

August 4, 2016
Regular Meeting of the City Council
Council Chamber – City Hall
5:45 p.m.

Present: Mayor Barbara G. Volk, Mayor Pro Tem Steve Caraker and Council Members: Jerry Smith, Ron Stephens and Jeff Miller

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Engineering Director Brent Detwiler, City Planner David Hazzard, Emily ... Human Resources Director Jennifer Harrell, Downtown Economic Development Director Lew Holloway, Public Information Officer Tara Ledbetter, Utilities Director Lee Smith, Fire Chief Joseph Vindigni, Finance Director Lisa White, Public Works Director Tom Wooten, Administration Intern Lance Riddle

1. Call to Order: Mayor Volk called the meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with four members in attendance.

2. Invocation and Pledge of Allegiance: A moment of silence for prayer was followed by the Pledge of Allegiance to the Flag.

3. Public Comment Time: *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda.* Mayor Volk The following persons addressed the Council:

Richard Talley and Eileen Douglas, 19 Spring Haven Drive, East Flat Rock, introduced their new project: Pathways to Peace and Justice, in response to the growing violence and unrest across the country. The purpose of the project to increase the level of understanding and communication among all segments of the community. They are planning workshops and classes for churches, individuals, etc.

Joe Smolski, 120 N. Fair Oaks Dr., expressed concerns about parking permits.

4. Consideration of Agenda:

Additions to Consent Agenda:

G. Consideration of an Ordinance Amending Section 50-286 of the Code of Ordinances Pertaining to Overtime Parking

H. Consideration of an Ordinance Repealing Chapter 14 Article II Respecting Privilege License Taxes
Deletions from Agenda

12. Report on Hendersonville Sister Cities – postponed until October 2016

Mayor Pro Tem Caraker moved City Council's approval of the agenda as amended. A unanimous vote of the Council followed. Motion carried.

5. Consideration of Consent Agenda: *(Note: Consent agenda items are considered routine, non-controversial in nature and are considered and disposed of through a singular motion and vote.)*

A. Consideration of Minutes: July 7, 2016 Regular Meeting

B. Consideration of Resolution Adopting an Order Directing the Tax Collector to Collect Taxes:

Resolution 16-0824

RESOLUTION ADOPTING AN ORDER DIRECTING THE TAX COLLECTOR TO COLLECT TAXES

Whereas, The City Council is required by G.S. 105-349 (e) to appoint a Tax Collector separate and apart from the treasurer or chief accounting officer of the City; and,

Whereas, The Tax Collector so duly appointed by City Council shall take the oath of office as required by Article VI of the North Carolina Constitution; and,

Whereas, The position of Tax Collector is bonded for the collection of taxes for the current year and all prior years now in the Tax Collector's hands for collection as by law required;

Whereas, Tax receipts, upon the adoption of this order, are being simultaneously delivered to the duly appointed Tax Collector, as by law required;

Whereas, The City Council is required by G.S. 105-321 (b) to adopt and enter in its minutes an order directing the tax collector to collect the taxes charged in the tax records and receipts.

NOW, THEREFORE, it is ordered that all tax receipts for the City of Hendersonville be herewith delivered to the Tax Collector and the following "Order of Collection", which is also adopted by the Council and which shall have the full force and effect of a judgement and execution against the real and personal property of all taxpayers within the City of Hendersonville shall be delivered to the Tax Collector:

ORDER OF COLLECTION

**STATE OF NORTH CAROLINA
CITY OF HENDERSONVILLE**

To the Tax Collector of the City of Hendersonville:

You are hereby authorized, empowered and commanded to collect the taxes set forth in the tax records, filed in the Office of the Tax Collector for the City of Hendersonville and in the tax receipts herewith delivered to you, in the amount from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon real property of the respective taxpayers in the City of Hendersonville, and this Order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of taxpayers, for and on account thereof, in accordance with the law.

Adopted the fourth day of August, 2016.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

C. Consideration of Budget Amendment designating committed fund balance for the Organic Garden Club and the Façade Grant Program from Seventh Avenue Funds: Mr. Pahle explained Governmental Accounting Standards Board (GASB) requires formal action by the Council to commit funds. He explained last year the HSAD Board donated its funds to the City’s Seventh Avenue Fund and requested certain amounts be designated as committed for specific purposes: \$3,690 for the Organic Garden Club and \$7,500 for the Façade Grant Program. He presented a budget amendment to accomplish the commitment of funds.

Fund: 21 – Seventh Avenue; Amounts in balance: \$11,190

D. Consideration of Copy Management Service Agreement with Toshiba Business Solutions: Mr. Connet explained the City currently utilizes multiple copier vendors to provide photocopying equipment for the various departments. Staff prepared a Request for Proposals (RFP) to solicit proposals from vendors for a single source provider for all departments in order to eliminate the difficulties of managing numerous contracts, to standardize equipment and save money. He reported receipt of proposals from six vendors:

Company	Cost Per Page
Toshiba	\$0.0247 B&W / \$0.069 Color/ \$0.0886 Printer Based B&W
Morris Business Solutions	\$0.009 LV B&W \$0.049 LV Color \$0.0129 HV B&W \$0.079 HV Color
Duraline Imaging	\$0.09 LV B&W \$0.010 MV B&W \$0.015 HV B&W \$0.009 -\$0.089 Color
Advanced Business Equipment	\$0.09 B&W \$0.062 Color
Asheville Office Solutions	\$0.0079 B&W \$0.0525 color
Image Solutions	\$0369 B&W \$0.07 Color Savin \$0.10 Color HPs

After a thorough review by a panel of active users, Mr. Connet reported staff is recommending awarding a five-year contract to Toshiba Copiers for the provision of copiers for all departments. *[The agreement with Toshiba Business Solutions is available in the office of the City Clerk.]*

E. Consideration of a Resolution of Intent to Close:

1. Portion of Market Street: Mrs. Susan Frady, Development Assistance Director, presented a petition from Halvorsen Development Corporation to permanently close a portion of Market Street for the development of Publix. She presented Resolution of Intent to close the street per NCGS 160A-299.

Resolution #16-0825

RESOLUTION OF INTENT

A resolution declaring the intention of the City of Hendersonville City Council to consider the closing a portion of Market Street as shown on the attached right-of-way

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys; and

WHEREAS, Halvorsen Development Corp., has petitioned the Council of the City of Hendersonville to close a portion of Market Street as shown on the attached survey; and

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of a portion of Market Street as shown on the attached survey.

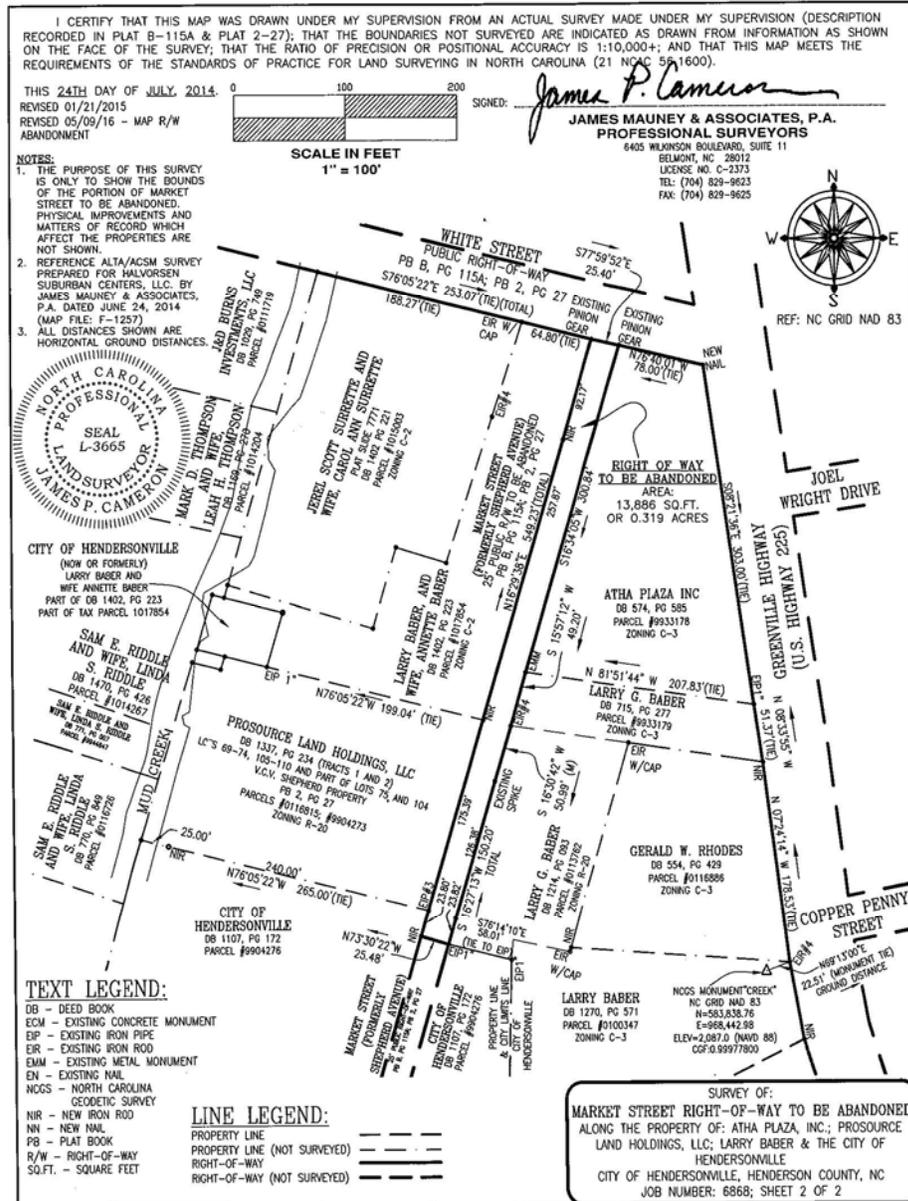
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville:

1. A meeting will be held at 5:45 p.m. on the sixth day of October 2016, in the Council Chambers of City Hall to consider closing a portion of Market Street as shown on the attached survey.
2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
3. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
4. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Adopted by the City Council at a meeting held on the fourth day of August 2016, in the City Hall Council Chambers.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk



MARKET STREET RIGHT-OF-WAY TO BE ABANDONED

0.319 Acre

Along the Property of Atha Plaza Inc., Larry Baber, City of Hendersonville & Prosource Land Holdings, LLC
Hendersonville, Henderson County, North Carolina

Being a portion of the existing public right-of-way of Market Street (formerly Shepherd Avenue) lying and being in the City of Hendersonville, Henderson County, North Carolina, to be abandoned, said portion of Market Street to be abandoned being more particularly described as follows:

BEGINNING at an existing pinion gear at the intersection of the easterly margin of the right-of-way of Market Street (formerly Shepherd Avenue -25' public right-of-way) with the southerly margin of the right-of-way of White Street (public right-of-way), said pinion gear being located North 76°40'01" West, a distance of 78.00 feet along the southerly margin of the right-of-way of White Street from a new nail at its intersection with the westerly margin of the right-of-way of Greenville Highway (U.S. Highway 225), and runs thence from said BEGINNING point with the easterly margin of the right-of-way of Market Street South 16°34'05" West a distance of 300.84 feet to an existing metal monument at the southwesterly corner of the Atha Plaza Inc. property as described in Deed Book 574, Page 585 of the Henderson County Public Registry, said monument also being the northwesterly corner of the Larry G. Baber property as described in Deed Book 715, Page 277 of said Registry; thence continuing along the easterly margin of the right-of-way of Market Street South 15°57'112" West a distance of 49.20 feet to an existing iron rod at the southwesterly corner of the Baber parcel as described in Deed Book 715, Page 277, a common corner with another parcel owned by Larry G. Baber as described in Deed Book 1214, Page 93, all of said Registry; thence continuing along the easterly margin of the right-of-way of Market Street South 16°30'42"1 West a distance of 50.99 feet to an existing spike; thence South 16°27'13" West

a distance of 150.20 feet to an existing iron pipe at the southwesterly corner of the Baber property as described in Deed Book 1214, Page 93 of said Registry, a common corner with the City of Hendersonville property as described in Deed Book 1107, Page 172 of said Registry; thence with a new line crossing Market Street North 73°30'22" West a distance of 25.48 feet to a point on the westerly margin of the right-of-way of Market Street; thence with the westerly margin of the right-of-way of Market Street North 16°29'38" East a distance of 23.80 feet to an existing iron pipe at the common corner between the City of Hendersonville property as referenced above and the Prosource Land Holdings, LLC property as described in Deed Book 1337, Page 234 of said Registry; thence continuing along the westerly margin of the right-of-way of Market Street North 16°29'38" East a distance of 175.39 feet to a new iron rod at the southwesterly corner of the Larry and Annette Baber property as described in Deed Book 1402, Page 223 of said Registry; thence continuing along the westerly margin of the right-of-way of Market Street North 16°29'38" East, and passing a new iron rod at 257 .67 feet, for a total distance of 350.04 feet to an existing pinion gear at the intersection of the westerly margin of the right-of-way of Market Street with the southerly margin of the right-of-way of White Street; thence with the southerly margin of the right-of-way of White Street, and crossing Market Street, South 77°59'52"11 East a distance of 25.40 feet to the point and place of BEGINNING; containing 13,886 square feet or 0.319 acre, more or less, as shown on the attached survey prepared by James Mauney & Associates, P.A. dated July 24, 2014.

2. Unnamed, unopened alley located off Seventh Avenue near the (proposed) site of Stags Head Brewery: Mrs. Susan Frady, Development Assistance Director, presented a petition from Jonathan Ayers, to close a portion of an unnamed alley shown on slide 10110. This unnamed alley is on property located adjacent to the proposed Stags Head Brewery. She presented Resolution of Intent to close the street per NCGS 160A-299.

Resolution #16-0826

RESOLUTION OF INTENT

A resolution declaring the intention of the City of Hendersonville City Council to consider closing a portion of an unnamed alley shown on slide 10110 as petitioned by Jonathan Ayers

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys, and

WHEREAS, Jonathan Ayers has petitioned the Council of the City of Hendersonville to close a portion of an unnamed alley shown on slide 10110, and

WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of a portion of an unnamed alley shown on slide 10110.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville:

1. A meeting will be held at 5:45 p.m. on the sixth day of October 2016, in the Council Chambers of City Hall to consider closing an unnamed alley Street shown on slide 10110.
2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
3. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
4. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Adopted by the City Council at a meeting held on the fourth day of August 2016.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk



Legal Description of Tract B. Plat Slide 10110:

BEING located in the County of Henderson, State of North Carolina and more particularly described as: Beginning at an existing iron pin in the south westernmost corner of Tract II as shown on Plat Slide 10110, "Tract 111-R & Tract A, Survey for Newpointe, Inc.", as recorded in the Henderson County, NC Register of Deeds office, and running thence from said beginning point along the southern boundary of Tract II as shown on Plat Slide 10110, North 47 degrees, 22 minutes, and 55 seconds East a distance of 54.37 feet to an existing iron pin in the southeasternmost corner of aforementioned Tract II as shown on Plat Slide 10110; thence a new line across a portion of an alley South 41 degrees, 45 minutes, and 18 seconds for a distance of 12.63 feet to a new iron pin set; thence along the northern boundary of Tract III, Plot Slide 10110, South 47 degrees, 52 minutes, and 59 seconds for a distance of 54.38 feet to a new iron pin set in the north westernmost corner of Tract III as shown on Plat Slide 10110; thence a new line across an alley North 42 degrees, 10 minutes, 29 seconds for a distance of 12.61 feet to the point and place of beginning; and being all of Tract 8 as shown on Plat Slide 10110, containing 0.016 acres and being a portion of an alley to be closed. Said alley being shown on Plat Cabinet 8, Slide 7 and Plat Slide 10110 as recorded in the Henderson County, NC Register of Deeds Office.

F. Consideration of Special Event Permit for Fiesta - Celebrating our Culture, Celebrating our City: Mrs. Susan Frady reported the Downtown Advisory Committee and the Special Events Committee recommended approval of the special event permit for Fiesta. The event will be held September 25, 2016 at the Henderson County Tourism Development Authority parking lot and Main Street between Allen and Barnwell Streets. Main Street will be closed between Allen and Barnwell Streets from 9 a.m. to 7 p.m. Fiesta will give Henderson County an opportunity to experience the best of Latin American countries by experiencing their people, music, art, food and culture.

G. Consideration of an Ordinance Amending Section 50-286 of the Code of Ordinances Pertaining to Overtime Parking: City Attorney Sam Fritschner presented an amendment to the Code of Ordinances to correct an insufficiency. Currently the ordinance makes overtime parking illegal but refers to meters without referring to kiosks or any future device configuration.

Ordinance #16-0830

**AN ORDINANCE AMENDING SECTION 50-286 OF THE CODE OF ORDINANCES
PERTAINING TO OVERTIME PARKING**

WHEREAS, the City of Hendersonville is authorized by statute to regulate parking in streets, lots, and like places, and
WHEREAS, the City has heretofore undertaken to regulate parking by the placement of signs and meters, and
WHEREAS, the City has since established kiosks and may in the future use other devices to regulate parking, and
WHEREAS, the City wishes to clarify that the use of all such devices constitutes notification of overtime parking,
NOW, THEREFORE, be it ordained by the City Council of the City of Hendersonville:

SECTION 1. Section 50-286 subsection (a) of the Hendersonville Code of Ordinances is hereby amended to read in its entirety as follows:

(a) If any vehicle shall remain parked in any parking space beyond the parking time limit fixed for such parking space, by indication by any clearly posted sign or other notice or by notification by any meter, kiosk or other mechanical or electronic device ~~the parking meter shall, by its dial and pointer, indicate such illegal parking, and in that event,~~ such vehicle shall be considered as parked overtime and beyond the period of legal parking time. The parking of a vehicle overtime or beyond the period of legal parking time in any part of a street, lot, or other place where any such sign, meter, or device is lawfully located shall be a violation of this division.

SECTION 2. SEVERABILITY. If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this ordinance.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this fourth day of August 2016.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney

H. Consideration of an Ordinance Repealing Chapter 14 Article II Respecting Privilege License Taxes: City Attorney Sam Fritschner presented an amendment to the Code of Ordinances to comply with the General Assembly's revocation of the power of municipalities to impose privilege license taxes under NCGS Section 160A-211.

Ordinance #16-0831

AN ORDINANCE REPEALING CHAPTER 14 ARTICLE II RESPECTING PRIVILEGE LICENSE TAXES

WHEREAS, the City of Hendersonville was formerly authorized by statute to levy taxes on the issuance of business privilege licenses, and,

WHEREAS, the General Assembly did by Session Law 2014-3 revoke generally municipalities' power to tax business licenses,

NOW, THEREFORE, be it ordained by the City Council of the City of Hendersonville:

SECTION 1. Privilege license taxes repealed.

(a) Chapter 14 Article II of the Code of Ordinances is hereby repealed in its entirety.

(b) No privilege license tax shall be imposed by the City without authorization by the General Assembly.

SECTION 2. SEVERABILITY. If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this ordinance.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this fourth day of August 2016.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney

Mayor Pro Tem Caraker moved approval of the items listed on the consent agenda. A unanimous vote of the Council followed. Motion carried.

6. Presentation of Proclamation – Chiari Malformation Awareness: Mayor Volk read the proclamation to bring awareness to Chiari malformation. **No action was required or taken by the Council.**

7. Presentation of Service Excellence Quarterly MVPs: Mr. Connet, Fire Chief Joseph Vindigni and Police Chief Herbert Blake recognized the following employees as this quarter's MVPs:

- Justin Ward - Fire Department and Kyle Thiel – Police Department, for their assistance to families during a fire.
- Ray Deso – Fire Department for his assistance to the family of retired Fire Captain Philip Cagle during his passing.
- Kenneth Hipps – Police Department, assisted a citizen who was just discharged from the hospital to retrieve lost medication.

Mayor Volk presented certificates to the employees expressed appreciation to the them.

8. Introduction of New City Staff: Police Chief Herbert Blake introduced Police Officers: Marcus Vance, Alan Bonanno, Cameron Singleton, Colby Allman.

Fire Chief Joseph Vindigni introduced Deputy Fire Chief James Miller who come to the City with more than 25 years of experience in fire service and emergency services.

Mayor Volk welcomed the new employees to the City.

9. Public Hearing – Consideration of an Application from Flat Rock Hospitality, LLC, Requesting the Satellite Annexation of a Portion of a Parcel Located Between Upward Road and Education Drive: Senior Planner David Hazzard reported the City received a petition from Flat Rock Hospitality, LLC for the satellite annexation of 2.00 acres identified as Parcel Identification Number 9588-40-9182 located between Upward Road and Education Drive. This annexation application is related to a sewer service request. He reported the map distance from the proposed satellite corporate limits is 9,123 feet from the primary corporate limits. The total area within the satellite corporate areas, including land involved in this petition, constitutes 3.6 percent of the area within the primary corporate limits. The Clerk's letter of sufficiency was accepted by the Council at their July 2016 meeting.

Mr. Hazzard explained the next step in the annexation process is to hold a public hearing on the question of adoption of an ordinance of annexation.

Mayor Volk opened the public hearing at 6:10 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. The following addressed the Council:

Robert Quattlebaum addressed the Council stating he purchased the property in 1984 as part of 25 acres on Upward Road. In 1994, he was approached by Henderson County for an easement for a sewer line to service the school. He was promised he could tap onto the line when needed. He stated Mr. Patel wanted to build a hotel in Henderson County but the City required annexation for sewer service and imposed other regulations on the project. He expressed concerns about the City requirements and the effects on businesses that may want to locate here.

No one else expressed a desire to speak. The public hearing was closed at 6:19 p.m.

Mayor Pro Tem Caraker moved the City Council adopt an ordinance annexing the property included in the Flat Rock Hospitality, LLC petition effective 8-4-16. A unanimous vote of the Council followed. Motion carried.

Ordinance #16-0827

WHEREAS, the City of Hendersonville has been petitioned, pursuant to North Carolina General Statutes (NCGS) 160A-58.1, as amended, to annex the area described herein; and,

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of said petition; and,

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall, Hendersonville, N.C. at 5:45 p.m., on the fourth day of August 2016, after due notice by publication as by law provided; and,

WHEREAS, the City Council further finds the areas described therein meets the standards of N.C. G.S. 160A-58.1(b), to wit:

- a. All of the proposed satellite corporate limits are less than three miles from the primary corporate limits of Hendersonville. The map distance is 9,123 feet.
- b. No point on the proposed satellite corporate limit is closer to the primary corporate limits of another city than to the primary corporate limits of Hendersonville.
- c. The area is situated so that the City of Hendersonville, if City Council so determines, will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- d. The area proposed for annexation is not a subdivision as defined in NCGS 160A-376.
- e. The area within the proposed satellite corporate limits when added to the areas within all other satellite corporate limits does not exceed 10 percent of the area within the primary corporate limits of the City of Hendersonville. The total area within the satellite corporate areas, including land involved in this petition, constitutes 3.6 percent of the area within the primary corporate limits.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina:

Section 1. By virtue of the authority granted by N.C.G.S. 160A-58.1, as amended, the following described area is hereby annexed and made part of the City of Hendersonville as of the fourth of August 2016.

DESCRIPTION OF PROPERTY: Being located within the Hendersonville Township – Henderson County, North Carolina and being more particularly described as follows: Being all of Tract B, containing approximately 2.00 acres as shown on the plat recorded at slide 10160, Henderson County Registry, a copy of which is attached hereto.

Section 2. Upon and after the third day of September 2016, the above described territory, and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Hendersonville, and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-31, as amended.

Section 3. The City Clerk of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, hereof, together with a duly certified copy of this ordinance.

ADOPTED this fourth day of August 2016.

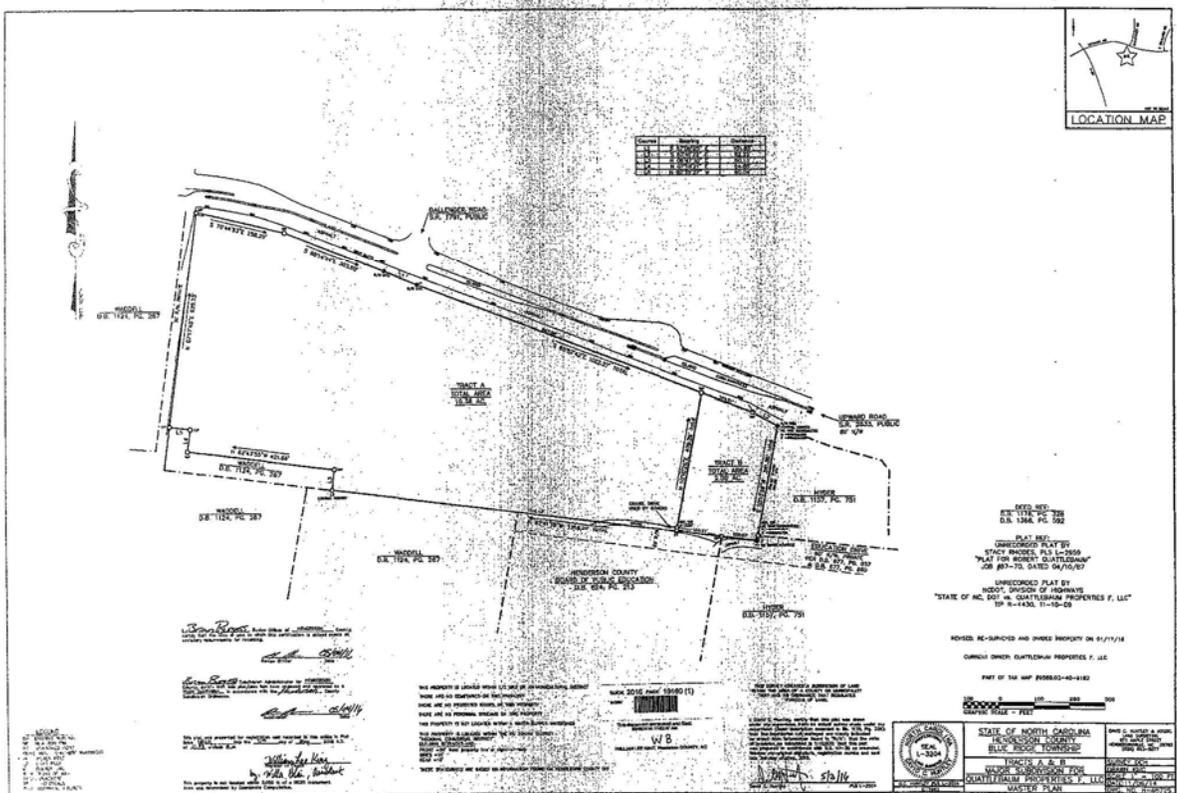
/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney



SLIDE 10160



10. Quasi-Judicial Public Hearing – Consideration of an Application from Flat Rock Hospitality, LLC for a Special Use Permit to Construct a Hotel between Upward Road and Education Drive, Consideration of the Request to Rezone the Property to Commercial Highway Mixed Use Special Use, and for Variances from Zoning Ordinance Sections 5-27-5.1.4 Common Space, 5-27-5.1.4 Common Space Trees and 5-27-5.1.7 to allow flush mounted Windows: Mayor Volk reviewed the procedures for the quasi-judicial public hearing including the City Council acts as a judge and jury, they may consider facts and expert witness, not opinions. Those speaking must be sworn in and their testimony is subject to cross examination. She requested Council to announce any contacts concerning the application that are not included in the file. Mayor Pro Tem Caraker disclosed he dealt with Mr. Cormier and Mr. Camp to shepherd them through the annexation process with staff to identify the need and requirement for annexation for sewer service. Council Member Miller disclosed he talked to Mr. Cormier and listened to his feelings on the annexation. He also discussed that with the City Manager. Mayor Volk asked Council Member Miller if he can make an impartial decision on the project. Mayor Pro Tem Caraker and Council Member Miller stated yes. Council Member Stephens disclosed he also met with Mr. Cormier early in the process and he feels he can make an impartial decision.

Mayor Volk requested the Council announce any conflicts of interest pertaining to the matter. There was none.

Mayor Volk asked if any person present is aware of anything of value that has been given or promised in exchange for a vote to be taken on the application. There was none.

Two persons were sworn in by City Manager John Connet: Dave Hazzard and Chris Cormier.

Mr. David Hazzard, Senior Planner, gave the following testimony:

Project Description: The City is in receipt of a Special Use Permit application from Flat Rock Hospitality, LLC, to construct a 53,851 square foot Fairfield Inn and Suites. The site is an approximately 2.00-acre portion of parcel PIN 9588-40-9182 located on Upward Road.

Surrounding land uses are as follows: To the north is a residential use, religious camp/uses, to the northwest is an agricultural field, to the west and east are vacant properties, and to the south is a schools support facility and to the southeast is a church. He reviewed the existing land use map.

Existing Land Uses & Zoning: The proposed project parcel is currently located in Henderson County, is vacant, and is zoned Henderson County RC Regional Commercial. There is Regional Commercial zoning to the north of this site, Community Commercial is to the north/northeast and to the south is Henderson County Industrial.

Comprehensive Plan Consistency: The parcels included in this project and adjacent parcels are classified as Regional Activity Center and Low Intensity Neighborhood/Agriculture, on the 2030 Comprehensive Plan’s Future Land Use Map.

Plan Review: He reviewed the architectural elevations of the proposed building.

General: The applicant is proposing to construct a four-story, 53,851 square foot hotel/inn containing 84 guest rooms.

Parking: As per Section 6.5.2, the required parking for hotels is one parking space per guest room plus one space per 600 square feet of public meeting area and restaurant area. Thus, this project is required to provide a minimum of 84 parking spaces; the site plan shows 107 parking spaces.

Sidewalks: A sidewalk is shown along the parcel's frontage on Upward Road.

Vehicular Access: Upward Road is an NCDOT-managed road. Thus, the applicant shall be required to acquire a driveway entrance permit from NCDOT prior to final site plan approval.

Stormwater: A stormwater management plan will be required and shall be submitted and approved prior to final site plan approval.

Landscaping: Required planting buffer areas are shown on the preliminary site plan. Actual plantings will be shown on landscaping plans that are submitted with the final site plan. The applicant is requesting a variance from the Common Space trees requirement.

Annexation and Rezoning: Because the property is located within the Upward Road Planning District, City Policy required it to be voluntarily annexed and therefore was required to go through the City's zoning process.

The applicant is requesting three variances:

Common Open Space: He reviewed the requirements contained in Section 5-27-5.1.4. Section 5-27-5.1.4 (a) which requires at least 10 percent of the acreage of a site must be devoted to common space. Common space counts toward meeting open space requirements for a project. The minimum required common space for this project is 8,712 square feet; 6,005 square feet of common space has been proposed. Thus, the applicant has requested a variance from this section to reduce the required common space by 2,707 square feet.

Common Space: Trees: He reviewed the requirements contained in Section 5-27-5.1.4 (b). A minimum of nine common space trees are required. As per the variance application, the applicant is not proposing to plant any common space trees.

Windows: He reviewed the requirements in Section 5-27-5.1.7. The proposed windows do not meet these requirement. The applicant is therefore requesting a variance from to allow for flush windows.

Analysis: Mr. Hazzard reviewed the required findings in Section 7-4-10.1 of the Zoning Ordinance. He reported:

(a) Staff has not identified any issues relating to public health, safety or general welfare.

(b) The applicant is requesting to connect to the City sewer and water.

(c) The applicant is requesting the following variances:

#1 A variance from Zoning Ordinance Section 5-27-5.1.4 (a) to reduce the required common space to 6,005 square feet.

#2 A variance from Zoning Ordinance Section 5-27-5.1.4 (b) to eliminate the common space tree requirements.

#3 A variance from Zoning Ordinance Section 5-27-5.1.7 to allow flush mounted windows.

(d) A neighborhood compatibility meeting concerning the application was held on June 17, 2016. Notice was provided by U.S. mail to the owners of record of all property situated within 400 feet of the subject property. One member of the general public attended the meeting. There were questions regarding Education Drive access and property boundaries. He provided the neighborhood compatibility report.

(e) This Application appears to be consistent with the 2030 Comprehensive Plan. Upward Road has been upgraded since The 2008 Comprehensive Transportation plan.

Planning Board: The Planning voted as follows:

Variance Request #1: Recommend City Council approve a variance to reduce the required Common Space to 6,005 square feet for the following reasons: so the project can move forward. The motion passed with a vote of eight for and one against.

Variance Request #2: Recommend City Council approve a variance to eliminate the common open space tree requirements for the following reasons: the project has existing trees and trees that will be planted. The motion passed with a vote of eight for and one against.

Variance Request #3: Recommend City Council approve a variance to allow flush mounted windows. The motion passed unanimously.

Special Use Permit and Rezoning: Recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of a portion of PIN # 9588-40-9182 from Henderson County RC Regional Commercial to City of Hendersonville CHMUSU Commercial Highway Mixed Use Special Use for the following reasons: it is compatible with other projects in this area. The motion passed unanimously.

In addition, the Planning Board voted to recommend City Council approve the application of Flat Rock Hospitality, LLC for a Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions. The motion passed unanimously.

Mayor Pro Tem Caraker asked about the trees shown on the site plan. Mr. Hazzard stated there are no plans to plant trees in the common area; trees shown on the plan are required for parking areas. There was also discussion on the window requirements and that the style required by Fairfield Inn.

Mayor Volk opened the public hearing at 6:38 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed.

Variance Request #1: Mayor Pro Tem Caraker moved City Council approve a variance from Zoning Ordinance Section 5-27-5.1.4 (a) to reduce the required Common Space to 6,005 square feet because it does not hurt the project. A unanimous vote of the Council followed. Motion carried.

Variance Request #2: Mayor Pro Tem Caraker moved City Council approve a variance from Zoning Ordinance Section 5-27-5.1.4(b) to eliminate the common open space tree requirements because there is a lot of vegetation planned. A unanimous vote of the Council followed. Motion carried.

Variance Request #3: Mayor Pro Tem Caraker moved City Council approve a variance from Zoning Ordinance Section 5-27-5.1.7 to allow flush mounted windows because it is a requirement of a franchiser. A unanimous vote of the Council followed. Motion carried.

***Special Use Permit and Rezoning:* Council Member Smith moved City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of a portion of PIN 9588-40-9182 from Henderson County RC Regional Commercial to City of Hendersonville CHMUSU Commercial Highway Mixed Use Special Use because it is compatible with the other developments along the road. He further moved City Council approve the application of Flat Rock Hospitality, LLC for a Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions. A unanimous vote of the Council followed. Motion carried.**

Ordinance #16-0828

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE
IN RE: Fairfield Inn and Suites (File # P16-15-SUR)

Be it ordained by the City Council of the City of Hendersonville:

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following as shown in Exhibit A and described below:

A portion of PIN 9588-40-9182 from Henderson County RC Regional Commercial to City of Hendersonville CHMUSU Commercial Highway Mixed Use Special Use;

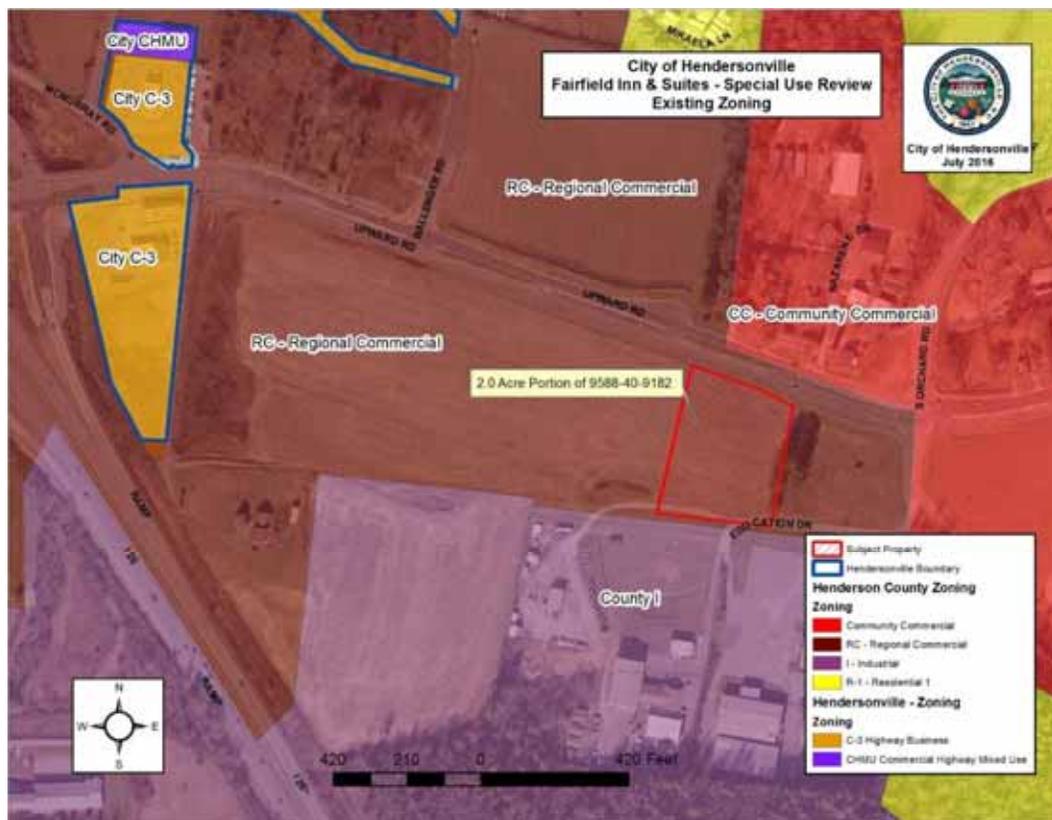
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this fourth day of August 2016.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney



11. Quasi-Judicial Public Hearing – Consideration of an Application from Ms. Cheria Duncan for a Special Use Permit to Place 31 manufactured homes on approximately 5.22 acres on Sugarloaf Road, the Rezoning of the property to Planned Manufactured Housing District, which requires a Special Use Permit, and the Request for Variances from Zoning Ordinance Sections 5-16-4.1 Lot Size, 5-16-4.2 Streets, 5-16-4.5 Interior Setbacks and 5-16-4.6 Exterior Setbacks: Mayor Volk reviewed the procedures for the quasi-judicial hearing.

Mayor Volk asked the Council to disclose any contacts concerning the application that are not included in the file. There was none.

Mayor Volk requested the Council announce any conflicts of interest pertaining to the matter. There was none.

Mayor Volk asked if any person present is aware of anything of value that has been given or promised in exchange for a vote to be taken on the application. There was none.

Three persons were sworn in by City Manager John Connet to provide testimony.

Mr. David Hazzard, Senior Planner, gave the following testimony:

The City received a Special Use Permit application from Cheria Duncan to bring the existing Whiteside's Green Acres Mobile Home Park into compliance with the City of Hendersonville's Planned Manufacturing Housing PMH zoning requirements.

Whiteside's Green Acres Mobile Park is an existing, grandfathered nonconforming use. This mobile home park currently contains occupied manufactured homes, numerous vacant manufactured homes, and numerous vacant "lots" for manufactured homes. These vacant manufactured homes and "lots" have been vacant for longer than 180 consecutive days.

As per Zoning Ordinance Section 6-2-1-d, concerning nonconforming uses, where a nonconforming use ceases for 180 consecutive days, then the use shall not be re-established or resumed, and any subsequent use of the land or structure shall conform to the requirements of the ordinance. Vacancy and non-use of the building or structure, regardless of the intent of the owner, shall constitute discontinuance under this provision. To be able to place new manufactured homes on the vacant "lots" or replace the existing vacant manufactured homes, the site must be brought into compliance. As per Section 5-16-2, a Special Use Permit is required to allow the use of manufactured homes within the PHM zoning district classification. The proposed Claystone Manufactured Home Park is located on PIN 9579-66-3377 on Sugarloaf Road.

Existing Land Uses & Zoning: The parcel for the proposed project is approximately 5.22 acres and is the site of the existing Whiteside's Green Acres Mobile Home Park. The parcel currently has 31 locations for manufactured homes and one existing stick built home. He reviewed a map of the area. The existing zoning classification for this parcel is R-15 Medium Density Residential. The parcels to the north and west are residential and zoned R-15 Medium Density Residential. To the south is Sugarloaf Road, a vacant parcel, and a commercial parcel zoned C-2 Secondary Business. To the east is a child development center zoned R-15 Medium Density Residential.

Comprehensive Plan Consistency: The parcels included in this project and adjacent parcels are classified as High-Intensity Neighborhood, Regional Activity Center, and Business Center on the 2030 Comprehensive Plan's Future Land Use Map. He reviewed the goal of those classifications.

Plan Review: General: The approximately 5.22-acre site is currently occupied by Whiteside's Green Acres Mobile Park with 31 locations for manufactured homes and one existing stick-built home. It appears from information provided from the applicant that nine existing manufactured homes are occupied while six are vacant and that there are 16 vacant "lots". The applicant is proposing to place 31 manufactured homes in their existing configuration and to replace the existing stick built home with a manufactured home. He provided a plan showing the layout of the project.

Parking: The site plan shows 34 parking spaces and an area for future guest parking. As per Section 5-16-4.3, one off-street parking space per each manufactured home is required; thus, 32 parking spaces are required.

Sidewalks: A sidewalk is shown along the parcel's frontage on Sugarloaf Road.

Stormwater: It does not appear this site will be required to provide a stormwater management plan because the project does not disturb an acre or more. The City's engineering department will make the final determination. If a stormwater management plan is required, it shall be submitted and approved prior to final site plan approval.

Landscaping: Required planting buffer areas are shown on the preliminary site plan. Actual plantings shall be shown on landscaping plans submitted with the final site plan.

Rezoning: The applicant is requesting a rezoning from City of Hendersonville R-15 Medium Density Residential to PMH Planned Manufacturing Housing.

Annexation: This parcel is currently within the City's Extraterritorial Jurisdiction (ETJ). The applicant is requesting connection to the City's sewer and is thus required to submit an application for annexation. This application for annexation has been added to the list of conditions for this project.

Variance Requests:

Lot Size: The applicant is requesting a variance from Section 5-16-4.1. As per the variance application, all "lots" with the exception of six ("lots" 1-6), meet the minimum 4,000 square foot requirement. Thus, the applicant has requested a variance for those six "lots" that do not meet the minimum 4,000 square foot lot size; the smallest of these six "lots" will be 3,590 square feet.

Streets: The applicant is requesting a variance from Section 5-16-4.2 and is proposing to use the existing asphalt road, which is 20 feet in width and is requesting a variance from the required width of 25 feet.

Interior Setbacks: The applicant is requesting a variance from Section 5-16-4.5. As per the variance application, the applicant is requesting the interior setbacks be reduced from 20 feet to 5 feet from the interior street. Additionally they request that the requirement for a 10-foot setback from any adjacent space be reduced to 5 feet. He noted five lots on the north side of the development do meet the required 10-foot setback.

Exterior Setbacks: The applicant is requesting a variance from Section 5-16-4.6 to reduce the required exterior setbacks from 30 feet to 20 feet on the south side of the property; ten feet on the west and north sides; and eight feet on the east side.

ANALYSIS: He reviewed the required findings contained in Section 7-4-10.1 of the Zoning Ordinance. He provided:

- (a) Staff has not identified any issues relating to public health, safety, or general welfare.
- (b) The property is currently served by water and is requesting to connect to the City's sewer.
- (c) The applicant is requesting the following variances:
 1. A variance from Zoning Ordinance Section 5-16-4.1, to allow "lots" 1-6 to be smaller than the required 4,000 square feet.
 2. A variance from Zoning Ordinance Section 5-16-4.2, to reduce the minimum road width from the required 25 feet to 20 feet in order to use the existing road.
 3. A variance from Zoning Ordinance Section 5-16-4.5, to reduce the Required 20-foot minimum interior setback to 5 feet and to reduce the required 10-foot setback from any adjacent space to 5 feet.
 4. A variance from Zoning Ordinance Section 5-16-4.6, to reduce the required exterior setbacks from 30 feet to 20 feet on the south side of the property, from 30 feet to 10 feet on the west and north sides, and from 30 feet to 8 feet on the east side.
- (d) Five members of the public attended the meeting. Questions were asked regarding: guest parking, street lighting, garbage pickup, new management policies and procedures. He provided the neighborhood compatibility report.

(e) This Application appears to be consistent with the 2030 Comprehensive Plan. The 2008 Comprehensive Transportation has the following recommendations: C30 SR 1734 "Sugarloaf Road" Add turn lanes, widen shoulders and improve geometrics and intersection operations as appropriate.

Planning Board: The Planning Board voted as follows:

Variance Request #1: Recommend City Council approve a variance to allow "lots" 1-6 to be smaller than the 4,000 square feet for the following reasons: this is the highest and best use of the property and the homes will sit on the pads as best they can on a case-by-case basis. The motion passed with a vote of eight for and one against.

Variance Request #2: Recommend City Council approve a variance to reduce the minimum road width from the required 25 feet to 20 feet in order to use the existing road for the following reasons: this road will stay within the compounds of the new development. The motion passed unanimously.

Variance Request #3: Recommend City Council approve a variance to reduce the required 20-foot minimum interior setback to five feet and to reduce the required ten-foot setback from any adjacent space to five feet for the following reasons: to further the existing project. The motion passed with a vote of eight for and one against.

Variance Request #4: Recommend City Council approve a variance to reduce the required exterior setbacks from 30 feet to 20 feet on the south side of the property, from 30 feet to 10 feet on the west and north sides, and from 30 feet to eight feet on the east side for completion of the project.

Special Use Permit and Rezoning: The Planning Board recommended City Council amend the official zoning map changing the zoning designation of PIN # 9579-66-3377 from City of Hendersonville R-15 Medium Density Residential to PMH Planned Manufacturing Housing for the following reasons: for the update of Claystone development. The motion passed unanimously.

In addition, the Planning Board recommended City Council's approval of the application of Claystone for a Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions. The motion passed with a vote of eight for and one against.

Council Member Smith asked if the number of sites currently exists and if they are putting larger homes there. Mr. Marks stated yes. Council Member Smith asked if a traffic analysis is required. Mr. Hazzard stated no.

Hunter Marks, Landscape Architect, provided the following:

Some of the homes will be larger and there will be the same number of parcels. They are proposing to upgrade an existing mobile home park and utilizing the existing layout: streets and utilities, with the exception of septic which is failing. They proposed to connect to sewer and therefore be annexed into the City.

He reviewed photos/views of the location of the parcel. He stated there are some occupied units, a few abandoned units, and a majority or half the site are empty slabs/vacant lots. The existing home was occupied by the owner but has been empty for a while. He provided the preliminary site plan. They propose to reestablish what was originally there, 31 units with an owner's home in the middle. The layout does not meet existing requirements. They want to bring the existing park into compliance, 32 existing sites: 31 homes plus owner's home, replace the failing septic with connection to sewer service, using the existing layout as much as possible. This will be an age 55 and over community as is part of the Housing Assistance property next door. The cost of the new units are projected to start in the \$70,000 range.

They are requesting six of the 31 lots to be smaller than the 4,000 square feet minimum. They are asking to use the road and existing setback, for the interior and exterior setbacks.

He provided renderings of the proposed streetscape. All of the units will be approximately the same size and all units will have front porches, a carport and landscaping to establish uniformity.

Council Member Miller asked how many occupants are there now. Mr. Marks responded there are eight residents and another that is empty and is for sale. Council Member Miller asked what happens with the current occupants. Mr. Marks stated they will have to move. They are currently renting spaces. He stated there was a neighborhood compatibility meeting and many of the residents were there. They had an additional meeting with the residents because they want it to be clear to them and be sure they understood. Council Member Stephens asked how much notice the residents will receive. Ms. Duncan stated 90 days. Mr. Marks stated the requirement is 60 days but the owners want to work with the residents as much as possible. They would like the current residents to live there.

Council Member Miller asked if the construction will be done all at once or if some of units could be completed and residents given an opportunity to move in before they move somewhere else. Mr. Marks stated practically, he does not think that is a possibility because they cannot have old and new units.

Earl and Peggy Allison, 23 Hannah Grace Way, stated they are senior citizens and disabled. The owners want to throw them out without any compensation. Some of the residents cannot move their trailers because they are too

old. He can move his trailer but it will cost \$3,000-\$4,000. He contacted many movers but they have not called him back. He cannot find someone to move them. He asked if they would be compensated for their trailers because they will have to pack and leave everything.

Cheria Duncan addressed the Council. She provided the following information.

They had an additional meeting and invited residents to participate in the meeting at the Fire Department. There was a lot going on in the community but the current owner did not provide them with a lot of information and she did not feel comfortable with that. She planned the meeting, invited everyone to attend, and sent out notices. A few of the residents attended. She explained the property in the current state is doomed. There is no way without annexation that the property will be anything more than just what it is. The only way to improve the property and to offer them an option of possibly buying another home, is to annex into the City and connect to sewer because the sewer system is failing.

She and her husband spoke to two separate individuals who deal in transporting and moving mobile homes and may know of some mobile home communities in the area where some spots may be available. They took names and phone numbers. They cannot move forward with the plan until they have permission to do so. They are planning to meet with the two individuals who will come by and talk to the residents about options to move their homes and possibly purchase them. They are not throwing the residents out and are not walking away from them without offering them something. They are giving them more time. They had a meeting last month and it gave them an additional 30 days over and above the 90 days. They are now looking at October as a move-out date. They are spending a tremendous amount of money out of pocket to improve this community and to make it more compatible with Sugarloaf Road. There is no way the community can survive keeping a lot of old, dated mobile homes in the mix of the new homes. She stated this is part of progress. She is asking Council to give strong consideration to what they are trying to do. She stated it is difficult and it tugs at her heart. They will do everything they possibly can to help them relocate or sell their homes.

Council Member Smith asked who would buy the homes with the knowledge that a new neighborhood is being created. Ms. Duncan stated there are two individuals who have expressed interest in purchasing the homes and will deal with them directly. Ms. Duncan explained the individuals know of other communities that will accept their homes and will talk to them about moving their homes into those communities or if they do not care to do that, they will purchase their homes from them. She stated those individuals buy and move mobile homes. Council Member Smith asked if the individuals choose not to purchase a home or cannot find a place to move it, what happens to the residents and if they will have to leave. Ms. Duncan stated yes, they do. Council Member Smith asked if Ms. Duncan if she would compensate them for their trailer. Ms. Duncan stated that would depend on how much they want for it. She stated they have a tremendous amount of expense with the property as it is. Council Member Smith asked if the abandoned mobile homes will be hauled off. Ms. Duncan responded yes.

Council Member Smith asked approximately how many people will have to move. Ms. Duncan stated there are nine homes but is not sure how many people live in each. She stated there are two homes that the owners say are occupied but she never sees anyone there. Of the nine, there may be two that no one lives in. She stated there are definitely seven homes. Council Member Miller asked Ms. Duncan if she will make every effort to make sure someone talks to the residents. He stated they are not getting return phone calls. Ms. Duncan responded absolutely, yes. Council Member Miller stated he realizes everyone is busy and everything is doing well. He wants to ensure these residents do not get overlooked. Ms. Duncan stated they will not be overlooked. Council Member Miller stated he would be extremely grateful for that.

Mayor Pro Tem Caraker asked if the new homes will be done by one outfit or individuals. Ms. Duncan stated they will be done through Premier Homes of the Carolinas. Mayor Pro Tem Caraker asked if there is any room on the front side of the project to help any of the residents. Ms. Duncan stated they have not had that discussion. Mayor Pro Tem Caraker suggested they talk about it.

Council Member Smith asked if Ms. Duncan is willing to make it a condition on the special use permit to set up a meeting with the residents and potential buyer/mover. Ms. Duncan stated absolutely, yes, she promised to do that but it is premature at this point. There was discussion about whether this could be added as a condition. Council Member Miller urged Ms. Duncan to let Council know when the meeting has happened as opposed to adding it as a condition.

Council Member Smith commented there are at least seven people and/or families that are in a very difficult spot and every protection that can be given be provided to them should be. Council Member Miller agreed stating he is not sure what Council can do except ask her. Ms. Duncan stated she has shown compassion about these residents. She has been forthright and invited them to a meeting at the Fire Department. She stated she took refreshments, opened the floor and sat with them and gave them as much time as they needed to discuss this. She stated she has been trying to find people that would have an interest in purchasing homes and she has found a couple of people. She stated she does not know what more she can do in this situation. She stated she is open to thoughts and suggestions that Council may have. She stated she wants to be open and forthright. She stated she will not leave them in a lurch and told them that. She stated she understands their concerns and thinks about if it were her family.

Council Member Miller offered his personal contact information to follow up on the relocation of residents and will keep the Council informed. Ms. Duncan agreed. Council Member Smith commented his appreciates Ms.

Duncan's honesty and agreed that if this were his family in this situation he would want to ensure someone is doing everything they can from the government point of view to make sure they are looked after.

Mayor Volk opened the public hearing at 7:23 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. No one expressed a desire to speak in favor of, or in opposition to the application. The public hearing was closed.

Variance Request #1: Council Member Smith moved City Council approve a variance from Zoning Ordinance Section 5-16-4.1, to allow lot numbers 1-6 to be smaller than the required 4,000 square feet because it does not substantially affect the overall development of the property. A unanimous vote of the Council followed. Motion carried.

Variance Request #2: Council Member Smith moved City Council approve a variance from Zoning Ordinance Section 5-16-4.2, to reduce the minimum road width from the required 25 feet to 20 feet in order to use the existing road because it does not appear the road needs to be widened as it appears to work. A unanimous vote of the Council followed. Motion carried.

Variance Request #3: Council Member Smith moved City Council approve a variance from Zoning Ordinance Section 5-16-4.5, to reduce the required 20-foot minimum interior setback to five feet and to reduce the required 10-foot setback from any adjacent space to five feet because this is the conditions that already exist in this development. A unanimous vote of the Council followed. Motion carried.

Variance Request #4: Council Member Smith moved City Council approve a variance from Zoning Ordinance Section 5-16-4.6, to reduce the required exterior setbacks from 30 feet to 20 feet on the south side of the property, from 30 feet to ten feet on the west and north sides, and from 30 feet to eight feet on the east side because these are the existing conditions. A unanimous vote of the Council followed. Motion carried.

Special Use Permit and Rezoning: Mayor Pro Tem Caraker moved City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of PIN 9579-66-3377 from City of Hendersonville R-15 Medium Density Residential to PMH Planned Manufacturing Housing because the property needs to change use to be viable. He further moved City Council approve the application of Claystone for a Special Use Permit based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the published List of Uses and Conditions. A unanimous vote of the Council followed. Motion carried.

Mayor Volk commented this project will be an improvement over existing conditions. She expressed appreciation to Council Member Miller for his offer to follow up on the meeting to help with the relocation of the residents.

~~12. Report on Hendersonville Sister Cities~~

13. Presentation of Preliminary Engineering Report Summary and Discussion of N. Main Street Sidewalk Improvements: Mr. Brent Detwiler, Engineering Director, explained the North Main Street area was identified as a priority by the Council for the next sidewalk project. He reported there is approximately \$93,000 remaining from the 2008 Sidewalk Bond fund which will be used for this project. He stated staff subsequently contracted with Mattern and Craig for a preliminary engineering report and as part of that, they looked at the N. Main Street (a NDOT road) corridor. He stated they looked at both the east and west sides and for purposes of their report, separated the corridor into three defined areas:

- Area 1: the area along North Main Street near O'Cain Court to the railroad tracks
- Area 2: from the railroad tracks to Phase 3 of the Greenway
- Area 3: from Phase 3 of the Greenway to Yon Hill Road.

Mr. Detwiler explained each area has different existing conditions: residential areas, etc. He reviewed each area, the options, challenges and estimated costs of each.

Mr. Connet suggested Council Members review the information and options and visit the area before they make a decision. He stated staff will present recommendations/guidance at Council's September meeting. Mayor Volk commented with the amount of development on North Main Street it would be nice to add sections two and three even if it only on one side of the street.

There was discussion on sidewalk on Blythe Street which may be completed for approximately \$100,000. Mr. Connet reported on the work on the section of Blythe Street near Fifth and Fourth Avenues. He reported there were problems with the condition of Blythe Street and it is being rebuilt. He stated this would be the best time to construct a sidewalk. The Council agreed there will be heavy usage of this section of sidewalk and discussed on-street parking. Mr. Connet stated staff will speak to the property owners and try to reach an agreement. This will be revisited at the next Council meeting. **The Council agreed by consensus.**

14. Presentation of Communications Plan for the Water and Sewer Department: Mr. Connet introduced Mr. Lance Riddle, intern from Western Carolina University, who presented a Communications Plan

for the Water and Sewer Department. Council Member Stephens commended Mr. Lance on the report. Mayor Volk echoed her appreciation. **No action was required by the Council.** *[The Plan is available in the office of the City Clerk.]*

15. Consideration of Special Appropriations to Safelight: Assistant to the Manager Brian Pahle explained Safelight, Inc. made a request for special appropriations which was inadvertently left out of the special appropriations process. They are requesting \$10,000. After discussion, **Council Member Stephens moved Council grant \$10,000 in special appropriations to Safelight. A unanimous vote of the Council followed. Motion carried.**

16. Comments from Mayor and City Council Members: There was none.

17. Reports from Staff:

a. Welcome: Mr. Connet welcomed Emily Sisler, a new Planner in the Development Assistance Department.

b. Presentation of Investment Report: Per the City Investment policy, Finance Director Lisa White provided an investment report including a management summary that provides an analysis of the status of the current investment portfolio and a detail listing of the individual transactions executed.

Investment Report/Management Summary: As of June 30, 2016 the City owned investment portfolio, held by First Citizens Bank (Custodian) consists of the following investments which all comply with the City Investment Policy and State Statute:

US Treasury Notes: \$ 1,006,700.00

Government Agencies: \$15,737,933.00

Municipal & NC: \$7,001,127.34

Cash & Commercial Paper: \$999,069.44

Total Market Value of Investments held at First Citizens: \$24,744,830 Cost basis \$24,743,693

Other City cash deposits per bank statements are as follows as of June 30, 2016: Wells Fargo Central Depository: \$8,332,964.60,

Wells Fargo Health & Welfare Account \$47,063.10. Deposits held by the City for Bond Funds are required to be kept segregated. The City currently holds \$926,279 as of June 30, 2016 of proceeds from the 2008 Sidewalk Bond which is held by the NC Capital Management Trust. The City also holds cash to service the investment fees at First Citizens Money Market: \$5,399.34. Various City departments hold petty cash, totaling \$8,550 as of June 30, 2016. Total cash and investments as of June 30, 2016 are \$33,916,550.94.

Total Investment earnings for all funds were budgeted at \$278,710 for fiscal year 2016. Investment earnings received for the fiscal year 2016 came in at \$393,210 for all funds, which is an increase of \$114,500 over the expected budget and a \$182,315 increase over the actual amount received for the previous fiscal year (2015) and a \$343,721 increase over investment earnings earned two years ago.

18. Consideration of Appointments to Boards and Commissions: City Clerk Tammie Drake reviewed the board/commission openings.

Downtown Advisory Committee: Mayor Pro Tem Caraker nominated Carole Sitzer to serve on the Downtown Advisory Committee. This term will expire August 1, 2018. A unanimous vote of the Council followed. Motion carried.

Board of Adjustment: Council Member Stephens nominated Roger Woolsey for a three-year term on the Board of Adjustment. This term will expire September 1, 2019. A unanimous vote of the Council followed. Motion carried.

Historic Preservation Commission: Mayor Pro Tem Caraker nominated Laura Flores to serve on the Historic Preservation Commission. This term will expire November 1, 2019. A unanimous vote of the Council followed. Motion carried.

Announcements: Mrs. Tammie Drake, City Clerk, announced the vacant positions on the Board of Adjustment, the Walk of Fame Committee and upcoming reappointments/vacancies on the Environmental Sustainability Board.

20. New Business: There was none.

21. Adjournment: The meeting adjourned at 8:30 p.m. upon unanimous assent of the Council.