

Tuesday – September 28, 2021 - 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 Sheneika Smith; Councilwoman Sandra Kilgore; Councilwoman S. Antanette Mosley; Councilwoman Kim Roney; Councilwoman Sage Turner; Councilwoman Gwen C. Wisler; 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 14, 2021**

- B. RESOLUTION NO. 21-208 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH SEPI ENGINEERING & CONSTRUCTION FOR THE FRENCH BROAD RIVER GREENWAY WEST PROJECT**

Action Requested: Adoption of a resolution authorizing the City Manager to enter into a contract with SEPI Engineering and Construction, Inc. in the amount of \$398,619.04, for French Broad River Greenway West construction engineering and inspection services; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of 10% (\$39,861.90) for a total required budget of \$438,480.94.

Background:

- The French Broad River Greenway West will connect the French Broad River Park to the existing greenway that terminates at the Haywood Road Bridge.
- This will be a 1.02 mile paved greenway extension that further enhances the pedestrian and bicycle infrastructure constructed with the RADTIP project.
- A 2018 Federal Grant will be paying for 80% of the construction and the construction engineering and inspection costs for this project through the NC Department of Transportation in the amount of \$350,784.75 .
- The City of Asheville will cover the 20% remaining portion of this contract cost in the amount of \$87,696.19.
- Construction schedule is currently underway and is anticipated to be complete in Summer, 2022.
- Nine professional engineering submittals were received and evaluated based on their qualifications, experience and technical approach.
- The evaluation of those submittals, ranked by a five member evaluation committee, resulted in SEPI Engineering and Construction of Raleigh, NC being the highest ranked firm.

- Negotiations with SEPI Engineering and Construction resulted in an agreed fee of \$398,619.04.
- The North Carolina Department of Transportation has reviewed and approved the negotiated fee as well as the draft agreement.

Vendor Outreach Efforts:

- With all Federally funded projects, the Disadvantaged Business Enterprise (DBE) program is required for construction services, but not professional engineering services such as this agreement.
- The federally established DBE goal for this project is 5% participation for construction services.
- The previously approved construction contract for this project includes 5.36% DBE participation.
- Because this agreement with SEPI is for professional services, the DBE participation is not considered.
- However, SEPI is a woman owned business, so we will track this participation at the City of Asheville to count it towards the City's ABI participation.

Council Goal(s):

- A Clean and Healthy Environment

Committee(s):

- None

Pro(s):

- Federal funding will be covering 80% of these project related costs.
- This project will finish a one mile long gap between two older sections of the French Broad River Greenway creating a 4 mile stretch of continuous greenway along the river through four parks.
- It will also pave the 0.02 mile long dirt trail underneath the Amboy Road Bridge.

Con(s):

- The project construction area will cause a temporary disruption to individuals that are actively using the area.

Fiscal Impact:

- Funding for this project will come from the previously approved existing CIP budget. The COA portion of this contract cost will be up to \$87,696.19.

Motion:

- Motion to adopt a resolution authorizing the City Manager to enter into a contract with SEPI Engineering and Construction, Inc. in the amount of \$398,619.04, for French Broad River Greenway West construction engineering and inspection services; and further authorizing the City Manager to execute any change orders that may arise during the project up to the contingency amount of 10% (\$39,861.90) for a total required budget of \$438,480.94.

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- C. RESOLUTION NO. 21-209 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH WxPROOFING LLC FOR HARRAHS CHEROKEE CENTER ASHEVILLE - WINDOW REPLACEMENT & CONCRETE REPAIRS PROJECT**

Action Requested: Adoption of a resolution authorizing the City Manager to amend the executed construction contract with WxProofing, LLC., for the Harrah's Cherokee Center Asheville - Window Replacement & Concrete Repairs project to \$1,222,885; with further authorization for the City Manager to execute any change orders that may arise during the remainder of the project up to the amount of \$13,000, for a total construction contract amount not to exceed, \$1,235,885.

Background:

- A bid alternate to include the rear deck storefront glass system was made available during bidding but the City did not have enough funds allocated at the time to take on the additional scope.
- Now that the base project has reached 90% completion with no significant unknown conditions arising, the alternate could be accepted with very little supplement project funding.
- WxProofing, LLC. has agreed to honor their original bid alternate pricing of \$98,215 and will not upcharge to remobilize, which will occur to complete this work.
- The result of adding the bid alternate would cause the contract price to go beyond the original not to exceed contract value of \$1,187,785.50 by \$35,099.50.
- The new contract value would therefore be \$1,222,885, with further authorization for up to \$13,000 in contingency for a new not to exceed value of \$1,235,885.
- The current contract completion date for this project is October, 2021 and the revised expected completion date would become January, 2022.

Vendor Outreach Efforts:

- This is a change to an existing contract.

Council Goal(s):

- A Clean and Healthy Environment & A Financially Resilient City

Committee(s):

- None

Pro(s):

- This will complete the window replacement in its entirety for the Harrah's Cherokee Center Asheville Arena Building, preventing a mismatch in performance and aesthetics.
- Saves staff time and resources from having to create a second bid package to address this scope at a later date, which would have needed to occur in the next 12 months.

Con(s):

- Long lead times on materials could push the completion of this additional scope to January, 2022.

Fiscal Impact:

- Funding for this contract amendment will come from previously approved budgets within the Harrah's Cherokee Center - Asheville Capital Improvement Program.

Motion:

- Motion to adopt a resolution authorizing the City Manager to amend the executed construction contract with WxProofing, LLC., for the Harrah's Cherokee Center Asheville - Window Replacement & Concrete Repairs project to \$1,222,885; with further authorization for the City Manager to execute any change orders that may arise during the remainder of the project up to the amount of \$13,000, for a total construction contract amount not to exceed, \$1,235,885.

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D. RESOLUTION NO. 21-210 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING AND RIGHT OF ENTRY AGREEMENT WITH DUKE-PROGRESS ENERGY TO EXPLORE THE OPTION OF A FUTURE PROPERTY EXCHANGE FACILITATING THE RECONSTRUCTION OF THE EXISTING DOWNTOWN ELECTRICAL SUBSTATION

Action Requested: Adoption of a resolution to authorize the City Manager to enter into a Memorandum of Understanding and Right of Entry agreement with Duke Energy to explore the option of a future property exchange facilitating the reconstruction of the existing downtown electrical substation.

Background:

- Duke Energy's current downtown substation located behind the Civic Center, built in the 1960s, is insufficient to provide long-term service to downtown residents and businesses.
- Duke Energy needs to replace the substation infrastructure to ensure uninterrupted service provision.
- Duke Energy contacted the City to explore options to build a new substation on City property on Rankin Avenue in exchange for removing the old substation and swapping Duke Energy's property with the City.
- The City has an interest in the property where the substation is currently located to accommodate future development of the Thomas Wolfe Auditorium.
- The Memorandum of Understanding sets forth a good faith effort by the City and Duke Energy to conduct community engagement efforts, coordinate testing activities to minimize impact, and facilitate conversations regarding project design.
- The Memorandum of Understanding will permit Duke Energy to conduct environmental and other associated testing on the properties.
- Upon completion of site investigations by Duke Energy, Council will be approached at a later date to vote on the land exchange and associated real estate terms for the City of Asheville and Duke Energy properties.
- These real estate terms may include any environmental remediation or site preparation that may be necessary to address the findings of the environmental investigations.

Council Goal(s):

- Thriving Local Economy
- A Well Planned and Livable Community

Committee(s):

- The Planning and Economic Development Committee - (9/13/2021) - approved unanimously to move to full Council.

Pro(s):

- Continued and uninterrupted service provision by Duke Energy.
- Expanded access to the Harrah's Center through rear entrances.
- Potential to redirect power lines currently inhibiting maintenance of Harrah's Center.
- Potential to expand the auditorium and event center, allowing for larger events or convention center space.
- Potential to build along Rankin Avenue with mixed-use connected to the event center.

