THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: August 25, 2020

Subject: Establishment of a new Resource Management Overlay District

Staff Resource(s): Todd Okolichany, AICP, LEED AP ND, Planning & Urban Design Director
Shannon Tuch, RLA, Principal Planner
Chris Collins, AICP, Site Planning & Development Division Manager
Eric Edgerton, Senior Assistant City Attorney

Action Requested: Apply a new Resource Management Overlay District (RMOD) to all properties located within the City of Asheville corporate limits.

Project Location and Contacts:

- This applies to all properties located within the City of Asheville corporate limits.
- This is a city initiated zoning action led by the Development Services Department with support from the Urban Forestry Commission.

Summary of Petition:

- The application of the Resource Management Overlay District is necessary to support and effectuate the proposed Tree Canopy Preservation development ordinance.
- Session Law 1985-556 titled "AN ACT AS TO THE CITIES OF ASHEVILLE AND RALEIGH CONCERNING TREE REGULATION AND TO ALLOW THEM TO EXERCISE EMINENT DOMAIN POWERS FOR OPEN SPACE" authorizes the City of Asheville to, "Preserve, protect and enhance" trees and other plantings in "resource management zoning districts". This zoning petition is intended to establish a new resource management zoning district as an overlay zoning district.

Comprehensive Plan Consistency:

- This proposal is consistent with the *Living Asheville Comprehensive Plan* aligning with key goals in the *Harmony with the Natural Environment* plan section including "Implement Green Infrastructure and Enhance the Urban Tree Canopy" (p. 208), "Mitigate Flooding and Erosion" (p. 216) and "Protect Land and Water Assets" (p. 218). In addition, this proposal supports the *Planning for Climate Resilience* (Appendix D) as a means to reduce vulnerability and risk due to climate change.

Compatibility Analysis:

- The purpose of the Resource Management Overlay District is to create the regulatory structure to broadly apply a new tree protection standard to all properties in the city that will support efforts to enhance the natural environment and improve climate resilience. As this will apply to all properties, compatibility is ensured.

Council Goal(s):

- A well-planned and livable community
- A clean and healthy environment

Committee(s):

- On July 1, 2020, the Planning & Zoning Commission voted to recommend denial of the proposal due to concerns regarding the associated wording amendment (also denied) and the extent of the authority granted by Session Law 1985-556 which placed stricter requirements on developers.

Pro(s):

- Will be applied broadly across all properties in the city, ensuring consistency and compatibility.
- Supports efforts towards tree canopy preservation and related goals.
- Helps to mitigate vulnerability and risk related to climate change.
- Authority is provided by state law.
- Provides a zoning/regulatory framework for future environmental mitigation.

Con(s):

- Adds a zoning layer and level of review to new development.
- Could increase the cost of development in some instances.

Fiscal Impact:

- There is no direct fiscal impact.

Suggested Motion:

- Move to **approve** the zoning action to apply a new Resource Management Overlay District and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: the zoning action will, 1) support a plan to preserve and enhance the urban canopy, and 2) protect land and water assets by applying protection standards more broadly, and 3) build climate resilience by reducing risk and vulnerability to flooding, erosion and landslides.

Attachment(s):

- Exhibit A1 - Proposed Zoning Map
- NCGA Session Law 1985-556
- PZC Minutes 07/01/20 (Excerpt)
- PZC Recommendation
- Ordinance

ORDINANCE NO. _____

ORDINANCE AMENDING ZONING FOR ALL PROPERTIES LOCATED WITHIN THE CITY OF ASHEVILLE CORPORATE LIMITS

WHEREAS, the City of Asheville has the authority pursuant to Part 3 of Article 19 of Chapter 160A 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, a comprehensive amendment to the City's zoning regulations was adopted on May 27, 1997, (Ordinance No. 2369) and is codified in Chapter 7 of the Asheville City Code (herein "Zoning Ordinance"), and maps dividing and classifying the property within the City's zoning jurisdiction were adopted on May 27, 1997 (Ordinance No. 2370) and are on file and maintained in the Offices of the Asheville City Planning and Development Department (herein "Official Zoning Map"); and

WHEREAS, North Carolina Session Law 1985-556 titled "AN ACT AS TO THE CITIES OF ASHEVILLE AND RALEIGH CONCERNING TREE REGULATION AND TO ALLOW THEM TO EXERCISE EMINENT DOMAIN POWERS FOR OPEN SPACE" authorizes the City of Asheville to, "Preserve, protect and enhance" trees and other plantings in "resource management zoning districts"; and

WHEREAS, this proposed amendment is consistent with the *Living Asheville - A Comprehensive Plan for our Future* and is determined to be reasonable, and in the public interest for the following reasons:

1. Preserves and enhances the urban tree canopy;
2. Protects land and water assets by applying protection standards more broadly; and
3. Builds climate resilience by reducing risk and vulnerability to flooding, erosion and landslides.

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

Section 1. The Official Zoning Map be, and the same is hereby, amended as follows:

The current official zoning maps of the City of Asheville for the planning and regulation jurisdiction of the City of Asheville be amended to add a new resource management overlay zoning district. A copy of the official zoning map showing said areas is attached hereto as Exhibit "A1" and made a part hereof.

Section 2. That the Office of the Zoning Administrator is hereby authorized and directed to make the changes as herein before enacted in said zoning map.

Section 3. That 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 declared 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 4. That all ordinances and clauses of ordinances in conflict herewith be and are hereby repealed, to the extent of such conflict.

Section 5. The ordinances shall be enforced as provided in Article XVIII of Chapter 7, Section 1-5 of the Asheville City Code.

Section 6. That this ordinance shall be in full force and effect on the date of adoption.

Read, approved and adopted the _____ day of September, 2020.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney