

Tuesday – November 26, 2019 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Brian D. Haynes; Councilman Vijay Kapoor; Councilwoman Julie V. Mayfield; Councilwoman Sheneika Smith; Councilman W. Keith Young; City Manager Debra Campbell; City Attorney Brad Branhan; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 12, 2019**
- B. RESOLUTION NO. 19-260 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY AN EASEMENT AT RICHMOND HILL PARK ON CITY-OWNED PROPERTY TO DEPENDABLE HOUSE BUYER, LLC.**

Action Requested: Adoption of a resolution authorizing the City Manager to execute an access easement to Dependable House Buyer LLC over City-owned property at Riverview Church Road.

Background:

- The City of Asheville owns 150 acres of property known as Richmond Hill Park. An existing gravel and soil road runs through the western-most portion of Richmond Hill Park and is currently used to access several adjacent homes. It has been in use for over twenty years as documented in Plat Book 98, Page 195, however no formal easement exists between the City and the homeowners.
- The City of Asheville commissioned a survey of the property in 2005. That survey is provided as Exhibit A and shows the area of the existing access road.
- A local developer (Dependable House Buyer LLC) has approached the City with a request for a formal access easement and a willingness to repair the road and maintain it. He purchased 4.8 acres of land in the land-locked neighborhood.
- The road is on a part of the park that is not in use for recreation. Parks and Recreation was consulted by the Real Estate Division and they have no objections to the access easement.
- The City is not interested in maintaining this road according to Public Works and Transportation Departments and it will remain open to the general public as a condition of the easement.
- The developer's surveyor has estimated that the road would be approximately 1,050 feet long and 45' wide, making the permanent easement 47,250 square feet or 1.085 acres.
- The developer has offered to pay \$9,000 for the easement and perform maintenance and repair of the road. Recent land sales in the area, including the developer's purchase of 4.8 acres of land for \$65,000, indicate that this is a reasonable offer for the easement.

Council Goal(s):

- A Well Planned and Liveable Community

Committee(s):

- Not Applicable

Pro(s):

- This access road will be improved and maintained with no cost to the City.
- This existing road will be established as legal access.
- Developer is paying for the access easement.

Con(s):

- This easement will grant permanent easement rights within a City-owned park but the access use does not interfere with the park's recreational uses.

Fiscal Impact:

- The City will have no financial responsibility associated with maintenance of the road.
- Compensation for the easement will benefit the General Fund.

Motion:

- Motion to approve a resolution authorizing the City Manager to convey a non-exclusive access easement to Dependable House Buyer, LLC.

RESOLUTION BOOK NO. 41 - PAGE 154

C. RESOLUTION NO. 19-261 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH BEVERLY GRANT/BARNHILL JOINT VENTURE TO ADD TO THE SCOPE OF THE CONSTRUCTION PROJECT ADDITIONAL INFRASTRUCTURE IMPROVEMENTS FROM THE RIVERSIDE DRIVE RAILROAD CROSSING TO HILL STREET

Action Requested: Adoption of a resolution authorizing the City Manager to execute a change order not-to-exceed \$1,800,000 with Beverly Grant/Barnhill Joint Venture to add to the scope of the construction project additional infrastructure improvements from the Riverside Drive railroad crossing to Hill Street.

Background:

- Value engineering of the RADTIP back in June 2017 included eliminating proposed "jughandles" at the Riverside Drive railroad crossing and an associated retaining wall that would have cost \$2,461,000. These jughandles were designed to improve the safety of bicycles crossing the Norfolk Southern rail lines in both directions through a more perpendicular crossing.
- Since eliminating these proposed improvements, city staff and the engineering consultants for this project have explored alternative methods of providing safe bicycle crossing without the need to build a cost prohibitive retaining wall for the northbound bicycle traffic. Southbound bicycle traffic will have a dedicated jughandle crossing if this change order is approved.
- The design alternative selected for northbound bicycle traffic that can be implemented within the existing RADTIP budget involves building a narrowed 10' vehicle lane with a wider 6' wide bicycle lane that transitions to a shared vehicle/bicycle facility ("sharrows") at the Riverside Railroad crossing. This design allows a bicyclist to cross the tracks at a more perpendicular angle.

Vendor Outreach Efforts:

- DBE participation on this project is currently tracking at 6.7% to date. This change order is anticipated to include 9% in DBE participation.

Council Goal(s):

- A well-planned and livable community
- Transportation and Accessibility
- Smart City.

Committee(s): Staff has presented this information to the following stakeholders and committees prior to bringing this recommendation to Council.

- Asheville Bicycle and Pedestrian Task Force - October 17, 2019
- Multimodal Commission - September 25, October 30, 2019

Pro(s):

- Makes bicycle crossings safer at a location that has a history of documented injuries.
- Provides safe pedestrian access to newly constructed bond funded sidewalks at Hill Street.
- Provides much needed stormwater infrastructure in an area that historically ponds water on a routine basis.
- Utilizes available TIGER VI grant funding thereby reducing the local funding required to make improvements.
- All improvements can be funded using available project contingency.
- Continues to deliver on the original commitments of RADTIP, providing pedestrian and bicycle connectivity from Hill Street to the North to Amboy Road to the South of the RAD.
- This work will be completed by Aug. 2020 within the same timeframe of the original construction schedule.

Con(s):

- Does not include the “ideal” jughandle bicycle crossing design for the northbound bicyclists.
- In order to take advantage of the remaining TIGER grant funds, Federal Highway Authority (FHWA) requires that this contract addition be negotiated with the current contractor and not competitively bid.

Fiscal Impact:

- The funding required to add this scope back into the construction contract is available within the contingency of the already approved project budget. No additional funding is required. The approval of this not-to-exceed \$1,800,000 change order plus the current contract value of \$31,532,920.54 will bring the total contract value to not-to-exceed \$33,332,920.54

Motion:

- Motion to adopt a resolution authorizing the City Manager to execute a change order for not-to-exceed \$1,800,000 with Beverly Grant/Barnhill Joint Venture to add to the scope of the construction project additional infrastructure improvements from the Riverside Drive railroad crossing to Hill Street.

Mr. Michael Soule and Clark Mackey, representing Asheville on Bikes, thanked City Council for these improvements but also urged City Council to work towards making infrastructure improvements north on Riverside Drive safe for people in all modes of transportation.

Vice-Mayor Wisler noted that staff is still working on problems associated with the railroad crossing.

RESOLUTION BOOK NO. 41 - PAGE 155

D. RESOLUTION NO. 19-262 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH GREYBEARD FENCING SOLUTIONS FOR THE RAY L. KISIAH PARK FENCING IMPROVEMENTS

Action Requested: Adoption of a resolution authorizing the City Manager to enter into a construction contract with Greybeard Fence Solutions of Mars Hill, NC, in the amount of \$184,939 and to further authorize change orders up to the contingency amount of \$18,494 (10%) for Ray L. Kisiah Park fencing improvements.

Background:

- The project upgrades were approved in the GO Bond and will allow for the replacement of outdated facilities including sports field fencing and amenities.
- This project will improve the appearance, usefulness, and safety of facilities, and help the department implement the Parks, Recreation, Cultural Arts Master Plan adopted by City Council in 2009.
- Three bids were received and opened on October 30, 2019:
 - Greybeard Fencing Solutions, Mars Hill, NC \$184,939
 - Seegars Fencing, Woodruff, SC \$245,465
 - Asheville Contracting Co. Inc., Candler, NC \$408,000 (HUB-Women Owned Business)

Vendor Outreach Efforts:

- Staff performed outreach to minority and women owned business through solicitation processes which include posting on the State's Interactive Purchasing System, targeted outreach with the City's Business Inclusion Manager, and requiring prime contractors to reach out to Minority & Women-Owned Business Enterprise (MWBE) service providers for subcontracted services.
- Greybeard Fencing Solutions, Mars Hill, NC was found to be the lowest responsible/responsive bidder for this project.

Council Goal(s):

- A Clean and Healthy Environment & A Well-Planned and Livable Community.

Committee(s):

- Recreation Advisory Board (November 10) - project status update

Pro(s):

- Addresses needed infrastructure and safety improvements and delivers on ballfield improvements identified in the approved 2016 Bond Referendum.
- The facility will be under construction for 8-10 weeks during the off-season to minimize impacts to programs.

Con(s):

- None

Fiscal Impact:

- Funding for this contract exists within the approved GO Bond Capital Budget.

Motion:

- Motion to adopt a resolution authorizing the City Manager to enter into a construction contract with Greybeard Fence Solutions of Mars Hill, NC, in the amount of \$184,939 and

to further authorize change orders up to the contingency amount of \$18,494 (10%) for Ray L. Kisiah Park fencing improvements.

RESOLUTION BOOK NO. 41 - PAGE 156

E. RESOLUTION NO. 19-263 - RESOLUTION AUTHORIZING procurement of the CANDIDATE PHYSICAL ABILITY TEST EQUIPMENT FROM SOLE SOURCE VENDOR CPAT DISTRIBUTION INC. FOR THE ASHEVILLE FIRE DEPARTMENT

Action Requested: Adoption of a resolution authorizing the procurement of the Candidate Physical Ability Test equipment from sole source vendor CPAT Distribution, Inc.

Background:

- Through the Asheville Fire Department's accreditation process with Center for Public Safety Excellence, it was recommended for AFD to administer a nationally validated physical ability test for firefighter candidates. The Human Resources Department has supported this recommendation.
- To utilize a validated physical ability test means an outside organization has evaluated the test for its applicability to the job of a firefighter in the Asheville Fire Department
- The Fire Service Joint Labor Management Wellness/Fitness Initiative Task Force between the IAFF and the IAFC was tasked with addressing the issue of physical performance in the fire service.
- The Candidate Physical Ability Test (CPAT) was developed to be a fair evaluation system in the selection of firefighters to ensure that all firefighter candidates possess the physical ability to complete critical tasks effectively and safely.
- Their development of CPAT to obtain a diverse pool of candidates who are physically capable of performing the tasks required by firefighters has become the standard for entry level firefighter physical ability testing.
- Based on the standard established by the Task Force, the Asheville Fire Department will utilize the CPAT to ensure it is adhering to the industry's best practices for a validated physical ability test.
- The Asheville Fire Department holds the Candidate Physical Ability Test Program License. To maintain the license, the Department is required to obtain a specified set of equipment to administer the test. Some of this equipment is only manufactured for and distributed by CPAT Distribution, Inc.
- The cost of the equipment from CPAT Distribution, Inc. is approximately \$20,000.

Vendor Outreach Efforts:

- Due to the need for compatibility with the Candidate Physical Ability Test, CPAT Distribution, Inc. is the only manufacturer and distributor of this equipment.

Council Goal(s):

- Smart City
- Thriving Local Economy

Committee(s):

- Public Safety Committee - October 31, 2019 - Approved

Pro(s):

- Implementing the CPAT furthers the City's goal of equity and inclusion in the recruiting process.
- Allows the Department to meet the recommendation from the Center for Public Safety Excellence to utilize a nationally validated physical ability test.

- Reduces the risk of liability to the City from possible litigation over implicit bias in physical ability testing.

Con(s):

- None

Fiscal Impact:

- Funding for this purchase is already included in the Fire Department budget.

Motion:

- Move to adopt a resolution authorizing the procurement of the Candidate Physical Ability Test equipment from sole source vendor CPAT Distribution, Inc.

RESOLUTION BOOK NO. 41 - PAGE 157

F. RESOLUTION AUTHORIZING EXCHANGE OF REAL PROPERTY LOCATED ON SOUTH MARKET STREET FOR PROPERTY LOCATED ON BEAUMONT STREET

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT DONATION AND CONVEYANCE OF REAL PROPERTY ADJACENT TO CITY-OWNED PROPERTY AT 161 S. CHARLOTTE STREET FROM FIFTY FIVE SOUTH MARKET, LLC.

These items have been removed from consideration at this meeting.

G. ORDINANCE NO. 4781 - ORDINANCE CHANGING THE NAME OF THE TREE COMMISSION TO URBAN FORESTRY COMMISSION AND SUPPORT BY THE DEVELOPMENT SERVICES DEPARTMENT

Action Requested: Adoption of an ordinance changing the name of the City’s Tree Commission to the “Urban Forestry Commission” and be supported by the Development Services Department.

Background:

- In 1965, the City of Asheville adopted Ordinance Number 1677, establishing the Asheville Tree Commission.
- The Tree Commission has advised Council with respect to the planting, replacement, and removal of trees in the City.
- The Tree Commission has determined that its name should be changed to the Urban Forestry Commission as urban forestry is now the common term used to describe the ways in which cities manage their forest assets.
- Staff is further recommending that Section 2-161 of the City Code be modified to allow the City Manager to appoint the appropriate staff to serve as support for the Commission.

Council Goal(s):

- A well-planned and livable community

Committee(s):

- Boards and Commissions Committee (recommended approval on August 27, 2019)

Pro(s):

- Will modernize the Tree Commission’s name.
- Will increase flexibility with respect to staffing support.

Con(s):

- None noted.

Fiscal Impact:

- None.

Motion:

- Move to adopt an ordinance changing the name of the City's Tree Commission to the "Urban Forestry Commission" and be supported by the Development Services Department.

ORDINANCE BOOK NO. 33 - PAGE 5

H. RESOLUTION NO. 19-164 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR APPRENTICESHIP AND INTERNSHIP PROGRAM GRANTS, AND IF AWARDED, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE APPRENTICESHIP AND INTERNSHIP PROGRAMS FOR FISCAL YEAR 2020-21

Action Requested: Adoption of a resolution authorizing the City Manager to apply for the North Carolina Department of Transportation (NCDOT) Apprenticeship and Internship Grant Program and if awarded, authorize the City Manager to enter into an agreement with NCDOT to fund the Apprenticeship and Internship Programs for Fiscal Year (FY) 2020-21.

Background:

- The NCDOT announced during the week of November 11th the availability of funding for the State's Apprenticeship and Internship program for students seeking to work with public transportation agencies in the state of North Carolina.
- During FY 2019-20, the City of Asheville's Transportation Department applied for and received grant funds to sponsor an apprentice or intern to work with staff in the Transportation Department interested in learning more about public transportation.

Council Goal(s):

- A well-planned and livable community
- Transportation and accessibility

Committee(s):

- None - Finance & Human Resources Committee cancelled November 26, 2019, meeting

Pro(s):

- Provides funding for an apprenticeship or internship position within the Transportation Department.
- Grant funds supplements funding for apprenticeship and/or internship positions for FY 2020-21.

Con(s):

- The required 10% local match of \$5,503.30.

Fiscal Impact:

- The total grant funding being requested for the Fiscal Year 2020-21 NCDOT Apprenticeship and Internship Programs is estimated to be \$55,053. The City's required 10% local match is \$5,503.30, and the State grant would be approximately \$49,549.70.

Both the State grant and the City's local match will need to be budgeted in the FY 2020-21 Transit Services Budget.

Motion:

- Motion to approve a resolution authorizing the City Manager to apply for and accept funding from NCDOT Grant Program and if awarded, authorize the City Manager to enter into an agreement with the NCDOT to fund the Apprenticeship and Internship Program for FY 2020-21.

RESOLUTION BOOK NO. 41 - PAGE 157

I. RESOLUTION NO. 19-265 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE CONTRACT WITH J. BRADY CONTRACTING INC. TO COMPLETE AN EMERGENCY REPAIR OF HVAC UNITS AND CONTROLS IN THE THOMAS WOLFE AUDITORIUM

ORDINANCE NO. 4782 - BUDGET AMENDMENT TO COMPLETE AN EMERGENCY REPAIR OF HVAC UNITS AND CONTROLS IN THE THOMAS WOLFE AUDITORIUM

Action Requested: Adoption of a resolution authorizing the City Manager to amend the contract with J. Brady Contracting, Inc. in the amount of \$50,000 to complete an emergency repair of Heating Ventilation and Air Conditioning (HVAC) units and controls in the Thomas Wolfe Auditorium, and budget amendment in the amount of \$50,000 from USCC fund balance.

Background:

- The main heating element in the Thomas Wolfe Auditorium seating area has failed, leaving the venue at 50% capacity for heating. Additionally, in the past several months numerous air conditioning coils have failed leaving the venue at roughly 25% capacity for cooling.
- An immediate repair is necessary, if the last remaining unit fails the venue is at risk of closing and potentially cancelling events.
- A timely repair is possible within the next six weeks if a current contract with J.Brady Contracting Inc. is amended and a transfer of \$50,000 is made from the U.S. Cellular Center's appropriated fund balance by November 27th.
- Staff intends to announce potential transformative enhancements to the Thomas Wolfe Auditorium in December, 2019.

Vendor Outreach Efforts:

- Not Applicable; amendment of a current contract.

Council Goal(s):

- A Thriving Local Economy
- A Clean and Healthy Environment

Committee(s):

- None.

Pro(s):

- Repairs help ensure the Thomas Wolfe Auditorium remains open for the near future.
- Repairs allow for guests at events at the Thomas Wolfe Auditorium to enjoy performances in a comfortable environment.

Con(s):

- This repair enhances controls of cooling and heating, however does not address the physical aspects of the cooling system in the seating chamber.

Fiscal Impact:

- U.S. Cellular Center operating fund balance will be reduced by \$50,000. Total fund balance will remain above the 16% minimum recommended by policy.

Motion:

- Motion to adopt a resolution authorizing the City Manager to execute a contract amendment to the construction manager-at-risk contract with J. BRADY CONTRACTING, INC., in the amount of \$50,000.00, for a total maximum price of \$4,031,264.79 to complete HVAC repairs at the Thomas Wolfe Auditorium within the U.S. Cellular Center Facility Renovation and HVAC Modernization contract; and adopt a budget amendment in the amount of \$50,000 from USCC fund balance.

**RESOLUTION BOOK NO. 41 - PAGE 158
ORDINANCE BOOK 33 - PAGE 7**

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

Councilman Young moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO PERMANENTLY CLOSE AN UNOPENED ALLEY KNOWN AS LENNOX COURT

RESOLUTION NO. 19-266 - RESOLUTION TO PERMANENTLY CLOSE AN UNOPENED ALLEY KNOWN AS LENNOX COURT

Streets Division Manager Chad Bandy said that this is the consideration of a resolution to permanently close an unopened alley known as Lennox Court. This public hearing was advertised on November 1, 8, 15 and 22, 2019.

Background:

- N. C. General Statute Sec. 160A-299 grants cities the authority to permanently close streets and alleys.
- The Jewish Community Center has petitioned the closure and owns one adjacent property, 236 Charlotte Street (PIN # 9649-54-9870).
- This closure allows maximum land use potential for further development in accordance with Living Asheville - A Comprehensive Plan for our Future.

Council Goal(s):

- A Well-Planned and Livable Community

Committee(s):

- Multimodal Transportation Committee -August 28, 2019 - Recommended closing the right of way as long as pedestrian access is intact. This condition has been met.

Pro(s):

- The closure would allow for more efficient use of the existing adjacent properties.
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con(s):

- None

Fiscal Impact:

- There will be no fiscal impact related to this closure.

Mayor Manheimer opened the public hearing at 5:12 p.m.,

Mr. Warren Suggs spoke in support of the closing.

Mayor Manheimer closed the public hearing at 5:13 p.m.

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

Vice-Mayor Wisler moved to permanently close an unopened alley known as Lennox Court. This motion was seconded by Councilman Kapoor and carried unanimously.

RESOLUTION BOOK NO. 41 – PAGE 160

B. PUBLIC HEARING TO PERMANENTLY CLOSE TWO UNOPENED RIGHTS-OF-WAY KNOWN AS POND ROAD AND LANCE LANE LOCATED OFF LONG SHOALS ROAD

RESOLUTION NO. 19-267 - RESOLUTION TO PERMANENTLY CLOSE TWO UNOPENED RIGHTS-OF-WAY KNOWN AS POND ROAD AND LANCE LANE LOCATED OFF LONG SHOALS ROAD

Streets Division Manager Chad Bandy said that this is the consideration of a resolution to permanently close two unopened rights-of-way known as Pond Road and Lance Lane located off Long Shoals Road. This public hearing was advertised on November 1, 8, 15 and 22, 2019.

Background:

- N.C. General Statute Sec. 160A-299 grants cities the authority to permanently close streets and alleys.
- James Wilson with Long Shoals Development (PIN # 9644-99-5794) has petitioned for the closure. Adjoining property owners Cane Creek - Vistas LLC (PIN #9644-99-5598), Karen Fraser and Gordon B Fraser Trust (PIN #s 9644-99-3427, 9644-99-3772) have joined this petition.
- This closure allows maximum land use potential for further development in accordance with Living Asheville - A Comprehensive Plan for our Future.

Council Goal(s):

- A Well-Planned and Livable Community

Committee(s):

- Multimodal Transportation Committee - 8/28/19 - Recommended closing the right of way by unanimous vote

Pro(s):

- The closure would allow for more efficient use of the existing adjacent properties.
- Meets Council's goal to promote sustainable high density infill growth that makes efficient use of existing resources

Con(s):

- None

Fiscal Impact:

- There will be no fiscal impact related to this closure.

Mayor Manheimer opened the public hearing at 5:14 p.m., and when no one spoke, she closed the public hearing at 5:14 p.m.

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

Vice-Mayor Wisler moved to permanently close two unopened rights-of-way known as Pond Road and Lance Lane located off Long Shoals Road. This motion was seconded by Councilman Kapoor and carried unanimously.

RESOLUTION BOOK NO. 41 – PAGE 162

C. PUBLIC HEARING TO CONSIDER AMENDMENTS TO ARTICLE VIII OF THE UNIFIED DEVELOPMENT ORDINANCE IN ORDER TO PERMIT “CAMPGROUNDS” AND “ACCESSORY DWELLING UNITS” IN THE HIGHWAY BUSINESS ZONING DISTRICT

Principal Planner Shannon Tuch said that this is the consideration of amendments to Article VIII of the Unified Development Ordinance in order to permit “Campgrounds” and “Accessory Dwelling Units” in the Highway Business Zoning District. This public hearing was advertised on November 15 and 22, 2019.

Action Requested: Adopt a zoning text amendment to amend the UDO *Table of Permitted Uses* to add Campgrounds and Accessory Dwelling Units (ADUs) as a permitted use (“P”) in the Highway Business (HB) zoning district.

Background:

- On July 26, 2019, Drew Crawford (DIYTINY Inc.) submitted an application for a zoning text amendment, as allowed under UDO Sec. 7-7-2. Initiation of Amendments.
- The petitioner owns and manages a tiny home community on property located at 22 Burluson Rd., zoned HB. These tiny homes are mobile and on wheels, and are commonly referred to as “THOWs”.
- The petitioner received a Notice of Zoning Violation (NOV) for establishing the tiny home community without any of the necessary permits.
- The petitioner filed an appeal of the NOV with the Asheville Board of Adjustment and was heard on July 22, 2019 & August 26, 2019. This appeal was unsuccessful and the Board of Adjustment upheld the city's issuance of the NOV.
- The petitioner is interested in the potential for THOWs to be used as permanent housing; however, (most) THOWs are not built under the NC State Building Code or certified through Housing and Urban Development (HUD). As a result, THOWs may not be occupied for more than 180 days. If occupied for more than 180 days, the use would no

longer be classified as a Campground and would be classified as some form of residential.

- The purpose of the HB zoning district is, *“to address the needs of commercial development along major thoroughfares”*. This may include high density, multi-family residential.

Campgrounds in HB

- THOWs are not approved for permanent housing and are regulated under the NC Department of Motor Vehicles for temporary or recreational use only.
- A group of THOWs would be classified as a “Camper-trailer park” and would be permitted anywhere a “Campground” would be permitted. Campgrounds are not a permitted use in HB.
- On January 9, 2018, the Asheville City Council adopted Ord. No. 4637 *“Ordinance Amending Chapter 7 of the Code of Ordinances of the City of Asheville to Define Lodging Types and Amend the Table of Uses”*. This ordinance clarified differences between different forms of lodging, and updated the Table of Permitted Uses (TOU) identifying in which zoning districts the different forms of lodging would be permitted.
- As a result of Ord. No. 4637, Campgrounds were removed as a permitted use in HB because the new comprehensive plan identifies a land use goal to prioritize moving away from suburban-style, corridor development towards multi-modal oriented, mixed-use, urban forms of development. Most HB zoned property was identified as “Urban Corridor” on the Future Land Use Map that was adopted as part of the plan.
- Ord. No. 4637 also amended the Table of Permitted Uses to add Campgrounds to the Lodging Expansion (LODG-EXP) zoning district. Other existing forms of lodging, such as Bed & Breakfasts and Boardinghouses, also experienced changes to the zoning districts in which these uses would be permitted.
- Campgrounds remain a permitted use in the Regional Business (RB), Commercial Industrial (CI), Resort (RES) and River (RIV) zoning districts.
- While the petitioner’s property does not directly front on Tunnel Rd., most HB zoned property does and should this amendment be approved, it would allow Campgrounds in areas not suitable for recreating.

ADUs in HB

- ADUs are permitted in conjunction with a single family home and is subordinate in size and placement. A single-family home may only have one ADU.
- HB zoning is not intended to support low density single-family development, with or without accessory units.
- The Highway Business zoning district allows up to 35 units per acre and does not distinguish between primary and accessory dwelling units. Multi-family developments, along with multiple individual cottage-style units, would be freely permitted in the HB zoning district.
- The applicant has stated that the purpose of this request is to reduce building setbacks for accessory units against residential neighbors.

Comprehensive Plan Consistency:

- This proposal does not align with the *Living Asheville* comprehensive plan in that the plan identifies most HB zoned property as “Urban Corridor” on the Future Land Use map which prioritizes multi-modal access, transit facilities, and building and parking placement that enhances the pedestrian experience over the traditional car-oriented, suburban style of development. It is also important to note that the plan also describes the need to, *“Develop a comprehensive study of all lodging types and their impact on the community in order to evaluate policy options related to these different uses. In the interim, continue enforcement of illegal short-term vacation rentals”*.

- The plan further identifies the need for all elements of the built environment, including housing, to create sustainable living environments; and, for this housing to be safe and healthy.

Council Goal(s):

- This proposal does not directly align with Council adopted goals. Opportunities for new businesses and/or development is generally tied to the goal of a *Thriving Local Economy*.

(Note: because THOWs cannot be classified as housing, goals specific to increasing the supply of housing do not apply).

Committee(s):

- The petitioner was heard by the Housing & Community Development Committee on June 18, 2019, and spoke on the subject of tiny homes on wheels being a useful and beneficial form of permanent or semi-permanent housing.
- The petitioner was heard by the Planning & Zoning Commission on September 4, 2019, and November 7, 2019, and was denied unanimously by the Commission on both dates.

Pro(s):

- Provides more flexibility to owners of property zoned HB and broadens opportunities for camping as a form of lodging and/or constructing ADUs.

Con(s):

- The proposed changes are inconsistent with the *Living Asheville* comprehensive plan and the purpose statements for HB included in the UDO.
- The proposed change would apply to all HB zoned properties with no site specific review or mitigation considered.
- The proposed change would allow for a low-cost investment that establishes an interim use that may keep these strategically located properties with good infrastructure underdeveloped for an extended period of time.
- Underdeveloped properties may further discourage investment in adjacent properties where the city is seeking to encourage redevelopment and investment.
- The impacts of lodging on the larger Asheville community are not well understood (a study regarding hotels is currently in process).
- Uncertified units that have not received safety inspections should not/may not be used as housing, particularly for individuals who have limited housing options.
- Most HB zoned property fronts directly onto, or is not far from, a thoroughfare and may be a less hospitable environment for a Campground.

Fiscal Impact:

- There is no anticipated fiscal impact to this proposal.

Staff Recommendation:

- Staff does not support the proposed zoning text amendment to change the Table of Permitted Uses for the HB zoning district to: 1) Add Campgrounds - primarily because it is inconsistent with the *Living Asheville* comprehensive plan where the plan calls for property along primary corridors to be developed at a higher intensity and with an urban form - *Campgrounds* and/or *Camper-trailer* parks are rural-suburban in nature; and 2) add *Accessory Dwelling Units* as a permitted use in the HB zoning district primarily because an option to allow multiple units on an HB zoned property already exists and ADUs apply to low density single-family development only, and does not support commercial development more appropriate to highway corridors.

Ms. Tuch explained that the Highway Business District, by right, already allows for high density residential use, either in the form of attached multi-family dwelling units or as individual cottage units. Both are broadly allowed in the Highway Business District and the Highway Business District can support multiple dwelling units. There is nothing to prevent the construction of units subject to all of the applicable standards.

Ms. Tuch said that as an alternative to this text amendment, she recommended the applicant continue his efforts of exploring a pathway to constructing his units under HUD certification program or under the North Carolina Building Code. We already have an overlay that allows for manufactured housing which can be expanded in the future if desired, or we can look to see if it was appropriate to adopt a different zoning classification for tiny home communities provided they can meet the HUD certification standard or the North Carolina Building Code standard.

Mayor Manheimer opened the public hearing at 5:20 p.m.

Ms. Audra Schroeder spoke in support of this text amendment and reviewed with Council a chart showing financing for a tiny home vs. a regular home.

Ms. Amelia Schroeder spoke in support of this text amendment and hoped that Asheville will set an example of tiny homes as affordable housing.

Mr. Drew Crawford, DIYTiny, explained in detail his request and urged Council to (1) recognize that scope and size matters and discuss ADU's and where cottage development can be located; (2) write special use district rules for "Residential Campground" as a zoning use; and (3) establish tiny houses as a bridge between rental and ownership for affordable housing.

Mayor Manheimer closed the public hearing at 5:42 p.m.

Mayor Manheimer explained that people can put ADU's (or small homes) to properties now in residentially zoned areas. Ms. Tuch explained that one of the challenges with this conversation is that when we talk about tiny homes on wheels, this is a recreational unit and regulated under the N.C. Dept. of Motor Vehicles. It is not classified as housing - not a dwelling unit, regardless of what someone's intent may be. We cannot put it in the category of housing.

Councilwoman Mayfield and Councilman Young hoped that staff will continue to work on this option for affordable housing. They would not be supportive of this one change because they felt we need to look at it in a larger context.

Vice-Mayor Wisler moved to deny the proposed wording amendments to Article VIII of the UDO and find that the proposed amendments are inconsistent with the city's comprehensive plan in that, 1) campgrounds, defined as areas for temporary occupancy for recreational use, are not consistent with the vision for Urban Corridors, and 2) Accessory Dwelling Units, which generally accompany low density single family development, are not consistent with the support of commercial development encouraged in the HB zone and therefore, the action to deny is reasonable and in the public interest. This motion was seconded by Councilman Kapoor and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION AMENDING THE CITY OF ASHEVILLE'S LAND USE INCENTIVE GRANT POLICY

This item has been removed from consideration at this meeting.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jody Williams and Ms. Teresa Newman, representing Help Asheville Bears, urged Council to work with the State Attorney's Office and N.C. Wildlife Commission to convict people using illegally using traps for bears or selling bear parts in Western North Carolina.

Ms. Sara Stroupe asked City Council to adopt a resolution in support of Asheville's military and veteran caregivers. Mayor Manheimer said that since the requested resolution has several asks, she instructed City Manager Campbell to follow-up with Ms. Stroupe to advise her what is already in existence and ways to build on it.

Several individuals urged City Council to pass the climate emergency resolution as written by the Sunrise Movement and place it on the December 10, 2019, City Council Agenda. The individuals then each read a passage of "ON - The (Burning) Case for a Green New Deal" by Naomi Klein.

Councilman Haynes supported the climate emergency resolution be placed on the December 12, 2019, agenda for City Council consideration. Councilwoman Mayfield said that the Sustainability Advisory Committee on Energy & the Environment continues to be open for discussion with the Sunrise Movement on the proposed resolution.

Closed Session

At 6:43 p.m., Councilwoman Smith moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.11(a)(1). The statutory authorization is contained in N.C.G.S. 143-318.10 (e); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, the handling or settlement of a claim regarding the following: Mayfair Partners, LLC v. City of Asheville 18-CVX-4870; and Gwen Alexander v. City of Asheville 18-CVS 2331. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 7:10 p.m., Vice-Mayor Wisler moved to come out of closed session. This motion was seconded by Councilman Kapoor and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:10 p.m.

CITY CLERK

MAYOR