

April 7, 2016
Regular Meeting of the City Council
Assembly Room – Operations Center
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, 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.*

Heather Boeke, Hands On!, 318 N. Main Street, introduced Kimberly Brewster, and shared success stories from Hands On! She expressed appreciation to the Council for their support.

4. Consideration of Agenda:

Addition:

06a. Consideration of Request for Special Appropriation to ECCO

18b. Additional Purpose for Closed Session to Discuss Possible Settlement of Law Suit

Deletion:

10. Consideration of Request from Ms. Cheria Duncan for the Waiving of System Development Charges

Mayor Pro Tem Caraker moved City Council's approval of the agenda with the listed amendments. 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. March 3, 2016 Regular Meeting and
- ii. February 11, 2016 Special Meeting

B. Consideration of Budget Amendment: NCDOT Reimbursement for Utility Relocation: Mr. Pahle presented the following budget amendment:

Fund: 60

An amendment of \$262,396 for NCDOT reimbursement for utility relocation associated with the Upward Road project (second installment).

C. Consideration of Personnel Amendments:

i. Pay Grade for Deputy Fire Chief Position: Fire Chief Joseph Vindigni requested the Deputy Fire Chief position be reclassified as a Grade 20 salary range instead of the current grade 18 to be consistent with similar positions in the City.

ii. Create Senior Planner Position and Eliminate Planning Director Position: City Manager John Connet requested the reclassification of the Planning Director, grade 24, position (currently vacant and will not be filled) to a Senior Planner, grade 17, position. After the merging of the Planning and Zoning Departments there is no longer a need for two director positions. The Development Assistance Director position will remain as the head position of that department. The Planning Director job description will be eliminated, and replaced with a Senior Planner job description.

D. Consideration of Contract with a new Financial Audit Firm: Ms. Lisa White, Finance Director, reported the GFOA recommends auditor rotation at least every five years, per their best practices guidelines. She reported the City has used Carland for more than 40 years. Staff issued a Request for Proposals for audit services. Six firms responded: Carter P.C, (Asheville), Gould Killian, (Asheville), Greene Finney & Horton,(Asheville & SC),Cannon & Co, (Winston-Salem), Bernard Robinson,

(Greensboro), RSM, (Greensboro). Carland & Anderson did not submit a written proposal; however, Terry Anderson offered to continue services at the same rate as the previous year. No other Hendersonville firms responded.

Ms. White reported an Audit Firm Selection Committee was formed. After review of qualifications, checking references and comparison of price, the committee and the City Manager recommend Greene, Finney & Horton (Asheville office), who had highest qualifications score and was the lowest bidder.

Ms. White reported the City intends to continue the relationship with the auditor for no less than three years on the basis of annual negotiation after the completion of the first year contract. Council approval will cover the period of the current fiscal year only. *[The Agreement is on file in the office of the Finance Director.]*

E. Consideration of an Amendment to the Fee Schedule for Patton Pool Passes: Public Works Director Tom Wooten requested the following increases for passes to Patton Pool beginning July 2, 2016:

- Punch Pass - Adult - City Resident (15 Admissions) – an increase from \$30 to \$38
- Punch Pass - Adult - Non-City Resident (15 Admissions) an increase from \$50 to \$60
- Punch Pass - Youth - City Resident (15 Admissions) an increase from \$25 to \$30.

F. Consideration of a Resolution Authorizing the Tax Collector to Make Adjustments for Underpayments or Overpayments and to Set a Minimum Billing Amount: The Finance Department requested amendment of Resolution #97-0626 regarding minimal taxes. NCGS 105-357(c) sets the “small underpayment” amount to no more than \$1.

Resolution #16-0406

RESOLUTION AUTHORIZING THE TAX COLLECTOR TO MAKE
ADJUSTMENTS FOR UNDERPAYMENTS OR OVERPAYMENTS
AND TO SET A MINIMUM BILLING AMOUNT

BE IT RESOLVED by the City Council of the City of Hendersonville, pursuant to North Carolina General Statute 105-357(c), that the City of Hendersonville Tax Collector, as a function of that office, be authorized to treat small underpayments of taxes as paid in full and not to refund small overpayments unless the taxpayer requests a refund before the end of the fiscal year in which the payment is made. A “small underpayment” is a payment made that is no more than \$1.00 less than the taxes due.

MAY IT BE RESOLVED by the Council, pursuant to North Carolina General Statute 105-321(f), that the City of Hendersonville Tax Collector, as a function of that office, be authorized not to bill any taxpayer for, or otherwise collect minimal taxes in the amount of \$1.00 or less.

This authority shall be deemed to be continuing until rescinded by the appropriate resolution of this Council.

Duly adopted this April 7, 2016.

/s/Barbara G. Volk, Mayor
/s/Tammie K. Drake, City Clerk

G. Consideration of Easement Agreement with LaMond Properties, LLC, for Certain Tracts in the Azalea Parking Lot: City Attorney Fritschner reported the Azalea Parking lot repaving project involves acquiring the title to a portion of the underlying land to which the City does not currently own and which is subject to an easement held by LaMond Properties, LLC. He provided an agreement that relinquishes the current LaMond easement and gives back a more definite easement in the following clearly defined space.

Easement Redefinition Agreement
This DEED made ____ day of 2016, by and between
First Party: LaMond Properties, LLS, a North Carolina Limited Liability Company
Second party: The City of Hendersonville, A North Carolina Municipal Corporation

The designation First Party and Second party as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH, that the First Party, for a valuable consideration paid by the Second Party, the receipt of which is hereby acknowledged, has and by these presents does quitclaim, grant, bargain, sell and convey unto the Second Party all of the First Party's right, title and interest in and to that real property described as “18 parking spaces” in that document entitled “Fourth Amendment to Declaration of Condominium for Rosdon Mall Condominium” and recorded in Deed Book 1321 at page 345 Henderson County Registry, subject to the conveyance by the Second Party as herein provided.

AND the Second Party, for a valuable consideration paid by the First Party, the receipt of which is hereby acknowledged, has and by these presents does quitclaim, grant, bargain, sell and convey unto the Grantee, all of the Grantor's right, title and interest in and to an easement for ingress and egress and for the parking of motor vehicles in and over that land described herein in Exhibit A attached hereto and made a part of this document by this reference.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto attached in accordance with the terms of the easement as herein provided.

Subject to Restrictions and Easements of Record
Subject to rights of way of record.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed in their corporate names by their duly authorized representatives and their seals to be hereunto affixed, the day and year first above written.

First Party

LaMond Properties, LLC

By: /s/David N. LaMond, Manager (SEAL)

Second party

City of Hendersonville

By: /s/John F. Connet, City Manager

The real property conveyed herein consists of four separate tracts. These tracts will be described with respect to three separate points designated in this description as "reference points." The reference points are described as follows:

Beginning at a point on a building corner, the said point being the northernmost corner shown on Condominium Plat A-332A, and proceeding thence south 09 deg 08 min 54 sec east 123.95 feet to a point, the said point being the southwesternmost point of the City of Hendersonville tract described in Deed Book 894 at page 137 Henderson County registry, thence with the southern line of the said City of Hendersonville tract, thence North 81 deg 23 min 04 sec east 6.30 feet to a point, thence south 08 deg 28 min 29 sec east 2.60 feet to a point designated herein as "Reference point A", thence south 08 deg 28 min 29 sec east 42.16 feet to a point, thence north 87 deg 49 min 29 sec east 1.07 feet to a point, thence south 08 deg 58 min 43 sec east 2.29 feet to a point, the said point being designated herein as "Reference B" thence south 08 deg 58 min 43 sec east 59.34 feet to a point, thence north 81 deg 12 min 32 sec east 64.13 feet to a point, the said point being designated herein as "Reference point C".

