THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: March 22, 2022

Subject: Intent to permanently close a right-of-way alley known as Rear Clingman Avenue off the eastern side of Clingman Avenue associated with the Avery Project, and to schedule a public hearing on such closure for April 26, 2022.

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

Action Requested: Adoption of a resolution to set a public hearing for April 26, 2022, to permanently close a right-of-way alley known as Rear Clingman Avenue off the eastern side of Clingman 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 held a public hearing for the Avery Project Conditional Zoning request at their February 22, 2022 meeting and denied the project.
- The applicant revised the Conditional Zoning request and returned to City Council on March 8, 2022 and received approval.

Council Goal(s):

- Well-planned and livable community

Committee(s):

- This closure request was recommended for approval by the Technical Review Committee on November 15, 2021 based on the Avery Project proposal, including the project's site plan, pedestrian improvements, and proposed bike lane improvements.
- The Multimodal Transportation Commission (MMTC) reviewed the ROW closure request on February 23, 2022, following the February 22 City Council meeting.
- Due to the Council's initial denial of the project's Conditional Zoning, the MMTC denied the ROW closure.
- Staff did not return to the MMTC following the Council's March 8 approval.

Pro(s):

- Promotes sustainable high density infill growth that makes efficient use of existing resources.
- The Avery Project will improve the existing bicycle facility on Hilliard Avenue along the project frontage, as well as make substantial improvements to pedestrian facilities on Hilliard and Clingman.

- The project will provide a pedestrian easement within the ROW closure area to facilitate public pedestrian access.

Con(s):
- Closure of an existing alley eliminates future potential uses within the ROW closure area.

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

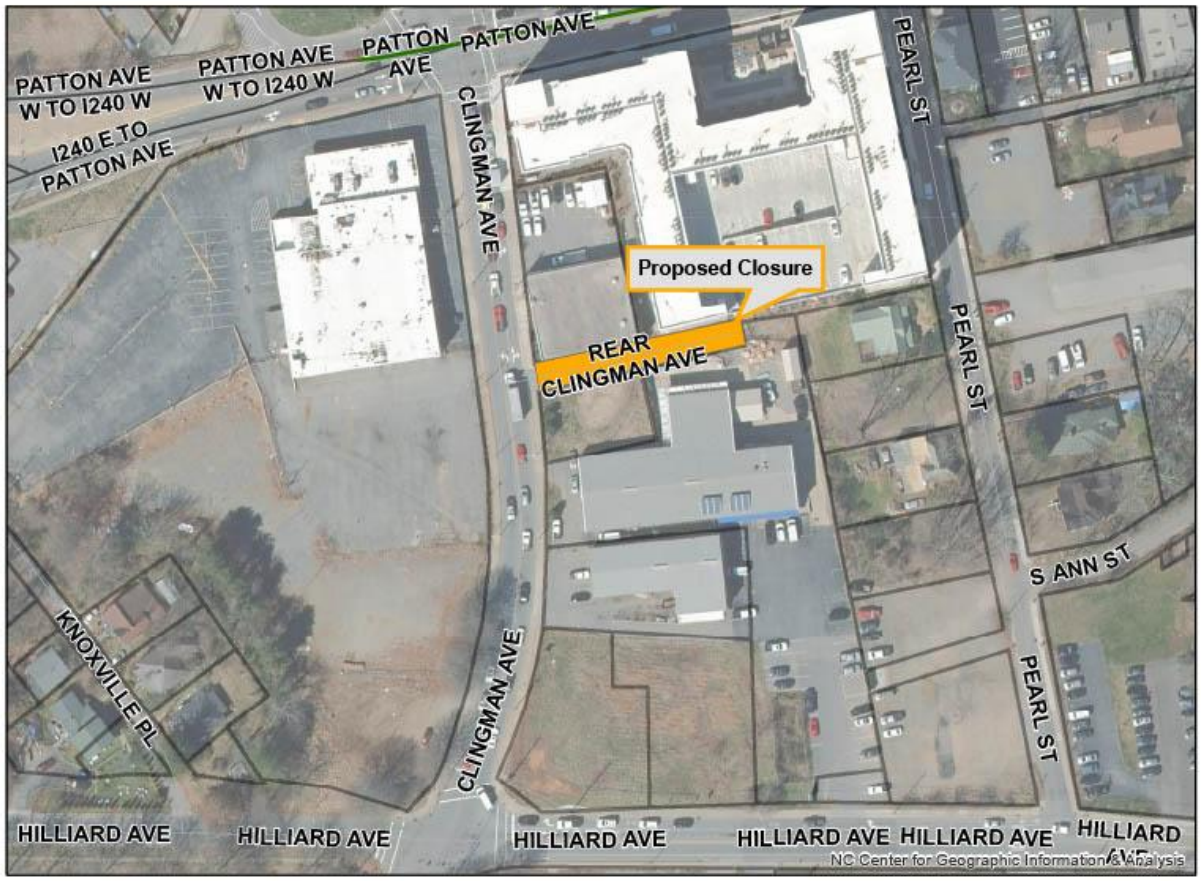
Suggested Motion:
- Motion to approve the setting of a public hearing for April 26, 2022 for the request and intent to permanently close a right of way alley known as Rear Clingman Avenue off the eatern side of Clingman Avenue.

Attachment(s)
- Location Map
- Resolution

THE CITY OF ASHEVILLE

Right Of Way Closure
REAR CLINGMAN AVE

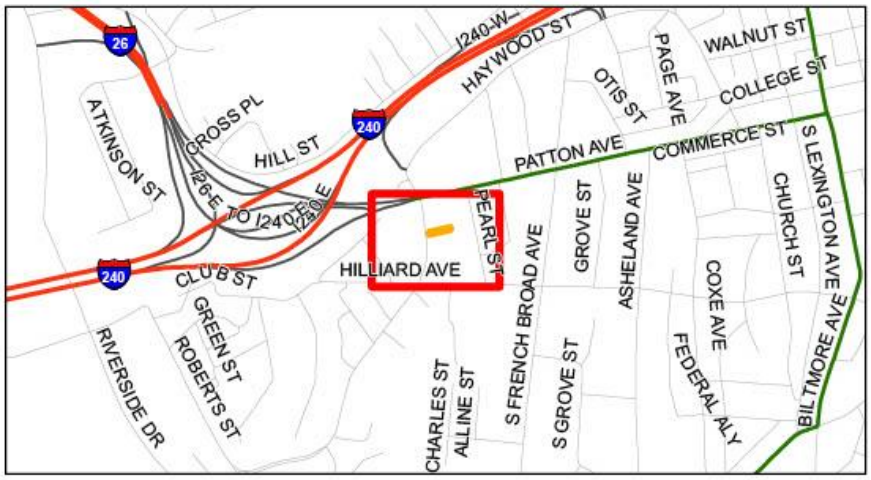
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Legend

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

2019 Orthoimagery



RESOLUTION NO. 22-_____

RESOLUTION TO SET A PUBLIC HEARING FOR APRIL 26, 2022 FOR THE REQUEST AND INTENT TO PERMANENTLY CLOSE A RIGHT OF WAY ALLEY KNOWN AS REAR CLINGMAN AVENUE OFF THE EASTERN SIDE OF CLINGMAN AVENUE.

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 alley known as Rear Clingman Avenue, east of Clingman Avenue between Patton Avenue and Hilliard Avenue; 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 April 26, 2022 for the request and intent to permanently close Rear Clingman Avenue, east of Clingman Avenue between Patton Avenue and Hilliard Avenue, described as:

   Beginning at a #6 rebar located at the intersection of the southern right-of-way of Rear Clingman Avenue and the eastern right-of-way of Clingman Avenue, having NC Grid (NAD83-2011) coordinates of N: 689,439.17, E: 941,282.77, being designated as the point of beginning; thence running along the eastern right-of-way of Clingman Avenue N 07°25'59" W a distance of 20.89' to a unmarked point; thence running along the northern right-of-way of Rear Clingman Avenue N 77°59'00" E a distance of 87.99' to a rebar found; thence continuing N 77°53'28" E a distance of 85.16' to a rebar found; thence with the end of Rear Clingman Avenue S 11°09'22" E a distance of 19.07' to a magnetic nail found; thence running along the southern right-of-way of Rear Clingman Avenue S 76°52'36" W a distance of 28.76' to a bolt on top of wall; thence continuing S 77°30'12" W a distance of 60.28' to a bolt on top of wall; thence continuing S 77°25'41" W a distance of 85.51' to a #6 rebar; which is the point of beginning, having an area of 3,479 square feet, 0.080 acre.

2. A public hearing on the question of permanently closing a right-of-way known as Rear Clingman Avenue Is hereby called for on Tuesday, April 26, 2022, at the regular meeting of City Council beginning at 5:00 pm., in the Banquet Hall of Harrah's Cherokee Center - Asheville, located at 87 Haywood Street, 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 April 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 Rear Clingman Avenue. 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 22nd day of March, 2022.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney