THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: January 14, 2020

Subject: Conditional Zoning Amendment for RAD Lofts Conditions

Staff Resource(s): Todd Okolichany, AICP, LEED AP ND, Planning & Urban Design Director
Jessica Bernstein, Urban Planner II

Action Requested: Amendment to the conditions for the previously approved RAD Lofts project (Urban Place Conditional Zone)

Project Location and Contacts:

- The project site consists of two separate parcels with a combined area of approximately 3.26 acres located at 146 and 179 Roberts Street (PINs 9648-06-1956 and 9648-07-2183) that are owned by 146 Roberts LLC.
- Petitioner: Harry Pilos.

Summary of Petition:

- The project has gone through a number of approvals by City Council:
    - First approved on October 22, 2013 (Ordinance No. 4241) for a mixed-use development and conditional zoning from River and Commercial Industrial to Urban Place Conditional Zone
    - Amended on May 26, 2015 (Ordinance No. 4414) to revise conditions related to the mix of uses, increase parking and alter the number and massing of the buildings
    - Amended on January 10, 2017 (Ordinance No. 4548) to revise conditions related to the mix of uses, building size and amount of parking
    - Amended on July 25, 2017 (Ordinance No. 4602) to revise conditions related to building size, parking and mix of uses and to provide a wider range for these conditions to allow for some flexibility
- The mix of uses, site plan and building designs are not proposed to be changed with this amendment. They remain as shown and described in the conditions from the most recent approval.
- The applicant is only proposing a change to the condition governing the designation of affordable residential units as described in condition no. 8:
    - Current condition: Five percent of the units will be designated as affordable by the City's standards. The remaining 95% of the units will be leased at or below the City's published 2015 rates for workforce housing as a baseline, assuming and including an annual increase of 3% calculated as of the date of completion of the project as indicated on the attached schedule B1-a. This condition is in effect for a period of ten years from initial CO. The applicant will enter into an affordable housing deed restriction with the City to memorialize the aforementioned rent limits and period of affordability. The deed restriction shall be recorded by the applicant in the Buncombe County Register of Deeds prior to obtaining final CO.

    - Proposed condition: At least ten percent of the total units (between 230 and 245 units) shall meet the City's standards for affordability at 80% AMI for a period of ten years from the issuance of the Certificate of Occupancy (CO). The rent and income shall follow the Affordable and Workforce Housing Standards determined annually by the City of Asheville Community Development Department.
    - An Affordable Housing Deed Restriction will be provided by the City and filed and recorded by the applicant/property owner in the Buncombe County Register of Deeds prior to obtaining final CO. The applicant has stated that this request is due to difficulties securing financing for the project with the comprehensive restrictions on rents and balancing the more extensive affordability component with significant increases in construction costs that have occurred since the project was originally approved.

Comprehensive Plan Consistency:

- This proposal is consistent with the Living Asheville Comprehensive Plan in that the Traditional Corridor Land Use category encourages mixed-use developments prioritizing pedestrian infrastructure and multimodal access, buildings close to the street and higher residential densities.
- While a reduction, the amendment still contains a commitment to affordability, thus aligning with key goals in the *Resilient Economy* Plan section.

Compatibility Analysis:

- The mixed-use development proposal has been evaluated in previous reviews and determined to be compatible with the surrounding area and an ideal location for the uses proposed. This amendment does not impact the compatibility.

Council Goal(s):

- A Well-Planned and Livable Community
- Quality Affordable Housing
- Transportation and Accessibility

Committee(s):

- Technical Review Committee (TRC) - n/a
- Planning & Zoning Commission - December 4, 2019 - recommended approval (7-0)

Staff Recommendation:

- Staff consistently recommends maintaining as much commitment to affordability as the applicant is able to provide and supports this project's efforts to move forward to gain the 230-245 residential units and mixed-use development in this location.

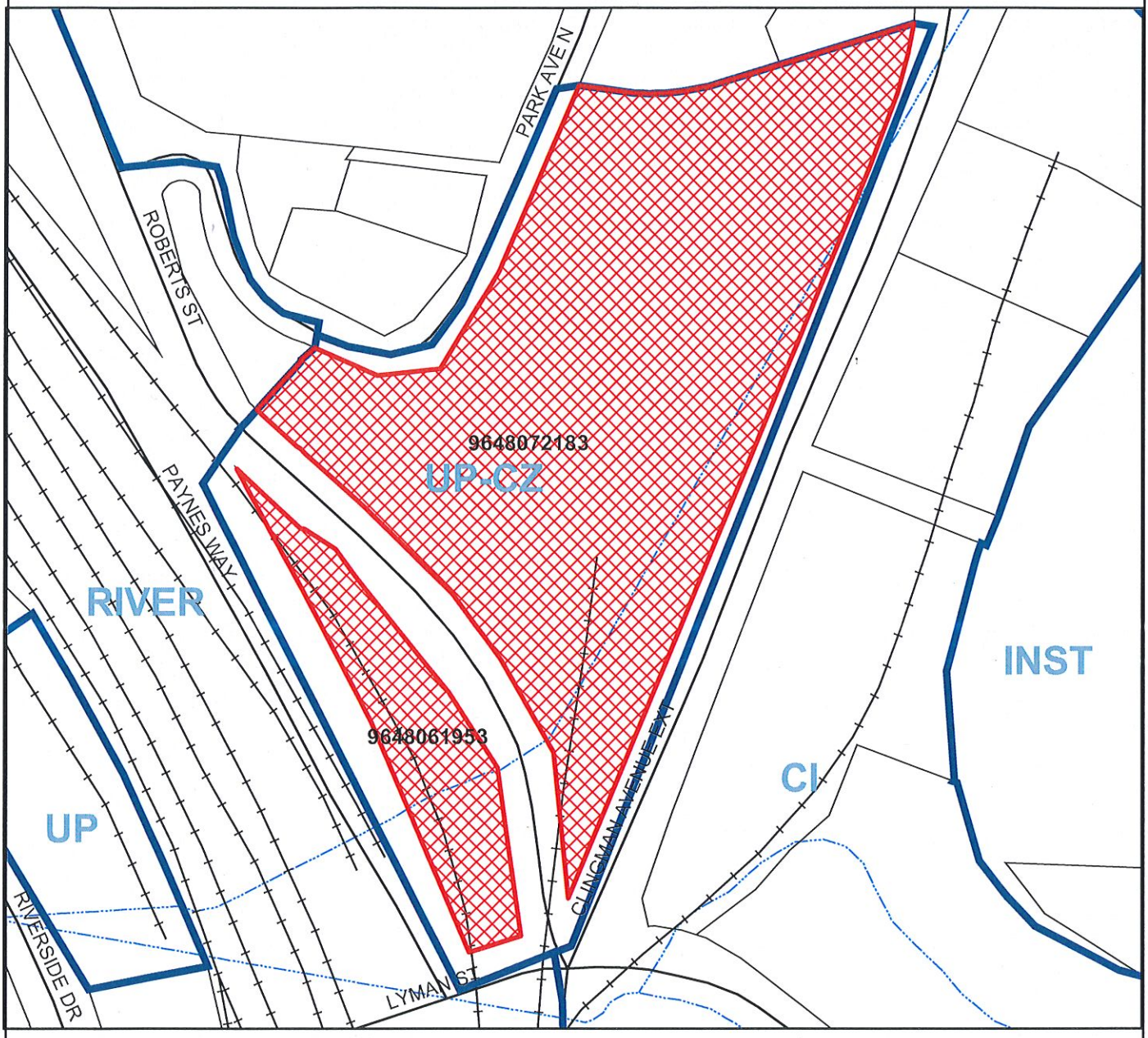
Suggested Motion to Approve:

- Move to recommend approval of the conditional zoning amendment to ordinance 4602 for RAD Lofts - Urban Place Conditional Zone (UP CZ) for the revised condition related to affordability and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: 1) the amendment does not substantially deviate from the project details previously approved other than the change to affordability; 2) the project still includes dedicated affordable residential units; and, 3) the project is compatible with the surrounding area and future land use map.

Attachment(s)

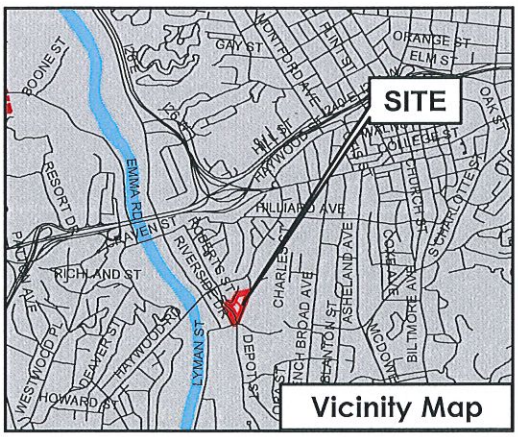
(1) Exhibit A Map - Existing Zoning
(2) Exhibit B Map - Aerial
(3) Exhibit B.1 Conditions
(4) Exhibit C - Previously Approved Site Plan and Elevations
(5) Exhibit D - Ordinance 4602
(6) Planning & Zoning Commission Minutes (draft)
(7) Planning & Zoning Commission Recommendation Form
(8) Ordinance

City of Asheville - Exhibit A Map
Conditional Zoning Amendment - RAD Lofts



Project Name:	RAD Lofts Amendment
Project Number:	13 - 03995 PZ
Project Description:	UP CZ Amendment
Petitioner(s):	Matt Sprouse
Parcel ID Number(s):	9648-07-2183 & 9648-06-1953
Location/Address:	146 Roberts Street

Project Site | Parcels | Asheville City Limits
Zoning Districts | Streets | River Areas



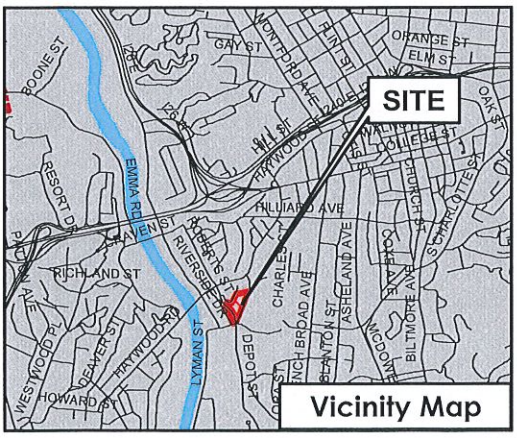
City of Asheville Planning and Urban Design Department - November 2016

City of Asheville - Exhibit B Map
Conditional Zoning Amendment - RAD Lofts



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Project Site
Zoning Districts
Parcels
Streets
Asheville City Limits
River Areas



City of Asheville Planning and Urban Design Department - November 2016

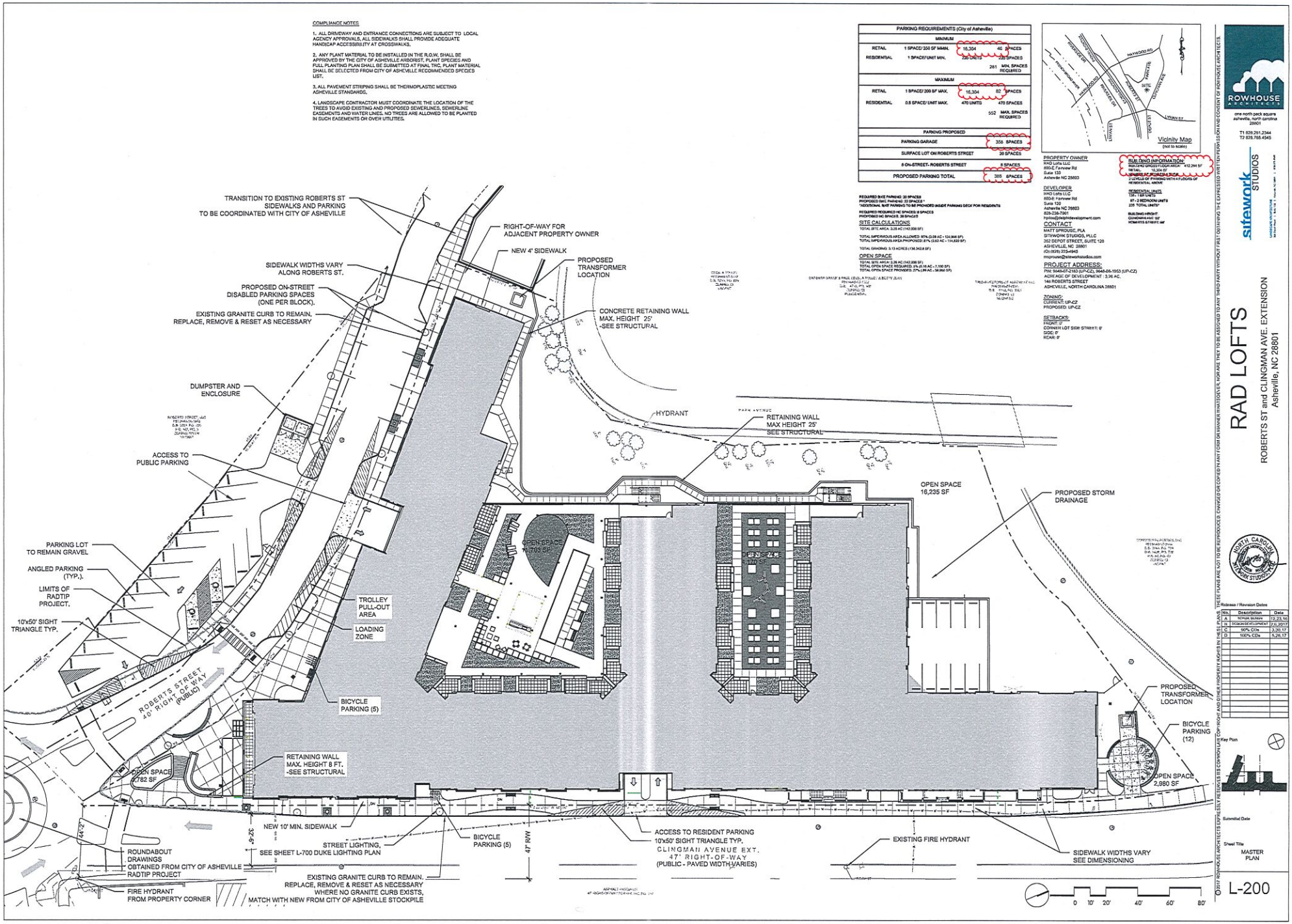
EXHIBIT B-1

CONDITIONS
RAD LOFTS AMENDMENT 2019

1. Approval is for conditional zoning to UP-CZ (Urban Place District) for the construction and use of the property for a mixed-use development as described herein. This is an amendment to a previously approved project (ordinance no. 4241, dated October 22, 2013, ordinance no. 4414, dated May 26, 2015, ordinance no. 4548, dated January 10, 2017 and ordinance no. 4602, dated July 25, 2017).
2. The project site consists of two separate parcels with a combined area of approximately 3.26 acres and frontage on Roberts Street, Clingman Avenue Extension and Park Avenue (north) in the River Arts District. The main parcel for development is 2.88 acres in size and the second parcel (0.379 acres) is located across Roberts Street to the south.
3. The current proposal contains a total of 235 residential units but the development is approved at a range of between 230 and 245 units; and retail space is approved for a range of between 14,000 and 20,000 square along Roberts Street.
4. There will be two levels of parking and four to six levels of retail and residential spaces but with the existing grade change on site, the overall height varies. The building height is 50 feet on Clingman and 68 feet from Roberts Street. No building shall exceed 80 feet in height.
5. There will be two driveways, one on each frontage, into the structured parking, which shall contain 358 spaces. There will be a 20-space surface parking lot across Roberts Street and approximately 8 on-street parking spaces will be created through streetscape improvements. The project is approved for a range of between 360 and 400 parking spaces throughout the development site.
6. Landscaping is required on the site and must include street trees along all road frontages, building impact plantings, parking deck and dumpster screening and parking lot landscaping with a street buffer. Open space is also required in this zoning district, equal to 5% of the lot area. Retaining walls are subject to screening requirements.
7. The residential density is approved at a range of between 70 and 75 units per acre.
8. At least ten percent of the units shall meet the City's standards for affordability at 80% AMI for a period of ten years from the issuance of the Certificate of Occupancy (CO). The rent and income shall follow the Affordable and Workforce Housing Standards determined annually by the City of Asheville Community Development Department. An Affordable Housing Deed Restriction will be provided by the City and filed and recorded by the applicant/property owner in the Buncombe County Register of Deeds prior to obtaining final CO.
9. The footprint of the building is approved at a range of between 75,000 square feet and 90,000 square feet and the gross floor area not to exceed 430,000 square feet.
10. Sidewalks must be at least 6.5' along the surface parking lot on Roberts Street and between 7.5' -12' along Clingman Avenue. There is an existing 5' sidewalk along Park Avenue and the sidewalk along the building side of Roberts Street will be a minimum of 10'. These conditions allow reductions from the 10' minimum width in the UP district.
11. Roberts Street and between 7.5' -12' along Clingman Avenue. There is an existing 5' sidewalk along Park Avenue and the sidewalk along the building side of Roberts Street will be a minimum of 10'. These conditions allow reductions from the 10' minimum width in the UP district.
12. As the site plan indicates, the parking deck landscaping is reduced to 4 trees based on the existing site conditions where a grade change effectively shields the exposed deck levels and creates challenges to planting.
13. The setback in one location along Roberts Street is greater than the UP district maximum of 15' and shall be as indicated on the site plan.
14. The distance between entrances is as shown on the site plan on both Roberts Street (up to 85' between entrances) and Clingman Avenue Extension (up to 153' between entrances).
15. The site plan shows greater spacing for windows and less ground-level fenestration on Clingman Avenue Extension (down to 22% fenestration at the ground-level). An active pedestrian feel will

be created along this corridor by the inclusion of street furniture, public art attached to the building, interpretive signage regarding the history of the area and creative screening on the parking deck openings.

16. Retaining wall on the north end of the project which is 25 feet in height and has no room for foreground landscaping, will be screened with an aesthetic treatment TBD.
17. The building design, site design, construction materials, and orientation on site must substantially comply with the site plan attached hereto as Exhibit C and incorporated herein by reference and the final approved site plan that is incorporated into the zoning permit. Staff has the ability to approve changes that relate to and are within the range of the development approval thresholds without further review by the approving boards. Other major deviations from these plans outside of the approval thresholds will require reconsideration of the project by the reviewing boards.
18. All legally required local, state, and federal permits and approvals must be obtained prior to initiation of construction and any pertinent legal requirements shall be met.



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sitework STUDIOS
LANDSCAPE ARCHITECTURE
URBAN DESIGN

RAD LOFTS

ROBERTS ST and CLINGMAN AVE. EXTENSION
Asheville, NC 28801

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Release / Revision Dates

No.	Description	Date
A	TCMAR SUBMIT	12.23.16
B	DESIGN DEVELOPMENT	2.01.2017
C	50% CDs	3.20.17
D	100% CDs	5.26.17

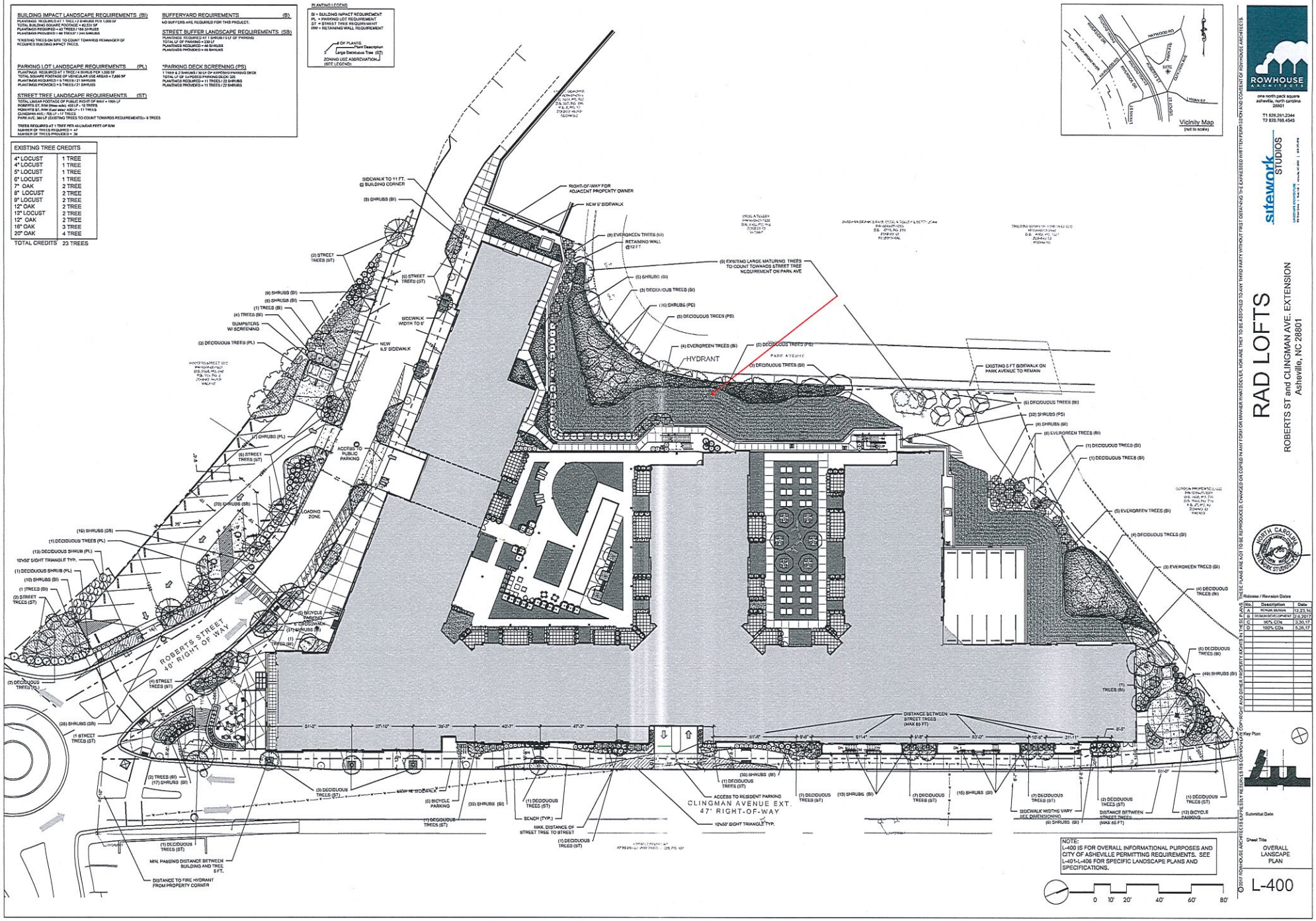
Key Plan

Submittal Date

Sheet Title
MASTER PLAN

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Asheville, NC 28801

NORTH CAROLINA REGISTERED LANDSCAPE ARCHITECT SEAL

Release / Revision Dates

No.	Description	Date
A	ROW DESIGN	12.23.16
B	DESIGN DEVELOPMENT	2.6.2017
C	90% CDs	3.20.17
D	100% CDs	5.26.17

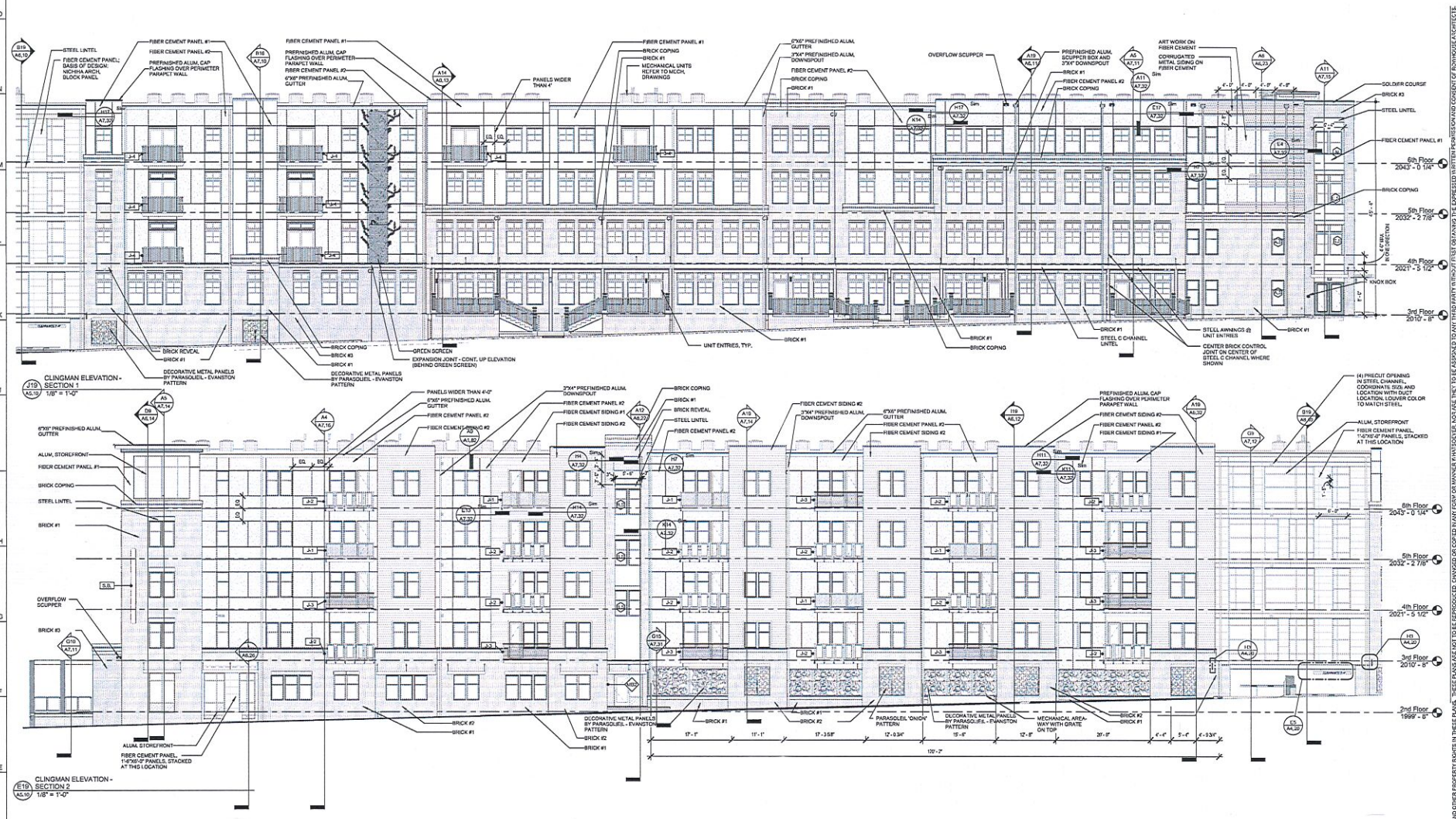
Key Plan

Submittal Date

Sheet Title
OVERALL LANDSCAPE PLAN

L-400

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1. SEE WALL SECTIONS & ENLARGED ELEVATIONS FOR GUARDRAIL HEIGHTS. ALL BALCONIES OR WALKWAYS ELEVATED MORE THAN 30" IN VERTICAL RISE TO HAVE MINIMUM 3'-6" HIGH GUARDRAILS AS PER THE BUILDING CODE.
2. PROVIDE VERTICAL EXPANSION JOINTS IN BRICK VENEER PER BIA STANDARDS. PROVIDE HORIZONTAL SUPPORTS PER STRUCTURAL DRAWINGS AND BIA STANDARDS WHERE EXCEEDS 30' IN HEIGHT.
3. TIE IN ALL DOWNSPOUTS TO STORM DRAINS.
4. ALL DRYER & BATH VENTS TO MATCH ADJACENT COLOR
5. ALL FIBER CEMENT TRIM 5/4X THICKNESS, NUMBERS ON TRIM REPRESENT WIDTHS.
6. REFER TO SPECIFICATIONS FOR ALL EXTERIOR MATERIALS. THE WALL SECTIONS AND DETAILS SHOWN IN THIS SET REFLECT FIBER CEMENT PANEL / SIDING WITH 5/4 TRIM. ALL MATERIAL WIDTHS TO REMAIN SAME SIZE IF ANY PRODUCT SUBSTITUTION IS MADE. CONTACT ARCHITECT IF THESE ARE ANY DISCREPANCIES IN DETAILS DUE TO PRODUCT SUBSTITUTIONS.
7. REFER TO BUILDING PLAN FOR MASONRY LOCATIONS, INCLUDING THOSE NOT SHOWN IN THESE ELEVATIONS.
8. SEE ROOF PLAN FOR OVERHANG DIAGRAM DESIGNS.
9. APPLY AN ADDITIONAL 12" LAYER OF MOISTURE BARRIER AT INSIDE/OUTSIDE CORNERS FULL HEIGHT OF WALL (TYP.)
10. PROVIDE CONT. BUILDING WRAP OVER SHEATHING - TYVEK "COMMERCIAL WRAP" TO BE BASIS OF DESIGNER SPECIFICATIONS.
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RAD LOFTS

THE RIVER ARTS DISTRICT
Asheville, NC 28801

ROWHOUSE ARCHITECTS PROFESSIONAL CORPORATION ASHEVILLE, NC 52659

ARON R. FAINER REGISTERED LANDSCAPE ARCHITECT No. 10084 5.19.17 NORTH CAROLINA ASHEVILLE, NC

Release / Revision Dates

No.	Description	Date
A	SCHEM. DESIGN	12.23.16
B	DESIGN DEV.	2.6.17
C	PERMITS	3.30.17
D	CONSTRUCTION DOCUMENTS	5.19.17

Key Plan

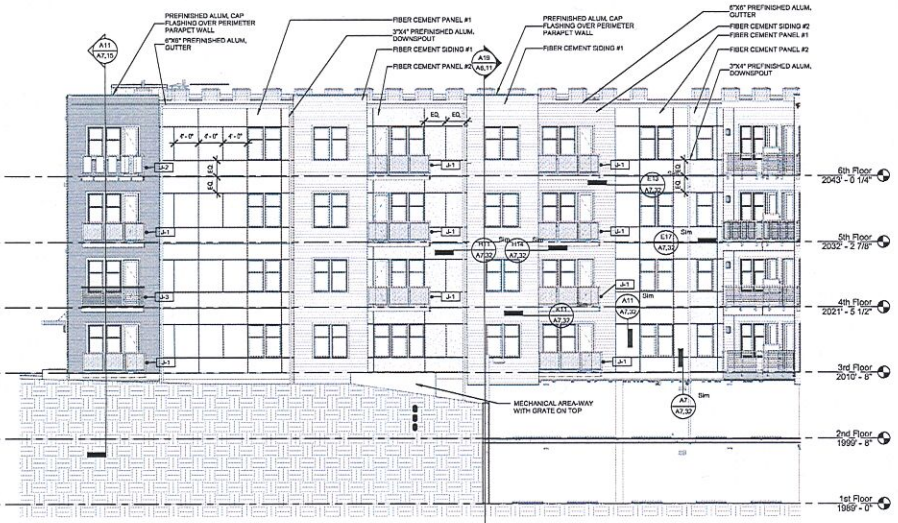
Submittal Date
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ELEVATIONS

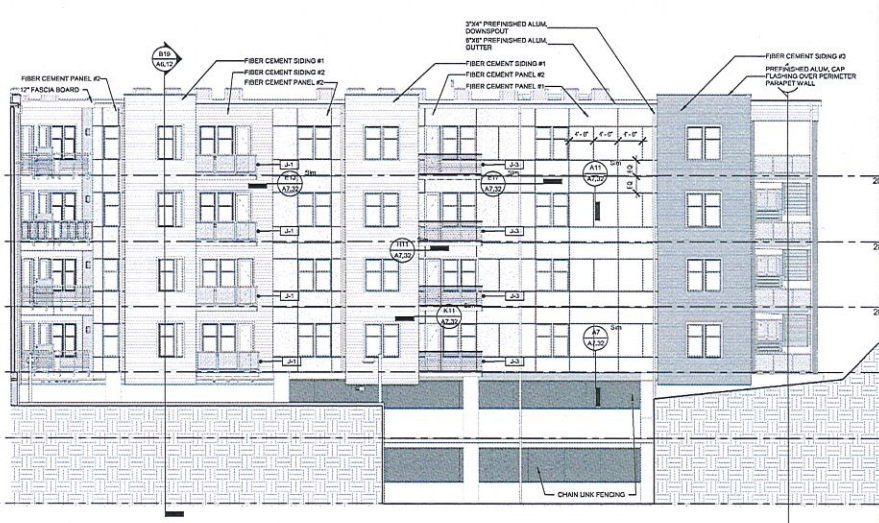
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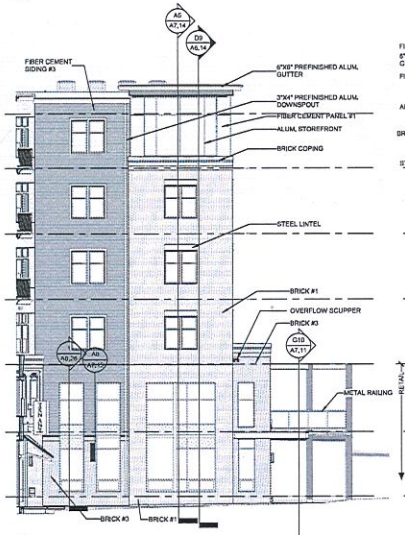
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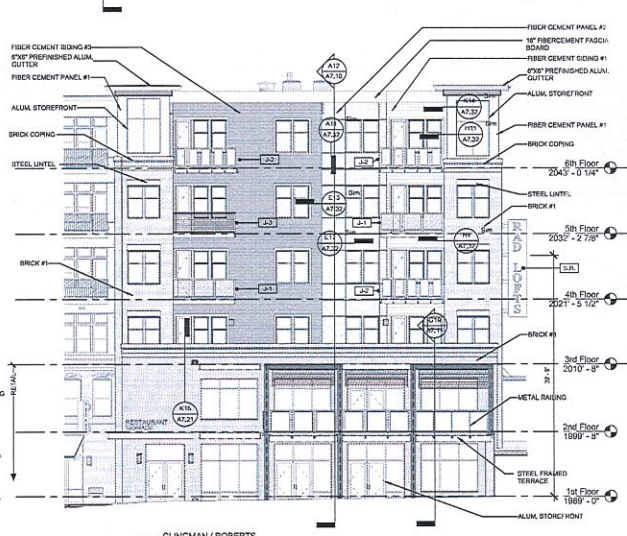
I19 WEST ELEVATION (NORTHERN SECTION)
A5.11 1/8" = 1'-0"



I10 NORTH WING - NORTH ELEVATION
A5.11 1/8" = 1'-0"



C19 RETAIL CORNER ELEVATION
A5.11 1/8" = 1'-0"



C14 CLINGMAN / ROBERTS INTERSECTION
A5.11 1/8" = 1'-0"



D8 LARGE INTERIOR COURTYARD BAY
A5.11 1/8" = 1'-0"

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8. SEE ROOF PLAN FOR OVERHANG DIAGRAM DESIGNS.
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Key Plan

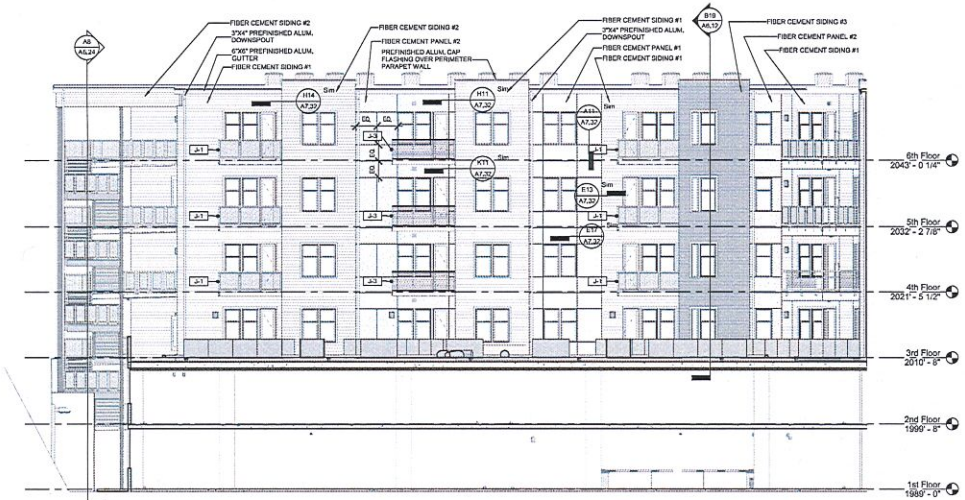
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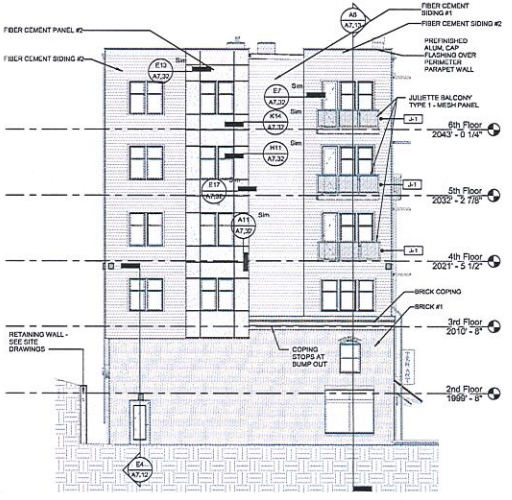
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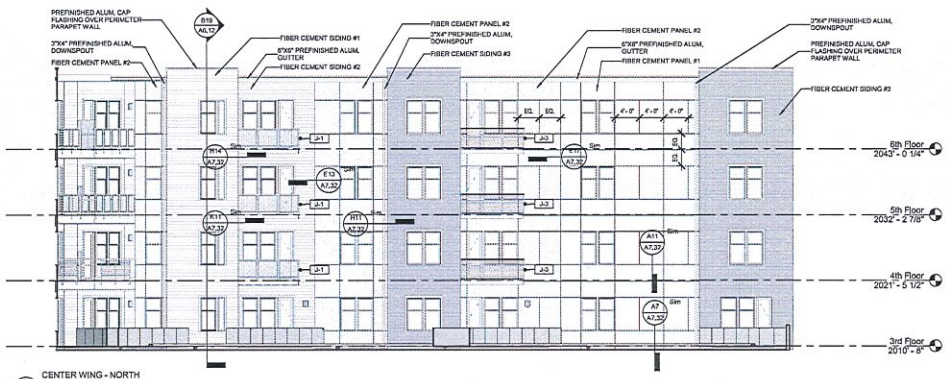
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J19 NORTH WING - LEFT
A5.12 1/8" = 1'-0"



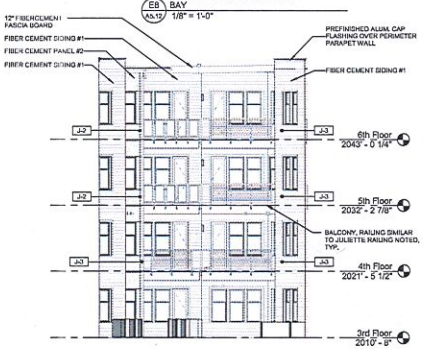
J8 NORTH ROBERTS ELEVATION
A5.12 1/8" = 1'-0"



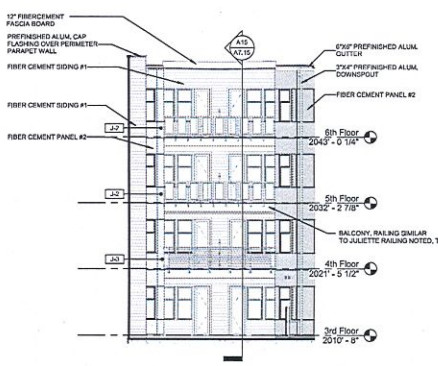
E18 CENTER WING - NORTH ELEVATION
A5.12 1/8" = 1'-0"



E8 SMALL INTERIOR COURTYARD BAY
A5.12 1/8" = 1'-0"



A8 INTERIOR COURTYARD CORNER #1
A5.12 1/8" = 1'-0"



A4 INTERIOR COURTYARD CORNER #2
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13. PROVIDE PRE-FAB. FLASHING BOOTS OR FLANGED EXHAUST LOUVER AT DUCT PENETRATIONS AT WALLS (TYP).
14. PROVIDE SEALANT AT VERTICAL TRANSITIONS BETWEEN WALL FINISHES.
15. PROVIDE METAL FLASHING AT HORIZONTAL TRANSITIONS BETWEEN WALL FINISHES.
16. COORDINATE LOUVER LOCATION TO AVOID CONFLICT WITH BRICK SOLDIER COURSE AND 3/4 TRIM AT WINDOW HEAD CONDITIONS.

ROWHOUSE ARCHITECTS
one north pack square
asheville, north carolina
28801
T1 828.281.2344
T2 828.231.1931

RAD LOFTS

THE RIVER ARTS DISTRICT
Asheville, NC 28801

ROWHOUSE ARCHITECTS 52659 REGISTERED ARCHITECT ASHEVILLE, NC. 34

ROBIN R. RAINES No. 10084 5.19.17 REGISTERED LANDSCAPE ARCHITECT ASHEVILLE, NC.

Release / Revision Dates

No.	Description	Date
A	SCHEM. DESIGN	10.23.16
B	DESIGN DEV.	2.6.17
C	90% CDs	3.30.17
D	CONSTRUCTION DOCUMENTS	5.19.17

Key Plan



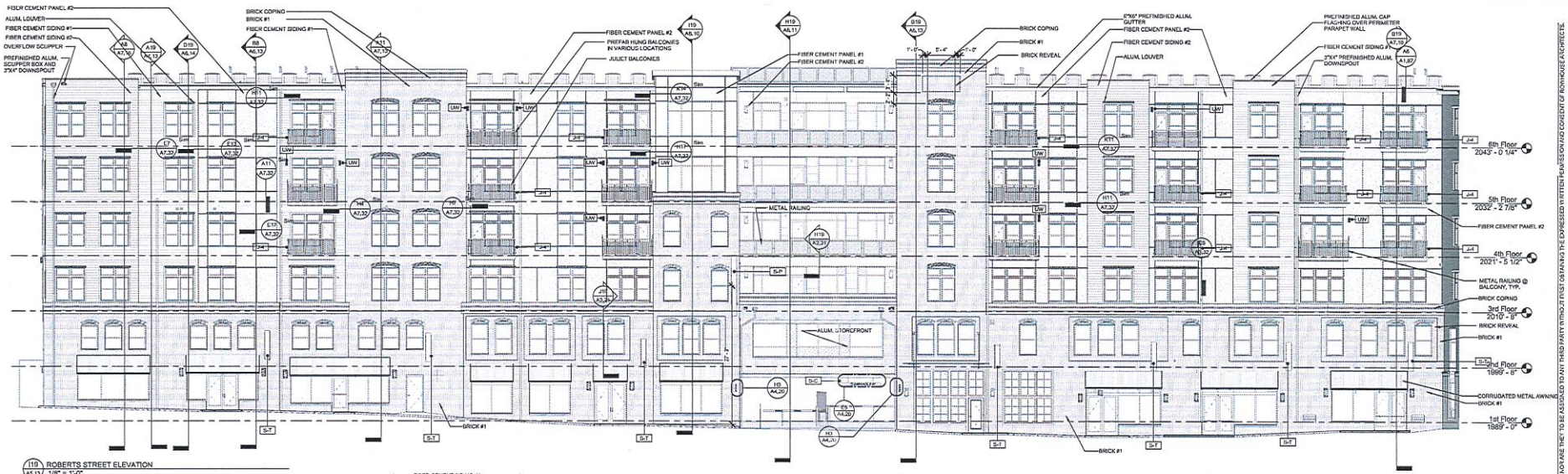
Submittal Date
5.19.17

Sheet Title
ELEVATIONS

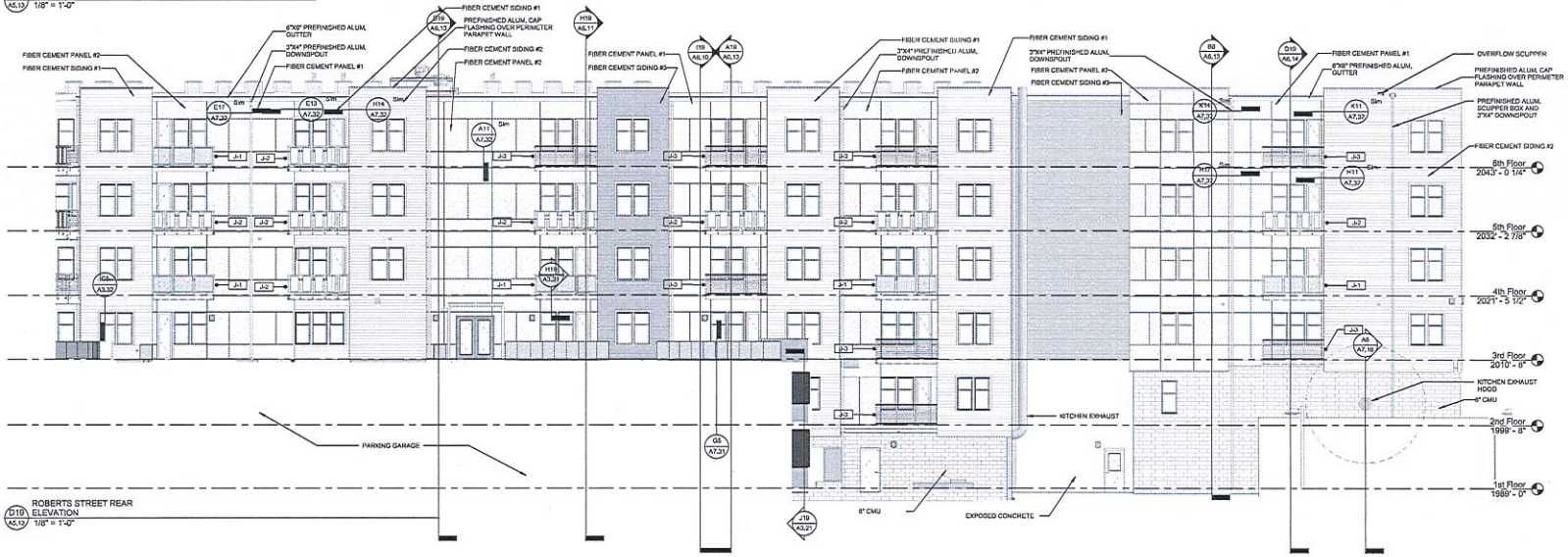
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(19) ROBERTS STREET ELEVATION
A5.13 1/8" = 1'-0"



(D19) ROBERTS STREET REAR ELEVATION
A5.13 1/8" = 1'-0"

1. SEE WALL SECTIONS & ENLARGED ELEVATIONS FOR GUARDRAIL HEIGHTS. ALL BALCONIES OR WALKWAYS ELEVATED MORE THAN 30" IN VERTICAL RISE TO HAVE MINIMUM 3'-6" HIGH GUARDRAILS AS PER THE BUILDING CODE.
2. PROVIDE VERTICAL EXPANSION JOINTS IN BRICK VENEER PER BIA STANDARDS, PROVIDE HORIZONTAL SUPPORTS PER STRUCTURAL DRAWINGS AND BIA STANDARDS WHERE EXCEEDS 30' IN HEIGHT.
3. TIE IN ALL DOWNSPOUTS TO STORM DRAINS.
4. ALL DRYER & BATH VENTS TO MATCH ADJACENT COLOR
5. ALL FIBER CEMENT TRIM 6/4X THICKNESS, NUMBERS ON TRIM REPRESENT WIDTHS.
6. REFER TO SPECIFICATIONS FOR ALL EXTERIOR MATERIALS. THE WALL SECTIONS AND DETAILS SHOWN IN THIS SET REFLECT FIBER CEMENT PANEL / SIDING WITH 5/4 TRIM. ALL MATERIAL WIDTHS TO REMAIN SAME SIZE IF ANY PRODUCT SUBSTITUTION IS MADE. CONTACT ARCHITECT IF THERE ARE ANY DISCREPANCIES IN DETAILS DUE TO PRODUCT SUBSTITUTIONS.
7. REFER TO BUILDING PLAN FOR MASONRY LOCATIONS, INCLUDING THOSE NOT SHOWN IN THESE ELEVATIONS.
8. SEE ROOF PLAN FOR OVERHANG DIAGRAM DESIGNS.
9. APPLY AN ADDITIONAL 12" LAYER OF MOISTURE BARRIER AT INSIDE/OUTSIDE CORNERS FULL HEIGHT OF WALL (TYP.)
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RAD LOFTS

THE RIVER ARTS DISTRICT
Asheville, NC 28801

ROWHOUSE ARCHITECTS 52659 ASHEVILLE, NC

ROBIN R. RAINES REGISTERED PROFESSIONAL No. 10084 5.19.17 NORTH CAROLINA ASHEVILLE, NC

Release / Revision Dates

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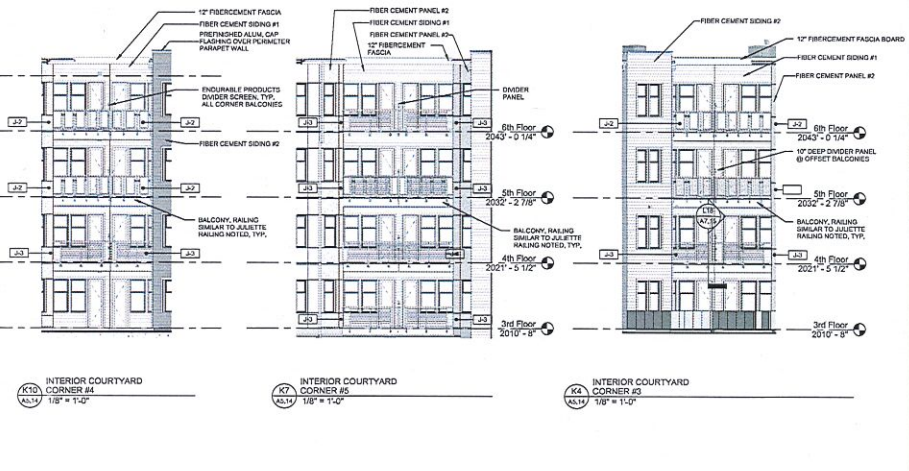
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I19 CENTER WING - SOUTH ELEVATION
A5.14 1/8" = 1'-0"



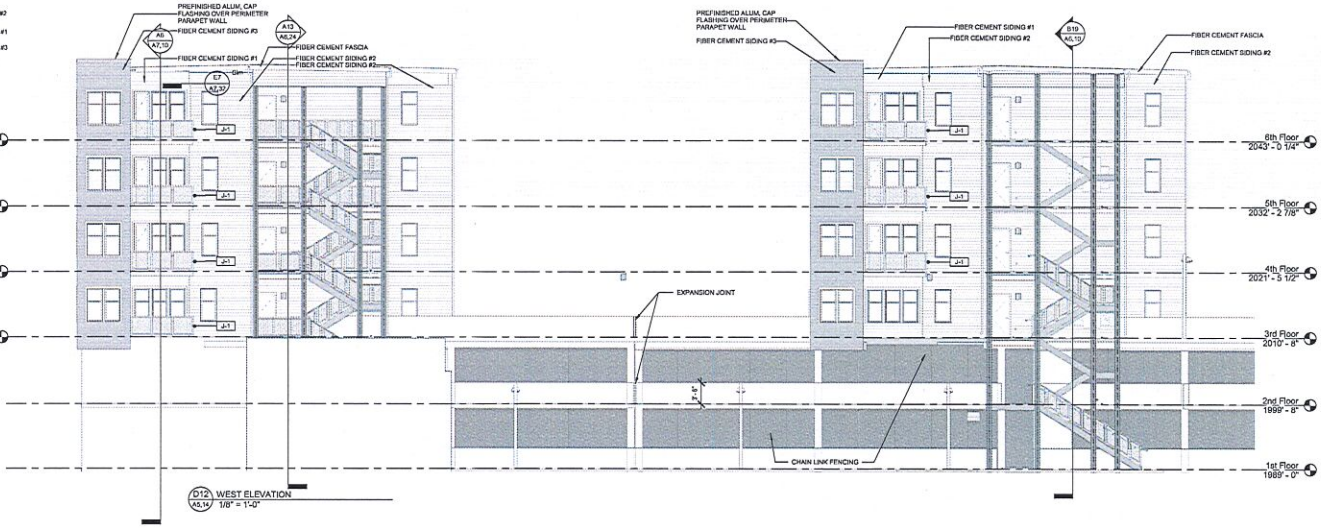
K10 INTERIOR COURTYARD CORNER #4 A5.14 1/8" = 1'-0"

K7 INTERIOR COURTYARD CORNER #5 A5.14 1/8" = 1'-0"

K4 INTERIOR COURTYARD CORNER #3 A5.14 1/8" = 1'-0"



D19 NORTH ELEVATION
A5.14 1/8" = 1'-0"



D12 WEST ELEVATION
A5.14 1/8" = 1'-0"

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ORDINANCE NO. 4602

ORDINANCE AMENDING A PREVIOUSLY APPROVED CONDITIONAL ZONING (no. 4414) FOR PROPERTY(S) LOCATED AT ROBERTS STREET, CLINGMAN AVENUE EXTENSION AND PARK AVENUE (NORTH)

WHEREAS, the City of Asheville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statues, 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 development proposal is an amendment to a previously approved conditional zoning recorded as Ordinance 4548; and

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

a. The proposal supports the strategies found in the City's comprehensive plan on encouraging mixed-use development, especially in areas walkable to downtown and proximate to transit;
b. The proposal supports the goal found in the City's comprehensive plan of pursuing more intense infill development where appropriate; and
c. The design and uses create a pedestrian-oriented streetscape along Roberts Street and part of Clingman Avenue Extension.

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

Section 1. The Official Zoning Map be, and the same is hereby, amended as follows:

The zoning classification of that certain real property described in Exhibit A and identified on Buncombe County tax maps as PINs 9648.07-2183

and 9648.06-1953 recorded in Deed Book 5546, Page 1921 and currently owned by 146 Roberts LLC from Urban Place Conditional Zone to Urban Place Conditional Zone district. A copy of the official zoning map showing said lots is attached hereto as Exhibit "A" and made a part hereof. Said rezoning is subject to the conditions set out in Exhibit "B.1", and substantially complies with the site plans shown in Exhibit "C", both attached hereto and made a part hereof.

Section 2. That the Office of the Zoning Administrator is hereby authorized and directed to make the changes as herein before enacted in said zoning map.

Section 3. That 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 declared 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 4. The ordinances shall be enforced as provided in Article XVIII of Chapter 7, Section 1-5 of the Asheville City Code.

Section 5. That this ordinance shall be in full force and effect on the date of adoption.

Read, approved and adopted the 25th day of July, 2017.

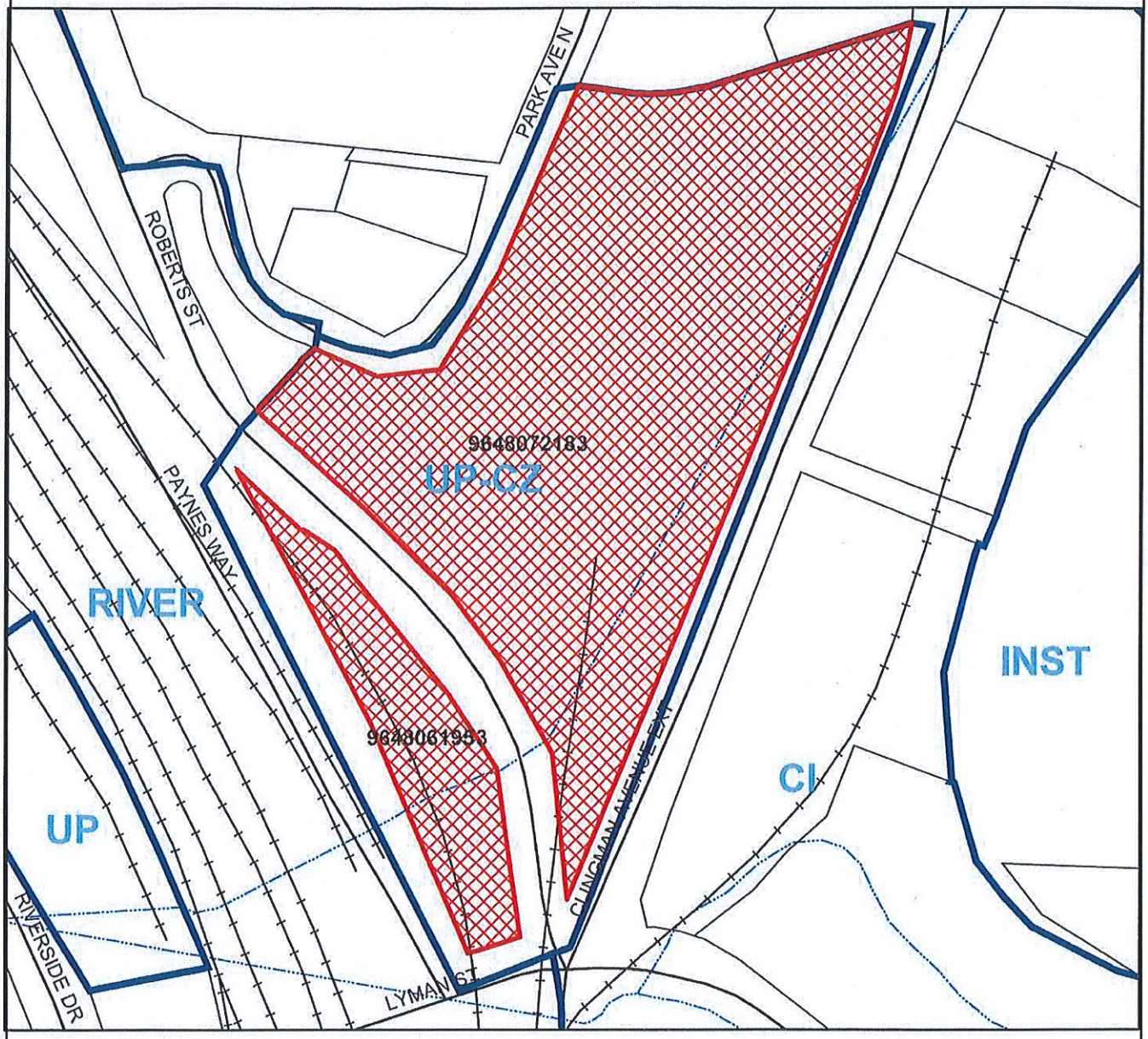
Magdalen Ballenson
City Clerk

Esther E. Manheimer
Mayor

Approved as to form:

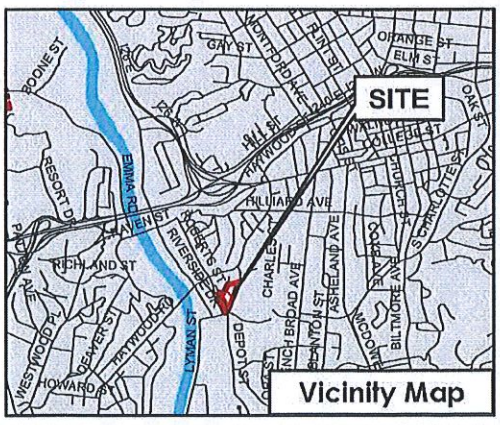
City Attorney

City of Asheville - Exhibit A Map
Conditional Zoning Amendment - RAD Lofts



Project Name:	RAD Lofts Amendment
Project Number:	13 - 03995 PZ
Project Description:	UP CZ Amendment
Petitioner(s):	Matt Sprouse
Parcel ID Number(s):	9648-07-2183 & 9648-06-1953
Location/Address:	146 Roberts Street

Project Site | Zoning Districts | Parcels | Streets | Asheville City Limits | River Areas



City of Asheville Planning and Urban Design Department - November 2016

EXHIBIT B-1

CONDITIONS
RAD LOFTS AMENDMENT III

1. Approval is for conditional zoning to UP-CZ (Urban Place District) for the construction and use of the property for a mixed-use development as described herein. This is an amendment to a previously approved project (ordinance no. 4241, dated October 22, 2013, ordinance no. 4414, dated May 26, 2015 and ordinance number no. 4548, dated January 10, 2017).
2. The project site consists of two separate parcels with a combined area of approximately 3.26 acres and frontage on Roberts Street, Clingman Avenue Extension and Park Avenue (north) in the River Arts District. The main parcel for development is 2.88 acres in size and the second parcel (0.379 acres) is located across Roberts Street to the south.
3. The current proposal contains a total of 235 residential units but the development is approved at a range of between 230 and 245 units; and retail space is approved for a range of between 14,000 and 20,000 square along Roberts Street.
4. There will be two levels of parking and four to six levels of retail and residential spaces but with the existing grade change on site, the overall height varies. The building height is 50 feet on Clingman and 68 feet from Roberts Street. No building shall exceed 80 feet in height.
5. There will be two driveways, one on each frontage, into the structured parking, which shall contain 358 spaces. There will be a 20-space surface parking lot across Roberts Street and approximately 8 on-street parking spaces will be created through streetscape improvements. The project is approved for a range of between 360 and 400 parking spaces throughout the development site.
6. Landscaping is required on the site and must include street trees along all road frontages, building impact plantings, parking deck and dumpster screening and parking lot landscaping with a street buffer. Open space is also required in this zoning district, equal to 5% of the lot area. Retaining walls are subject to screening requirements.
7. The residential density is approved at a range of between 70 and 75 units per acre.
8. Five percent of the units will be designated as Affordable by the City's standards. The remaining 95% of the units will be leased at or below the City's published 2015 rates for Workforce housing as a baseline, assuming and including an annual increase of 3% calculated as of the date of completion of the Project as indicated on the attached Schedule B1-a. This condition is in effect for a period of ten years from initial CO (certificate of occupancy). The applicant will enter into an affordable housing deed restriction with the City to memorialize the aforementioned rent limits and period of affordability. The deed restriction shall be recorded by the applicant in the Buncombe County Register of Deeds prior to obtaining final CO.
9. The footprint of the building is approved at a range of between 75,000 square feet and 90,000 square feet and the gross floor area not to exceed 430,000 square feet.
10. Sidewalks must be at least 6.5' along the surface parking lot on Roberts Street and between 7.5' -12' along Clingman Avenue. There is an existing 5' sidewalk along Park Avenue and the sidewalk along the building side of Roberts Street will be a minimum of 10'. These conditions allow reductions from the 10' minimum width in the UP district.
11. Roberts Street and between 7.5' -12' along Clingman Avenue. There is an existing 5' sidewalk along Park Avenue and the sidewalk along the building side of Roberts Street will be a minimum of 10'. These conditions allow reductions from the 10' minimum width in the UP district.

12. As the site plan indicates, the parking deck landscaping is reduced to 4 trees based on the existing site conditions where a grade change effectively shields the exposed deck levels and creates challenges to planting.
13. The setback in one location along Roberts Street is greater than the UP district maximum of 15' and shall be as indicated on the site plan.
14. The distance between entrances is as shown on the site plan on both Roberts Street (up to 85' between entrances) and Clingman Avenue Extension (up to 153' between entrances).
15. The site plan shows greater spacing for windows and less ground-level fenestration on Clingman Avenue Extension (down to 22% fenestration at the ground-level). An active pedestrian feel will be created along this corridor by the inclusion of street furniture, public art attached to the building, interpretive signage regarding the history of the area and creative screening on the parking deck openings.
16. Retaining wall on the north end of the project which is 25 feet in height and has no room for foreground landscaping, will be screened with an aesthetic treatment TBD.
17. The building design, site design, construction materials, and orientation on site must substantially comply with the site plan attached hereto as Exhibit C and incorporated herein by reference and the final approved site plan that is incorporated into the zoning permit. Staff has the ability to approve changes that relate to and are within the range of the development approval thresholds without further review by the approving boards. Other major deviations from these plans outside of the approval thresholds will require reconsideration of the project by the reviewing boards.
18. All legally required local, state, and federal permits and approvals must be obtained prior to initiation of construction and any pertinent legal requirements shall be met.

RAD Lofts
City Tax Abatement Agreement Rental Rates

Affordable housing and workforce housing rents established based on 2015 rental limits.
LUIG Benefits to commence in the year in which the Certificate of Occupany is awarded (Year 1), anticipated to be 2017.
Rent w no utilities

Workforce Housing 231 Units	2015 (Base Year)	Year 1 (2017) 3%	Year 2 3%	Year 3 3%	Year 4 3%	Year 5 3%	Year 6 3%	Year 7 3%	Year 8 3%	Year 9 3%	Year 10 3%
1BD	1,267	$1,305.01	$1,344.16	$1,384.49	$1,426.02	$1,468.80	$1,512.86	$1,558.25	$1,605.00	$1,653.15	$1,702.74
2BD	1,418	$1,460.54	$1,504.36	$1,549.49	$1,595.97	$1,643.85	$1,693.17	$1,743.96	$1,796.28	$1,850.17	$1,905.67

Exhibit B-1a

Portion of

Planning & Zoning Commission Minutes
City of Asheville, North Carolina
December 4, 2019 @ 5:00 pm in the 1st Floor North Conference Room
City Hall/ 70 Court Plaza
www.ashevillenc.gov (search "Planning & Zoning Commission")

Commission members attending: Karl Koon, Sandra Kilgore, Joe Archibald, Vice Chair Tony Hauser, Chair Laura Hudson, Guillermo Rodriguez, Jim Edmonds

Commission members absent: None.

Staff attending: Jessica Bernstein, Jannice Ashley, Shannon Tuch, Todd Okolichany

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PRE-MEETING
The pre-meeting was held from 4:30 to 5:00 pm in the 5th floor conference room of City Hall. Commission members reviewed staff reports for the project, asked questions regarding when development standards can be modified administratively versus when a variance is required, and whether there were limits on the number of modifications that can be requested to a previously approved project. It was also noted that Commissioner Rodriguez was celebrating a birthday that evening.

CALL TO ORDER
The meeting was called to order by Chairperson Laura Hudson at **4:58 pm**. Roll call was completed with all members present and a quorum established.

The Chair relayed that public comment will be taken for agenda items, and that comments will be limited to 3 minutes per individual or no more than 10 minutes for a spokesperson of a group, a group being signified by 3 people present acknowledging they are ceding their time to comment. Additional information can always be submitted to the Commission in writing.

I. ADMINISTRATIVE

A. Motion to continue items related to the 11 Collier Avenue project to the January meeting **(Tuesday, January 7th at 5:00 pm)**. Motion by Chair Laura Hudson, seconded by Guillermo Rodriguez. Motion carries unanimously 7-0.
B. Commissioner Archibald made a motion to approve the minutes from the November 7, 2019 meeting Commissioner Edmonds seconds the motion. The motion carries unanimously 7:0.

II. PUBLIC HEARINGS

VARIANCE (CBD)

1. **Brent Campbell, on behalf of property owner Canesian Theory Holdings, LLC, is requesting a variance to Section 7-11-8 of the Unified Development Ordinance (UDO) to eliminate the sidewalk requirement for the property located at 34 S. Lexington and identified in the Buncombe County tax record as PIN 9648-49-2950. Planner coordinating review - Shannon Tuch**

   Staff presentation
   Shannon Tuch orients the Commission to the site, explains the request to renovate an existing vacant building that has triggered full site compliance (sidewalk) in the Central Business District. There is an existing, nonconforming sidewalk that is 4.5' wide which does not meet the city's 10-foot minimum width requirements for sidewalk in the CBD. Using a current site photo, Ms.

that all variances are specific to the proposed plan and conditions and, should something change, the variance may no longer apply. Because this facade does not have the same integrity as a building, Ms. Tuch thought it important to make that explicit in the report that preservation of the facade be a condition of the variance.

Commissioner Archibald asks whether the existing 6.5' sidewalk would wide enough for outdoor dining? Ms. Tuch replies that it would not, and that because of the narrow width, it may not even be wide enough for an A-frame sign. A minimum 4-5' pedestrian travel lane must be maintained at all times so not all sidewalks can accommodate even a temporary encroachment.

Public Comment

Chair Hudson opens the hearing for public comment. Seeing none, public comment is closed.

Action

Commissioner Rodriguez makes the motion to approve the variance based on the competent, material and substantial evidence presented during this hearing, which demonstrates compliance with the findings. Commissioner Archibald seconds the motion. The motion passes unanimously 7:0.

The Board's written Findings of Fact and Conclusions of Law are attached hereto and are incorporated herein by reference.

CONDITIONAL ZONING AMENDMENT

1. **A request to amend a previously approved conditional zoning approval (ordinance 4602) for the project known as RAD Lofts (Urban Place CZ) at 146 and 179 Roberts Street. The properties are identified in the Buncombe County tax record as PINs 9648-06-1956 and 9648-07-2183. The property owner is 146 Roberts LLC; the applicant is Harry Pilos. Planner coordinating review - Jessica Bernstein.**

Staff presentation was made by Jessica Bernstein, providing a brief history of the various amendments the project has gone through, most recently July 2017. Staff noted that the site plan, elevations and mix of uses are not proposed to change with this amendment. The only change is to the affordability condition. The condition currently notes a dedication of 5% of the units as affordable with the remaining 95% dedicated as work-force. The applicant is proposing to change that to dedicating 10% of the units as affordable at 80% AMI for a period of 10 years with no use of the City's Land Use Incentive Grant. Staff notes that although the amendment reduces the amount of affordability, what is proposed with the 10% dedication is in line with the commitment of other recent projects and still meets with goals of the city. Staff is supportive.

Applicant testimony - Harry Pilos explained that he is dedicated to making this project work but has calculated 'numbers' and they don't work. Construction costs have gone up so much, investment community wont support the project, tax incentives that were going to help are no longer.

Commission questions - Commissioner Joe Archibald asked about using incentives offered by the City, Mr Pilos discussed the infrastructure issue onsite where there is a $1 million dollar storm

drain running through the project site that serves downtown and needs to be addressed; the City is partnering with him on the costs of this work. But otherwise, he is not asking for any incentive programs.

Public comment - Opened at 5:22pm, closed at 5:22pm. No public comment.

Action - Commissioner Archibald made the motion to recommend approval of the conditional zoning amendment to ordinance 4602 for RAD Lofts - Urban Place Conditional Zone (UP CZ) for the revised condition related to affordability and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: 1) the amendment does not substantially deviate from the project details previously approved other than the change to affordability; 2) the project still includes dedicated affordable residential units; and, 3) the project is compatible with the surrounding area and future land use map. Commissioner Rodriguez seconds the motion. The motion passes unanimously (7-0). The conditional zoning amendment will move forward to City Council.

Adjournment

Commissioner Archibald moves to adjourn, Commissioner Rodriguez seconds the motion. Motion carries unanimously, 7-0. Meeting adjourned at **5:24 pm**.

Next Meeting

The next meeting of the Planning & Zoning Commission will be at 5:00 p.m on Tuesday, January 7, 2020.

It was noted that this meeting date does not follow the regular schedule due to the New Year's Day holiday.

Recommendation* of the Asheville Planning and Zoning Commission

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SUBJECT: Conditional Zoning Amendment – RAD Lofts (BP no. 13–03925 PZ)

REQUEST: Amend a condition related to affordability for the previously approved conditional zoning project known as RAD Lofts (Urban Place Conditional Zone - UP CZ)

RECOMMENDATION: *The Planning and Zoning Commission recommended approval and voted 7-0*

FINDINGS AND REASONS CONCERNING PLAN CONSISTENCY: *The motion was made that the Planning and Zoning Commission would recommend approval of the conditional zoning amendment to ordinance 4602 for RAD Lofts - Urban Place Conditional Zone (UP CZ) for the revised condition related to affordability and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: 1) the amendment does not substantially deviate from the project details previously approved other than the change to affordability; 2) the project still includes dedicated affordable residential units; and, 3) the project is compatible with the surrounding area and future land use map.*

Case History
Staff Coordinator: *Jessica Bernstein, Urban Planner II*
Heard by Planning and Zoning Commission: *December 4, 2019*
Vote: 7-0
Motion: *Commissioner Archibald*
Second: *Commissioner Rodriguez*
In Favor: *Commissioners Rodriguez, Hudson, Edmonds, Archibald, Hauser, Koon and Kilgore*
Opposed: *None*

This document is a true and accurate statement of the findings and recommendations of the Asheville Planning and Zoning Commission.

Laura Hudson, Chair

12/17/2019
Date

Asheville Planning and Zoning Commission

*This recommendation is being made pursuant to NCGS 160A-383 requiring the planning board to provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board.

ORDINANCE NO. _____

ORDINANCE AMENDING CONDITIONAL ZONING (ORDINANCE NO. 4602) FOR PROPERTY(S) LOCATED AT ROBERTS STREET, CLINGMAN AVENUE EXTENSION AND PARK AVENUE (NORTH)

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, the property owner has requested a change to the project conditions (Exhibit B-1) as approved under Ordinance No. 4602 regarding the affordability of residential units; and

WHEREAS, this proposed amendment is consistent with the *Living Asheville - A Comprehensive Plan for our Future* and is determined to be reasonable, and in the public interest for the following reasons:

a) The amendment does not substantially deviate from the project details previously approved other than the change to affordability;
b) The project still includes dedicated affordable residential units-at least 10% of the residential units shall be affordable to households at 80% AMI for a period of 10 years; and,
c) The project is compatible with the surrounding area and future land use map.

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

Section 1. The Official Zoning Map be, and the same is hereby, amended as follows:

The zoning classification of that certain real property described in Exhibit A and identified on Buncombe County tax maps as PINs 9648072183 and 9648061956, and, recorded in Deed Book 5546, Page 1921 and currently owned by 146 Roberts LLC from Urban Place Conditional Zone (CZ) to Urban Place Conditional Zone (UP CZ). A copy of the official zoning

map showing said lots is attached hereto as Exhibit "A.1" and made a part hereof. Said rezoning is subject to the conditions set out in Exhibit "B.1", and substantially compliant with the site plan(s) as shown on Exhibit C attached hereto and made a part hereof.

Section 2. That the Office of the Zoning Administrator is hereby authorized and directed to make the changes as herein before enacted in said zoning map.

Section 3. That 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 declared 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 4. The ordinances shall be enforced as provided in Article XVIII of Chapter 7, Section 1-5 of the Asheville City Code.

Section 5. That this ordinance shall be in full force and effect on the date of adoption.

Read, approved and adopted the 14th day of January, 2020.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney