THE CITY OF ASHEVILLE

Staff Report

Council Meeting Date: September 22, 2020

Subject: Hotel Development Moratorium

Staff Resource(s): Todd Okolichany, Planning & Urban Design Director
Stacy Merten, Principal Planner
Brad Branham, City Attorney
Jannice Ashley, Assistant City Attorney

Action Requested: Extension of an ordinance imposing a temporary moratorium on hotel development approvals within the City of Asheville.

Background:

- In response to concerns raised by community members and City Council regarding the significant influx of new hotel rooms into the City of Asheville over the past few years with 2,761 total rooms approved and 1,344 rooms opened since 2015 (39% within the central business district), the City of Asheville adopted Ordinance No. 4766 on September 24, 2019 establishing a temporary moratorium on new hotel development until September 24, 2020 in order to take actions to address this issue.
- While the City was able to accomplish many of the actions proposed in the moratorium ordinance to address the problems and conditions related to new hotel development, the City's ability to complete those proposed actions within the original time period set for the moratorium has been significantly impaired by the COVID-19 pandemic, the Emergency Declarations made at the State and Local levels and related restrictions imposed to ensure public health and safety.
- Consequently, more time is needed to complete the originally proposed actions.
- N.C.G.S. 160A-381 authorizes cities to extend a temporary moratorium on development approvals if new facts or conditions warrant an extension.
- It is proposed that the moratorium be extended by five months to February 23, 2021, in order to allow the time necessary to complete the actions proposed to address the issues regarding new hotel development.
- During the duration of the moratorium, city staff have taken reasonable steps to study the issues and develop recommendations.
- The following actions were proposed as part of the original moratorium imposition and the majority of the work has been completed:
  <u>Phase 1 (three months)</u>
    - Contract with the Urban Land Institute Charlotte District Council to conduct a planning process that includes two community engagement sessions, analysis of the hotel industry, assessment of impacts, research of best practices, and a report on best land use practices and policy recommendations for hotel development.

  <u>Phase 2 (up to nine months)</u>
    - Supplemental research and analysis by city staff, creation of a community engagement plan, and draft regulatory changes, strategies and tools for Council consideration.
- The draft regulatory changes were presented to the Planning and Zoning Commission via a public hearing at their meeting on September 2, 2020. but additional time is needed for Council and community consideration, including a request from Council to hold a work session on the proposed hotel regulations and additional input from City boards and commissions.
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- Staff recommends that the temporary moratorium on new hotel development be extended until November 24, 2020 for the following reasons.
    - The COVID-19 pandemic delayed opportunities for community engagement early in the planning process
    - During the pandemic, city staff and resources were redirected to address other priority

community needs
    - Additional time is needed to complete the hotel development study, conduct additional community engagement, draft the proposed zoning amendments and present the new zoning amendments to the Asheville City Council for consideration of adoption.

Council Goal(s):
- A Well Planned and Livable Community

Committee(s):
- City Council - August 25, 2020 - motion setting a public hearing on September 8, 2020 to consider extending a temporary hotel moratorium on hotel development, approved 7-0.
- City Council - September 22, 2020 - public hearing to consider extending a temporary hotel moratorium on hotel development (updated staff recommendation to extend moratorium for five months instead of two months).

Pro(s):
- Gives the city time to better understand the impacts of new hotel development and mitigation requirements.
- Allows for additional time needed to conduct community engagement and hold a Council work session.
- Allows for research of best practices and to enhance the city's land use policies, tools and strategies.
- Will provide clearer direction to applicants of new hotel developments, City Council and the community.

Con(s):
- No new hotels will be approved during the moratorium extension period.

Fiscal Impact:
- None

Suggested Motion:
- Move to adopt an ordinance to extend the temporary moratorium on hotel development approvals within the City of Asheville, including "Hotel, extended stay", "Hotel, large" and "Hotel, small" as defined in Section 7-2-5 of the city's Unified Development Ordinance, for five months so that it expires no later than February 23, 2021.

Attachment(s)
- Ordinance
- Ordinance No. 4766 for Hotel Development Moratorium

ORDINANCE NO. _____

ORDINANCE EXTENDING THE TEMPORARY MORATORIUM ON NEW HOTEL DEVELOPMENT

WHEREAS, North Carolina General Statute 160A-381(e) authorizes cities to adopt a temporary moratorium on development approvals of reasonable duration to allow for development of regulations for a particular use and to extend the moratorium if new facts or conditions warrant an extension; and

WHEREAS, on September 24, 2019, the City Council of the City of Asheville adopted Ordinance No. 4766, establishing a temporary moratorium on new hotel development until September 24, 2020; and

WHEREAS, while the City was able to accomplish many of the actions proposed to be taken to address the problems or conditions leading to the imposition of the moratorium as outlined in Section 2. (4) of Ordinance No. 4766, the City's ability to complete those proposed actions, including but not limited to, the ability to have necessary public stakeholder or governing board and commission meetings, within the original time period set for the moratorium, has been significantly impaired by the COVID-19 pandemic and the Emergency Declarations made at the State and Local level and related restrictions imposed to ensure the public health and safety; and

WHEREAS, the City requires more time to complete the actions proposed to address the issues and concerns related to new hotel development;

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

Section 1. The temporary moratorium imposed by Ordinance No. 4766 which commenced on September 24, 2019 and was set to expire no later than September 24, 2020, is hereby extended by five months to February 23, 2021. This extension is warranted by the extraordinary fact that the entire nation is experiencing the COVID-19 pandemic and the resulting emergency declarations and public health restrictions imposed by both the State of North Carolina and the local government have impaired the City's ability to complete the actions originally proposed to address the concerns related to new hotel development.

Section 2. In compliance with the requirements of North Carolina General Statute 160A-381(e), the following statements are included in this ordinance:

(1) The problems or conditions necessitating the moratorium are that the City has experienced an influx of new hotel applications over the past few years. Since 2015, 1,344 hotel rooms have opened in the City out of 2,761 total rooms that have been approved. Of that, approximately 39% have been approved in the Central Business District. In 2017, Buncombe County attracted 11.1 million visitors, including 3.9 million overnight guests. The Living Asheville Comprehensive Plan Assessment Report (Appendix A) further notes that Accomodation and Food Service, which includes lodging, is a key industry sector in the City

with a location quotient higher than the national average. Community members, City staff and City Council have expressed concerns about the impact of new hotel development, such as the clustering of hotels in downtown and the number that have been built and are currently in the pipeline; the quality of development including design; lower than average wages; displacement of certain uses; impacts of adjoining property values; impacts to City infrastructure and services; and, new hotel development not addressing other development needs, such as affordable housing and office uses. The City currently lacks concrete policies, strategies and tools to effectively manage or regulate these uses. The lack of direction in the Asheville City Code and Living Asheville Comprehensive Plan results in uncertainty for developers, staff and community members, while these current conditions have resulted in an adversarial and sometimes hostile climate in the community. As an alternative to the moratorium, changes to the Asheville City Code were considered to further regulate these uses; however, there needs to be a better understanding of the quantifiable impacts of new hotel development and best practices so that the City can be better prepared to enhance its land use policies, tools and strategies to regulate this land use, minimize impacts and community hostility, and provide clearer direction to applicants of new hotel developments. Without this analysis, new land use policies, strategies and tools would be developed over several months but without the necessary quantifiable data required to make more informed changes, as well as a more predictable development process for applicants. Meanwhile, new hotel development would continue to burden the City's infrastructure and services thereby posing a risk to the health, safety and general welfare of the community.

(2) The development approvals subject to the moratorium are the approval of "Hotel, extended stay", "Hotel, large" and "Hotel, small" as defined in Chapter 7, Article I, Section 7-2-5 of the Asheville City Code. The moratorium will allow the City of Asheville to address the stated problems or conditions by allowing the City to analyze the impacts, appropriate geographical context and design, best practices from other cities, current supply and future demand of hotels. This analysis will provide time for the City to prepare appropriate regulations and effectively respond and provide some level of certainty to hotel development applications, and to better determine acceptable hotel development proposals.

(3) The moratorium will terminate not later than February 23, 2021. The duration of the moratorium is reasonably necessary to address the problems or conditions leading to imposition of the moratorium in order to allow the City of Asheville sufficient time to contract with outside expertise as needed, develop and approve appropriate land use policies, strategies, tools and regulations to new hotel development, including best practices from other communities, analysis and quantifying impacts, engaging the public, allowing the Planning and Zoning Commission to review and recommend regulatory land use and zoning changes, allowing the Planning and Economic Development Council subcommittee, Downtown Commission and Asheville Area Riverfront Redevelopment Commission to review analysis and proposed changes and recommend policy changes, and allowing City Council to deliberate and act upon the regulations.

(4) During the duration of the moratorium extension, the following actions which the City has not had the ability to complete are proposed to be taken by the City to address the problems or conditions leading to the imposition of the moratorium:(a) conduct any necessary supplemental research and analysis of policies, strategies and tools; (b) revise draft recommendations based on review by the Planning and Zoning Commission for Council consideration; and, (c) act on recommendations and any new regulatory changes.

Section 3. The moratorium will terminate no sooner than February 23, 2021, upon the adoption of an ordinance, after the effective date of this ordinance, which establishes zoning regulations related to hotel development.

Section 4. Notwithstanding anything herein to the contrary, the moratorium may be subsequently renewed or extended in accordance with the provisions of North Carolina General Statute 160A-381(e).

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Any part of provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.
Section 7. This ordinance shall be in full force and effect on the date of adoption.

Read, approved and adopted this September 22, 2020.

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City Clerk Mayor

Approved as to form:

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City Attorney