THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: June 28, 2022

Subject: Intent to permanently close an unopened right-of-way west of Pearl Street, between Patton Avenue and Hilliard Avenue, associated with the Avery Project, and to schedule a public hearing on such closure for July 26, 2022.

Staff Resource(s): Ken Putnam, PE, Transportation Department Director
Jessica Morriss, AICP, Transportation Assistant Director

Action Requested: Adoption of a resolution setting a public hearing on July 26, 2022, to consider permanently closing an unopened right-of-way west of Pearl Street, between Patton Avenue and Hilliard Avenue, associated with the Avery Project.

Background:

- North Carolina General Statute § 160A-299 grants cities the authority to permanently close streets and alleys.
- The statute requires City Council to consider whether the closure of the right-of-way has a negative impact to the public interest and whether the closure would impede access to parcels, utilities, and other public infrastructure.
- Delray Ventures has petitioned for this closure associated with the Avery Project located at 363 Hilliard.
- The City Council approved the Conditional Zoning request for the Avery Project on March 8, 2022.
- Another unopened right-of-way known as Rear Clingman Avenue associated with the Avery was previously closed by the City Council on April 26, 2022.
- The right-of-way under this request was not requested to be closed at that time because both staff and the applicant did not believe it to be necessary, however the applicant's title company, as well as the NCDEQ, which is providing Brownfield remediation funding, have indicated that it does in fact need to be closed.
- The Technical Review Committee (TRC) did not review this specific closure request due to time constraints; however, the overall project has been reviewed by TRC multiple times and the right-of-way was discussed as part of that process.

Council Goal(s):

- Well-planned and livable community

Committee(s):

- Multimodal Transportation Committee - June 22, 2022 - unanimously recommended approval of the request.

Pro(s):

- Promotes sustainable high density infill growth that makes efficient use of existing resources.

Con(s):

- None

Fiscal Impact:

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

Suggested Motion:

- Motion to approve the setting of a public hearing for July 26, 2022 for the request and intent to close an unopened right-of-way west of Pearl Street, between Patton Avenue and Hilliard Avenue, associated with the Avery Project.

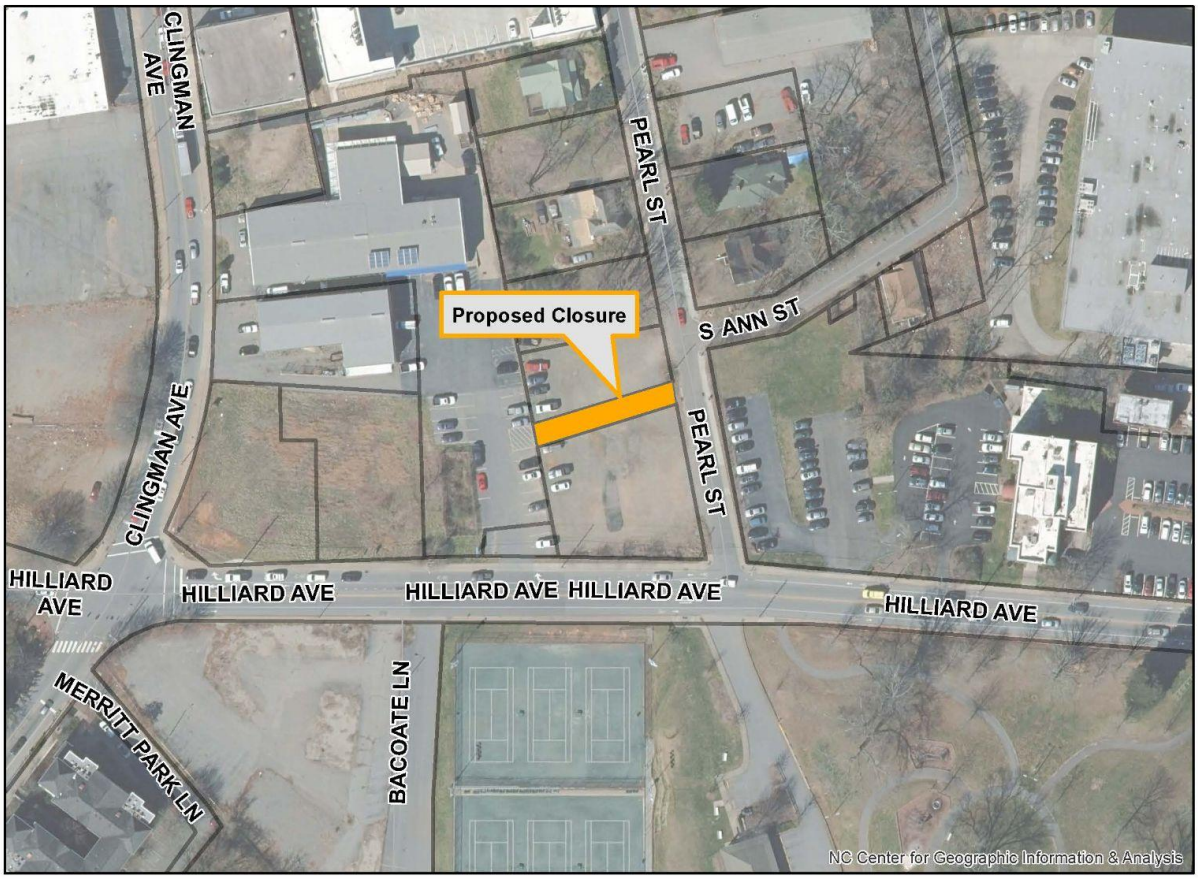
Attachment(s)

- Location Map
- Resolution

THE CITY OF ASHEVILLE

Right Of Way Closure
AVERY PROJECT ALLEY

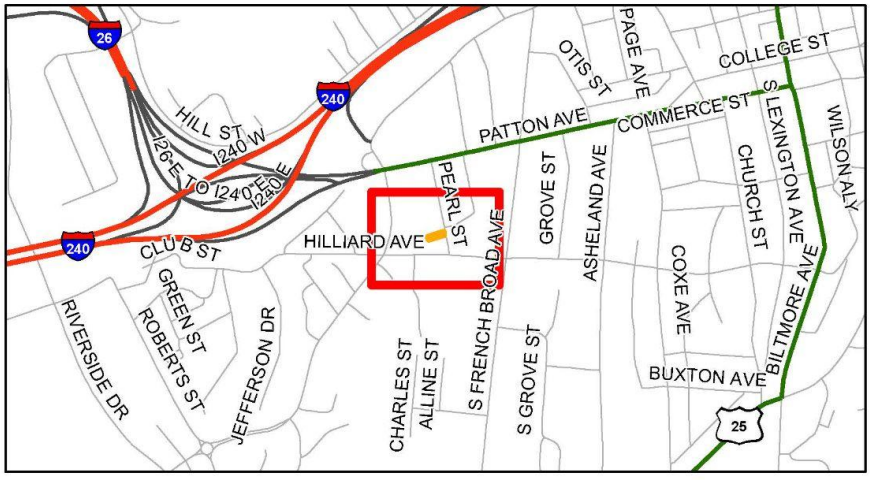
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Legend

- Local Interstate Highways
- Local US Highways
- Local NC Highway
- Local Highway Ramps
- Local Blue Ridge Parkway
- NC Interstate Highways
- Streets
- Proposed Easement
- Parcels

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RESOLUTION NO. 22-_____

RESOLUTION TO SET A PUBLIC HEARING FOR JULY 26, 2022 FOR THE REQUEST AND INTENT TO PERMANENTLY CLOSE AN UNOPENED RIGHT OF WAY WEST OF PEARL STREET, BETWEEN PATTON AVENUE AND HILLIARD AVENUE, ASSOCIATED WITH THE AVERY PROJECT

WHEREAS, pursuant to section 160A-299 of the North Carolina General Statutes the City of Asheville has the authority to permanently close streets and alleys, including unopened rights-of-way; and

WHEREAS, the City of Asheville is hereby declaring its intent to set a public hearing to consider the request to permanently close an unopened right of way west of Pearl Street, between Patton Avenue and Hilliard Avenue, associated with the Avery Project; and

WHEREAS, said right-of-way is not under the control of the N.C. Dept. of Transportation;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

1. The City Council hereby shall hold a public hearing on July 26, 2022 for the request and intent to permanently close an unopened right of way west of Pearl Street, between Patton Avenue and Hilliard Avenue, associated with the Avery Project, described as:

   Beginning at a #5 rebar located at the intersection of the western right-of-way of Pearl Street and southern margin of an unopened alley, being designated as the point of beginning. Said point of beginning also being located N 10°48’06” W a distance of 127.66’ from the intersection of the northern right-of-way of Hilliard Avenue and the western right-of-way of Pearl Street, marked by a chiseled X in concrete sidewalk. From said point of beginning running S 72°52’00” W a distance of 120.31’ to a #5 rebar; thence running N 11°23’37” W a distance of 20.02’ to a magnetic nail; thence running N 72°59’35” E a distance of 120.56’ to a #5 rebar on the western right-of-way of Pearl Street; thence running along the western right-of-way of Pearl Street S 10°36’17” E a distance of 19.78’ to a #5 rebar, the point of beginning, having an area of 0.05 acre or 2,383 square feet.

2. A public hearing on the question of permanently closing a right-of-way west of Pearl Street, between Patton Avenue and Hilliard Avenue, Is hereby called for on Tuesday, July 26, 2022, at the regular meeting of City Council beginning at 5:00 pm., in the Council Chamber, located on the 2nd Floor of City Hall, located at 70 Court Plaza, Asheville, North Carolina.

3. This resolution shall be published in a newspaper of general circulation in Buncombe County, North Carolina, once per week for four successive weeks prior to the aforesaid public hearing on July 26, 2022.

4. The notice of closing and the public hearing herein ordered (copy of this resolution being sufficient for the purpose of said notice), shall be prominently posted in at least two places along a portion of the right of way. Additionally, a copy of this resolution of intent shall be sent by registered or certified mail to all owners of property abutting this alley, not joining in the petition to close, as shown on the Buncombe County tax maps. The persons affecting the said posting and mailing shall file an affidavit thereof with the City Clerk prior to the public hearing scheduled herein.

Read, approved and adopted this 28th day of June, 2022.

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City Clerk Mayor

Approved as to form:

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City Attorney