

November 6, 2014
Regular Meeting of the City Council
Council Chambers – City Hall
5:45 p.m.

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

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Planning Director Sue Anderson, Police Chief Herbert Blake, Fire Chief Dorian Flowers, Utilities Director Lee Smith, Finance Director Lisa White, Deputy Fire Chief Joe 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.*

Ken Fitch, 1046 Patton Street, urged support of Veterans Day and recognition of those who have served our country. He also recognized Council Member Jeff Miller who recently received National recognition for his extraordinary work with Honor Air, bringing together those who have served to a place of honor and celebration.

Council Member Miller thanked Mr. Fitch and relayed appreciation from Jill Tahmooressi for the donations made for her son, Marine Sgt. Andrew Tahmooressi, who was jailed in Mexico.

4. Consideration of Agenda:

Mayor Volk noted an addition to the agenda: Consideration of Adding a Position to the Seventh Avenue Advisory Board Representing Hendersonville Rescue Mission under Comments from the Mayor and City Council members.

Council Member Caraker moved approval of the agenda with the addition. A unanimous vote of the Council followed. Motion carried.

5. Consideration of Consent Agenda: *These items are considered routine, non-controversial in nature and are considered and approved by a single motion and vote.*

A. Consideration of Minutes: October 2, 2014 Regular Meeting

B. Consideration of Budget Amendments (2): Mr. Brian Pahle submitted the following budget amendments:

Budget Amendment – Public Works/Patton Pool: The funds appropriated to the regular salaries line item should have been appropriated to part-time salaries line item. Patton Pool employees are all part-time and have been getting paid out of the part-time account, even though it has no funds in it.
Total in Balance: \$109,325.00

Budget Amendment – Water/Sewer Fund: Provides funding for a temporary front desk receptionist at the Operations Center. The funding is provided from a Water & Sewer fund position that is vacant and has lapsed salary available.
Total in Balance: \$7,680.00

C. Consideration of Job Descriptions for a New Position of Senior Accounting Supervisor and amended Job Descriptions for Senior Customer Services Specialist and City Tax Collector: Human Resources Director Jennifer Harrell provided three job descriptions for Council's consideration. [The job descriptions are available in the Human Resources office.]

D. Consideration of Amendment to Personnel Policy to Clarify the Transfer of Sick Leave: City Attorney Fritschner presented an amendment to the Personnel Policy to clarify that sick leave may be carried over only from immediately preceding employers.

RESOLUTION #14-1150

**A RESOLUTION AMENDING ARTICLE VII SECTION 14 OF THE PERSONNEL POLICY
RESPECTING TRANSFER OF SICK LEAVE**

WHEREAS the City has adopted a personnel policy in order to establish and clarify its relationship with its employees,
and

WHEREAS an issue has arisen with respect to the interpretation of Article VII Section 14 of the Personnel Policy respecting transfer of sick leave, and

WHEREAS the City Council wishes to clarify its intent with respect to this provision,

NOW, BE IT THEREFORE RESOLVED that the City Council amend and it does hereby amend Article VII Section 14 of the Personnel Policy as provided herein.

1. Article VII Section 14 of the Personnel Policy is hereby amended to read in full as follows:

Section 14. Transfer of Sick Leave from Previous Employer. The City will accept sick leave balances when documented by ~~a previous~~ the employee's immediately preceding employer when the employee immediately previously worked for ~~a previous an~~ employer covered by the State or Local Government Retirement System and the employee did not withdraw accumulated contributions from that employer when leaving employment. The sick leave will be treated as though it were earned with the City of Hendersonville. The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from ~~his or her previous that employer~~ within three (3) months of employment. Transferred sick leave will be credited to the employee upon completion of the probationary period.

2. This amendment shall take effect upon adoption of this resolution.

Adopted this sixth day of November 2014.

/s/Barbara G. Volk, Mayor

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

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

E. Consideration of Special Event Permit for the Rally North America 2015: Mr. Frady reported the Special Events Committee voted unanimously for Council to approve an application from Rally North American Charities for the Rally North America 2015 to be held July 15 from 7:00 a.m. to 9:00 a.m. Main Street will be closed between Third Avenue and Allen Street. There will be approximately 160 rally participants that will line up for the rally/scavenger hunt to benefit charity. Both Third Avenue and Allen Street will remain open during the event.

F. Consideration of a Memorandum of Understanding with the Henderson County Travel and Tourism Authority for the Way-Finding Program: Mr. Lew Holloway explained in 2013, the City of Hendersonville initiated the process of developing a way-finding program to help with parking concerns and promote our tourist destinations. Due to the cost of this program, staff approached the Henderson County Travel and Tourism Authority about partnering with the City on this project. He reported the Authority has agreed and has taken the lead in developing the Request for Proposals and hiring the consultant. In return, the City is committed to covering 50 percent of the cost of the project. He presented the following Memorandum of Understanding for the City Council's consideration.

Memorandum of Understanding

RE: TDA Wayfinding Contract w/ Found Design LLC (d.b.a. MERJE)

To Henderson County TDA Board:

The Henderson County Tourism Development Authority (TDA) and the City of Hendersonville have jointly pursued the identification of a project consultant for a vehicular wayfinding masterplan that would address wayfinding needs in the City and County. TDA Board member and Downtown Economic Development Director Lew Holloway has and continues to serve as project manager for this effort.

Following an RFP process that saw the submission of nine separate proposals for a vehicular wayfinding masterplan in Henderson County and in the City of Hendersonville, the TDA, at its July Board meeting, selected MERJE design group to lead the wayfinding design process for the organization. This memorandum of agreement is intended to formalize the verbal discussion and agreements that have occurred between the City of Hendersonville and the TDA to date and to fully disclose the terms of the Wayfinding Contract.

The MERJE Contract and Scope of Work are included as an addendum to this memo. Highlights include;

Total Design & Planning Project Cost – Fixed Fee of \$30,000

Reimbursable Expenses (outlined in Section 7.0) – Estimated Cost of \$7,500

An Optional Service for Construction Oversight/Administration – Estimated Cost of between \$3,000 to \$11,000

The City of Hendersonville agrees to pay 50% of the Total Design & Planning Project Costs, a fixed fee of \$15,000 and to cover 50% of reimbursable expenses. Should the TDA and the City wish to employ the services of MERJE for Construction Oversight/Administration an additional memorandum of agreement will be completed to define that partnership.

The TDA will be responsible for paying all MERJE design invoices and will remit invoices to the City of Hendersonville for reimbursement. These will be submitted on a monthly basis per the payment schedule defined in the contract between the TDA and MERJE.

/s/John Connet, City Manager, City of Hendersonville /s/Shannon Clarke – Chairman, Henderson County TDA Board

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

6. Recognitions: Mayor Volk also commended Council Member Miller who recently received National recognition for his work with Honor Air.

A. Tree Board Members and Tree Planters: Mr. Connet recognized members of the Tree Board and volunteers, including Mayor Volk, who recently planted trees at Hendersonville Elementary and Middle Schools. Mr. Mac Brackett recognized Wes Burlingame who is responsible for this project and expressed appreciation to the City Council for the funds that made the tree planting possible. Mr. Burlingame expressed appreciation to everyone who participated.

B. Brian Pahle - Governmental Finance Officers Association's (GFOA) Distinguished Budget Presentation Award: Mr. Connet explained the City has received the GFOA award for the past 25 years for the Comprehensive Annual Financial Report (CAFR). He stated one of his goals was to receive the same recognition for our budget document. He recognized Mr. Brian Pahle who put together the City's first budget document as his internship project to be presented for consideration. A panel of independent reviewers reviewed the budget document and considered it a Distinguished Budget Presentation Award. This award is the highest form of recognition in governmental budgeting. Its attainment represents a significant achievement for our organization. The document shows goals and objectives of the City Council, policy implementation, trend data, history of our community and it becomes a policy document. Mr. Pahle presented the award to Mayor Volk and the City Council. Mayor Volk presented a Certificate of Recognition to Mr. Pahle.

C. Police Department Employees: Chief Blake introduced two new Police Department employees: Reserve Police Officer Zeffrey Childress and Police Officer Matt Capps. He also recognized Ms. Monica Howard for being the first recipient of the Ethlyn Byrd Award for outstanding volunteer work.

No action was required or taken by the Council.

7. Consideration of Endorsement of the Student Government Associations Sponsoring a Special Food and School Supply Drive for Homeless Students in Henderson County: Council Member Jerry Smith explained students of Hendersonville High School asked to make a presentation to the Council to make the Council, as well as the community, aware of their efforts to address the problem of homeless students.

Student Body President John Moore, 607 Hebron Road, thanked the Council for allowing him to make the presentation. He presented information on "Henderson Helps", a community-wide project that will aid homeless students in the Henderson County school system. The project encompasses all four high schools within Henderson County as well as the community. He reported there are more than 200 registered homeless students in the school system. Because he is in a position of leadership at the school, he feels it is his duty to ensure the needs of the homeless students are met.

Mr. Moore explained they are setting up collection boxes in all county schools November 10 - December 10. He requested to utilize public areas, specifically, the Historic Henderson County Courthouse during the Christmas Parade, as a collection center. They are collecting nonperishable foods, snack foods, school supplies, laundry supplies, etc. Once items are collected, they will be working with HELP at Balfour School to distribute.

Council Member Miller explained they will have to seek permission from Henderson County for use of the Historic Courthouse. He suggested using the fountain area as a collection point. Council Member Caraker also suggested using the lobby of City Hall as a collection point for the duration of the event. Monetary donations made be left with the clerk at Hendersonville High School or at the HELP office. Mayor Volk thanked Mr. Moore for spearheading the project. **The City Council supported the effort by unanimous assent.**

8. Quasi-Judicial Public Hearing – Consideration of an Application for a Special Use Permit from Mr. Larry Winson to Complete Units at Blythe Commons: Mayor Volk explained the procedures for the quasi-judicial hearing including those speaking must be sworn in to present evidence. They may cross examine witnesses. She explained Council must consider factual information.

Mayor Volk asked the Council to announce any communications regarding the project: name of contact and the substance of the contact regarding this special use permit. There was none. Mayor Volk asked the Council members to announce any conflict of interest. There was none. Mayor Volk asked if anyone is aware of anything of value that has been given or promised in exchange for a position to be taken on the application. There was none. Three persons were sworn in to provide testimony.

Planning Director Sue Anderson entered file #P14-38-SUR into the record. She requested Council take official notice of the Zoning Ordinance, the official Zoning Map, the 2030 Comprehensive Plan and the Comprehensive Transportation Plan.

Ms. Anderson provided the following testimony:

The City is in receipt of an application from Larry Winson for a Special Use Permit to complete Unit numbers 12, 13, 18, 19 and 20 at Blythe Commons. The applicant is also requesting a variance to reduce the required setback of Unit # 13 from 30 feet to 20 feet. This same variance request was approved by the City Council in 2005.

Blythe Commons is located at the corner of Haywood Road and Blythe Street and the parcel number for this project is 9569-22-6965. She provided an aerial view rendering of the property. This application is for special use review. The submitted "As Built and Revised SUP Final Plan" is subject to recommendation by the Planning Board and approval by City Council.

In February 2005, City Council approved the rezoning of 4.91 acres from R-15 Medium Density Residential to PRD Planned Residential Development and the issuance of a special use permit authorizing 20 two-story townhomes based on a preliminary site plan. In June 2005 City staff approved the Final Site Plan.

According to Section 7-4-13.2 Completion, the Zoning Ordinance requires that "...the right to construct improvements or otherwise develop land pursuant to a special use permit shall expire three years after issuance of a special use permit." An option exists to extend that date to a state mandated (§160A-385.1) maximum of five years. The North Carolina State Legislature passed legislation that stops the clock on development proposals from January 21, 2008 through December 31, 2011 in response to the recession. Based on this legislation, the completion date for this project was February 2, 2012.

To date, 15 of the original 20 townhomes have been completed. The applicant is requesting the Special Use Permit be reissued so that the remaining five townhome units may be completed.

Existing Land Use And Zoning: The project site is currently zoned Planned Residential Development. The current zoning classification was approved by City Council as part of the Special Use Permit in 2005.

Comprehensive Plan: The 2030 Comprehensive Plan identifies this property as Medium Intensity Neighborhood. The Medium Intensity Neighborhood category is intended to "provide a transition between High and Low –Intensity Neighborhood areas, while providing a wide range of housing formats and price points, promote walkable neighborhood design and compatible infill development in new neighborhoods and as a means of preserving and enhancing existing neighborhoods."

Plan Review: A review of the site plan reflects compliance with applicable sections of the Zoning Ordinance. She noted the following which is addressed in the List of Uses and Conditions based on a recommendation from the Planning Board.

Elevations: Section 7-4-5.1(t) of the Zoning Ordinance requires projects undergoing special use review shall submit elevation drawings of all facades of site buildings. The applicant has submitted six sets of construction drawings which include elevations. At this time, staff is unable to determine if one or more of these sets of plans and elevations will be used for the remaining five buildings. This was addressed by the applicant during the Planning Board meeting.

Ms. Anderson reviewed the site plan showing the areas where the requested units to be completed will be built.

Analysis: She reviewed Section 7-4-10.1 of the Zoning Ordinance and reported:

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

(B) Water and sewer service exist on the site

(C) Section 5-14-7.2 Setbacks requires that "...buildings and structures shall be set back not less than 30 feet from any exterior property line which is not a right-of-way." The applicant is requesting a variance reducing the required setback for Unit #13 from 30 feet to 20 feet as noted on the "As Built and Revised SUP Final Plan."

(D) Since the applicant is requesting a re-issue of the special use permit, a new Neighborhood Compatibility meeting was held on September 8, 2014. Notice was provided as required by law. Thirteen members of the public were present at the Neighborhood Compatibility meeting. She provided a report from the meeting.

(E) The 2030 Comprehensive Plan identifies this property as Medium Intensity Neighborhood. The Comprehensive Transportation Plan identifies this segment of Haywood Road as needing improvement. Due to existing development and steep terrain, options are limited. The Comprehensive Transportation Plan recommends the addition of two-way left-turn lanes, access management, geometric and intersection improvements. The buildings closest to Haywood Road are proposed to be located greater than 40 feet from the current right-of-way. This distance should provide sufficient room should NCDOT need to acquire additional right-of-way for future improvements.

Planning Board Recommendation: The Planning Board took this matter up at its regular meeting of October 13, 2014. The Planning Board voted unanimously to recommend City Council approve the variance request. The Planning Board also voted unanimously to recommend that City Council approve the issuance of 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 the applicant submit final elevations to the Planning Department prior to issuance of the Zoning Compliance permit.

Mayor Volk opened the public hearing at 6:28 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning.

Lawrence (Larry) Winson, an agent for the developer, Blythewood, LLC, provided the following testimony:

The project has been completed except for five units reflected on the site plan. The principle developer, Dan Young, was tragically killed in an automobile accident. They are trying to complete the project partially because they feel it is the right thing to do for the existing unit owners to maximize their revenue base. The property is under contract but subject to the condition that the new contractor complies with all of the requirements from the Council, and the requirements reflected in the elevations and building plans to maintain the integrity, the quality, the architectural integrity of the development. Before they walk away from the development, they are trying to do the right thing for the unit owners and to complete the project in a proper fashion.

Amy Martindale, lives in Blythe Commons, represented the neighborhood and provided the following testimony:

She thanked the Council for letting her speak. They are thankful Larry found someone to buy the lots and finish the development because it will help the community and themselves. She had questions about the site plan. They understand the permit has to do strictly with the site plan. They had problems with their initial developer. There are some elevation problems that could cause problems for a new builder. Their concern as a community is that everything is communicated to the new developer/builder because he will be responsible to the homeowners. No one has explained who he will be answer to. They assume it will be them.

On the second unit, there is a rock bed and there are other rock beds which are caused by poor elevation from the prior build. She wants to be sure the new developer/builder understands when he builds those units that the land was not property graded in the beginning and so it changed the site plan. It is important that he know it has been resurveyed and it may need extra drainage so it doesn't become more cost to them to repair once he builds and leaves. They are not sure what plans the new builder is getting. They have been told a lot of things that do not happen. It is hard to believe the builder will get all the information. They have never met the gentleman and do not know if he understands what needs to be corrected, etc. Their concern is that it becomes more of a burden.

Council Member Miller asked Ms. Martindale if the nature of the problem is flooding. Ms. Martindale stated they had some water drainage problems because the grading at the center is higher than the homes. They came back one to two years ago, resurveyed it and added the rock bed gardens to prevent the water from flowing into the homes. In the three units with the elevation problem, the sidewalk is higher than the original survey. When she talked to the surveyor, he said there is an "as-built" survey that shows the land is much higher so he won't build it according to the initial plan.

Council Member Caraker asked if the new construction will be below the road surface. Ms. Martindale stated she doesn't know. Council Member Caraker explained in order to handle drainage problems, they would bring in fill, compact it and build on top of it. Ms. Martindale stated she has been working with Ms. Anderson and Ms. Frady to correct the problems with the water, etc. The City has been wonderful working with her but she wants to make sure the new builder understands. Council Member Caraker asked if the problems have been addressed. Ms. Martindale replied yes, it has but these are empty lots. Mr. Winson explained when they were involved in selling the five lots to the new buyer, they anticipated this. They submitted the agreement to the City when they filed the special use permit application to make sure that the new builder will comply with everything that they had to comply with as far as building requirements, elevations, quality of construction, etc. to maintain the integrity of the entire development. It is clear to him that if there is a drainage problem on those lots where the three units will be built, the builder will have to address that issue because he cannot build there unless he addresses the drainage issue and that is part of the building concept. If they need to amend the agreement with the builder, they will but he thinks they have covered everything to make sure the builder complies with everything to meet the prior requirements (site plan and elevations). He anticipated that and addressed it. He doesn't think there will be a problem but he is not the builder. They are trying to do the right thing to make sure the final units are built and to ensure the new builder does it the right way. They cannot look over his shoulder. They are trying to close it out. It is part of Dan Young's estate and is being probated. They could have walked away but didn't feel it was the right thing to do and that is why they are here asking the Council for the special use permit, not leaving it to someone else and doesn't want to leave the unit owners in a lurch. They will go as far as they can to ensure the new builder does the right thing.

Council Member Caraker explained the only thing the building code addresses specifically is positive drainage five feet away from the structure. Since the first of the development occurred, there has been a lot more soil and erosion control regulations by the State.

Ms. Martindale explained she is not objecting to this, they want it to happen correctly. There will be no Blythewood, LLC once they are done.

Mr. Winson stated they will turn over everything to the unit-owner controlled association all of the documents, requirements, etc. so they will have the same authority to ensure the new builder does what he is supposed to do. They will issue a deed for all of the common elements and the owners will have the same authority that he has except they are unit-owner controlled.

There was discussion of property owners of condominiums and townhomes. Mr. Winson stated their association will control development just as they did as developer. They will assume control of all the common elements but

they will have the rights as the association to enforce whatever. They will legally assign everything to the association and they take full control. He stated they are trying to make sure everything is in place before they do that including getting the special use permit so the new builder does it properly.

Council Member Caraker stated he was trying to address the concerns of the unit owners. Mr. Winson stated the builder will have to comply with the building code, etc. and once everything is turned over to the association, they can enforce it if the building code is not complied with.

Council Member Miller asked Ms. Anderson about the issue. Ms. Anderson explained there is a stormwater plan for this project and the Engineering Department has inspected what is there now. She stated as the new homes get built, Mrs. Frady and the Engineering staff will be involved in a final inspection. They will both be onsite and inspecting the structures once complete and prior to the issuance of a Certificate of Occupancy. Mayor Pro Tem Stephens commented that is protection because they cannot get a CO before inspected.

A citizen requested to cross examine. City Attorney Fritschner advised it is up to the Council to determine if there is standing. Mayor Volk asked if anyone else wants to speak. There was none. She asked for specific questions to the evidence that was presented.

Mr. Ken Fitch, 1046 Patton Street, stated when the project was proposed it was controversial because of the removal of trees. There was another proposal that it be a gated community. The Council rejected that. He stated there is a gate on Haywood Road and asked if it is for emergency use. Mayor Pro Tem Stephens stated it is for an emergency. He stated the Council didn't approve the gate because traffic would back up while someone was waiting for the gate to open. He stated the front gate on Highway 191 is blocked because there was cut-thru traffic to miss the traffic light.

Gene Lazarus, 88 Chatham Path, asked when Luther Smith reevaluated, and the LLC regraded, etc., did the additional survey include the five lots for additional drainage needs. Mr. Winson stated he was not involved in that but assumes it did because it is all part of the same site plan. He stated the five lots were not added later, they were part of the original concept but cannot specifically answer the question. Mr. Lazarus asked if they are going to comply with all the drainage needs, etc. and what if they find the lots do not drain. He asked if the documents include the five lots and if it is included in this transaction. Mr. Winson stated yes, the agreement requires the builder to comply with everything. He stated the lots were not added and were a part of original project submitted in 2005 but could not answer. Mr. Lazarus stated no work has been done on the three lots. He asked Ms. Martindale to answer.

Ms. Martindale stated it was resurveyed when they had water problems, and Luther Smith stated the builder needs to use the "as-built" survey, not the initial survey, because it shows the higher elevation of the sidewalks which were improperly installed. She stated a knowledgeable builder will understand where the elevation needs to be put to drain in the proper manner. She stated the survey shows the elevation of the land now. She stated she also wanted to make sure the builder is given everything so he has the proper elevation and doesn't use the survey from 2001 or they will have drainage problems.

There was no further cross examination. Mayor Volk closed the public hearing at 6:46 p.m.

Council Member Smith asked if it is not built right, does the homeowners association have the right to take the builder to court to have it fixed. City Attorney Fritschner stated he would have to look at the documents that have been recorded but there are various governmental entities that have the right to enforce compliance. Council Member Caraker commented the State of North Carolina also has enforcement opportunities.

Mayor Volk asked for questions from the Council. There was none.

Council Member Caraker moved the City Council approve the following variance request: a variance from Zoning Ordinance Section 5-14-7.2 Setbacks reducing the required setback for Unit #13 from 30 feet to 20 feet as noted on the "as-built and revised Special Use Permit Final Plan" because it is consistent with the previous construction. A unanimous vote of the Council followed. Motion carried.

Council Member Caraker moved the City Council to approve the issuance of 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 including the following: the applicant shall submit final elevations to the Planning Department and those elevations will need to be approved by the Planning Department prior to issuance of each Zoning Compliance permit. A unanimous vote of the Council followed. Motion carried.

9. Public Hearing - Consideration of Application for a Zoning Map Amendment from Mr. Art Cooley to Rezone Five Properties on Signal Hill Road, Linda Vista Drive and Tower Signal Hill Road from RCT Residential Commercial Transition to C-3 Highway Business Classification:

Ms. Sue Anderson, Planning Director, reported the City is in receipt of a zoning map amendment application from Art Cooley for the following five properties:

Parcel Number	Approximate Acreage	Address
9579-06-4091	.71	332 Signal Hill Road

9579-05-4666	.63	Vacant
9579-05-4841	.64	425 Linda Vista Drive
9579-05-1935	3.79	264 Tower Signal Hill Road
9579-05-2596	.96	270 Signal Hill Road.

The applicant/property owner is requesting the rezoning of these five properties from RCT Residential Commercial Transition to C-3 Highway Business. Since these properties are adjacent to each other and owned by the same property owner, the applications are being processed together. She provided a history of the zoning changes of the properties.

Zoning Ordinance Guidelines: Ms. Anderson explained according to North Carolina General Statutes, zoning amendments shall be made in accordance with a Comprehensive Plan. The 2030 Comprehensive Plan future land use map designates these parcels as high intensity neighborhood. The High Intensity Neighborhood category is intended to encourage low-maintenance high-density residential that supports neighborhood and regional activity centers and downtown and provides a transition between commercial and single-family development. She reviewed the primary and secondary recommended land uses for the High Intensity Neighborhood.

Ms. Anderson explained the request is to rezone these parcels from RCT Residential Commercial Transition to C-3 Highway Business. The RCT Residential Commercial Transition zoning district classification is intended to “provide for a more orderly transition of older residential and transitional areas to commercial redevelopment.” The C-3 Highway Business zoning district is “designed primarily to encourage the development of recognizable, attractive groupings of facilities to serve persons traveling by automobile and local residents.”

Ms. Anderson reviewed the surrounding land uses and zoning classifications. She also provided an analysis of the current uses on the individual parcels and a comparison of the dimensional requirements for the RCT Residential Commercial Transition and C-3 Highway Business zoning districts. She also reviewed the permitted and conditional uses for both districts.

Ms. Anderson reported the Planning Board voted unanimously to recommend City Council adopt an ordinance amending the official zoning map of the City changing the zoning designation of the requested parcels from RCT Residential Commercial Transition to C-3 Highway Business, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest.

Ms. Anderson also reviewed the factors contained in Section 11-4 of the City’s Zoning Ordinance that must be considered prior to adopting or disapproving an amendment to the City’s Official Zoning Map.

Mayor Volk opened the public hearing at 6:58 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. No one expressed a desire to speak. The public hearing was closed.

Mayor Pro Tem Stephens moved Council to adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of parcel numbers 9579-06-4091, 9579-05-4666, 9579-05-4841, 9579-05-1935, and 9579-05-2596 from RCT Residential Commercial Transition to C-3 Highway Business, finding that the rezoning is consistent with the Comprehensive Plan, the rezoning is reasonable and in the public interest for the following reasons: because of the location and the surrounding zoning and development. A unanimous vote of the Council followed. Motion carried.

Ordinance #14-1148

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE
IN RE: FILE NO. P14-41 - 45-Z**

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

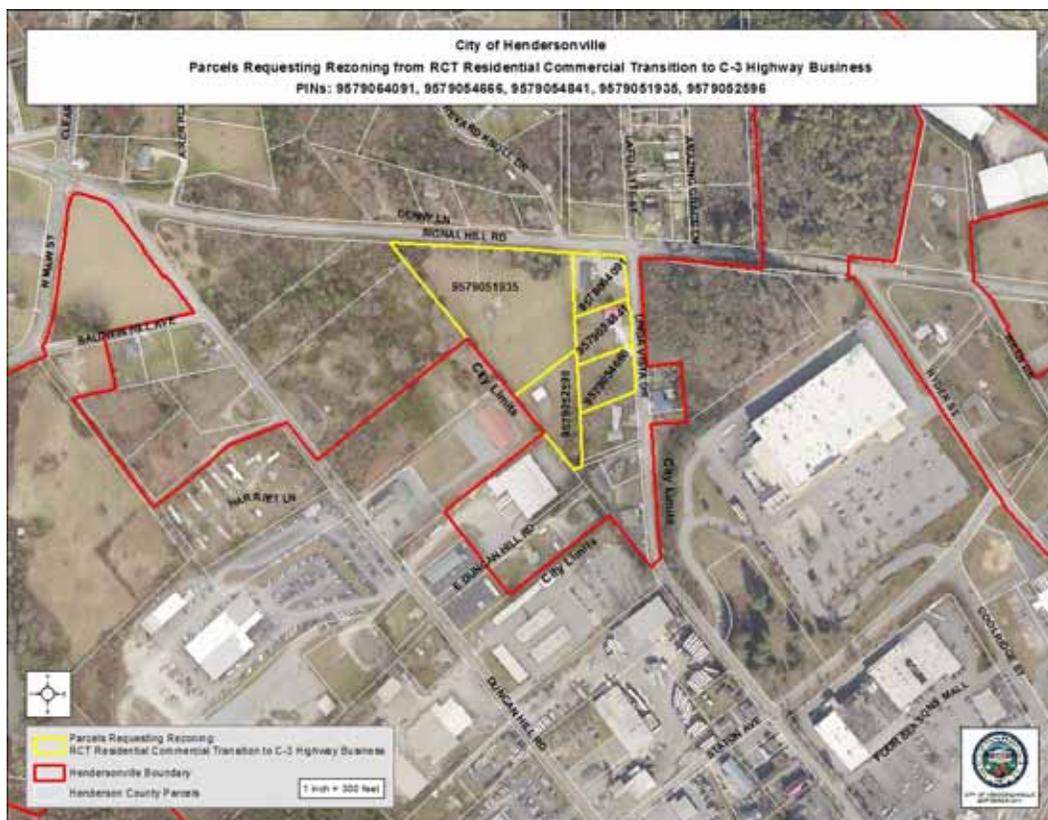
1. Pursuant to Article XI Amendments of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of parcel numbers 9579-06-4091, 9579-05-4666, 9579-05-4841, 9579-05-1935, and 9579-05-2596 from City of Hendersonville RCT Residential Commercial Transition to C-3 Highway Business.
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this sixth day of November 2014.

/s/Barbara G. Volk, Mayor

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

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



10. Public Hearing - Consideration of North Carolina Parks and Recreation Trust Fund Grant for Improvements to Berkeley Mills Park: Ms. Sue Anderson, Planning Director, explained the North Carolina General Assembly established the Parks and Recreation Trust Fund (PARTF) to fund improvements in the state's park system, to fund grants for local governments and to increase the public's access to the state's beaches. The Parks and Recreation Authority, a nine-member appointed board, was also created to allocate funds from PARTF to the state parks and to the grants program for local governments. The North Carolina Parks and Recreation Trust Fund provides dollar-for-dollar matching grants to local governments for parks and recreational projects to serve the public.

Ms. Anderson explained the purpose of this public hearing is for City Council to review the North Carolina Parks and Recreation Trust Fund Grant proposal for Berkeley Mills Park and discuss whether to approve the grant application and the required match.

Ms. Anderson stated the City Council held a public meeting on October 2 for discussing the project and obtaining public comments. Regarding questions raised at that meeting about maintenance at Berkeley Mills Park, staff has determined that the equivalent of one full time employee will be necessary to supplement already existing park maintenance. Total cost for that position, including benefits, is \$40,829.

Ms. Anderson reviewed documents, including the Master Plan, that are required as part of the application for the grant. She reported a correction to the budget impact: \$300,000 is included in the Capital Improvement Program; \$62,196 will be from the Water and Sewer Fund. She explained the intent is to have a destination playground that meets ADA guidelines. She also reported grant funds do not pay for some items: the restroom, driveway, etc. and those items will be funded by the City's matching funds. She explained they receive 80-90 applications/year for grants and award approximately 20. She stated the City will have three years to expend the funds if awarded a grant and the matching funds may be paid over three years.

Mayor Volk opened the public hearing at 7:07 p.m. and asked for comments on the proposed grant. The following addressed the Council:

Ken Fitch, 1046 Patton Street, stated he has spoken in favor of this grant in the past. He commented that the greenway is being extended and asked whether the destination, Berkeley Mills Park and the facilities, will be ready.

The public hearing was closed at 7:08 p.m.

Council Member Smith moved City Council to direct staff to submit an application for a \$250,000 PARTF Grant for Berkeley Mills Park and to approve a \$362,196 match. A unanimous vote of the Council followed. Motion carried.

11. Consideration of an Ordinance Imposing a 60-day Moratorium with Respect to Shelter Facilities and Day Centers in Certain Zoning Districts: In light of potential changes on Seventh Avenue where there are currently facilities for homeless and street people, City Attorney Fritschner explained staff is proposing a moratorium beginning November 10 extending through the January 8, 2015 City Council meeting.

City Attorney Fritschner explained the moratorium will extend to all zoning districts in the City and cover shelter facilities as defined in the Zoning Ordinance and day centers as defined in the proposed moratorium ordinance.

Mr. Connet addressed the Council stating the City is embarking on the revitalization of the Seventh Avenue. He stated there are currently five shelter facilities in that area. The facilities a need in our community but that area is saturated and there are other areas of the City that need these facilities. He stated from a planning standpoint, a moratorium is necessary to establish zoning regulations to limit the number of these types of facilities in any one area to protect the property values and long-term health of specific areas.

Mr. Connet reported staff is considering recommending the limiting of one homeless shelter and one day center to specific areas of the City. Additional day centers or homeless centers would be allowed in a different area of the City to serve the needs. He stated City staff knows of no pending projects that the moratorium will affect. He explained all facilities in operation are allowed to continue. He stated staff has met with someone who is trying to start a facility. He stated the ordinance will allow staff 60 days to development the regulations.

Council Member Caraker voiced support of the moratorium to allow staff time to develop regulations without interfering with existing operations. Mr. Connet explained staff will be discussing amendments to the ordinance, present the amendments to the Planning Board for a recommendation, and then to City Council for consideration at the January 8, 2015 meeting. Council Member Smith stated the public may attend the Planning Board for more details and a public hearing will be held at the January 8, 2015 Council meeting.

Council Member Smith moved adoption of the ordinance establishing a moratorium on shelter facilities and day centers. A unanimous vote of the Council followed. Motion carried.

Ordinance No. 14-1151

AN ORDINANCE IMPOSING A MORATORIUM WITH RESPECT TO SHELTER FACILITIES AND DAY CENTERS IN CERTAIN ZONING DISTRICTS

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to adopt, administer and enforce zoning and subdivision regulation ordinances, building codes, and minimum housing standards and other related measures; and

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to impose moratoria with respect to uses in its several zoning districts; and

WHEREAS, the City Council desires to set aside a short period to study the desirability of amending the zoning regulations respecting shelter facilities; and

WHEREAS, the City Council desires to set aside a short period to study the desirability of adopting zoning regulations respecting day centers;

As required by N.C.G.S. § 160A-381(e) the City Council offers the following four statements:

1. The Historic Seventh Avenue MSD and the Greater Green Meadows Neighborhood is home to five establishments that provide service to the homeless population in Hendersonville, including a large homeless shelter and two day centers. In addition, two services provide meals and food pantry services. Often the clients of these services inspire concern on the part of local businesses and property owners because the clients are by their nature often transient and therefore not tied to the community. There is the additional concern of panhandling and loitering on private property that often accompanies a transient population, in addition to concerns related to mental health issues that are more evident in transient populations. Minor crime issues such as public intoxication, drug use and fighting occur on an occasional basis in this area.

To address these concerns the City of Hendersonville and the Historic Seventh Avenue, Inc. have worked for a number of years with the homeless shelter and service providers to develop a positive working relationship between the property and businesses and service providers to address many of these issues, but the work is ongoing. Lower rental rates in this area have induced additional service providers to seek to locate in this small general area.

The City of Hendersonville fully supports the concept of providing services to our homeless population and that such services should be distributed geographically throughout the entire community.

2. There are at present no development approvals subject to this moratorium.

3. This moratorium will take effect on November 10, 2014 and expire on January 8, 2015. This period is necessary to permit research and development of a preliminary proposed ordinance by City Staff, subsequent referral to the Planning Board, including possible prior referral to a subcommittee thereof, and subsequent advertising of a public hearing in advance of the regular January 8, 2015 City Council meeting. That meeting, normally scheduled for the first Thursday of the month, was previously moved to January 8, 2015, the second Thursday, because of the January 1 holiday.

4. The City of Hendersonville has developed a plan to amend the City of Hendersonville Zoning Ordinance to allow day centers and homeless shelters in specific zoning districts with a special use permit. It is proposed that one of the conditions of the Special Use Permit would prohibit a large number of these similar uses from locating in close proximity to one another. Over the next sixty days the City Hendersonville staff will develop a proposed ordinance amendment and conduct the necessary hearings before the Planning Commission and City Council to amend the Zoning Ordinance.

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

1. For purposes of this ordinance, the term "Day Center" shall mean an agency that provides a combination of case management, resources or a range of like services during daytime hours only, to aid persons who are homeless.

2. There is hereby imposed a moratorium on all Shelter Facilities as defined in the Zoning Ordinance and Day Centers as defined herein within all zoning districts within the City of Hendersonville's zoning jurisdiction, such moratorium to be effective upon the adoption of this ordinance and extending for a period of 60 days hereafter. During this period no Shelter Facility not operating in conjunction with a validly-obtained City business license as of the time of the adoption of this ordinance shall be permitted in any identified zoning districts. During this period no Day Center shall be permitted in the identified zoning districts.

3. This ordinance, for the period of its effectiveness, supersedes every other zoning ordinance respecting Day Centers, whether or not defined as such, or Shelter Facilities, or both of them, existing at the time of the adoption hereof.

4. The City Manager and the City Attorney are directed personally or through a designee to present to the Planning Board a draft ordinance for study by the Board to determine the desirability of extending this moratorium into a part of the Zoning Ordinance, with a request that the Board study particularly the appropriate zoning districts, if any, for the application hereof.

5. If any portion of this ordinance is declared by a court of competent jurisdiction to be invalid, such declaration shall not affect the validity of the remaining provisions of this ordinance.

6. This ordinance shall be effective upon its adoption.

Adopted this sixth day of November 2014.

/s/Barbara G. Volk, Mayor

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

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

12. Consideration of a Resolution Authorizing the Submission of a Bicycle Planning Grant: Mr. Joe Sanders, President of the Blue Ridge Bicycle Club, gave a presentation on the community's interest for a bicycle planning grant. He asked for Council's consideration of applying for a planning grant.

Mr. Sanders reviewed statistics for American's health and driving habits and support needed for the grant. He explained the bicycle grant is a matching program that encourages municipalities to develop comprehensive bike plans. NCDOT provides 70 percent of the funding to develop a plan; Hendersonville must meet the 30 percent match or \$15,000. He stated the Bike Club will donate at least \$2,000 and will offer \$2,000 more as a community match. He stated donations are tax deductible. He addressed how the bike plan fits within the 2030 Comprehensive Plan: Goals TC-1 and TC-2.1.1.

Mr. Sanders explained NCDOT requires a resolution from the City Council and comprehensive community support is necessary. He will continue to research and complete the application which is due December 4.

There was discussion of what the bike plan will offer. Mr. Sanders explained it will buy the services of consultants that have done bike plans previously. He referenced Carrboro which is the friendliest City for bicycling. There was also discussion on the chances of receiving the grant.

Mayor Volk asked where the City's share come from. Mr. Connet stated the grant may not be awarded until Spring 2015 and the match would have to be included in 2015-16 budget process. The City will also take donations from the Bike Club.

Mayor Pro Tem Stephens voiced support of the grant stating he would like to proceed with the grant application. He stated he hears from seniors that they would appreciate a safe place to bike. He agreed safety is the number one concern.

There was discussion of the possible amount of the grant and the cost of the bike plan. Mr. Sanders stated for Hendersonville's population the grant amount would be up to \$49,000. Ms. Anderson explained adopting the resolution shows the City is committed to the matching funds. If the grant is awarded, the Council has to accept the grant and then the project would be competitively bid through an RFP process. City Council could organize a selection committee to review the proposals and make a recommendation. Awarding the project requires City Council approval. Discussion followed on the amount of the City's commitment and the resolution showing the City's commitment.

Ms. Anderson informed the Council that the City is getting ready to complete the third phase of the Oklawaha Greenway. She stated a bicycle plan will identify linkages in neighborhoods to get to the greenway, which streets are right for a redesign, etc.

Council Member Miller moved the City Council approve the resolution authorizing the submission of a grant application to NCDOT to develop a bicycle plan for the City of Hendersonville. A unanimous vote of the Council followed. Motion carried.

Resolution #14-1149

A RESOLUTION AUTHORIZING THE SUBMISSION OF BICYCLE PLANNING GRANT

- WHEREAS, Chapter 5 Community Facilities of the City of Hendersonville 2030 Comprehensive Plan discusses parks and recreation, and
- WHEREAS, Section 5.2 Issues and Opportunities states, there is "a significant desire for more biking and walking paths, and
- WHEREAS, the Hendersonville City Council adopted the Hendersonville Pedestrian Plan on March 8, 2007, and

- WHEREAS, the Blue Ridge Bicycling Club (Club) has requested that the City of Hendersonville apply for grant funds for the development of a comprehensive bicycle plan, and
- WHEREAS, the Club has volunteered to coordinate the development and submission of the grant application on behalf of the City of Hendersonville, and
- WHEREAS, the City Council has previously supported the establishment of Fourth Avenue as a bicycle boulevard, and the concept of the Ecusta Trail, and
- WHEREAS, It is the intent of City Council to promote and physically develop a road, trail and greenway network that offers safety and connectivity to citizens and visitors by integrating and balancing the needs of bicyclist with other modes of transportation, and
- WHEREAS, it is the desire of City Council to submit a grant application to the North Carolina Department of Transportation for the development of a Bicycle Plan.

NOW, THEREFORE, IT IS HEREBY RESOLVED:

1. That the City Council authorizes Blue Ridge Bicycle Club and City of Hendersonville staff to develop and submit a grant application to develop a bicycle plan.
2. That the City Council agrees to fund the 30% match (\$12,000 to \$21,000) as required by the grant program.

Adopted the sixth day of November, 2014.

/s/Barbara G. Volk, Mayor

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

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

13. Discussion of New Stoplight at Main and Allen Streets: City Manager John Connet reported Council Member Smith received some concerns about drivers in the wrong lane way on Main Street at the intersection of Main and Allen Streets. He asked for direction from the Council in regards to a stoplight and provided cost estimates.

Chief Blake reported from 2011 to 2014 only four accidents were reported. Mayor Pro Tem Stephens stated he worked in that block for two years and has seen drivers making a wrong turn and/or not stopping on Main Street. He stated this is the only intersection on Main Street that does not have a stoplight. Mayor Volk stated there is not a stoplight on King Street with the intersection of Allen Street. Council Member Caraker stated he also sees many pedestrian violations.

Mayor Volk commented she is not sure how a stoplight would change situation because the lanes would still be there. Council Member Smith suggested the possibility of a sign on the back of the stop sign showing drivers cannot go straight; left only. He questioned whether a stop light may cause drivers to pause and think.

There was discussion of the estimated cost of the stoplight: \$93,000. Council Member Miller suggested removing the "only" turn symbols. There was discussion of drivers not paying attention regardless of what kind of signage is provided. Council Member Caraker stated this could be addressed in the future if, and when, the serpentine pattern is extended on Main Street.

Mr. Connet stated there appears to be a sign missing. Council Member Smith asked staff to research whether something may be put on the back of the stop sign. Mayor Volk thanked Council Member Smith for bringing it to the attention of the Council. **No action was taken by the Council.**

14. Comments from Mayor and City Council Members:

a. Confirming date of January 2015 Regular Meeting: January 8, 2015: Mayor Volk reminded the Council of the meeting date change for the regular Council meeting in January 2015. The regular meeting would fall on January 1.

b. Confirming date of February 13, 2015 – Council and Staff Retreat: Mayor Volk reminded the Council of this meeting date.

c. Consideration of Adding a Position to the Seventh Avenue Advisory Committee Representing Hendersonville Rescue Mission: Council Member Caraker proposed adding a position to the Seventh Avenue Advisory Board representing the Hendersonville Rescue Meeting. He reported a good meeting and communication with Rev. Anthony McMinn. He stated he is very impressed with the facilities and how the Mission serves homeless citizens. He stated the City and the Committee needs and will benefit from the perspective this representative could offer. **Council Member Caraker moved the City Council to add a position to the Seventh Avenue Advisory Committee representing the Hendersonville Rescue Mission. A unanimous vote of the Council followed. Motion carried.**

15. Reports from Staff: There was none.

16. Consideration of Appointments to Boards and Commissions

a. Consideration of Appointments:

i. Planning Board: City Clerk Tammie Drake reported the terms of three members of the Planning Board will expire 12/01/14: Jon Blatt, Raymond Mundy and Julia Sellers. Mrs. Sellers declined reappointment; Mr. Blatt and Mr. Mundy would like to continue serving. She presented the applications of other citizens interested in serving. Council Member Smith voiced support of Michael Coggins. **Council Member Caraker nominated Mr. Blatt and Mr. Mundy to be reappointed to a three-year term on the Planning Board . A unanimous vote of the Council followed. Motion carried.**

Council Member Smith nominated Mr. Michael Coggins. Mayor Pro Tem Stephens stated someone else has expressed interest in the Planning Board and asked to postpone the appointment until the next Council meeting. **The appointment was postponed until the next meeting without objection from the Council.**

ii. Tree Board: City Clerk Tammie Drake presented the application on file. Council Member Caraker asked to postpone the appointment until the next meeting. **The appointment was postponed until the next meeting without objection from the Council.**

b. Announcement of Vacancies and Upcoming Appointments: Mrs. Drake reminded the Council of vacancies on the Board of Adjustment, the Environmental Sustainability Board and the Tree Board.

17. New Business:

Ashe Street/Ray Avenue Traffic Concerns: Council Member Miller brought up an issue of speeding vehicles in front of the Boys and Girls Club on Ashe Street/Ray Avenue. He has had several parents of children in the Boy and Girls Club express concern about the rate of speed on Ashe Street. He asked staff to review and possibly consider making the intersection a three-way stop to slow traffic. **The Council expressed no objection to the suggestion of Council Member Miller.**

Council Member Miller requested that awards to employees be framed.

Council Member Smith complimented staff on their extra work on the City's new customer service initiative. He stated he appreciates staff's extra efforts, as it is a great benefit to the City.

18. Adjournment: The meeting adjourned at 8:03 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

Tammie K. Drake, City Clerk