Con(s):

- Potential loss of parking for monthly permit holders in the Rankin Avenue lot.

Fiscal Impact:

- None noted at this time. Site Investigations permitted by the Memorandum of Understanding will be conducted by Duke Energy.

Motion:

- Motion to adopt a resolution to authorize the City Manager to enter into a Memorandum of Understanding and Right of Entry agreement with Duke Energy to explore options for a property exchange facilitating the reconstruction of the existing downtown electrical substation.

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E. RESOLUTION NO. 21-211 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH WK DICKSON FOR THE NEIGHBORHOOD ENHANCEMENT PROJECT AREA 5 PROFESSIONAL SERVICES CONTRACT

Action Requested: Adoption of a resolution authorizing the City Manager to execute a change order with W. K. Dickson & Co., Inc. in the amount of \$690,275.00 to increase the Neighborhood Enhancement Project Area 5 – Professional Services Contract from a total of \$762,395.00 to \$1,452,670.00.

Background:

- On February 27, 2018, a resolution was adopted to authorize the City Manager to execute a professional services contract with W. K. Dickson & Co., Inc. for the Neighborhood Enhancement Project Area 5.
- The original total contract was for a not to exceed amount of \$762,395.00 and the project work included: a survey, a hydraulic analysis, engineering design, construction administration and other related professional services for approximately 27,925 LF of predominately 6-inch, 8-inch and 12-inch water line and appurtenances along various streets within the following areas:
 - Muirfield Subdivision,
 - Mills Gap Rd,
 - Swannanoa River Rd,
 - S. Tunnel Rd,
 - Long Shoals Rd,
 - Brookwood Rd,
 - Brevard, Hazel
 - Mill Rd and
 - Joe Jenkins Rd.
- Typically the N.C. Dept. of Transportation (NCDOT) has a recorded public right-of-way (ROW) that is significantly wider than the roadway, providing a public right-of-way, several feet wide on either side of the road, in which to find a suitable route for new waterlines, without having to install it under the pavement.
- However, during the design and survey phase for the project it was discovered that the NCDOT public ROW along the project corridor of Long Shoals Road was not recorded, only claimed as a maintenance right-of-way from edge of pavement to edge of pavement, limiting the available right-of-way to the road surface only.
- Because of the limited right-of-way, the only waterline route option available within public ROW, along the section of Long Shoals Road was to install the proposed waterline under the actual roadway, which is contrary to NCDOT's encroachment policies.
- A request was made to NCDOT for an encroachment agreement, which would allow the new 12" water main transmission main along Long Shoals Rd to be located within the

NCDOT. right-of-way, under the roadway; however this request was denied due to NCDOT's policy of not permitting utilities to be installed parallel under the road surfaces.

- Because of the denial from NCDOT to allow the proposed water main to be installed under the paved road surface; the proposed water transmission main alignment had to be changed to be outside the NCDOT right-of-way, to be installed within private property throughout the Long Shoals project corridor.
- This change in alignment of the 12" water transmission line created the requirement for additional survey to be performed, and a new design drawings to be developed, which added a significant cost increase to the professional services contract.
- Additionally, moving the new water transmission main onto private property creates the need to obtain 24 permanent and temporary construction easements for the installation of the proposed transmission main, which requires additional funds to be added to the project for easement acquisition specialists, preparation of easement plats and documents, appraisals and purchase of the necessary easements.
- These efforts nor costs were considered in the original contract scope since the plan did not impact private property.
- Also when it became clear that the Long Shoals portion of the project was going to take considerably more time and effort to get to the construction phase than the other portions of the project package; it was decided to phase the project into two parts with the first phase being all of the project except Long Shoals Rd waterline and the second phase being only the Long Shoals section.
- The first phase has been successfully designed, awarded and construction started in the spring of 2021.
- By having to phase this project, it added some duplication efforts to the professional services contract in the areas of bidding / award, project management, construction administration, etc. which resulted in additional costs.
- Water Resources Staff requested that the consultant provide an amended scope with the additional tasks and cost outlined.
- The proposed change order request is based on the amended scope.

Vendor Outreach Efforts:

- Not applicable, change to an existing contract

Council Goal(s):

- A Financially Resilient City; A Clean and Healthy Environment

Committee(s):

- None.

Pro(s):

- This project is aligned with the City and the Water Resources Department goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con(s):

- None.

Fiscal Impact:

- The funding needed for the professional services agreement is currently allocated within the Water Resources Capital Improvements Project Fund in the Small Waterline Replacement Projects.

Motion:

- Move to adopt a resolution authorizing the City Manager to execute a change order with W. K. Dickson & Co., Inc. in the amount of \$690,275.00 to increase the Neighborhood Enhancement Project Area 5 – Professional Services Contract from a total of \$762,395.00 to \$1,452,670.00.

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Mayor Manheimer announced that there were no advanced sign-ups for 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.

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

III. PRESENTATIONS & REPORTS:

A. MANAGER'S REPORT - CLIMATE JUSTICE INITIATIVE UPDATE

City Manager Campbell introduced Sustainability Officer Amber Weaver who outlined the key takeaways from this update. The initiative is broken down into two phases - Phase I - defining Climate Justice + Equity w/ Asheville Black Indigenous People of Color (BIPOC) community leaders is close to completion; and Phase II (a) presently compiling feedback + data to create a draft screening tool for the City to use; and (b) staff will return to Council in January 2022 to present the Climate Justice Screening Tool and Final Report.

The work of the Climate Justice Initiative is being lead by Asheville's BIPOC community members. The Office of Sustainability is utilizing the Government Alliance on Race and Equity [GARE] model. The present pandemic has amplified compounding environmental factors that contribute to existing inequities. The creation of a Climate Justice Screen Tool will bring forth the voices of Asheville's BIPOC community members when implementing City plans and policies. Sustainability staff is committed to fostering relationships with BIPOC community members whose voices have been void in the past.

In January 2020 Asheville City Council declared a Climate Emergency. Resolution 20-25 which states that a Climate Justice Plan be created to consolidate the various separate sustainability goals and department initiatives. The adopted resolution acknowledges the urgent need to combat climate change, the many existing relevant resolutions and goals, and the disproportionate impact of the climate crisis on low income communities and communities of color. In 2018, the Asheville's Climate Resilience Assessment was included in the adoption of the Comprehensive Plan, Living Asheville. Through the work of the CRA, Asheville's climate threats and hazards were identified. Asheville's climate threats and hazards are flooding; landslides; wildfire; water shortage; nuisance flooding, runoff and erosion; extreme heat; and multiple supply chains threats.

The City of Asheville's Office of Sustainability worked with UNC Asheville's National Environmental Modeling and Analysis Center (NEMAC) to determine how Asheville can become more resilient to environmental changes. Asheville's Climate Resiliency Assessment helps the City be prepared for and hopefully lessen the impacts of future extreme weather events due to climate change. Resilience is about investing before the hazard. Investing the right amount in the right vulnerable areas will allow our community to reach a higher baseline, and therefore in the event of a disaster we won't drop as far and will be able to bounce back more quickly.

As the Office of Sustainability embarked on the path of the concept of Climate Justice, it was important to look at work that was already addressing this important issue within Urban Sustainability Directors Network (USDN). Through staff training we know that our frontline community members, our BIPOC members, are those voices that are heard the least. We also know that sustainability voices lean toward white wealth and it's imperative that in order to work on Climate Justice that the Office incorporate those voices that contribute the least to climate change and yet are our community members that are most greatly impacted. Through GARE trainings and 1:1 equity coaching, the Office felt it necessary to interview others within the network that are embarking on similar work; understand lessons learned and how Asheville might improve its process. What we learned is that we too are members of our community that come from a place of privilege and in order to properly address and define Climate Equity we need to hear from BIPOC members of Asheville. The Office of Sustainability received grant funding from USDN to help pay frontline community members for their participation in the City's Climate Justice Initiative.

In April 2020 The Office of Sustainability entered into a contract with Marisol Jiménez of Tepeyac Consulting, a minority woman lead local business, to develop and conduct listening and learning sessions with BIPOC leaders and community members. In collaboration with these voices the Office seeks to begin shaping a locally relevant definition of Climate Equity.

This report is the synthesis of findings from a series of one-on-one interviews with twelve (12) BIPOC leaders living and working in and with frontline communities throughout the City of Asheville. When participants were asked to reflect on what community resilience has meant to them, they described communities that are self-sustaining with strong support networks which are deeply rooted in relationships. Community members described the "three pillars" that make a community self-sustaining: economic power, healthy environments, and strong social networks. equity. She acknowledged and thanked Vice-Mayor Smith for her role in the Listening and Learning interview session.

Examples of questions asked during Story Circles includes 1.) Who are the most affected community members who are concerned with or have experience related to this proposal? How have you involved these community members in the development of this proposal? 2.) What has your engagement process told you about the burdens or benefits for different groups? 3.) What has your engagement process told you about the factors that produce or perpetuate racial inequity related to this proposal?

Through the process of creating a Climate Justice Data Map, the City was able to create an index to help us visualize and understand local climate threats alongside compounding social and economic stressors. She showed a map that is one tool helping us define, discuss, and address "Climate Resilience". A working definition of Climate Resilience is having access to information, relationships, land, and resources needed to have sovereignty and self-direction in response to climate crisis events and long-term sustainability that is community-led, deeply informed, organized, prepared for rapid response, and well-resourced. The analysis includes: Percent of BIPOC Population (Black Indigenous People of Color), Heat Vulnerability Index, Energy Burden, CDC Social Vulnerability, Climate Threats. Through this process the OoS identified the following neighborhoods to participate in Story Circles: Emma community, Shiloh, Pisgah and Deaverview.

Story Circles involved creating neighborhood-based maps outlining the specific climate threats in each of four neighborhoods located in climate vulnerability zones: Shiloh, Emma, Pisgah View (in planning), and Deaverview/Southside (in planning). Because of the large concentration of Latinx residents living outside of city limits in the neighboring Emma community, it felt critical that their voices be included in this conversation.

Engaging with youth around climate change in local communities through digital media and public art installation. Youth will utilize current digital tools merged with in-person story sharing to create a meaningful public art display centered around climate justice and equity, that will help center vulnerable communities by sharing their stories and images through “The Faces of Change”. Final images will be collaged into a unified fine art piece presented in a public.

Next steps include (1) Creation of the Climate Equity Screening Tool; (2) Continued work around Food Emergency + Neighborhood Planning; (3) Folding in the Climate Justice Initiative for Emergency Planning + Preparedness w/ Emergency Operations Center [EOC]; (4) Fold in findings of the Climate Justice Initiative into the City’s Reparations Process; (5) Implement the Climate Equity Screening Tool; and (6) Office of Sustainability will be back with a Final Report + viewing of Climate Justice Screening Tool January 2022.

In response to Councilwoman Roney, Ms. Weaver said that the climate emergency also asked for the Office to condense and streamline a lot of the resolutions that City Council adopted since 2009 Sustainability Management Plan. Through that work, titled the Municipal Climate Action Plan, we will also be able to overlay this screening tool and that work of the Municipal Climate Action Plan will be a part of the City’s budget process.

City Manager Campbell said that staff will keep City Council informed of events as we proceed.

IV. PUBLIC HEARINGS:

A. URBAN PLACE FORM DISTRICT

PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH A NEW URBAN PLACE FORM DISTRICT

ORDINANCE NO. 4044 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH A NEW URBAN PLACE FORM DISTRICT

Due to a conflict of interest, Councilwoman Kilgore moved to recuse Mayor Manheimer from participating in the matter regarding the Urban Place Form District. This motion was seconded by Councilwoman Turner and carried unanimously by roll call vote of 6-0. (Mayor Manheimer did not vote).

At this time, Mayor Manheimer turned over the gavel to Vice-Mayor Smith who presided over this portion of the meeting.

Urban Planner Vaidila Satvika said that this is the consideration of an ordinance to amend the Unified Development Ordinance to establish a new Urban Place Form District. This public hearing was advertised on September 17 and 24, 2021.

Background:

- The proposed Urban Place text amendment is a step towards implementation of the city’s comprehensive plan, *Living Asheville*, through a broad revision of an existing zoning district that aligns with the Urban Centers category of the plan’s Future Land Use Map (FLUM).
- The modified Urban Place zoning district establishes form-based standards that encourage mixed-use development and walkable urban areas and incentivizes the creation of housing units as part of larger commercial developments.
- Key requirements of the modified code include:

- Provision of housing for commercial projects over 20,000 square feet on sites over five acres;
- Inclusion of streets, sidewalks and street trees for internal connectivity on larger sites;
- An affordable housing bonus to allow base heights to increase from four to six stories;
- Incentive to incorporate small commercial spaces (1,000 SF) to support local business;
- Master planning requirement to demonstrate long-term plans for sites over two acres; and
- Landscaping buffer and transition plane standards for neighborhood compatibility

The following table illustrates some basic differences in the code standards.

Standard	Existing Urban Place	Proposed Urban Place Form
<i>Building Height</i>	6 stories or 80' (whichever is greater)	4 stories allowed by right 6 stories or 75' stories with affordable housing
<i>Building Setbacks</i>	Front: (min) 0', (max) 15' with exceptions for sites adjacent to Wilma Dykeman Riverway Side: 0' Rear: 0	Front: (min) 0', (max) 20' 40' for pedestrian oriented development Side street: (min) 5' Side interior:** (min) 0' Rear** (min) 0' **Side interior/Rear setback when adjacent to RS/RM zoning district RS: 30' RM: 20'

- Engagement strategies included public information meetings at the Stephens Lee Recreation Center and at the West Asheville public library, open office hours, popup presentations/surveying at Ingles (Tunnel Rd) and Walmart (Bleachery Blvd), and open house sessions at the Harrah's Cherokee Center.
- Staff met with interested property owners, their representatives, and other community members on various occasions over approximately 36 months leading to numerous code changes to better reflect market conditions and specific site concerns, such as the following:
 - New language to allow rebuilding existing structures due to catastrophic loss
 - Adding flexibility to front setbacks (now allowing up to 40 feet of building setback and an option for the provision of open space)
 - Removal of curbside parking requirement
- On April 23, 2021 staff met with a subcommittee of the Coalition of Asheville Neighborhoods (CAN) to review the code and answer questions and again on June 17, 2021.
- Staff reviewed comments from CAN and integrated several of their comments into the code.

Comprehensive Plan Consistency:

- This proposal aligns with a number of themes within the *Living Asheville Comprehensive Plan* including 'A Livable Built Environment' and 'A Resilient Economy'. The following goals are applicable to this zoning amendment:

- Encourage Responsible Growth; prioritize growth and development within designated growth areas
- Increase Mixed-Use Development Along Transit Corridors
- Promote Great Architecture & Urban Design to Enhance Placemaking
- Make Streets More Walkable, Comfortable and Connected
- Increase and Diversify Housing Supply; incentivize development that maximizes public benefit
- Promote the Development and Availability of Affordable Housing and Workforce Housing; promote affordable housing policies via incentives such as bonus densities and building heights

Council Goal(s):

- A Well-Planned and Livable Community

Committees:

- On January 14, 2019, the Planning and Zoning Commission unanimously supported staff's revised process for the Urban Center initiative, which included consideration of a new zoning district for the subject areas and additional community engagement.
- On February 11, 2019, staff provided an update to the Planning and Economic Development Committee (PED) that clarified redevelopment within Urban Center locations is not permitted while the rezoning application is under consideration.
- On September 5, 2019, an update was provided to the Affordable Housing Advisory Committee (AHAC) with input received regarding the incentive for affordable housing.
- On January 13, 2020, an update was provided to PED that included proposed incentives for housing.
- Staff also shared neighborhood concerns relating to displacement as a result of possible gentrification.
- At the October 27, 2020 City Council work session on the hotel development regulations Council suggested that staff postpone the consideration of the Patton Avenue node from the project and allow the other areas to move forward and recommended that staff add the Asheville Mall node to the initiative as part of a Phase II rezoning effort that would include the Patton Avenue node.
- On May 10, 2021, staff provided an update to the Planning and Economic Development Committee of the City Council.
- On July 7, 2021, staff presented to the Planning & Zoning Commission for a preliminary review of the proposed text and map amendments.
- The hearing was continued to allow more time for staff to meet with affected property owners in an effort to better address their concerns.
- On August 7, 2021, staff presented to the Planning & Zoning Commission to discuss two additional properties for the Phase I review at the request of property owners at South Tunnel Road who have developed conceptual plans that largely align with the proposed code and to further discuss the initiative.
- Staff requested to continue the vote to the following meeting (Sept 1st) to accommodate a request by stakeholders who were not available for the August meeting.
- On September 1, 2021, the Planning & Zoning Commission voted to approve the proposed text amendment 4:3 that included an amendment to reduce the minimum size of parcels to be affected by the housing incentive clause from 10 acres to five acres in order to encourage more housing opportunities within Urban Centers.

Pros:

- Implements zoning regulations recommended in the comprehensive plan, *Living Asheville*.
- Incentivizes the integration of market rate and affordable housing on large commercial parcels.

- Form-based zoning regulations will create a more urban-style pattern of development.
- Transitions single-use commercial strips to walkable, mixed-use nodes along higher frequency transit corridors.
- Improves the efficiency of land and helps to absorb growth in areas that are supported by infrastructure and transit.

Cons:

- Increases some development cost due to added requirements for large projects (i.e. formalizing internal streets with sidewalks and, on larger projects, housing).
- Zoning changes that encourage redevelopment will potentially increase property values over time that can increase neighboring property values.

Staff Recommendation:

- Staff recommends approval of this proposed text amendment based on the reasons stated above.

Mr. Satvika said this PowerPoint will cover both the text amendment and the rezonings. He said the key takeaways from these public hearings are (1) the Urban Place Form District is a zoning “tool” to help implement a growth strategy in the Living Asheville Comprehensive Plan; (2) with a population of almost 95,000, Asheville continues to grow and we need to better align new development with our transit system and other city infrastructure; (3) this alignment will further increase transit access and reduce carbon emissions; and (4) housing, including affordable housing, is an important element of this proposal.

City staff is asking City Council to consider their proposal to (1) amend the zoning text for the existing Urban Place Zoning District and related code changes and to rename it to Urban Place Form District; and (2) rezone approximately 122 acres of property (as part of Phase 1) identified in the Living Asheville Comprehensive Plan to Urban Place Form District. The following areas are included as part of Phase 1 to be rezoned to Urban Place Form District - Sav-Mor / Ingles area on Merrimon Avenue; Innsbruck Mall on Tunnel Road; Former Sears property on S. Tunnel Road; and Walmart area on Bleachery Boulevard.

The Urban Center goals - Living Asheville recommends strengthening urban transit corridors and centers in order to: accommodate a growing population and support job growth; integrate affordable housing closer to jobs; improve connectivity with walkability that supports transit; and support a healthy environment with quality urban design that improves tree canopy and urban open spaces.

The following are potential benefits of the comprehensive plan growth strategy, which includes Urban Centers: Citywide Transit Usage Increase - 2028 - 18%; 2038 - 39%; and 2068 - 105%. Greenhouse Gas Emissions Reduction is 62%.

Public priorities range from the most being walkability; trees/landscaping; housing; parks and open space; bikeability; transit, safety, design; shopping, parking, art, and auto.

From the Equity Toolkit Analysis, consideration of racial equity in project development, including community-led goals; possible impacts; racial demographics; gentrification and displacement; related reports and research; review of data gaps; racial equity strategies; implementation plan; and community engagement process and adjustments.

Regarding the text amendments, Asheville has precedents for form based codes - River Arts District and Haywood Road. He outlined several standards from the Living Asheville Comprehensive Plan including creating block structure by requiring buildings on streets; a Build-to-Zone that provides flexibility; setbacks that prioritize pedestrians; heights of 4-6 stories

that encourage affordable housing; commercial development that incentivizes housing; and internal street standards with sidewalks and street trees with rights-of-way that range from 30-56 feet. Six properties are larger than five acres that would be bound by the housing incentive.

Regarding the affordable housing incentives for bonus height, two additional stories allowed with affordable housing: (1) Either (a) 20% units at 80% AMI or less; or, (b) 80% units at 100% AMI or less; and (2) 25% of any affordable units must accept Rental Assistance, such as Housing Choice Vouchers (Council recommended change to 50% and staff agrees with the change to 50%); and (c) Housing Choice Vouchers serve those making 30% to 60% AMI.

Regarding housing incentives for mixed use - Commercial uses and housing - on parcels larger than five acres, the base maximum commercial permitted is 20,000 sq. ft. More commercial is allowed as follows: (1) additional 1,000 sq. ft. of additional commercial for every 1 market rate housing unit provided (e.g. 70,000 sq. ft. commercial provides 50 market rate units); or (2) 2,000 sq. ft. of additional commercial for every 1 affordable unit provided at 80% or less AMI (e.g. 70,000 sq. ft. commercial provides 25 affordable units). City Council recommended adding the 50% Housing Choice Voucher standard here as well for consistency and staff agrees with that standard addition.

Using aerial maps, he said Urban Centers are identified on the City's Preferred Growth Scenario map. This first phase of the rezoning focuses on four nodes that support higher-frequency transit corridors. Merrimon Avenue node - 21 acres; Tunnel Road node - 40 acres; Bleachery Boulevard node - 46 acres; and former Sears property - 17 acres.

He reiterated the key takeaways as (1) the Urban Place Form District is a zoning "tool" to help implement a growth strategy in the Living Asheville Comprehensive Plan; (2) with a population of almost 95,000, Asheville continues to grow and we need to better align new development with our transit system and other city infrastructure; (3) this alignment will further increase transit access and reduce carbon emissions; and (4) housing, including affordable housing, is an important element of this proposal.

Staff's recommendation is two separate actions: (1) motion to approve a text amendment for the existing Urban Place Zoning District and related code changes and to rename it to Urban Place Form District; and (2) motion to approve a zoning map amendment to rezone the following areas to Urban Place Form District - Sav-Mor / Ingles area on Merrimon Avenue; Innsbruck Mall on Tunnel Road; former Sears property on S. Tunnel Road; and Walmart area on Bleachery Boulevard.

Councilwoman Mosley asked what the difference is between the Patton Avenue site and the Innsbruck Mall site since the Patton Avenue site was removed from Phase II given the concerns of the Emma community and after use of the Equity toolkit (which played a great role). She felt that the Innsbruck Mall site is in close proximity to the East End community, which is an historically black neighborhood that has concerns as well. Mr. Satvika explained that we know investment is coming and our overarching consideration is how do we want to see these areas change. By supporting transit, we support individuals who don't have access to cars as much, and walkability. Specifically on the Innsbruck Mall site, there is a mountain between that site and the East End community. It's approximately 1 mile away. The Emma community on Patton Avenue is much closer to the site - approximately ¼ mile away. The Innsbruck Mall has a big boundary and he felt the East End community would have more concerns about the impact from downtown - which is immediately adjacent to that community.

When Councilwoman Mosley wondered if we are saying there is no need to worry about increased property values and gentrification because it's already coming, Mr. Satvika replied no, and said that it's important to think about displacement - that is a key consideration. At the same

time, whenever we have opportunities to influence development patterns, we need to make sure that we do so in a way that guides it in a direction that is supportive to those most vulnerable. Director of Planning & Urban Development Todd Okolichany also said we are trying to collect more data in understanding the impacts of any type of development or zoning decision that might impact displacement in the City. Historically, we have looked at barriers - and there is the mountain and tunnel barrier between the East End neighborhood and Tunnel Road. They researched highway building in the 1960's and 1970's and saw that the investment that would happen on one side of the highway often did not cross over that highway barrier within neighborhoods. We have also looked at some of the historical data we have about impacts of gentrification and displacement. In addition, we have been working with the Legacy Neighborhoods Coalition and others in the community, to develop neighborhood stabilization strategies and anti-displacement strategies and we hope to continue that process.

In response to Councilwoman Turner, Mr. Okolichany said that the President of the Legacy Neighborhoods Coalition indicated that they would not vote to have any formal input on the Innsbruck Mall site.

In response to Councilwoman Kilgore regarding private property ownership, Mr. Satvika said that they have been meeting with the property owners since this began in 2018 and many changes have been made as a result of those meetings and community input. We are trying to see how we can move our community in patterns of development that meet our goals for walkability, transit, bikeability, and better development. Mr. Okolichany voted that for the larger sites over five acres, likely due to size of these properties, we think that many of these sites would be conditional zoning applications and that would mean City Council would evaluate the future development of these sites on a case by case basis and that would give Council and staff the opportunity to apply the code, but it also allows the developer the flexibility to possibly deviate from some of the provisions of the code.

In response to Councilwoman Kilgore, Mr. Satvika said that there are too many variables at this time to determine how many affordable units would be built and available

In response to Councilwoman Roney, it was the consensus of City Council to add the word "accessible" in the ordinance regarding the consistency of the Comprehensive Plan making streets more walkable, comfortable and connected.

Vice-Mayor Smith opened the public hearing at 6:11 p.m.

Nine individuals spoke against the text amendment for several reasons, some being, but are not limited to: the text amendment is not ready to be applied to any properties, so either deny the text amendment or postpone the vote until the text amendment is workable; private property rights are at stake; at stake are neighborhood shopping centers that for the most part have served our community well; to apply this new zoning district will be unlawful and will be counter-productive; we need to encourage redevelopment of these nodes and want to see more new and energy efficient buildings and more walkability, accessibility, sidewalks, transit stops, green space, trees, and more housing, but we have to take into account the character of the land and the practical realities of private property owners redeveloping these sites with their own money and without no help from the City; City staff has failed to take into the characteristics of the properties - these are existing well-established shopping centers with existing infrastructure that would restrict the ability to locate buildings wherever you want; none of the sites are level and all have cuts and fills and retaining walls and other constraints that make new construction very challenging; this is an unfunded mandate to build residential housing on property currently zoned and being used as commercial shopping centers; the City has no legislative authority for this mandate; none of the property owners asked for this rezoning and none of them agree with it; none of the neighbors or neighborhood around these shopping centers asked for this rezoning

either; many people want to see the centers redeveloped (especially the Innsbruck Mall site) with new buildings, new landscaping, new sidewalks, all of which would be required under the current zoning; 18' sidewalks can be challenging on relatively small properties; connected street system will consume a significant portion of land area on smaller areas; the District will place very limiting restrictions on development opportunities on properties within the district on any new development or redevelopment; if adopted, it will have a negative effect on both potential development and redevelopment, as well as negatively impacting the appeal to potential property investors; rigid requirements will limit, or in some cases eliminate, several potential redevelopment or sales opportunities available to property owners under current zoning regulations; limitations will have a negative impact on the financial feasibility of potential projects; in the past 100 years since the City adopted zoning, in no instance where the City has used zoning to mandate the ratio of uses on private property - to tell a property owner that your menu of choices are narrowed down to one (mixed commercial and residential housing product); there are various defects, both legal, social, practical and political of this text amendment; text amendment is without regard to the realities of the market, the realities of the lender demand, title insurance company requirements, and physical conditions on the ground, which may result in more vacant, underutilized sites where the owner is not allowed to renovate or upgrade or redevelopment because financing for the district is not available due to the physical conditions on the ground; there are no code incentives; and this district should be a tool only and let the developer choose if he wants to use this tool.

Three individuals spoke in support the text amendment for several reasons, some being, but are not limited to: we need more affordable housing, especially on transit corridors, and there are limited spaces we can build; we need to continue to work towards 60% AMI for affordable housing; and this is an investment in the health of our community.

Vice-Mayor Smith closed the public hearing at 6:49 p.m.

Vice-Mayor Smith said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Turner moved to approve the proposed text amendments to Chapter 7 of the Asheville Code of Ordinances with the condition that: The code be amended in all places to reflect the updated Land Use Incentive Grant (LUIG) policy that requires 50% of affordable housing units to accept rental assistance such as Housing Choice Vouchers; and find that the proposed amendments are reasonable, are in the public interest, are consistent with the City's comprehensive plan and meet the development needs of the community in that the amendments will (1) encourage responsible growth; (2) increase mixed-use development along transit corridors; (3) improve urban design; (4) make streets more walkable, comfortable and connected; (5) increase housing supply and encourage the development of affordable housing; and (6) facilitate development that maximizes public benefit. This motion was seconded by Councilwoman Wisler and carried on a 4-2 vote, with Councilwoman Kilgore and Councilwoman Mosley voting "no" and Mayor Manheimer being recused.

ORDINANCE BOOK NO. 33 - PAGE 419

PUBLIC HEARING TO REZONE APPROXIMATELY 122 ACRES OF PROPERTY FROM REGIONAL BUSINESS DISTRICT, HIGHWAY BUSINESS DISTRICT, RIVER DISTRICT, COMMERCIAL INDUSTRIAL DISTRICT AND OFFICE BUSINESS DISTRICT TO URBAN PLACE FORM DISTRICT, AND ASSOCIATED CHANGES TO THE FUTURE LAND USE MAP

ORDINANCE NO. 4405 - ORDINANCE TO REZONE 57 ACRES OF PROPERTY CURRENTLY ZONED REGIONAL BUSINESS DISTRICT, 21

ACRES CURRENTLY ZONED HIGHWAY BUSINESS DISTRICT, 42 ACRES CURRENTLY ZONED RIVER DISTRICT, .2 ACRES CURRENTLY ZONED OFFICE BUSINESS DISTRICT, AND 1 ACRE CURRENTLY ZONED COMMERCIAL INDUSTRIAL DISTRICT TO URBAN PLACE FORM DISTRICT, AND ASSOCIATED CHANGES TO THE FUTURE LAND USE MAP

Urban Planner Vaidila Satvika said that this is the consideration of an ordinance to rezone approximately 57 acres of property currently zoned Regional Business District, 21 acres currently zoned Highway Business District, 42 acres currently zoned River District, .2 acres currently zoned Office Business District, and 1 acre currently zoned Commercial Industrial District to Urban Place Form District, and associated changes to the Future Land Use Map. This public hearing was advertised on September 17 and 24, 2021.

Project Location and Contacts:

- The project sites that are part of the first phase of this proposed rezoning are grouped within four nodes of land on Merrimon Avenue (21 acres), Tunnel Road (40 acres), Bleachery Boulevard (46 acres) and South Tunnel Road (17 acres).
- Affected properties by zoning district are summarized on the right.
- Owners: various

Zoning District	Acres	Percent
RB	57	47%
RIV	42	35%
HB	21	17%
CI	1	1%
OB	0.2	0.2%
	122	100%

Background:

- This city-initiated petition is intended to implement the [Urban Centers initiative](#), which is part of a recommended growth strategy that aims to concentrate growth in transit-supportive Centers and Corridors as outlined in *Living Asheville*, the city’s long-range comprehensive plan.
- The goal of urban centers is to initiate the transition from a suburban, auto oriented land use pattern to a more dense urban form in key nodes along high frequency transit corridors.
- As the zoning text amendment will potentially create lawful nonconforming situations, it includes a change in the definition of a lawful nonconformity, which renders a lawful nonconformity to be regarded as conforming for non-construction related purposes such as financing, appraisal or zoning verification.
- This petition is phase one of a two phase rezoning process that prioritizes the rezoning of those urban centers identified in the city’s Future Land Use Map (FLUM), which are located closest to the Central Business District and also on the high-frequency transit network.
- The request totals approximately 122 acres of property for rezoning to Urban Place Form District.
- The rezoning will allow for the built environment of these properties to transition over time so that they become more urban and walkable, and better aligned with the city’s long-term goals.
- The rezoning will lead to a more efficient use of land that encourages housing and incentivizes affordable housing along transit routes.
- Staff have drafted an equity analysis of the proposed rezoning using the Racial Equity Toolkit: An Opportunity to Operationalize Equity, as prepared by the Local and Regional Government Alliance on Race and Equity.
- Staff met with the Legacy Neighborhoods Coalition (LNC) five times between January and May 2021 to discuss neighborhood concerns around displacement, ongoing development and neighborhood involvement in the development process.

- This led staff to postpone the rezoning of a site on Patton Avenue to allow more time to work with the LNC to address their concerns and to develop neighborhood stabilization strategies.
- The discussions are ongoing.
- On July 19, 2021, staff moved two parcels in the vicinity of the former Sears property on S. Tunnel Road from Phase 2 to Phase 1 at the request of the owners who have developed conceptual plans that have the potential to align with the proposed code.

Comprehensive Plan Consistency:

- This proposal aligns with a number of themes within the *Living Asheville Comprehensive Plan* including 'A Livable Built Environment' and 'A Resilient Economy'.
- The proposal is part of a recommended growth strategy that aims to concentrate growth in transit-supportive Centers and Corridors as outlined in *Living Asheville*, the city's long-range comprehensive plan.
- The following goals are applicable to this zoning amendment:
 - Encourage Responsible Growth; prioritize growth and development within designated growth areas
 - Increase Mixed-Use Development Along Transit Corridors
 - Promote Great Architecture & Urban Design to Enhance Placemaking
 - Make Streets More Walkable, Comfortable and Connected
 - Increase and Diversify Housing Supply; incentivize development that maximizes public benefit
 - Promote the Development and Availability of Affordable Housing and Workforce Housing; promote affordable housing policies via incentives such as bonus densities and building heights
- The proposed rezoning mostly aligns with the Future Land Use Map (FLUM) with the exception of two parcels within the Bleachery Boulevard node.
- Staff proposes to adjust the FLUM at that location for two properties from Urban Corridor to Urban Center to better align those parcels with adjacent properties.

Compatibility Analysis:

- The proposed boundaries of the Urban Place Form District were derived from the Urban Centers Land Use category of the Future Land Use Map (FLUM) adopted in the Living Asheville Comprehensive Plan.
- Compatibility is achieved by targeting existing commercial nodes with the ability to absorb additional housing density and mixed use development due to their location in areas with adequate infrastructure and along high frequency transit corridors.

Council Goal(s):

- A Well-Planned and Livable Community

Committees:

- On January 14, 2019, the Planning and Zoning Commission unanimously supported staff's revised process for the Urban Center initiative, which includes consideration of a new zoning district for the subject areas and additional community engagement.
- On February 11, 2019, staff provided an update to the Planning and Economic Development Committee (PED) that clarified redevelopment within Urban Center locations is not permitted while the rezoning application is under consideration.
- On September 5, 2019, an update was provided to the Affordable Housing Advisory Committee (AHAC) with input received regarding the incentive for affordable housing.
- On January 13, 2020, an update was provided to PED that included proposed incentives for housing. Staff also shared neighborhood concerns relating to gentrification.

- At the October 27, 2020, City Council work session Council suggested that staff postpone the consideration of the Patton Avenue node from the project and allow the other areas to move forward and recommended that staff add the Asheville Mall node to the initiative as part of a Phase II rezoning effort that would include the Patton Avenue node.
- On May 10, 2021, staff provided an update to the Planning and Economic Development Committee of the City Council.
- On July 7, 2021, staff presented to the Planning & Zoning Commission for a preliminary review of the proposed text and map amendments.
- The hearing was continued to allow more time for staff to meet with affected property owners in an effort to better address their concerns.
- On August 7, 2021, staff presented to the Planning & Zoning Commission to discuss two added properties to the Phase I review and to further discuss the initiative. Staff requested to continue the vote to the following meeting (September 1) to accommodate a request by some of the affected property owners who were not available for the August public hearing.
- On September 1, 2021, the Planning & Zoning Commission voted to approve the proposed rezoning 6:1.

Pros:

- Implements zoning regulations recommended in the comprehensive plan, *Living Asheville*.
- Incentivizes the integration of market rate and affordable housing on large commercial parcels.
- Form-based zoning regulations will create a more urban-style pattern of development.
- Transitions single-use commercial strips to walkable, mixed-use nodes along higher frequency transit corridors
- Improves the efficiency of land and helps to absorb growth in areas that are supported by infrastructure and transit.

Cons:

- Increases some development cost due to added requirements for large projects (i.e. formalizing internal streets with sidewalks and, on larger projects, housing).
- Zoning changes that encourage redevelopment will increase property values over time that can increase neighboring property values.

Vice-Mayor Smith opened the public hearing at 6:53 p.m.

Eight individuals spoke against the rezonings for several reasons, some being, but are not limited to: problem with sink hole on Merrimon Avenue site; request to vote on each of the four areas separately; difficulty to develop under these standards, especially on Merrimon Avenue site; smaller properties will be negatively impacted with these requirements; and request to only use this as a tool, and let the developers choose if they want to use it or not.

Councilwoman Kilgore liked the concept; however, she felt it needed more work on what we are trying to accomplish.

Councilwoman Turner felt we should try to look at ways to incentivize this pattern of development.

Vice-Mayor Smith closed the public hearing at 7:08 p.m.

Vice-Mayor Smith said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Turner moved to approve the rezoning request for phone one properties that includes approximately 122 acres of property from River (RIV), Regional Business (RB), Highway Business (HB), Commercial Industrial (CI), and Office Business (OB) to Urban Place Form (UP) district and amend the Future Land Use Map and find that the proposed rezoning is reasonable, in the public interest, consistent with the City's comprehensive plan and aligned with the development needs of the community in that the rezoning will 1) encourage responsible growth; 2) increase mixed-use development along transit corridors; 3) improve urban design; 4) make streets more walkable, comfortable and connected; 5) increase housing supply and encourage the development of affordable housing; and, 6) facilitate development that maximizes public benefit. This motion was seconded by Councilwoman Wisler and carried on a 4-1 vote, with Councilwoman Kilgore, and Councilwoman Mosley voting "no" and Mayor Manheimer being recused.

At this time, Vice-Mayor Smith returned the gavel to Mayor Manheimer to continue conducting the meeting.

ORDINANCE BOOK NO. 33 - PAGE 471

B. PUBLIC HEARING TO CONDITIONALLY REZONE 70 MILLS GAP ROAD FROM INDUSTRIAL DISTRICT AND RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO RESIDENTIAL EXPANSION/CONDITIONAL ZONE

ORDINANCE NO. 4406 - ORDINANCE TO CONDITIONALLY REZONE 70 MILLS GAP ROAD FROM INDUSTRIAL DISTRICT AND RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO RESIDENTIAL EXPANSION/CONDITIONAL ZONE

At the applicant's request, on June 22, 2021, a motion was made and seconded to continue the public hearing to conditionally rezone 70 Mills Gap Road from Industrial District and RS-2 Residential Single-Family Low Density District to Residential Expansion/Conditional zone to September 14, 2021. On September 14, 2021, at the applicant's request, this public hearing was continued to this date.

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to conditionally rezoning 34/5 acres located at 70 Mills Gap Road from Industrial District and RS-2 Residential Single-Family Low Density District to Residential Expansion/Conditional Zone. This public hearing was advertised on June 11 and 18, 2021.

Project Location and Contacts:

- The project site consists of a portion of a large 34.5 acre parcel located at 70 Mills Gap Rd. (PIN 9655-45-6682)
- Owner: Amcor Flexibles Inc.

Summary of Petition:

- This petition is to construct a 73 unit residential development with associated road and utility infrastructure.
- The development will include 51 single family lots and 22 attached townhouse units.
- The project area is approximately 11.5 acres based on the proposed limits of disturbance; the remaining 23 acres will remain wooded and undisturbed.
- The applicant is seeking a rezoning via conditional zoning due to the number of housing units (over 50) that are proposed.
- The site will obtain access via new road construction off of Mills Gap Rd. with emergency secondary access via a proposed right-of-way through the adjacent Amcor Flexibles

- parking lot located at 3055 Sweeten Creek Rd.
- The proposed subdivision includes one dead-end road.
- Stormwater infrastructure, roads and the water system will be privately owned and maintained; homeowners will be responsible for insurance and maintenance.
- Homeowners will also be responsible for the management of all open space.
- New roads are proposed to be 22 feet wide with 24 inch standard curb and gutter.
- A combination of six foot back-of-curb sidewalk in some sections, and a standard five foot sidewalk with a four foot green strip in other sections is also shown, all contained within a proposed 50 foot right-of-way.
- The property is currently split-zoned Industrial (IND) and Residential Single-family, low density (RS-2) with the 12.1 acres of IND zoning lower on the property where topography is less severe and the remaining 22.1 acres of RS-2 zoning on the higher, steeper slopes.
- The majority of the project lies within the existing IND zoned portion of the property.
- IND zoning does not permit residential development.
- The entire 34.5 acre parcel is located within the designated steep slope zones with the large majority of the property located in Zone B.
- The average natural slope of the property is 33.5%.
- Grading and other land disturbing activities are limited to a total disturbance of no more than 10.6 acres (31%) based on steep slope requirements.
- The proposed project disturbs approximately 11.5 acres (33.4% of the property).
- The property includes two jurisdictional streams and two jurisdictional wetlands areas, all of which will be impacted by the proposed development and will require permitting from the Army Corps of Engineers and NC Department of Environmental Quality.
- Portions of the streams will be piped and/or bridged, while other sections will remain daylighted with the 30' stream buffers intact.
- There is unconsolidated fill in the center of the project area containing boulders, organics and other trash/debris. This fill material will be remediated as part of this project.
- Single family home lots are proposed to be 48 feet wide x 76 feet deep for a total lot area of 3,648 square feet per home site.
- All of the single family lots will have individual driveways leading to a garage.
- Townhouse lots will have smaller lot areas and will share driveways.
- Different home models and floor plans are proposed; all homes will be two-stories with a garage and range in size from 1,360 to 2,368 square feet.
- Five retaining walls are shown and range in maximum heights from nine feet to 25 feet tall.
- Cut slopes are also shown along the back of the northern lots with a maximum cut slope extending approximately 60 feet with a height of 25-30 feet.
- Individual home sites include the use of stem walls to accommodate grade transitions.
- A small community open space area is dedicated in the center of the community.
- Open space, tree canopy preservation and street trees are required.
- The proposed plan exceeds the requirements for open space and tree canopy preservation.
- The project does not comply with the zoning standards in the following ways:
 - Grading in excess of the maximum allowed in a steep slope zone
 - Back-of-curb sidewalk instead of a standard sidewalk in some locations

Comprehensive Plan Consistency:

- While projects located in steep slope areas come with inherent impacts, this development proposal, overall, has been found to be consistent with the *Living Asheville Comprehensive Plan* themes of a “Livable Built Environment”, “Resilient Economy”, “Harmony with the Natural Environment” and “A Healthy Community” by supporting the following goals & strategies:

- **Encourage Responsible Growth** by preserving and protecting sensitive land, including steep slopes. The project exceeds the grading normally allowed in the steep slope zones by approximately 3% but concentrates the disturbance on the lowest, less steep portions of the property and preserves the upper slopes as one large contiguous area.
- **Celebrate the Unique Identity of Neighborhoods Through Creative Placemaking & Increase and Diversify the Housing Supply** by encouraging infill development with a mix of housing types that are affordable to a wide range of income levels (p. 153) and that accommodate a range of age groups (p. 180). This project provides a variety of house plans that range in size and features.
- **Promote the Development and Availability of Affordable and Workforce Housing** by promoting affordable housing policies (p. 183). The project includes five homes (about seven percent of the total units) proposed to be sold to individuals earning at or below 80% area median income (AMI). The remainder of the homes will be sold at market prices but will be priced in a workforce housing range.

*This project requires private stormwater infrastructure, a pump station and private water system, as well as maintenance of private roads, sidewalks, retaining walls and open space within the community. It is unclear how much additional cost should be anticipated with these maintenance responsibilities. This may add to the cost of housing for future residents.

- The Future Land Use Map identifies the subject property as “Residential Neighborhood” which is characterized by low density, single family development that is sensitive to the natural environment with the following guideline, *“In areas that could impact the natural environment, such as waterways or steep slope areas, cluster development (also known as a conservation development) should also be encouraged”* (p. 346). While not fully meeting the characteristics of a “conservation development” this project provides elements commonly found in those communities including:
 - Protecting natural environmental features (i.e. steep slopes) and permanently preserve those natural open spaces (through the adoption of the project conditions)
 - Cluster homes in compact walkable areas (homes are connected to each other and to the larger community via sidewalks & road)

Compatibility Analysis:

- The proposed zoning (RES EXP) and land use (single-family residential) is compatible and consistent with other low to moderate density developments to the north, east and south of the subject property.
- The proposed community will also be buffered from the low density/low intensity non-residential uses to the west through open areas and preservation of existing vegetation.

Council Goal(s):

- This project is best aligned with the council goal of **A Well-Planned and Livable Community.**

Committee(s):

- Technical Review Committee (TRC) - April 5, 2021 - approved with conditions.
- Planning & Zoning Commission (PZC) - June 2, 2021 - unanimously denied, 7:0.

*The applicant has revised plans after the June 2, 2021, PZC hearing (see Staff Recommendation below).

Staff Recommendation:

- Staff had concurred with the Planning & Zoning Commission and recommended denial of this rezoning request as formerly designed; however, the applicant has since reduced the scale of the project thereby reducing the environmental impacts, which addresses a number of the key concerns.
- As a result, staff is now recommending approval.

Ms. Tuch reviewed the aerial map, showing an undeveloped, forested property; jurisdictional streams and wetlands; steep slope; and unconsolidated fill. She then reviewed the site plan which was reviewed by the Planning & Zoning Commission on May 5, 2021: 76 single family lots (3,648 s.f. per lot); private road and utility infrastructure; retaining walls; small community area; preserved open space/forested slopes; and unconsolidated fill removal/mitigation. The site plan was then revised and reviewed again by the Planning & Zoning Commission on June 2, 2021, with a unanimous recommendation to deny. The site plan was then revised based on feedback from the Planning & Zoning Commission and City staff (noting that the Commission has not had the opportunity to review and evaluate the revised plans): replaced 25 single-family home lots with 22 townhomes (-3 units); shared driveways incorporated (1 per two townhomes); depth of driveways extended to 18' minimum, where adjacent to sidewalk; planting strip widened to 5 feet (no longer required modification); steepness of the cut slope reduced from 1 ½:1 to 2:1 (no longer required modification); extent of grading reduced from 13.5 acres to 11.5 acres; and extent of retaining walls reduced and pulled away from aquatic buffer.

Ms. Tuch said that conditions are (1) technical modifications (a) 6' back of curb sidewalk at entrance; and (b) grading exceeds steep slope requirements (maximum 31% or 10.6 acres); (2) 73 residential dwelling units (51 single family homes, 22 townhomes); (3) private road, utility and community infrastructure; (4) private open space including centrally located community space plus 23 acres undisturbed steep slopes; and (5) five affordable units (80% AMI 15 years).

Mr. Wyatt Stevens, attorney representing the applicant, said that this project seeks to conditionally zone a 34.5 acre parcel from industrial and residential to residential expansion. The project will be a 73 unit single-family residential subdivision with associated road and utility infrastructure (51 single-family lots and 22 townhouse units). The project area is approximately 11.25 acres based on the proposed limits of disturbance; the remaining 23.25 acres will remain wooded and undisturbed. The site will obtain access via a new road construction off of Mills Gap Road (with emergency secondary access via a proposed right-of-way through the adjacent Amcor Flexibles parking lot on Sweeten Creek Road if required). He showed a view of Hawthorne at Mills Gap Apartments, which is adjacent to the property. The project will improve the property by removing a large quantity of buried household garbage and unconsolidated fill. He then showed a rendering of the proposed project. The project substantially meets all technical requirements of the Unified Development Ordinance (UDO) (1) grading in excess of the maximum allowed in a steep slope zone - technically true, but only grading 11.25 acres out of 34 total acres (Council has the power to grant an exception); and (2) when you include more level areas on the ridge and near the creek, the average natural slope of the open space is less than 25%. In addition, this project preserves a visible mountain ridge with mature tree canopy in the heart of south Asheville. He said this project meets several Living Asheville priority strategies (1) Goal 5 - Make Streets More Walkable, Comfortable and Connected (a) 22' wide entrance road and neighborhood roads; (b) 6' sidewalk along entrance road; (c) 5' sidewalks and 5' planting/street tree strips on all interior

roads; and (d) pedestrians can access to Mills Gap Road, Sweeten Creek Road, grocery stores, gas stations and Ace Hardware; (2) Goal 7 - Celebrate the Unique Identity of Neighborhoods Through Creative Placemaking (a) creates a community of 73 small, individual homes and townhomes, five of which will be sold to people making 80% of AMI; (b) lots are in full compliance with UDO for size, spacing, sidewalks and parking; (c) adjacent to large multi-family on one side, large single family lots on the other side, an industrial facility on the corner, all backed by a wooded, protected ridge of more than 23 acres with mature tree canopy; (d) 7,600 square feet of community open space/playground amenity; and (e) sidewalk pedestrian access to shopping; (3) Goal 10 - Improve Transit Service (a) neighborhood is located on the bus line; and (b) neighborhood is close to many different kinds of jobs; (4) Goal 13 - Increase and Diversify the Housing Supply; and Goal 14 - Promote the Development and Availability of Affordable and Workforce Housing (a) 73 much needed small, new, moderately affordable single family homes; and (b) offer to deed restrict 5 homes affordable to people making 80% of AMI. He then showed some pictures of representative homes. He urged City Council to approve this conditional zoning request in that it (1) preserves sensitive steep slopes and large, natural open space areas; (2) locates a variety of housing types in a rapidly urbanizing area that is moderately well connected; and (2) provides housing that is affordable to a range of income levels, including five homes affordable to those earning at or below 80% AMI.

In response to Councilwoman Turner, Mr. Stevens confirmed that Condition #11 should read "The applicant has committed to offer five (5) of the completed homes for sale to individuals or families making no more than 80% of the Area Median Income, ..."

When Councilwoman Turner asked if the applicant would be willing to consider 10% of affordable housing (5 homes is 7% of the total units), Mr. Stevens said that the site is challenging and acquisition cost is significant; so he cannot commit to any more than 5 homes no more than 80% AMI.

Mr. Stevens responded to Councilwoman Wisler the reasoning behind the community homeowner association being responsible for maintenance of the open space, retaining walls, sidewalks, roads and all utility infrastructure.

In response to Councilwoman Kilgore, Mr. Stevens said that the applicant is thinking the individual single-family homes will be in the mid-\$300,000 range. He said that the applicant is willing to leave open whether the five affordable units will be the single-family homes or townhomes and that can be determined as the project progresses.

In response to Councilwoman Roney about what prevents this from being a phased development and how does it protect the tree canopy, Mr. Stevens said that because this is a conditional zoning, if Council approves this plan, that is the only thing that can be built. They would have to come back to City Council if they want to build anything else.

When Councilwoman Roney asked if the homeowners will restrict short-term vacation rentals, Mr. Stevens said that it would be up to the homeowner association to decide. The applicant did not ask as part of this conditional zoning to permit short-term rentals in the conditions. Ms. Tuch noted that under our current rules, we don't allow short term vacation rentals in any of our residential districts (so it would not be allowed with this project); however, we would allow homestays.

Mayor Manheimer opened the public hearing at 7:53 p.m. and announced that there were no advanced live call-ins for this item. She then closed the public hearing at 7:53 p.m.

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

Councilwoman Kilgore moved to approve the conditional zoning request for the property located at 70 Mills Gap Rd. Industrial (IND) and Residential Single-family, Low Density (RS-2) to Residential Expansion - Conditional Zone (RES EXP-CZ) 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 the request: 1) preserves sensitive steep slopes and large, natural open space areas; 2) locates a variety of housing types in a rapidly urbanizing area that is moderately well connected, and, 3) provides housing that is affordable to a range of income levels, including five homes affordable to those earning at or below 80% AMI. This motion was seconded by Councilwoman Roney and carried on a 6-1 on a roll call vote, with Councilwoman Wisler voting "no."

Councilwoman Roney said that when we talk about places that are on a transit corridor, we have a long way to go with transit. But, one of the things that we are working on is increasing our transit service frequency, and hours to south Asheville, so this would include the S3 and S6 routes for which this project serves.

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C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO ARTICLES II AND XVI OF THE UNIFIED DEVELOPMENT ORDINANCE TO UPDATE DEFINITIONS AND REGULATIONS RELATED TO HOMESTAYS

Councilwoman Wisler moved to continue this public hearing until December 14, 2021. This motion was seconded by Councilwoman Turner and carried unanimously by roll call vote.

D. PUBLIC HEARING TO CONSIDER A LAND USE INCENTIVE GRANT TO RCG LLC FOR 101 CHARLOTTE STREET PROJECT

PUBLIC HEARING TO CONDITIONALLY REZONE 99999 CHARLOTTE STREET, 121 CHARLOTTE STREET, 123 CHARLOTTE STREET, 125 CHARLOTTE STREET, 129 CHARLOTTE STREET, 135 CHARLOTTE STREET, 276 EAST CHESTNUT STREET and 99999 EAST CHESTNUT STREET FROM COMMUNITY BUSINESS I DISTRICT TO COMMERCIAL EXPANSION/CONDITIONAL ZONE; 3 BAIRD STREET, 15 BAIRD STREET, 19 BAIRD STREET, 23 BAIRD STREET, 25 BAIRD STREET, 132 FURMAN AVENUE and 134 FURMAN AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO COMMERCIAL EXPANSION/CONDITIONAL ZONE; 102 FURMAN AVENUE AND 99999 EAST CHESTNUT STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO COMMERCIAL EXPANSION/CONDITIONAL ZONE, ALONG WITH AN AMENDMENT TO THE FUTURE LAND USE MAP DESIGNATION OF 99999 EAST CHESTNUT STREET FROM TRADITIONAL NEIGHBORHOOD TO TRADITIONAL CORRIDOR

These two items have been withdrawn by the applicant.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

From advanced live call-ins, two individuals spoke to Council, including, but not limited to the following comments: rebuttal of an article; and need to continue to make historical, unprecedented positive impacts regarding reparations.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8: 04 p.m.

CITY CLERK

MAYOR