

Tuesday – October 13, 2020 - 2:30 p.m.

## Worksession on Proposed Hotel Development Regulations

This worksession was conducted by use of simultaneous communication in which the following participated by simultaneous communication: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilwoman S. Antanette Mosley; Councilwoman Sheneika Smith; Councilman W. Keith Young; City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson.

Mayor Manheimer said that even though no public comment will be accepted at this worksession, the public can still access the remote meeting by listening live and watching online.

Director of Planning & Urban Design Todd Okolichany reviewed with Council the key takeaways (1) Hotels can't be "banned" out right; (2) Development impacts can be managed; and (3) New innovative tools to regulate hotel development approvals: (a) Hotel Overlay District; (b) Development and operational standards; (c) Public benefits; and (d) Design review and design guidelines.

He then reviewed the hotel development study timeline.

Key findings identified by the Urban Land Institute (ULI) included (1) Hotel development impacts are narrow and manageable; (2) Hotels are a proxy for other political and community concerns (e.g. affordable housing, wages, infrastructure needs, etc.); (3) There is a lack of predictability and transparency with the hotel development review process; and (4) Policy and regulatory tools can help manage hotel development approvals.

ULI Policy & Design recommendations included (1) Enhance predictability and transparency in the hotel review process; (2) Establish an accommodations (or hotel) overlay zone; (3) Enact Community Benefits Agreements ("public benefits"); and (4) Update design guidelines and create new oversight compliance mechanisms.

At the February 2020 City Council work session on hotels, Council directed staff to engage the public and study/draft policies for the following: (1) Reestablishing hotels as a permitted use in select areas; (2) Developing new development review criteria and standards; (3) Incentivizing public benefits; and (4) Improving hotel design.

Proposed regulations - key elements are Hotel Overlay District & Development Standards; Public Benefits; and Design Review & Guidelines - (1) Establishes a straightforward, transparent process - Administrative vs. City Council review as an incentive; (2) Leverages development to meet community needs; (3) Creates a framework that is a precedent for other types of development; (4) Manages development impacts; and (5) Enhances design.

Regarding staff approval vs. conditional zoning, he showed a development review process flowchart.

Thresholds for Council review include (1) Hotels exceeding 100 feet in height; (2) Hotel projects that do not meet: (a) UDO development standards; (b) Requisite public benefits; and (c) Design review approval; (3) Hotels proposed outside the overlay; and (4) Other considerations: (a) Upper limit on number of hotel rooms; and (b) Maximum amount of hotels on any given block.

Revisions based on public engagement included (1) Changed the definition of small hotels (35 rooms or less); (2) Reduced the extent of areas suitable for hotel development -

Directed hotel development away from residential areas; and Greater focus on protecting historic districts and viewshed corridors; (3) Adjusted public benefits table; (4) Revised design board membership criteria; and (5) Additional regulations being considered.

Regarding recommendation no. 1 - Hotel Overlay District & Development Standards. The hotel overlay zoning district goal is to create new Hotel Overlay zoning district (1) Limit the geographic extent of hotels to appropriate locations based on: Available infrastructure; Highway and transit access; Proximity to tourism destinations; Near existing hotel clusters; and Consideration of Living Asheville Future Land Use Map; (2) Protect neighborhoods vulnerable to displacement; (3) Preserve neighborhood livability and quality of life; (4) Encourage historic preservation and adaptive reuse; and (5) Protect viewshed corridors into the downtown area.

He showed the hotel overlay zoning district map explaining (1) Hotel Overlay district indicates where new hotels could be allowed; (2) The overlay district is mapped with two zones - "A" and "B"; (3) Zone "B" (orange) - only allows small hotels with 7-35 rooms; and (4) Zone "A" (blue) - also allows large hotels with more than 35 rooms.

Regarding the concept of the hotel overlay district, (1) Overlay applied in conjunction with underlying zoning - May modify or provide additional standards; and when there is a conflict, overlay will control; and (2) Exceptions: Central Business District and River Arts District Form Code Standards; and Biltmore Village Historic District.

Hotel development standards include (1) Building setbacks; (2) Location and design of parking; (3) Landscaping and buffering; (4) Minimum lot width; (5) Sidewalk requirements; (6) Guest drop-off areas and other operational standards; (7) Ground floor activation; (8) Building design (e.g. windows); (9) Signage; and (10) Lighting.

Regarding recommendation #2 - Public Benefits, we created an innovative points based system to incentivize public benefits (1) Improve transparency and predictability; (2) Address community needs and help implement Council goals (a) Affordable housing; (b) Living wages; (c) Displacement; (d) Sustainability, green buildings; and (e) Sidewalks, street trees; (3) Establish a straightforward, effective process; and (4) Create a framework that could be applied to other uses. This can lay the foundation for public benefits that could potentially be used for other types of projects in the future. We feel this will be a fair and enforceable process.

Regarding the public benefits table, (1) Tiered system based on size and location of hotels; (2) Points are weighted based on the level or amount of public benefit; and (3) Negative points for displacement. He then showed the public benefits table.

He then showed several public benefit examples and whether the project would have required Council review or not.

Mr. Okolichany and City Manager Campbell responded to various questions/comments from Council, some being, but are not limited to: what would be some criteria used if property requested to be included in the Hotel Overlay District; many people don't want any more hotels; did you use the urban renewal map when you did the overlay; is it possible to amend the overlay district; what is Council's role if they want to amend the overlay district; in the blue and orange areas, can we see if there is something on that property, how big are the lots and if the lots are developable; request that the Asheville Mall area not be in the overlay district; are there different options for the level of affordability; do we have access to how profitable is an average hotel room is in Asheville; can we incorporate into the public benefit table if you commit to contracting with minority women/small business enterprises; since most hotels built will be environmentally efficient buildings, so not sure how meaningful the points for LEED certification will be; can we establish a reparations fund and have it listed in the Equity section in the public benefits table; what is the transportation benefit definition in the public benefits table - bus passes for

employees; hotels outside of the Central Business District points totals are low; the entire point system should be reevaluated to make sure we get great projects truly committed to public benefit; and are there some items on the public benefits table that can just be required.

Mayor Manheimer felt that we will need to give clear direction to staff on whether we conceptually agree to the idea of this and want to move it forward for community input.

Councilwoman Mayfield said that if we can't get comfortable with this structure, are there other options. Mr. Okolichany felt there are opportunities in this framework to make improvements. The alternative would be to go back to the status quo on how Council used to review hotel projects.

Councilman Haynes felt we should make the public input points bar higher so projects do not get points for doing something minor.

Because of time restraints, at 4:25 p.m., it was the consensus of Council to continue this worksession to a date to be determined.

Tuesday – October 13, 2020 - 5:00 p.m.

#### Regular Meeting

This formal meeting was conducted by use of simultaneous communication in which the following participated by simultaneous communication: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilwoman S. Antanette Mosley; Councilwoman Sheneika Smith; Councilman W. Keith Young; City Manager Debra Campbell; City Attorney Brad Branham; and City Clerk Magdalen Burleson.

