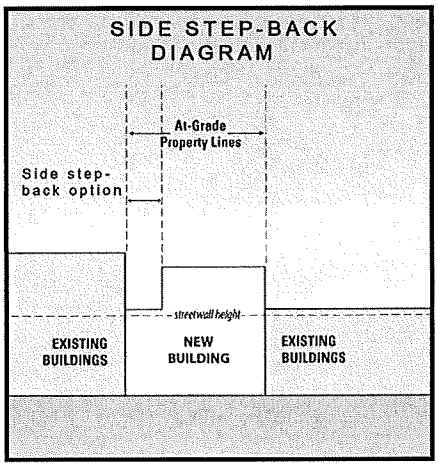


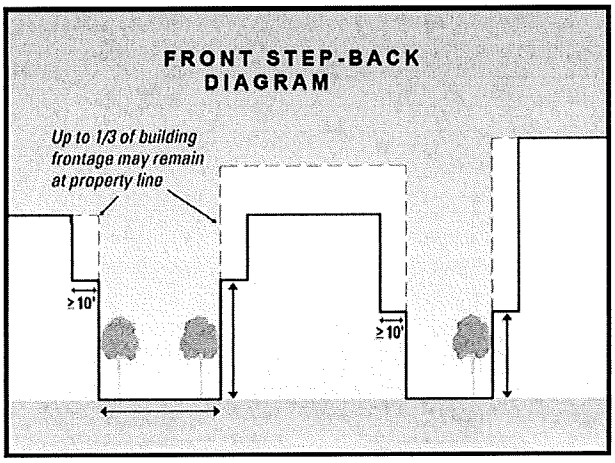


2.) Step-back requirement: In order to enhance the traditional scale of downtown and ensure adequate air and light at the sidewalk level and neighboring properties a step-back at the street wall height is required according to the following standards. In no case shall the required step-back(s) decrease the buildable area by more than **ten percent**:

a. At the street wall height a minimum ten foot wide step-back is observed along at least two-thirds of the length of the street-side facade (the remaining one-third may be provided at up to two hundred percent (2 X) of the street wall height), or;
b. A side step-back may be provided as an alternative according to the following requirements as applicable

1. At the street wall height, a 40 foot wide step-back is provided along the side of the proposed structure. This 40 foot wide step-back may be split between two sides (such as 20 feet each side);
2. Buildings taller than 75' shall provide a side step-back that equals one-half of the width of the façade above 75'*.
   * The step-back amount may be split between two sides
   * See street wall height description to determine the height of the corresponding street wall.





(3.) Design organization: Buildings shall demonstrate a building design organization on each façade such as but not limited to a base-middle-cap organization, vertical articulation or other organizing principle.
Building Caps: Downtown Asheville has a wealth of buildings with distinctive caps that use special forms and materials. The unique diversity of building caps has become a defining feature of the downtown skyline. In order to frame views and provide attractive landmarks that enhance the skyline of the downtown area, building caps are required. See the design guidelines regarding building caps for recommendations in addition to the following requirements:
a. Provide a cap to enhance a base-middle-cap oriented design or;
b. Provide a cornice or other decorative band for flat roofs to serve as a cap.

(4.) Pedestrian entrances: All buildings shall have their primary pedestrian entrance on a frontage line. If the site is located on a Key Pedestrian Street then the primary pedestrian entrance shall be located along that street. See the Asheville Downtown Design Guidelines for additional recommendations.

(5.) Windows, doors and other openings. Building fenestration is required because it enhances the character of downtown Asheville by providing features of visual interest at the sidewalk for the benefit of pedestrians, by defining the scale of buildings between the ground floor and upper floors and by improving the skyline vista of Asheville. The following requirements apply:

a.) For buildings along streets designated as Key Pedestrian Streets (see map at the end of this section), at least 70% of the street-level façade is composed of windows, doors and other openings .
b.) For buildings along streets that are not designated as Key Pedestrian Streets, at least 50% of the street-level façade is composed of windows, doors and other openings.

c.) Residential buildings shall provide at least 30% (40% for live/work units) windows, doors or other openings along the street-level façade unless located along a Key Pedestrian Street where it will be required to meet the 70% standard noted above.

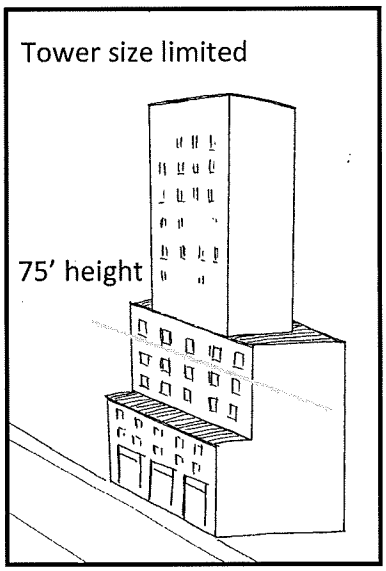
d.) All buildings are required to provide a minimum of 20% of the upper story areas as windows, doors or other openings with each face calculated independently. This requirement applies to exposed building sides unless otherwise restricted by the NC State Building Code.

