THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: June 9, 2020

Subject: Request for Air Rights over Wall Street to Accommodate a Third Floor Balcony

Staff Resource(s): Greg Shuler, Public Works Director
Sam Powers, Community and Economic Development Director
Chad Bandy, Streets Dept.
Mark Foster, City Arborist
Nikki Reed, Economic Development Program Director

Action Requested: Adoption of a resolution accepting an offer for sale of air rights over Wall Street; directing the City Clerk to advertise for upset bids; and if no bids are received or accepted, authorizing the City Manager to grant air rights to Collaborative Partnership Properties who want to construct a balcony over the sidewalk along Wall Street.

Background:

- The City was approached by a local architect concerning air rights over the sidewalk along Wall Street for a unit within a building located at 26 Battery Park.
- Initial concerns were raised by Streets and Downtown Planning regarding the well-being of street trees on Wall Street.
- The architect met with the City's Arborist who requested that the balcony be shortened in length to reduce the impact on the trees. The owners agreed to a design revision and they agreed that their contractor would again meet with the Arborist to discuss protecting the trees during construction.
- It was determined that the balcony for the residential unit would be 21 feet long and 5 feet wide for a total request of 105 square feet of air rights that would be needed to accommodate the balcony.
- The construction of the balcony, along with the air rights easement, will not substantially impair or hinder the use of the right of way as a passage.
- The value of the air rights was determined by consulting two recent appraisals of land value in the surrounding area. The value was determined to be $753 and the owners have agreed to pay that amount.
- A Public Notice will be placed in the newspaper after the City Council has approved the air rights and a sale will not occur until 10 days after the notice has been published.

Council Goal(s):

- A Well Planned and Livable Community

Committee(s):

- None

Pro(s):

- City is receiving compensation for the air rights being granted.

Con(s):

- There will be temporary disruption during construction.

Fiscal Impact:

- City is receiving unbudgeted compensation for the air rights in the amount of $753.

Suggested Motion:

- Motion to adopt a resolution accepting an offer for sale of air rights over Wall Street; directing the City Clerk to advertise for upset bids; and if no bids are received or accepted, authorizing the City Manager to grant air rights to Collaborative Partnership Properties who want to construct a balcony over the sidewalk along Wall Street.

Attachment(s)

- Resolution
- Diagram Showing the project and the balcony

RESOLUTION NO. _____

RESOLUTION PROPOSING TO ACCEPT AN OFFER FOR SALE OF 105 SQUARE FEET OF AIR RIGHTS OVER WALL STREET TO COLLABORATIVE PARTNERSHIP PROPERTIES, LLC; DIRECTING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS FOR THE SALE OF AIR RIGHTS; AND, IF NO OTHER BIDS ARE RECEIVED OR ACCEPTED, AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO CONVEY THE AIR RIGHTS

WHEREAS, the City of Asheville owns certain property adjacent to 26 Battery Park, being a sidewalk within the right of way of Wall Street; and

WHEREAS, pursuant to North Carolina General Statutes Section 160A-273, the City has the authority to grant air rights over public rights-of-way for the purpose of erecting a building or other permanent structure; and

WHEREAS, in May of 2020, a qualifying offer was received from Collaborative Partnership Properties, LLC to purchase 105 square feet of air space for the purpose of accommodating the addition of a third floor balcony (not to exceed 21 feet in length and 5 feet in width) on a Structure to be renovated at 26 Battery Park with the balcony extending over the sidewalk on Wall Street, in the amount of $753; and

WHEREAS, it has been determined by the City that the construction of the balcony, along with the air rights easement, will not substantially impair or hinder the use of the right of way as a passage; and

WHEREAS, the City Council of the City of Asheville proposes to accept the offer for the sale of air rights subject to the upset bid procedure pursuant to North Carolina General Statute 160A-269;

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

The City Clerk is hereby directed to publish a notice of the intent of the City of Asheville to sell 105 square feet of air rights located at 26 Battery Park, above the Wall Street right of way, to Collaborative Partnership Properties, LLC. The notice shall contain a general description of the property, the amount and terms of the offer and a notice that within ten days any person may raise the bid by not less than 10% of the first $1,000.00 and 5% of the remainder of the purchase price of $753.00. Per the statute, the Council may at any time reject any and all offers and;

If no qualified competing bids are received during the ten day upset bid period, then the City Manager is hereby directed to convey the aforementioned property to Collaborative Partnership Properties, LLC.

Additionally, the City Manager is hereby authorized to execute any and all documents necessary to give effect to this resolution subject to approval by the City Attorney in compliance with applicable North Carolina law.

Read and approved and adopted this 9th day of June, 2020.

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CITY CLERK MAYOR

Approved as to form:

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CITY ATTORNEY