Mayor Manheimer said that the City Council wants the public to still have the opportunity to participate in the decisions of your government. She then explained the 3 options for providing public comment - voicemail; email; and advanced live sign-ins.

#### **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 SEPTEMBER 22, 2020**
- B. RESOLUTION NO. 20-176 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS FROM URBAN SUSTAINABILITY DIRECTORS FOR THE CLIMATE JUSTICE INITIATIVE**  
**ORDINANCE NO. 4830 - BUDGET AMENDMENT FOR THE CLIMATE JUSTICE INITIATIVE**

**Action Requested:** Adoption of a resolution authorizing the City Manager to accept funding in the amount of \$15,000 from Urban Sustainability Directors Network (USDN) for the Office of

Sustainability's Climate Justice Initiative, and a budget amendment in the amount of \$15,000 to appropriate the funding in the City's Sustainability Fund.

**Background:**

- In January 2020 Asheville City Council declared a Climate Emergency by adopting [Resolution 20-25](#).
- The adopted resolution acknowledges the urgent need to combat climate change, and the disproportionate impact of the climate crisis on low income communities and communities of color.
- Through this project, the City of Asheville's Office of Sustainability seeks to learn from the energy, cooperation, and proactivity of Asheville's Black, Indigenous, People of Color (BIPOC) to guide climate equity planning and to shape the direction of the City's emerging Climate Justice Initiative.
- Grant funds will be utilized for Sustainability's Climate Justice Initiative outreach efforts to engage the community through story circles and photo art.
- Outreach efforts will include:
  - Story circle compensation, interpretation and translation,
  - Photovoice compensation and supplies,
  - Graphic note taking for final report, and
  - Creation of a semi permanent kiosk fabrication and translation.
- USDN Grant recipients are not required to provide a cash match.

**Council Goal(s):**

- An Equitable and Diverse Community
- A Clean and Healthy Environment
- A Connected and Engaged Community

**Committee(s):**

- None

**Pro(s):**

- Helps support City's Climate Emergency Resolution while leveraging USDN funding

**Con(s):**

- None

**Fiscal Impact:**

- None; there is no required City match

**Motion:**

- Motion to approve a resolution authorizing the City Manager to accept funding from the Urban Sustainability Directors Network; and a budget amendment in the amount of \$15,000 to appropriate the funding in the City's Sustainability Fund.

**RESOLUTION BOOK NO. 41 -PAGE 451  
ORDINANCE BOOK NO. 33 - PAGE 145**

- C. RESOLUTION NO. 20-177 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AMENDMENT TO THE EXISTING LICENSE AGREEMENT WITH BELL ATLANTIC MOBILE SYSTEMS LLC, D/B/A VERIZON WIRELESS TO EXTEND THE TERM UNTIL SEPTEMBER 30, 2022**

**Action Requested:** Adoption of a resolution authorizing the City Manager to sign an amendment to the existing license agreement with Bell Atlantic Mobile Systems LLC, dba Verizon Wireless to extend the term until September 30, 2022.

**Background:**

- Verizon has been one of two tenants on the City-owned Royal Pines Cell Tower located at 57 Crestwood Drive.
- The City has its own public safety communications equipment on the tower.
- Verizon has been leasing a portion of the tower since 2009. The current license agreement expired at the end of September 2020.
- A recent Structural Analysis has shown that the tower is near maximum capacity and equipment upgrades recently requested by Verizon could not be installed.
- Verizon has decided to relocate to a tower owned by Duke Energy in the vicinity but the transition period could be as long as two years.
- Staff recommends allowing Verizon to stay on the tower during the transition period, with an extension of the existing agreement for 2 years..

**Council Goal(s):**

- A Thriving Local Economy

**Committee(s):**

- None

**Pro(s):**

- The presence of Verizon on this tower strengthens the signal for the many users of Verizon in the city.
- Allowing Verizon to remain on the tower during the transition will give the City time to plan for the tower usage after they relocate.

**Con(s):**

- None

**Fiscal Impact:**

- The City receives approximately \$3,666.67 per month or \$44,000 per year in revenue.

**Motion:**

- Motion to approve the resolution authorizing the City Manager to execute an amendment to the license agreement with Bell Atlantic Mobile Systems LLC, dba Verizon Wireless.

**RESOLUTION BOOK NO. 41 - PAGE 452**

**D RESOLUTION NO. 20-178 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH BROWN & CALDWELL FOR CLEARWELL BAFFLES AT THE NORTH FORK WATER TREATMENT PLANT**

**Action Requested:** Adopt a resolution authorizing the City Manager to execute a change order to the contract with Brown and Caldwell for the emergency repairs to the North Fork WTP water storage tank baffle curtains for an amount of \$346,500 bringing the total of the project to \$819,500.

**Background:**

- The North Fork Clearwell (water storage tank) was constructed in 1976 and has a five (5) million gallons of water capacity.

- Inspection of baffle curtains confirmed significant deterioration. The baffle curtains are critical for attaining required disinfectant contact time within the clearwell to meet regulatory requirements.
- The baffle curtains are beyond repair and must be replaced.
- Inspection discovered minor needed repairs to the clearwell roof, vents, and other equipment.
- The requested change order includes both structural engineering and complete repair costs.

**Vendor Outreach Efforts:**

- N/A

**Council Goal(s):**

- A Financially Resilient City; A Clean and Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- The North Fork Water Treatment Plant will more easily be able to meet the EPA and State requirements for Giardia & Cryptosporidium

**Con(s):**

- The North Fork Water Treatment Plant clearwell has a capacity of the five (5) million gallons. To meet EPA and State requirements for Giardia & Cryptosporidium the clearwell has had to be maintained at a higher capacity level and limits operational flexibility.

**Fiscal Impact:**

- Funding for this repair will come from Water Resources Capital Improvement Program (CIP) funding that is already budgeted.

**Motion:**

- Move to adopt a resolution authorizing the City Manager to execute a change order to the contract with Brown and Caldwell for the emergency repairs to the North Fork WTP water storage tank baffle curtains for an amount of \$346,500 bringing the total of the project to \$819,500.

**RESOLUTION BOOK NO. 41 - PAGE 453**

**E. ORDINANCE NO. 4831- BUDGET AMENDMENT FROM THE FEDERAL TRANSIT ADMINISTRATION FOR SECTION 5339(b) FUNDS TO BE USED TO IMPROVE AND ENHANCE BUS STOPS IN THE SERVICE AREA**

**Action Requested:** Adoption of a budget amendment in the amount of \$1,250,000, which includes \$1.0 million from the FTA Section 5339(b) Discretionary Grant Fund Program for bus stop improvements and a \$250,000 local match.

**Background:**

- On March 24, 2020, the City Council adopted Resolution No. 20-137 authorizing the City Manager to apply for, and accept if awarded, grant funding from the FTA FY2020 Buses and Bus Facilities discretionary grant program.
- The City applied for, and was awarded \$1 million, in grant funds for the purpose of improving bus stops in the service area.

- Improvements will be prioritized at high-ridership stops and stops serving vulnerable communities. Improvements might include bus shelters, benches, solar lighting, and ADA accessibility improvements.
- The local match for the grant award will come from multiple sources, including remaining City approved General Obligation (GO) Bond funds for bus stop improvements (\$62,000), unspent funds provided via development project conditional approvals (\$40,000), and previously budgeted funding in the Transit Capital Fund (\$148,000).
- Staff is also expecting to receive donations from partner associations; these donations would be used to lower the required contribution from the Transit Capital Fund.

**Council Goal(s):**

- Transportation and Accessibility

**Committee(s):**

- None

**Pro(s):**

- Project funding is provided by the FTA and will help support improvements of transit amenities in the service area.

**Con(s):**

- The grant requires a 20% local match for the acquisition and installation of transit amenities, and a 10% match for ADA accessibility improvements.

**Fiscal Impact:**

- As noted above, there is a required local match of 20% and 10% depending on the specific types of improvements implemented. The maximum required local match is \$250,000. The sources for the local match are discussed above.

**Motion:**

- Motion to adopt a budget amendment in the amount of \$1,250,000 million, which includes \$1.0 million from the FTA Section 5339(b) Discretionary Grant Fund Program for bus stop improvements and a \$250,000 local match.

**ORDINANCE BOOK NO. 33 - PAGE 146**

**F. RESOLUTION NO. 20-179 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A THREE YEAR SERVICE CONTRACT WITH 120WATER FOR THE LEAD EDUCATION & PREVENTION PROGRAM**

**Action Requested:** Adopt a resolution authorizing the City Manager to execute a three year service contract with the option to renew for an additional two years with 120Water for the *Lead Education and Prevention Program* in the amount of \$446,648 with a 10% contingency of \$44,664.80 for a total of \$491,312.80.

**Background:**

- The United States Environmental Protection Agency is scheduled to pass (fall of 2020) the new Lead & Copper Rule Revisions which will require a data management platform that has the ability to cohesively manage all required Lead and Copper Tap Monitoring, Primacy Agency & Customer Results Reporting, Service Line Inventory, and Lead Service Line Replacement in the Water System.
- 120Water is a digital water company that provides data management along with sample kits, analysis, and assistance with public education.

- 120Water has a data management platform that manages all areas of the new rule revisions.
- 120Water will provide the required sampling kits, laboratory analysis, and provide assistance with public educational outreach.
- The revisions require water purveyors to not only manage the water distribution system side of the water meter service line, but also requires research and monitoring of service line piping material to the home and provide customer education if a lead line is found to be on the customer or utility side of the water meter.
- Staff has taken a proactive approach in preparing for the Lead & Copper Rule Revisions.
- A Request for Proposals for required services was issued on June 15, 2020.
- Proposals were received on August 13, 2020.
- The Lead and Copper Coordination Team reviewed proposals on August 21, 2020.

Three firms responded:

- 120Water - Zionsville, IN
- Camanse - Arden, NC
- Miracle Software Systems - Novi, MI

120Water was selected as the most qualified firm to provide the required services.

**Vendor Outreach Efforts:**

- Staff performed outreach to minority and women owned businesses through solicitation processes which include posting on the State's Interactive Purchasing System and requiring prime contractors to reach out to Minority & Women-Owned Business Enterprise (MWBE) service providers for subcontracted services.
- No MWBE firms submitted bids with this prime contractor.

**Council Goal(s):**

- Clean & Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- Ability to continue compliance with Federal and State regulations
- 120Water has ongoing experience with large water utilities throughout the United States.
- 120Water has proactively prepared these utilities for the new lead and copper provisions.
- Data platform will allow public access to easily consumable and transparent data.

**Con(s):**

- Failure to adopt resolution will result in difficulty complying with Federal and State regulations.

**Fiscal Impact:**

- Three year contract with the option to renew for an additional two years.
- The Water Resources Department currently has the funds to encumber the yearly contract amount of \$163,770.94 in its operating funds.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to execute a three year service contract, with the option to renew for an additional two years, with 120Water for the *Lead Education and Prevention Program* in the amount of \$446,648 with a 10% contingency of \$44,664.80 for a total of \$491,312.80.



**RESOLUTION BOOK NO. 41 - PAGE 454**

**G. RESOLUTION NO. 20-180 - RESOLUTION AUTHORIZING THE CITY ATTORNEY'S OFFICE TO CONDEMN A STORMWATER EASEMENT OVER REAL PROPERTY LOCATED AT 2 SPRINGDALE ROAD**

**Action Requested:** Adopt a resolution authorizing the City Attorney's Office to condemn a stormwater easement over real property located at 2 Springdale Road.

**Background:**

- The City's Stormwater Division has a capital improvement project planned for 2021 in the City's Kenilworth neighborhood.
- The City has obtained all required easements needed to complete its Kenilworth stormwater project except for one along the edge of real property located at 2 Springdale Road.
- This property is shown as lots 12 and 13 of Block K on a plat recorded at Plat Book 154, Page 109A in the Buncombe County Register of Deeds Office.
- Regina Tate owns the property at 2 Springdale Road. She has not responded to any of the City's attempts to contact her regarding the easement needed to facilitate the stormwater project.
- To date, three separate City departments have attempted to make contact with Ms. Tate.
- In order to maintain the project schedule, obtaining the easement via eminent domain is the only option available to the City.
- The City will deposit with the Clerk of Court the value of the easement which will be available to the property owner at any time.
- The easement needed at 2 Springdale Road is immediately adjacent to the City's right of way and is entirely within an unbuildable setback. As such, the City's condemnation of the needed easement will only minimally disturb Ms. Tate's use of the property.

**Council Goal(s):**

- Clean & Healthy Environment

**Committee(s):**

- None

**Pro(s):**

- Will facilitate the completion of a needed stormwater improvement project.

**Con(s):**

- Will result in the commencement of an eminent domain action against a citizen.

**Fiscal Impact:**

- The expected value of the needed easement is less than \$5,000 which is included in the project budget for the subject stormwater improvement project.

**Motion:**

- Motion to adopt a resolution authorizing the City Attorney's Office to condemn a stormwater easement over real property located at 2 Springdale Road.

**RESOLUTION BOOK NO. 41 - PAGE 455**

**H. RESOLUTION NO. 20-181 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW AN EXISTING CONTRACT WITH SMARKING, INC. TO PROVIDE REAL TIME AND PREDICTIVE PARKING DATA**

**Action Requested:** Adoption of a resolution authorizing the City Manager to renew contract with Smarking, Inc. at a contract value of \$35,260 which increases the total value of the contract to \$97,935, for real-time data aggregation and predictive data analytics service for Parking Services.

**Background:**

- The City of Asheville entered into a contract with Smarking, Inc. during November 2018 at a contract value of \$29,500 for real-time data aggregation and predictive data analytics services.
- The original contract included two, one-year renewal terms.
- The first renewal term was executed with an effective date during November 2019 at a contract value of \$33,175 which increased the total contract value to \$62,675.
- The annual cost has increased from the initial contract due to the addition of several parking facilities since the contract was first executed.
- Smarking provides Parking Services with real-time monitoring of all of our parking facilities, and tracks metrics including usage, revenue, and future demand.
- The analytical capabilities of the Smarking system are critical in Parking Services operational response.