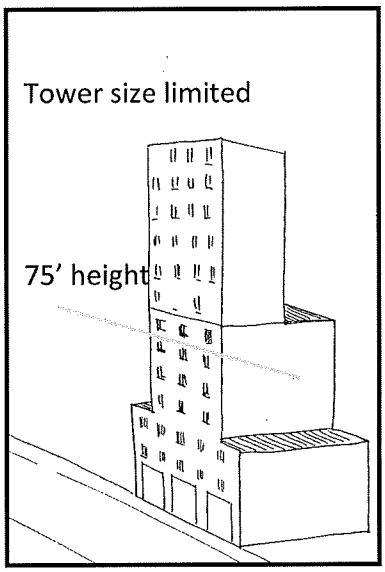
e.) At street-level, areas of opaque wall may extend no more than 20-feet horizontally before beginning a window, door or other opening.

f.) Glass may be tinted but shall not be reflective.

g.) When the façade of a building follows the natural grade of a sloping site, windows and other openings which may start out at pedestrian-level quickly go overhead and no longer relate to the sidewalk; in these situations where the surface level of the floor reaches six feet or more above the sidewalk, that floor will be deemed to no longer be at the pedestrian level. Requirements for windows, doors or other openings will be reassessed for the remaining ground level façade length.

b. The following requirements apply to buildings taller than 75 feet for additional floors extending above this point:





(1.) Floor plate limited:

a. For parcels 20,000 square feet and larger, the gross floor plate area is limited to 40 percent of the lot area;

b. For parcels smaller than 20,000 square feet, gross floor plate area may not exceed 8,000 square feet.

c. For parcels greater than 16,000 square feet, the agency or official responsible for project review may consider floor plates up to 50 percent if it is surrounded by substantial permanent public or private open space that allows for views and access to direct sunlight

(2.) Maximum dimension defined: The maximum horizontal wall dimension in any direction is limited to 145 feet for additional floors above the 75 feet.

(3.) External Vista Points: Photomontages modeling the proposed building are required from each of the established external vista points as a tool to evaluate development proposals:
Merrimon Avenue at Gracelyn Street
College Street at the west side of the tunnel
Stephens-Lee Recreation Center
Biltmore Avenue at Short Coxe Avenue
I-240 at the Smokey Park Bridge
Town Mountain Road at the bridge over I-240

(4.) Public View Corridors: If a project lies within a public view corridor based on the map following this section a photomontage from the internal vista point is required and where possible, building mass should be oriented to preserve views and roof forms should help to frame views.

c. Additional site related standards for all projects:

Street furnishings: Street furnishings placed in the public right-of-way shall be approved by the department of public works and will include but not be limited to benches, tree grates, lighting fixtures and waste receptacles.

Mechanical equipment and appurtenances necessary for the function of the building shall be enclosed and screened or otherwise designed to be integral with the overall building design, including but not limited to elevators, stairs, cooling towers and vent stacks.

The design of the base of a building, as well as the quality and durability of its materials, shall be emphasized at the first floor of structures. Exterior Insulation and Finish Systems (EIFS) are prohibited as a base material.

Private dumpsters and free-standing service equipment shall be screened by solid partitions or other screening.

Development on Key Pedestrian Streets shall meet the following requirements:
For new construction along Key Pedestrian Streets, buildings are required to be constructed along a minimum of 80 percent of the frontage line of the lot. This standard is not intended to restrict site access especially for smaller lots. Access is covered under access standards above. On corner lots the 80 percent frontage requirement applies to the primary street.

(14) Downtown Design Review Guidelines. All construction work requiring building, sign, demolition, and zoning permits and projects requesting a variance, within the downtown boundaries designated by the Asheville City Council, shall be submitted for mandatory review, voluntary compliance with the adopted Downtown Asheville Design Review Guidelines, with the exception of locally designated historic landmarks which shall be reviewed by the Historic Resources Commission of Asheville and Buncombe County in accordance with the applicable review procedures of the Historic Resources Commission.

(15) Emergency wireless communications. Communication requirements shall be provided as required by section 7-11-9 of this chapter."

City of Asheville - Downtown Master Plan Concepts Context Transition Edge

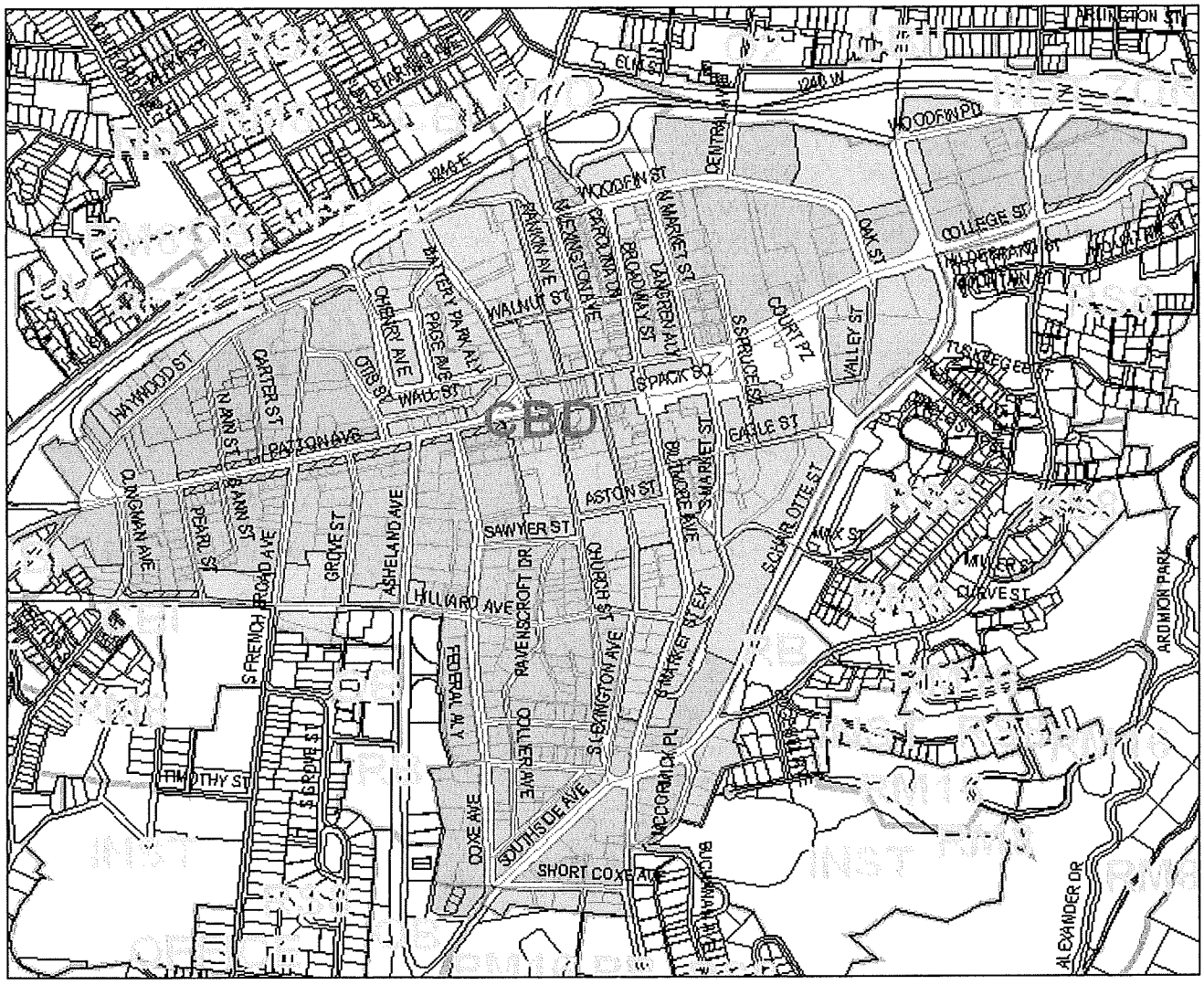
Legend

- Context transition edge proposed2
- Central Business District Existing
- Parcels
- Streets
- Zoning Districts

This map shows the Context Transition Edge surrounding some areas of the Central Business District. The context edge is adjacent to residentiall zoned property and reduces potential impacts of height on residential areas.

City of Asheville Planning and Development Department - April 2010

City of Asheville - Downtown Master Plan Concepts: Height Zones



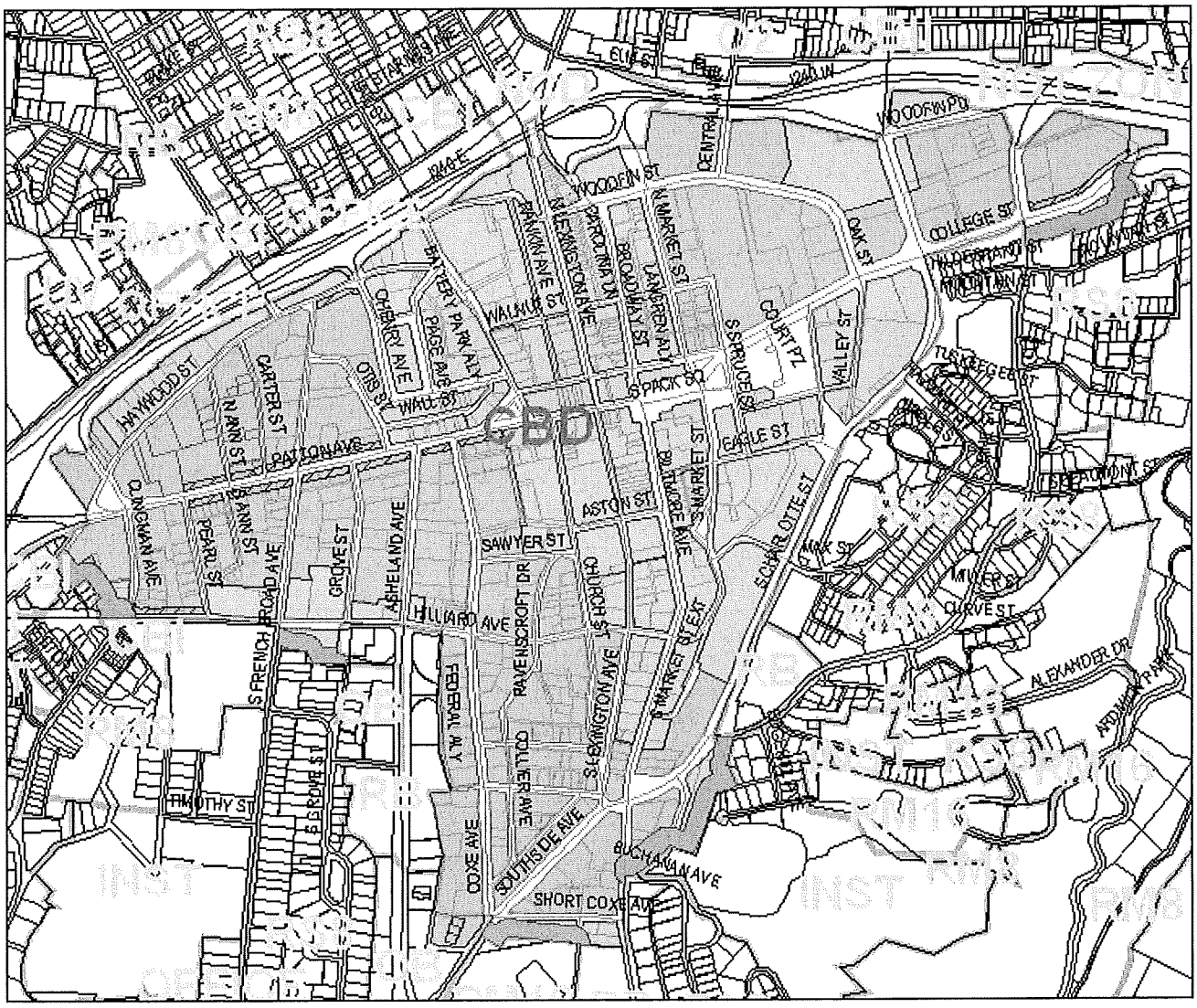
Legend

- Buffer_Height_Urban_Design_Sub
- Intermediate_Height_Zone
- Tallest_Height_Zone
- Central Business District Existing
- Parcels
- Streets
- Zoning Districts

This is the height zone map that the Downtown Commission has recommended for approval. This map includes the height zone areas for the Tallest Height Zone, the Intermediate Height Zone, Building Height Buffer Zone.

City of Asheville Planning and Development Department - May 2010

City of Asheville - Downtown Master Plan Concepts Context Edge and Height Zones



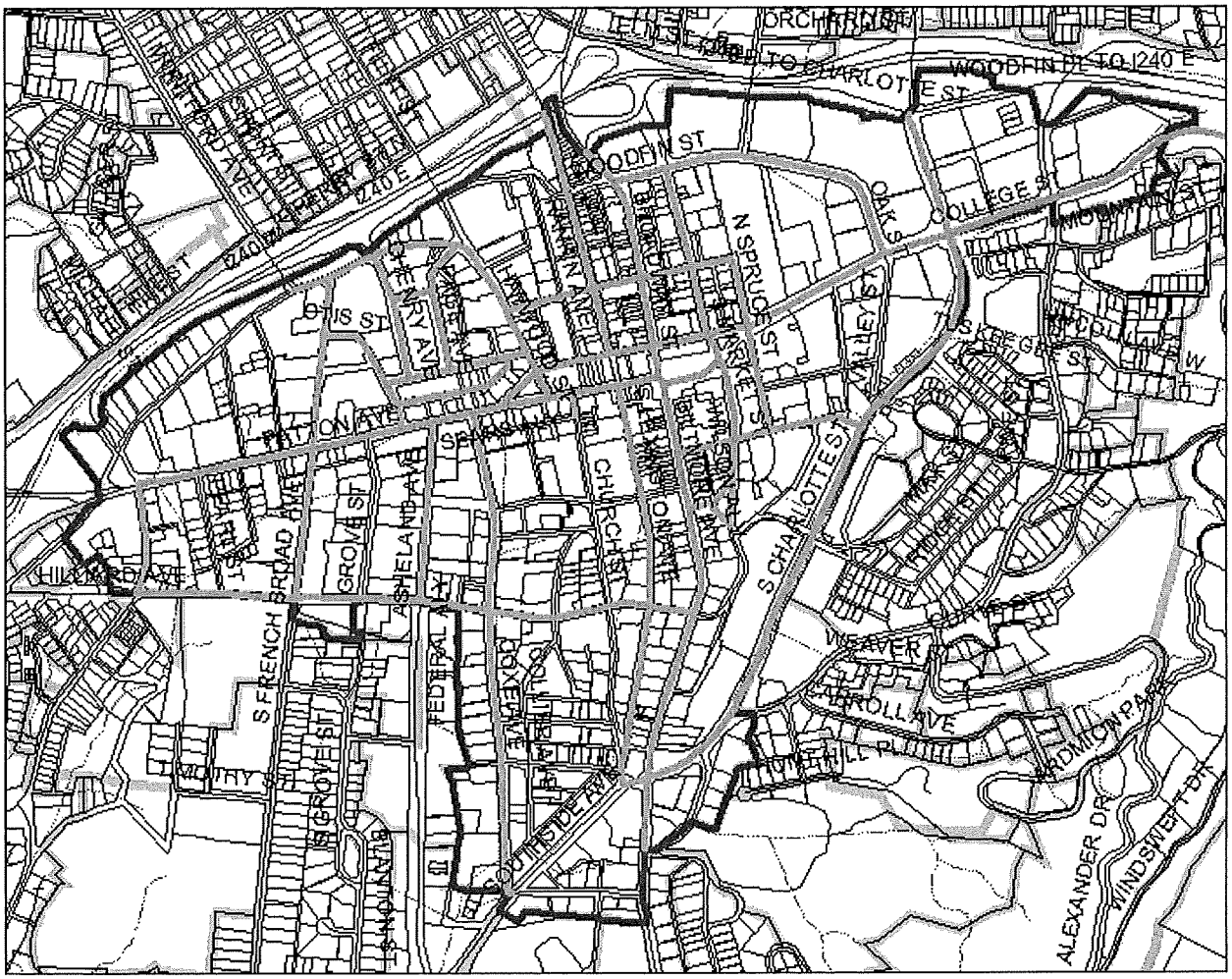
Legend

- Buffer_Height_Urban_Design_Sub
- Context transition edge proposed2
- Intermediate_Height_Zone
- Tallest_Height_Zone
- Central Business District Existing
- Parcels
- Streets
- Zoning Districts

This is the height zone map that the Downtown Commission has recommended for approval. This map includes the height zone areas for the Tallest Height Zone, the Intermediate Height Zone, Building Height Buffer Zone and the Context Transition Edge proposed.

City of Asheville Planning and Development Department - May 2010

City of Asheville
Key Pedestrian Streets



Legend

- Key Pedestrian Streets
- Central Business District
- Parcels
- Zoning Districts

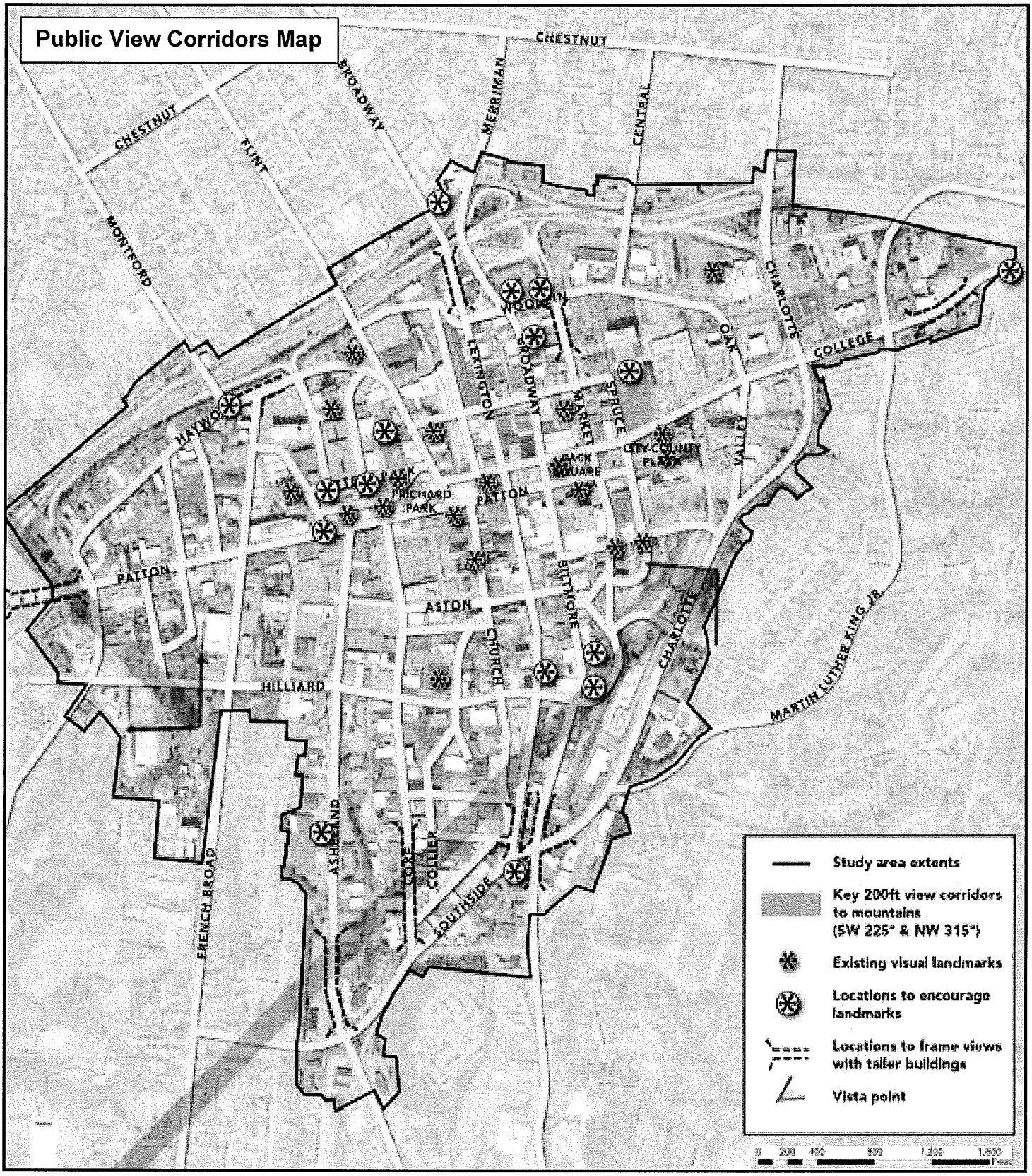
Key Pedestrian Streets: Hilliard Ave., French Broad Ave., Clingman Ave., Otis St., O'Henry Ave., North and South. Lexington Ave., Oak-Woodfin Sts., Eagle St., N. Market St., Charlotte St., a portion of Haywood Street, Patton Ave., Ashland Ave., Coxe Ave., Biltmore Ave., Market St., College St., Spruce St., Battery Park Ave., Wall St., Broadway, Walnut St.

City of Asheville - Traditional Downtown Core

Legend

- Traditional Downtown Core
- Parcels
- Streets
- Central Business District

City of Asheville Planning and Development Department 10/30/2009


Public View Corridors Map
CHESTNUT
BROADWAY
MERRIMAN
CENTRAL
CHESTNUT
FLINT
MONTFORD
CHARLOTTE
COLLEGE
OAK
LEXINGTON
BROADWAY
MARKET
SPRUCE
CITY-COUNTY PLAZA
VALLEY
PRITCHARD PARK
PATTON
PATTON
ASTON
BILTMORE
CHURCH
CHARLOTTE
MARTIN LUTHER KING JR
HILLIARD
FRENCH BROAD
ASHEVILLE
COLLIER
CORE
SOUTHSIDE
Study area extents
Key 200ft view corridors to mountains (SW 225° & NW 315°)
Existing visual landmarks
Locations to encourage landmarks
Locations to frame views with taller buildings
Vista point

b. By adding a new subsection 7-5-18(g) to read:

"(g) *Development standards – Other Central Business District areas.*
The following development standards apply to all parcels zoned Central Business District that are NOT located within the boundaries of the Downtown Design Review Overlay District, as described in section 7-9-3 of the UDO for new construction and/or changes that modify the exterior walls and/or roof of an existing building. Routine maintenance, repairs or replacement of same or similar materials on existing buildings are exempt from these requirements.

(1) *Density standards.* None
(2) *Structure size standards.* None
(3) *Lot size standards.* None
(4) *Lot width standards.* None
(5) *Setback standards.* The following minimum setbacks shall be required for uses in the Central Business District.
Front:
Minimum setback: Zero feet from the right-of-way line.
Maximum setback: Zero feet from the right-of-way line; with the exception that a setback of up to 20 feet is allowed for the creation of courtyard spaces.
Side: None required.
Rear: None required.
(6) *Impervious surface standards.* None
(7) *Height standards.* For the definition of height see *building height* in section 7-2-5 of this chapter. The minimum height for new structures in the Central Business District will be two stories. Maximum building height will be 75 feet.
Actual building heights may exceed this height by an additional overall amount of 30 feet to accommodate such uses as the final occupied floor, mechanical penthouses and roof cap features.
(8) *Landscaping/buffering standards.* Landscaping and/or buffering shall be provided as required by section 7-11-3 of this chapter. For CBD areas noted in this section, the property line buffer is required because it can improve the compatibility of commercial areas adjacent to residential zones. The buffer may be applied as described in section 7-11-3 but two additional options are also available and are illustrated following this section. Developers have the flexibility to select the most appropriate buffer-building height alternative based on the development proposal, lot configuration or specific conditions on the adjoining residential parcel.
(9) *Parking/loading standards.* Parking and loading facilities shall be provided as required by section 7-11-2 of this chapter. There shall be no requirements for off-street parking in the Central Business District. No parking is allowed between the building and any abutting street.
(10) *Sidewalk standards.* Sidewalks shall be provided as required by and pursuant to the requirements for sidewalks as set forth in section 7-11-8 of this chapter
(11) *Access standards.* Vehicular entries shall be a maximum of 24 feet in width. In addition driveway curb cuts are limited to a single standard driveway per 200 feet along a block face per development. Automobile access and services from a rear alley are encouraged. The city engineer shall make the final determination regarding access standards for situations where strict compliance is difficult while assuring the goals of a strong pedestrian environment in the CBD area.
(12) *Recreational/open space standards.* None.
(13) *Design and operational standards.*
The following requirements apply to all buildings:
Street Wall and Step-back Requirements: In order to enhance the traditional pedestrian scale of the business district and ensure adequate air and light at the sidewalk level and neighboring properties, a street wall façade elevation shall be established and a step-back will be required.

(1.) Street wall height: The façade height of the building at the right-of-way edge (known as a street wall) will be between two and three stories.

(a) In situations where a parcel fronts on more than one street, the street wall may wrap around to the side(s) at the same height or be re-established based on the elevation of the side street. For the purposes of this section frontage on a service alley will be treated the same as an internal property line and therefore would not require a street wall step-back, or;

(b) Buildings that provide a setback along the frontage line to create a plaza or courtyard area (minimum depth ten feet), will not be required to establish a street wall. This setback area must exceed two-thirds of the building width along the frontage line.

(2.) Step-back requirement: In order to ensure adequate air and light at the sidewalk level and neighboring properties a step-back at the street wall height is required according to the following standards. In no case shall the required step-back(s) decrease the buildable area by more than **ten percent**:

(a) At the street wall height, a minimum ten foot wide step-back is observed along at least two-thirds the length of the street-side facade (the remaining one-third may be provided at up to two hundred percent (2 X) of the street wall height), or;

(b) A side step-back may be provided as an alternative in the following way: At the street wall height, a 40 foot wide step-back is provided along the side of the proposed structure. This 40 foot wide step-back may be split between two sides (such as 20 feet each side);

(3.) Design organization: Buildings shall demonstrate a building design organization on each façade such as but not limited to a base-middle-cap organization, vertical articulation or other organizing principle.

Building Caps: Asheville has a wealth of buildings with distinctive caps that use special forms and materials. In order to frame views and provide attractive landmarks that enhance community character, caps are required. The following requirements apply:

(a) Provide a cap to enhance a base-middle-cap oriented design or;

(b) Provide a cornice or other decorative band for flat roofs to serve as a cap.

(4.) Pedestrian entrances: All buildings shall have their primary pedestrian entrance on a frontage line which should be along the main commercial corridor if the parcel has frontage there.

(5.) Windows and doors and other openings. Building fenestration is required because it enhances the character of Asheville by: providing features of visual interest at the sidewalk for the benefit of pedestrians; enhancing the scale of buildings between the ground floor and upper floors and improving the skyline vista of Asheville. The following requirements apply:

(a) At least 50% of the street-level façade is composed of windows, doors and other openings to compliment pedestrian scale activity.

(b) Residential buildings shall provide at least 30% (40% for live/work units) windows, doors or other openings along the street-level façade.

(c) All projects are required to provide a minimum of 20% of the upper story areas as windows, doors or other openings with each face calculated independently. This requirement applies to exposed building sides unless otherwise restricted by the NC State Building Code.

(d) At street-level, areas of opaque wall may extend no more than 20-feet horizontally before beginning a window, door or other opening.

(e) Glass may be tinted but shall not be reflective.

(f) When the façade of a building follows the natural grade of a sloping site, windows and other openings which may start out at pedestrian-level quickly go

overhead and no longer relate to the sidewalk; in these situations where the surface level of the floor reaches six feet or more above the sidewalk, that floor will be deemed to no longer be at the pedestrian level. Accommodations for windows, doors or other openings will be reassessed for the remaining ground level façade length.

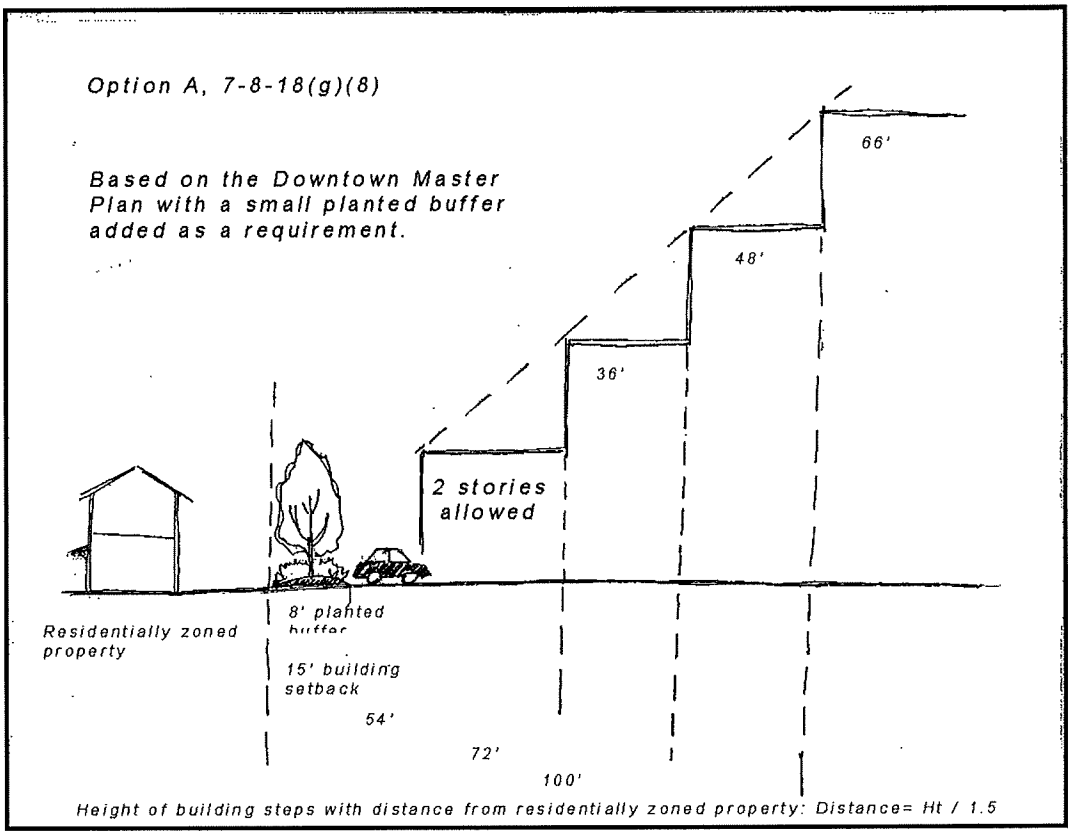
(6.) Additional site related standards for all projects:
Street furnishings: Street furnishings placed in the public right-of-way shall be approved by the department of public works and will include but not be limited to benches, tree grates, lighting fixtures and waste receptacles.

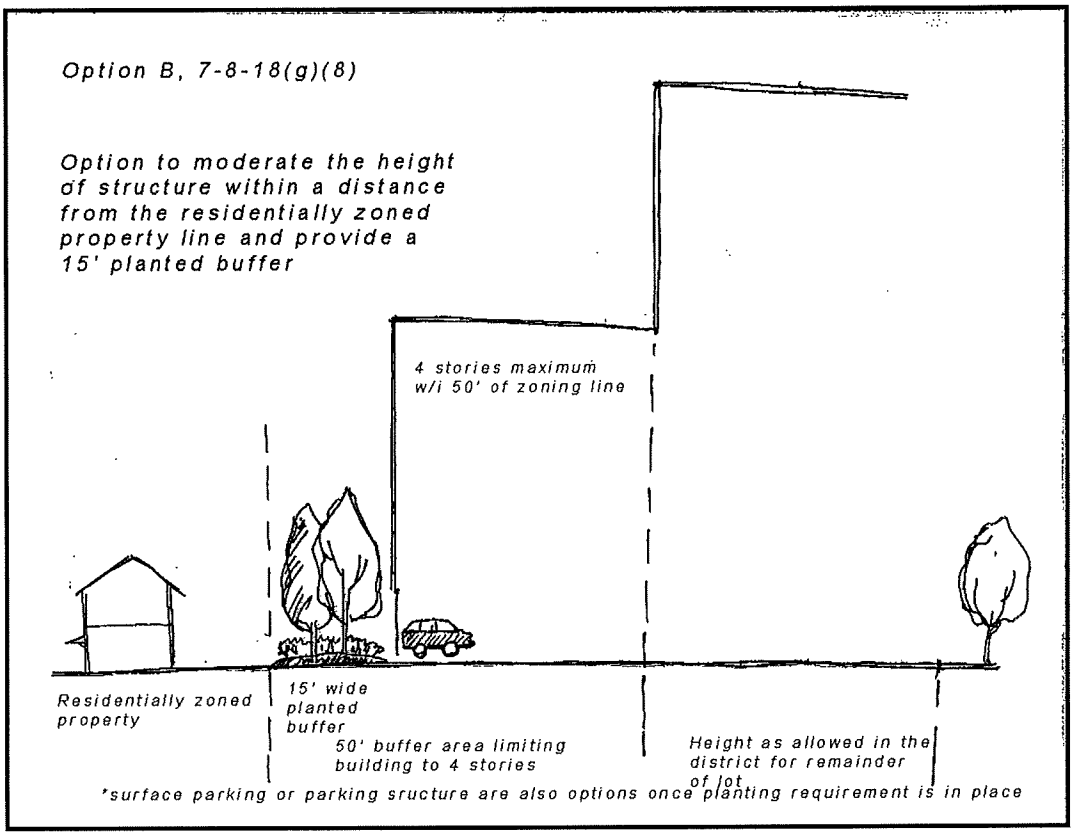
Mechanical equipment and appurtenances necessary for the function of the building shall be enclosed and screened or otherwise designed to be integral with the overall building design, including but not limited to elevators, stairs, cooling towers and vent stacks.

The design of the base of a building, as well as the quality and durability of its materials, shall be emphasized at the first floor of structures. Exterior Insulation and Finish Systems (EIFS) are prohibited as a base material.

Private dumpsters and free-standing service equipment shall be screened by solid partitions or other screening.

(14.) Emergency wireless communication. Communication requirements shall be provided as required by section 7-11-9 of this chapter."





c. By revising Section 7-2-5 to add the following definitions in alphabetical order;

"Park (applicable to Central Business District) means one of the following sub-categories depending on the description below:

Large Public Park: An open space area with access to one or more streets that functions as a stand-alone green space. They may include active and passive uses, and usually have both hardscape features and planted landscapes. Large public parks often include a range of attractions and amenities such as public gathering areas, seating, performance areas, sculptural elements, fountains, and richly detailed landscapes. Large public parks provide crucial open space that improves the quality life for residents and visitors. Large public parks will be at least one acre in size. Pack Square Park is an example of a large public park in Asheville.

Small Public Park: An open space area with access to at least one street that functions as a stand-alone green space at a neighborhood scale. They may provide for active and passive use, and provide hardscape and planted landscape areas. Although they are smaller than large public parks, they can be expected to have one or more amenities for active or passive use. In the downtown Asheville Central Business District small public parks will be at least 5,000 square feet, and up to one acre in size. Pritchard Park and Triangle Park are examples of small public parks in Asheville.

Pocket Park: A landscaped small area intended for passive use only that may include significant hardscape elements (such as – but not limited to - benches, artwork, fountains, and lighting) and other amenities geared toward pedestrians. They may be public or privately managed. In the urban environment pocket parks are often secondary spaces left over from development projects that may have limited access to a public street or provide a small respite area at an intersection of streets. Pocket parks provide important open spaces for residents

and patrons of downtown. Sculpture and special uses are often appropriate for pocket parks. Pocket parks will be smaller than 5,000 square feet although many pocket parks are substantially smaller than this. Gracies' Garden at the corner of Lexington and Patton Avenues is an example of a pocket park in Asheville.

Plaza Space: A structured open space with access to one or more streets with an emphasis on hardscape elements serving pedestrian needs. They may be public or privately owned and managed. Plaza spaces are often associated with a building or special use for which the plaza functions as an adjacent outdoor room. Landscape elements are secondary in a plaza space and are used to define the hardscape elements and streetscape. Seating, sculptural elements, shade trees and other pedestrian amenities should be included in plaza spaces. Plaza spaces will be at least 5,000 square feet in area..

Courtyard Space: Open space that is generally privately managed and used by business patrons and residents of adjacent buildings. Most courtyards have access to a street although this is not a requirement. Courtyards are usually highly structured with hardscape features with landscaping used to enhance the space. Depending on the use, courtyards may have benches, tables, and other pedestrian amenities. The orientation of the courtyard space and buildings can often create a "heat island" effect that make mitigation by tree planting or shade structures important.

Street wall means a fenestration detail to improve pedestrian-oriented districts that allows for new development while reflecting the traditional scale of the commercial area and insures adequate air and light at the sidewalk. The street wall corresponds to the base portion of a building in the traditional organizing principle used for taller buildings: base – middle –cap. A variety of tools are available to determine the street wall height based on the location and scale of the district. These tools can include consideration of the relative heights of neighboring buildings or reflecting a one-to-one relationship to the width of the right-of-way. At the height of the street wall one should expect a visual demarcation such as a step back from the front or side of the façade, changes in fenestration details or other visual differentiation.

d. By revising the definition of "building height" in Sec. 7-2-5 to read:

"*building height* means the vertical distance from the ceiling of the highest occupied floor to the primary level of fire department access; for the purposes of determining height in the central business district, height is the vertical distance measured from a single point beginning at the primary pedestrian entrance to the surface level of the highest occupied floor."

e. By revising Section 7-11-3(b)(2) to read:

"(2) *Central business district alternatives.* In order to preserve and promote existing development patterns within the Central Business District specific landscape requirements are described below:

a. The CBD areas within the *Downtown Design Review Overlay District* are exempt from building impact landscaping and property line buffers;
b. Other CBD areas are exempt from building impact landscaping but developers will be required to provide a property line buffer which may be the standard buffer outlined in 7-11-3 or an alternative buffer described in the ordinance for the district 7-8-18;
c. All CBD areas may modify the requirement for a street buffer by placing a wall at a minimum height of three feet in place of the required shrubs;
d. Street tree, parking lot and screening requirements shall apply as described in the ordinance."

Section 2. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This ordinance may be enforced as provided in Sec. 1-5 and Article 18 of Chapter 7 of the Asheville City Code.

Section 5. This ordinance is effective upon adoption.

Read, approved, and adopted this 23rd day of November, 2010.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney