

March 3, 2016
Regular Meeting of the City Council
Council Chambers – City Hall
5:45 p.m.

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

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Police Chief Herbert Blake, Development Assistance Director Susan Frady, Human Resources Director Jennifer Harrell, Senior Planner David Hazzard, Public Information Officer Tara Ledbetter, Civil Engineer Brendan Shanahan, Utilities Director Lee Smith, Fire Chief Joseph Vindigni, Public Works Director Tom Wooten

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 all five 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.*

Brenda Ramer, 511 N. Main Street, Hendersonville 28792, expressed appreciation for the City's support in the recent flooding disaster. She provided information on their programs and activities through the last year.

Willie Clay, 816 N. Oak Street, at the corner of Oak Street and Carter Avenue. He expressed concerns about speeding traffic on N. Oak Street and safety concerns for students. Mayor Volk commented a traffic study is being done in that area and the Council is expecting some recommendations. Council Member Miller suggested creative enforcement in the area after the middle school dismisses. Mr. Connet stated the speed limit was reduced to 25 mph. He asked Chief Blake to investigate the issue.

4. Consideration of Agenda:

Addition to the Consent Agenda:

F. Consideration of the Purchase of Property from St. Paul's Tabernacle to be used for the right-of-way for the Widening of N. Oak Street and the Installation of a Turn Lane at U.S. Highway 64 West

Mayor Pro Tem Caraker moved approval of the agenda with the addition to the consent agenda. 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:

- i. February 4, 2016 Regular Meeting and
- ii. February 11, 2016 Special Meeting

B. Consideration of Budget Amendments (4): Mr. Pahle presented the following budget amendments:

Fund: 10 Public Works

An amendment of \$4,260 to pay for retiree's insurance not known at the beginning of the fiscal year. Funds will come from contingencies.

Fund: 10, 68 Public Works

An amendment of \$6,710 to cover overtime costs associated with the January snowstorm. Funds will come from contingencies.

Fund: 60

An amendment of \$10,000 to balance the budget.

Fund: 60

An amendment of \$33,910 to fund a part-time position to perform site assessment surveys to allow quicker response in cases of emergency.

C. Consideration of Converting Metered Spaces Behind City Hall to Free Parking for City Business: Mr. Connet reported an increased demand on the parking spaces behind City Hall due to the activities of the Police Department, meetings in City Hall and increased customer traffic. In some cases,

customers have received a parking ticket when making payments at City Hall. He requested the removal of the meters and to designate the spaces as free parking for City Hall business only. He stated an additional benefit to making this change would be the freeing up of a kiosk for the Maple Lot, which would allow quicker payment process during peak times and will create 11 additional free spaces on weekends, holidays and after hours.

D. Consideration of Utility Extension Agreement for Tall Oaks Subdivision: Mr. Lee Smith, Utilities Director, reported this project will require an extension of the existing water and sewer system. The project is proposed to serve four duplex lots consisting of eight total dwelling units and is located on Brooklyn Avenue. This project will be paid for by Tom Vavalle and Nicholas Vavalle of Hendersonville, NC. Based on this information, he stated the Water and Sewer Department has the capacity to support this additional infrastructure and associated connections and recommended approval of the project contingent upon final approval of construction plans and specifications by the Water and Sewer Department.

E. Consideration of Approval of a Contract with WGLA Engineering for the N. Oak Street Widening Project and Approval of Resolution Exempting the Project from the provisions of NCCS 143-64.31: City Engineer Brent Detwiler reported City staff has been working with Pardee Hospital and their engineer, WGLA Engineering, PLLC, on the Joint Health Education Building and various parking improvements in the area. He stated another improvement connected with this project involves the widening of N. Oak Street from its current 18 feet to 24 feet from U.S. Highway 64 to Seventh Avenue and adding a turn lane at U.S. Highway 64. This will provide better access to users of the new facility as well as local residents. Since the entire street will be under construction, water line and sewer line replacements will be included as part of this work.

Mr. Detwiler explained staff asked WGLA to provide a proposal for the design of the street, sidewalk, curb/gutter, water and sewer improvements as well as the construction management of the project. WGLA has completed other site design work in the area, has been working with the Joint Health building contractor and are best equipped to provide an efficient and cost effective design.

Mr. Detwiler explained in North Carolina, the procurement of professional services performed by architects, engineers, surveyors, and construction managers at risk is governed by G.S. 143-64.31, sometimes referred to as the "Mini-Brooks Act." The Qualifications Based Selection (QBS) process focuses on the qualifications of potential firms rather than their fees. This is often done by using a request for qualifications (RFQ) to solicit responses from interested firms. He provided a resolution for Council's consideration to exempt the N. Oak Street Widening design from the QBS project due to time constraints, and given all of the background WGLA has in this area.

Mr. Detwiler provided the proposal from WGLA. He requested approval of the resolution and to authorize the City Manager to execute a contract with WGLA to perform the design and construction management work associated with the widening of N. Oak Street.

Resolution #16-0305

**RESOLUTION EXEMPTING N. OAK STREET WIDENING PROJECT
FROM G.S. 143-64.31**

WHEREAS, G.S. 143-64.31 requires the initial solicitation and evaluation of firms to perform architectural, engineering, surveying, construction management-at-risk services, and design-build services (collectively "design services") to be based on qualifications and without regard to fee;

WHEREAS, the City proposes to enter into one or more contracts for design services for work on the N. Oak Street Widening Project; and

WHEREAS, G.S. 143-64.32 authorizes units of local government to exempt contracts for design services from the qualifications-based selection requirements of G.S. 143-64.31 if the estimated fee is less than \$50,000; and

WHEREAS, the estimated fee for design services for the above-described project is less than \$50,000.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE RESOLVES:

Section 1. The above-described project is hereby made exempt from the provisions of G.S. 143-64.31.

Section 2. This resolution shall be effective upon adoption.

Adopted this third day of March 2016.

/s/: Barbara G. Volk, Mayor

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

(Seal)

F. Consideration of the Purchase of Property from St. Paul's Tabernacle to be used for the right-of-way for the Widening of N. Oak Street and the Installation of a Turn Lane at U.S. Highway 64 West:

Mr. Connet reported as the City Council is aware, staff has been working with the property owners along N. Oak Street and Pardee Memorial Hospital to acquire property to widen and improve N. Oak Street from Seventh Avenue to U.S. 64 West. He reported staff has reached an agreement with the Hospital and property owners to purchase the following:

611 N. Oak Street - \$41,000 - City's portion of joint purchase with Pardee Memorial Hospital

615 N. Oak Street - \$25,400 - City's portion of joint purchase with Pardee Memorial Hospital

The remaining portion of the purchase cost will be provided by Pardee Memorial Hospital as they intend to use the remainder of the property for parking. He reported the purchase price was based on a property appraisal obtained by the City of Hendersonville.

Mr. Connet also reported 1,850 square feet of property from St. Paul's Tabernacle will be purchased for \$15,000 and the property will become City of Hendersonville's right-of-way.

Mr. Connet explained with the approval of these purchases, the City will have all the necessary right-of-way to widen the street to 24 feet and install a turn lane at N. Oak Street and U.S. 64 West.

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

6. Swearing-In Ceremony – Fire Chief Joseph Vindigni: Mayor Volk administered the Oath of Office to Joseph M. Vindigni, City of Hendersonville Fire Chief. The Oath of Office was following by the pinning of the Fire Chief badge by his wife, Alysia, alongside his 11-year-old son Matthew and daughters Addison, age 9, and Julianne, age 6.

7. Quasi-Judicial Public Hearing - Consideration of a Request to Amend a Special Use Permit from Park Place Developers LLC for Towne Place Development Located Off of Greenville Highway: Mayor Volk explained the procedures for quasi-judicial public hearing stating they are required by the State of North Carolina in certain situations. Quasi-judicial hearings differ from regular public hearings in that interested persons have the following rights: to cross examine witnesses, to present evidence, to inspect documentary evidence presented against them, and to be afforded all the procedural steps set out in the pertinent ordinance and statute. She explained the City Council may only consider factual information and/or expert testimony and may not consider feelings or opinions when making a decision on the issue.

Mayor Volk asked the members of City Council to announce any contacts concerning the application that are not included in the file. Council Member Miller disclosed conversations with the City Manager, City Attorney Fritschner and Mr. Jim Hall. Council Member Stephens also disclosed conversations with the City Manager, the City Attorney and Mr. Jim Hall. Mayor Volk asked the Council Members if this prevents them from making an impartial decision. Both stated no.

Mayor Volk asked the members of City Council to announce any conflicts of interest they may have pertaining to this 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 on the application. There was none.

Mayor Volk asked those wishing to speak to come forward to be sworn in. Five persons were sworn in to provide testimony.

At 6:08 p.m., Mayor Volk opened the public hearing in accordance in North Carolina General Statutes by notice published in the Hendersonville Lightning.

Mr. David Hazzard, Senior Planner, entered file #P15-14-SUR into the record and provided the following testimony:

The City is in receipt of a Special Use Permit application from Park Place Developers LLC to construct four residential dwelling units in two structures in the Towne Place Development located off Greenville Highway. The PIN for this project is 9578-00-3059 and consists of approximately 6.68 acres.

Towne Place was originally approved as a Special Use Permit by City Council on September 4, 2003 and was classified as a PCD Planned Commercial Development with two phases. Phase I of Towne Place was approved for a maximum of 44 residential units and Phase II consists of two commercial buildings adjacent to Greenville Highway. To date, 37 residential units have been completed in Phase I and Phase II is complete.

The Special Use Permit for completing Phase I expired on September 4, 2012. The applicant is seeking to have City Council issue a new Special Use Permit to complete two buildings, each with two residential dwelling units, in Phase I. These two buildings were included in the original Special Use Permit.

The aerial view of Towne Place shows the existing buildings along with the location of the two proposed new buildings. With the exception of parcels fronting on Greenville Highway, surrounding parcels are zoned R-15 Medium Density Residential and consist of residential uses. The parcel located at the northeast corner is Phase II of Towne Place, is zoned PCD Planned Commercial Development and consists of two office buildings. The parcel located at the southeast corner is zoned GHMU Greenville Highway Mixed Use and consists of a residential use. Since this property is already zoned Planned Commercial Development, no rezoning is required with this application.

Comprehensive Plan Consistency: The parcel included in this project and adjacent parcels are classified as High Intensity Neighborhood on the 2030 Comprehensive Plan's Future Land Use Map.

Plan Review: He reviewed the combined preliminary final site plan submitted for approval. The two proposed buildings are two-story with a total of four residential units. Each unit will have a two-car garage and a driveway for off-street parking.

Stormwater: The existing Phase I Towne Place development has an approved stormwater system installed. This original design of this system included these two buildings. A Stormwater Management Easement, Inspection and Maintenance Agreement is in effect for Phase I of Towne Place. This agreement was recorded on August 8, 2012. The Engineering Department sent a notification to the owner of record of the common space, Park Place Developers LLC on December 18, 2015 reminding them of the requirements of this agreement. The maintenance agreement requires an annual stormwater inspection report to be submitted to the City. To date, there are three annual reports are overdue.

The City Engineering Department has conducted its own inspection of the stormwater facilities on the site and have found numerous deficiencies that must be corrected. These deficiencies include, but are not limited to: need of sediment removal, need of restoration of sediment storage basins which are at capacity, need of stabilization of inlet/outlet, need of stabilization of several actively eroding areas, and restoration of vegetation. These deficiencies were included in the notification on December 18, 2015.

Staff has received correspondence from Stephen Shelton, President TPHOA, requesting the City Council add a condition that the approval "be contingent on Park Place Developers fixing the currently identified efficiencies with the storm water runoff system".

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

- (A) Staff has not identified any issues relating to public health, safety or general welfare.
- (B) The property is currently served by water and sewer.
- (C) The applicant is not requesting any variances.
- (D) A neighborhood compatibility meeting concerning the application was held on September 30, 2015. Notice was provided by U.S. mail to the owners of record of all property situated within 400 feet of the subject property. Approximately 16 members of the general public attended the meeting. The general public asked questions regarding the following:
 - type of units proposed
 - stormwater
 - construction traffic

He provided the neighborhood compatibility report.

(E) The 2030 Comprehensive Plan's High Intensity Neighborhood is to encourage low-maintenance, high-density housing that supports neighborhood and regional activity centers and downtown and provides a transition between commercial and single-family development. Promote walkable neighborhood design that creates attractive and functional roadway corridors and multi-family residential neighborhoods. The 2008 Comprehensive Transportation Plan does not mention Towne Place Drive where these two buildings will be located.

Planning Board: The Planning Board voted unanimously to recommend City Council approve the application of Park Place Developers, LLC for a Special Use Permit based on the site plan submitted by the applicant, subject to the limitations and conditions stipulated on the published List of Uses and Conditions with the added condition that Park Place Developers shall fix the currently identified deficiencies with the storm water runoff system which shall be inspected and approved prior to the start of construction.

Mayor Volk opened the floor for public input at 6:17 p.m.

The follow addressed the Council:

Lawrence D. Winson, Attorney for Park Place Developers, provided the following testimony:

After they received the letter regarding maintenance, they took steps and dealt with Mr. Luther Smith to determine what needs to be done. Mr. Smith issued an inspection report and a maintenance report which they are addressing. They have no problems with doing what has to be done to bring the basins up to the approved level. They immediately got involved and have delivered the reports to Mr. Hazzard. They are now looking for contractors to complete the work. They understand the issues and there is no problem with moving ahead with it to allow the units to be built. It is part of the original plan and the units were part of the original plan. It is going to be beneficial to the overall development and will add to the City's revenue base. These final two units need to be constructed to complete the project. He requested approval of the special use permit with the caveat that they complete the conditions.

Steven Shelton, 60 Towne Place Drive, President of the Homeowners Association, provided the following testimony:

The Homeowner's Association is in favor of the special use permit and appreciates the recommendation of the Planning Board that the fixes be completed before the construction begins. He asked to bring the Council up to speed on what they consider the extent of the deficiencies. The catch basins are certainly a part of the stormwater runoff system but it is not entire stormwater system. He gave some background: The Towne Place Homeowners Association (TPHOA) was established in 2010 with Park Place Developers holding a board position until September of 2014 when the Declarant control period expired. The homeowners in the community only own the dwellings and the land where they exist. Currently the Park Place developers own all of the common ground and are responsible for it. Out of necessity the board has been taking care of the lawns otherwise, the community would be unsightly. The common space will not be turned over to the HOA until early 2017 when the construction is finished. The Park Place Developers contributes \$50 per month for each lot for maintenance necessary for mowing on those lots.

While the stormwater management easement inspection and maintenance agreement was signed between Park Place Developers and the City in 2012, the board of directors did not know about it until the neighborhood compatibility meeting in September 2015. No inspections reports were filed and the board of directors were not notified of any deficiencies of the system.

In looking at the complete stormwater system, they found the four water retention basins have problems and need repairs. There is damage to landscaping areas on of which is the area feeding into the basins. If not repaired, the basins won't function properly.

In addition, water pools for days behind several houses, which presents a health issue – mosquito breeding, etc. Water stands at a porch in another area, which could cause damage to the property. The water is not draining correctly into the overall stormwater system.

As a condition to granting the special use permit, the Towne Place Homeowners Association respectfully requests that Park Place Developers be required to remediate the entire system in accordance with best management practices used by the City and North Carolina. If they comply with the standards and requirements set out by the City Engineer, and correct all deficiencies, the remedies should be inspected by the City before approval and any additional issues should be identified and corrected, and a final inspection by the City.

He has received some estimates from a contractor and for the entire system the cost is approximately \$35,000. Council Member Miller asked if that would address the pooling and other issues. Mr. Shelton stated yes, but there could be other problems.

Mayor Volk asked if anyone else wanted to speak in favor of the project. No one else expressed a desire to speak. Mayor Volk asked if anyone wanted to speak in opposition to the project. No one expressed a desire to speak. Mayor Volk asked for general questions. There was none.

Mr. Connet asked to hear from City staff and Mr. Luther Smith.

Mr. Luther Smith, Luther Smith and Associates, provided the following information to the Council:

Their office was the original designer of Town Place and worked with the developer. He stated the developer was required to complete all of the stormwater elements which were inspected and approved by City. He stated it has been several years and they have not been involved with Towne Place.

He received a call from Mr. Winson who stated they received a letter from the City indicating the stormwater system was out of compliance and had not been inspected. He was asked to look at it and make recommendations.

He did that and found there are four basins that comprise the system, none of which appear to have had any maintenance for a number of years. He stated the maintenance is one issue, specifically of those basins. He also noted the general maintenance of the grounds which are exasperating the problems with the basins. There are various soils especially in wooded areas. When the basins were completed, they had grass bottoms but due to the lack of appropriate nitrogen and lime on an annual basis, it has disappeared and now three are only mud, and the main basin has some turf but it is not well established.

He was asked to make a list of what needs to be done to bring the basins back into compliance and he has done that. He was also asked to contact some contractors to get estimates for the appropriate work. He has contacted two contractors and has received a bid from one. He will provide that information to Mr. Winson and a decision will be made on how to proceed.

Mayor Pro Tem Caraker asked if the quotes he is obtaining will address all of the homeowner's association concerns and bring the system up to the original special use condition. Mr. Smith stated Mr. Shelton mentioned the entire drainage system and not just the stormwater system. He stated there are underground drains and pipes most of which were not on the original plan. Mayor Pro Tem Caraker asked if the repair of the basins and the

finished grade to make those work are in the quote. Mr. Luther Smith stated yes. He stated they walked the property and looked at other areas where water builds up and doesn't drain. He stated there are other remedial measures. Mayor Pro Tem Caraker asked if the area drains were addressed. Mr. Luther Smith stated the main problems result from piping downspouts, etc. He stated the main area drains that were installed as part of original system need some maintenance but are where they are supposed to be and do what they are supposed to do. Mayor Pro Tem Caraker asked if the special use permit is approved, will Park Place developers be responsible for having annual inspections going forward. Mr. Luther Smith stated there needs to be annual maintenance on the basins to keep the catch basins cleaned out, etc. Council Member Miller asked if that is the responsibility of the homeowner's association. Mayor Pro Tem Caraker commented not until it is decided to the homeowner's association. Council Member Smith asked if there was any question when the original system was built that there had to be annual maintenance and in Mr. Luther Smith's observation, it has not been done at all. Mr. Luther Smith stated it appears that it has not.

Council Member Miller asked if no inspections nor reports were done and filed with the City for three years. Mr. Detwiler stated the Engineering Department has a small staff. A letter was issued to the developer in 2013 to remind them it was late but it unfortunately there was no follow up. Council Member Miller asked what action could be taken by the City to force the issue. Mr. Detwiler explained the stormwater ordinance has teeth because if nothing is done and the owner is notified, the City can do the work or hire it done and charge the developer. He stated this is usually initiated by complaints but they have not had any complaints. Council Member Smith questioned whether or not the homeowners would have known to complain to the City. Mr. Detwiler stated yes, the Engineer Department received other complaints. Council Member Miller asked how to correct this going forward. Mr. Detwiler explained an intern has been provided this year and is working on this issue. He is developing a data base and letters will be sent out on a rotating basis so staff can get a better handle on this. He stated they have been building sewer lines, Main Street rehab, greenway, etc., and have not dedicated the time to do this but they will get a better handle on this and follow up. He stated ultimately, it is the property owners' responsibility. He stated the City has had maintenance agreements since 2007 with the Phase II stormwater requirements and includes stormwater best management practices (bmps) since 2007 (approximately 25-30 individual projects). Mayor Pro Tem Caraker suggested sending a letter and a field inspection after six months. Council Member Smith asked if the report is from the property owner or an entity that inspects the system. Mr. Detwiler replied it could be either. He stated the bmp is recorded and stays with the property. He stated the maintenance agreement is written so it can come from the professional who is inspecting or the property owner. He stated a state certification is required for the inspection. Council Member Smith asked how does staff know that the report reflects reality. Mr. Detwiler stated staff follows up with a site visit.

Council Member Miller asked Mr. Shelton if there is a homeowners' association. Mr. Shelton stated yes and they have been maintaining the property with mowing. Council Member Miller asked if there are issues, shortcomings or breaches that the original group was responsible for that have put a burden on the homeowners that may possibly be addressed during this review. Mr. Shelton replied they attempted to address building deficiency issues which exceeded \$50,000 in May 2014 with an attorney in Florida. He stated the attorney's response was that all the money had been taken out of Dan Young's account and there was nothing to pay out to address deficiencies. He stated Mr. Young was tragically killed in an automobile accident. He stated they considered a law suit at that time but the bottom line was it would cost more for a law suit with the estate than to repair the deficiencies.

Mayor Pro Tem Caraker asked Attorney Winson if his clients are willing to present an annual report until the common area is turned over to the homeowners' association. Mr. Winson stated there is no doubt that they will. He stated it is his understanding they want to get it done as quickly as possible. He stated they would have no objection to making it a condition to Certificate of Occupancy to complete the stormwater system and maintain it. He stated the developer agrees with that. Mayor Pro Tem Caraker asked how that compares with the list of homeowners' deficiencies. Attorney Winson stated he understands the dispute between some homeowners and the developer has to do with certain construction issues. Mayor Pro Tem Caraker stated he is speaking of stormwater and the water running off from the common area and into the stormwater system. He asked if the developer is willing to address that. Attorney Winson stated he cannot answer that question. Mayor Pro Tem Caraker stated that should be included in the bid. Mr. Winson stated he doesn't know of any actual damage but he will look at it. He stated hopefully they can get it done as quickly as possible. He stated they want to close the estate and complete the project. He stated he spoke to Mr. Shanahan. He stated he is working with Mr. Smith and they will hire a contractor to do that.

Mayor Pro Tem Caraker asked if it is reasonable to have the stormwater repairs done before permanent power is approved for the units. Mr. Winson stated that is their goal. He stated they do not want to double up. He stated if the basin is fixed now, it will have to be redone. He stated they will do part of work, work with homeowners' association and they are prepared to escrow funds to cover that. Mr. Ayres will contribute to that.

There were no further questions. The public hearing was closed at 6:48 p.m.

Mayor Pro Tem Caraker moved the City Council approve the application of Park Place Developers, 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 with the following condition: That the City not issue a certificate of occupancy with respect to the requested additional structures while both of the following remain uncompleted:

1. An inspection of the Towne Place stormwater system and the delivery to the City Engineer of a written report of the inspection by a person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice, inspection and maintenance, detailing at least all needed modifications, repairs and other actions with respect to the stormwater system; and
2. Completion of the repairs listed in the report, approved by the city engineer or his designee. Council Member Stephens asked if this addresses putting funds into an escrow account. Mayor Pro Tem Caraker stated they will not get permanent power until the work is done. **A unanimous vote of the Council followed. Motion carried.**

8. Quasi-Judicial Public Hearing - Consideration of a Request to Amend a Special Use Permit from the Housing Assistance Corporation for Oklawaha Village Located off North Main Street (File #P15-58-SUR): Mayor Volk reminded those in attendance of the quasi-judicial proceedings. Quasi-judicial hearings differ from regular public hearings in that interested persons have the following rights: to cross examine witnesses, to present evidence, to inspect documentary evidence presented against them, and to be afforded all the procedural steps set out in the pertinent ordinance and statute. She explained the City Council may only consider factual information and/or expert testimony and may not consider feelings or opinions when making a decision on the issue.

Mayor Volk asked the members of City Council to announce any contacts concerning the application that are not included in the file. There was none. Mayor Volk asked the members of City Council to announce any conflicts of interest they may have pertaining to this 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 on the application. There was none.

Mayor Volk asked those wishing to speak to come forward to be sworn in. Four persons were sworn in to provide testimony.

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

The City is in receipt of an application to amend a Special Use Permit from Housing Assistance Corporation for the Oklawaha Village development located on North Main Street. This project was approved by City Council at their regular meeting on March 5, 2015. The applicant has made the following modifications to the approved Preliminary Site Plans and has submitted those plans for approval:

- the addition of a 12-unit multi-family building,
- the office/community building is relocated to the east,
- single family lot #5 will now be used for open space and includes a playground and
- an increase in multi-family units from 66 to 78.

Review and Approval: Generally, minor modifications to approved Preliminary Site Plans are only subject to staff review and approval. Section 7-6 of the Zoning Ordinance does not allow staff to approve modifications that exceed 10% of the preapproved 84 dwelling units. Therefore, an amended Special Use Permit approved by City Council is required.

This parcel is approximately 18.3 acres and will have a total of 78 multi-family units, 17 single family lots, a 2,214 square foot office/community building and a 4,200 square foot office/support building. The Preliminary Subdivision Plat for the single-family lots has been approved by the Planning Board and the applicant is currently seeking Final Subdivision Plat approval. The following parcels are part of this application.

9569-84-2437	9569-85-1371	9569-85-2234	9569-85-3107	9569-85-3170
9569-85-4043	9569-84-5809	9569-84-5729	9569-84-5649	9569-84-5650
9569-84-5469	9569-84-5337	9569-84-4409	9569-84-4610	9569-84-4701
9569-84-2985	9569-85-2013	9569-85-1151	9569-85-0280	9569-75-9397
9469-85-1339				

Existing Land Use & Zoning: The parcels included in this application are largely vacant. A vacant single-family residence fronts on North Main Street and there are a couple of vacant accessory structures also located on the site. He revised the surrounding zoning districts. The project site is currently zoned Planned Residential Development. The applicant is not seeking any changes to the existing zoning.

Comprehensive Plan Consistency: The parcels included in this application are classified as Medium Intensity Neighborhood and Natural Resource/Agricultural on the 2030 Comprehensive Plan's Future Land Use Map. Surrounding parcels are classified as Medium Intensity Neighborhood and Natural Resource/Agricultural.

Plan Review: The site plan includes six multi-family buildings with a total of 78 units and 90,654 square feet on the western portion of the site. The eastern side of the property is where the 17 individual single-family lots are located. There is 2,214 square foot office/community building, including an office, community room, craft area, laundry and mail area located centrally. A 4,200 square foot "future" office/support building

located along N. Main Street at the entrance to the site. There is a park and playground area. The main change is a new building added. The community building has shifted to the east and to the south is the playground/open space that was a single-family lot.

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

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

(B) Water and sewer service is intended to be extended to the site.

(C) No variances are requested.

(D) A neighborhood compatibility meeting concerning the application was held on January 14, 2016. Notice was provided by U.S. mail to the owners of record of all property situated within 400 feet of the subject property as required by Section 7-4-4.1 of the Zoning Ordinance. One person representing the general public attended the meeting. No concerns were raised. He provided a copy of the neighborhood compatibility report.

(E) The parcel is classified in the 2030 Comprehensive Plan as Medium Intensity Neighborhood classification and is intended to “provide a transition between High and Low- Intensity Neighborhood areas, while providing a wide range of housing formats and price points and promote walkable neighborhood design that creates attractive and functional roadway corridors and multi-family residential neighborhoods.”

The lower portion of the site is classified in the 2030 Comprehensive Plan as Natural Resource/Agricultural classification. No development is intended for the locations that are classified as Natural Resource/Agricultural. The applicant has mentioned that a trail may be added to these locations in the future.

The Comprehensive Transportation Plan does not indicate any improvements to N. Main Street at this time.

Planning Board: The Planning Board took this matter up at its regular meeting of February 8, 2016. The Planning Board voted unanimously to recommend City Council approve the application of Housing Assistance Corporation for an amended Special Use Permit based on the site plans submitted by the applicant.

Mayor Volk opened the public hearing at 7:04 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning.

Mr. Don Daines asked Mr. Luther Smith to present the amendments to the site plan.

Mr. Luther Smith, Luther Smith and Associates provided the following testimony:

He reviewed the site plan showing the approved plan. Funding for the multi-family portion of the site was by tax credits. He reported the Housing Assistance Corporation was not selected to receive those funds. He explained they had to go through the market process for funding but it lifted some restrictions. Tax credit funding would have limited the number of one-bedroom units or the combination of units. He stated the current funding source gives the opportunity to tailor the units to the community. He stated the only difference is the change in building styles. They are requesting a new building. They decided lot #5 was no longer needed as a single-family lot and it will be made part of the park and open space. They increased the common open space, playground, area etc. He stated the number of units are increasing but the mix better fits the needs of the community. The staff is working with the owners of the single-family lots and have named the park “Gadugi” which means “let’s all do this together” in the Cherokee language.

From a planning standpoint, this is a good opportunity. There will be a lot of three- and four-bedrooms units.

Council Member Miller asked what the difference is in the total number of people served. Mr. Daines did not have the information but stated they shifted the three-bedroom units. He stated a total of 243 people will be served. He stated the one-bedroom units generate lower rent. This is a mixed-income development and all 78 apartments will be rented at rates lower than the market. Twenty percent will be for families earning 80 percent median income and lower. He stated this is a mixed-income business model that allows them to meet the debt service coverage ratio required by the lenders in the market. Their non-profit mission is to make all 78 apartments affordable for families of lower income.

Council Member Stephens asked if the rent is based on their income. Mr. Daines stated they have three price points for one-bedroom, three price points for the two-bedroom and three price points for the three-bedroom. He stated the applicants must qualify based on income. He stated the rents are based on the income level for which they qualify. He stated it is a mixed-income formula which allows them to do this in a self-sustaining way to create affordable units and still meet the market demand. Council Member Stephens stated it will be more responsive to the needs of people. Council Member Smith asked if all 78 units are considered affordable housing. Mr. Daines stated they are pricing the maximum rent at 90 percent of median income. Affordable housing has different meanings but their concept is 80 percent of media income affordability and there are tiers below that for low and very-low income. Council Member Smith asked if the rent amount changes when their income increases. Mr. Daines stated no, they could remain even if they win the lottery. He stated their goal is to create a stable home environment so individuals and families feel like they have a place where they can stay and afford it. It is code compliant and safe and provides an integrated community. He stated they are pleased with location because it is close to downtown.

Mr. Connet asked if a resident files an application and their income is in a lower bracket and their rent is based on that level, if their income increases, does the rent increase. Mr. Daines stated no but any new applicant would have to qualify. He stated they want to encourage people to go to college, get better jobs, save money, etc. He stated they may choose to do a self-help single-family homes.

Mayor Volk asked for additional questions for if anyone else wanted to speak.

Pegg Doody, 156 Yon Hill Road, stated she was not sent a notice for the January meeting but did get a notice for this meeting. She expressed concerns about the infrastructure. Yon Hill Road very exciting road with an uphill grade. She stated the site lines are terrible. She is concerned about the amount of traffic.

Mr. Daines stated he shares the concerns. He explained the trip generations were not enough to require a traffic impact analysis (TIA). He stated they worked with NCDOT who reviewed and approved the project without the installation of a right-turn lane. He stated they worked to address concerns. There was discussion between Mr. Daines and Ms. Doody.

Mayor Volk commented traffic is always an issue. NCDOT believes the modifications will help the situation. Mayor Pro Tem Caraker shared that the Balfour Parkway will eventually connect I-26 to Clear Creek Road, to Mountain Road and Highway 191 and will move a lot of traffic. He stated the first project is a new interchange on North Main Street. Ms. Doody commented on the number of vehicles per unit.

The public hearing was closed at 7:23 p.m.

Mayor Pro Tem Caraker moved City Council to approve the application of Housing Assistance Corporation for an amended Special Use Permit based on the site plans submitted by the applicant. A unanimous vote of the Council followed. Motion carried.

9. Public Hearing - Consideration of Final Plat Approval for Oklawaha Village: Mr. David Hazzard, Senior Planner, presented a final subdivision plat for Oklawaha Village for Council's consideration. He reported the Planning Board approved the preliminary plat portion of the project at their meeting on November 16, 2015. The preliminary subdivision plat consists of 18 single-family lots, one office-support building lot, one lot dedicated to storm water and one lot for the multi-family portion. The applicant is requesting final plat approval prior to all infrastructure being completed.

Mr. Hazzard explained Section 604.2 of the Subdivision Ordinance allows the subdivider to obtain final plat approval prior to the completion, installation and dedication of all improvements provided an agreement is entered into with the City and a guarantee is secured to cover the costs of the improvements at a rate of 1.25 times the estimated cost.

Mr. Hazzard stated the applicant has received individual City Department approval of all estimates for sewer, water, paving and stormwater improvements and the amount of the guarantee is \$993,798.00. City Council approved the performance bond at their February 4, 2016 meeting with the condition that the performance bond be approved by the City Manager, City Attorney and the City Engineer. He provided current copies of the individual performance bonds stating they have been approved as to form by the City Attorney and City Manager.

Final Subdivision Plat Review: The Oklawaha Village final subdivision plat is for 21 lots and matches the preliminary plat approved by the Planning Board. The lots will be accessed by a 24-foot wide public road with sidewalks on both sides with the multi-family lot of the Special Use Permit having internal private roads with three access points from the public road. All buildings will have public water and sewer. All buildings will have pedestrian sidewalk connections within the project and a sidewalk is propose along the property fronting on North Main Street.

Mr. Hazzard reviewed the requirements found in Section 605.1 and stated the Development Assistance Department staff have reviewed the final plat for conformance with Appendix D and reported the Planning Board voted unanimously to approve the application of the Housing Assistance Corporation for a 21-lot final subdivision plat.

Mayor Volk asked for any comments from the public. There was none.

Mayor Pro Tem Caraker moved City Council to approve the application of the Housing Assistance Corporation for a 21-lot final subdivision plat. A unanimous vote of the Council followed. Motion carried.

10. Consideration of Request to Waive System Development Charges: Ms. Cheria Duncan addressed the Council stating she is planning to purchase Whitesides Green Acres Mobile Home Park. The mobile home parks serves citizens aged 55+ and is located off Sugarloaf Road. She asked the Council to consider waiving the system development charges for connecting the mobile home park to the City's sewer system.

Ms. Duncan, stated they tried to purchase the property in 2007 but were not successful. She stated the mobile home park is in desperate need of renovation. The property continues to decline and is barely sustainable due to disadvantaged septic systems. She stated this forced the residents to relinquish their washing machines and many have vacated the property. She stated they found this information at the Health Department. She found letters as far back as 1999 asking residents to remove washing machines but the best long-term solution is to connect to City's sewer system.

Ms. Duncan stated their goal is to greatly improve the integrity of the community with new signage on the road, bringing in new doublewide manufactured homes which will be offered for a price point of under \$100,000, and the resident will be paying a lot rent between \$300-\$340/month and will include water and sewer, trash pickup, yard maintenance and planned activities. She stated the expense associated with the installation of the system is excessive: \$100,000+ not including the system development charges. This is based on estimated costs associated with the critical improvements. She stated it would greatly help them in moving forward with making the park affordable and safe for the senior population.

Mayor Pro Tem Caraker asked if the mobile home park is currently on City water. Ms. Duncan stated yes. Mayor Pro Tem Caraker asked if they are willing to be annexed. Ms. Duncan stated yes. Mayor Pro Tem Caraker asked if the homes will be sold to individuals who will pay lot rent. Ms. Duncan stated yes.

Mayor Pro Tem Caraker asked if the failing septic system was a surprise after they offered to purchase the property. Ms. Duncan stated yes it was. There was discussion of the cost of the system development fees that will be charged to connect to the system: \$26,350.

Mayor Pro Tem Caraker commented waivers of system development charges are usually granted for non-profits. Mr. Connet stated he contacted the Health department and learned there is septic tank problems at the park as a result of the density and no green space. There was discussion of another project nearby at least three times larger that has the same problem. They are discussions with the utility department regarding the connection with system. The City has not received a request for a waiver of those fees at this time. Council Member Miller commented Council cannot approve a waiver without a lot of thought and staff investigation. Mayor Pro Tem Caraker commented the Council cannot set a precedent for those others than non-profits. He stated this is not in the same category as Habitat for Humanity or Housing Assistance Corporation. Mr. Connet suggested staff research options and report back to the Council at their next meeting.

There was discussion of affordable housing which is a relative term. **No action was taken by the Council.**

11. Presentation on Southside Stormwater Study: City Engineer Brent Detwiler explained at the January 7, 2016 City Council Meeting, the South Market Village development project was reviewed and the Special Use Permit approved. Stormwater and potential flooding concerns were discussed during the public hearing. One of the items discussed involved a City-owned parcel adjacent to the South Market Village development and the potential to use this property to attenuate flooding in the area. The Engineering Department was asked to work with the developer as necessary and look at the feasibility of using the City-owned property to help with south side area flooding.

Mr. Detwiler provided maps with digital elevation models and reported staff has begun a Southside Area Stormwater Study to look at the entire area and determine what measures could be taken to help alleviate flooding.

Mr. Detwiler stated most of City's property is in the floodway. Staff has been in contact with the Publix Engineer and they have been working on their no-rise certification and believe their situation is worked out. Staff will continue looking at the parcel and the area in general which will require leg work and the scope may be expanded upstream.

Mr. Connet explained the concept is the City owns two large pieces of property with conservation easements that have purposely been left vacant. He stated staff feels it is a better approach to look at the entire drainage basin. Mr. Detwiler explained Civil Engineer Brendan Shanahan will be looking at existing land use and land cover and import detailed data into the model that came from the State. He stated the State has modeled the 10-year, 50-year, 100-year and 500-year storms. They will use the data to calculate flow rates to develop a new hydraulic model to a greater scale and see flood elevations for minor 1-year, 2-year and 5-year storm events. This will show the best use of the City's property. The information will be used to determine how much flow can go into the property, the affect it would have, etc.

Mr. Detwiler estimated the model could possibly be done by June or July. There was discussion of the study.

Council Member Smith asked if there are any sources of funding available for managing floodways. Mr. Detwiler Clean Water State Revolving Fund has funding for green projects and the City may potentially get a no interest loan for the project and there may be other grant opportunities. Discussion followed on the Ingles and Publix projects and drainage and the potential for improving the flooding of the area. **No action was taken.**

12. Consideration of Revisions to Parking Permits: Mr. Lew Holloway, Downtown Economic Development Director, provided some recent history of parking downtown beginning late summer 2013 with a workshop and survey focused on identifying existing challenges and potential solutions. He reviewed the survey results: there are two major user groups: shorter-term, intermittent user and long-term, regular users five to seven days per week. Other results from the survey included: total supply of parking, employee parking in public spaces, looking for better and more efficient parking management solutions. He reviewed the solutions that staff has been pursuing those intermittently.

Mr. Holloway explained Dixon Resources Unlimited was hired to look closely at the issue. He stated following the consultant's findings, the City changed the parking rates, adopted a new penalty, developed a parking information rack card, and hired ambassadors. He stated staff has been looking for ways to address downtown parking challenges.

Mr. Holloway discussed why permit changes are necessary: to manage resources, maximize utilization and manage costs. He reviewed the permit discussion and stated the City conducted a survey of existing permit holders in 2015 which suggested 20 percent are willing to pay an increased fee for a leased space within the MSD, 80 percent opposed any changes. Less than 50 percent appeared willing to accept an alternative permit in the Dogwood Lot. Only approximately 13 percent of permit holders responded to the survey.

Mr. Holloway proposed the following:

- Grandfather Interior (inside the MSD): increase fee from \$30 to \$60
 - Available only to existing interior lot permit holders.
 - Maintains current 24/7 access to an assigned space.
 - Only change for current permit holder is the increased fee.
- Grandfather Exterior (outside the MSD): fee of \$50
 - Available only to existing exterior lot permit holders.
 - Maintains current 24/7 access to an assigned space.
 - Only change for current permit holder is the increased fee.
- Standard Interior (inside the MSD): \$30
 - Available to existing interior lot permit holders. Depending on availability would be offered to new permit applicants in the future.
 - Offers designated "Permit Only" spaces 8 a.m. to 6 p.m. Monday through Friday.
- Standard Exterior (outside the MSD) - \$15
 - Available to existing exterior lot permit holders. Depending on availability would be offered to new permit applicants in the future.
 - Offers designated "Permit Only" spaces 8 a.m. to 6 p.m. Monday through Friday.

Mr. Connet explained this is a starting point for discussion and staff is not asking for a decision by the Council. He reported there will be a meeting with the stakeholders on March 23. He reported staff has already been utilizing the "S" permit with metered spaces in the Dogwood Lot that were not being used. He stated they began with issuing 20 "S" permits at \$10/month and increased the number of permits based on the waiting list. He stated over the last nine months, the waiting list has been kept at zero. There are now 35 permits for these spaces in the Dogwood Lot which keeps those from parking on Main Street and makes parking available for visitors. He stated the Dogwood Lot continues to experience 60 percent occupancy. He stated staff has seen success with the "S" permits. He asked Council to consider taking the next step to encourage those who do not need the 24/7 spaces to relinquish them and thereby building capacity for after hours, weekends, etc.

In discussion, Council Member Miller commented on increasing fees incrementally even if the permits are grandfathered and handicapped spaces. Council Member Stephens expressed concerns for parking for downtown residents which may affect the value of the property, and how these are patrolled or enforced. Mr. Holloway commented the intent is not to enforce. He stated staff's responsibility will be to pay attention to use of lots and try to keep it at 80 percent. He stated there is the appearance of under-utilization.

The Council also discussed the Apple Lot and Skyland's expectation of parking spaces and the under-utilization of those spaces at times and parking spaces for downtown residents.

Mr. Connet commented staff will seek input from stakeholders and develop reasonable rates. He stated staff would like to a decision for the upcoming fiscal year. **No action was taken.**

13. Consideration of Special Event Permit for the 2016 Rhythm and Brews Concert Series: Mr. Holloway reported the Downtown Advisory Committee is requesting a Special Event Permit for the 2016 Rhythm & Brews Concert Series. The five concerts will take place on the third Thursday of each month, May through September. He reported the only significant change is relocating the event from the Azalea Lot location used over the previous three years to the south end of Main Street between Caswell/Kanuga on the southern end and Allen Street on the northern end. He explained approval of the special event permit for Rhythm & Brews includes the sale of alcohol.

Mayor Volk asked about the boundary of the area defined for alcohol. Mr. Holloway explained the area will be bounded by a combination of adjacent properties, barricades, fences and tents.

The Council expressed no opposition to the change in location for Rhythm & Brews.

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

15. Reports from Staff: There was none.

16. Consideration of Appointments to Boards and Commissions:

Planning Board: City Clerk Tammie Drake reported a vacancy on the Planning Board due to the resignation of Mr. Michael Coggins. She presented the applications on file. **Council Member Miller nominated John Coker for the unexpired term on the Planning Board. A unanimous vote of the Council followed. Council Member Stephens agreed, will be an asset. Motion carried.**

Seventh Avenue Advisory Committee: City Clerk Tammie Drake reported the terms of Ron Kauffman, Jim Kastetter and Farrell Beam will expire in April. All are at-large positions. Neither Mr. Beam or Mr. Kastetter are seeking reappointment. Mr. Kauffman would like be reappointed. She presented the applications on file from Diane Caldwell and Sheryl Fortune. **Mayor Pro Tem Caraker nominated Mr. Kauffman and Sheryl Fortune. A unanimous vote of the Council followed. Motion carried.**

Business Advisory Committee: City Clerk Tammie Drake reported the terms of Cam Boyd and Rhonda (Brissie) Chislaghi will expire March 2016. Both members would like to continue serving. **Council Member Stephens moved to reappoint both Mr. Royd and Ms. Chislaghi. A unanimous vote of the Council followed. Motion carried.**

Announcements: Mrs. Drake announced the following vacancies:

Board of Adjustment: There is a vacant alternate position due to the resignation of Ms. April Thompson. There are no applications on file at this time.

Historic Preservation Commission: There is a vacancy on the HPC due to Jo Tyler's resignation. There are no applications on file at this time for the HPC.

Environmental Sustainability Board: There are five City resident positions and two of those are vacant.

17. New Business: There was none.

18. Adjournment: Being no further business, the meeting adjourned at 8:45 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk