THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: June 13, 2023

Subject: Pre-development Community Meeting requirements Zoning Text Amendment, Amendments to Articles V and VII of the Unified Development Ordinance (UDO).

Staff Resources: Chris Collins, AICP, Planning & Development Manager;
Ben Woody, AICP, Assistant City Manager/Interim Planning Director
Mark Matheny, Interim Development Services Director

Action Requested: Adoption of a zoning text amendment to revise Sections 7-5-8, 7-5-9, 7-5-9.1 and 7-7-8 of the UDO in order to create new and improve existing requirements for pre-development application community meetings.

Background:

- The UDO currently has a requirement for prospective land developers to hold community/neighborhood meetings with nearby residents and owners prior to submitting an application for review of a Level II site plan, Major Subdivision or Conditional Zoning by the City.
- City staff have worked with several groups including the Coalition of Asheville Neighborhoods, Legacy Neighborhoods Coalition and the Development Customer Advisory Group to create a set of clarified and standardized requirements to assist in making these meetings function well.
- City staff have created several administrative tools such as notification letter templates, a guide to conducting and attending neighborhood meetings and a registration process whereby prospective developers can report scheduled and held pre-application neighborhood meetings.
- While many of the detailed requirements and improvements are housed within these administrative tools, a change in the ordinance to require adherence to these guidelines and tools is necessary.
- In addition to supporting the administrative framework to improve these meetings, the ordinance also increases the notification radius from 200’ to 400’ in all areas outside of the Central Business District and increases the minimum duration of notification from 10 days to 14 days.
- At the March 1 PZC meeting, commissioners asked staff to investigate increasing the notice and time requirements for UDO required city sent notifications. Currently, the UDO requires that city staff send notice in the following circumstances to all property owners within 200 feet of the subject parcel:
    - Legislative Hearings (Such as conditional rezonings)
    - Major Subdivision Plats (Notice is sent after Technical Review Committee action (TRC))
    - Level II Site Plan Reviews (Notice is sent after TRC action)
- The following application types require notification of all abutting property owners only:
    - Zoning Variances
    - Quasi-Judicial Hearings (Such as variances and special/conditional use permits)
- After staff review of the ordinance it is recommended that no changes be made to the City notice requirement radius of the items shown above.
- Quasi-Judicial hearings require that participants have legal standing, and increasing the number of people notified will very likely increase those with concern but with no standing to participate.
- Level II and Major Subdivision notifications are an after-action notification once the TRC has approved or denied a plat and/or site plan. This does not serve the same purpose as a pre-development application notification as it is meant to inform property owners likely to have legal standing to file an appeal.
- Legislative hearings currently require notification of far more individuals than is required by NCGS Chapter 160D, which requires only abutting parcel owners be notified. In addition, all conditional zoning applicants will have been required to follow community meeting requirements and will have held a meeting per UDO provisions.
- The City has worked toward ease of transparency and following of applications through the Development Notification Tool and individual application pages on simplicity.ashevillenc.gov.

Comprehensive Plan Consistency:

- This proposal aligns with a number of themes within the *Living Asheville Comprehensive Plan* including 'A Livable Built Environment' and 'Interwoven Equity''. The following goals are applicable to this zoning amendment:
    - Celebrate the Unique Identity of Neighborhoods Through Creative Placemaking (pp. 152-153); prioritize growth and development within designated growth areas
    - Improve Community Involvement in Decision-Making (p. 260)
    - Create a More Formal Neighborhood Planning Process (p. 268)
    - Increase Access to Opportunities for All (p. 270)

Council Goal(s):

- Neighborhood Resilience

Committee(s):

- Planning & Zoning Commission: Recommended Approval by vote of 3-1 on 05/03/2023
- Neighborhood Advisory Committee: Heard report on 02/27/23

Pro(s):

- Improves the consistency, clarity and access to UDO required pre-application neighborhood meetings.
- Creates a formalized opportunity for possibly affected neighborhood residents to begin a dialogue with the prospective developer.
- Creates multiple means of notification to promote equity in the pre-development neighborhood meeting process.
- Creates a permanent record of the neighborhood input on development projects that will be attached to staff reports throughout the hearing and review process.

Con(s):

- May increase some administrative costs of developing property.
- As more property owners would be notified (outside of the CBD) may promote resident opposition to some development.

Fiscal Impact:

- This action requires no City resources and has no fiscal impact.

Staff Recommendation:

- Staff recommends approval of the proposed zoning text amendment to establish new standards zoning text amendment to revise Sections 7-5-8, 7-5-9, 7-5-9.1 and 7-7-8 of the UDO in order to create new and improve existing requirements for pre-development application community meetings because this is consistent with the *Living Asheville* comprehensive plan in that it directly furthers several goals of the plan while promoting specific Council goals as well.

Suggested Motion:

- Motion to approve the proposed wording amendments to Chapter 7 of the Asheville Code of Ordinances 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 amendment will: 1) help promote equity within the pre-application process of land development; 2) increase opportunities for constructive dialogue between residents and land developers; and, 3) create a clear and well-documented process.

Attachment(s)

- Ordinance
- PZC Recommendation

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO UPDATE PRE-APPLICATION COMMUNITY MEETING REQUIREMENTS

WHEREAS, the City of Asheville has the authority pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, the Unified Development Ordinance (Chapter 7 of the City Code of Ordinances) specifies requirements for review of land development, subdivision and entitlement applications;

WHEREAS, this amendment aligns with the City Council goals to update the Unified Development Ordinances in order to reflect recommendations in the Comprehensive Plan and other adopted goals and plans; and,

WHEREAS, the City's Comprehensive Plan encourages improvement of community involvement in decision-making; and

WHEREAS, this Ordinance is determined to be reasonable, in the public interest, and is consistent with the Comprehensive Plan in that the changes further the goals to:

1. Create a more forma neighborhood planning process; and
2. Increase access to opportunities for all.

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

Section 1: Chapter 7 of the Code of Ordinances of the City of Asheville is hereby amended as follows:

a. Amend section 7-5-8 (a) 2 c as follows:

c. Neighborhood Meeting. ~~The developer is required to meet with representatives of the neighborhood in which the proposed project is located. This meeting is to allow the developer to explain the proposed project, be informed about neighborhood concerns, and explore opportunities to address those concerns in cooperation with the neighborhood. The meeting must be held in the pre-application stage no more than four months prior to the submittal date and must be at a location and time designed to allow interested neighbors to attend. It is recommended, but not required, that the developer retain a neutral~~

~~third party to facilitate the meeting. The developer shall provide notice of the meeting by first class mail to all property owners within 200 feet at least ten days before the meeting. A written report of the meeting must be submitted with the major subdivision application.~~

The prospective applicant shall meet with the surrounding community during the pre-application phase. No application for Level II development shall be accepted for review by the City unless the following criteria are met:

a. A community meeting shall be held with the surrounding residents of the proposed development site at least 14 days but not more than 4 months prior to any application submission to the City. This meeting shall follow the principals outlined in the "Neighborhood and Community Meeting Guide for Development" (Guide) as maintained by the City.
b. Notification Requirements. The meeting shall be advertised as follows:
    1. A sign meeting the requirements found in the guide shall be posted on each street frontage of the proposed development site at least 14 days prior to the meeting date; and
    2. Mailed notice shall be sent to all property owners within 400 feet of the proposed development site. This notice shall follow the published template provided by the City; and
    3. E-mailed notice shall be sent to any neighborhood association or organization on file with the City's neighborhood services section at least 14 days prior to the meeting date; and
    4. The prospective developer or designee shall register the neighborhood meeting with the City on a form provided by the City at least 14 days prior to the meeting date.
c. Evidence of compliance with this Section shall be provided to the City on a form provided by the City prior to submittal of any application for Level II development.

b. Amend Section 7-5-9(b)2b as follows:

b. ~~The developer is required to meet with representatives of the neighborhood in which the proposed project is located. This meeting is to allow the developer to explain the proposed project, be informed about neighborhood concerns, and explore opportunities to address those concerns in cooperation with the neighborhood. The meeting must be held in the pre-application stage no more than four months prior to the submittal date and no closer than ten days before submittal, and must be at a location and time designed to allow interested neighbors to attend. It is recommended, but not required, that the developer retain a neutral third party to facilitate the meeting. The developer shall provide notice of the meeting by first class mail to all property owners within 200 feet at least~~

~~ten days before the meeting. A written report of the meeting must be submitted with the Level II application~~. Community Meeting Required

1. The prospective applicant shall meet with the surrounding community during the pre-application phase. No application for Level II development shall be accepted for review by the City unless the following criteria are met:
    a. A community meeting shall be held with the surrounding residents of the proposed development site at least 14 days but not more than 4 months prior to any application submission to the City. This meeting shall follow the principals outlined in the "Neighborhood and Community Meeting Guide for Development" (Guide) as maintained by the City.
    b. Notification Requirements. The meeting shall be advertised as follows:
        1. A sign meeting the requirements found in the guide shall be posted on each street frontage of the proposed development site at least 14 days prior to the meeting date; and
        2. Mailed notice shall be sent to all property owners within 400 feet of the proposed development site. This notice shall follow the published template provided by the City; and
        3. E-mailed notice shall be sent to any neighborhood association or organization on file with the City's neighborhood services section at least 14 days prior to the meeting date; and
        4. The prospective developer or designee shall register the neighborhood meeting with the City on a form provided by the City at least 14 days prior to the meeting date.
    c. Evidence of compliance with this Section shall be provided to the City on a form provided by the City prior to submittal of any application for Level II development.

c. Amend Section 7-5-9.1(b)2b as follows:

~~b. The developer is required to meet with representatives of the neighborhood in which the proposed project is located. This meeting is to allow the developer to explain the proposed project, be informed about neighborhood concerns, and explore opportunities to address those concerns in cooperation with the neighborhood. The meeting must be held in the pre-application stage no more than four months prior to the submittal date and no closer than ten days before~~

~~submittal and must be at a location and time designed to allow interested neighbors to attend. It is recommended, but not required, that the developer retain a neutral third party to facilitate the meeting. The developer shall provide notice of the meeting by first class mail to all property owners within 200 feet at least ten days before the meeting and to physical addresses in the notification area. The property must also be posted with notice of the meeting date, time and location at least ten days before the meeting date. A written report of the meeting must be submitted with the Level II application.~~

1. The prospective applicant shall meet with the surrounding community during the pre-application phase. No application for Level II development shall be accepted for review by the City unless the following criteria are met:
    a) A community meeting shall be held with the surrounding residents of the proposed development site at least 14 days but not more than 4 months prior to any application submission to the City. This meeting shall follow the principals outlined in the "Neighborhood and Community Meeting Guide for Development" (Guide) as maintained by the City.
    b) Notification Requirements. The meeting shall be advertised as follows:
        (1) A sign meeting the requirements found in the guide shall be posted on each street frontage of the proposed development site at least 14 days prior to the meeting date; and
        (2) Mailed notice shall be sent to all physical addresses within 200 feet of the proposed development site. This notice shall follow the published template provided by the City; and
        (3) E-mailed notice shall be sent to any neighborhood association or organization on file with the City's neighborhood services section at least 14 days prior to the meeting date; and
        (4) The prospective developer or designee shall register the neighborhood meeting with the City on a form provided by the City at least 14 days prior to the meeting date.
    c) Evidence of compliance with this Section shall be provided to the City on a form provided by the City prior to submittal of any application for Level II development.

d. Amend Section 7-7-8(d)2 as follows:

(2) Neighborhood meeting. ~~The developer is required to meet with representatives of the neighborhood in which the proposed project is located. This meeting is to allow the developer to explain the proposed project, be informed about neighborhood concerns, and explore opportunities to address those concerns in cooperation with the neighborhood. The meeting must be held at the pre-application stage no more than four months prior to and no less than ten days before the submittal date and must be at a location and time designed to allow interested neighbors to attend. It is recommended, but not required, that the developer retain a neutral third party to facilitate the meeting. The developer shall provide notice of the meeting by first class mail to all property owners within 200 feet at least ten days before the meeting and must post the site with notice of the meeting date, time and location. A written report of the meeting must be submitted with the conditional zoning application.~~ The prospective applicant shall meet with the surrounding community during the pre-application phase. No application for Conditional Zoning shall be accepted for review by the City unless the following criteria are met:

a) A community meeting shall be held with the surrounding residents of the proposed development site at least 14 days but not more than 4 months prior to any application submission to the City. This meeting shall follow the principals outlined in the "Neighborhood and Community Meeting Guide for Development" (Guide) as maintained by the City.
b) Notification Requirements. The meeting shall be advertised as follows:
    (1) A sign meeting the requirements found in the guide shall be posted on each street frontage of the proposed development site at least 14 days prior to the meeting date; and
    (2) Mailed notice shall be sent to all property owners within 400 feet of the proposed development site. This notice shall follow the published template provided by the City; and
    (3) E-mailed notice shall be sent to any neighborhood association or organization on file with the City's neighborhood services section at least 14 days prior to the meeting date; and
    (4) The prospective developer or designee shall register the neighborhood meeting with the City on a form provided by the City at least 14 days prior to the meeting date.

c) Evidence of compliance with this Section shall be provided to the City on a form provided by the City prior to submittal of any application for Level II development.

Section 2: If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3: All ordinances or parts of ordinances in conflict are hereby repealed to the extent of such conflict.

Section 4: This ordinance will become effective upon adoption.

Read, approved, and adopted this 13th day of June, 2023.

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City Clerk Mayor

Approved as to form:

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City Attorney