

# MINUTES

## January 9, 2020

### REGULAR MEETING OF THE CITY COUNCIL

### COUNCIL CHAMBERS – CITY HALL

### 5:45 p.m.

**Present:** Mayor Barbara G. Volk, Mayor Pro Tem Jerry Smith and Council Members: Jeff Miller, Jennifer Hensley and Lyndsey Simpson

**Staff Present:** City Manager John F. Connet, Attorney Sharon Alexander, City Clerk Tammie Drake, Police Chief Herbert Blake, Finance Director John Buchanan, Engineering Director Brent Detwiler, Development Assistance Director Susan Frady, Human Resources Director Jennifer Harrell, Senior Planner Daniel Heyman, Downtown Director Lew Holloway, Administrative Aid Pam Ludwig, Interim Fire Chief James Miller, Planner Tyler Morrow, Communications Director Allison Nock, Utilities Director Lee Smith

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

**2. Invocation and Pledge of Allegiance to the Flag:** There was a moment of silence for prayer 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.* Because of the number signed up to speak, Mayor Volk limited comments to one minute each.

Bruce Holliday, 3 Ridgeborn Way, Flat Rock, voiced support of the Highland Lake Road project.

Sheryl Jamerson, 3240 Greenville Highway, Flat Rock, served on the Flat Rock Council, voiced support of the Highland Lake Road project.

Jim Hart, 111 Mockingbird Drive, Hendersonville, voiced opposition to the Highland Lake Road project.

Ginger Brown, 26 Halftimber Lane, Flat Rock, served as Village Council member, voiced support of the Highland Lake Road project.

Malisia Wilkins, 36 Robert E. Lee Drive, Flat Rock, supported the Highland Lake Road project.

Tom Carpenter, current Flat Rock Village Council member, voiced opposition to the Highland Lake Road project.

David Dethero, 635 Rutledge Drive, voiced opposition to the Highland Lake Road project.

Ann Coletta, 416 Rhett Drive, current Flat Rock Village Council Member, voiced opposition to the Highland Lake Road project.

Seth Cowan, 15 Market Center Drive, voiced opposition to the Highland Lake Road project.

Bill Ziperman, 357 Kenmure Drive, Flat Rock, voiced opposition to the Highland Lake Road project.

Ken Fitch, 1046 Patton Street, Hendersonville, commented the rezoning of the Gordon property may be premature because NCDOT road construction plans are not complete and the project could change. He stated the rezoning should be conditional.

Georgia Bonesteel, 100 Lowndes Lane, Flat Rock, voiced opposition to the Highland Lake Road project.

Victoria Flanagan, 365 Sherwood Drive, Flat Rock, voiced opposition to the Highland Lake Road project.

Bay Chamberlain, 274 Village Greenway, Flat Rock, voiced opposition to the Highland Lake Road project.

Jack Hatfield, 332 Highland Golf Drive, Flat Rock, voiced opposition to the Highland Lake Road project.

Phillip Green, 15 Ravenswood Road, Flat Rock, voiced opposition to the Highland Lake Road project.

William Kent, 424 N. Woodfield Court, Flat Rock, voiced opposition to the Highland Lake Road project.

Stephanie Dunn, 2921 Greenville Highway, Flat Rock, voiced opposition to the Highland Lake Road project.

Robert Brogi, 112 Kenwood Drive, Flat Rock, voiced opposition to the Highland Lake Road project.

Amanda Fox McGlasson, 228 Kenmure Drive, Flat Rock, voiced support of the Highland Lake Road project.

Gary Letchworth, 1925 Little River Road, Flat Rock, voiced concerns that NCDOT has spent \$1 million on this project and nothing has been done to the road.

Gary German, 200 Pheasant Run, Flat Rock, voiced opposition to the Highland Lake Road project.

Theodore Etherington, 203 Glen Roy Court, Flat Rock, voiced opposition to the Highland Lake Road project.

Victor Behoriam, Little River Road, Flat Rock, voiced opposition to the Highland Lake Road project.

Darlene Miller, 100 Stonebridge Drive, Flat Rock, voiced opposition to the Highland Lake Road project.

Bob Heltman, 227 Wooden Bridge Lane, Flat Rock, voiced opposition to the Highland Lake Road project.

Rich Ehlers, 142 Stonebridge Drive, Flat Rock, voiced opposition to the Highland Lake Road project.

Indian Jackson, 2689 Howard Gap Road, expressed concerns that affordable housing is being constructed on the outskirts of Hendersonville while businesses are making money on Seventh Avenue. She stated more affordable housing is needed downtown.

#### **4. Consideration of Agenda:**

##### **Items Removed from Consent Agenda:**

##### **F. Consideration of Eminent Domain Approval for Half-Way Tree Sewer**

##### **Items Added to Consent Agenda:**

##### **I. Fee Schedule Amendment for cost of Agenda Packages for public requests**

##### **Items Postponed to Next Month:**

##### **6. Recognition – Adam Murr, Certified Budget and Evaluation Officer**

Council Member Miller requested to move item 10 before item 7. There was no objection from the Council.

Council Member Hensley moved approval of the agenda as amended. A unanimous vote of the Council followed. Motion carried.

#### **5. Consideration of Consent Agenda:** *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: December 5, 2019 Regular Meeting**

**B. Consideration of Budget Amendments:** Mr. Adam Murr, Budget and Management Analyst, presented the following budget amendments.

1. SAFER Grant: These budget amendments will cover costs associated with the SAFER grant accepted by the City in 2019. These cost impacts relate to personnel and benefits, operating, and facilities.  
Fund 10, Fund Balance Appropriation: \$101,854, Total Revenues: \$186,980  
Fund 365, Total Revenues/Expenditures: \$1,252,325: An amendment to the existing grant project ordinance to account for additional funds received for the 2019 SAFER grant award. Grant accounting and administration is done through a separate multi-year fund/ordinance to improve reporting and accounting practices.
2. GIS Position: A budget amendment to pay for a new GIS Technician position. This position is identified in the water/sewer strategic planning meetings and will serve to better the system.  
Fund 60, Increase of \$34,721
3. Public Works: This budget amendment increases revenue from the rental of the Patton Park Admin building by Blue Ridge Literacy Council.  
Fund 10, Increase of \$7,500

**C. Consideration of French Broad Metropolitan Planning Organization Dues Increase:** City Manager John Connet reported the French Broad River Metropolitan Planning Organization is considering increasing the salary of its staff and hiring additional staff to focus on the transportation issues within the region. This request is being made by MPO Chairman Bill Lapsley. The salary increase and additional staff person will require a dues increase for MPO members.

Mr. Connet stated the City's increase will be \$318 for FY 19-20 and \$1,090 per year beginning FY 20-21. City staff believes the salary increases are needed to maintain staff continuity and an additional staff member will provide additional transportation planning in our growing region.

**D. Consideration of Three-Way Stop on Williams Street:** Mr. Connet reported City employees and vehicles have had numerous close calls from traffic traveling on Williams Street near the First Avenue East intersection. Currently, City employees must pass through this intersection to reach the parking area/yard for the Water & Sewer trucks. At the end of the day, the trucks returning on Williams Street cannot always see the traffic coming down First Avenue.

Following several employee complaints, the City Safety Committee recommends the installation of a three-way stop at Williams Street and First Avenue East.

**E. Consideration of Resolution of Intent to Close a Portion of an Unimproved Right-of-way for West Pine Street located on PINs 9568-44-6575 and 9568-44-5754:** Development Assistance Director Susan Frady reported the City received an application from Stephen Robertson to close a portion of an unimproved right-of-way (25 feet) for West Pine Street located on PINs 9568-44-6575 and 9568-44-5754. West Pine Street is an open street with a 70-foot right-of-way. The proposal is to leave a 45-foot wide portion of the right-of-way and close 25 feet of the right-of-way.

Mrs. Frady stated NC General Statue 160A-299 has procedures for permanently closing streets and alleys. She provided a Resolution of Intent to close the right-of-way setting March 5, 2020 as the public hearing date.

Resolution #20-0101

**RESOLUTION OF INTENT**  
**A resolution declaring the intention of the City of Hendersonville City Council to consider closing a portion of an unimproved Right-of-Way (25 feet) for West Pine Street located on PINs 9568-44-6575 and 9568-44-5754**

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys, and WHEREAS, Stephen Robertson, has petitioned the Council of the City of Hendersonville to close a portion of an unimproved right-of-way (25 feet) for West Pine Street located on PIN 9568-44-6575 and 9568-44-5754. WHEREAS, the City Council considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of a portion of an unimproved right-of-way (25 feet) for West Pine Street located on PIN 9568-44-6575 and 9568-44-5754.

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

1. A meeting will be held at 5:45 p.m. on the fifth day of March 2020, in the Council Chambers of City Hall to consider closing a portion of an unimproved right-of-way (25 feet) for West Pine Street.
2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
3. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
4. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Adopted by the City Council at a meeting held on the ninth day of January 2020.  
/s/Barbara G. Volk, Mayor  
Attest: /s/Tammie K. Drake, City Clerk

~~**F. Consideration of Eminent Domain Approval for Half Way Tree Sewer Project**~~

**G. Consideration of Special Event Permit for Bike Night During Friday Night Music on Main:** Development Assistance Director Susan Frady reported the Special Events Committee voted unanimously to recommend the City Council approve this special event. She reported this event will replace the previous Corvette nights during the Friday Night Music on Main Events. Main Street will be closed from Allen Street to Caswell from 5 P.M. - 8 P.M.

**H. Consideration of Tax Discoveries, Releases, Refunds, and Forgiven Interest:** Deputy Tax Collector, Jennifer Musselwhite submitted the tax bill adjustments occurring between November 20, 2019 and December 17, 2019. these adjustments include all discoveries, releases, refunds, and forgiven interest. These adjustments were provided by Henderson County Tax Department. Documentation is available in the Tax Office.

SUMMARY TOTAL OF DISCOVERIES, RELEASES, REFUNDS, AND FORGIVEN INTEREST		
FOR TRANSACTIONS AS OF 12/17/2019		
VALUE CHANGE	\$	(558,308)
RELEASES	\$	(3,345)
REFUNDS	\$	-
FORGIVEN INTEREST	\$	-
TOTAL TAX BILL ADJUSTMENTS	\$	(3,345)
Adjustments, Releases, Refunds are provided by Henderson County Tax		

**I. Fee Schedule Amendment for cost of Agenda Packages for public requests:** Mr. Connet reported the City received a request for the printing of agenda packets for City Council meetings. Currently, the fee schedule allows printing at \$0.15/page for black and white, or \$0.25/page for color.

Mr. Connet proposed a fee schedule amendment that authorizes the City to charge, on average, a lower subscription rate. The new rate would cover the cost of printing and provide increased service to those interested in City Council agendas. Subscribers may choose to purchase agendas within a month for \$15/month, or all agendas within each fiscal year for \$180/fiscal year.

Council Member Simpson moved the City Council to resolve to approve the items listed on the consent agenda as amended. A unanimous vote of the Council followed. Motion carried.

~~**6. Recognition – Adam Murr – Certified Budget and Evaluation Officer**~~

**10. Discussion of Highland Lake Road:** City Manager John Connet addressed the Council and explained the Highland Lake Road project was approved and funded for construction by NCDOT. He stated a portion of the project is located within the city limits of Hendersonville. The Village of Flat Rock has voted to stop the project, however, the project must be voted on by all members of the French Broad River Metropolitan Planning Organization (MPO). There are 28 voting members and Council Member Hensley is the City's representative and one of the voting members. He stated after conferring with Council Member Hensley, staff is requesting the Council to establish their position on stopping the project prior to a formal vote of the MPO. He stated the Henderson County Transportation Advisory Committee (TAC) will discuss this at a special meeting to be held on Monday, January 13, 2020.

Mr. Connet provided a brief history of the project. He stated the passing of House Bill 97 added more funding to the Highway Trust Fund.

Acting City Attorney Sharon Alexander announced a conflict because of her representation of the Village of Flat Rock. She stated she cannot give any advice and is happy to leave the room. **Mayor Volk stated it is not necessary for Attorney Alexander to leave the room. The Council agreed by consensus.**

Mayor Pro Tem Smith stated it was the decision of the Flat Rock Village Council to pass a resolution. Any issues that relate to eminent domain do not relate to the City of Hendersonville. He stated the City's resolution has nothing to do with Flat Rock's resolution and the Hendersonville City Council is not voting on eminent domain. Secondly, he stated he appreciates the comments about the democratic process. He stated there are 28 members of the MPO that have to vote, and Council Member Hensley has to cast a vote for the City of Hendersonville and she asked for input from the City Council. He stated he did not look forward to having to discuss the issue but the process in which the State funds roads, the MPO has a say. He stated this is the democratic process taking place. He stated the Council is very aware of what happened with the Flat Rock election, knows the issue, and watched the election with a lot of interest. He stated the implication that the Hendersonville City Council is trying to short-change or disenfranchise is not true. He stated the City Council has been asked to give their representative their thoughts on the project. He stated the Council is not voting against Flat Rock's decision. He stated because Council Member Hensley has to cast a vote as Hendersonville's representative, it is only fair that the Council provides feedback. He appreciates that Council Member Hensley wants to hear from Council. He stated part of the project is in the City of Hendersonville.

Council Member Miller agreed, stating the City Council is not trying to circumvent anything that happened in Flat Rock. He stated the City has approximately 3/10 of mile and have to look for improvements to roads within Hendersonville. He stated the City Council has supported improvements to Highland Lake Road beginning in 2011 before he was on the City Council. He stated it can take ten years to get a road project funded. He stated it must be difficult for NCDOT to operate if they have to be concerned about a new Council coming in and withdrawing it all. He stated there are a lot of mixed feelings and is very concerned about the process and how this area can continue to get funding here if the process is circumvented.

Council Member Hensley commented as a new TAC and MPO member, she has learned the process that is laid out for them and the mandate on how projects get done. She stated the Council has been receiving e-mails for and against the project. She explained the Council is not forcing themselves into this project. She has to vote as a representative of Hendersonville. She stated there are 28 members from as far as Maggie Valley who must vote on projects. She explained the MPO is making decisions as a whole and Hendersonville is not attempting to change Flat Rock's opinion or impede in Flat Rock's business. She stated the Council is following standard procedures of the MPO.

Council Member Simpson commented the hardest part is being new to the City Council and to the area and not seeing the project from the beginning. She agreed the City Council is not trying to disenfranchise the Flat Rock voters. She stated this road is used by a lot of people. She echoed the comments that 28 members of the MPO will be voting on the project, not just the Hendersonville City Council, and Council does not come to their decision lightly.

Mayor Volk commented the project has been on the radar for many years and has been funded. In the past, the City of Hendersonville has supported this project because there are advantages for the City portion of the road that they would like to see continue. She stated her opinion on the road project has not changed even though the opinion of the Village Council has changed, especially for the section in the City. She voiced support of the project continuing with modifications if possible to lessen the impact in certain areas. She stated the City has been fortunate in working with NCDOT in the past with modifications. She stated totally cancelling the project is not in the best interest of community although the property owners most affected should work with NCDOT for possible modifications to lessen the impact.

Mayor Pro Tem Smith asked to modify the proposed resolution to include Mayor Volk's comments about pursuing the lessening the impacts of project. Council Member Hensley voiced support of working with those impacted and believes NCDOT is willing to work with residents. Council Member Miller asked if a resolution is necessary. Mr. Connet stated it is not as long as Council Member Hensley can relay the wishes of the City Council.

Mayor Pro Tem Smith supported lessening the burden of those impacted most, particularly on the church. Council Member Simpson agreed and voiced support of the project because planning for road projects needs to be done

for 20-30 years from now to ensure safety. As a frequent user of the Flat Rock Pak, Council Member Hensley stated she sees need for improvements there. She noted the Henderson County Board of Commissioners adopted Greenway Master Plan in 2019 which includes connections for this area. She voiced support of greenways and alternative forms of transportation.

**The Council agreed to support the continuance of the project but would request and encourage NCDOT to work with the officials in Flat Rock to minimize any impact.**

There was a brief recess.

**7. Consideration of an Application from Marilyn Gordon of Miken, LLC to Rezone Parcels 9568-64-8536 and 9568-64-8783 Located Between White Street and Hebron Road from R-15 Medium Density Residential to C-2 Secondary Business District (Second Vote Required):** There was no presentation by the staff. Mayor Volk asked for an update from the applicant.

Marilyn Gordon, Manager, Miken, LLC, addressed the Council. She stated they have spoken with the Keifers of Keifer Chiropractor next to this property. She stated they are purchasing a strip of property of land for additional parking approximately 82 feet side that extends to the church property and will effectively close off the lot she is keeping from White Street. She stated she is happy they can make it possible so they can have additional parking (after appropriate zoning). She hopes they have answered questions.

A member of the public asked if there would be public input. Mayor Volk commented the public hearing and input was received at the December Council meeting and the two new Council members were present and heard the discussion.

**Council Member Miller moved the City Council to adopt an ordinance amending the official City of Hendersonville’s 2030 Comprehensive Plan Future Land Use Map for parcel numbers 9568-64-8536 and 9568-64-8783 from Medium-Intensity Neighborhood to High Intensity Neighborhood because it is compatible with existing surrounding zoning. He further moved the City Council to adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of parcel numbers 9568-64-8536 and 9568-64-8783 from R-15 Medium Density Residential to C-2 Secondary Business, finding that the rezoning is consistent with the Comprehensive Plan’s Future Land Use map amendment to High Intensity Neighborhood, the rezoning is reasonable and in the public interest for the following reasons: it meets the same standards as the surrounding properties.**

Mayor Volk commented the Council heard the concerns of the neighborhood at the last meeting. She stated the proposal as changed should give more protection of the neighborhood. She stated the area will be surrounded by business or the church. She stated although the City Council cannot get guarantees from the Gordons about their plans, they have been public about what they plan there and has confidence they will follow through.

Council Member Simpson expressed concerns about the plan for the road is not completed, or changes, it could change what the Gordon’s do. She stated she would feel more comfortable with conditional zoning. She stated there are variables yet to be seen. Mayor Pro Tem Smith agreed; stating he continues to support conditional zoning. He stated the Gordons are coming in good faith, but things can happen and that is why there is conditional zoning.

**The vote was three in favor (Miller, Hensley, Volk) and two opposed (Smith, Simpson). Motion carried.**

Ordinance #20-0102

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

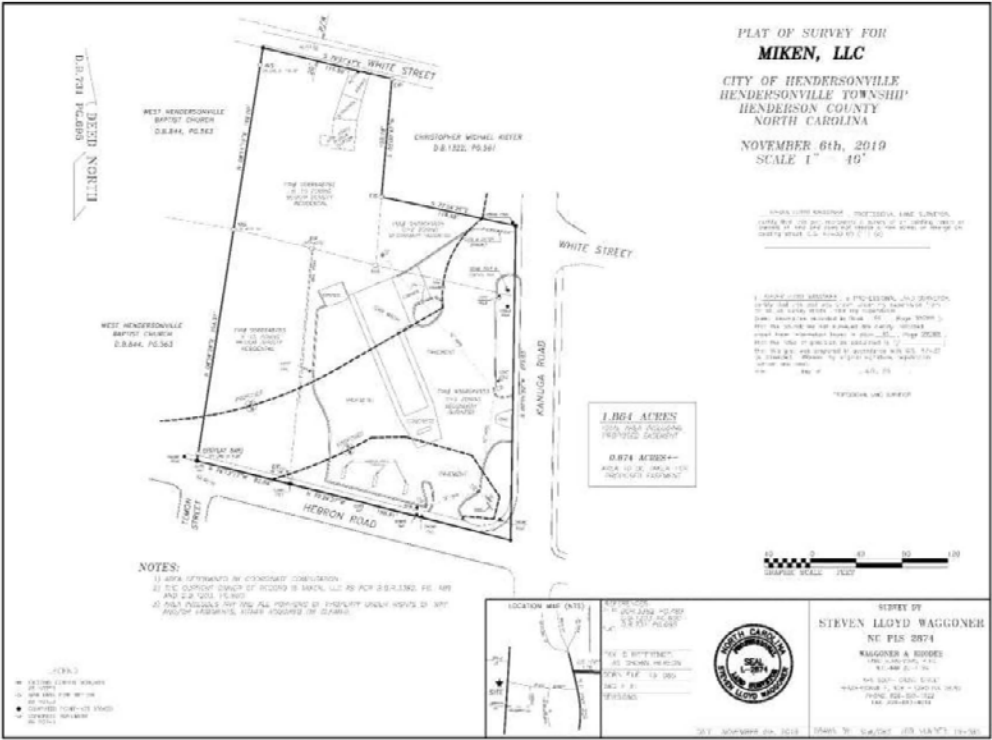
IN RE: FILE NO. P19-26-Z  
Miken, LLC (Gordon)

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 9568-64-8536 and 9568-64-8783 from R-15, Medium Density Residential to C-2, Secondary Business.
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this ninth day of January 2020.

/s/Barbara G. Volk, Mayor  
Attest: /s/Tammie K. Drake, City Clerk  
Approved as to form: /s/Acting City Attorney Sandra B. Alexander



**8. Public Hearing - Consideration of an Order to Permanently Close Ivy Lane, A Portion of Midway Street, A Portion of an Unnamed Alley, and Huger Street:** Senior Planner Daniel Heyman presented an application from Charles Campbell, Marianne Ewbank Campbell, Joseph Ewbank, and Linda Ewbank to close unopened and unimproved rights-of-way including Ivy Lane, a portion of Midway Street, Huger Street, and a portion of an unnamed alley.

Mr. Heyman reported the Council adopted a Resolution of Intent to close these rights-of-way at their November 7, 2019 meeting. He stated a copy of the resolution of intent was mailed to the adjoining property owners, notification of the proposed closing was posted on the property, and the resolution of intent and notice of the public hearing was advertised four times in the legal notice section of the Times News. He reviewed the procedures set forth in NC General Statute 160A-299 for closing a street.

Mayor Pro Tem Smith commented on the width of the right-of-way which was done in the 1920s.

The public hearing was opened at 7:02 p.m. by Mayor Volk in accordance with the North Carolina General Statutes by notice published in the Times News. The following spoke in favor of the street closing:

Spence Campbell, voiced support of closing the “paper” rights-of-way. He stated they are trying to sell the property.

Gordon Jenks, 517 Midway Street, supported the closing of the streets. He stated if the property is developed those streets would be a safety concern for children who play there.

No one else expressed a desire to speak. The public hearing was closed at 7:04 p.m.

**Mayor Pro Tem Smith moved the City Council to adopt an Order to Permanently Close unopened and unimproved rights-of-way for Ivy Lane, a portion of Midway Street, a portion of an unnamed alley, and Huger Street as petitioned by Charles S. Campbell, Jr., Marianne Ewbank Campbell, Joseph Boothroyd Ewbank, and Linda Ewbank. A unanimous vote of the Council followed. Motion carried.**

ORDER #20-0103

**ORDER TO PERMANENTLY CLOSE IVY LANE, A PORTION OF MIDWAY STREET,  
A PORTION OF AN UNNAMED ALLEY, AND HUGER STREET  
(Petition of Charles S. Campbell Jr., Marianne Ewbank Campbell, Joseph  
Boothroyd Ewbank, and Linda Ewbank)**

NORTH CAROLINA  
HENDERSON COUNTY  
TO WHOM IT MAY CONCERN:

WHEREAS, North Carolina General Statute Section §160A-299 authorizes a city council to permanently close any street or public alley way within its corporate limits or area of extraterritorial jurisdiction and provides a procedure for the closing such streets or alleyways; and

WHEREAS, Charles S. Campbell Jr., Marianne Ewbank Campbell, Joseph Boothroyd Ewbank, and Linda Ewbank have petitioned the City of Hendersonville to close Ivy Lane, a portion of Midway Street, a portion of an unnamed alley, and Huger Street; and

WHEREAS, on November 7, 2019, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close portions of these streets and setting January 8, 2020 as the date of a public hearing regarding such closure; and

WHEREAS, the aforementioned resolution has been published once a week for four successive weeks prior to the public hearing in the Hendersonville Times-News (a newspaper of general and regular circulation in Hendersonville and

Henderson County) and a copy thereof has been sent by certified mail to all owners of property adjoining the street as shown on the county tax records; and

WHEREAS, notice of the closings and of the public hearing has been posted in at least two places along the streets; and

WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the ninth day of January, 2020.

NOW, THEREFORE, the City Council of the City of Hendersonville does hereby make the following findings of fact:

1. The closing of the street portions hereafter described are not contrary to the public interest.
2. No individual owning property in the vicinity of the streets or in the subdivision in which it is located would be deprived by the closing of such streets of reasonable means of ingress and egress to his property.

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

1. The following portions of streets are permanently closed and no longer existent as of the effective date of this order:

LEGAL DESCRIPTION FOR PROPOSED IVY LANE STREET CLOSURE AREA "A" (CLOSURE AREA BEING LOCATED BETWEEN THE PROPERTIES CURRENTLY OWNED BY MARIANNE E. CAMPBELL, CHARLES S. CAMPBELL, JR. & JOSEPH BOOTHROYD AND BEARING PARCEL IDENTIFICATION NUMBERS 9568-18-5388 & 9568-18-8043)

BEING LOCATED WITHIN HENDERSONVILLE TOWNSHIP – HENDERSON COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A CALCULATED POINT LOCATED AT THE INTERSECTION OF THE NORTHERN MARGIN OF 5<sup>TH</sup> AVENUE WEST AND THE WESTERN MARGIN OF THE 30' PRIVATE RIGHT OF WAY OVER IVY LANE; SAID CALCULATED POINT BEARING NORTH CAROLINA GRID COORDINATES (NAD83-2011) OF: NORTHING= 587,782.28 FEET / EASTING= 961,825.26 FEET; THENCE RUNNING FROM SAID POINT OF BEGINNING AND WITH THE SAID WESTERN MARGIN OF IVY LANE NORTH 04°35'24" WEST 569.18 FEET TO A CALCULATED POINT LOCATED AT THE SOUTH WESTERN CORNER OF THE PROPERTY OF MARIANNE E. CAMPBELL & CHARLES S. CAMPBELL, JR. (PROPERTY BEARING PIN: 9568-18-8429 AND BEING RECORDED IN DEED BOOK 1114 PAGE 136); THENCE TURNING AND RUNNING WITH THE SOUTHERN BOUNDARY OF THE SAID CAMPBELL PROPERTY NORTH 81°45'25" EAST 30.06 FEET TO A CALCULATED POINT LOCATED ON THE EASTERN MARGIN OF THE SAID RIGHT OF WAY OVER IVY LANE; THENCE RUNNING WITH THE SAID EASTERN MARGIN OF IVY LANE SOUTH 04°35'24" E 569.45 FEET TO A CALCULATED POINT LOCATED AT THE INTERSECTION OF THE NORTHERN MARGIN OF 5<sup>TH</sup> AVENUE WEST AND THE EASTERN MARGIN OF THE SAID 30' PRIVATE RIGHT OF WAY OVER IVY LANE; THENCE TURNING AND RUNNING WITH THE NORTHERN MARGIN OF 5<sup>TH</sup> AVENUE WEST SOUTH 82°16'10" WEST 30.05 FEET TO THE POINT AND PLACE OF BEGINNING.

PROPOSED CLOSURE AREA "A" CONTAINING 0.392 ACRES / 17,079 SQUARE FEET.

LEGAL DESCRIPTION FOR PROPOSED IVY LANE STREET CLOSURE AREA "B" (CLOSURE AREA BEING LOCATED ACROSS THE PROPERTY CURRENTLY OWNED BY MARIANNE E. CAMPBELL & CHARLES S. CAMPBELL, JR. AND BEARING PARCEL IDENTIFICATION NUMBER 9568-18-8429)

BEING LOCATED WITHIN HENDERSONVILLE TOWNSHIP – HENDERSON COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A CALCULATED POINT LOCATED AT THE SOUTH WESTERN CORNER OF THE PROPERTY OF MARIANNE E. CAMPBELL & CHARLES S. CAMPBELL, JR. (PROPERTY BEARING PIN: 9568-18-8429 AND BEING RECORDED IN DEED BOOK 1114 PAGE 136); SAID POINT OF BEGINNING BEING LOCATED NORTH 04°35'24" WEST 569.18 FEET FROM A CALCULATED POINT LOCATED AT THE INTERSECTION OF THE NORTHERN MARGIN OF 5<sup>TH</sup> AVENUE WEST AND THE WESTERN MARGIN OF THE 30' PRIVATE RIGHT OF WAY OVER IVY LANE AND BEARING NORTH CAROLINA GRID COORDINATES (NAD83-2011) OF: NORTHING= 587,782.28 FEET / EASTING= 961,825.26 FEET; THENCE FROM SAID POINT OF BEGINNING AND WITH THE WESTERN MARGIN OF THE RIGHT OF WAY OVER IVY LANE NORTH 04°35'24" WEST 111.15 FEET TO A CALCULATED POINT LOCATED AT THE NORTHERN TERMINUS OF IVY LANE; THENCE TURNING AND FOLLOWING THE NORTHERN TERMINUS OF IVY LANE NORTH 85°24'36" EAST 30.00 FEET TO A CALCULATED POINT LOCATED ON THE EASTERN MARGIN OF THE RIGHT OF WAY OVER IVY LANE; THENCE TURNING AND RUNNING WITH THE SAID EASTERN MARGIN IVY LANE SOUTH 04°35'24" EAST 109.23 FEET TO A CALCULATED POINT LOCATED ON THE SOUTHERN BOUNDARY OF THE SAID CAMPBELL PROPERTY; THENCE TURNING AND RUNNING WITH THE SOUTHERN BOUNDARY OF THE SAID CAMPBELL PROPERTY SOUTH 81°45'25" WEST 30.06 FEET TO THE POINT AND PLACE OF BEGINNING.

PROPOSED CLOSURE AREA "B" CONTAINING 0.076 ACRES / 3,306 SQUARE FEET.

LEGAL DESCRIPTION FOR PROPOSED CLOSURE OF A PORTION OF MIDWAY STREET (CLOSURE AREA BEING LOCATED BETWEEN THE PROPERTY CURRENTLY OWNED BY MARIANNE E. CAMPBELL, CHARLES S. CAMPBELL, JR. & JOSEPH BOOTHROYD AND BEARING PARCEL IDENTIFICATION NUMBER 9568-18-8043)

BEING LOCATED WITHIN HENDERSONVILLE TOWNSHIP – HENDERSON COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A CALCULATED POINT LOCATED ON THE NORTHERN MARGIN OF THE 40 FOOT WIDE RIGHT OF WAY OVER AN UNOPENED PORTION OF MIDWAY STREET (FKA WALTON STREET IN PLAT CABINET B SLIDE 35) AT THE SOUTH EASTERN CORNER OF THE CAMPBELL / BOOTHROYD PROPERTY RECORDED IN DEED BOOK 1027 PAGE 499 – TRACT 3, PARCEL ONE; SAID POINT OF BEGINNING BEARING NORTH CAROLINA GRID COORDINATES (NAD83-2011) OF: NORTHING= 588,208.00 FEET / EASTING= 961,932.38 FEET;

THENCE RUNNING ALONG THE PROPOSED CLOSURE LINE AND ACROSS MIDWAY STREET SOUTH 08°14'05" EAST 40.00 FEET TO A CALCULATED POINT LOCATED ON THE SOUTHERN MARGIN OF THE RIGHT OF WAY LOCATED OVER MIDWAY STREET; THENCE TURNING AND RUNNING WITH THE SAID SOUTHERN MARGIN OF THE RIGHT OF WAY LOCATED OVER MIDWAY STREET AND ALSO WITH THE NORTHERN BOUNDARY OF THE SAID CAMPBELL / BOOTHROYD PROPERTY RECORDED IN DEED BOOK 1027 PAGE 499 – TRACT 3, PARCEL TWO SOUTH 81°45'55" WEST 113.65 FEET TO A CALCULATED POINT LOCATED AT THE INTERSECTION OF THE SAID SOUTHERN MARGIN OF THE RIGHT OF WAY LOCATED OVER MIDWAY STREET AND THE EASTERN MARGIN OF THE 30 FOOT RIGHT OF WAY LOCATED OVER IVY LANE; THENCE TURNING AND RUNNING WITH THE SAID EASTERN MARGIN OF THE RIGHT OF WAY LOCATED OVER IVY LANE NORTH 04°35'24" WEST 40.08 FEET TO A CALCULATED POINT LOCATED ON THE NORTHERN MARGIN OF THE SAID RIGHT OF WAY LOCATED OVER MIDWAY STREET; THENCE RUNNING



THE WITH THE SAID NORTHERN MARGIN OF THE RIGHT OF WAY LOCATED OVER MIDWAY STREET NORTH 81°45'55" EAST 111.10 FEET TO THE POINT AND PLACE OF BEGINNING.

PROPOSED CLOSURE OF THE PORTION OF MIDWAY STREET DESCRIBED ABOVE CONTAINING 0.103 ACRES / 4,495 SQUARE FEET.

LEGAL DESCRIPTION FOR PROPOSED CLOSURE OF HUGER STREET – AS SHOWN IN PLAT CABINET B SLIDE 35  
(CLOSURE AREA BEING LOCATED ACROSS THE PROPERTY CURRENTLY OWNED BY MARIANNE E. CAMPBELL &  
CHARLES S. CAMPBELL, JR. AND BEARING PARCEL IDENTIFICATION NUMBER 9568-18-8429)

BEING LOCATED WITHIN HENDERSONVILLE TOWNSHIP – HENDERSON COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A CALCULATED POINT LOCATED AT THE INTERSECTION OF THE NORTH WESTERN TERMINUS OF THE 40 FOOT RIGHT OF WAY LOCATED OVER HUGER STREET WITH THE NORTH EASTERN TERMINUS OF THE 30 FOOT RIGHT OF WAY LOCATED OVER IVY LANE; SAID POINT OF BEGINNING BEARING NORTH CAROLINA GRID COORDINATES (NAD83-2011) OF: NORTHING= 588,462.67 FEET / EASTING= 961,800.72 FEET; THENCE RUNNING ALONG THE NORTHERN MARGIN OF THE SAID RIGHT OF WAY LOCATED OVER HUGER STREET NORTH 64°00'25" EAST 234.14 FEET TO A CALCULATED POINT LOCATED IN THE CENTER OF A STREAM; THENCE TURNING AND RUNNING WITH THE CENTER OF THE SAID STREAM THE FOLLOWING THREE COURSES AND DISTANCES: 1) SOUTH 31°35'12" EAST 4.05 FEET TO A CALCULATED POINT, 2) SOUTH 29°15'02" EAST 30.36 FEET TO A CALCULATED POINT AND FINALLY 3) SOUTH 21°43'06" EAST 5.68 FEET TO A CALCULATED POINT; THENCE TURNING AND LEAVING SAID STREAM AND RUNNING WITH THE SOUTHERN MARGIN OF THE SAID RIGHT OF WAY LOCATED OVER HUGER STREET SOUTH 64°00'25" WEST 251.52 FEET TO A CALCULATED POINT LOCATED ON THE EASTERN MARGIN OF THE SAID RIGHT OF WAY LOCATED OVER IVY LANE; THENCE TURNING AND RUNNING WITH THE SAID EASTERN MARGIN OF THE RIGHT OF WAY LOCATED OVER IVY LANE NORTH 04°35'24" WEST 42.96 FEET TO THE POINT AND PLACE OF BEGINNING.

PROPOSED CLOSURE OF HUGER STREET CONTAINING 0.223 ACRES / 9,729 SQUARE FEET.

LEGAL DESCRIPTION FOR PROPOSED CLOSURE OF A PORTION OF AN UNNAMED ALLEY 12 FEET IN WIDTH AND LOCATED NORTH OF WALTON STREET - AS SHOWN IN PLAT CABINET B SLIDE 35 STREET (CLOSURE AREA BEING LOCATED BETWEEN THE PROPERTIES CURRENTLY OWNED BY MARIANNE E. CAMPBELL, CHARLES S. CAMPBELL, JR. & JOSEPH BOOTHROYD AND BEARING PARCEL IDENTIFICATION NUMBERS 9568-18-8043 & 9568-18-8429)

BEING LOCATED WITHIN HENDERSONVILLE TOWNSHIP – HENDERSON COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A CALCULATED POINT LOCATED AT THE INTERSECTION OF THE SOUTHERN MARGIN OF THE UNNAMED 12 FOOT WIDE ALLEY LOCATED NORTH OF WALTON STREET – AS SHOWN IN PLAT CABINET B SLIDE 35 WITH THE EASTERN MARGIN OF THE 30 FOOT WIDE RIGHT OF WAY LOCATED OVER IVY LANE; SAID POINT OF BEGINNING BEARING NORTH CAROLINA GRID COORDINATES (NAD83-2011) OF: NORTHING= 588,341.83 FEET / EASTING= 961,810.43 FEET; THENCE RUNNING WITH THE SAID EASTERN MARGIN OF THE RIGHT OF WAY LOCATED OVER IVY LANE NORTH 04°35'24" WEST 12.02 FEET TO A CALCULATED POINT; THENCE TURNING AND RUNNING WITH THE NORTHERN MARGIN OF THE SAID 12 FOOT WIDE ALLEY NORTH 81°45'25" EAST

101.16 FEET TO A CALCULATED POINT; THENCE TURNING AND RUNNING WITH THE PROPOSED ALLEY CLOSURE LINE SOUTH 08°14'35" EAST 12.00 FEET TO A CALCULATED POINT; THENCE TURNING AND RUNNING WITH THE SAID SOUTHERN MARGIN OF THE 12 FOOT WIDE ALLEY SOUTH 81°45'25" WEST 101.93 FEET TO THE POINT AND PLACE OF BEGINNING.

PROPOSED CLOSURE OF THE PORTION OF THE UNNAMED 12 FOOT WIDE ALLEY DESCRIBED ABOVE CONTAINING 0.028 ACRES / 1,219 SQUARE FEET.

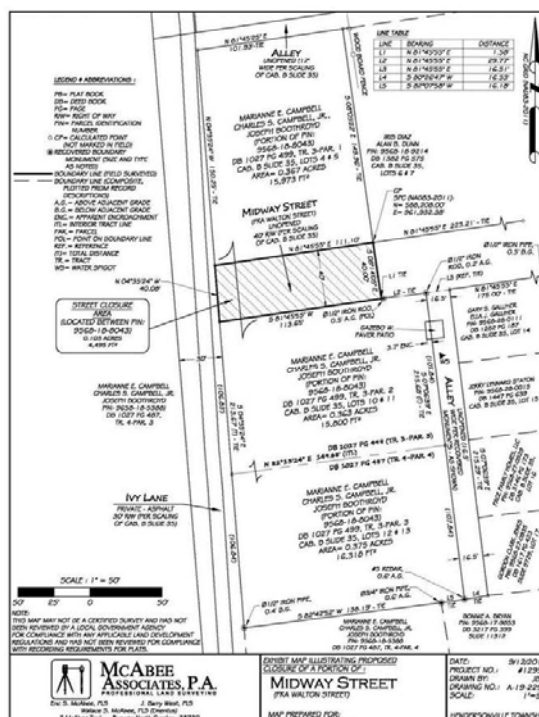
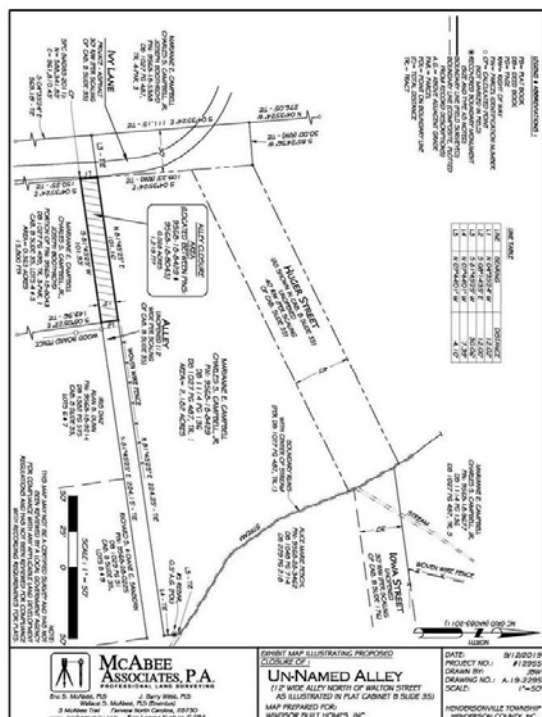
2. The City Clerk shall forthwith cause a certified copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

This order shall take effect the ninth day of January 2020.

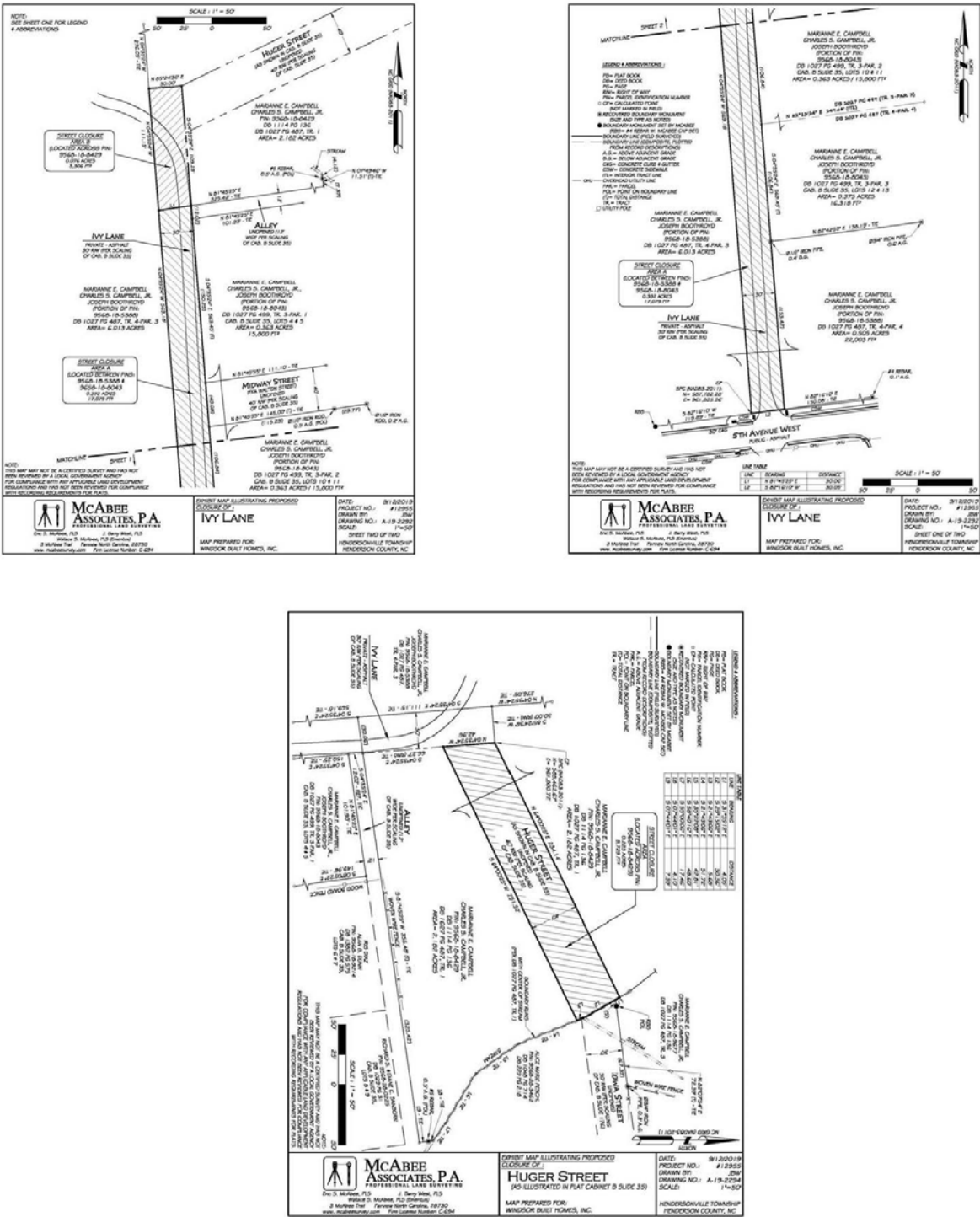
/s/Barbara G. Volk, Mayor

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

Approved as to form: /s/Sharon Alexander, Acting City Attorney







**9. Public Hearing - Consideration of Application from Mr. Mark Campbell of Carter Engineering Consultants, Inc., for a Rezoning Parcel 9568-94-4473 and located at 640 Spartanburg Highway from PCD Planned Commercial Development to C-3 CZD Highway Business Conditional Zoning District:** Planner Tyler Morrow presented the application for a conditional rezoning from Mark Campbell of Carter Engineering. The applicant is requesting to rezone a 1.55-acre lot that contains a vacant structure, parcel number 9568-94-4773, in order to develop a Chick-Fil-A Drive thru restaurant. The parcel is currently zoned PCD, Planned Commercial Development and was originally constructed as part of the Southside Square development. The applicant is requesting to be zoned C-3 CZD Highway Business Conditional Zoning District. If approved, the permitted uses would be limited to those indicated on the approved list of uses and conditions.

**Existing Land Use & Zoning:** Mr. Morrow stated the parcels to the south and southeast are zoned C-3 Highway business and contain Chadwick Corners Plaza. Parcels to the east and northeast are zoned C-3 Highway Business and C-2 Secondary Business and contain the Hendersonville Mobile Estates. Parcels to the north are zoned PCD Planned Commercial Development and contain a Harris Teeter grocery store as well as other commercial uses. Parcels to the west and northwest are zoned PCD Planned Commercial Development and C-2 Secondary Business and contain a McDonalds restaurant.

**Comprehensive Plan Consistency:** Mr. Morrow stated N.C.G.S.160A-383 requires zoning map amendments to be made in accordance with a comprehensive plan. The 2030 Comprehensive Plan’s Future Land Use Map designates the subject area as Neighborhood Activity Center. He reviewed the goal of this category.

**Plan Review:** Buildings: Mr. Morrow stated the site plan shows one drive-through restaurant with 102 interior seats and 16 exterior seats totaling of 4,990 square feet.

*Impervious Area:* Mr. Morrow stated the site plan shows a decrease from 1.37 acres to 1.23 acres of impervious surface on the subject property.

*Streets:* Mr. Morrow stated the site plan shows a 24-foot travel lane through the parking area for the restaurant. Existing entrances and exits will be used and no new curb cuts will be made. The drive through will have its own exit on the east side of the property allowing cars to exit without going through the parking area.

*Parking:* Mr. Morrow stated the Zoning Ordinance requires one space per each three seats plus one per each two employees on the shift with the largest employment. He stated 55 spaces are required; the site plan shows 60 parking spaces. The site plan also shows the site will have 28 stacking spaces for cars in the drive through.

*Buffers/Landscaping:* Mr. Morrow stated the landscaping plan provides for parking lot landscaping including one tree and two shrubs per 4,000 square feet of vehicular use area. The plan provides a planting strip of one tree and five shrubs for every 40 linear feet of property line that parallels the Southside Square driveway. The site plan further provides one shrub for every five linear feet along property lines adjacent to Spartanburg Highway and Chadwick Avenue to create a buffer from the street.

*Neighborhood Compatibility Meeting:* Mr. Morrow stated reported the Neighborhood Compatibility Meeting was held on November 8, 2019. He provided a copy of the report. Four people attended the meeting. Questions were asked regarding a signal light at Chadwick Avenue, parking agreements, the number of employees and stacking.

Mr. Morrow stated provided a comparison of the Highland Square Chick-Fil-A.

Mr. Morrow reported the Planning Board voted unanimously to recommend approval of the request for conditional rezoning.

*Guidelines:* Mr. Morrow reviewed the guidelines for rezoning contained in Section 11-4 of the City's Zoning Ordinance.

Mayor Volk asked why this had to go through the conditional zoning process because restaurants allowed are allowed under the current zoning. Mrs. Frady explained this property was included with adjacent property that is under a special use permit. The applicant had to request to remove this property out from the existing special use permit and be rezoned. She explained restaurants were not included with the original special use permit. This change is considered a major change and has to undergo the process.

Mayor Volk opened the public hearing at 7:14 p.m. in accordance with North Carolina General Statutes by notice published in the Times News. The following spoke in favor of the request:

Mark Campbell, 3651 Mars Hill Road, addressed the Council and expressed appreciation to staff for their assistance. Regarding traffic, he explained Chick-Fil-A has learned from a safety and operation standpoint that isolating the drive-through lane enhances safety and operations. He stated they will build a new building because they could not reformat the old Rite Aid building. He stated the key is to put the drive-through window as far away from the entrance as possible. They will not have any new curb cuts on Spartanburg Highway or Chadwick Avenue. They will be using the existing shopping center function that allows drive-through stack and sufficient parking. He stated they are pleased with the result. Regarding stormwater, he stated there is an existing stormwater facility in place. He stated the plan increases the amount of landscaping and reduces the amount of impervious area throughout the site.

No one else expressed a desire to speak. The public hearing was closed at 7:17 p.m.

**Council Member Simpson moved the City Council to adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of parcel number 9568-94-4773 from PCD Planned Commercial Development to C-3 CZD Highway Business Conditional Zoning District, 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, finding that the rezoning is consistent with the Comprehensive Plan's Future Land Use map, and that the rezoning is reasonable and in the public interest for the following reasons: it matches surrounding uses. A unanimous vote of the Council followed. Motion carried.**

Ordinance #20-0104

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

IN RE: FILE NO. P19-27-CZD - Chick-Fil-A

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

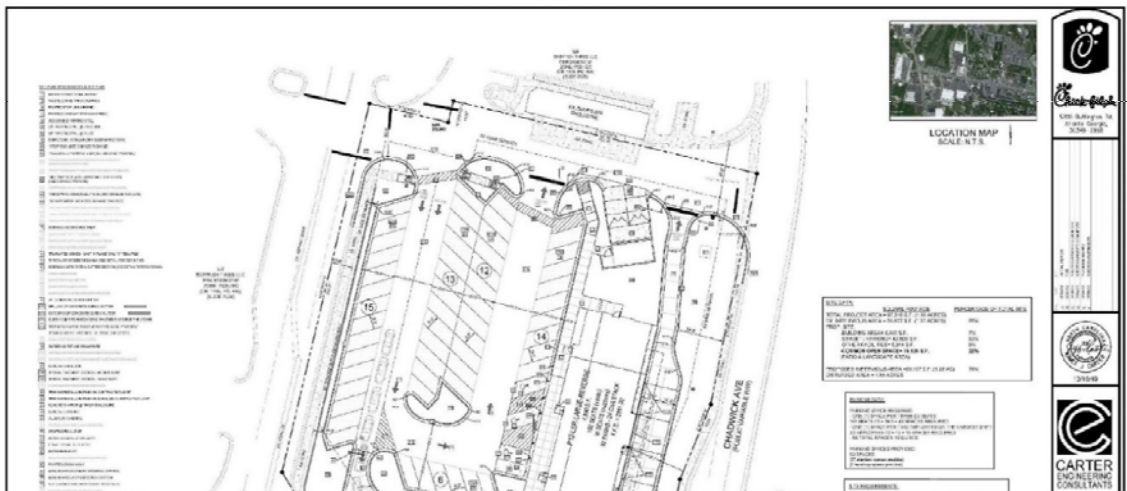
1. Pursuant to Article XI Amendments of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of parcel number 9568-94-4773 from PCD Planned Commercial Development to C-3 CZD Highway Business Conditional Zoning District.
2. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this ninth day of January 2019.

/s/Barbara G. Volk, Mayor

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

Approved as to form: /s/Sharon B. Alexander, Acting City Attorney



**11. Presentation on Wastewater Treatment Plant Project Update:** The Council received a presentation from the Wastewater Treatment Plant Facility Manager Garrett DeMoss on the generator installation at the facility as well as the new filter replacement and redundancy built in. He reviewed the budget impacts of those projects.

Mr. Connet commented staff wanted to show the public the investments the City is making to improve the reliability and longevity of the plant. **No action was required or taken by the Council.**

**12. Discussion of Options for Fire Station:** The City Council heard a presentation on a study for options for Fire Station 1 from Mr. Jim Powell of ADW Architects.

Mr. Powell gave an overview and synopsis of the process. He provided options that were developed for Stations 1 and 3:

- Fire Station #1:
- Option 1: Renovate and add space for Fire Department operations and Fire Department administration
  - Option 2: Renovate and add space for Fire Department operations only (no new administrative space)
  - Option 3: Demolish existing building and build new building that includes operational space and Fire Department administration space.
  - Option 4: Demolish existing building and build new building that includes operational space only (no administration space). This option could include a new city gateway park.
- Fire Station #3:
- 2-Bay Option
  - 3-Bay Option

Mayor Volk stated the Council had a thorough review of the options earlier.

Mr. Connet stated staff is seeking direction from the City Council because developing the projects take a lot of time. He stated additional space is needed to house the new engine company. He asked for guidance on moving forward. In discussion, Council Member Miller commented he does not want to renovate the existing building. Mayor Pro Tem Smith commented there was some short-sightedness re: administrative offices when Station 2 was built and apologized to the taxpayers. Council Member Hensley commented the Council’s job is to spend the taxpayer’s money as responsibly as possible and that means doing the job well to begin with. She stated Station 1 was not built for longevity or success. She expressed concerns about the building and stated she does not support renovation. She wants to give the Fire Department what they need to do the best job they can. She also supported having administrative office in Station 1, a central location.

Council Member Miller asked for advice/input from Interim Chief Miller for locating administrative space at Station 1. Chief Miller expressed appreciation for the opportunity. He stated they attempt to look toward the future for potential growth, increased operational equipment and operational efficiencies. He stated they prefer having administrative staff together to expedite meetings, communication, etc. This will also prevent utilizing fire apparatus because they must be operational-ready. He believes it will be beneficial for customers as it would create a one-stop shop downtown. He also cited parking issues at City Hall if administrative offices are located there.