**Vendor Outreach Efforts:**

- N/A - This is a current contract.

**Council Goal(s):**

- Transportation and Accessibility
- A Financially Resilient City

**Committee(s):**

- None.

**Pro(s):**

- Enables the City to continue to use data to inform procedures and decision-making.
- Enables Parking Services to maintain a healthy operating status in spite of financial challenges presented by COVID-19.

**Con(s):**

- None

**Fiscal Impact:**

- The required funds are included in the current Parking Services Fund operating budget.

**Motion:**

- Motion to adopt a resolution authorizing the City Manager to renew contract # 91900266 with Smarking, Inc. at a contract value of \$35,260 which increases the total value of the contract to \$97,935.

**RESOLUTION BOOK NO. 41 - PAGE 456**

Mayor Manheimer announced that there were no advanced live call-ins for items on the Consent Agenda.

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.

Vice-Mayor Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Mayfield and carried unanimously by roll call vote.

### **III. PRESENTATIONS & REPORTS:**

#### **A. MANAGER'S REPORT - 30/60/90 DAY WORK PLAN**

City Manager Campbell said that provided City Council with her presentation overview: (1) On June 9, staff presented a 30/60/90 Day Work Plan and over the past several meetings have updated Council and the community on our work; (2) The 30/60/90 Day Work Plan was developed in response to numerous requests from the Black Asheville Demands coalition to address specific racial justice and economic inclusion issues; (3) The Work Plan reflects when we would start working on these requests; and (4) This evenings presentation will focus on all the initiatives but more detailed information will be provided on: (a) The multiple choice data from the Re-imagining Public Safety Questionnaire; (b) The new project page being established for this effort; and (c) Partnership with Asheville City Schools and Learning PODS.

Within the 30 days; (1) Resolution to remove monuments and creation of task force (a) Vance Monument Task Force is still meeting every Thursday at 4:30 pm.; (b) On October 22 and 29, there will be the opportunity for live comment; and (c) The task force aims to have a recommendation on whether to remove or repurpose by November 19, 2020; and (2) Work with the community on the renaming of streets - Continuing to develop next steps in terms of community engagement;

Within the 60 days, (1) Continue partnering with Asheville City Schools (ACS) and Buncombe County Schools to address Opportunity Gaps - Update from Parks and Recreation and Asheville City Schools provided later; (2) Initiate conversations to Defund the Police budget by 50% Defund/Divest/Invest Strategy (a) Initial reallocation and policy reforms to pursue made with recent budget decision; and (b) Resuming Reimagining Public Safety discussions early November; and (3) Initiate conversations with the district attorney's office regarding the probation decision for Mr. Hickman (a) City Attorney's office working with DA's office and Restorative Justice process related to probation process; and (b) Meeting is scheduled later this week to follow-up with community members (JustUs) in terms of next steps.

Work underway for 90 days include (1) Provide protocol, practices and resource allocation data from the Equity and Inclusion Department on our City Website (a) Equity Dashboard available, <https://www.ashevilenc.gov/equity-dashboard/>; and (b) Resolution regarding the sale of city owned property received as part of Urban Renewal approved by PED Committee to move to full Council in November; and (2) Better understand and work through solutions for remaining demands: ○ Creation of "Harm Free Zones" ○ All Civilian Oversight Committee (a) Legal Department working on legislative proposal for civilian oversight committee and exploring options for improving the Civil Service Board Process; and (b) Legal Department has researched Harm Free Zones in order to understand the concept. These are generally implemented at a neighborhood level without local government involvement.; (3) Utilize best practices to recruit people of color - Human Resources and individual departments working on recruitment and retention strategies ; and (4) Develop Race and Gender Conscious Policy in response to the disparity study as part of City contracting and procurement - Policy approved by Planning and Economic Development Committee (PED) on October 12 and will be considered by full Council on October 27.

Regarding the survey (multiple choice questions), (1) Responses to the multiple-choice questions are available on this [Google Data Studio Dashboard](#); and (2) The multiple choice questions were intended to: (a) gain an understanding of how respondents feel about safety in our community; (b) get an idea of where to start with exploring new partnerships in the delivery of

public safety services; and (c) through the demographic questions, get an understanding of who is missing from the conversation.

The responses to the multiple choice questions support some major themes reported from the virtual meetings. (1) Violent Crime - APD has an important role in public safety, especially in addressing violent crime; (2) Nuisance Calls for Service - should be in partnership with other city departments and/or community partners; and (3) Public Health Calls for Service - APD participate as a partner in coordination with other public health and social service providers.

Regarding the 30/60/90 Plan Project Page, it is now available now with updates on all initiatives. The 30/60/90 Day work plan will be rebranded and transition into longer term initiatives.

Ms. Shaunda Sandford, Housing Authority of the City of Asheville Director of Resident Services explained that PODS is Positive Opportunities Development Success.

Ms. Kidada Wynn, Asheville City Schools Executive Director of Student Support Services explained their guiding principles - equity in with positive impact, student-centered, revolutionary love, and changing the narrative. The Asheville Housing Authority, Asheville City Schools, Asheville Parks & Recreation, MDTMT, YTL, CHOSEN, WCRM, Delta House and numerous other community organizations, have partnered to support students in their communities with learning pods at several locations within the Asheville community.

Ms. Sandford said that there are 11 sites, 23 PODS (10 students in each POD) with 200 students. In this unique opportunity, Asheville City Schools staff and community members are pushing into communities of color to work with students in a pod setting. Individuals are pushing into these pods to support and facilitate student engagement and enrichment. We also recognize that some of our students have barriers that may hinder their academic growth; therefore, ACS staff acts as a liaison between the pods and the students' teachers to maximize student success.

Ms. Sandford said the locations are the Arthur R. Edington Education & Career Center, Burton Street Recreation Center, Delta House, Grant Center, Hillcrest Community Center, Hillcrest Head Start Building, Montford Center, My Daddy Taught Me That; Stephens-Lee Recreation Center, Western Carolina rescue Mission and the YTL. Future sites include Pisgah View Apartments and Deaverview Apartments.

Mr. Gene Bell, Housing Authority of the City of Asheville Board Member, spoke about the internet access for Housing Authority residents. Vice-Mayor Wisler asked if we can see what we can do to help the community participate in making a donation to this project. Ms. Wynn noted that she will contact the Asheville City Schools Foundation to set up an internet access fund, and thanked the City of Asheville for their \$50,000 donation.

In response to Councilwoman Mosley, Ms. Wynn said that the overall quality is better for our children and they are excited about coming to our PODS everyday.

Ms. Wynn responded to Councilwoman Smith when she asked if there is a long-term vision.

In response to Mayor Manheimer, Ms. Wynn said there are at least 200 students waiting for the PODS.

Mayor Manheimer said that there is a regional effort to bring free wifi access throughout the county, but complemented the Housing Authority team on moving forward.

Vice-Mayor Wisler, along with Ms. Sandford and Ms. Wynn, thanked City Manager Campbell for her assistance with this initiative and for being able to offer the facilities.

#### **IV. PUBLIC HEARINGS:**

##### **A. PUBLIC HEARING TO AMEND THE U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT 5-YEAR CONSOLIDATED ACTION PLAN**

Councilwoman Smith moved to continue this public hearing to amend the U.S. Dept. of Housing & Urban Development 5-Year Consolidated Action Plan until November 10, 2020. This motion was seconded by Councilwoman Mayfield and carried unanimously by roll call vote.

##### **B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING APPROVAL (ORDINANCE NO. 4570) FOR PROPERTY LOCATED AT 236 CHARLOTTE STREET AND 336 HILLIARD STREET TO MODIFY THE SITE PLAN TO REFLECT THE RIGHT-OF-WAY CLOSURE OF LENNOX COURT AND TO MAKE CHANGES TO THE SITE AND BUILDING FOOTPRINT AT THE HE HILDE'S HOUSE INFANT CARE CENTER**

Principal Planner Shannon Tuch said that this is the consideration of an amendment to a previously approved conditional zoning approval (Ordinance No. 4570) for property located at 236 Charlotte Street and 336 Hilliard Street to modify the site plan to reflect the right-of-way closure of Lennox Court and to make changes to the site and building footprint at the Hilde's House infant care facility. This public hearing was advertised on October 2 and 9, 2020.

#### **Project Location and Contacts:**

- The project site consists of two parcels located at 236 Charlotte Street and 336 Hillside Street (PINs 9649-54-9873 and 9649-54-7812).
- Owner / Petitioner: Jewish Community Center Foundation of Asheville; Contact: Michael Mitchell

#### **Summary of Petition:**

- The applicant is requesting to expand an existing day care building (called "Hilde's House" and located at 336 Hillside Street) at the Jewish Community Center (JCC) main campus.
- The expansion includes a new ramp for accessibility, enlarged side porch and a small increase to heated area.
- The proposal includes a new accessible parking space behind the building and a new driveway cut onto Murdock Avenue to allow for egress only.
- The subject parcels were conditionally-zoned by City Council on March 28, 2017, under ordinance number 4570, for the expansion of the JCC main campus building (located at 236 Charlotte Street), the use of the property at 336 Hillside Street for the infant day care (Hilde's House), and minor site improvements. Most of the work included in the approval has been completed.
- An amendment to the previously approved conditional zoning and related site conditions is required due to the requested site plan changes.
- This amendment also includes the closure of a driveway through the JCC main campus building site (located at 236 Charlotte Street) from Lennox Court to Hillside Street, thereby ceasing its use by the general public through this private property.
- The action by City Council to formally close a portion of the Lennox Court right-of-way was granted by Council in 2019 under resolution 19-266 but the site plan approved in the ordinance did not show closing off vehicular access.

- This amendment formalizes the site plan which was not part of the previous conditional zoning approval.
- The project maintains all of the conditions that were approved in the previous ordinance and includes the following **new** conditions:
  - The separation of the driveway from the property lines on Murdock and Hillside will be as shown on plans (less than the standard 10 foot spacing required). This design would be similar to the residential development pattern in the neighborhood.
  - The width of the driveway will be approximately 12 feet on Murdock and maintain approximately nine feet on Hillside as shown on plan (less than the width standard of 24 feet for a non-residential use). This change also mirrors the residential development pattern in the neighborhood.
  - Condition number three is amended to indicate that access to the JCC main campus site will no longer be from Lennox Court.
  - Condition number four is amended to note that parking spaces at Hilde's House will be available for both staff and visitors.

**Committee Review:**

- The Planning & Zoning Commission considered this request at their meetings on September 2 and September 23, 2020, and discussed concerns regarding the new egress connection onto Murdock and the turning radius having possible conflicts with on-street parallel parking spaces.
- The Commission voted 6-1 at the second meeting to support the amendment but with a recommended condition that the driveway onto Murdock would be right-turn out only. The applicant was agreeable to this condition and it has been reflected in the B.1 Conditions.

**Comprehensive Plan Consistency:**

- This proposal is consistent with the Living Asheville Comprehensive Plan in that the project site is within the areas designated as Neighborhood Center and Traditional Neighborhood in the Future Land Use map, which anticipates non-residential community-focused activity.
- This section of the Plan specifically mentions community centers and other small-scale uses with an emphasis on pedestrian scale and walkability.

**Compatibility Analysis:**

- The community center and child care uses are currently in place and have been operating on this site for many years, providing services to the neighborhood and larger community.
- The buildings and uses are considered to be compatible with the development along the corridor and scaled down, transitioning into the neighborhood.
- The physical changes included in this amendment address accessibility and access concerns and are designed to keep with the character of the residential area.

**Council Goal(s):**

- A Well-Planned and Livable Community

**Committee(s):**

- Technical Review Committee (TRC) - April 6, 2020 - approved with conditions
- Planning & Zoning Commission - September 2 and 23, 2020 - recommended approval 6-1

**Staff Recommendation:**

- Staff recommends approval of this amendment and finds that the proposal allows for upgrade and expansion of the child care center and better management of vehicular access on both sites.

In summary, (1) Master plan for the JCC campus approved by Council in 2017 (ordinance 4570); (2) Council approved a right-of-way closure for Lennox Court in 2019 that modified access to the Charlotte Street parcel; (3) Specific conditions in the 2017 approval limit ability for expansion or improvement of Hilde’s House infant day care site; and (4) This amendment allows for changes to the building, parking and site access for Hilde’s House and formalizes the current, changed parking lot access configuration for the main campus site.

Ms. Ashley Lasher, representing the applicant, gave a brief history of the facility, the quality of the program; and the reputation of the Shalom Children’s Center. They want to renovate Hilde’s House in order to (1) maintain home/neighborhood environment; (2) facilitate implementation of licensing requirements; (3) create uninterrupted sight-lines for supervision; (4) improve ADA accessibility; (5) improve security; and (6) reduce impact of pick-up/drop-off traffic on the community, increasing safety of participants.

Ms. Suzanne Godsey, representing the applicant’s design team, showed the site plan of the existing Hilde’s House, along with the proposed site plan.

Ms. Wendy Legerton, representing the applicant’s design team, showed the proposed floor plan and the proposed overall 3D view. They asked for Council’s support in the amendment to the conditional zoning.

Mayor Manheimer opened the public hearing at 6:10 p.m.

Mayor Manheimer announced that there were no advanced live call-ins for this public hearing item.

In accordance with recent legislation amending North Carolina G.S. §166A-19.24(e), regarding public hearings conducted during remote meetings, written comments for this public hearing will be accepted for an additional 24 hours. Therefore, Vice-Mayor Wisler moved to recess this item until October 27, 2020, at which time this public hearing will be voted. This motion was seconded by Councilwoman Mosley and carried unanimously by roll call vote.

**C. AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE IN ORDER TO BRING THE CITY’S DEVELOPMENT CODE INTO ALIGNMENT WITH RECENT STATE LEGISLATION**

**PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE ARTICLES II, III, V, VIII AND VIX RELATED TO HISTORIC PRESERVATION,**

**IN**

**ORDER TO BRING THE CITY’S DEVELOPMENT CODE INTO ALIGNMENT WITH RECENT STATE LEGISLATION**

**PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE ARTICLES II, XII AND XVIII IN ORDER TO BRING THE CITY’S DEVELOPMENT CODE INTO ALIGNMENT WITH RECENT STATE LEGISLATION**

Mayor Manheimer said that these two amendments both relate to bringing the City’s development code into alignment with recent state legislation; therefore, there will be one

presentation and combined public hearings; but ultimately two votes. The two individual public hearings were advertised on October 2 and 9, 2020.

Principal Planner Shannon Tuch said that 160D is (1) a chapter in the NC General Statutes adopted as part of Session Law 2019-111 and which became effective June 20, 2020; (2) Replaces existing 160A (municipal) and 153A (county) chapters; (3) Purpose is to *Clarify*, *Consolidate*, and *Reorganize* the land use laws of the state; and (4) A collaboration between NC land use attorneys, the UNC-SOG & NC legislators.

The timing of 160D is (1) Currently effective but local governments have until July 1, 2021 to make any necessary amendments to be in alignment with 160D; (2) Staff will bring forward a series of amendments to modify the City of Asheville's UDO to be consistent with 160D; and (3) The first two amendments are on this evening's agenda: (a) Updates to standards related to Historic Preservation; and (b) Changes to Enforcement and Definitions.

Both amendments have been reviewed by the Historic Resources Commission (on 8-12-20) and the Board of Adjustment (8-24-20) with unanimous support by both bodies.

Regarding Amendment #1 (Historic Preservation), there are two "musts" and a "may" - Must follow quasi-judicial proceedings; Must describe preservation requirements as "standards" and not "guidelines"; and May choose to have appeals from an HRC decision move directly to Superior Court, rather than the city's Board of Adjustment.

Regarding Amendment #2 (Enforcement & Definitions), (1) Enforcement - A Series of "musts" and a "mays" - Clarifies enforcement practices protecting property owners - "musts;" and Clarifies enforcement practices providing officers flexibility - "mays"; and (2) Definitions - changes to existing, adding new, replacing old - Update existing terms - clarifying the types of decisions; Add some new terms; and Replaced Conditional Use Permit w/ Special Use Permit.

#### **From Staff Report on Historic Preservation:**

##### **"Background:**

- A collaborative effort between North Carolina land use attorneys, the University of North Carolina - School of Government and North Carolina legislators resulted in Session Law 2019-111 "AN ACT TO CLARIFY, CONSOLIDATE, AND REORGANIZE THE LAND-USE REGULATORY LAWS OF THE STATE." adopted July 11, 2019.
- Chapter 160D of the North Carolina General Statutes is the first major recodification and modernization of city and county development regulations since 1905.
- As the law's title states, the purpose of 160D is to clarify and reorganize the land use regulatory laws of the State and to consolidate these laws into one chapter in order to provide a uniform set of statutes applicable to both cities and counties (previously land use/development regulation related laws for cities were found in Article 19 of NCGS Chapter 160A and for counties were found in Article 18 of N.C.G.S. Chapter 153).
- 160D contains a number of legislative changes which a local government **must** take action to adopt, but it also contains permissive legislative changes which a local government **may** choose to adopt or not.
- Originally, parts of the 160D became effective immediately while most of it was not to become effective until January 1, 2021, however, **on June 19, 2020, the General Assembly enacted legislation-S.L. 2020-25- making Chapter 160D effective immediately.**
- This law provided flexibility to local governments in the timing for adoption of amendments to conform local development regulations to the new statutes.
- **Local governments may enact their amendments now, but they are not required to do so until July 1, 2021.** .



- This zoning text amendment seeks to align the City of Asheville Unified Development Ordinance (Chapter 7) provisions related to Historic Preservation with the new Chapter 160D.
- Chapter 160D provisions related to Historic Preservation can be found in sections 940-951 of the statute (such provisions for cities were formerly found in Chapter 160A-400.1 thru 400.15).
- The 160D changes are fairly minor:
  - 1) **Must** follow standard quasi-judicial procedures for preservation certificates of appropriateness. (G.S. 160D-947(c).)-the City has long followed ;
  - 2) **Must** frame preservation district provisions as “standards” rather than “guidelines” (G.S. 160D-947(c).); and
  - 3) **May** choose for appeals of preservation commission decisions to go directly to superior court rather than to the board of adjustment. (G.S. 160D-947(e).).
- **Summary of changes:**
  - In regard to the first requirement, the City/County Historic Resources Commission (herein “HRC”) has long followed quasi-judicial procedure for the issuance or denial of certificates of appropriateness, so no real significant amendments were required in this regard.
  - Text has been added in UDO Article II Definitions, “administrative decision”, “quasi-judicial decision”, “quasi-judicial hearing” and Article V sec. 7-5-11 Certificates of Appropriateness, in order to clarify specific quasi-judicial procedures or to clarify which decisions are considered “administrative” or “quasi-judicial” and how those are defined.
  - In regard to the second requirement, the term “guidelines” has been replaced with the term “standards” throughout the historic preservation related sections of the UDO (Chapter 7- Development- of the City Code), Article III, Section 7-3-4 Historic Resources Commission, Article V, Sections 7-5-8(a)(3)(e) and 7-5-8(b)(5) related to Subdivision Plats in Historic Districts and Section 7-5-11 Certificates of Appropriateness, Article VIII, Section 7-8-1(b)(2)b. Historic Preservation Overlay District; and Article VIX, Section 7-9-2 Historic Preservation Overlay District).
  - Finally, in regard to the third 160D provision which is permissive, rather than required.
  - Staff strongly recommends adoption of this provision [see Sec. 7-5-11(b)(8)] which would require appeals of decisions by the HRC to go directly to superior court rather than to the City’s Board of Adjustment (herein “BOA”) because it would allow for :
    - a more streamlined review process for applicants; would act to discourage frivolous appeals, thereby improving the City’s ability to enforce; and
    - it would not place one city quasi-judicial decision-making board, BOA, with its own statutorily required standards of review (i.e. *unnecessary hardship, consistency with spirit of the ordinance*), in the difficult position of reviewing the decision of another city/county quasi-judicial decision-making board, the HRC, that has its own, different statutorily required and adopted standards of review (i.e. *congruity with the special character of the historic district*).
    - *Note:* The BOA would still be responsible for hearing requests for variances from property owners within an historic district.
  - Lastly, there are text amendments throughout that update any references to provisions in G.S. 160A to indicate relevant provisions in Chapter 160D (as required by the statute) as well as revisions made to more clearly mirror the languages of the statute or that simply reflect editing “clean ups” (i.e. mis-spellings, missing words, poor sentence structure).

**Comprehensive Plan Consistency:**

- This proposal best aligns with the *Living Asheville Comprehensive Plan* theme of **Responsible Regionalism** that seeks to “improve Regional Collaboration, Coordination and Communication” by aligning the city’s development code with state statutes. (p. 288)

**Council Goal(s):**

- A Well-Planned & Livable Community

**Committee(s):**

- On August 12, 2020, the Historic Resources Commission was updated on these proposed amendments related to historic preservation and voted unanimously to recommend support of these amendments.
- On August 24, 2020, the Asheville Board of Adjustment (“BOA”) was updated on the proposed amendment regarding appeals of HRC decisions regarding certificates of appropriateness going directly to superior court rather than to the BOA (UDO Section 7-5-11(b)(8) and voted unanimously to recommend support of this amendment.
- This request was reviewed by the Planning & Zoning Commission at their meetings on September 2, 2020 (public hearing) and September 23, 2020 (vote), where it was recommended for approval, 7:0.

**Pro(s):**

- Proposed changes will align the city’s development standards, practices and procedures with newly enacted North Carolina state law Chapter 160D.
- Clarifies the process for Historic Preservation related quasi-judicial and administrative decisions.
- Streamlines the appeals process for applicants and improves the decision-making and enforcement process for the City.
- Clarifies practices and procedures for the development community.

**Con(s):**

- None identified.

**Fiscal Impact:**

- None

**Staff Recommendation:**

- Staff recommends approval of the proposed zoning text amendment to update Chapter 7 because this is felt to be consistent with the *Living Asheville* comprehensive plan in that it seeks to align the city’s development code with North Carolina General Statute Chapter 160D.”

**From Staff Report on Enforcement & Definitions:**

**“Background:**

- A collaborative effort between North Carolina land use attorneys, the University of North Carolina - School of Government and North Carolina legislators resulted in Session Law 2019-111 “AN ACT TO CLARIFY, CONSOLIDATE, AND REORGANIZE THE LAND-USE REGULATORY LAWS OF THE STATE.” adopted July 11, 2019. Chapter 160D of the North Carolina General Statutes is the first major recodification and modernization of city and county development regulations since 1905.
- As the law’s title states, the purpose of 160D is to clarify and reorganize the land use regulatory laws of the State and to consolidate these laws into one chapter in order to provide a uniform set of statutes applicable to both cities and counties (previously land

- use/development regulation related laws for cities were found in Article 19 of NCGS Chapter 160A and for counties were found in Article 18 of N.C.G.S. Chapter 153).
- 160D contains a number of legislative changes which a local government **must** take action to adopt, but it also contains permissive legislative changes which a local government **may** choose to adopt or not.
  - Originally, parts of the 160D became effective immediately while most of it becoming effective January 1, 2021, however, on **June 19, 2020, the General Assembly enacted legislation, S.L. 2020-25, allowing for Chapter 160D to be implemented immediately by local government if they so choose, with a required implementation date of July 1, 2021.**
  - This zoning text amendment seeks to align the City of Asheville Unified Development Ordinance (Chapter 7) provisions related definitions and enforcement with the new Chapter 160D.
  - Chapter 160D provisions related to enforcement can be found in Article 4 of the statute (such provisions for cities were formerly found in 160A-432).
  - **The 160D changes to enforcement include:**
    - **Must** issue notice of violations (NOVs) in conformance with statutory procedures (must deliver to permittee and landowner if different;
      - **May** deliver NOV to occupant or person undertaking the activity; delivery by hand, electronic delivery, or first class-mail;
      - **May** be posted onsite; administrator to certify NOV for the file)(G.S. 160D-404(a));
    - If inspecting, **must** enter the premises during reasonable hours and upon presenting credentials;
    - **Must** have consent of the premises owner or an administrative search warrant to inspect areas not open to the public (G.S. 160D-403(e))-The City has long followed this practice;
    - For revocation of development approval, **must** follow the same process as was used for the approval (G.S. 160D-403(f));
    - **May** issue stop-work orders for illegal or dangerous work or activity, whether related to a permit or not (G.S. 160D-404(b)).
  - **Chapter 160D provisions related to definitions can be found in 160D-102 and S.L. 2019-111 § 1.17. The 160D provision changes are fairly minor:**
    - **Must** align ordinance terminology with 160D terminology for conditional zoning and special use permits;
    - **Must** delete use of the terms conditional use permit, special exception, conditional use district zoning, and special use district zoning (G.S. 160D-102);
    - **Must** ensure that that ordinance definitions for building, dwelling, dwelling unit, bedroom, and sleeping unit are not inconsistent with definitions provided in state law and regulation (S.L. 2019-111§ 1.17); and
    - **May** align ordinance terminology with Chapter 160D terminology in 160D-102 to include administrative decisions, development approval, development, and developer.
  - **Summary of changes to enforcement are as follows:**
    - Updated language of sec. 7-18-3(b)(1)-(2) to include the holder of the development approval and landowner of property involved in order to conform with 160D-404(a).
    - Updated sec. 7-18-3(b)(2) to include electronic delivery as a method of service for notice of violations as provided in 160D-404(a);
    - The City has long followed the rules of 160D-403(e) in practice prior to the implementation of 160D, no real changes needed;

- Updated language to revocation of permits, new sec. 7-18-6(c) to include that the local government must notify the development approval holder, in writing, prior to the revocation of permits and the revocation shall follow the same development approval and review process as required for issuance of the development approval, to conform with the 160D-403(f);
- Staff strongly recommends adoption the permission 160D addition of stop work orders provision, new sec. 7-18-6(b):
  - This provision would allow staff to issue stop work orders on local development that is in substantial violation of State or local law or in a manner that endangers life or property, where it was not previously provided for outside of Article XII of the UDO.
- **Summary of Changes to Definitions are as follows:**
  - Terminology has been updated in Article II of the UDO for 160D conformance: *'bedroom', 'dwelling', 'sleeping unit', 'special use permit.'*
  - The Deleted term being *'conditional use permit,'* which was replaced by *'special use permit';*
  - Terminology for items that are permissive, rather than required, were updated to conform to 160D-102: *'administrative decision', 'administrative hearing', 'developer', 'development', 'development approval', 'development regulation', 'legislative decision', 'legislative hearing', 'quasi-judicial decision,'* and *'quasi-judicial hearing.'*
  - Staff strongly recommends the adoption of the permissive terminology update to Article II of the UDO:
    - To provide continuity with Chapter 160D; and
    - To provide clarity on the various development approval processes and types of approvals available.

**Comprehensive Plan Consistency:** This proposal best aligns with the *Living Asheville Comprehensive Plan* theme of a **Responsible Regionalism** that seeks to “Improve Regional Collaboration, Coordination and Communication” by aligning the city’s development code with state statutes (p. 288).

**Council Goal(s):**

- A Well-Planned & Livable Community

**Committee(s):**

- This request was reviewed by the Planning & Zoning Commission at their meetings on September 2, 2020 (public hearing) and September 23, 2020 (vote), where it was recommended for approval, 7:0.

**Pro(s):**

- Proposed changes will align the city’s development standards, practices and procedures with newly enacted North Carolina state law Chapter 160D.
- Modernizes outdated language.
- Creates objective standards for ministerial decisions.
- Clarifies practices and procedures for the development community.

**Con(s):**

- None Identified.

**Fiscal Impact:**

- None

**Staff Recommendation:**

- Staff recommends approval of the proposed zoning text amendment to update Chapter 7 because this is felt to be consistent with the *Living Asheville* comprehensive plan in that it seeks to align the city's development code with North Carolina General Statute Chapter 160D."

Mayor Manheimer opened the public hearings at 6:18 p.m.

Mayor Manheimer announced that there were no advanced live call-ins for either one of these public hearings.

In accordance with recent legislation amending North Carolina G.S. §166A-19.24(e), regarding public hearings conducted during remote meetings, written comments for the public hearing to amend the Unified Development Ordinance Articles II, III, V, VIII and VIX related to Historic Preservation, will be accepted for an additional 24 hours. Therefore, Vice-Mayor Wisler moved to recess this item until October 27, 2020, at which time this public hearing will be voted. This motion was seconded by Councilwoman Mayfield and carried unanimously by roll call vote.

In accordance with recent legislation amending North Carolina G.S. §166A-19.24(e), regarding public hearings conducted during remote meetings, written comments for the public hearing to amend the Unified Development Ordinance Articles II, XII and XVII related to enforcement and definitions, will be accepted for an additional 24 hours. Therefore, Vice-Mayor Wisler moved to recess this item until October 27, 2020, at which time this public hearing will be voted. This motion was seconded by Councilwoman Mayfield and carried unanimously by roll call vote.

**E. PUBLIC HEARING TO CONSIDER UPDATES TO THE 2020-21 ACTION PLAN (1) TO INCLUDE THE ALLOCATION OF \$154,711 IN COMMUNITY DEVELOPMENT BLOCK GRANT CONTINGENCY FUNDS AND THE REALLOCATION OF AN ESTIMATED \$1.1 MILLION IN HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS; AND (2) \$889,456 IN CDBG-CV FUNDS, WHICH MUST BE USED TO PREVENT, PREPARE FOR, OR RESPOND TO CORONAVIRUS**

Councilwoman Smith moved to continue this public hearing to update the 2020-21 Action Plan until October 27, 2020. This motion was seconded by Councilwoman Mayfield and carried unanimously by roll call vote.

**V. UNFINISHED BUSINESS:**

**A. RESOLUTION NO. 20-182 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF AN UNOPENED RIGHT-OF-WAY KNOWN AS GAYLE STREET**

Mayor Manheimer said that this public hearing was held on September 22, 2020, and in accordance with recent legislation amending North Carolina G.S. § 166A-19.24(e), regarding public hearings conducted during remote meetings, written comments for this public hearing were accepted for an additional 24 hours.

Hearing no more public comment, Mayor Manheimer closed the public hearing and said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Haynes moved to permanently close a portion of an unopened right-of-way known as Gayle Street. This motion was seconded by Councilwoman Smith and carried unanimously by roll call vote.

**RESOLUTION BOOK NO. 41 – PAGE 457**

**B. ORDINANCE NO. 4832 - ORDINANCE TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING FOR PROPERTY LOCATED AT COXE/ASHELAND/FEDERAL ALLEY FOR CHANGES TO A MIXED USE DEVELOPMENT ZONED CENTRAL BUSINESS DISTRICT-EXPANSION/CONDITIONAL ZONE**

At the request of Mayor Manheimer, Vice-Mayor Wisler moved to recuse Mayor Manheimer from participating in this matter during a conflict of interest. This motion was seconded by Councilwoman Mayfield and carried unanimously on a roll call vote (Mayor Manheimer did not vote). At this time, Mayor Manheimer turned over the gavel to Vice-Mayor Wisler.

Vice-Mayor Wisler said that this public hearing was held on September 22, 2020, and in accordance with recent legislation amending North Carolina G.S. § 166A-19.24(e), regarding public hearings conducted during remote meetings, written comments for this public hearing were accepted for an additional 24 hours.

Hearing no more public comment, Vice-Mayor Wisler closed the public hearing and said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Mosley moved to approve the amendment to the previously approved conditional zoning for the Coxe/Asheland Mixed-Use Development from Central Business District Expansion Conditional Zone (CBD EXP CZ) to Central Business Expansion District (CBD EXP CZ) for the design changes to the new mixed-use development and find that the request is reasonable, is in the public interest, is consistent with the city's comprehensive plan, and meets the development needs of the community in that: (1) the Downtown Future Land Use category of the Living Asheville Comprehensive Plan anticipates a mix of uses as included in this development; (2) the project enhances the pedestrian experience with widened sidewalks, active ground floor uses and intentional urban open space with portions that are accessible to the public; and (3) the proposal maintains the original amount of affordable residential units in a location that is close to downtown and transit availability. This motion was seconded by Councilwoman Mayfield and carried unanimously, with Mayor Manheimer being recused.

At this time, Vice-Mayor Wisler handed the gavel over to Mayor Manheimer to continue presiding over the meeting.

**ORDINANCE BOOK NO. 33 - PAGE 147**

**VI. NEW BUSINESS:**

**VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

From advanced live call-ins, three individuals spoke to Council, including, but not limited to the following comments: data from Re-imagining Public Safety Survey; need to fully support the Equity & Inclusion Department and begin advertising for Director of that Department; request to change the public comment segments of the agenda for people to call in live and not sign up in advance; and not selling any City property that was urban renewal land.

Mayor Manheimer announced that the continuation of the worksession held earlier today regarding the proposed hotel development regulations will be on October 27, 2020, at 2:30 p.m. That worksession will be remote and public comment will not be accepted.

In response to Councilwoman Mayfield, City Manager Campbell said that regarding the Re-imagining Public Safety Survey, many people did not fill out the demographic part of the survey but we did have a significant number of African Americans participate in the virtual conversations.

In response to Mayor Manheimer, City Attorney Branham said that regarding the Crossroads Development, the City is an adjoining property owner in that the City owns the existing Hominy Creek Greenway. The City has been following this development and has talked with the attorneys involved and the Friends of Hominy Creek Greenway in order to determine if any impacts of the development will result in significant damage to City property. Those conversations are on-going. The City is currently, at the staff level, reviewing engineering models. We should have some final decisions about the City's position soon.

In response to Mayor Manheimer, City Manager Campbell explained the process for hiring a new Equity & Inclusion Director, which recruitment process will start in the next 2-3 week. She said that when the information about the accomplishments and challenges of the Equity & Inclusion Department is completed, which should be in early November, she would be happy to bring that information forward to the City Council.

**VIII. ADJOURNMENT:**

Mayor Manheimer adjourned the meeting at 6:42 p.m.

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CITY CLERK

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MAYOR