THECITYOF ASHEVILLE

STAFF REPORT

Council Meeting Date: March 10, 2020

Subject: Public Hearing to permanently close a portion of an unopened right-of-way off Merritt Park Lane

Staff Resource(s): Greg Shuler, Public Works Director
Chad Bandy, Streets Division Manager
Jannice Ashley, Legal

Action Requested: Adoption of a resolution for the closure of a portion of an unopened right-of-way off Merritt Park Lane.

Background:

- N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.
- City of Asheville has petitioned for this closure which is associated with the sale of City-owned property at 360 HIlliard Ave. (PIN # 9648-18-3942) and 9999 Merritt Park Ln (PIN # 9648-18-3669) to Hilliard Park Apartments, LLC for an affordable housing development.
- An unopened portion of Merritt Park Lane crosses the Merritt Place Lane property and runs along its eastern border as shown on the attached map.
- Upon closure, all of the portion of the unopened right-of-way that crosses Merritt Park property will become the property of Hilliard Park Apartments, LLC and all of the unopened right-of-way along the eastern border of the Merritt Park property will become the property of the City as agreed to by Hilliard Park.
- As part of the purchase agreement, Hilliard Park Apartments has agreed to construct a public greenway which will run along the western border of the 360 Hilliard property as well as the northern portion of the Merritt Park property where the unopened right-of-way currently exists. Upon completion, the greenway area will be deeded back to the City.
- This closure allows maximum land use potential for further development complying with Living Asheville - A Comprehensive Plan for our Future. This is part of the construction of the affordable housing project at 360 Hillard and the ultimate construction of the greenway.
- An easement for MSD is being reserved within the closure, no other known utilities exist

Council Goal(s):

- A well-planned and livable community

Committee(s):

- Multimodal Transportation Committee -January 22, 2020; Recommended closing the right of way by unanimous vote

Pro(s):

- The closure would allow for more efficient use of the existing adjacent properties.
- A portion of the closed right of way on the Merritt Park property will be constructed as a public greenway.
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources, by allowing the construction of the affordable housing at 360 Hillard and allowing for the construction of the new greenway.

Con(s):

- None noted.

Fiscal Impact:

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

Suggested Motion:

- Motion to adopt resolution to permanently close an unopened portion of right-of-way off Merritt Park Lane.

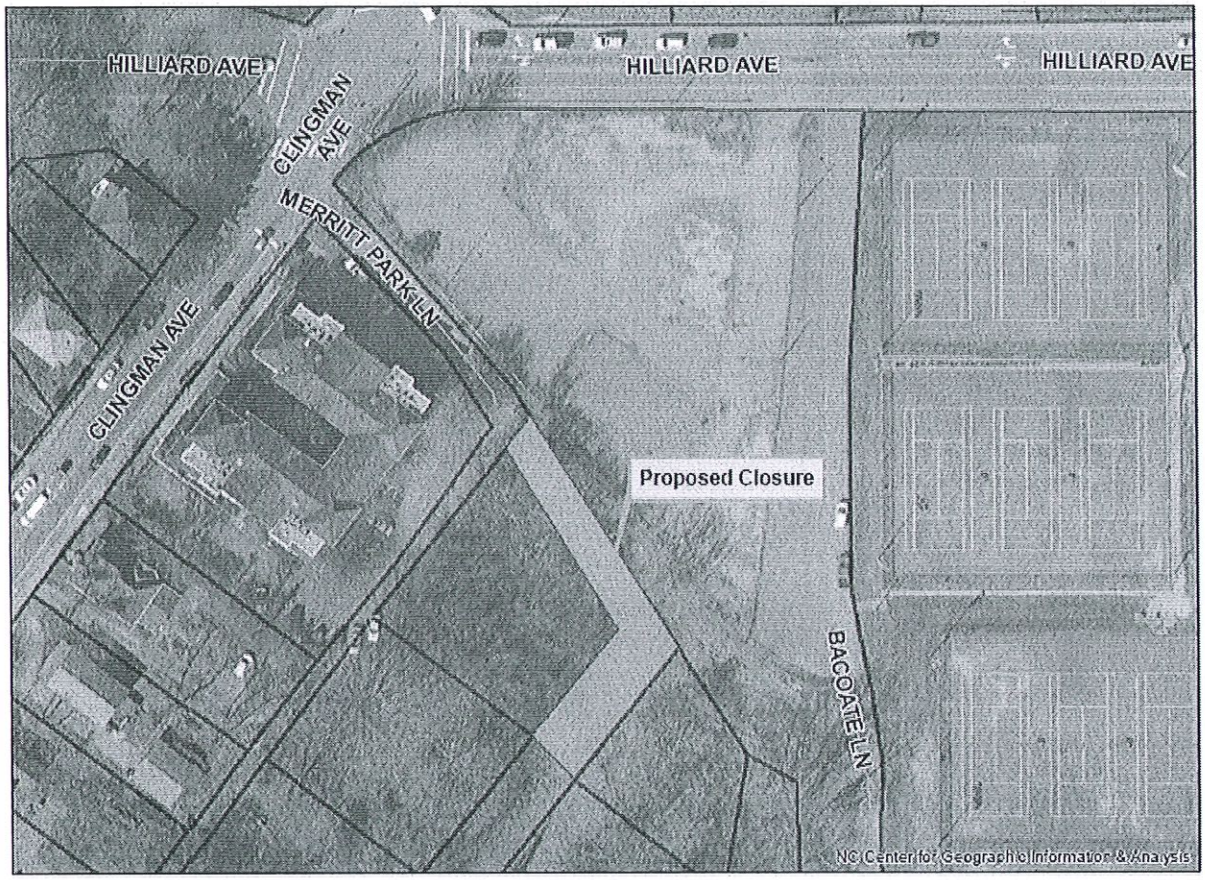
Attachment(s)

- Location Map
- Resolution
- Right of Way Closure Map

THE CITY OF ASHEVILLE

Right Of Way Closure
Merritt Park Ln

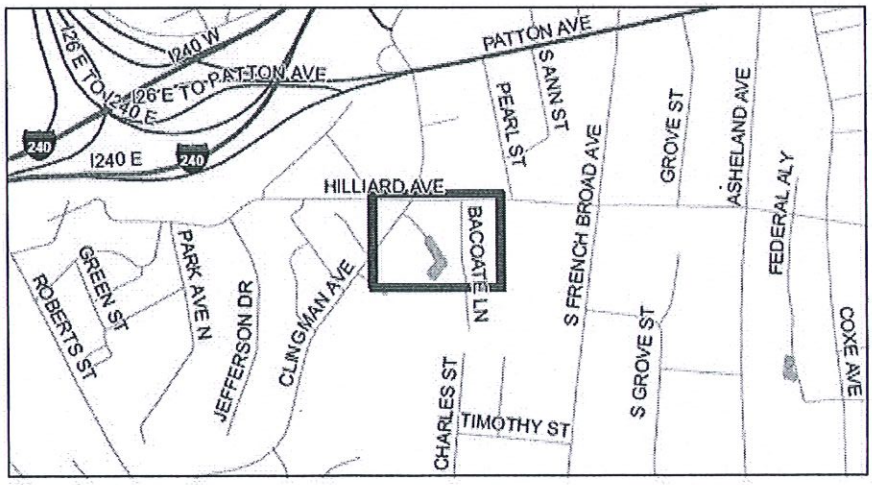
N



Legend

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

2019 Orthoimagery



RESOLUTION NO. 20-_____

RESOLUTION TO PERMANENTLY CLOSE AN UNOPENED PORTION OF THE RIGHT-OF-WAY OFF MERRITT PARK LANE

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 right of ways; and

WHEREAS, the City of Asheville is hereby declaring its intent to permanently close an unopened portion of right of way off Merritt Park Lane; and

WHEREAS, City Council on the 11th day of February, 2020, adopted a Resolution of Intent to permanently close an unopened portion of right of way off Merritt Park Lane, and ordered a public hearing on the question of the closing for the 10th day of March, 2020, at its regular scheduled meeting on the 2nd floor of the City Hall building, Asheville, North Carolina ; and

WHEREAS, the Resolution of Intent was published in the Asheville Citizen Times, a newspaper of general circulation in Buncombe County, North Carolina, once a week for four consecutive weeks prior to said public; and

WHEREAS, a copy of said Resolution of Intent was prominently posted at two locations along an unopened portion of right of way of Merritt Park Lane; and

WHEREAS, the City Council held a public hearing on the closure on March 10, 2020, and following the hearing, it appears to the satisfaction of the Council that closing the right-of-way is not contrary to the public interest and would not deprive any individual owning property in the vicinity in which said closure is located of reasonable means of ingress and egress to their properties; and

WHEREAS, in accordance with 160A-299(c), the property owners taking title to the closed street (City and Hilliard Park Apartments, LLC) have agreed that the closed portion of the right-of-way that crosses the Merritt Park property will become the property of Hilliard Park Apartments, LLC and all of the closed portion of the right-of-way along the eastern border of the Merritt Park property will become the property of the City. The property owners shall file a plat which shows the street closing and the portion of the closed street to be taken by each owner;

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

1. The City Council hereby hereby permanently closes an unopened portion of right-of-way off Merritt Park Lane, described as :

Beginning at a rebar and cap "Johnny White"(JW) with a NAD83(2011) coordinate North=688,875.91 sft, East=941,294.43 sft at the end of the pavement of Merritt Street; thence with the northeast right of way line of former Merritt Street, South 32 degrees 33 minutes 31 seconds East 116.24 feet; thence South 32 degrees 33 minutes 31 seconds East 34.24 feet to a rebar and cap JW coordinate North=688,749.09 sft, East=941,375.41 sft; thence South 36 degrees 59 minutes 35 seconds West 89.18 feet to a rebar and cap JW coordinate North=688,677.86 sft, East=941,321.75 sft; thence across said right of way North 50 degrees 01 minute 58 seconds West 36.25 feet to rebar and cap "Spencer P-1720" coordinate North=688,701.14 sft, East=941,293.97 sft; thence with the western edge of said right of way North 39

degrees 22 minutes 9 seconds East 74.42 feet to a rebar and cap JW coordinate North=688,758.67 sft, East=941,341.17 sft; thence North 33 degrees 19 minutes 38 seconds West 115.46 feet to a rebar and cap "Mattern & Craig" coordinate North=688,855.14 sft, East=941,277.74 sft; thence North 38 degrees 47 minutes 49 seconds East 26.65 feet to the point of beginning. Being 6,073 square feet, 0.139 acre, as shown on Exhibit A titled "Closed portion of unopened Merritt Park Lane" dated 20200130.

This closure is subject to the retention by the Metropolitan Sewerage District of Buncombe County (MSD), its successors and assigns, of a 20-foot wide (20') permanent easement for the operation and maintenance of sewer lines and accessories recorded in Deed Book 5333 at Page 1399 in the Buncombe County Registry.

Read, approved and adopted this 10th day of March, 2020.

_____ _____

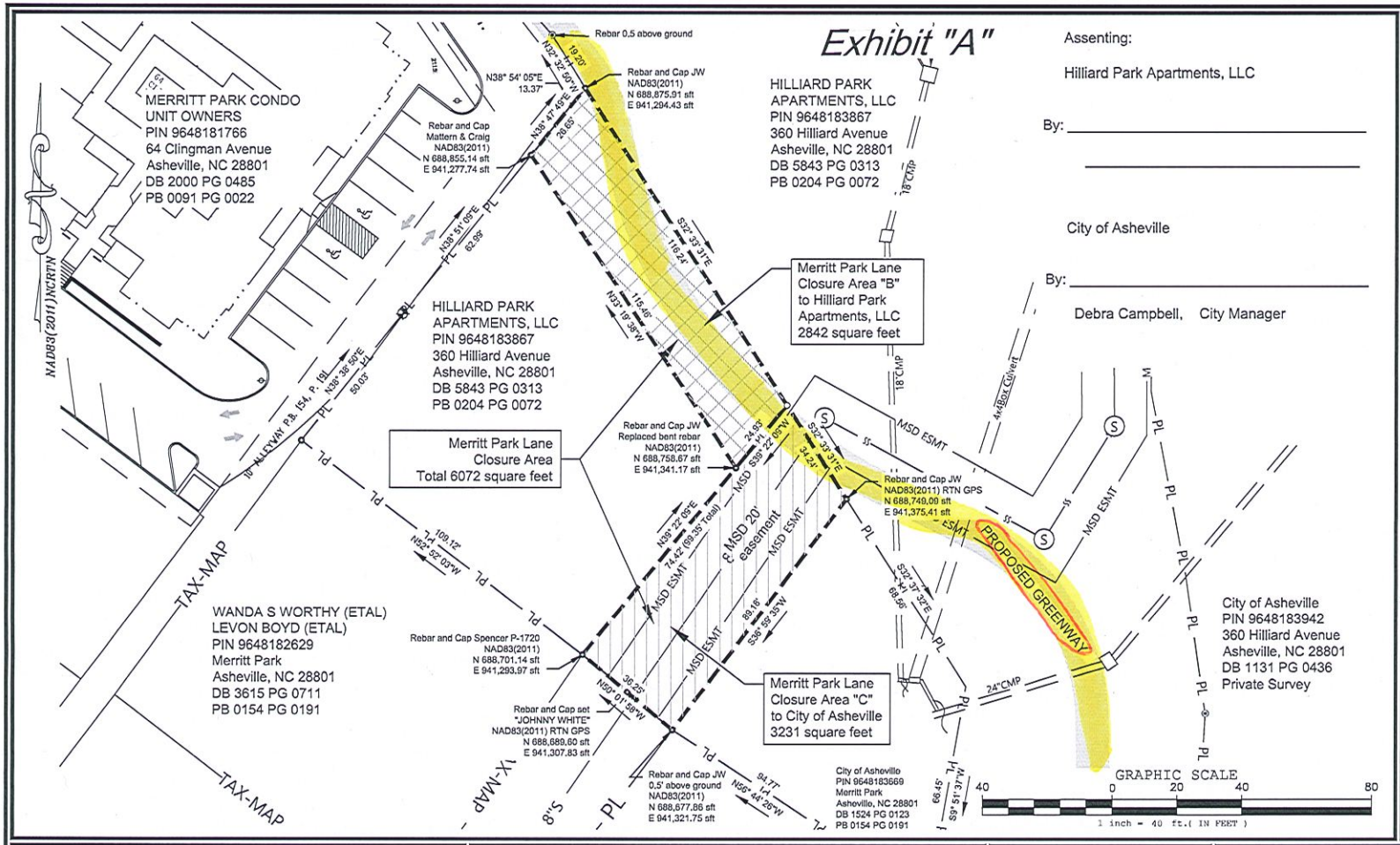
City Clerk Mayor

Approved as to form:

_____

City Attorney

Exhibit "A"



Assenting:

Hilliard Park Apartments, LLC

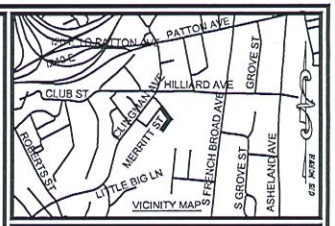
By: _____

_____

City of Asheville

By: _____

Debra Campbell, City Manager



THIS IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS G.S. 47-30(n)(2)

THE PURPOSE OF THIS MAP IS TO DESCRIBE THE EAST AND WEST HALF OF THE CLOSED SECTION OF MERRITT PARK LANE IN THE CITY OF ASHEVILLE, BUNCOMBE COUNTY, NORTH CAROLINA. G.S. 47-30 F(11)d That the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision.

EXHIBIT NOTES

1. BOUNDARY INFORMATION TAKEN FROM BUNCOMBE COUNTY TAX MAPPING G.I.S. INFORMATION.
2. RECORDED REFERENCE: AS SHOWN ON MAP
3. PARCEL ID NUMBER: AS SHOWN ON MAP
4. AREA SHOWN IS SUBJECT TO EASEMENT OF RECORD.
5. AREA IS CALCULATED FROM GIS INFORMATION.

EASEMENT AREA		
TOTAL CLOSURE	6073 SF	0.139 AC
Closure Area "B"	2842 SF	0.065 AC
Closure Area "C"	3231 SF	0.074 AC

LEGEND

- Closure Area B to HILLIARD PARK APARTMENTS, LLC
- Closure Area C to CITY OF ASHEVILLE
- R/W — EXISTING RIGHT-OF-WAY
- PL — PROPERTY LINE
- EXISTING STORMWATER
- SS — EXISTING SEWER LINE
- MSD ESMT — MSD SEWER EASEMENT
- Ⓢ EXISTING SEWER MANHOLE

SURVEY FOR

City of Asheville

Capital Projects Department

P.O. Box 7148, Asheville, N.C. 28802 • 828-259-5617 • www.ashevillenc.gov

Closed portion of unopened Merritt Park Lane
DB 5843 PG 0313, PB 0204 PG 0072
DB 1524 Pg 0123, PB 0154 Pg 0191
near Merritt Park Lane
Asheville, Buncombe County, North Carolina

SURVEYED BY: Johnny D. White, L-4304	
SURVEYED DATE: 20191118	
DRAWN BY: JDW	
CHECKED BY:	
APPROVED BY:	
DRAWING DATE: 20200131	

DATE	REVISIONS	BY

Scale: 1 INCH = 40 FEET

Project Number: Econ Dev-18-01

Sheet No.: 1