Tract 1

Beginning at "Reference Point A" as designated herein above and proceeding thence north 83 deg 16 min 00 sec east 18.99 feet to a point, thence south 07 deg 56 min 07 sec east 43.87 feet to a point, thence south 81 deg 08 min 02 sec west 17.48 feet to a point designated herein as "Reference Point B", thence north 08 deg 58 min 43 sec west 2.29 feet to a point, thence south 87 deg 49 min 29 sec west 1.07 feet to a point, thence north 08 deg 28 min 29 sec west 42.16 feet to the point of beginning, containing 0.019 acres more or less.

Tract 2

Beginning at a point, the said beginning point lying south 08 deg 58 min 43 sec east 17.93 feet from the point designated herein as "Reference Point B" and proceeding thence north 81 deg 08 min 02 sec east 17.44 feet to a point, thence south 08 deg 51 min 58 sec east 25.78 feet to a point, thence south 81 deg 08 min 02 sec west 17.39 feet to a point, thence north 08 deg 58 min 43 sec west 25.77 feet to the point of beginning, containing 0.01 acres more or less.

Tract 3

Beginning at a point, the said beginning point lying south 81 deg 12 min 32 sec west 64.13 feet from the point designated herein as "Reference Point C", and proceeding from the said beginning point north 08 deg 58 min 43 sec west 8.13 feet to a point, thence north 81 deg 08 min 02 sec east 17.38 feet to a point, thence south 08 deg 51 min 58 sec east 8.15 feet to a point, thence south 81 deg 12 min 32 sec west 17.36 feet to the point of beginning, containing 0.003 acres more or less.

Tract 4

Beginning at a point, the said beginning point lying north 45 deg 14 min 00 sec west 10.89 feet from the point designated herein as "Reference Point C", and proceeding from the said beginning point south 81 deg 23 min 28 sec west 17.85 feet to a point, thence north 08 deg 31 min 19 sec west 94.45 feet to a point, thence north 82 deg 05 min 35 sec east 17.98 feet to a point, thence south 08 deg 26 min 32 sec east 94.23 feet to the point of beginning, containing 0.04 acres more or less.

H. Consideration of Adoption of Mission and Value Statements and Next Steps for

Hendersonville Water and Sewer: City Manager John Connet asked Council to formally approve the mission and value statements for the Water and Sewer System as well as the next steps for the system:

Mission Statement

Operate a great utility for our customers

- **Inside customers**
- **Outside customers**
- **Municipal customers**
- **Wholesale customers**
- **Industrial customers**
- **Etc., Etc. Etc.**

Value Statements

Our water utility exists to serve our customers.

We are committed to earning and maintaining public trust every day. We will be open, ensure access, encourage involvement and be accountable to our customers.

We are cost conscious. We spend public funds responsibly and effectively to ensure the utility's short and long term financial strength.

**We will have the highest standards for the quality of water & effluent.
We are committed to an affordable rate – keep price down & encouraging conservation.**

Value Statements

**We are committed to protecting our environment.
We are committed to protecting the water/sewer system from hazards.
We will have access to redundancy – contingency plans.
We will achieve the best results through effective teamwork, regional partnership and customer participation.
We are committed to proactive, comprehensive planning, to guide the future of our utility in response to the needs of our customers.**

Next Steps (External)

**Henderson County Water and Sewer Forum (tentatively scheduled for May 2016)
Share Stakeholder Information
Water and Sewer needs in Henderson County
Discuss creation of technical (staff) review committee
Continue to support all economic development activities
Willing to discuss partnerships if we are invited**

Next Steps (Internal)

**Water and Sewer Master Planning
Construct French Broad River Intake
Examine expansion and connection policies to support the goals of the City Council and Utility System**

- I. Consideration of a Resolution Authorizing the Application for a NC Department of Environmental Quality Division of Water Infrastructure SRF Loan to Fund a Multi-Area Streambank Restoration Project:** Engineering Director Brent Detwiler reported the NC Department of Environmental Quality Division of Water Infrastructure (DWI) is accepting State Revolving Fund (SRF) loan applications for streambank restoration projects. He stated this may be a good opportunity to fund improvements to several reaches of various streams throughout the City that are eroding and impacting existing infrastructure. This particular project is considered a "green" project by DWI staff and may have a high likelihood of being funded and in the form of 0% interest loans. He provided a required resolution in order to proceed with an application.

Resolution #16-0407

RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of stream restoration projects, and

WHEREAS, The City of Hendersonville has need for and intends to construct a Multi-Area Streambank Restoration Project, and

WHEREAS, The City of Hendersonville intends to request state loan assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE HENDERSONVILLE CITY COUNCIL:

That The City of Hendersonville, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State loan award.

That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the Applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Hendersonville to make scheduled repayment of the loan, to withhold from the City of Hendersonville any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.

That John F. Connet, City Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a grant to aid in the construction of the project described above.

That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the seventh day of April, 2016 at 305 Williams Street, Hendersonville, North Carolina.

/s/Barbara G. Volk, Mayor

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

- J. Consideration of a Resolution Authorizing the Application for a NC Department of Environmental Quality Division of Water Infrastructure Grant to Fund a Sanitary Sewer Asset Inventory and Assessment (Master Plan) Project:** Engineering Director Brent Detwiler explained the NC Department of Environmental Quality Division of Water Infrastructure is also accepting grant applications for Asset Inventory and Assessment projects. This is a new funding mechanism. Staff believes this may be a good opportunity to fund a Sewer Master Plan for the City, which is one of Council's two-year priorities. He reported up to \$150,000 in grant funds are available. He requested approval of a resolution that is required as part of the application process.

Resolution #16-0408

RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of asset inventory & assessment plans for sewer systems, and

WHEREAS, The City of Hendersonville has need for and intends to develop a Sanitary Sewer System Asset Inventory and Assessment (Master Plan), and

WHEREAS, The City of Hendersonville intends to request state grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE HENDERSONVILLE CITY COUNCIL:

That the City of Hendersonville, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State grant award.

That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the Applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the (unit of government) to make scheduled repayment of the loan, to withhold from the (unit of government) any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.

That John F. Connet, City Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a grant to aid in the construction of the project described above.

That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the seventh day of April, 2016 at 305 Williams Street, Hendersonville, North Carolina.

/s/Barbara G. Volk, Mayor

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

- K. Consideration of a Waterline Extension Agreement for extended service within the High Vista Community:** Mr. Lee Smith, Utilities Director, reported this project will require an extension of the existing water system to serve seven residential lots on Round Robin Lane, within the existing High Vista Community. This project will be paid for by High Vista Finance, LLC, of Jacksonville, FL. This project is within the jurisdiction of Mills River and has been reviewed and approved.

Based on this information, Mr. Lee Smith 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.

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

6. Recognition – Proclamation for “Week of the Young Child”: Mayor Volk presented a proclamation for “Week of the Young Child” to Ms. Elisha Freeman, Executive Director of Children and Family Resource Center. Ms. Freeman expressed appreciation to the Council for their support.

6a. Consideration of Request for Special Appropriations to Team ECCO: Council Member Miller requested Council's consideration of a special appropriation to Team ECCO to assist with recovering from a recent flooding event in their building. The aquarium brings visitors and students to the facility and to Main Street.

Ms. Brenda Ramer addressed the Council stating they are moving forward even though they suffered a large hit. They hope to reopen by the end of April. They lost nine of the 24 exhibits. The damages are approximately \$62,000, the loss of fish is approximately \$2,800, and live rock and live sand is approximately \$5,500. Insurance

does not cover the cost of replacing the fish or live rock and sand. Based on last year's income, they have lost more than \$9,000 in income in addition to a \$1,000 deductible. They have used their reserves. She stated their out-of-pocket costs are approximately \$16,000.

There was discussion of replacing the exhibits. Council Member Miller commented that the insurance company seems to be working slowly and sees the challenges. This is an opportunity to show support of a local business that has experienced devastation. Mayor Pro Tem Stephens commented the aquarium has a positive impact on Main Street and the economy.

Council Member Miller suggested a \$10,000 appropriation from the City. He stated this is a great opportunity to show support of the City after a disaster, not a bailout. Council Member Smith supported a donation of \$16,000-\$20,000 in support of children, students and the economic impact for Main Street. Council Member Miller stated he will issue a challenge to Henderson County and Travel and Tourism to commit to funding. There was discussion of measures taken to prevent flooding in the future.

Council Member Smith moved City Council to approve an appropriation, and associated budget amendment, to Team ECCO in the amount of \$20,000 to assist with recovering from flood damage. A unanimous vote of the Council followed; motion carried.

7. Presentation of Ninth Avenue Circulation Study by Kimley-Horn and Associates: Mr. Connet introduced Mr. Stephen Stansberry and Mr. Trung Vo with Kimley-Horn and Associates to present the results of the Ninth Avenue Circulation Study.

Mr. Stansberry explained this is a two-phase process. They are involving the community to identify the problems to assist in developing a strategy for improvements to this changing area. He stated school traffic circulation patterns are always a challenge.

Phase I: data collection from observations from participants, field work, and traffic flow observation and estimation of future traffic, concluding with remedies or methods for improvement for a diversity of stakeholder groups. He explained these are options, not recommendations.

Phase II: includes determining the effectiveness, the cost and the likelihood of implementation of options.

Mr. Trung Vo, expounded on five major categories of improvement options:

IMPROVE U.S. HIGHWAY 64 CROSSING SAFETY

- Install high-visibility crosswalks at US 64 and N. Whitted Street.
- Install high-visibility crosswalks at US 64 and Valley Street.
- Perform a turning movement count including both motor vehicles and pedestrians at US 64 and N Whitted Street to analyze for traffic signal warrants.
- Periodically enforce 20 mph posted speed limit during school zone hours.
- Coordinate school delays and early releases to ensure flashing school zone signs activate accordingly.
- Realign US 64 and N Oak Street to create a traditional 4-leg intersection and analyze for traffic signal warrants.

IMPROVE WALKABILITY AND BIKABILITY

- Repair and regularly maintain existing sidewalks on Ninth Avenue.
- Plan and execute Walk to School Day and Bike to School Day events.
- Install bike racks at the elementary and high schools if requested. The Blue Ridge Bicycle Club may provided assistance.
- Construct sidewalks to fill-in sidewalk gaps on N. Justice Street and Fleming Street south of Ninth Avenue.
- Explore the potential for a bike boulevard along N. Whitted Street.

IMPROVE N WHITTED STREET TRAFFIC FLOW

- Restrict on-street parking on the west side of N. Whitted Street with signage and enforcement, pending resident support.

IMPROVE SCHOOL CIRCULATION

- Investigate the southbound one-way conversion of Orleans. Orleans is narrow with a severe grade, with support from the residents, this could be possibly converted to one-way, southbound.
- Enhance communication with parents to clarify designated drop-off and pick-up locations.
- Enhance communication with residents to inform them about delays and early releases.

IMPROVE ASHEVILLE HIGHWAY AND N. CHURCH ST

- Conduct traffic analysis of Asheville Highway and N Church Street from Fleming Street to N Main Street.
- Analyze the impact on nearby intersections resulting from the closure of 9th Avenue between Oakland Street and N. Church Street.

Mr. Vo stated next steps include traffic analysis, traffic impacts along Asheville Highway, develop conceptual illustrations, conduct a second stakeholder meeting with suggested options, and provide a briefing to the City Council and produce a technical memorandum to summarize their work.

Council Member Smith expressed a concern about the amount of traffic associated with the opening of the Health Sciences Building. Mr. Stansberry stated the model will include some forecasting and the analysis will be forward-looking. They expect to return by the end of June and brief the City Council in July. The stakeholders meeting has not yet been scheduled. Mayor Volk expressed appreciation for the update. **No action was taken by the Council.**

8. Public Hearing – Consideration of Applications from Henderson County for the Rezoning of Two Parcels located on N. Oak Street Across from the Joint Health Education Center from R-6 High Density Residential to MIC Medical, Institutional, Cultural: Senior Planner Dave Hazzard reported the City has received two applications dated February 12, 2016, for a zoning map amendment. The applicant and property owner is Henderson County. The applications are for parcel numbers 9568-49-7242 and 9568-49-7136 and consist of .23-acre, located on N. Oak Street. The requested change is from R-6 High Density Residential to MIC Medical, Institutional, Cultural.

Surrounding Land Use & Zoning Classification: The two parcels in the proposed rezoning request are currently developed with a single-family dwelling on each lot. He reviewed the zoning of the surrounding parcels.

Comprehensive Plan Consistency: According to NCGS 160A-383, zoning map amendments must be made in accordance with a comprehensive plan. The 2030 Comprehensive Plan's Future Land Use Map designates these parcels as Urban Institutional. He reviewed the purpose, the primary and secondary recommended land uses for that category.

Analysis: He reviewed the dimensional requirements for the zoning district classifications. The individual lots do not meet the minimum lot area for the MIC and will have to be combined. He also reviewed the permitted and conditional uses in R-6 and MIC.

Planning Board Recommendation: Mr. Hazzard reported the Planning Board recommended approval of the zoning map amendment finding that the rezoning is consistent with the Comprehensive plan, is reasonable and in the public interest because it benefits the community.

Mr. Hazzard reviewed the guidelines contained in Section 11-4 of the City's Zoning Ordinance prior to adopting or disapproving an amendment to the City's Official Zoning Map.

Mr. Jared Deridder, PE, with WGLA Engineering, representing Henderson County and Pardee Hospital, stated they believe the request is consistent with the Comprehensive Plan and is compatible with surrounding land uses.

Mayor Volk opened the public hearing at 6:45 p.m. in accordance with NCGS by notice published in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed.

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 parcel numbers 9568-49-7136 and 9568-49-7242 from R-6, High Density Residential to MIC, Medical, Institutional, Cultural, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest for the following reasons: it will improve traffic flow around the facility and provide additional parking for the health sciences building. A unanimous vote of the Council followed; motion carried.

Ordinance #16-0409

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF
THE CITY OF HENDERSONVILLE
IN RE: FILE NO. P16-7-Z**

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

Pursuant to Article XI Amendments of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of parcel numbers 9568-49-7136 and 9568-49-7242 from City of Hendersonville R-6, High Density Residential to City of Hendersonville MIC, Medical, Institutional, Cultural.

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

Adopted this seventh day of April 2016.

/s/Barbara G. Volk, Mayor

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

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



9. Quasi-Judicial Public Hearing – Consideration of an Application from Flatiron Group, Inc. for a Special Use Permit for Lakewood Terrace: to Construct Five Apartment Buildings Consisting of 80 Residential Units, a Community Building, Associated Drives and Parking, on an Eight-acre Parcel Located off of Lakewood Road, and to Rezone a Portion of this Parcel to Planned Residential Development (File # P15-57-SUR): Mayor Volk explained the procedures for the quasi-judicial hearing including: the City Council is required by law to base its decision on facts, not opinions, the evidence contained in the record of this proceeding, which consists of the sworn or affirmed testimony at the hearing and on any documents or other written or physical evidence, including the official City file, admitted into evidence by the City Council.

Mayor Volk requested the members of the City Council announce for the record any contacts concerning the application that are not already included in the file. There was none.

Mayor Volk requested the members of the City Council announce any conflicts of interest they might have pertaining to the matter to be heard. 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 any position to be taken on the application to disclose that fact. There was none.

Mayor Volk explained witnesses must be sworn in to provide testimony and asked those wishing to provide testimony to come forward. Six persons were sworn in by City Attorney Fritschner to provide testimony. Mayor Volk explained their testimony is subject to cross-examination.

Senior Planner David Hazzard provided the following testimony:

The City received a Special Use Permit application from Charles F. Irick of Flatiron Partners for the development of 80 multi-family residential units on approximately eight acres. The project is in Hendersonville's ETJ and is located on a portion of parcel #9579-29-5777. The proposed project has frontage on Lakewood Road. The density for this project is ten units per acre. The applicant is also requesting to rezone a portion of this parcel from I-1 Industrial to PRD Planned Residential Development. The application is for special use review.

The preliminary site plan is subject to recommendation by the Planning Board and approval by City Council. The final site plan is subject to City staff approval.

Surrounding Lane Use: The surround land use to the north is single-family residential; to the west and south is vacant which is a part of the project and will be subdivided. To the south is the U.S. Post Office. To the east is Lakewood Road and across Lakewood Road is Sam's Club.

Existing Land Use & Zoning: Parcel 9579-29-5777 is zoned I-1 Industrial and is vacant. The proposed rezoning is for PRD Planned Residential Development. Parcels to the north and east are zoned R-15 Medium

Density Residential, to the east is PCD Planned Commercial Development and includes Sam's Club. Parcels to the south are zoned I-1 Industrial.

Comprehensive Plan Consistency: The parcel included in this application and parcels located to the west and south are classified as Business Center on the 2030 Comprehensive Plan's Future Land Use Map. He reviewed the goal of the Business Center classification.

The parcels to the north are classified as Medium Intensity Neighborhood, to the east is classified as Regional Activity Center, and to the west is Natural Resource and Agricultural.

The Business Center classification lists multi-family residential as a secondary use. The Comprehensive Plan recommends that secondary uses such as this one may be permitted through the planned development and special use procedures. This project is a planned development and is being processed through the special use procedures.

PLAN REVIEW

The site plan includes the following:

- Five two-story multi-family buildings totaling 80 units
- A 1,952 square foot community building
- Common areas include a playground and a covered picnic area.

Parking: The site plan shows 160 parking spaces for the proposed multi-family residential development. The minimum required by the Zoning Ordinance based on the number of bedrooms is 132.

Buffer Plantings: As per section 15-6 Bufferyards, no buffer is required between this parcel and the single-family residential houses to the north because both uses are residential. However, the applicant has proposed a buffer of Leyland Cypress, 20-foot on center, adjacent to the single-family residential houses to the north. This has been added to the list of conditions.

Council Member Smith asked about the location of the plantings. Mr. Hazzard explained each circle on the site plan represents one tree that will be planted.

Stormwater: The applicant will be providing stormwater management plans to the Engineering Department as part of the final site plan submittal requirements.

He provided elevations of the two-story buildings.

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. Approximately 17 people representing the general public attended the meeting. The public raised concerns about the traffic on Lakewood Road, buffering the adjacent to single-family residential, parking, income level of tenants, property maintenance, and future development. He provided a copy of the neighborhood compatibility report.
- (E) The proposed development is consistent with the 2030 Comprehensive Plan's Land Use and development recommendations. The Comprehensive Transportation Plan does not indicate any improvements to Lakewood Road.

Planning Board: The Planning Board voted unanimously to recommend City Council adopt an ordinance amending the official zoning map changing the zoning designation of a portion of Parcel 9579-29-5777 from I-1 Industrial to PRD Planned Residential Development, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest for the following reasons: this rezoning best serves the community.

The Planning Board also voted unanimously to recommend City Council approve the application of Flatiron Partners 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.

Council Member Smith asked if the proposed Leyland Cypress are in addition to the trees on the plan. Mr. Hazzard responded the trees Council Member Smith was referencing are not the buffer. Council Member Miller asked about a turn lane/entrance. Mr. Hazzard stated the plan does not indicate a turning lane. Council Member Miller asked for the benchmark for requiring a turning lane: 1,000 for the City and 3,000 for the State. Mr. Hazzard explained this project did not trigger a traffic impact analysis however, the applicant submitted a traffic impact analysis for Cedar Terrace which is in close proximity to Lakewood Terrace. He stated NCDOT was asked to attend this meeting and they attended the neighborhood compatibility meeting.

He explained a NCDOT entrance permit is not required until final site plan approval. He stated nothing has been submitted to NCDOT at this time; nothing is required to be submitted at this time to review. During final site plan review, they will be required to get a NCDOT entrance permit because Lakewood Road is maintained by NCDOT. They will have to review and approve the location of the entrance. If NCDOT believes additional modification is necessary, they will require those. Council Member Miller commented he spent some time at the site. He expressed concerns about poor visibility and fast-moving traffic on Lakewood Drive.

Mr. Paul Fitch, 3989 Laurel Park Highway, Hendersonville, representing the Flatiron group, addressed the Council and provided the following testimony.

They are proposing a 80-unit affordable housing project on this site with one-, two- and three-bedroom apartments. There will be eight one-bedroom, 48 two-bedroom, and 24 three-bedroom apartments. This is a two-story apartment project for convenient access. Throughout the region, three stories are the norm for apartment projects. However, with land use and zoning, two stories is all they can utilize here. He estimated the cost of \$10+ million. They plan to begin construction in March/April of 2017 and complete construction by early 2018. The rents are regulated at 60 percent of the area median income. Rents will also include utilities and are capped annually based on growth. The rent will be approximately \$550 for a one-bedroom, \$645 for two bedrooms and \$750 for a three-bedroom apartment which is considered affordable in the Hendersonville/Asheville market. They will have a covered picnic area and a playground for the children. These are energy-star rated home as required by NC Housing Finance. They will have a security system. The club house has a business center with computers and printers for the tenants use. This will be helpful for children and continued education. It will have a laundry facility, a fitness center and a community meeting space.

He reviewed the site plan stating they are respecting the residents in Shamrock and at the meeting agreed to build a Leyland Cypress buffer. The recommended spacing for Leyland Cypress is 30-foot on center because they have a 30-foot spread. They will plant them 20-foot on center so the buffer will fill in faster.

Regarding traffic concerns, there is not a required traffic impact analysis but they had a study. The maximum peak is approximately 44 additional vehicles during peak hours – morning and evening. For the entrance, they have to request a permit from NCDOT. NCDOT will study the traffic and make guidelines. They have a deceleration lane at their project in Brevard. There probably will be some modification but he cannot comment on it because they will be under the direction of NCDOT.

He reviewed the architect's elevations of the units. Because of construction standards of the NC Housing Finance agency, it is a high-quality product, higher than the market rate. He reviewed other projects from Greenville, SC, Brevard, NC, Easley, SC, and Franklin NC.

Hendersonville has a real need for affordable housing at this time. A comparison from 2000 to 2015 of the tax credit awards in Henderson County and Buncombe County. In this 15-year period, including the 80 awarded last year, they have only provided 108 family units of affordable housing. They are dependent on the ambiance downtown from the hospitality industry and many of those occupations based on a study performed by Buncombe County Development Department, have annual incomes of less than \$25,000. In order to support the ambiance and the people who service downtown, and do such a good job, this will provide housing for that type of residents in the area.

One of the reasons that Buncombe County has been so successful in the past is because they are a participating jurisdiction and receive CDBG and Home Funds every year. They have always supported the developers by providing financial assistance to lower the cost and make them more competitive.

Mayor Pro Tem Caraker asked Mr. Fitch if he is willing to build a stacking or deceleration lane even if it is not required by NCDOT. Mr. Fitch stated, probably, for safety reasons of the tenants and others in the area. Mayor Pro Tem Caraker agreed with Council Member Miller because he has driven the road and between the back side of Sam's, Nix Road and a hairpin turn, the natural inclination is to speed up. Council Member Miller commented he likes the project and knows they build first-class facilities. He stated he feels an obligation to the nearby residents to make the deceleration lane a condition to the special use permit. Mr. Fitch stated it appears they have space for the lane.

Mr. Fitch also reported on Cedar Terrance.

Mayor Pro Tem Stephens agreed with the need/demand for affordable housing.

Mayor Volk opened the public hearing at 7:13 p.m. in accordance with NCGS by notice published in the Hendersonville Lightning. No one expressed a desire to speak in favor of the project. The following spoke in opposition or asked questions:

Walter Barnwell, 102 Dublin Lane, addressed the Council. A summary of his testimony follows.

He has lived in the second house in Shamrock Estates since 2000. Lakewood Road, from Francis to Nix, is not big enough to handle the current traffic, the trucks from the post office as well as Highland Square Drive.

He conducted his own traffic study on a Wednesday between 1:15 p.m. – 2:15 p.m. and counted 256 vehicles on Nix Road, coming down Highlands Square or from Francis going toward Nix which does not include high traffic times nor school buses.

He expressed concerns about taking the property owner's rights for a deceleration or turn lane.

There are currently five developments for affordable or low-income housing in Hendersonville. He expressed concerns about heavy construction equipment coming into the area and the increased traffic.

The entrance to Lakewood Terrace will be about 25 feet from the exit of the post office. He expressed concerns about limited sight distance and reaction time. Their main concern in Shamrock Estates is the safety of that area on the road and the traffic. He expressed concerns about the speed of the traffic, the number of driveways, security for the residents and Police protection.

Another long-term concern is experiencing [stormwater] run-off.

Mark Owens, 108 Dublin Lane, addressed the Council. A summary of his testimony follows.

He concurs with Mr. Barnwell's assessment. He purchased his home about two years ago for retirement. They are looking for safety. He expressed concerns about the amount of traffic, limited sight distance and reaction time, and construction vehicles on the narrow Lakewood Road. A traffic study was done about two years ago. He also expressed a concern about who takes care of this part of the road – Police or Sheriff's Department, the noise from 80 units and whether this will impact their property values or whether they may have a hard time selling their homes. The road needs to be widened now and there is a one-lane bridge to contend with. Another project is going to be built there.

Mayor Volk asked the developer to respond to the concerns.

Mr. Fitch responded he doesn't think drainage will impact the Shamrock community because the elevation is such that Shamrock Estates is on the ridge and the property slopes toward the creek. Most of the vacant land there is a flood plain. The floodplain comes behind Shamrock and through this property. The stormwater plan will be approved by the City. At neighborhood compatibility meeting the fence and tree-line buffer was discussed. He stated it would be cost-prohibitive to do both but they could put in a chain link fence or a greenway buffer. The decision of those who attended the meeting was they prefer to have the greenway buffer. He stated as far as traffic is concerned, traffic will always be a continually growing problem. The last time NCDOT conducted a study, there was approximately 45 percent utilization or capacity of what the road was designed to handle. Traffic is a tremendous problem. In Charlotte or Raleigh, they would consider the traffic on Lakewood like a through-way. The amount of congestion is a perception. However, they will have the best interest and safety of their tenants. NCDOT will perform a study. They are willing to put in an deceleration lane. When NCDOT performs their study, they will make recommendations. The most important recommendation they would like to see is a traffic signal be placed at Highlands Square drive and the post office to break up the traffic along Highland Park. This would slow the traffic and become a safety enhancement for that intersection. No one can put in a traffic signal unless NCDOT recommends it. They are restricted on what they can do on some of the things but hopes the study indicates a traffic signal is needed along the Highlands Square and Lakewood Road.

Council Member Miller commented there seems to be a tendency to associate low-income or affordable housing complexes with crime issues but does not believe it is a fair assumption. He asked Mr. Fitch what his experience is in the properties he has built. Council Member Miller further commented he doesn't see it as an issue because he has lived near a lot of apartment complexes. Mr. Fitch replied all apartments are management intensive. He stated with affordable housing, their management company does a criminal background check as well as a credit background check. He stated they do not allow tenants with a previous criminal background. Also, these are high quality apartments in the neighborhoods, especially for the price. If the tenants do not take care of their property or violate noise and others ordinances they may be removed or evicted from the apartment. He stated traditionally they do not have any problems. He stated the Sheriff's Department in Brevard say they rarely have calls there. He stated these are family properties and we need families. He stated many of the tenants are age 40+ and settle in for a period of time. He stated there is almost exposure to some bad [tenants] the first year and they get removed. He stated it is usually one or two and is not a situation. He stated these are usually calm, peaceful apartments and traditionally that has been the case. He stated the National Association of Realtors have done studies on the value of surrounding real estate and there has been no indication anywhere of a decrease in adjacent property values because of affordable apartments. He stated property values in this country, other than the 2008-2012 period, have generally increased regardless of what happens. He stated the apartments, affordable and other apartments have not caused any reduction in value of adjacent real estate.

Council Member Miller asked if Flatiron will manage the apartments for at least five years. Mr. Fitch responded Jim Management is their current property manager, the eighth largest affordable housing developer in the country. They are required by law to own/manage the properties for 15 years. They also sign a land use restriction agreement with the NC Housing Finance to maintain these as affordable for another ten years. He stated they will be owning and managing them for a 25-year period. He stated Charlie Irick and his son will manage the properties.

Mr. Barnwell asked if a background and credit check is conducted on everyone who lives in the apartment. Mr. Fitch responded just the person who is leasing. He reported there was a Supreme Court case in 1991 or 1992 that if anyone in the apartment is committing illegal acts, then everyone in the apartment can be evicted. This is called the "Grandmother Act" where a grandmother rents an apartment and she raised her grandchildren who began dealing drugs, etc. Before 1992, you could not evict a tenant but you can now for any criminal activity by any of the tenants.

A citizen from the audience asked if management staff will be there after hours and weekends. Mr. Fitch stated no, they will have staggered hours and some late evening but will not be 9 – 5. They have to have staggered hours and on weekends when tenants come in. He stated generally, there will not be anyone there at night. He stated the facility will be well lighted and they usually do not have a problem.

Mr. Owens asked why they cannot put both a fence and a tree buffer stating they want assurance they will be safe. Mr. Fitch replied he cannot give him that assurance and doesn't think anyone else can either. He stated in our society today we are all at risk. He stated they do everything they can to provide a quality product with quality tenants. They are interested in the tenants and providing them indoor health facilities, exercise equipment and computer rooms to study and hopefully improve their education and be quality citizens just like their neighborhood. Mr. Owens asked why they can't put both a fence and tree buffer. Mr. Fitch explained because these projects are very cost competitive with the State. Mayor Volk stated Council has heard his concerns and asked to let Mr. Fitch answer. Mr. Fitch stated the applications are cost competitive and the fence is an additional cost. They are trying to meet the threshold so they can win the tax credits from the State. He stated every time they bring a development to Henderson County, Hendersonville wins because we have more affordable housing for the population that is sorely needed.

Council Member Miller stated he heard comments to the effect that no one can build there unless the road is widened large enough for construction equipment. That would include taking property on Lakewood Road to expand the road which in his opinion, the peak of 44 vehicles per hour. He stated this could be a large industry there without a fence. He stated he doesn't have the same concerns but he doesn't live there. He stated he wants to address the turn lane or deceleration lane. He thinks any project built there would require that. He stated he wouldn't vote for it unless that contingency is there to slow the traffic down. He stated the project will become part of the City limits and the Police will respond to that area. He stated he has begun the discussion with the City Manager and with the Sheriff's Office to address the issues he has read about in the neighborhood compatibility meeting report. He stated it is a private road but the City can address that. He stated the residents will have City response to anything that occurs in and around Lakewood because it is part of the City at that point. He stated the City has a very responsive Police department and apologized if they have been in no-man's land but the City will work on that. He stated he believes the fears are not completely justified. He stated the [tenants] will be screened and they are not giving the units away. \$500 for a one-bedroom unit is not a gift. He stated the City will do their job of checking it. He stated he has checked on the other projects this company has done and they are solid and usually a step above. He stated the buffering that is being offered is way above what is required. He stated the City will do everything they can to make it as safe and non-invasive as possible. He stated he believes it is a good project and that the area needs it. He stated he doesn't believe they have to worry about it. He stated any development could bring something bad there but the City cannot prohibit development there. He stated the City will do their part and follow-up on it. He stated he will push to make the roads safer and do the best the City can.

Mayor Pro Tem Caraker commented that assuming Flatiron will rent to loud, obnoxious criminal trespassers is a large assumption. He agrees with the traffic concerns. He asked if research has been done on the hill and site lines before the house was purchased because it is big investment. He stated he thinks it is a good thing for Hendersonville. He has faith the Police Department will respond within ten minutes of a call. He stated he would like to see a deceleration lane made a condition to special use permit but feels it is a good project.

Council Member Miller stated the buffering will also be a condition and the developer has agreed to that. He further insisted on a deceleration lane. He stated the City cannot condemn property because of what might happen or traffic we cannot handle but can try to make it better.

Mayor Pro Tem Caraker commented a six-foot chain link fence would be expensive. He stated the plantings are also expensive. He stated the developer has agreed to more density of the plantings. He stated the developer has tried to meet all concerns without knowing exactly who will be living in the apartments.

Council Member Stephens commented the group at the neighborhood compatibility meeting wanted the buffering instead of the fence. He stated that is a wise decision because visual impacts might affect values. He stated it is the responsibility of homeowners if they feel insecure to bear the cost of fencing their own yard. He stated this property could have industry on it. He stated because the tenants are checked out, this is positive. He stated anything can happen in any neighborhood in town.

Council Member Smith requested to ask questions of Police Chief Blake and Fire Chief Vindigni. Police Chief Herbert Blake and Fire Chief Joe Vindigni were sworn in by City Attorney Fritschner to provide testimony.

Council Member Smith asked Chief Blake if there is a call, and an officer is responded from City Hall, what is the estimated response time. Chief Blake replied three to five minutes.

Council Member Smith asked if someone on Dublin Court had a problem would they call the Sheriff's Office. Chief Blake state yes because they are located in the county's jurisdiction. There was some discussion of the City's ETJ. Council Member Smith asked Chief Blake if he has any concern about staffing calls from Lakewood Terrace as well as the new project Cedar Terrace in responding to security concerns or calls for services. Chief Blake responded he has no concerns.

Council Member Miller asked Fire Chief Joe Vindigni the same questions. Fire Chief Vindigni responded from Sugarloaf Road, there is approximately a two-minute response. He stated he has no concerns about providing service to that area. Mr. Connet asked Fire Chief Vindigni if the City has mutual or automatic aid agreements with Dana Fire and Rescue for medical calls. Fire Chief Vindigni stated he believes Dublin Court is covered by Dana Fire Department. He stated they have automatic aid agreements with Dana. He stated currently if there is a fire in Dublin Court, the City will also respond with Dana Fire Department and mostly likely will arrive first. He explained they do not automatically respond to EMS calls unless requested.

Council Member Miller asked Mr. Barnwell or Mr. Owens if they have questions for either Chief Blake or Chief Vindigni. A citizen asked about the Fire Department responding to Dublin Court. Mayor Pro Tem Caraker commented most of the time when one law enforcement agency responds both agencies will probably respond. Chief Blake replied that is correct. He explained if there is a call and the Sheriff's Office response may be delay, the will ask the Police Department to respond and they certainly would to assist until they get there.

Council Member Smith asked, regarding Lakewood Road, if a person is driving too fast or recklessly, if the City could issue citations. Chief Blake stated yes. Council Member Smith commented the City does not receive revenue from citations, those fees go to the State.

Mayor Volk asked for further questions or if anyone else wanted to speak in opposition. There was none. Mayor Volk asked for further comments from the audience. There was none. Mayor Volk asked if the Council members wanted to ask any additional questions. There was none.

The public hearing was closed at 7:53 p.m.

Council Member Smith reiterated his support to require a turning lane without NCDOT requiring it. He also agreed with Council Member Stephens about the buffer. He stated he can appreciate the value of the fence but the trees will be more aesthetically pleasing than a fence. He stated a fence would not prevent crime. He stated the buffer will be thick and a visual border between the two developments.

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 a portion of Parcel # 9579-29-5777 from I-1 Industrial to PRD Planned Residential Development, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest for the following reasons: it provides affordable housing and improves living conditions in the City. A unanimous vote of the Council followed. Motion carried.

Mayor Pro Tem Caraker further moved City Council approve the application of Flatiron Partners 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 an additional condition of a maximum-length stacking deceleration lane be added to the project fronting the main road.

There was discussion of the list of conditions. City Attorney Fritschner advised if the Council is requiring a turn-lane, they should be specific about the lane, i.e., satisfactory to the City Engineer and meeting NCDOT specifications. There was no objection from Mayor Pro Tem Caraker or the Council to amend the motion. Mayor Pro Tem Caraker amended the motion to include “... and meeting NCDOT specifications.” **A unanimous vote of the Council followed; motion carried.**

Ordinance #16-0410

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP
OF THE CITY OF HENDERSONVILLE**

IN RE: Lakewood Terrace
(File # P15-57-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:

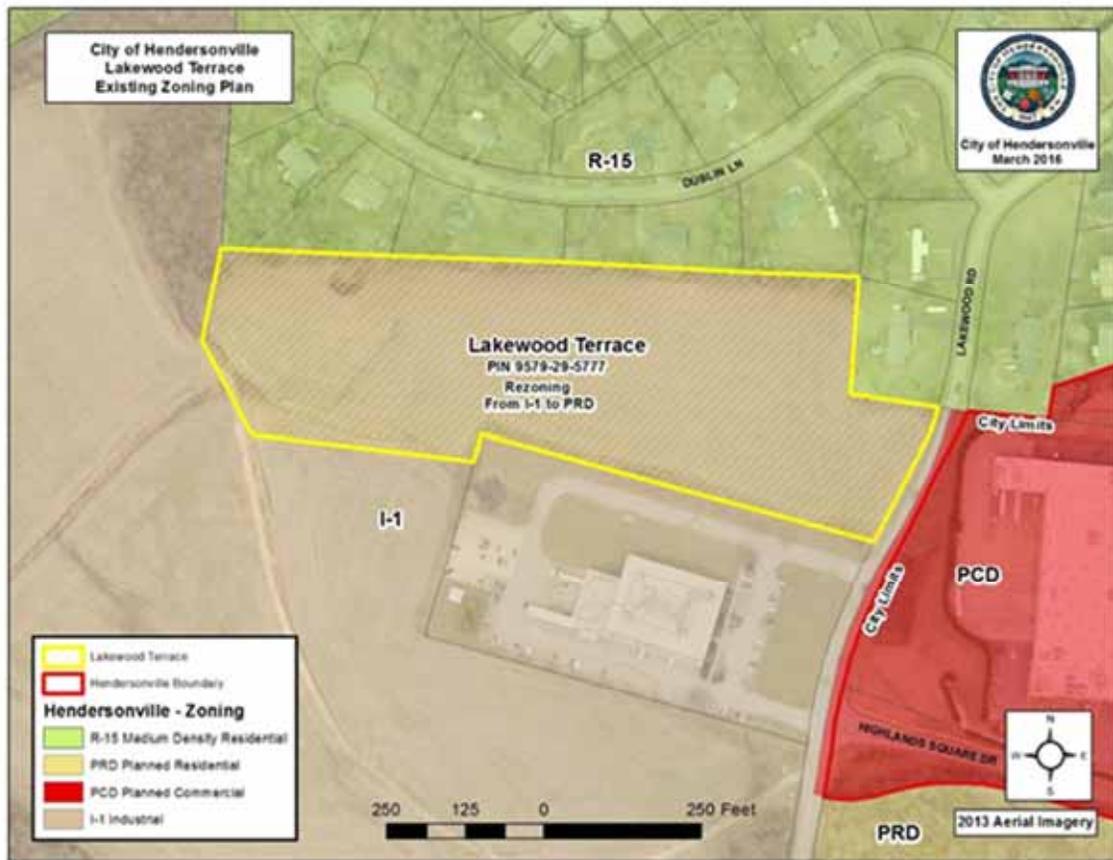
Rezone a portion of Parcel # 9579-29-5777, as shown in Exhibit A, from I-1 Industrial to PRD Planned Residential Development.
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this seventh day of April 2016.

/s/Barbara G. Volk, Mayor

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

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



~~10. Consideration of Request to Waive System Development Charges:~~

11. Consideration of Parking Permit Program and Rates: Mr. Lew Holloway, Downtown Economic Development Director, provided proposed changes to the City's Parking Permit Program. He provided some history of the amendments stating the Council asked for revisions to the program during the March meeting. Following City Council feedback staff revised the changes and presented the proposed permit structure in an open meeting with existing permit holders. He explained the permit types will be offered to existing permit holders for the 2016-2017 budget year. He stated no new permits will be offered during a three to six month trial period during which time staff will monitor program function and lot occupancy. He reviewed the proposed three permit types: G, R, and S.

Mayor Volk asked about R & S permit holders. Mr. Holloway explained those permits are associated with a specific individual but not a specific space. For S Permits, each one is assigned to a specific space. For the R Permit, permit holders have access to a bank of spaces. Council Member Miller asked if the permit may be displayed in any vehicle. Mr. Holloway stated that is correct. Mr. Connet explained if a permit is issued to a specifically-assigned space, G Permit, the vehicle must be on the roster. Council Member Miller commented the tag has to go with the assigned parking space.

The Council heard comments from Mr. Joe Smolski who requested the G permits remain. Mr. Holloway reiterated three permit types will be offered moving forward. After discussion, Mr. Connet suggested allowing staff to review the permits to address assigned spaces, residents, to meet different needs, etc. Mr. Holloway explained if a person is interested in a certain type of permit, they should be on a waiting list. Discussion followed on enforcement.

Council Member Miller moved to approve the revised parking permit types as outlined in the permit schedule. A unanimous vote of the Council followed. Motion carried.

G Permit: 24/7 Assigned Space. This permit is a mirror of the permit currently offered. Cost: Interior (within the boundaries of the downtown MSD) \$40/monthly, Exterior (outside of the boundaries of the downtown MSD) \$30/monthly, reflecting a \$10/month increase.

R Permit: 24/7 Unassigned Space. This permit offers access to spaces reserved 24/7 but not assigned to specific spaces. Cost: Interior \$30; Exterior \$20, reflecting a \$10/month increase.

S Permit: Monday through Saturday: 8 a.m. to 6 p.m.; unassigned space. This permit offers access to spaces reserved Mon/Sat: 8 am – 6 pm, but not assigned to specific spaces. Cost: Interior \$20; Exterior \$10, reflecting a \$10/month decrease.

12. Consideration of a Resolution Requesting the General Assembly to Amend Section 3.4 of the Hendersonville City Charter Respecting the Change in Compensation for Mayor and Council Members: City Attorney Sam Fritschner explained under the City's charter the compensation of the mayor and council members may only be changed if it takes effect in the next term. He explained NCGS 160A-64 allows a change in compensation by adoption of the annual budget ordinance.

City Attorney Fritschner presented a resolution requesting a Charter amendment reflecting the North Carolina General Statute.

Council Member Smith moved the Council to request the General Assembly to enact the proposed amendment to Charter Section 3.4. A unanimous vote of the Council followed. Motion carried.

Resolution #16-0411

**A RESOLUTION REQUESTING THE GENERAL ASSEMBLY TO AMEND § 3.4 OF
THE HENDERSONVILLE CITY CHARTER**

WHEREAS, the Hendersonville City Charter contains a provision § 3.4 respecting the change in compensation for Mayor and Council members, and

WHEREAS, the Council believes that it would be in the best interest of the City for the Charter to follow general state statutory law,

NOW, THEREFORE, BE IT RESOLVED that the City Council request and it does hereby request the General Assembly to enact legislation effecting an amendment to the City Charter, § 3.4, as follows:

Sec. 3.4. - Compensation of mayor and councilmen members.

~~The mayor and council members shall receive for his their services such salaries as the city council shall determine from time to time in accordance with applicable North Carolina law, and no increase or reduction in his salary shall be made to take effect during the term in which it is voted. The council may establish a salary for its members which may be increased or reduced, but no increase shall be made to take effect as to any councilman during the respective term of office which he is serving at the time the increase is voted.~~

And the city manager and city attorney are hereby authorized and directed to publish this resolution to the appropriate persons and cooperate with such persons as may be necessary and proper to effect introduction of the proposed Charter Amendment to the General Assembly.

Adopted this seventh day of April 2016.

/s/Barbara G. Volk, Mayor

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

13. Consideration of a Proposal from Vannoy Construction (through their contract with Henderson County) to widen N. Oak Street, Replace Utility Lines, and Consideration of the Associated Budget Amendment and Capital project Ordinance: Mr. Brent Detwiler explained as approved at the March 3, 2016, City staff is working with WGLA Engineering, PLLC (WGLA) to complete a design for widening N. Oak Street from its current 18 feet to 24 feet from US Highway 64 to Seventh Avenue and includes adding a turn lane at US Highway 64. He explained there is an existing clay sewer line and an undersized six-inch cast iron waterline that needs to be updated. In addition to water and sewer line replacement, there is also stormwater, curb and gutter work and sidewalks on the west side of Oak Street included as part of this work.

Mr. Detwiler explained WGLA completed their design at the end of March 2016 and staff received construction estimates from Vannoy Construction, the general contractor for the Joint Health Education facility and various parking and site projects in the Pardee area. He stated staff reviewed the proposal and it appears to be in line with the engineer's estimate of \$389,000 including a 10 percent contingency. The proposal is \$388,221. He presented a budget amendment and capital project ordinance.

Mayor Pro Tem Caraker commented there may be some duplication of insurance coverage, etc. which may result in a savings. Mr. Detwiler stated he is willing to address any duplications. Mr. Connet commented on the time constraint of this project.

Council Member Smith voiced a concern about the width of the road and the cost. He stated he understood the road would have to be widened when the project was approved but it should be paid for by Henderson County, not the City taxpayers. He stated the project needs to be done but the City should only fund the portion relating to utility relocation. Council Member Miller commented the project has grown and is impressed on the cooperation of the organizations to get the project done.

Mayor Pro Tem Caraker moved to approve a proposal from Vannoy Construction through their contract with Henderson County in the amount of no more than \$388,221 in order to widen N. Oak Street from Sixth to Seventh Avenue and replace water and sewer lines. He further moved Council to approve the associated budget amendment and capital project ordinance for the N. Oak Street project and to authorize the City Manager and/or City Attorney to prepare and execute an inter-local agreement with Henderson County in order for the City to pay for said work. The Council also agreed that staff should review the proposal and eliminate duplications where possible in order to realize any savings possible. A unanimous vote of the Council followed. Motion carried.

Ordinance #16-0411

**CAPITAL PROJECT ORDINANCE FOR THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF THE
NORTH OAK STREET INFRASTRUCTURE IMPROVEMENTS PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a City infrastructure project described as the North Oak Street Infrastructure Improvement Project.

Section 2: The following amounts are appropriated for the project:

Account Number		Account Name	Total Budget
4350000	559900	Capital Outlay-Other Improvements	\$ 388,221.00
Total Project Appropriation			\$388,221.00

Section 3: The following revenues are anticipated to be available via transfers to the aforementioned special project fund from the General Fund and Water & Sewer Fund for project expenses:

Account Number		Account Name	Total Budget
109900	999435	Transfer to N. Oak St.	\$ 249,274.00
4350000	998010	Transfer In From GF	\$ 249,274.00
609900	999435	Transfer to N. Oak St.	\$ 138,947.00
4350000	998060	Transfer In From W&S	\$ 138,947.00
Total Project Revenue			\$388,221.00

Section 4: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the General Fund and Water & Sewer Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this capital project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this seventh day of April, 2016.

/s/Barbara G. Volk, Mayor

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

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

Budget Amendment: Funds: 10, 60

An amendment of \$388,221 262,396 for NCDOT reimbursement for utility relocation associated with the Upward Road project (second installment).

14. Comments from Mayor and City Council Members: Mayor Pro Tem Caraker reported he has been encouraging the moving of a business to Seventh Avenue. **No action was required or taken by the Council.**

15. Reports from Staff:

A. Contingencies: Mr. Pahle reported the following contingency appropriations were made:

- 1) Fund 390 - \$19,000 For Construction and Material Testing
- 2) Fund 10 - \$1,200 For Overages in Supply/Dues Accounts
- 3) Fund 10 - \$15,000 For the N. Oak Street Land Purchase
- 4) Fund 10 - \$3,181 For New Fire Chief Leadership Development

B. Investments. Ms. Lisa White, Finance Director, provided the following investment report/management summary:

As of 02/29/16 City Investments held by First Citizens (Custodian) total \$26,545,015.96 (Market Value). The portfolio (at cost) consists of the following investments as allowed by the City Investment Policy and State Statute:

US Treasury Notes \$999,134.52
 Government Agencies \$22,810,178.09
 Municipal & NC \$2,692,093.46
 Cash \$139.91
 Total Cost: \$26,501,406.07

Bond Funds are required to be kept segregated. The City currently has \$925,166.89 as of 02/29/16 for the 2008 Sidewalk Bond which is held by the NC Capital Management Trust.

Total Investment earnings are budgeted at \$278,710 for all funds, earnings received to date are \$143,251 for FY16 and revenue is expected to reach the budgeted amount. Total annual investment income recorded for all funds in FY15 was \$210,895.

Investment bank statements and activity reports are available in the office of the Finance Director.

C. Reminder of Upcoming Special Meeting of the Council: May 6, 2016, 8:00 a.m., City Hall, for review of the proposed budget for Fiscal Year 2016-17. Mr. Connet reminded the Council of the special meeting.

D. Recognition of Finance Department Staff: Mr. Connet recognized Ms. Lisa White, Finance Director, Mr. John Buchanan who oversees the accounting division and the Finance Department who were awarded the Certificate of Excellence in Financial Reporting from GFOA for the 27 straight years.

16. Consideration of Appointments to Boards and Commissions:

Seventh Avenue Advisory Committee: Mayor Pro Tem Caraker nominated Matthew Hickman. A unanimous vote of the Council followed. Motion carried.

Announcements: Mrs. Drake announced vacancies on the Board of Adjustment, Historic Preservation Commission, and the Environmental Sustainability Board. She also announced upcoming term expirations on the ABC Board and the Tourism Development Authority.

17. New Business: There was none.

18. Staff Request for closed session: At 8:40 p.m., Mayor Pro Tem Caraker moved that the City Council enter closed session in accordance with 143-318.11(5) to establish or instruct the staff concerning the position to be taken by or on behalf of the City Council on negotiating for the acquisition of real property, to consult with the attorney to preserve the attorney-client privilege between the attorney and the City Council to consider and give instructions concerning a potential or actual claim, administrative procedure, or judicial action titled the City of Hendersonville versus the Hodges Company, LLC as provided under NCGS §143-318.11(a)(3). A unanimous vote of the Council followed. Motion carried.

There was a brief recess.

The Council discussed options for the potential purchase and sale of property with City staff. The City Council also instructed the City Attorney on the judicial action titled the City of Hendersonville versus the Hodges Company, LLC.

19. Continue the Meeting: At 9:33 p.m., Mayor Pro Tem Caraker moved Council to continue the meeting until April 13, 2016, at 6:00 p.m., at Fire Station II, 632 Sugarloaf Road, to Discuss Fire Inspection Fees. Other topics may be discussed. A unanimous vote of the Council followed. Motion carried.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk