

Joanne Badr Derek Allen



Real-estate law:

Mindful development impacts more than your favorite craft brew

For a number of reasons, consumers have begun to crave a sense of familiarity where they live, perhaps in response to an innate longing for community. Americans lost grasp of the goals of local, organic and sustainable living after the Great Depression, and the industrialization and post-World War II eras of efficient mass production and competitive consumerism distracted and drew us away from those concepts. With the rise of social media and virtual connections, this trend continued well into the 2000s.

Now a shift is afoot. According to Pew Research Center, the number of millennials — generally defined as those between the ages of 20 and 36 — is quickly surpassing the nearly 75 million baby boomers — people age 51 to 69. Both of these populations prioritize the incorporation of convenience, livability and work-life balance in their communities, and many choose to move to cities and towns that have embraced those trends.

In Asheville, more than 10 million people visit every year, with approximately 35% of them there to see friends and family in what has become a “top-five” travel destination. A significant number of those visitors decide to relocate to Asheville after only a short visit, because they’ve spent most of their trip asking themselves, “Why does it feel like I already know this place?” Asheville and western North Carolina’s geography are partially responsible for that feeling, but the

instant sense of familiarity that Asheville emits has not been generated by luck or accident — it has been purposefully cultivated by residents through a consistent emphasis on art, craft, sustainability and mindful living.

A great deal of the buzz about Asheville these days centers on its craft beer scene. The fact is that this emphasis on craft is not new. It is no surprise that breweries, farm-to-table restaurants and tourism are flourishing in Asheville because Ashevilleans have always focused on making livability, artisanship and craft the centerpieces of what they create. For more than 150 years, this focus has made Asheville a place for people to visit for recreation, health and quality of life. In the early 1900s, while George Vanderbilt was preparing his Biltmore Estate for visits by friends and colleagues, his wife, Edith, familiarized herself with local people and the crafts they produced, holding craft classes so residents could learn a skill to make a living. She later helped start a craft school at the Biltmore Estates Industries. In 1906 the New York Times praised the strong and fadeless quality of the yarn made from wool from sheep raised on the estate and colored with vegetable dyes. So, even as far back as 1906, Asheville’s focus on the concepts of local, organic and sustainability was prized. These basic priorities embraced by Asheville and its residents remain steadfast and alive today.

The prominence of intentional living is not limited to art and saleable products.

With industrialization and technology at our fingertips, we can obtain low-cost products quickly and cheaply, but with the growing national emphasis on sustainability, no industry can afford to ignore concepts related to mindful living if they want to remain relevant with today’s consumers.

In today’s world, developers also must consider how to carve out mindful development patterns that are built around a specific population’s needs, mostly because the way that many people choose to live is changing. According to Time magazine, in 2011, for the first time in nearly 100 years, the rate of urban population growth outpaced suburban growth. The aging of baby boomers and the rise of millennials have created an emphasis on concepts of “work-life balance,” and as a result, to draw these populations, a living environment must be attractive and supported by good infrastructure, including initiatives aimed at energy, water and waste efficiency.

In Asheville, as with other areas heeding the demand for local focus, the real-estate development and construction industry cannot ignore this clamor. Asheville’s developers are learning that America’s young working population is enticed by urban-style living, and like other smaller cities and towns, these developers have to understand where they live and hustle to recruit and retain millennials, who want to walk or bike to the grocery store, laundromat, wine bar and their children’s elementary school.

Millennials also want to walk to their local arts district, putting an onus on local leaders, city officials and commercial real estate owners to create affordable residential buildings amidst continuously rising real-property values and market rents, so that communities such as Asheville do not lose the artist community that has contributed so significantly to its uniqueness. Now, when putting together a design model, Asheville's developers are wisely considering the historical designs of the past, the use of lighting technology that mimics sunlight, and the use of construction materials that are void of known toxicity, built to last and maintain the integrity of the existing building. Development in Asheville also has a strong emphasis on craftsmanship and quality in building materials and their function because that is the essence of craft, and it is what today's consumers demand.

There are other benefits to focusing on the creation of mindful, livable urban spaces in Asheville and other cities and towns because such an emphasis helps to provide access to resources that make advanced industries — such as biomedicine, energy and technology — thrive, which in turn draws high-paying jobs that continue to support a booming real-estate sector.

It is noteworthy that while less immediately enticing to millennials and the populations born after them, the suburbs are not going away, and they present an opportunity for the real-estate industry in Asheville and elsewhere to apply the principles of mindful living. Market participants cannot afford to ignore developments well beyond central business districts, but make no mistake, millennial families aren't interested in living in the suburbs of their parents' generation. The demand, in Asheville and elsewhere, is for suburbs to be made more walkable, friendly and convenient. Families still want tree-lined streets, soccer leagues and cul-de-sacs, but they can do without endless commutes and traffic jams.

Urban-style living can be made possible in suburban areas, so long as zoning accommodates this shift and commercial

real estate developers and investors are willing to build communities similar to models previously only thought possible in city centers: true mixed-use developments.

No doubt zoning regulations impact city development in many ways, but by the same token, there is no reason why the opposite cannot be true. City development can both impact and change zoning regulations. While the function of zoning regulation historically has been to divide a municipality into distinct residential, commercial and industrial zones, as society's needs and demands shift, these regulations also must change.

As growing urban and suburban areas are pressed for more housing capacity, zoning ordinances will necessarily shift to accommodate the demand. In the past, planners may have interpreted a city's comprehensive plan to require that a mixed-use development was one where every separate parcel of land had to contain mixed-use development, but now planners recognize the need for a larger planning view. Mixed use, for example, may mean that within a mixed-use district, housing can exist on one parcel, with a grocery store, daycare center, school and pharmacy on adjacent parcels. Instead of the old view of many uses under a single roof, creative mixed-use development can take the shape of multiple buildings and public spaces, placed in thoughtful proximity to one another and around an existing community,

creating a tapestry within, so a suburb can reinvent itself into a sustainable, closely-knit community capable of attracting baby boomers and millennials.

Suburbs also are attractive because employers are increasingly attracted to suburban office markets. Rents for class-A space there tend to be nearly half of what's paid in central business districts. Improvement in suburban office markets goes hand in hand with growth in residential development and the multifamily sector, which will create urban markets outside of central business districts. As in many communities, Asheville's young and seasoned entrepreneurial and professionally minded residents are learning that they can live where they want to live, within the communities they want to be a part of, and that their jobs and employers will come to them.

The economic boon that has been experienced in Asheville can be cultivated in other North Carolina communities. However, in today's world, in order to draw craft breweries, farm-to-table chefs, tech jobs, tourism, millennial professionals and entrepreneurs to its boundaries, a community must remain constantly aware of the indispensability of incorporating concepts of craft and livability into its real-estate development. This will be one of the most important factors that every city, town and suburb must prioritize in order to achieve conscious and mindful growth.

JOANNE BADR'S practice at Ward and Smith PA emphasizes the representation of banks and other financial institutions in commercial loan transactions involving asset-based and real estate secured loans, including new construction, multifamily, mixed use, retail, hotel and health care related projects. She also represents real estate developers and business owners in connection with acquisition, disposition, planning, financing, construction and leasing negotiations.

DEREK ALLEN leads the alcoholic beverage law, real-estate development and zoning and land use practices at Ward and Smith PA. He has extensive experience with craft breweries from small startups to national distributors. He has experience in all aspects of civil litigation, including depositions, hearings, mediations, arbitrations, jury trials and appeals. He advises clients and litigates cases involving all forms of commercial, business, development and real-property disputes in state and federal courts.